

Fulfillment of the Elements of Collective Forgery of *GIRIK C* and SPPT PBB

Didi Mujahari, Suherman

Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta, Indonesia didimujahari[at]gmail.com

Abstract: This paper discusses the legal rules regarding land regulated in the Law on Basic Agrarian Principles (UUPA). *Girik* is the initial evidence to obtain a land right in land registration if the land is a customary law land, but in fact some *Girik C* and SPPT PBB as the basis for land registration rights were forged by some people for personal benefit. This normative juridical legal research was related to the rule of law on The Existence of *Girik C* and SPPT PBB as the requirement for Land Registration in Indonesia along with criminal accountability for Defendants who are guilty of forging *Girik C* and PBB SPPT 2016 based on a case approach in Decision No.: 866/Pid. B/2012/Pn. Jkt. Tim in conjunction with Decision No.342/Pid/2013/PT. DKI in conjunction with Decision of MA RI No.: 522/K/Pid/. The research found that based on the legal rules on the existence of *Girik C* and SPPT PBB as the requirement for Land Registration in Indonesia as contained in the provisions of Article 19 paragraph (2) letter c, Article 23 paragraph (2), Article 32 paragraph (2) and Article 36 paragraph (2) of Basic Agrarian Law in conjunction with Government Regulation No.10 of 1961 in conjunction with Article 3, Article 23 Government Regulation no.24 of 1997 on Land Registration in conjunction with Article 60 paragraph (2) letter f Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997, and the Criminal Accountability of Defendant I H. Asbih, Defendant II Agus Sulaiman and Defendant III Utimah, they were found guilty of having fulfilled the elements of collective forgery of *Girik C* and SPPT PBB under article 263 paragraph (1) in conjunction with Article 55 paragraph (1) of the 1st Criminal Code.

Keywords: Forgery, *Girik*, SPPT PBB

1. Introduction

Land Registration is regulated in Article 4 Government Regulation of the Republic of Indonesia Number 24 of 1997 on Land Registration that right to land ownership must be registered to assure legal security and certainty. Certificate of right in land serves as a strong evidential instrument.¹ Land ownership title give bank/creditor confidence in giving loan fund to the owner, and to the government the land ownership title proves that the concerned land has been registered with the land registry office.²

Therefore, land ownership title is the evidence that the land has been registered and will be related more to the essence of interest and benefit that can be rented out, sold, worked on in cooperation, and taken as collateral. Such interest should be legally protected for cases arising in the land interest such as taken away forcibly without any basis of right, such interests commonly raise legal problems, such as forgery of others' certificate for certain purpose, eventually harms others. Letter forgery (*vervalschen, vervalen*) is an action of changing by any means by an individual who has no right to a letter that causes part of or whole content of the letter different from the initial or original letter.³ Taking land forcibly without any basis of

right such as occupation, intimidation, terror and arrogance of power will increase when the law is not enforced, especially when one is completely helpless. Such a condition will cause horizontal conflict arising in the community with the victims are, especially, those of weak economy who are legally illiterate and its completion is then unclear and gets more complicated.⁴ Forgery crime is one of the crimes set forth in the Criminal Code (KUHP). Forgery will cause an individual/party feel harmed, and this is why forgery is set forth and included into crime. The provisions in KUHP of forgery consist of some types, such as perjury and false information, currency, state banknote and bank note counterfeit, letter forgery and sometimes stamp and brand counterfeit.

Land crimes in KUHP are acts prohibited by laws and regulations along with criminal sanction for those who commit them. Legal scholars divide land crimes from time perspective into two, namely pre-acquisition crime over a plot of land as set forth in the provisions of Article 385, Article 389, Article 263, Article 264, and Article 266 KUHP and crime of taking control over or claiming a plot of land without any right and unlawfully as set forth in the provisions of Article 167, Article 168 and Article 425 KUHP.⁵

¹Adrian Sutedi, *Sertifikat hak atas tanah* [Certificate of Right to Land], Jakarta : Penerbit Sinar Grafika. 2010., p 57.

²*Ibid.*, p. 58.

³Adami Chazawi and Ardi Ferdian, *Tindak Pidana Pemalsuan Tindak Pidana yang Menyerang Kepentingan Hukum Terhadap Kepercayaan Masyarakat Mengenai Kebenaran Isi Tulisan dan Berita yang Disampaikan* [Forgery Criminal Act, Criminal Act that Attacks Community's Legal Interest and Trust in the Truth of

Writing and Report Delivered], Penerbit Putra Utama Offset, Jakarta, 2014. p. 143.

⁴Rinto Manulang, 2011, *Segala Hal Tentang Tanah, Rumah dan Perizinannya* [Anything Regarding Land, House and Licensing], Penerbit Buku Pinter, Jakarta, p. 11.

⁵P.A.F Lamintang dan Theo Lamintang, 2013, *Delik-Delik Khusus Kejahatan Membahayakan Kepercayaan Umum terhadap Surat, Alat Pembayaran, Alat Bukti, dan Peradilan* [Special Criminal Offences to Harm Public Trust in Letter, Payment Instrument, Evidential

In the development of land law in Indonesia, there are certainly many social realities that lead to forgery, both over letters that are the formal requirements for the process of land ownership title issuance and direct forgery over the right to an object of land in the form of *Girik* Letter C, *Bekas Tanah Partikelir* (BTP), SPPT PBB, *Verponding*, Deed of Sales and Purchase and other land documents.

The author's focus of analysis in this research was related to criminal act committed by Defendant I H. ASBIH BIN MUHAMMAD BIN SALEH either individually or collectively with defendant II AGUS SULAIMAN, Defendant III UTIMAH, S. Sos, M. Si who committed, was accomplice to or ordered to commit, ordered to include false statement into an Authentic Deed, of which existence should be stated by the Deed for the purpose of using it as if the information given was in accordance with the truth and If the Use of Deed may cause loss related to forgery of *Girik* C 2299 parcel 10a. Blok SI in the name of UMI Bin SALIH and SPPT PBB evidently meeting the element of Forgery as referred to in Article 263 paragraph (1) KUHP in conjunction with Article 55 paragraph (1) KUHP.

Based on the Public Prosecutor's claim, the Panel of Judges of the East Jakarta District Court in accordance with the Injunction No.: 866/Pid. B/2012/Pn. Jkt. Tim evidently released and declared the said Defendant II Agus Sulaiman who was not lawfully and conclusively proven guilty of committing crime as accused in the First Indictment, Second Indictment and Third Indictment with legal consideration that Defendant II Agus Sulaiman was evidently not involved in managing the land letters in terms of such land sale, and Defendant II Agus Sulaiman was only asked by Defendant I H. Asbih to take *Girik* C.2299 from H. Amsori son of H. Asmawi to be given to Defendant I H. Asbih and Defendant II Agus Sulaiman had not received the *Girik*, and the one receiving the *Girik* was Defendant I H. Asbih and Defendant II Agus Sulaiman was only accompanied him and had never communicated with Defendant III Utimah, but Defendant I H. Asbih and Defendant III Utimah were lawfully and conclusively proven guilty of committing criminal act "performing forgery collectively" and criminal sanction was rendered to Defendant I H. Asbih with 1 (one) year of criminal imprisonment and criminal sanction was rendered to Defendant III Utimah with 1 (one) year and 6 (six) months of criminal imprisonment, below JPU's criminal action.

With the East Jakarta District Court's order, the Public Prosecutor and Defendant I and Defendant III filed Appeal to the High Court of DKI Jakarta that finally under Decision No.342/Pid/2013/PT. DKI confirmed East Jakarta District Court's Decision, and then Defendant I and Defendant III filed Appeal to the Supreme Court over the decision of the High Court of DKI Jakarta and Supreme Court of the Republic of Indonesia under

Decision No.: 522/K/Pid/2016 Rejected Defendants' appeal as the Petitioners on Appeal.

Based on what was mentioned above, we can formulate the following problems: (1) How is the legal rule of the Existence of *Girik* C and SPPT PBB as the requirement for Land Registration di Indonesia in accordance with the Provisions of Laws and Regulations? and (2) How is the criminal accountability of Defendants who are guilty of forging *Girik* C and SPPT PBB under Decision No.: 866/Pid. B/2012/Pn. Jkt. Tim in conjunction with Decision No.342/Pid/2013/PT. DKI in conjunction with Supreme Court Decision of the Republic of Indonesia No.: 522/K/Pid/2016?

2. Research Method

This research is a normative legal research, that can also be defined as a literature legal research. The primary legal materials as the research materials are, meanwhile, Decision No.: 866/Pid. B/2012/Pn. Jkt. Tim in conjunction with Decision No.342/Pid/2013/PT. DKI in conjunction with Supreme Court Decision of the Republic of Indonesia No.: 522/K/Pid/2016 in association with the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 1946 on Criminal Code (KUHP), Law Number 8 of 1981 on Law of Criminal Procedure (KUHP), Law Number 5 of 1960 on the Rules on Basic Agrarian principles, Government Regulation No.10 of 1961 on Land Registration, Government Regulation Number 24 of 1997 on Land Registration, Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997, Letter of Director General of Taxation dated 27 March 1993, Number: SE-15/ PJ. G/1993 and other related Laws and Regulations.

3. Result and Discussion

1. Legal Certainty of the Existence of *Girik* C and SPPT PBB as the Requirement for Land Registration in Indonesia in Accordance with the Provisions of Laws and Regulations.

Before the issuance of UUPA there were some types of land letters commonly used in Indonesia as evidence of land right possession, namely *girik*, *petok*, letter C, *surat ijo*, *rincik*, *eigendom verbonding*, *hak ulayat* and others. These forms of land possession were acknowledged by the Indonesian land laws and regulations.⁶ *Girik* is not like a certificate as an evidence of land ownership but refers to a land letter showing land possession for the purpose of taxation. In this letter, number, land size, and land right owner for sales and purchase or inheritance can be found.⁷

⁶<http://www.omtanah.com/detail.asp?id=>"*Jenis-jenis Surat Tanah Sebagai Bukti Penguasaan Atas Tanah*" ["Types of Land Letters ad Evidence of Land Possession"], akses 19 agustus 2018.

⁷ *Ibid.*

Letter C is the evidence of land possession by an individual in Village or Sub-district Office. Letter C in the form of book serves as a note to tax collection and information of land identity during the colonial era. Letter C held by a land owner is a quote or copy of Book letter C stored at the Office of Village/Sub-district where the land is located in.⁸

At present, the with Law on Basic Agrarian Principles that is followed up with Government Regulation Number 10 of 1961 and replaced with Government Regulation Number 24 of 1997 on Land Registration, it is impossible to issue rights that are subject to the Civil Code or that will be subject to local customary law, except the rights are of customary right. Considering the importance of registering customary land title as valid evidence of possession of land right in accordance with Article 23, Article 32, and Article 38 Law on Basic Agrarian Principles, it is mandatory to register customary land, especially one under Customary title.⁹

The legal certainty related to customary land under right to own with possession evidence in the form of *girik* and Quote of Letter C can be found in Article 19 UUPA and Government Regulation (PP) No.24 of 1997 on Land Registration that obligate the government to organize land registration throughout the territory of the Republic of Indonesia, because of the people's minimum knowledge and awareness of land possession evidence. They consider that customary land under right to own with possession evidence in the form of *girik* and Quote Letter C in Sub-district or Village is a valid evidence of possession. There are also still transfers of right, such as sales and purchase, grant, inheritance and deeds that have not been registered but have been transferred of which basis of acquisition is based on *girik* and there are transfers of *girik* that are based on deeds, without registration with the Land Registry Office. Under Letter of the Director General of Taxation dated 27 March 1993, Number: SE-15/ PJ. G/1993, on the Prohibition of Issuance of *Girik/Petuk D/Kekitir/Keterangan Obyek Pajak* (KP. PBB II). In some areas of Jakarta with the Land and Building Tax Service Office *girik* transfer has currently been removed because of many problems arising in the community because of possession evidence in the form of *girik* that causes overlap and confusion or uncertainty of the land object. Therefore, the existence of book of quote of letter C is very dominant as reference or basis of evidential instrument that the community considers as evidential instrument of land possession.¹⁰

⁸ *Ibid.*

⁹ Repertory Journal, *Pendaftaran Hak Atas Tanah Asal Leter C, Girik Dan Petuk D Sebagai Alat Bukti Permulaan Di Kabupaten Sleman Daerah Istimewa Yogyakarta* [Registration of Initial Right to Land Letter C, Girik and Petuk D as initial Evidential Instrument in Sleman Regency, Special Region of Yogyakarta] ISSN:2355-2646, Volume II No. 2 July - December 2015, written by Sri Wahyuni and Paus Tri Wahyudi.

¹⁰ Diponegoro Law Journal, *Analisis Yuridis Penyelesaian Sengketa Kepemilikan Hak Atas Tanah antara PT. Maligi Estate melawan Perorangan* [Juridical Analysis on

The publication system used in Indonesia is the negative system that contains positive element. Land registration according to PP 10/1961 in conjunction with PP 24/1997 with result in letters of right evidence serving as a strong evidential instrument, as stated in Article 19 paragraph (2) letter c, Article 23 paragraph (2), Article 32 paragraph (2) and Article 36 paragraph (2) UUPA, not a purely negative publication system. A pure negative publication system will not use a right registration system. As we see in the provisions on the procedures of collection through presentation of physical data and juridical data needed and their maintenance and the issuance of title certificate, despite the negative publication system, but the activities are performed collectively, so that the truthfulness of data presented can be accounted for.¹¹

Besides, legal certainty of customary land with possession evidence in the form of *girik* and Quote of Letter C as contained in Article 60 paragraph (2) letter f Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 on the Implementing Provisions of Government Regulation Number 24 of 1997 on Land Registration state that one of the written evidential instruments for old rights registration is *Petuk Pajak Bumi/Landrente, girik, pipil, kekitir* and *Verponding Indonesia* before the enforcement of Government Regulation Number 10 of 1961;¹²

If there is no complete or unavailable written evidence of land possession, proof of a parcel of land can be presented with other evidence along with the concerned person's statement and trustable confirmation from at least 2 (two) witnesses from local environment with no kinship relationship with the concerned person until the second levels, vertically or horizontally, stating that the concerned person is truly the owner of the parcel of land.

The truthfulness level of witnesses' confirmation and the concerned person's statement letter will be assessed by the Adjudication Committee whether it is sufficient or not, and if considered insufficient Adjudication Committee can search for additional confirmation of the history of the ownership of the parcel of land from the people around the parcel of land in order to support the testimony as

the Settlement of Dispute on the Possession of Right to Land between PT. Maligi Estate and Individual] ISSN:23389-26384, Volume 5 No. 3 2016, written by Astri Astariana and Ana Silviana.

¹¹ Boedi Harsono, *Hukum Agraria Indonesia* [Indonesian Agrarian Law], Jakarta : Djambatan, 1999., pp. 477-478.

¹² Adigama Legal Journal, *Analisis Terhadap Tanda Bukti Hak Atas Tanah Berdasarkan Uupa Dan Peraturan Pemerintah Nomor 24 Tahun 1997 Terkait Penggunaan Girik Nomor 87 Persil 157 Kelurahan Cengkareng Barat (Studi Kasus: Putusan Mahkamah Agung Nomor 2459k/Pdt/2014)* [An Analysis on Evidence of Right to land Based on Uupa and Government Regulation Number 24 of 1997 on the Use of Girik Number 87 Parcel 157 of Cengkareng Barat Sub-district (A Case Study: Supreme Court Decision Number 2459k/Pdt/2014)], ISSN:23949-2332, Volume 5 No. 3 2015, written by Stella and Hasni.

referred to in Article 60 paragraph (4) Regulation of the Minister of Agrarian Affairs No.3 of 1997.¹³

2. Criminal Accountability of Defendants Guilty of Forging *Girik* C and SPPT PBB in Decision No.: 866/Pid. B/2012/Pn. Jkt. Tim in conjunction with Decision No.342/Pid/2013/PT. DKI in conjunction with Supreme Court Decision of the Republic of Indonesia No.: 522/K/Pid/2016.

The criminal accountability in criminal law enforcement is the effort to ensure and realize legal certainty, order and protection in the modern and globalization era, if various dimensions of legal life always maintain harmony, balance and compatibility between civil moralities based on actual values in civilized community. As the process of activities that involves various parties including the community in achieving the objective, it is mandatory to view legal enforcement as a criminal justice system.

The criminal accountability of civilians who forged the Issuance of *Girik* C and SPPT PBB illegally by Defendant I H. ASBIH BIN MUHAMMAD BIN SALEH, either individually or collectively with defendant II AGUS SULAIMAN, Defendant III UTIMAH, S. Sos, M. Si and AKA WILIS who were subject to Article 263 paragraph (1) KUHP in conjunction with Article 55 paragraph (1) of the 1st KUHP as accused in the first *primair* alternative Indictment over fulfillment of the element of *girik* forgery taken as the Legal Consideration by the Panel of Judges of South Jakarta District Court is as follows:

1. Element of Whosoever;

That based on the witnesses' confirmation and exhibits revealed in the court, general fact was found that Defendant I H. Asbih bin Muhammad bin Saleh, Defendant II Agus Sulaiman and Defendant III Utimah, S. Sos. M. Si, were faced by the Public Prosecutor as Defendants in the court and in the beginning of proceeding they had been asked for complete their identities as stated in the indictment letter, and all of which had been justified by the Defendants and during the proceeding there was no objection from the Defendants regarding their identity;

2. Element of Making forged letter or forging letter;

That based on the witnesses' confirmation and exhibits revealed in the court, general legal facts were found that witness Liek Santoso bought a land through Defendant III Utimah on behalf of a Company and the one who sold it was Defendant I H. Asbih, a land of 6000 M2 divided into two purchases of 1030 M2 and 4500 M2, the land of which had not had a certificate but had letters, namely Statement of Non-Dispute of Land, *Girik* and PBB. Before buying, witness Liek Santoso checked the land, and on the land location were many people's houses and the head of subdistrict stated that the land could be bought

provided that it was released from the people who occupied the land.

From the confirmation of witness EFRAN SUZUKIANA, AP and witness HASTONO, Defendant I H. Asbih and Defendant III Utimah evidently had applied for Statement of non-dispute of land for the purpose of title transfer. The land for which the application was filed was in size of 1030 M2, located on Jalan Komarudin with one of the requirements submitted was *Girik* C 2299 parcel A Blok S1 in the name of Umi Saleh, PBB of statement letter from heirs, before issuance of statement of non-dispute of land witness EFRAN SUZUKIANA, AP. asked for release of the land from the people who occupied it, after the land evacuation Statement of non-dispute of land in size of 1030 M2 would be issued and the witnesses stated that they had never issued Statement of non-dispute of land in size of 4500 M2.

According to the statement of witness AKA WILIS, the witness evidently met Defendant III Utimah near Mayor Office of South Jakarta and asked the witness to make a Statement of Non-Dispute of Land with size of 4500 M2 by giving a blank form of Statement of Non-Dispute of Land and gave a Statement of Non-Dispute of Land with size of 1030 M2 as example, at request of Defendant III Utimah, the witness made a Statement of Non-Dispute of Land with size of 4500 M2 by filling the land data and forging the Head of Sub-district's signature and seal through scanning, while the number and date of Statement of Non-Dispute of Land were made by the witness, after the Statement of Non-Dispute of Land was completed, the witness handed it over to Defendant III Utimah at the same place near Mayor Office of South Jakarta. Therefore, it is clear that the Statement of Non-Dispute of Land, dated 24 August 2009 with size of 4500 M2 was not issued by the authority, in this case the Head of Pulo Gebang Sub-district, Cakung District, East Jakarta, thus the Statement of Non-Dispute of Land was fake;

3. Element of capable of issuing a right, an agreement, a cancellation of debt, or that can be used as confirmation for an act;

That based on the witnesses' confirmation and exhibits revealed in the court, general legal facts were found that Statement of Non-Dispute of Land was a Letter issued by the Head of Sub-district where the land was located in, certifying the land condition, including the data of the base, location, size and name of land owner and that the land was not under any dispute.

That Statement of Non-Dispute of Land is a requirement for performing legal act over a parcel of land, in sales and purchase, transfer of right or in mortgage agreement, and in consideration of the definition of element a quo was associated with the legal fact revealed in the court as described above, then the element "Element of capable of issuing a right, an agreement, a cancellation of debt, or that can be used as confirmation for an act" in this article has been satisfied and proven Lawfully and Conclusively;

¹³ See Article 60 Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 4 of 1997.

4. The 4th element Intending to use or instruct others to use the letter as if it is an original and non-forged letter;

That based on the witnesses' confirmation and exhibits revealed in the court, general legal facts were found to the satisfaction of this element, that is as the fact in the court that after Defendant III Utimah received the Statement of Non-Dispute of Land dated 24 August 2009 made by Witness Aka Wilis, Defendant III Utimah as the intermediary in the land sales and purchase then compiled it with the other letters as the administrative requirements for transfer of land title, as pursuant to the certification of witness Liek Santoso that at the time of transaction, all documents were complete and there was no problem. Therefore, Statement of Non-Dispute of Land dated 24 August 2009 that as an administrative requirement had been used to do a legal act of transferring the right to a parcel of land pursuant to *Girik* No. C 2299 Parcel 10 a Blok SI in the name of Umi Binti Saleh, from Defendant I H. Asbih to witness Liek Santoso;

5. The 5th element of using it can cause a loss;

That based on the witnesses' confirmation and exhibits revealed in the court, general legal facts were found that as explained above, Statement of Non-Dispute of Land dated 24 August 2009 made by witness Aka Wilis had been used to transfer the right to a parcel of land pursuant to *Girik* No. C 2299 Parcel 10 a Blok SI in the name of Umi Binti Saleh from Defendant I H. Asbih to witness Liek Santoso, and then it had also been used to apply for certification of the land to BPN, even if it was not issued since for the land there was another HGB certificate by other party, therefore the making of Statement of Non-Dispute of Land had harmed the buyer of the land, caused loss in the prestige and dignity of the Head of Sub-district as the official authorized to issue it and could also confuse the government administration:

Based on the proof revealed in the court associated with the Defendants, we can conclude that because all indictment elements from the Public Prosecutor had been satisfied and the Defendants' defense was deemed unreasonable to remove the defendants' acts that had satisfied the indictment elements, the Public Prosecutor's indictment had been proven lawfully; thus, based on the considerations above it is evident that the elements of criminal act in Article 263 paragraph (1) KUHP in conjunction with Article 55 paragraph (1) of the 1st KUHP as accused in the first *primair* alternative Indictment had been proven, thus Defendant I H. Asbih, Defendant II Agus Sulaiman and Defendant III Utimah should be declared lawfully and conclusive committing criminal act in the first *primair* alternative Indictment. Therefore, the Public Prosecutor in their criminal claim sued Defendant I. H. ASBIH Bin MUHAMMAD Bin SALEH, with criminal imprisonment for 1 (one) year, reduced for the period when the Defendant was in temporary detainment: Defendant II. AGUS SULAIMAN, with criminal imprisonment for 8 (eight) months, reduced for the period when the Defendant was in temporary detainment: Defendant III. UTIMAH, S. Sos., Msi., with criminal

imprisonment for 1 (one) year and 6 (six) months, reduced for the period when the Defendant was in temporary detainment.

Based on the explanation above, if the type of criminal sanction was associated with Criminal Act of Forgery of *Girik* C and SPPT PBB on the sentenced rendered to Defendant I H. Asbih, Defendant II Agus Sulaiman and Defendant III Utimah as the perpetrators of Criminal Act of *Girik* C and SPPT PPBB Forgery, before being sentence serving as the basis of purpose of such punishment known as punishment theory. Punishment theory is divided into 3, namely Absolute Theory or Retaliation Theory, Relative Theory or Purpose Theory and Combination Theory.

Based on the punishment theories, Defendant I H. Asbih, Defendant II Agus Sulaiman and Defendant III Utimah in the sentence rendered to them, the panel of judges used the combination punishment theory, that the purpose of punishment was, besides retaliating criminal's mistake, also intended to protect the people by realizing order.

When the Punishment Theory was associated with compatibility of sentence rendered by the panel of judges of the East Jakarta District Court as in Decision No.: 866/Pid. B/2012/Pn. Jkt. Tim in conjunction with the Panel of Judges' Consideration at Appeal Level in confirming of Decision East Jakarta District Court as in Decision No.342/Pid/2013/PT. DKI along with the Legal Consideration at appeal level in Supreme Court as in Supreme Court Decision of the Republic of Indonesia No.: 522/K/Pid/2016 that rejected the Defendants' entire Appeals plus Supreme Court Decision of the Republic of Indonesia No.1309 k/PID/2014 that also rendered punishment to Defendant II as proven guilty (that was previously released by Decision No.: 866/Pid. B/2012/Pn. Jkt. Tim) with fulfillment of the elements of *Girik* C and SPPT PBB forgery in the provisions of article 263 paragraph (1) in conjunction with article 55 paragraph (1) of the first KUHP, they evidently Declare that the Defendants are lawfully and conclusively guilty of committing criminal act "forging letter collectively" and render criminal sanction to Defendant I H. Asbih with criminal imprisonment for 1 (one) year, Defendant II Agus Sulaiman with criminal imprisonment for 8 (eight) months and Defendant III Utimah with criminal imprisonment for 1 (one) year and 6 (six) months.

The Sentence was certainly made in consideration of all matters, and the author can conclude that the criminal sanction rendered to Defendant I H. Asbih, Defendant II Agus Sulaiman and Defendant III Utimah Utimah as in the Injunction is appropriate and equal to their mistake, thus it is deemed appropriate and fair.

From the perspective of criminal sanction decision above, however, we can conclude from the explanation above that the law enforcement and criminal accountability of Defendant I H. Asbih, Defendant II Agus Sulaiman and Defendant III Utimah as the perpetrators of collective forgery of *Girik* C and SPPT that satisfies the elements of the provisions of article 263 paragraph (1) in conjunction

with article 55 paragraph (1) of the 1st KUHP According to the Community's and Author's Opinion, the Sentence was still Too Light since besides the Defendant had caused immaterial loss to the Pulo Gebang Sub-district, the *Girik C* and SPPT Forgery was certainly an unlawful act that violated the Victims' Human Rights who had the right to a parcel of land under the law of ownership right that had been bought legally and procedurally. Therefore, the criminal accountability by civilians, in this case being Defendant I H. Asbih, Defendant II Agus Sulaiman and Defendant III Utimah who Forged *Girik C* and SPPT, was not merely criminal retaliation as in punishment theory, but was also a legal enforcement in effort to give legal certainty, order and protection to the community in application of criminal accountability for civilians who Forge *Girik C* and SPPT PBB under the provisions of article 263 paragraph (1) in conjunction with article 55 paragraph (1) of the 1st KUHP.

4. Conclusion

The legal rule on the Existence of *Girik C* and SPPT PBB as the requirement for Land Registration in Indonesia is contained in the provisions of Article 19 paragraph (2) letter c, Article 23 paragraph (2), Article 32 paragraph (2) and Article 36 paragraph (2) Law on Basic Agrarian Principles in conjunction with Government Regulation No.10 of 1961 in conjunction with Article 3, Article 23 Government Regulation No.24 of 1997 on Land Registration in conjunction with Article 60 paragraph (2) letter f Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 confirming that letters serving as evidence for the base of right such as *Girik C* and SPPT PBB applicable as a strong evidential instrument as an instruction for the government to organize land registration throughout the Indonesian territory that assures legal certainty.

The application of Criminal Accountability for Defendant I H. Asbih, Defendant II Agus Sulaiman and Defendant III Utimah who were proven guilty with fulfillment of the elements of Forgery of *Girik C* and SPPT PBB that was committed collectively in accordance with South Jakarta District Court Decision No.: 866/Pid. B/2012/Pn. Jkt. Tim in conjunction with Decision High Court of DKI Jakarta No.342/Pid/2013/PT. DKI in conjunction with Supreme Court Decision of the Republic of Indonesia No.: 522/K/Pid/2016 in conjunction with Supreme Court Decision of the Republic of Indonesia No.1309 k/PID/2014 that rendered criminal sanction to Defendant II as proven guilty (that was initially released by Decision No.: 866/Pid. B/2012/Pn. Jkt. Tim) with criminal sentence over the said Defendant I H. Asbih, therefore with criminal imprisonment for 1 (one) year, Defendant II Agus Sulaiman with Criminal Imprisonment for 8 (eight) months and Defendant III Utimah with criminal imprisonment of 1 (one) year and 6 (six) months that granted the Public Prosecutor's entire criminal claims pursuant and equally to their mistakes, thus the criminal accountability applied was lawfully correct and fair and in accordance with article 263 paragraph (1) in conjunction with article 55 paragraph (1) of the 1st Criminal Code and Law of Criminal Procedure.

5. Suggestions

The suggestions are as follows. The Government should evaluate the legal fields to be harmonized in land sector, especially related to possession of right to land, agrarian law and its implementing regulation, so as to produce various legal products that can render smooth implementation of land registration, especially land registration that use initial evidence Letter C. *Girik* and SPPT PBB leading to generation of land title certificate. In addition, the government should more diligently socialize the importance of Certificate for Owner of Right to a Land, especially those who still hold Letter C, *Girik*, *Petuk D* as possession evidence of Right to Land. Legal outreach/socialization is necessary with cooperation with other institutions, especially regarding the land registration implementation, besides outreach independently organized by BPN. Land registration through intermediary or agent, meanwhile, must be carried out through strict selection process and administrative examination of registration in order to minimize data manipulation and forgery of land possession right that until today is still committed by many people with blank *Girik C* form, making *Girik C* forgery possible.

References

Books

- Chazawi, Adami dan Ardi Ferdian, *Tindak Pidana Pemalsuan Tindak Pidana yang Menyerang Kepentingan Hukum Terhadap Kepercayaan Masyarakat Mengenai Kebenaran Isi Tulisan dan Berita yang Disampaikan* [Forgery Criminal Act, Criminal Act that Attacks Community's Legal Interest and Trust in the Truth of Writing and Report Delivered], Jakarta: Penerbit Putra Utama Offset.2014.
- Harsono, Budi. *Hukum Agraria Indonesia* (Indonesian Agrarian Law), Jakarta: Djambatan, 1999.
- Lamintang, P. A. F and Theo Lamintang, *Delik-Delik Khusus Kejahatan Membahayakan Kepercayaan Umum terhadap Surat, Alat Pembayaran, Alat Bukti, dan Peradilan* [Special Criminal Offences to Harm Public Trust in Letter, Payment Instrument, Evidential Instrument and Justice], Jakarta: Penerbit Sinar Grafika.2013.
- Manulang, Rinto. *Segala Hal Tentang Tanah, Rumah dan Perizinannya* [Anything Regarding Land, House and Licensing], Jakarta: Penerbit Buku Pinter.2011.
- Sutedi, Adrian. *Sertifikat hak atas tanah* [Certificate of Right to Land], Jakarta: Penerbit Sinar Grafika.2010.

Journals, Papers and Websites

- <http://www.omtanah.com/detail.asp?id>, "*Jenis-jenis Surat Tanah Sebagai Bukti Penguasaan Atas Tanah*" ["Types of Land Letters ad Evidence of Land Possession"], retrieved on 19 August 2018.
- Repertory Journal, *Pendaftaran Hak Atas Tanah Asal Leter C, Girik Dan Petuk D Sebagai Alat Bukti Permulaan Di Kabupaten Sleman Daerah Istimewa Yogyakarta* [Registration of Initial Right to Land Letter C, Girik and Petuk D as initial Evidential Instrument in

Sleman Regency, Special Region of Yogyakarta] ISSN: 2355-2646, Volume II No.2 July-December 2015, written by Sri Wahyuni and Paus Tri Wahyudi.

Diponegoro Law Journal, *Analisis Yuridis Penyelesaian Sengketa Kepemilikan Hak Atas Tanah antara PT. Maligi Estate melawan Perorangan* [Juridical Analysis on the Settlement of Dispute on the Possession of Right to Land between PT. Maligi Estate and Individual] ISSN: 23389-26384, Volume 5 No.3 2016, written by Astri Astariana and Ana Silviana

Adigama Legal Journal, *Analisis Terhadap Tanda Bukti Hak Atas Tanah Berdasarkan Uupa Dan Peraturan Pemerintah Nomor 24 Tahun 1997 Terkait Penggunaan Girik Nomor 87 Persil 157 Kelurahan Cengkareng Barat (Studi Kasus: Putusan Mahkamah Agung Nomor 2459k/Pdt/2014)* [An Analysis on Evidence of Right to land Based on Uupa and Government Regulation Number 24 of 1997 on the Use of Girik Number 87 Parcel 157 of Cengkareng Barat Sub-district (A Case Study: Supreme Court Decision Number 2459k/Pdt/2014)], ISSN: 23949-2332, Volume 5 No.3 2015, written by Stella and Hasni.

Verstech Journal, *Kekuatan Pembuktian Surat Letter C Dalam Pemeriksaan Sengketa Tanah Di Persidangan (Studi Kasus Putusan Mahkamah Agung Perkara No: 816 K/Pdt/2016)* [Evidentiary Power of Letter C in Examination of Land Dispute in the Court (A Case Study of Supreme Court Decision on Case No.: 816 K/Pdt/2016)] ISSN: 23283-2343, Volume 7 No.1 January-April 2019, written by Annisa Oktaviani P & Harjono.

Laws and Regulations

The 1945 Constitution of the Republic of Indonesia.

Law Number 1 of 1946 on Criminal Code (KUHP).

Law Number 8 of 1981 on Law of Criminal Procedure (KUHAP).

Law Number 5 of 1960 on Regulation on Basic Agrarian Principles.

Government Regulation Number 24 of 1997 on Land Registration.

Government Regulation No.10 of 1961 on Land Registration.

Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997

Letter of Director General of Taxation dated 27 March 1993, Number: SE-15/ PJ. G/1993 on the Prohibition of Issuance of *Girik/Petuk D/Kekitir/Keterangan Obyek Pajak* (KP. PBB II)

Decisions

Decision of East Jakarta District Court No: 866/Pid. B/2012/Pn. Jkt. Tim

Decision of High Court of DKI Jakarta No.342/Pid/2013/PT. DKI

Supreme Court Decision of the Republic of Indonesia No.: 522/K/Pid/2016

Supreme Court Decision of the Republic of Indonesia No.1309 k/PID/2014