

Legal Protection for Landowners Based on Land Rights Above Management Rights in Batam City (Case Study of Decision Number 32/PDT/2024/PT TPG)

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Abstract. Batam is a rapidly growing industrial and commercial city in the Riau Islands, with most of the land holding State Land status managed through a Management Rights scheme by the Batam Business Entity Agency. The Management Rights regulation, which began with Home Affairs Decree No. 43 of 1977, often ignores the existence of land control by the community, especially in areas that are not yet clear and clean, so that people who have land rights are only given the option of compensation. This condition raises legal issues related to the certainty and protection of land rights. Therefore, this study aims to analyze the legal protection for land owners based on the right to Management Rights in Batam City as well as the legal considerations of the judge in Decision Number 32/PDT/2024/PT TPG. The research method used is normative legal research using the Theory of Legal Protection and Theory of Legal Certainty. The approach methods used in this study are the case study approach and the statutory approach. Data analysis is an activity in the research that takes the form of conducting a review of the results of data processing. The research results indicate that legal protection for landowners based on the right to manage land in Batam City, as specified in Decision Number 32/PDT/2024/PT TPG, is granted as long as the right to manage land is legally acquired, actually controlled, and based on good faith, even if it does not yet take the form of a registered land right. The judge's legal considerations were not solely oriented to the formal status of the Management Right held by BP Batam, but also took into account the reality of land ownership, existing civil legal relationships, and the principles of justice, legal certainty, and utility. The judge emphasized that the Management Right is a delegation of state authority and not an ownership right. Therefore, it does not automatically extinguish the civil rights of other parties. Therefore, the owner of the right to manage land remains entitled to legal protection as long as it is not proven to conflict with statutory regulations.

Keywords: Consideration; Judge's; Legal; Management; Protection.

1. Introduction

Land based on Law Number 5 of 1960 concerning the Basic Agrarian Regulations is described as the upper part of the earth's surface. Land plays an important role in human life as stated by Van Dijk, "Land is the main capital, and for the largest part of Indonesia, land is the only capital." This paradigm then became the basis for the birth of Article 33 paragraph (3) of the 1945 Constitution which reads: "The land and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." Based on this article, the state has the right to control resources including land for the prosperity of the people. With regard to land, the concept of the right to control is embodied in the concept of Management Rights.

Land regulations in the national legal system are based on the belief that land is crucial to people's lives. Land is understood not only as an economic object but also as a living space inherent in social identity and human survival. Therefore, all land policies and practices are required to reflect the values of justice, certainty, and utility, as Gustav Radbruch proposed as the primary objectives of law.¹ These values are the basis that must be present in every management, control, or granting of land rights in a state based on law.

In the Indonesian constitutional framework, the state's authority over land, water and space is intended to guarantee the greatest possible prosperity of the people as regulated in Article 33 paragraph (3) of the 1945 Constitution.² This mandate emphasizes that the state must implement a land system that is not merely administrative but also responsive to the needs and rights of the community. Therefore, every state action in regulating land use must continue to protect citizens who actually own the land or who have legal ownership.

Batam City is an area where most of the land is under the management rights of the Batam Free Trade Zone and Free Port Authority, also abbreviated as the Batam Authority. According to Article 1 paragraph (3) of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration, the definition of HPL is "Management Rights are the right to control from the state, the implementation authority of which is partly delegated to the holder of Management Rights". These Management Rights present complex legal relationship dynamics so that the management authority needs to be implemented proportionally so as not to ignore the existence of the community who have controlled the land based on the right, whether in the form of a letter, history of control, or other evidence that shows the legal relationship between the subject and the land object. When a conflict occurs between Management Rights

¹Gustav Radbruch, 1970, *Rechtsphilosophie*, CF Müller Verlag, Heidelberg, p. 107

²Jimly Asshiddiqie, 2006, *The Constitution and Constitutionalism of Indonesia*, Kompas, Jakarta, p. 199

and community control, the need arises to emphasize how the state through land management institutions continues to provide fair protection.

Since 1970, all land in Batam City has been designated as Management Rights (HPL) by the Batam Authority to support industrial development and investment. Therefore, conceptually, land ownership in Batam City has different characteristics compared to other regions in Indonesia. Management Rights grant the holder the authority to plan, use, and cooperate in land utilization, but do not provide direct rights to the community as land rights holders. As Boedi Harsono emphasized, "Management Rights do not provide direct rights to the party controlling the land, but only the right to obtain permission from the Management Rights holder to utilize it."³ However, in practice, the community still controls the land and conducts transactions based on land rights, especially in areas that are not included in Kampung Tua.

Lands that are not part of the Old Village do not have historical recognition, but the community has controlled the land for years through informal evidence such as sales receipts, sporadic records, or written statements. This phenomenon aligns with Maria SW Sumardjono's opinion that "various forms of land ownership that have developed in the community are generally informal, but can still be used as evidence of physical control in the land registration system."⁴ Lack of socialization, perceived high administrative costs, and complicated bureaucratic processes have led people to choose to persist in using land rights as the basis for ownership rather than taking care of land allocation officially.

The mismatch between the Management Rights provisions and the reality of community control raises serious legal certainty issues. The Batam Business Entity, as the Management Rights holder, has the authority to issue land allocations to third parties, but physical control often precedes community control. Urip Santoso explained that "physical control exercised continuously and in good faith is a civil right that cannot be ignored when the state grants land rights to another party."⁵ This condition often gives rise to conflicts such as overlapping land allocations, multiple claims, and disputes that end in civil lawsuits and state administrative lawsuits.

Although the existence of lands that are not part of the Old Village does not have historical legitimacy, positive law still provides protection for the community holding land rights based on Government Regulation Number 24 of 1997 concerning Land Registration, which recognizes evidence such as private sales letters, receipts, and sporadic as evidence of physical control. In this context, Ridwan HR emphasized that "government actions must be in line with the general

³Boedi Harsono, 2005, *Indonesian Agrarian Law: History of the Formation of the Basic Agrarian Law, Contents and Implementation*, Djambatan, Jakarta, p. 312

⁴Maria SW Sumardjono, 2008, *Land in the Perspective of Economic, Social and Cultural Rights*, Kompas, Jakarta

⁵Urip Santoso, 2010, *Agrarian Law and Land Rights*, Kencana, Jakarta, p. 145

principles of good governance, including the principles of accuracy and protection for parties with good intentions."⁶Therefore, the Batam Business Entity's allocation of land to a third party without verifying community ownership can be considered an administrative violation. In addition to administrative protection, affected communities also have legal protection through civil and state administrative remedies. Long-standing and consistent physical ownership is often a consideration for judges when granting protection to parties acting in good faith. This principle aligns with Gustav Radbruch's theory of legal certainty, which states that "when there is a conflict between legal certainty and justice, justice must be the priority in law enforcement."⁷In this context, in Batam City, justice demands that the rights of landowners are not ignored simply because the Management Rights are administered by the Batam Business Entity. One example of this is the Batam District Court Decision No. 32/PDT/2024/PT TPG, in which the land rights holder sued the Batam Business Entity and the Building Use Rights (HGB) certificate holder for the same land.

This dispute demonstrates the weak legal protection for land rights holders, particularly in the context of the dualism of land authority between the Basic Agrarian Law (UUPA) and the Batam Business Entity Agency as the holder of Management Rights in Batam City. The land problem faced by Mr. Sahrul Bahri stems from the status of land ownership that he has managed for years based on land rights, namely non-certificate physical proof of ownership such as private sales receipts, statements of physical ownership, or hereditary ownership history.

Mr. Sahrul has been cultivating, utilizing, and managing the land for a long time, so that in the view of the Batam community, the land is part of the assets that are "legally controlled" based on customary evidence or territorial evidence. However, problems arose when the Batam Business Agency, as the holder of the Management Rights (HPL), allocated the land to PT Dimensi Sarana Nusantara (DSN) through a land use permit mechanism. This is because the Batam Business Agency as the holder of the Management Rights has the authority to determine who receives the land allocation according to Government Regulation No. 46 of 2007 concerning the Batam Free Trade Zone and Free Port and the Batam Business Agency Regulation regarding spatial planning, so that the community's physical control is not immediately recognized as a right.

When looking at the case, according to the author, the existence of land controlled by the community based on land rights in areas that are not Kampung Tua in Batam City is an important agrarian issue to study. The lack of legal certainty, the increasing potential for land conflicts, and the weak protection of land rights owners are the basic reasons for the need for research on the ideal form of legal protection for the community as land owners with good intentions in Batam City. Based on the description above, the author is interested in conducting a thesis

⁶Ridwan HR, 2011, *State Administrative Law*, RajaGrafindo Persada Jakarta, p. 121

⁷Gustav Radbruch, *Philosophie des Rechts*, (Heidelberg: CF Müller, 1947), p. 107.

study with the title "Legal Protection for Land Owners Based on Land Rights above Management Rights in Batam City (Case Study of Decision Number 32/PDT/PT TPG)".

2. Research Methods

The research approaches used in this thesis are the statute approach and the case study approach. The statute approach is an approach carried out by examining all laws and regulations related to the legal issue being handled, while the case study approach is an in-depth qualitative research approach regarding groups of individuals, institutions, and so on over a certain period of time. The specifications of this research use descriptive, namely providing an overview or explanation of the object being studied. Data sources come from primary data and secondary data. The data collection method in this study is a literature review technique (document study). The data analysis used by the author in this study uses descriptive nature.

3. Results and Discussion

3.1. Legal Protection for Land Owners Based on Legal Basis in Batam City

1) History of the Batam Free Trade Zone and Free Port Authority (BP Batam)

The Batam Free Trade Zone and Free Port Authority (BP Batam) is a central government agency established under Government Regulation of the Republic of Indonesia Number 46 of 2007 concerning the Batam Free Trade Zone and Free Port. This agency has the task and authority to manage, develop, and construct the Batam area as a national strategic area.⁸ Before transforming into BP Batam, this institution was known as the Batam Island Industrial Area Development Authority which was formed based on Presidential Decree Number 41 of 1973.⁹ The Batam Authority is given broad authority by the central government, including in terms of managing and regulating land use throughout the Batam region.

The uniqueness of land management in Batam lies in the implementation of the Management Rights (HPL) regime, where all land is essentially controlled by the state and its implementation is delegated to the Batam Free Trade Zone Authority (BP Batam). Thus, the land system in Batam does not fully follow the general pattern of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), but rather through a centralized management mechanism run by a dedicated agency.¹⁰ The transformation of the Batam Authority into BP Batam emphasized this institution's role as a representative of the state in area management,

⁸Government Regulation of the Republic of Indonesia Number 46 of 2007 concerning the Batam Free Trade Area and Free Port

⁹Decree of the President of the Republic of Indonesia Number 41 of 1973 concerning the Batam Island Industrial Area

¹⁰Law Number 5 of 1960 concerning Basic Agrarian Regulations

including the authority to grant land rights to third parties above the HPL (Ultimate Land Use Permit). This situation has given rise to a complex legal relationship between BP Batam, land rights holders, and parties with only administrative rights.¹¹

2) Land Rights Granting Mechanism in Batam City

The mechanism for granting land rights in Batam City is inextricably linked to the existence of the Land Use Permit (HPL), which is controlled by the Batam Free Trade Zone Authority (BP Batam). Normatively, the granting of land rights is carried out through several administrative stages, beginning with the submission of a land allocation application to the Batam Free Trade Zone Authority (BP Batam). If the application is approved, the Batam Free Trade Zone Authority (BP Batam) will issue administrative documents in the form of a Location Determination Letter (PL), a Decree (SKEP), and a Letter of Agreement (SPJ), which serve as the basis for initial land ownership. Furthermore, applicants are required to fulfill financial obligations in the form of payment of the Annual Compulsory Authority Fee (UWTO).

Next, applicants can apply for land rights registration at the Batam City Land Office. Land registration aims to provide legal certainty, as stipulated in Article 19 of the UUPA and Government Regulation Number 24 of 1997 concerning Land Registration.¹² The certificate issued is strong evidence of ownership of land rights, including certainty regarding the subject, object and type of rights.¹³ However, in practice, this mechanism often faces various obstacles, such as lengthy procedures, relatively high costs, and changes in administrative policies. This results in many people not completing the registration process until the certification stage and only obtaining a legal basis.

3) Legal Protection for Owners of Land Titles (Uncertified)

Landowners who only have a legal basis without a certificate are in a relatively weak legal position in the national land system which prioritizes the principles of legal certainty and publicity. A land title certificate is strong evidence as regulated in Article 32 paragraph (1) of Government Regulation Number 24 of 1997. However, legally, legal basis such as a letter of agreement, location determination, proof of UWTO payment, as well as real and good faith physical control can still be used as evidence in civil cases. This is in accordance with the provisions of Article 1866 of the Civil Code regarding evidence.

¹¹Law Number 44 of 2007 concerning Free Trade Areas and Free Ports

¹²Article 19 of Law Number 5 of 1960 in conjunction with Government Regulation Number 24 of 1997 concerning Land Registration

¹³Article 32 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration

In judicial practice, the Supreme Court also recognizes that continuous, actual, and good-faith land ownership can receive legal protection as long as it does not conflict with statutory regulations. However, this protection is conditional and highly dependent on the judge's assessment of the parties' evidentiary strength. In Batam City, this situation is further complicated by the authority of the Batam Freehold Land Authority (BP Batam), as the holder of the Land Rights (HPL), which can allocate land to other parties. As a result, communities with only land rights often face conflicts with those who have obtained official rights or certificates.¹⁴

3.2. Legal Considerations of the Judge in Decision Number 32/PDT/2024/PT TPG

The judge's legal considerations in land disputes are not only oriented towards the formal aspects of ownership, but must also pay attention to substantive justice, legal certainty, and legal benefits as stated by Gustav Radbruch.¹⁵ In the context of Batam City, the complexity of land law is increasing because the land is under the Management Rights (HPL) regime of BP Batam, so that the legal relationship between the parties does not stand directly on state land, but rather through the authority of a public legal entity.¹⁵

In Decision Number 32/PDT/2024/PT TPG, the Panel of Judges of the Tanjungpinang High Court as *judex facti* re-evaluated the facts, legal standing of the parties, the object of the dispute, and the evidence presented at the trial.¹⁶ One of the main focuses of the judge's considerations was the position of BP Batam as the holder of the HPL which is not the land owner, but rather the manager who has received the delegation of state authority as regulated in Article 2 paragraph (4) of the UUPA.¹⁶ The Panel of Judges emphasized that the existence of an HPL does not negate an individual's civil rights over it, as long as they are obtained through legitimate legal mechanisms. This view aligns with agrarian law doctrine, which positions HPL as an intermediary right (*tussenrecht*) that bridges the relationship between the state and individuals in land ownership.¹⁷

In terms of evidence, the judge assessed that legal grounds such as location determination letters, agreements, proof of UWTO payments, and physical possession constitute valid evidence according to Article 1866 of the Civil Code.¹⁸ However, legal grounds do not have the same evidentiary power as land title certificates, which constitute strong evidence as stated in Article 32 paragraph (1) of Government Regulation Number 24 of 1997.¹⁸ The Panel of Judges also emphasized the need for actual, continuous, transparent, and good-faith physical possession of the land. This is consistent with Supreme Court jurisprudence, which

¹⁴Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration

¹⁵Gustav Radbruch, 1950, *Legal Philosophy*, Harvard University Press, Cambridge, p. 107–110.

¹⁶Government Regulation of the Republic of Indonesia Number 46 of 2007 concerning the Batam Free Trade Area and Free Port.

¹⁷Tanjungpinang High Court Decision Number 32/PDT/2024/PT TPG

¹⁸Law Number 5 of 1960 concerning Basic Agrarian Regulations

recognizes factual possession as a basis for legal protection as long as it does not conflict with statutory regulations.¹⁹In addition, the principle of good faith as a fundamental principle in civil law as regulated in Article 1338 paragraph (3) of the Civil Code also forms the basis for the judge's assessment.²⁰

Although land registration is the main instrument in ensuring legal certainty as regulated in Article 19 of the UUPA, judges do not apply a rigid and formalistic approach.²¹The judge considered the sociological conditions of Batam residents, many of whom lack certificates due to administrative constraints. Therefore, the legal considerations used reflect the principle of proportionality, which balances legal certainty and substantive justice. This approach aligns with Philipus M. Hadjon's theory of legal protection, which distinguishes between preventive and repressive legal protection.²²The court decision in this case is a form of repressive legal protection aimed at resolving the dispute and restoring the rights of the injured party.

Overall, the legal considerations in Decision Number 32/PDT/2024/PT TPG demonstrate that BP Batam's HPL is not absolute and must still respect the civil rights of the community. However, protection for land rights holders remains limited and case-by-case, dependent on the strength of evidence presented in court. In this case, the legal protection provided takes the form of compensation to land rights holders, a balance between legal certainty and justice.²³

4. Conclusion

The land ownership and management system in Batam City, which falls under the BP Batam Management Rights has unique characteristics that differ from land systems in other regions in Indonesia. This complexity is one of the main factors contributing to the emergence of land disputes in Batam City. Legal protection for landowners who only hold land rights based on the BP Batam Management Rights does not provide adequate legal certainty. Although normatively, land title certificates are strong evidence, in practice, many landowners do not have certificates, not due to bad faith, but rather due to administrative constraints and land management policies. In such circumstances, the land rights still have evidentiary value, but their legal protection is limited and highly dependent on the judge's assessment in the judicial process. The legal considerations of the Panel of Judges in Decision Number 32/PDT/2024/PT TPG reflect an effort to balance legal certainty and substantive justice. The judges did not place the BP Batam Management Rights as an absolute basis that eliminates civil claims by land title

¹⁹Boedi Harsono, 2008, Indonesian Agrarian Law: History of the Formation of the Basic Agrarian Law, Contents and Implementation, Trisakti University, Jakarta, pp. 312–315

²⁰Civil Code, Article 1866

²¹Government Regulation Number 24 of 1997 concerning Land Registration

²²Philipus M. Hadjon, 1987, Legal Protection for the People in Indonesia, Bina Ilmu, Surabaya, pp. 25–30

²³Tanjungpinang High Court Decision Number 32/PDT/2024/PT TPG

owners, but also did not equate the land rights with land title certificates. This approach demonstrates that the judge comprehensively considered aspects of good faith, physical possession, and the legal facts revealed in court. The decision demonstrates that legal protection for landowners with rights over Management Rights is essentially casuistic and repressive, meaning it is only obtained after a dispute arises and through a court decision. This situation confirms that the existing legal protection system does not fully guarantee preventative legal certainty for uncertified landowners in Batam City.

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