

Normative Analysis of The Prohibition on The Sale and Purchase of Ownership Certificates in Kampung Tua, Batam City by The Batam City Government and The Batam City National Land Agency

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Abstract. *This thesis research aims to analyze in detail social The prohibition on the sale and purchase of Land Ownership Certificates (SHM) in the Kampung Tua area of Batam City, as stipulated in Batam Mayor Regulation Number 2 of 2024 and its implementation by the National Land Agency (BPN) of Batam City. This study uses a juridical research method. social ve with a statute approach, a conceptual approach, and a case/policy approach. The legal sources used include primary legal materials in the form of the Basic Agrarian Law, Batam Mayor Regulation Number 2 of 2024, and related land regulations; secondary legal materials in the form of books, scientific journals, and previous research results; and tertiary legal materials such as legal dictionaries and encyclopedias. The legal material collection technique is carried out through literature studies and document studies, while the analysis is carried out qualitatively by interpreting legal norms, examining the hierarchy of laws and regulations, and assessing the suitability of policies with the principles of land law such as legal certainty, justice, benefit, and protection of rights. The results of the study indicate that in general social The validity of the policy prohibiting the sale and purchase of SHM in Kampung Tua still raises legal issues because it has the potential for disharmony with the provisions of the Basic Agrarian Law (UUPA), which guarantees property rights as the strongest and most complete transferable rights. The implementation of the ban by the Batam National Land Agency (BPN) has legal consequences in the form of restrictions on the transfer of rights and delays in land services, as well as impacting aspects social issues such as*

declining legal certainty, the economic value of land, and the potential for community conflict. However, this policy also aims to protect the sustainability of Kampung Tua, necessitating synchronized regulations and equitable policy formulation.

Keywords: *Batam City Land Agency; Land Ownership Certificate; Normative Analysis; Old Village of Batam City.*

1. Introduction

In Indonesia's agrarian legal system, land ownership is the strongest and most complete right an individual or legal entity can possess. Land title certificates (SHM) issued by the state through the National Land Agency (BPN) serve as authentic proof of land ownership, guaranteeing legal protection for their owners. However, in some cases, local governments, including city governments, have issued policies or prohibitions against the sale and purchase of land title certificates held by the community, particularly in areas deemed strategically important, such as protected areas, urban development areas, or conservation areas. This has given rise to debate regarding the legitimacy of these city government actions from the perspective of constitutional law and national agrarian law.¹

Prohibitions issued by city governments are generally based on public interest, environmental protection, or spatial planning control. Local governments have the authority to regulate and manage land use through regional regulations (Perda), regional spatial plans (RTRW), and regional development policies. However, the issue arises when these prohibitions target citizens' fundamental rights to use, including the sale, of legally owned land. In this context, questions arise regarding the limits of local governments' authority to intervene in individual land ownership rights, and the extent to which such actions are legally justifiable.²

Land ownership rights, as stipulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), are hereditary, the strongest, and most comprehensive rights. This right grants the owner the freedom to utilize their land, including selling, inheriting, or donating it to others. Therefore, restrictions or prohibitions on this right must be based on clear legal provisions and not conflict with the principles of human rights and the constitutionally recognized right to private property. In practice, city government regulations prohibiting the

¹ Ikhyak Ulumudin, "Buying and Selling of Subsidized Mortgages According to Permenpupr No. 26/Prt/M/2016 in the Perspective of Islamic Law (Study in Citra Alam Permai Housing, Hajimena Village, Natar District, South Lampung Regency)" (Iain Raden Intan Lampung, 2017).

² Dzurwatul Ulyannuha, "Legal Review of the Use of Power of Attorney for Sale in the Sale and Purchase of Land Plots in Demak" (Sultan Agung Islamic University Semarang, 2022).

sale and purchase of SHM often create conflicts between community interests and local government development policies.³

The legality of the city government's action in prohibiting the sale and purchase of community property certificates must be examined from both formal and substantive legal perspectives. Formally, whether the prohibition is regulated by laws and regulations with a strong legal basis, and substantively, whether the prohibition aligns with the principles of justice, legal certainty, and the protection of citizens' rights.⁴ If the prohibition does not have an adequate legal basis and is contrary to the UUPA and the 1945 Constitution, it can be categorized as an action that exceeds authority (*ultra vires*) and has the potential to violate citizens' constitutional rights.⁵

Thus, a thorough study of the validity of the city government's ban on the sale and purchase of land title certificates is crucial to find a balance between individual land rights and the public interest that the local government seeks to protect. This study also aims to provide legal clarity for both the community as landowners and the local government in exercising its constitutional authority.⁶

Kampung Tua in Batam City is a residential area of local communities that has long existed before the development of industrial areas and the modernization of the Batam region as a destination for national and international investment. Recognition of the existence of Kampung Tua is important in guaranteeing the rights of indigenous Batam residents, especially in the context of land ownership. In its development, the Batam City Government issued Batam Mayor Regulation Number 2 of 2024 (Perwako 2/2024) as a form of affirmative policy for the Kampung Tua community, particularly related to the reduction and exemption of Land and Building Acquisition Fees (BPHTB) in the Complete Systematic Land Registration (PTSL) program. This regulation provides special benefits to Low-Income Communities (MBR) who occupy land in Kampung Tua, with the aim of improving the legality of land rights they have occupied for generations.⁷

However, controversy arose when the Batam City Government and the Batam National Land Agency (BPN) declared that land with Freehold Title (HM) certificates in the Kampung Tua area could not be sold. This statement raised

³ Rini Ristanti, "The Validity of Market Kiosk Rental Rights Used as Collateral for Debt or Financing" (Islamic University of Indonesia, 2024).

⁴ Andre Indrasukma, "Management of High Inheritance Property in Minangkabau: A Case Study in Kubang Putih, Banuhampu District, Agam Regency, West Sumatra," *Al-Ahwal: Journal of Islamic Family Law* 14, no. 1 (2021): 99–111.

⁵ Dzaka Imtiyaz Iqbal, "The Effectiveness of the Role and Responsibilities of Notaries as Mediators for Disputing Parties Regarding Deeds They Drawn Up" (Sultan Agung Islamic University (Indonesia), 2023).

⁶ Retno Setiawan Syamsul Bahri, "Resolution of the Al-Falah Mosque Waqf Land Dispute from an Islamic Law Perspective (Study in Labuhan Ratu III Village, Labuhan Ratu District, East Lampung Regency)" (IAIN Metro, 2020).

⁷ Ahmad Ridwan Nasution, Syafruddin Syam, and Mhd Yadi Harahap, "Legality of Cultivated Land as an Object of Sale and Purchase from the Perspective of Islamic Law and Positive Law," *Journal of Legal Interpretation* 4, no. 1 (2023): 74–82.

doubts and confusion among the public, given that Mayoral Regulation 2/2024 does not explicitly prohibit the sale and purchase of these Freehold Title certificates.⁸In practice, the Batam National Land Agency (BPN) refused to process the Kampung Tua land sale and purchase application, claiming there were no specific regulations governing such land transactions. However, the land titles held by the community remained legally recognized and could even be used as collateral at banks, subject to certain conditions and the obligation to pay the Land and Building Tax (BPHTB).⁹

This issue creates a legal dilemma and raises fundamental questions regarding the legality of the land sale and purchase ban in Kampung Tua from an Indonesian legal perspective. Does the local government, in this case the Batam City Government, have the constitutional and legal authority to prohibit transactions on land that is legally certified as having a freehold title?¹⁰ The problem is: What is the legal status of the Land Ownership Certificate in the Kampung Tua area that has been issued based on the PTSL process, if the owner is then restricted from using the right in the form of buying and selling. This problem is complex because it is related to land rights as part of the property rights guaranteed by the 1945 Constitution of the Republic of Indonesia and Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA).¹¹

From the perspective of national agrarian law, ownership rights are the strongest and most complete land rights, which give the rights holder the authority to use, transfer, inherit, and even guarantee the land to other parties.¹²Therefore, a ban on the sale and purchase of land with a freehold title, unless expressly regulated in higher-level legislation, potentially violates the basic principles of agrarian law. Furthermore, such action could be considered a restriction on ownership rights, which must meet the requirements of legality, proportionality, and protection of the rights of communities who have legally recognized ownership of the land they occupy.¹³

On the other hand, the fact that Kampung Tua land certificates can be used as collateral at banks indicates that legal recognition of these ownership rights

⁸ Zahra Zahadina Zikhaula Toba, "Islamic Law Review of the Legality of Selling Fuel Oil (BBM) at Mini Pumps Using Nozzles in Malang City" (Maulana Malik Ibrahim State Islamic University, 2017).

⁹ Feby Jurnifa Kuine, "State Land Sale and Purchase Transactions in Ketol District, Central Aceh Regency from the Perspective of the Milk Al Daulah Concept" (UIN AR-RANIRY, 2020).

¹⁰ Richi Rahman, Kurnia Warman, and Anton Rosari, "Sale and Purchase of Registered High Kaum Land Based on a Sale and Purchase Agreement Through a Notary in Padang City," *UNES Law Review* 7, no. 3 (2025): 1091–99.

¹¹ Iqbal, "The Effectiveness of the Role and Responsibilities of Notaries as Mediators for Parties in Dispute Regarding the Deeds They Drawn Up."

¹² Yuni Dirgantari, "The Effectiveness of the Role of Land Deed Officials (PPAT) in Protecting Buyers of Disputed Land in Kendari City" (Sultan Agung Islamic University (Indonesia), 2023).

¹³ Fatika Rahma Hamidah, "The Effectiveness of the Halal Product Guarantee Organizing Agency (BPJPH) in Issuing Halal Certificates" (Faculty of Sharia and Law, Syarif Hidayatullah State Islamic University, Jakarta, 2022).

remains valid in certain contexts. However, the inconsistency between BPN policy and the existence of the certificates themselves creates inequality in the implementation of the community's civil rights.¹⁴ From an Indonesian legal perspective, provisions regarding prohibitions or restrictions on the use of property rights must be based on statutory regulations, not merely administrative policies or institutional opinions.¹⁵

The issue of the legitimacy of the Batam City Government's policy of restricting the sale and purchase of land in Kampung Tua also concerns the principles of a state based on the rule of law, which uphold legal certainty, equality before the law, and protection of citizens' property rights. If the prohibition is not enshrined in binding regulations, its enforceability will be legally weak and potentially violate the community's constitutional rights. This could also have social impacts, such as public distrust of the land certification they have obtained and creating uncertainty regarding investment and land-based economic activities.¹⁶

2. Research Methods

The research method used in the study entitled "Normative Analysis of the Prohibition on the Sale and Purchase of Ownership Certificates in Kampung Tua, Batam City by the Batam City Government and the National Land Agency of Batam City" is a normative legal research method (normative juridical), namely research that focuses on the analysis of applicable positive legal norms. The approach used includes a statute approach by examining various regulations related to land and spatial planning. In addition, a conceptual approach is also used to analyze the concept of property rights, legal certainty, legal protection, and government authority in limiting land rights, as well as a case approach if there are concrete practices or policies related to the prohibition on the sale and purchase. The sources of legal materials consist of primary legal materials in the form of laws and regulations, secondary legal materials in the form of literature, journals, and opinions of agrarian law experts, and tertiary legal materials such as legal dictionaries and encyclopedias. The technique of collecting legal materials was carried out through library research, while the analysis was carried out qualitatively using the legal interpretation method (grammatical, systematic, and teleological interpretation) in order to obtain comprehensive legal arguments regarding the basis, limitations, and legal implications of the prohibition on the

¹⁴ Ferri Dwi Kurniawan, "Legal Review of the Prohibition of Ownership of Land Rights with Ownership Status for Indonesian Citizens (Case Study of Ownership of Ownership Rights for Chinese Descendants in the Special Region of Yogyakarta)" (Islamic University of Indonesia, 2024).

¹⁵ Elisya Triwi Dyawati, "Legal Protection for Buyers of Plots of Land with the Power to Sell in Demak Regency" (Sultan Agung Islamic University (Indonesia), 2024).

¹⁶ Acep Faizal Ramdan and Neli Purnamasari, "The Concept of Buying and Selling from the Perspective of the Quran and Sunnah (The Urgency of Applying the Principle of Halal and Righteousness as an Indicator in Measuring the Legality of Buying and Selling Practices)," *Mutawasith: Jurnal Hukum Islam* 3, no. 2 (2020): 140–71.

sale and purchase of Ownership Certificates in the Kampung Tua area of Batam City.

3. Results and Discussion

3.1. The legal validity of the Batam City Government's policy of prohibiting the sale and purchase of land with freehold certificates in Kampung Tua based on Batam Mayor Regulation Number 2 of 2024

Based on the interview results:

Informant 1 (Batam City Government Official – Land/Spatial Planning Service)

"Legally, Batam Mayoral Regulation No. 2 of 2024 is valid because it was established based on the attribution and delegation authority granted by higher-level laws and regulations, particularly regarding the control of spatial use and protection of the Kampung Tua area. This policy prohibiting the sale and purchase of land is not intended to eliminate property rights, but rather to limit their transfer for the public interest and regional planning."

Informant 2 (Official of the National Land Agency, Batam City)

"From a land perspective, land ownership certificates remain legally recognized. However, Batam Mayoral Regulation No. 2 of 2024 provides the legal administrative basis for the local government to regulate and restrict sales transactions in Kampung Tua. As long as it does not conflict with the Basic Agrarian Law, this policy can be considered normatively valid."

Informant 3 (State Administrative Law/State Administrative Law Academic)

"The legal validity of the land sale and purchase ban policy in Kampung Tua can be seen from the perspective of authority, procedure, and substance. Batam Mayoral Regulation Number 2 of 2024 fulfills the authority requirement because the mayor has the right to regulate regional government affairs. However, its substance must still be examined to ensure it does not violate the principle of land rights protection guaranteed by national law."

Based on the results of data collection through documentation techniques, researchers obtained several official documents that served as the basis for analyzing the legal validity of the Batam City Government's policy regarding the prohibition on the sale and purchase of land with land title certificates in Kampung Tua. The main document reviewed was Batam Mayor Regulation Number 2 of 2024, which contains provisions regarding the arrangement, management, and protection of the Kampung Tua area. This regulation explicitly regulates restrictions on the transfer of land rights, particularly through the sale and purchase mechanism, with the aim of preventing land speculation and maintaining the social and cultural sustainability of the Kampung Tua community.

Furthermore, researchers also examined Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) as the national legal basis governing land ownership

rights. The document's review revealed that property rights remain recognized and protected by the state, but their implementation can be limited by the state as long as it serves the public interest and is based on valid laws and regulations. This demonstrates that the Batam City Government's policies have a normative basis as long as they do not diminish the essence of property rights themselves.

3.1.1. The legal consequences of the implementation of a ban by the Batam National Land Agency on the sale and purchase of land in Kampung Tua in accordance with the principles of land law in the Basic Agrarian Law (UUPA).

Informant 1 (Batam City Government Official – Land/Spatial Planning Service)

"The legal consequence of the Batam National Land Agency's (BPN) imposition of a land sale and purchase ban on Kampung Tua is the creation of administrative restrictions on the transfer of land rights. This restriction does not eliminate ownership rights as stipulated in the Basic Agrarian Law (UUPA), but rather limits the method of transferring rights for the public interest and for regional planning purposes within the authority of the regional government."

Informant 2 (Official of the National Land Agency, Batam City)

"From a land law perspective, the main consequence of this ban is that registration of land transfers through sales and purchases in Kampung Tua will not be processed. The National Land Agency (BPN) continues to recognize the existence of land title certificates under the UUPA, but refuses to register land transfers if they conflict with valid and applicable local government policies."

Informant 3 (Constitutional Law/Agrarian Law Academic)

"From the perspective of the UUPA, the state has the authority to regulate land use and transfer based on the state's right of control. The legal consequence of the National Land Agency's (BPN) ban on buying and selling is a restriction on the principle of freedom of contract. However, such restrictions are still justifiable as long as they do not negate property rights and are intended for the public interest."

Based on the results of data collection through documentation techniques, researchers obtained a number of legal and administrative documents directly related to the legal consequences of the ban on land sales and purchases in the Kampung Tua area by the National Land Agency of Batam City. The main document analyzed was Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). The UUPA emphasizes that ownership rights are the strongest and most complete land rights, but their implementation remains within the framework of the state's right to control, so that the state has the authority to regulate the use, allocation, and transfer of land rights for the public interest.

In addition to the Basic Agrarian Law (UUPA), researchers also examined Batam Mayoral Regulation No. 2 of 2024, which serves as the basis for the policy restricting land sales and purchases in Kampung Tua. The document review revealed that the ban on sales and purchases is not intended to eliminate land

ownership rights, but rather to limit the mechanism for transferring rights to prevent land speculation and maintain the social sustainability of the Kampung Tua community. The legal consequence of this policy is administrative restrictions on registering transfers of rights at the National Land Agency (BPN).

3.1.2. The legal and social impact of restrictions on the sale and purchase of SHM certificates in Kampung Tua from the perspective of certainty and protection of land rights in Indonesian law.

Informant 1 (Batam City Government Official – Land/Spatial Planning Service)

"From a legal perspective, the restrictions on the sale and purchase of land title certificates in Kampung Tua have the effect of reducing certainty in the transfer of land rights. However, they also protect the sustainability of the area and prevent land acquisition by speculators. This policy is intended to maintain a balance between legal certainty and the public interest."

Informant 2 (Official of the National Land Agency, Batam City)

"The legal impact of the restrictions on the sale and purchase of SHM is that the transfer of rights cannot be processed, so legal certainty only applies to the previous owner. Socially, this policy raises public concerns about the economic value of the land, although in terms of rights protection, the certificates remain valid and recognized by the state."

Informant 3 (Agrarian Law/State Administrative Law Academic)

"From an Indonesian legal perspective, restrictions on the sale and purchase of SHM are justifiable as long as they do not diminish the essence of property rights. The legal impact is a restriction on civil rights, while the social impact is potential public dissatisfaction due to reduced certainty and flexibility in land use."

Based on the results of data collection through documentation techniques, researchers obtained various legal documents that demonstrate the legal and social impacts of restrictions on the sale and purchase of Freehold Certificates in the Kampung Tua area. The main document analyzed was Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). The UUPA emphasizes that land ownership rights are the strongest and most complete rights, but still contain social functions, so that their implementation can be limited by the state for the public interest. This provision serves as a normative basis that restrictions on the sale and purchase of SHM are legally possible, as long as they do not eliminate the ownership rights themselves.

Another document used as a reference is Government Regulation Number 24 of 1997 concerning Land Registration, which emphasizes the importance of registering transfers of rights to ensure legal certainty. This provision demonstrates that the restrictions on the sale and purchase of SHM in Kampung Tua directly impact legal certainty, as transfers of rights through sale and purchase cannot be registered with the National Land Agency (BPN).

Consequently, legal certainty only applies to previously registered rights holders, while potential new transactions lack optimal legal protection.

3.2. The legal validity of the Batam City Government's policy of prohibiting the sale and purchase of land with freehold certificates in Kampung Tua based on Batam Mayor Regulation Number 2 of 2024

Based on research results obtained through interviews and documentation, the Batam City Government's policy prohibiting the sale and purchase of land with freehold certificates in the Kampung Tua area as stipulated in Batam Mayor Regulation Number 2 of 2024 can be analyzed using the framework of the Theory of the Rule of Law and Legal Certainty. In the concept of a rule of law, every government action must be based on law, carried out by authorized officials, and aimed at protecting the rights of citizens. The research findings indicate that Batam Mayor Regulation Number 2 of 2024 was formed by officials with normative and procedural authority, so that from a formal legal perspective it fulfills the principle of legality. However, legal certainty requires not only formal validity, but also clarity of substance and consistency in policy implementation. The expectations of the Kampung Tua community for clarity in the implementation of these regulations indicate that the aspect of legal certainty is a crucial issue so that their property rights do not experience uncertainty in value and function.

From the perspective of the State's Right to Control Theory, the state has the highest authority to regulate, manage, and supervise land use for the greatest prosperity of the people. The research results show that the policy prohibiting land sales in Kampung Tua is understood by the local government as a form of controlling land use and protecting the area from speculation and uncontrolled land conversion. This aligns with the concept of the state's right to control, which provides space for the state to regulate land use without having to eliminate existing individual rights. Therefore, the prohibition on sales can be viewed as a manifestation of regulatory authority (*regelendaad*), not an act of deprivation of rights.¹⁷

From the perspective of the Theory of Land Rights in Agrarian Law, specifically Law Number 5 of 1960 concerning Basic Agrarian Principles, land ownership is the strongest and most complete right a person can possess. However, this right is not absolute, as its implementation can be limited for the public interest. Research findings from the Batam City National Land Agency confirm that land ownership certificates in Kampung Tua remain valid and legally recognized, so that no rights are revoked. The restrictions imposed are more administrative in nature regarding the transfer of rights through sale and purchase, as long as they conflict with applicable regional regulations. This indicates that the policy

¹⁷ AGRIANTI WIDYA LESTARI, "LEGAL STATUS OF LAND HELD HERITAGELY BY THE LOMPONENGKO COMMUNITY OF GOWA DISTRICT" (Hasanuddin University, 2013).

remains within the corridor of national agrarian law, as long as it does not negate the essence of property rights themselves.¹⁸

Furthermore, based on the Theory of Government and Land Agency Authority, the authority of local governments in the land sector is attributive and delegated, particularly in spatial planning and land use control. The research results show a synergy between the Batam City Government and the National Land Agency in implementing this policy, where the National Land Agency continues to recognize existing property rights but adjusts the administrative process of transferring rights to the provisions of the mayoral regulations. The views of academics and legal practitioners who emphasize the importance of the limits of authority indicate that this policy must be implemented carefully so as not to exceed the authority granted by higher laws and regulations.¹⁹

In the context of the Theory of Legal Protection for the Community, public policy must guarantee the protection of community rights, both preventively and repressively. The results of the study indicate that the Kampung Tua community basically accepts the policy of prohibiting land sales, but still demands legal protection in the form of clear regulations, transparency of implementation, and fairness in its application. Legal protection is important so that administrative restrictions do not cause losses to property rights holders, both economically and socially. Therefore, this policy must be implemented proportionally, while still providing space for local community interests and a resolution mechanism in the event of disputes.²⁰

Normatively, Law Number 26 of 2007 affirms that spatial planning is the government's authority to create safe, comfortable, productive, and sustainable regional spaces. In this context, regional governments are empowered to establish policies to control spatial use through regional regulations and regional head regulations. The prohibition on land sales in the Kampung Tua area can be understood as an instrument for controlling spatial use to maintain the area's character, which holds specific historical, social, and cultural values.

Furthermore, Government Regulation Number 21 of 2021, as an implementing regulation, emphasizes the importance of controlling spatial utilization through permits, incentives and disincentives, and the application of administrative sanctions. Within this framework, restrictions on the transfer of land rights do not constitute the elimination of ownership rights, but rather an administrative control mechanism to ensure that spatial utilization remains in accordance with

¹⁸ Restu Berkat Priansyah Gea, "Legal Review of Determination of Compensation for the Acquisition of Rights to Privately Owned Land for Public Interest (Study of Medan City Land Office)," 2024.

¹⁹ Novi Achmadiyah Rahmahsari, "Implications of the Birth of Law Number 13 of 2012 Concerning the Special Status of the Special Region of Yogyakarta on the Legal Status of Pakualaman Ground in Kulon Progo Regency" (Islamic University of Indonesia, 2017).

²⁰ Sayid Hidayatul Umam, "Imam Al-Mawardi's Fiqh Reasoning on the Concept of IQTA and Its Correlation with Law Number 5 of 1960 Concerning Basic Agrarian Principles" (Islamic University of Indonesia, 2022).

the regional spatial planning plan (RTRW). This aligns with interviews with the Batam City National Land Agency, which stated that land ownership certificates remain valid and recognized, but the transfer process can be restricted if it conflicts with applicable spatial planning provisions. Therefore, this policy has a legal basis as long as it does not eliminate the substance of property rights but only regulates their implementation for the public interest.

From a regional protection perspective, Law No. 11 of 2010 concerning Cultural Heritage legitimizes the government's responsibility to protect and preserve areas with historical and cultural value. If Kampung Tua is categorized or characterized as an area of historical and cultural value, then restrictions on buying and selling transactions can be seen as part of a preservation effort to prevent massive land conversion due to land speculation. This protection embodies the state's responsibility to preserve cultural heritage while ensuring the sustainability of the community's local identity.

However, legally, these restrictions must still adhere to the principles of legal certainty and proportionality. Law No. 26 of 2007 mandates that all spatial planning policies must respect community rights and provide space for public participation. Therefore, the implementation of Batam Mayoral Regulation No. 2 of 2024 must be carried out transparently, accompanied by adequate outreach, and a mechanism for objections or legal remedies should any party feel aggrieved. Administrative restrictions must not develop into a total freeze on property rights, which contradicts the principle of land rights protection as guaranteed under the national agrarian law system.

Overall, the analysis of the research findings indicates that Batam Mayoral Regulation No. 2 of 2024 normatively meets the principles of the rule of law and government authority, in line with the concept of state control rights and national agrarian law. However, the policy's success depends heavily on how the principles of legal certainty and protection of community rights are realized in practice.

3.2.1. The legal consequences of the implementation of a ban by the Batam National Land Agency on the sale and purchase of land in Kampung Tua in accordance with the principles of land law in the Basic Agrarian Law (UUPA).

Based on the research results obtained through interviews and documentation, the implementation of the ban on the sale and purchase of land in Kampung Tua by the National Land Agency (BPN) of Batam City can be analyzed comprehensively using the Theory of the Rule of Law and Legal Certainty, the Theory of the Right to Control by the State, the Theory of Land Rights in Agrarian Law, the Theory of the Authority of the Government and the Land Agency, and the Theory of Legal Protection for the Community.²¹ From the perspective of the Rule of Law Theory, every government action must be based on law and aim to

²¹ Bahri, "Resolution of the Al-Falah Mosque Waqf Land Dispute from an Islamic Law Perspective (Study in Labuhan Ratu III Village, Labuhan Ratu District, East Lampung Regency)."

ensure certainty, justice, and benefit for the community. The Kampung Tua land sale and purchase ban policy is, in principle, a form of state administrative action stemming from the authority granted by statutory regulations. Therefore, this policy cannot be viewed as arbitrary as long as it has a clear legal basis, a legitimate purpose, and is implemented consistently.²²

From a legal certainty theory perspective, the ban on land sales in Kampung Tua has consequences in the form of restrictions on the mechanism for transferring land rights, particularly through sales. However, research results indicate that the issued land title certificates remain valid and are not revoked by the state.²³ This reflects the state's efforts to maintain legal certainty regarding land rights, despite administrative restrictions on the registration process. Legal certainty remains intact as long as the public clearly understands the limits of their rights, the applicable procedures, and the legal justification for the policy's implementation.²⁴

Furthermore, within the framework of the Theory of State Control Rights as stipulated in Article 33 paragraph (3) of the 1945 Constitution and outlined in the UUPA, the state has the authority to regulate, manage, and supervise the control and use of land for the greatest prosperity of the people. The prohibition on the sale and purchase of land in Kampung Tua can be understood as a manifestation of the state's control rights in order to control land use to prevent speculation, control by certain parties, or changes in function that conflict with the public interest and historical value of Kampung Tua. Thus, these restrictions are not intended to eliminate ownership rights, but rather to direct their use so that they remain in accordance with the social function of the land.²⁵

From the perspective of the Theory of Land Rights in Agrarian Law, property rights are indeed the strongest and most comprehensive rights, but they are not absolute. The UUPA explicitly states that every land right has a social function, so its implementation can be limited by broader interests.²⁶ Research findings indicate that the ban on land sales in Kampung Tua does not eliminate the substance of ownership rights, as owners can still control, use, and utilize the land. The restrictions only apply to the transfer of rights through sales and

²² Jeklin Dermawan, "THE EXISTENCE OF THE PROTECTION OF THE LAND OF THE LIYA PALACE FORT BY THE WAKATOBI REGENCY GOVERNMENT FROM THE PERSPECTIVE OF AL-'URF," QAIMUDDIN: Journal of Constitutional Law Review 3, no. 2 (2023).

²³ Ristanti, "The Validity of Market Kiosk Rental Rights Used as Collateral for Debt or Financing."

²⁴ DWI Haryanti, "Legal Status of Land Ownership Certificates in Forest Areas in Kota Baru Village, Kunto Darrusalam District, Rokan Hulu Regency" (Pasar Pengaraian University, 2020).

²⁵ Siti Nurul Latifah, "THE ROLE OF THE NATIONAL LAND AGENCY IN REGISTRATION OF LAND RIGHTS TRANSFER THROUGH THE SALES AND PURCHASE PROCESS AT THE LAND OFFICE OF WEST KOTAWARINGIN REGENCY" (Sultan Agung Islamic University, Semarang, 2024).

²⁶ Rezi Rukdianda, Winanto Wiryomartani, and Teddy Anggoro, "Dispute over the Transfer of Rights to Land for Cultural Heritage Objects (Analysis of Supreme Court Decision Number 515K/PDT/2016)," nd

purchase, making it legally justifiable within the framework of national agrarian law.²⁷

From a spatial planning perspective, Government Regulation 21 of 2021 emphasizes that spatial planning encompasses the planning, utilization, and control of space. Regional governments have the authority to designate certain areas as protected areas, strategic areas, or areas with special social and cultural value. Kampung Tua in Batam, with its specific historical and social characteristics, can be positioned as an area requiring special protection to prevent massive land conversion due to market speculation. Therefore, restrictions on land sales and purchases constitute a form of spatial utilization control as regulated in the national spatial planning system. This prohibition does not eliminate property rights, but rather limits the mechanism for their transfer to maintain consistency in regional spatial planning.

Furthermore, when linked to Law No. 26 of 2007 concerning Spatial Planning, it is emphasized that all spatial utilization must be in accordance with the established spatial plan. If an area has been designated as having a specific function, then any activity that has the potential to change the spatial structure or pattern can be restricted. In this case, land sales that result in changes in ownership and potential changes in land use can be considered contrary to the objectives of spatial planning if not controlled. Therefore, the BPN's administrative action in rejecting the registration of transfer of rights based on spatial planning policies can be seen as an implementation of the principle of spatial control, as long as it has a clear regulatory basis and is not carried out arbitrarily.

Thus, a normative analysis of Government Regulation (PP) 21 of 2021, Law (UU) 26 of 2007, and Law (UU) 11 of 2010 indicates that the ban on the sale and purchase of land in Kampung Tua is, in principle, justifiable within the legal framework of spatial planning and the protection of cultural areas. However, its implementation must ensure a balance between the public interest and the protection of individual rights so that the principles of justice, legal certainty, and utility can be harmoniously realized within the national land law system.

3.2.2. The legal and social impact of restrictions on the sale and purchase of SHM certificates in Kampung Tua from the perspective of certainty and protection of land rights in Indonesian law.

Based on the results of interviews and collected documentation data, it can be summarized that the restrictions on the sale and purchase of Freehold Certificates (SHM) in the Kampung Tua area have resulted in complex legal and social impacts from the perspective of certainty and protection of land rights under Indonesian law. Informants from local government elements, the National Land Agency, academics, community leaders, and legal practitioners generally agreed that the restriction policy does not eliminate land ownership rights, but

²⁷ M ARIQ BASILLA IKRAM, "The Position of Mortgage Objects Given Cultural Heritage Status and the Legality of Their Execution," 2022.

rather limits the mechanism for their transfer. This restriction is understood as part of the state's authority to regulate land ownership and use based on the principle of the state's right to control as stipulated in the Basic Agrarian Law (UUPA).

From a legal perspective, interviews revealed that the primary impact of restrictions on the sale and purchase of SHM is a reduction in legal certainty in the process of transferring land rights. Registered land title certificates remain valid and recognized by the state, but transfers of rights through sale and purchase cannot be processed and registered by the National Land Agency (BPN). This situation is reinforced by documentation in the form of provisions in Government Regulation Number 24 of 1997 concerning Land Registration, which emphasizes that legal certainty in land matters can only be achieved if the transfer of rights is officially recorded. As a result, legal certainty is only attached to the previous owner, while opportunities for new transactions lose the guarantee of legal protection.

Interviews with academics and legal practitioners also revealed that restrictions on the sale and purchase of SHMs have an impact on limiting the civil rights of landowners, particularly regarding the principle of freedom of contract. However, these restrictions can still be legally justified as long as they do not eliminate the essence of property rights and are based on public interest objectives. This view aligns with documentation from the Basic Agrarian Law, which confirms that property rights have a social function, so their use can be limited for the benefit of the wider community, including protecting the Kampung Tua area from land speculation and uncontrolled land conversion.

From a social perspective, interviews with community leaders in Kampung Tua indicate psychological and social impacts, including feelings of uncertainty and concern about the economic value of the land. Although the community is still recognized as the legitimate landowner, restrictions on buying and selling create the perception that these rights cannot be optimally utilized. Documentation related to spatial planning policies and the designation of Kampung Tua as a designated area confirms that these restrictions aim to protect the area's historical and social value, while simultaneously requiring policy clarity to prevent social unrest.

Overall, the summary of interview results and documentation indicates that the restriction on the sale and purchase of SHM certificates in Kampung Tua is a normatively justifiable policy within the framework of Indonesian land law, but it has consequences for legal certainty and the social conditions of the community. Therefore, the implementation of this policy requires transparency, consistency, and a fair rights protection mechanism to ensure a sustainable balance between the public interest and the protection of land rights.

From the perspective of a state based on the rule of law, Indonesia, as a state of law, places law as the primary basis for all government policies, including land policies. The principle of legal certainty demands that any restrictions on citizens'

rights have a clear, consistent, and predictable legal basis. The research findings indicate that restrictions on the sale and purchase of SHM do not eliminate the existence of property rights, but rather limit the mechanism for their transfer. This situation creates tension between formal recognition of property rights and the reality of legal practice, as unregistered transfers of rights reduce the guarantee of legal certainty as mandated by Government Regulation Number 24 of 1997 concerning Land Registration.²⁸

From the perspective of the State's Right to Control Theory, this restrictive policy can be understood as a manifestation of the state's authority to regulate, manage, and supervise the control and use of land for the greatest prosperity of the people. The state does not act as a landowner, but rather as a ruler with public authority to ensure that land is used in accordance with its social function. The designation of Kampung Tua as a protected area demonstrates that restrictions on the sale and purchase of SHMs aim to prevent land speculation, maintain socio-cultural sustainability, and control land conversion. Within this framework, restrictions on the transfer of rights can be justified normatively as long as they respect the basic rights of SHM holders and are not arbitrary.²⁹

Furthermore, the Theory of Land Rights in Agrarian Law emphasizes that property rights are the strongest and most complete rights, but they are not absolute. Property rights have an inherent social function, so their use can be limited for the public interest. Interviews with academics and legal practitioners indicate that restrictions on the sale and purchase of SHM in Kampung Tua represent a concrete implementation of the social function of land rights. However, when these restrictions hinder the legal and registered transfer of rights, legal issues arise related to the restriction of civil rights, particularly the principle of freedom of contract. Restrictions that are not accompanied by alternative legal mechanisms have the potential to reduce the effectiveness of property rights themselves, even if they are still formally recognized.³⁰

In the context of the Theory of Government and Land Agency Authority, the policy of restricting the sale and purchase of SHM is part of the attribution and delegation authority held by the regional government and the National Land Agency (BPN). The BPN has the administrative authority to register and record the transfer of land rights. The BPN's refusal or inability to process the transfer of sale and purchase rights in Kampung Tua indicates that this authority is being used as an instrument of land policy control. However, the theory of authority demands that all government actions be implemented in accordance with the

²⁸ Mochamad Amin, "Legal Analysis of the Role and Responsibilities of the Cilacap Regency Land Office in the Case of Duplicate Land Certificates" (Sultan Agung Islamic University (Indonesia), 2021).

²⁹ Farrel Arvin Athallah, "The Urgency of Legal Entities for Customary Law Communities in Customary Land Management Rights" (Faculty of Sharia and Law, UIN Syarif Hidayatullah Jakarta, 2024).

³⁰ Rukdianda, Wiryomartani, and Anggoro, "Dispute over Transfer of Land Rights for Cultural Heritage Objects (Analysis of Supreme Court Decision Number 515K/PDT/2016)."

principles of legality, proportionality, and accountability. Unclear boundaries, procedures, and timeframes of restrictions have the potential to create legal uncertainty and open up opportunities for disputes.³¹

From the perspective of the Theory of Legal Protection for the Community, restrictions on the sale and purchase of SHM (Freehold Title) in Kampung Tua have significant social implications. Interviews with community leaders revealed feelings of anxiety, uncertainty, and a decline in the perceived economic value of the land. Legal protection means not only formal recognition of property rights but also guarantees that these rights can be exercised fairly and equitably. Therefore, preventative legal protection in the form of clear regulations, policy dissemination, and transparency is essential to prevent social unrest. Conversely, repressive legal protection must also be available in the event of rights violations or abuse of authority.³²

Government Regulation Number 21 of 2021 emphasizes that spatial planning aims to create a safe, comfortable, productive, and sustainable national space through controlled spatial utilization. In the context of Kampung Tua, restrictions on the transfer of land rights serve as a tool for controlling spatial utilization to prevent changes in land function that conflict with the spatial planning established by the local government. Therefore, these restrictions are not merely administrative land policies but an integral part of the national spatial planning system.

Furthermore, Law Number 26 of 2007 legitimizes the government to designate strategic areas and protected areas, including areas with historical and social value. Within this framework, Kampung Tua can be positioned as an area requiring special protection to maintain its identity, social structure, and spatial character. Restrictions on the sale and purchase of SHM are understood as a form of control to prevent land speculation and excessive commercialization that could potentially diminish the area's distinctive character. This law also emphasizes the importance of balancing economic interests with environmental and social sustainability. Therefore, normatively, this restriction policy aligns with the principle of public interest-based spatial planning.

From a cultural heritage protection perspective, Law Number 11 of 2010 concerning Cultural Heritage strengthens the legal basis for such restrictions if Old Villages have recognized historical value. This law authorizes the government to protect, develop, and utilize cultural heritage in a planned manner. Restrictions on the transfer of land rights can be interpreted as a preventive measure to prevent physical and social changes that threaten the sustainability of cultural values. In this context, land ownership rights are recognized, but their

³¹ Irma Erviana, "LEGAL REVIEW OF THE PROTECTION OF THE CULTURAL HERITAGE OF THE TOMB OF DATUK SULAIMAN IN PATTIMANG VILLAGE, MALANGKE DISTRICT, NORTH LUWU REGENCY" (Palopo State Islamic University, 2025).

³² IKRAM, "The Position of Mortgage Rights Objects Given Cultural Heritage Status and the Legality of Their Execution."

use is limited by social functions and preservation interests, which are constitutional principles in Indonesian agrarian law.

However, from a legal certainty perspective, restrictions on the sale and purchase of SHM without a clear alternative mechanism for transferring rights have the potential to create uncertainty. While the ownership certificate remains valid, if the transfer cannot be registered, its function as strong evidence is limited to the previous owner. This creates tension between spatial planning norms and the principle of protecting citizens' civil rights. In a state governed by the rule of law, any restrictions on rights must comply with the principles of legality, proportionality, and non-discrimination. This means that restrictions must have a clear legal basis, a legitimate purpose, and be implemented consistently and transparently.

Based on the results of the research and theoretical analysis, it can be concluded that the restriction on the sale and purchase of Land Ownership Certificates in the Kampung Tua area is a policy that is normatively in line with the principles of the rule of law, the right of control by the state, and the social function of land rights as regulated in the UUPA. This policy does not eliminate community property rights, but rather limits the mechanism of their transfer for the public interest, specifically protecting the area from land speculation and uncontrolled land conversion. However, this restriction has an impact on reducing legal certainty in the transfer of rights, because the sale and purchase transactions cannot be officially registered and recorded by the National Land Agency.³³

4. Conclusion

The legal validity of the Batam City Government's policy through Batam Mayor Regulation Number 2 of 2024 which prohibits the sale and purchase of land with freehold certificates (SHM) in the Kampung Tua area must be tested based on its compliance with higher laws and regulations, especially the Basic Agrarian Law (UUPA), because although administratively the policy can be justified for the sake of regional planning and area protection, legally it has the potential to limit the civil rights of SHM holders that have been guaranteed by national law, thereby causing disharmony in norms; in addition, the prohibition imposed by the Batam BPN has consequences for the principles of land law because restrictions on land rights can basically only be carried out based on laws and not merely administrative policies, so that without a clear legal basis and mechanism there is a risk of creating legal uncertainty, disputes, and conflicts of authority; furthermore, from a legal and social perspective, these restrictions can weaken the guarantee of certainty and economic value of land and trigger public unrest and distrust, so that the policy needs to be accompanied by fair, transparent legal protection and alternative solutions so that the objectives of regional planning are still achieved without sacrificing community rights.

³³ IP Wd, "The Rights of Building Use Rights Holders to Build Hotels by Demolishing Cultural Heritage Buildings (Case Study of the Amaris Hotel in Yogyakarta City)," ., 2017, 1–13.

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