

Effectiveness of Land Registration for Former Customary Land Rights in Temanggung Regency

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Abstract. *This study aims to analyze: 1) The effectiveness of the implementation of land registration for former customary land ownership in Temanggung Regency. 2) Obstacles and solutions in the implementation of land registration for former customary land ownership in Temanggung Regency. This type of research is non-doctrinal research. The approach method in this study is a sociological juridical approach. The types of data in this study are primary data and secondary data sourced from primary, secondary and tertiary legal materials. The data collection method uses interviews and literature studies. The analysis in this study is prescriptive. The results of the study concluded: 1) The effectiveness of the implementation of land registration for former customary land ownership in Temanggung Regency has been running quite well because it is supported by a clear legal basis in the UUPA, the implementation of structured registration stages by the Land Office, and government programs such as PTSL and LARASITA which facilitate public access. Public participation in registration shows positive acceptance, although it is still influenced by the level of understanding of local law and culture, so that its effectiveness is gradual and not yet fully evenly distributed throughout the region. Based on Soerjono Soekanto's theory of legal effectiveness, the effectiveness of land registration of former customary land rights in Temanggung is influenced by five factors, namely: legal substance in the form of UUPA and its implementing regulations which serve as a normative basis, law enforcement structure through the active role of the Land Office and village officials, facilities and infrastructure in the form of PTSL and LARASITA programs, community factors with a level of legal awareness that is starting to increase although not evenly distributed, and cultural factors that indicate a shift from customary law to a more orderly national law. 2) Obstacles in the implementation of land registration of former customary land rights in Temanggung Regency are normative obstacles related to proving rights to customary land, structural obstacles in the form of limited human resources and institutional coordination, technical*

obstacles in land measurement and boundaries, cultural obstacles in the form of low legal awareness of the community, and economic obstacles in registration costs. The solutions taken include strengthening regulations, increasing the capacity of apparatus, utilizing digital technology, increasing legal awareness of the community, and providing registration fee subsidies.

Keywords: *Effectiveness; Former Customary Land Rights; Land Registration.*

1. Introduction

Land plays a vital role in human life. This importance stems from its role as a supporting medium for human life, both economically and socially, and culturally. In other words, human life is inseparable from land. This is because land has been a vital source of life in the social order of society, from traditional to modern times.¹ The importance of land makes it a state asset that must be managed effectively. This mandate is implicitly enshrined in Article 33 of the 1945 Constitution of the Republic of Indonesia. According to Article 33 of the 1945 Constitution, the government controls the land and the wealth contained therein to achieve social welfare through the effective utilization of land and the wealth contained therein. The consequences of interpreting Article 33 of the 1945 Constitution of the Republic of Indonesia as explained above, make the interpretation of the meaning and scope of the diction of owning and controlling, to understand the meaning of "controlled by the state", it is necessary to first do it epistemologically. "Controlled by the state" (passive sentence) has the view of meaning the state controls or control of the state (active sentence). The meaning of the word to control is to have power over (something), to hold power over (something), while the meaning of the word control means the process, method, act of controlling or attempting.²

The meaning of the term "controlled" above differs when it is associated with the concept of rights. The "right to control" refers to the state as a legal subject (having rights and obligations). In this context, the state's right to control can be understood to encompass a number of public obligations and responsibilities.³ According to Jimly Asshiddiqie, what is meant by "controlled by the state" is control in a broad sense, namely including the concept of ownership in a public and civil sense, including the power to control and manage these business sectors

¹Muslim Andi Yusuf, (2016), *Kepastian Hukum Hak Masyarakat Hukum Adat Atas Tanah Dan Sumberdaya Alam, Prosiding Seminar Nasional*, Volume 02, Nomor 1, p. 675.

²Kamus Besar Bahasa Indonesia (edisi kedua), (1995), Departemen Pendidikan dan Kebudayaan & Balai Pustaka, Jakarta, p. 553.

³Abrar Saleng, (2004), *Hukum Pertambangan*, Cetakan Pertama, Yogyakarta : UII Press, p. 1

directly by the government or government officials who are entrusted with special duties.⁴

The concept of "control" is in accordance with the provisions of Article 2 paragraph (1) of the Republic of Indonesia Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), in the provisions of Article 2 paragraph (2) of the Republic of Indonesia Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) the meaning of "right to control from the State" is to give authority to the State as the power organization of the Indonesian Nation at the highest level to:⁵

1. Regulating and organizing the allocation, use, supply and maintenance of land and the various resources contained therein.
2. Determine and regulate the rights that can be owned over (parts of) the earth, water and space.
3. Determines and regulates legal relationships between people and legal acts concerning earth, water and space.

According to Article II paragraph (1) of the UUPA, since the UUPA came into effect, it has been confirmed by the Minister of Agrarian Affairs that these rights have become ownership rights based on the Conversion Provisions of Article II paragraph (1) of the UUPA. Land rights that are converted into ownership rights are agrarian rights, ownership, yasan, andarbeni, rights to druwe land, rights to druwe desa land, pesini, grant sultan, landerinjbezitrecht, altijddurende, erfpacht, business rights for former private land and other rights with any name.

One of the innovations in land registration services following the issuance of Government Regulation No. 24 of 1997 is LARASITA. The LARASITA program is further regulated in Regulation of the Head of the National Land Agency No. 18 of 2009 concerning LARASITA. LARASITA is an innovative policy that stems from fulfilling the sense of justice needed, expected, and considered by the community. Larasita is implemented to provide justice for the community by facilitating land administration, accelerating the land administration process, increasing the coverage area of land administration, and to ensure land administration without intermediaries within the National Land Agency of the Republic of Indonesia. In reality, registration of land ownership rights for former customary land in Temanggung Regency still faces obstacles, as much former customary land has not been converted. This land has not been registered by its rights holders. Most people in Temanggung Regency are unaware of the procedures or methods for registering former customary land through conversion mechanisms, including the PTSL and LARASITA programs. According to Yudi Kristanto, in Temanggung Regency, there are 114,386 plots of land, or 19.42 percent, that have not been

⁴Jimly Asshiddiqie, (2010), *Konstitusi Ekonomi*, Jakarta : PT. Mompas Media Nusantara, p. 273.

⁵Afifah Kusumadara, (2013), *Perkembangan Hak Negara Atas Tanah: Hak Menguasai Atau Hak Memiliki?*, *Jurnal Media Hukum*, Vol. 20, No. 2, p. 265.

certified. Of this number, 256 plots of former customary land have not been registered due to the community's lack of knowledge of the registration mechanism for former customary land.⁶

2. Research Methods

This research is non-doctrinal. The approach used is a sociological-juridical approach. The data used are primary and secondary data sourced from primary, secondary, and tertiary legal materials. Data collection methods include interviews and literature studies. The analysis is prescriptive.

3. Results and Discussion

3.1. Effectiveness of Implementation of Land Registration for Former Customary Land Rights in Temanggung Regency

Land registration is one of the government's programs aimed at ensuring orderly land administration. The increasing pace of development in Indonesia is inextricably linked to the certainty of land registration. Land issues are paramount and crucial for the smooth running of development, as all community development activities require land.⁷

Land registration is a series of activities carried out by the government on an ongoing, continuous, and orderly basis. This activity includes the collection, processing, bookkeeping, presentation, and maintenance of physical and legal data in the form of maps and lists regarding land plots and apartment units, including the issuance of proof of land rights for land plots that already have rights and ownership rights to apartment units and other rights that encumber them. The final product of land registration is a certificate as proof of ownership of land rights.⁸ The primary purpose of land registration is to provide legal certainty and protection for rights holders through the issuance of certificates as valid evidence. Furthermore, land registration serves as an instrument for regulating ownership and control, as well as a means of controlling land use and utilization. Thus, land

⁶Interview with Yudi Kristanto, Head of Land Infrastructure, ATR/BPN Temanggung, on May 12, 2025.

⁷Kusmaryanto, Gunarto, Pendaftaran Akta Jual Beli Yang Melebihi Jangka Waktu Pendaftaran Tanah Di Kantor Agraria Dan Tata Ruang/Badan Pertanahan Nasional Kota Semarang, *Jurnal Akta*, Vol. 4 No. 3 September 2017, p. 475

⁸Irawan Soerodjo, (2002), *Kepastian Hukum Pendaftaran Hak Atas Tanah di Indonesia*, Surabaya : Arloka, p. 40.

rights registration serves as a state guarantee and a crucial instrument for protecting the interests of landowners.⁹

The government is continuously striving to implement land registration throughout Indonesia to ensure legal certainty. However, implementation has not yet achieved optimal results because registration coverage is not yet 100%. If not immediately improved, this situation has the potential to give rise to various land conflicts and disputes.¹⁰

Understanding land in Indonesia is inextricably linked to the customary law system that thrives within society. Prior to the enactment of the Basic Agrarian Law, land was largely controlled based on customary law provisions, both communal and individual. Since the enactment of the 1960 Basic Agrarian Law, these land rights are no longer referred to as customary land but are instead categorized as former customary land. Therefore, discussions regarding the registration of former customary land are not only concerned with administrative aspects such as conversion and certification, but also with the historical dimensions and cultural values inherent in customary law practices still practiced by the community.

Formerly customary land ownership represents the legal relationship between indigenous communities and land, which was originally based on customary law. Prior to the enactment of the 1960 Basic Agrarian Law (UUPA), various terms were used in various regions of Indonesia to refer to customary land rights, such as "tanah pusaka tinggi" in Minangkabau, "tanah druwe desa" in Bali, or "tanah bengkok" in Java. Following the enactment of the UUPA, these land rights were no longer maintained in their original form but were instead converted into former customary land ownership rights, which can be registered as land rights under the national legal system. Thus, former customary land ownership essentially reflects historical values and local wisdom in regulating the relationship between people and land. However, land administration practices must comply with the provisions of the UUPA.¹¹ The UUPA then unified agrarian law by eliminating the dualism between Western agrarian law (which prevailed during the colonial period) and customary law. Article 5 of the UUPA explicitly states that the agrarian law applicable to land, water, and airspace is customary law, as long as it does not conflict with national and state interests or with existing laws and regulations. Based on this, former customary land rights receive legal recognition, but in

⁹Anis Ayu Rahmawati & Achmad Sulchan, Kebijakan Untuk Memperlancar Pemberkasan Program Pendaftaran Tanah Sistematis Lengkap (PTSL) di Kantor Pertanahan Kabupaten Blora, *Jurnal Akta*, Volume 5 Nomor 4, December 2018, p. 885

¹⁰Maulida Soraya Ulfah & Denny Suwondo, Pelaksanaan Pendaftaran Tanah Sistematis Lengkap (PTSL) Di Kabupaten Demak, *Prosiding : Konferensi Ilmiah Mahasiswa Unissula (KIMU) 2*, Unissula Semarang, 18 October 2019, p. 2

¹¹Boedi Harsono, (2008), *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*, Jakarta : Djambatan, p. 157.

practice, they need to be adjusted to the state-established land administration system.

The conversion of customary land rights is carried out concurrently with the land registration process. The purpose of registering converted land is to provide legal certainty and legal protection to land rights holders by issuing a Certificate of Proof of Rights, which serves as strong evidence. However, in reality, to date, especially in rural areas, there are still many former customary land rights that have not been registered at the Regency/City Land Office, but are only registered at the Village Head's Office, known as a Letter C/D. Proof of land ownership held by the community is generally in the form of *ketitir* or *petuk*, which are not strong evidence of rights.¹²

The effectiveness of land registration for former customary land rights needs to be understood within the framework of legal theory, particularly as it relates to the effectiveness of a legal rule's application in society. Legal effectiveness refers to the extent to which legal norms are implemented in accordance with their stated purpose and are accepted by society. According to Soerjono Soekanto, a law can only be considered effective if the applicable norms are truly adhered to and implemented as intended, thereby achieving legal order and certainty.¹³ The effectiveness of the implementation of customary land registration will be largely determined by the clarity of regulations, the readiness of land institutions, and community acceptance of the registration process.

Temanggung Regency, as one of the regions in Central Java, is a region where much of the land remains formerly held by customary ownership. The majority of Temanggung residents rely on agriculture for their livelihood, making land a vital asset in their socio-economic life. The community's continued adherence to traditional values makes the registration of former customary land in Temanggung an interesting topic to study. Data from the Temanggung Regency Land Office indicates that some land remains unregistered, despite the community's traditional ownership rights having been passed down through generations. This situation opens up the potential for land disputes, both among residents and with interested external parties.¹⁴

The majority of Temanggung Regency residents do not yet understand the procedures for registering former customary land, either through conversion mechanisms or government programs such as PTSL and LARASITA. This results in residents still relying on traditional evidence such as D-land titles, village

¹²Agung Raharjo, (2010), *Pendaftaran Konversi Tanah Hak Milik Adat oleh Ahli Waris*, Tesis, Semarang : Universitas Diponegoro, p. 14

¹³Soerjono Soekanto, (1983), *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, Jakarta : Rajawali, p. 8.

¹⁴Interview with Yudi Kristanto, Head of Land Infrastructure, ATR/BPN Temanggung, on May 12, 2025.

certificates, or oral inheritance, thus making them reluctant to register their land with the Land Office. Data shows that 114,386 plots of land, or 19.42 percent, remain uncertified, including 256 plots of former customary land that remain unregistered due to public ignorance. This situation confirms that the main obstacle is not only administrative, but also low legal awareness, making unregistered land prone to disputes and creating legal uncertainty.

The registration of former customary land rights in Temanggung is guided by the 1960 UUPA, Government Regulation No. 24 of 1997, and its implementing regulations. The process includes an application for conversion of the old rights, legal data research and boundary measurements, an announcement to ensure publicity, and the recording of the rights and issuance of certificates. Various proofs of ownership, both written and testimonial, can be used as the basis for conversion to Freehold Rights. The issued certificates then serve as strong evidence of the physical and legal data, while also marking the transformation of customary rights into registered property rights that enjoy legal certainty and protection. Thus, the effectiveness of land registration is largely determined by public awareness and the state's consistency in implementing land administration.

The implementation of land registration in Temanggung demonstrates the concrete efforts of the local government and the Temanggung Regency Land Office to encourage communities to register their former customary land. According to data from the Temanggung Regency National Land Agency, the majority of registered land parcels originated from customary land that was converted to freehold ownership. This aligns with the purpose of land registration, which is to provide legal certainty regarding land status, the subject of rights, and the object of rights.¹⁵

The effectiveness of implementing land registration for land ownership rights for land formerly owned by customary law can be reviewed from several aspects, namely:

1. From a legal perspective, land registration has a clear legal basis, both in the Basic Agrarian Law (UUPA) and its implementing regulations. The availability of regulations governing rights conversion procedures, registration procedures, and certificate issuance provides solid legal guidance for land registration. Thus, there are no legal gaps that hinder land administration in Temanggung Regency.
2. From an administrative perspective, the Temanggung Regency Land Office has implemented its service functions with relatively orderly procedures. The registration process, which includes physical data collection, legal data research, data announcement, and land certificate issuance, is carried out in

¹⁵Interview with Yudi Kristanto, Head of Land Infrastructure, ATR/BPN Temanggung, on May 12, 2025.

accordance with Government Regulation Number 24 of 1997. The effectiveness of this aspect is evident in the integrated service mechanism that allows the public to gain easier access to land registration through government programs such as the Complete Systematic Land Registration (PTSL) and the Public Service for Land Certification (LARASITA).¹⁶

3. From a sociological perspective, land registration in Temanggung Regency has generally received a positive response from the community, as land certification is seen as a necessity to provide legal certainty for land ownership. Although in practice, some former customary land parcels remain unregistered, from an implementation effectiveness perspective, the ongoing registration process reflects a growing public awareness that certified land is better protected legally and has higher economic value.¹⁷
4. Effectiveness is also reflected in the tangible results of land registration, as measured by the number of successfully certified plots. Data obtained from the Temanggung Regency Land Office shows that the gradual registration of former customary land has increased the number of certified plots. This demonstrates that the land registration mechanism operates not only formally but also provides tangible output in the form of increased legal certainty over land rights in the Temanggung area.¹⁸

Thus, the effectiveness of land registration for former customary land in Temanggung Regency can be considered quite good, when viewed from a legal, administrative, and sociological perspective. The process of converting customary land to freehold land is taking place within a clear legal framework, supported by structured administrative mechanisms, and is beginning to raise public awareness of the importance of land registration. This effectiveness demonstrates that the primary objective of land registration, namely providing legal certainty and protection for rights holders, is being realized in practice in Temanggung Regency.

Soerjono Soekanto explains that the effectiveness of law can be measured through the relationship between legal norms and social reality, namely when the law is truly obeyed and implemented by society in everyday practice.¹⁹ This means that the effectiveness of the law is not only seen from the existence of written regulations, but also from its implementation in community life, so that the law functions in real terms in creating order and certainty.

¹⁶Dwi Ria Latifa, (2019), "Implementasi Program Pendaftaran Tanah Sistematis Lengkap (PTSL) di Kabupaten/Kota," *Jurnal Ilmu Hukum*, Vol. 15 No. 2, p. 211.

¹⁷Surojo Wignjodipuro, (1995), *Pengantar dan Asas-Asas Hukum Adat*, Jakarta : Raja Grafindo Persada, p. 82.

¹⁸Interview with Yudi Kristanto, Head of Land Infrastructure, ATR/BPN Temanggung, on May 12, 2025.

¹⁹Soerjono Soekanto, (2008), *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, Jakarta : Raja Grafindo Persada, p. 8.

The effectiveness of customary land registration in Temanggung Regency can be understood through Soerjono Soekanto's theory of legal effectiveness, which emphasizes the relationship between legal norms and social reality, namely when the law is not only written but also actually implemented in community practice. In terms of legal substance, customary land registration already has a clear basis in the 1960 UUPA and PP No. 24 of 1997, while the implementing apparatus factor is realized through the active role of the BPN and village officials in administering registration. Support facilities such as PTSL and LARASITA also facilitate the process, but effectiveness is still greatly influenced by public awareness, which is still gradually seeing the importance of land registration, as well as a legal culture that requires adaptation from customary patterns to modern administrative order. Thus, although legally and institutionally the implementation of customary land registration has been quite effective, its success in providing legal certainty is still largely determined by the level of public acceptance and awareness of the national land law system.

3.2. Obstacles and Solutions in the Implementation of Land Registration for Former Customary Land Rights in Temanggung Regency

Land plays a vital role in the lives of the Indonesian people. This is because Indonesia is an agricultural nation, so every activity undertaken by the majority of Indonesians constantly requires and involves land. In fact, for most Indonesians, land is considered sacred, as it symbolizes their social status.²⁰

One form of guaranteeLegal certainty in the land sector is through the existence of proof of ownership of land rights called a certificate. Certificates have many functions for their owners, of the many functions that exist, it can be said that the main and foremost function of a certificate is as a strong evidence (Article 19 paragraph (2) letter c UUPA), therefore anyone can easily prove themselves as the holder of land rights if their name is clearly listed on the certificate.²¹

Providing legal certainty regarding landowners' rights is crucial. Legal certainty of land ownership begins with a legal product, a land ownership certificate, issued by the National Land Agency. Land registration serves to protect the community's rights to land ownership.²² Providing legal certainty in the land sector requires the availability of written, complete and clear legal instruments which are

²⁰Bagas Imam Arianto & Gunarto, Tinjauan Yuridis Pelaksanaan Pendaftaran Tanah Sistematis Lengkap (PTSL) Di Kantor BPN Kabupaten Grobogan, *Prosiding : Konferensi Ilmiah Mahasiswa Unissula (KIMU) 2*, Unissula Semarang, 18 October 2019, p. 353

²¹Musta'in & Sukarmi, Implementasi Pendaftaran Sertipikat Hak Milik Atas Tanah dalam Pembagian Waris Dan Permasalahannya di Kantor Pertanahan Kota Semarang, *Jurnal Akta*, Volume 4 Nomor 2 June 2017, p. 134

²²Putri, C. A., Gunarto, Efektivitas Pengecekan Sertifikat Terhadap Pencegahan Sengketa Tanah Dalam Proses Peralihan Hak Atas Tanah, *Jurnal Akta*, Volume 5 Nomor 1 Tahun 2018, p. 268

implemented consistently in accordance with the spirit and content of their provisions.²³

The registration of former customary land in Temanggung Regency still faces various normative, structural, technical, cultural, and economic obstacles. Normative obstacles arise from changes and differing interpretations of implementing regulations for the Basic Agrarian Law (UUPA) and Government Regulation No. 24 of 1997, often confusing communities and officials when it comes to proving customary land rights. Structural obstacles relate to limited human resources at the Land Office and suboptimal coordination with village officials, while technical obstacles primarily arise at the stage of measuring and determining land boundaries. Furthermore, the community's legal culture, which still considers hereditary ownership to be sufficiently strong, and economic constraints in covering administrative costs, have led some residents to delay land registration. This situation indicates that despite the availability of positive legal norms, legal certainty has not been fully realized due to the gap between formal regulations and social realities on the ground.

The solutions pursued include strengthening regulations and ensuring certainty of rights verification, increasing the capacity of land officials, utilizing digital technology to minimize technical errors, increasing public legal awareness through outreach and education, and providing subsidies or affordable financing schemes. These efforts are aimed at bridging the gap between customary law and positive law and increasing the effectiveness of land registration implementation. With a long-term strategy that includes regulatory consistency, human resource development, and synergy between village governments, communities, and the Land Office, the land registration process will not only be an administrative activity but also a strategic instrument for creating orderly land administration, legal certainty, and social justice at the local level.

4. Conclusion

The effectiveness of the implementation of land registration for former customary land rights in Temanggung Regency has basically been quite good because it is supported by a clear legal basis in the Basic Agrarian Law (UUPA), structured implementation by the Land Office, and government programs such as PTSL and LARASITA that facilitate public access, although its effectiveness is still gradual and uneven due to limited understanding of local law and culture. Based on Soerjono Soekanto's theory of legal effectiveness, the success of registration is influenced by factors of legal substance, law enforcement structure, infrastructure, society, and culture, while the obstacles that arise include normative, structural, technical,

²³Kuswanto & Akhmad Khisni, Perlindungan Hukum Bagi Pemegang Hak Atas Tanah Dalam Kasus Tumpang Tindih Kepemilikan Atas Sebidang Tanah Di Badan Pertanahan Nasional/Atr Kabupaten Kudus, *Jurnal Akta*, Volume 4 Nomor 1, March 2017, p. 73

cultural, and economic aspects. Solutions are carried out through strengthening regulations, increasing the capacity of the apparatus, utilizing digital technology, legal education, and subsidizing registration fees. When viewed from the theory of legal certainty of Gustav Radbruch, positive legal norms are actually available and relatively stable, but their implementation still faces a gap with social reality. Therefore, the success of customary land registration is highly dependent on consistent implementation, public legal awareness, and the government's commitment to realizing legal certainty in the land sector.

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