

The Effect of Placement of Land Border Signs and Maintenance on the Legal Concerning the Right to Land In Kecamatan Kota Atambua Kabupaten Belu Nusa Tenggara Timur

Agnes Doortji Rema

Faculty of Law, Lecturer at the 1945 NTT Teachers Union University

Summary: Legal certainty guarantees are given to the true land owner not solely to the owners of land rights registered in the land book. Even so, as proof of strong rights, a certificate of land rights was issued. As long as it is not proven otherwise, the certificate of land rights has perfect evidentiary power. Legal certainty guarantees of land rights are provided as long as the physical data, juridical data and administrative data stated in the land registration documents are in accordance with the actual facts in the field.

This research will focus on land boundaries which are often a persistent problem because existing boundary points are not agreed upon by the bordering parties or even the agreed boundary points are not properly guarded and maintained by land rights holders.

To achieve the long-term goals above, the researcher will use qualitative analysis, namely the analysis of data obtained by both primary and secondary data that is grouped, linked and analyzed so that the image under study is obtained, then a conclusion is drawn, with the inductive thinking method, which is a way. thinking that departs from specific facts, concrete events, then generalizations that are general in nature are drawn, after analysis is expected to obtain an overview of the placement of land boundary signs and their maintenance of legal certainty regarding land rights the.

Keywords: Placement of boundary marks, legal certainty , Land rights

Introduction

The life of society and the country always develops according to the times. For the community, this development is a demand to adapt to their needs. For a developing country it is directed to improve the standard of living for all people. The demands for this development cover all aspects of life, including those related to land. Land is a very important factor for society and the state, it must also adapt to the needs of the community and the interests of the state. In order to meet the demands, a supply of land is needed to accommodate the dynamics of this development.

Meanwhile, to ensure the implementation of the function of land as a means of fulfilling community needs and state interests, legal certainty is needed. Written legal assurance that is complete and clear is carried out consistently in accordance with applicable legal provisions. Apart from that, in dealing with concrete cases, it is also necessary to carry out land registration that allows holders of land rights to easily prove their rights to the land they control. For interested parties, such as buyers and sellers, to obtain the necessary information regarding land which is the object of legal action to be carried out and for the government to implement land policies.

In this connection, Law No. 5 of 1960 concerning Basic Agrarian Principles in article 19 [1] ordered the holding of land registration, which is further regulated by Government Regulation No. 10 of 1961 and Government Regulation no. 24 of 1997 (in lieu of Government Regulation No. 10 of 1961) concerning land registration which until now has been the basis of land registration activities throughout Indonesia [2] .

In PP No. 10 of 1961, the purpose of the system used which is in essence has been stipulated in the UUPA, namely that land registration is carried out in order to guarantee legal certainty over land and the registration system is a negative system but contains a positive element, because it will produce letters letter of evidence which is valid as a strong means of proof. Legal certainty guarantees are given to true landowners, not solely to holders of land rights registered in the land book. Even so, as proof of strong rights, a certificate of land rights was issued. As long as it is not proven otherwise, the certificate of land rights has perfect evidentiary power. Legal certainty guarantees of land rights are provided as long as the physical data, juridical data and administrative data stated in the land registration documents are in accordance with the actual facts in the field.

With this negative system, the determination of a land title depends entirely on the data on the basis of rights submitted by the applicant to fulfill the determination of his land rights. If the data submitted is not in accordance with the actual facts, the certificate issued will have legal flaws. The basis for rights is data that becomes the basis for justifying a land right, in the form of data in the form of physical data, juridical data and

administrative data. Physical data are data on objects of rights (land) which explain the location of the area and boundaries of the land and its control. Juridical data is data that states that there is a legal relationship with holders of land rights, including ownership rights to land. Administrative data is data in the form of letters that prove the correctness of the physical data and juridical data. These three types of data must exist for the purpose of establishing their rights. If the three data are in accordance with the actual facts, it means that the right holder whose name is registered in the land registration document is the true owner of the land, so that the legal certainty is guaranteed.

The limitation according to Article 4 of the Basic Agrarian Law on interests directly related to the use of land within boundaries according to other higher regulations. Ali Achmad Chomzah (2002: 11) states that land law is the entirety of legal regulations governing rights and obligations that derive from individual rights and legal entities regarding the land they control or own [3].

In order to provide legal certainty to holders of land rights and to be given confirmation of the strength of the certificate. As long as the practical meaning has not been proven, on the contrary, physical data and juridical data in legal acts and disputes before the court must be accepted as true data. Individuals or other legal entities cannot claim certified land in the name of another person or other legal entity if during the 5 years since its issuance, they do not file a lawsuit in court.

In order to achieve legal security and certainty over land rights, land registration is carried out by measuring, mapping land parcels and administering land rights, constituting a legal relationship between a person or legal entity and an object that creates authority over the object of the land parcel and forces the person. others to honor it as a result of ownership [4]. Article 19 of the Basic Agrarian Law assigns the government to carry out land registration which is *rechts in nature*. Land registration functions to find out the status of the land parcel, who owns it, what rights are it, how much is it, what is it used for. To obtain legal force for a series of systematic land registration activities, submission of material correctness to prove physical data and juridical data on land rights, or other matters required as a basis for land registration, and / or history of origin of land ownership, sale and purchase, inheritance, is not. Regardless of the prevailing laws and regulations, land registration which has been carried out systematically is still considered not maximal and procedural in the community, even though prior to the measurement by the technical team an initial stipulation has been made by the land owners. Kota Atambua sub-district is one of the cities bordered by Timor Leste which is currently developing, its people also have a close relationship with the land. Land is a source of life as well as daily activities, therefore every land owned by the community needs recognition of ownership of the land.

The role of the Land Office of Belu Regency in carrying out land registration is urgently needed starting from the stage of application for land registration by the party entitled to the land or those under control. The active and thorough role of BPN as the organizer of land registration is needed, which in its implementation is carried out by the Belu Regency Land Office. Various problems that arise such as boundary problems, double certificates, land grabbing followed by the issuance of certificates to unauthorized parties are some of the land problems that often arise in the community related to land registration activities, where this is caused among others by the ignorance of the community. Regarding land objects that already have a certificate, it is again requested to issue the certificate again so that (one land object has two certificates). This occurs due to the problem of limited public announcements by BPN, from the process of collecting physical data and juridical data to issuing certificates. With the many cases of land disputes in Kota Atambua Subdistrict, Belu Regency, of course it is drawing attention to cases related to boundary markers which should be minimized whether the land registration process is carried out in accordance with the procedures with a predetermined mechanism, in addition to the existence of awareness of each right holder in maintaining the land boundary markings that are defined.

Research methods

In accordance with the objectives to be achieved, this research is a type of empirical legal research, namely research that has a starting point from primary data, namely, data obtained directly from respondents as the first source through field research on legal effectiveness [5] which intends to examine the placement of signs. - land boundary markers and their maintenance of legal certainty regarding land rights.

The approach in this study uses a sociological legal approach by the author to determine the signs of land boundaries and their maintenance of legal certainty regarding land rights and statutory approaches by examining statutory regulations that have a correlation with Government Regulation Number 10 of 1961 as amended by Regulation Government Number 24 of 1997 by observing synchronization and harmonization of related regulations.

Respondents in this study were Property Rights Holders who experienced disputes about land boundaries, or those who did not maintain boundary markings with a total population of 100 people (15% taken,

15 people) Holders of Property Rights to Land with resource persons the Head of the Regency Land Office. Belu and the Head of Atambua City District.

The data analysis used is qualitative analysis, namely data analysis obtained both primary data and secondary data are grouped, linked and analyzed so that the image under study is obtained, then a conclusion is drawn, with the inductive thinking method, namely a way of thinking that departs from the facts. specific facts, concrete events, then generalizations that have a general character are drawn [6].

Discussion

Researchers carry out research individually, namely by interviewing sources and respondents who have been determined by the researcher. The selected resource persons and respondents are the Land Agency and the Head of the Atambua City Sub-district and the community who has experienced disputes over land boundary signs which are at the mediation stage at the Belu Regency Land Office, as well as at the Atambua District Court and the State Administrative Court in Kupang. The sources and respondents the researchers interviewed were:

1. SP (subject 1)

That most of the land in the Atambua District area is agricultural and plantation land. Most of the lands that are used as residential areas are certified, while many agricultural and plantation lands are not yet certified. The causative factor that becomes an obstacle is that the sub-district government is quite careful considering that there are some lands whose ownership status is still unclear. "Yes, you could say that most of the land for residential settlements has not experienced too many obstacles in the process of ownership of certificates, although there are some areas that have not been certified. Especially for agricultural land and plantations, be careful, because the ownership status is unclear. When A came to say it was his land with the placement of land boundaries (as evidenced by teak and coconut trees as land boundaries), X said the opposite so we were not careless.

2. AT (subject 2)

In the district of Kota Atambua, which is now divided into Atambua Selatan and Atambua Barat, almost 75% of the community has registered land from the rest not for different reasons, for example lack of physical data, in this case land boundaries and inefficient maintenance from the community, for example land problems / cases, namely:

- a. The inheritance issue is located in TenukiikKelurahn, Atambua City between SISILIA LUAN LAKA, CS against APLONIA LUAN LAKA, CS and KelurahanAtambua between BETE OELOLOK and MARIA LATU, CS.
- b. The problem of confiscation of tribal land by BLASIUS DOMI NITI against land / land belonging to FRANSISKUS ULUK, CS which is located in Umanen Village, Atambua Barat.
- c. Complaints about land disputes and requests for recommendations to disclose falsified juridical data on transfer of property rights.

3. AN (subject 3)

Whereas there are quite a lot of disputes regarding land in the Atambua City District area, both between individuals and even the Head of the Belu Regency Land Office as Defendants in several cases in the Court. The number of land cases from which individual complaints that have come to us are 3 cases we will provide the data, while the number of cases involving the Head of the Land Office of Belu Regency as a defendant in the Atambua District Court for 3 cases, and in the Kupang PTUN for 2 cases.

4. MYKT (subject 4)

As the Rapporteur who resides in Fatubena Sub-district who reports Mrs. MARIA DOMINGGUS HELI, DKK regarding the boundary dispute dispute that has been mediated at the Belu Regency Land Office, but there is no agreement to reconcile, the parties have litigated at the Atambua District Court due to the investigation of the location of the dispute. missing land boundaries or not in accordance with those in the certificate.

5. AEB (subject 5)

Until now, it is still being mediated by the Belu Regency Land Authority, there has been no agreement and in the mediation the Defendant always postponed it on the grounds of health.

6. ALL (subject 6)

Whereas the inherited land obtained from his parents was disputed by the Defendant because the pillars that were planted were missing.

7. BDN (subject 7)

The problem of confiscation / seizure of the Suksu land of the land / land belonging to Brother FRANSISKUS ULUK, CS, located in UmanenAtambua Barat Village is still in the mediation process at the Belu Regency Land Office and there is no agreement yet.

With reference to the problems that occurred in the Atambua sub-district regarding the placement of land boundary signs and their maintenance, the Government issued Government Regulation Number 24 of 1997 concerning Land Registration as a form of the Government's seriousness in anticipating land problems which often becomes a "time bomb" which anytime it can explode in the midst of society. In Government Regulation (PP) Number 24 of 1997, contains a principle that requires land rights holders to pay attention to the placement, determination and maintenance of land boundaries based on the agreement of the interested parties, in this case the neighboring borders. The principle in question is the *Contradictio Delimitatio* Principle, which is the first step to avoid the seeds of Land disputes in the land registration process itself.

The *Delimitatio Contradictio* Principle, requires the right-holder candidate to put boundary markers at each corner point of the boundary and be approved by the border parties and there must be a determination of the boundaries before taking measurements in the context of Land Registration by the Government, in which case the authority is delegated to land parties.

The provisions governing the *Contradictio Delimitatio* Principle in Land Registration are contained in Articles 17, 18 and 19 of Government Regulation Number 24 of 1997, as follows:

Article 17

- (1) In order to obtain the physical data required for land registration, the land parcels to be measured, after having determined their location, boundaries and according to the need, have boundary marks placed in every corner of the land parcel concerned.
- (2) In determining the boundaries of land parcels in systematic land registration and sporadic land registration, efforts are made to delineate boundaries based on the agreement of the interested parties.
- (3) Placement of boundary signs, including their maintenance, must be carried out by the holder of the land area concerned.
- (4) The shape, size and technique of placing boundary marks shall be determined by the Minister.

Article 18

- (1) Determination of the boundaries of land parcels which already have a right that has not been registered or that has been registered but there is no measurement letter / picture of the situation or the existing measuring letter / picture of the situation is no longer in accordance with the actual situation, is carried out by the Adjudication Committee in registration. land systematically or by the Head of the Land Office in sporadic land registration, based on the designation of boundaries by the holders of the land rights concerned and as far as possible approved by the holders of the adjacent land rights.
- (2) The boundary determination of land parcels to be granted with new rights is carried out in accordance with the provisions referred to in paragraph (1) or upon the appointment of an authorized agency.
- (3) In determining the boundaries of land parcels, the Adjudication Committee or the Head of the Land Office shall pay attention to the boundaries of land parcels or parcels that have been registered and the measuring documents or pictures of the situation concerned.
- (4) Approval as intended in paragraph (1) and paragraph (2) is written in an official report signed by the person giving the approval.
- (5) The form of the official report as referred to in paragraph (4) shall be determined by the Minister.

Article 19

- (1) If in the determination of the boundaries of the land parcels as referred to in Article 18 paragraph (1) there is no agreement between the holders of the land rights in question and the holders of the borders of the land that are bordering on, the measurement of the land parcels shall be temporarily undertaken based on the boundaries according to the reality constitute the boundaries of the land parcels concerned.
- (2) If at the stipulated time the holder of the land area concerned or the holders of the land which borders does not appear after the summoning is made, the measurement of the land parcel will be temporarily carried out in accordance with the provisions as referred to in paragraph (1).
- (3) The Chair of the Adjudication Committee for systematic land registration or the Head of the Land Office in sporadic land registration shall make an official report regarding the temporary measurement as referred to in paragraph (1) and paragraph (2), including regarding the absence of an agreement on boundaries or the absence of land holders. katas of the land concerned.
- (4) In the measuring drawing as a result of the provisional measurement as referred to in paragraph (3) shall be affixed with a note or sign indicating that the boundaries of the land parcel are only temporary boundaries.
- (5) In the event that an agreement has been reached through deliberation regarding the intended boundaries or certainty has been obtained based on a court decision that has obtained permanent legal force, an adjustment shall be made to the data on the map of land registration concerned.

Especially regarding the placement of boundary signs and their maintenance, it is quite clearly regulated in Article 17 paragraph (3) of Government Regulation No.24 of 1997, this is the obligation of every land owner as a Right Holder. In fact, the results of interviews with Government Officials who are involved in the field of land services, it turns out that quite a lot of land owners are negligent or do not carry out their obligations in maintaining land boundary signs so that they are vulnerable to land disputes in the future.

Based on these provisions, the Government through the National Land Agency of the Republic of Indonesia (BPN RI) clearly makes the *DelimitatieContradicture* Principle as the basis for guaranteeing legal certainty over the object, which includes the location and boundary of the land to be issued the certificate. This can also be a first step in anticipating conflicts regarding the location and boundaries of the land registration object in the future, especially in Atambua City District.

Conclusion

It is undeniable that the Agrarian system in Indonesia continues to carry out a transformation to find a balanced form as the ball of reform in the country rolls around and western ideas continue to try to strengthen its grip in various countries including Indonesia. In this transformation process, the Indonesian nation was often hit by a storm of disputes and religious conflicts itself.

Land disputes and conflicts that have recently occurred are a reflection of the failure of the Agrarian system in the past coupled with the lack of active participation of land rights holders that have exploded at this time. However, the Agrarian system is not entirely said to be a failure, because among them there are systems that need to be maintained and even improved in order to avoid conflict itself, namely land registration based on *Azaz ContradictureDelimitatie* and active participation of each right holder to maintain signs. land boundary.

The principle of *DelimitatieContradicture* in Land Registration makes the principle of *Delimitative* Deliberation contained in the 4th principle of Pancasila and implied in accordance with the Preamble of the 1945 Indonesian Constitution, paragraph 4 [7] as the basis for its application in society. This is aimed at avoiding land disputes and conflicts that will occur in the future. With the principle of deliberation and consensus, the approval and determination of the boundaries of a land parcel can prevent disagreements between bordering parties. All problems arise as a result of not having reached an agreement so that the process of registering the land of the land parcels concerned can run smoothly and avoid potential conflicts in the future.

Suggestion

1. Decisions made in the context of placing land boundary signs must go through a deliberation until an agreement is reached between the two bordering parties to ensure that the decisions taken are impartial and cause harm to one of the parties.
2. It is necessary to continue to improve the socialization to the community about the importance of deliberation in the context of placing land boundary signs, including the maintenance of these boundary signs so that future land disputes can be prevented or reduced.
3. Cooperation and communication between the community (land rights holders) and the local government and land agencies.

Reference

- [1]. The Red and White Team, "Law Number 5 of 1960", New Galang Press, Yogyakarta, 2012.
- [2]. National Land Agency, "Regulation of the State Minister for Agrarian Affairs"
- [3]. Ali AchmadChomzah, "Indonesian Agrarian Law (Land)", Volume I, Prestasi Pustakaraya, Jakarta, 2004.
- [4]. Boedi Harsono, "Indonesian Agrarian Law", Djambat, Jakarta, 1994
- [5]. Rianto Adi, "Social and Legal Research Methodology", Granit, Jakarta, 2004.
- [6]. Sutrisno Hadi, "Research Methodology", UGM Publishing Foundation, Yogyakarta, 1986.
- [7]. Cahaya Agency, "Book of the 1945 Constitution of the Republic of Indonesia", Cahaya Agency, Solo