

The Existence of National Land Agency in Giving Legal Certainty of Land Ownership in Makassar City

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Abstract: *This research aims to explain the existence of the National Land Agency in the issuance of land ownership certificate in Makassar City; to analyze the responsiveness, commitment and consistency of the National Land Agency in the issuance of land ownership certificate in Makassar City. Analyzing the factors that influence the handling of the issuance of land ownership certificate by the National Land Agency of Makassar City. The research method is qualitative research using analytical descriptive with doctrinal (normative) and non-doctrinal (empirical) approach. This research was conducted at the office of National Land Agency of Makassar City. The results of this research indicate that: 1) The existence of the National Land Agency in the service of land ownership certificate in Makassar City is to provide legal certainty and protection of rights; 2) Responsiveness, commitment and consistency of National Land Agency in the issuance of land ownership certificate in Makassar City is still low; 3) Factors influencing the service of land ownership certificate issuance by the National Land Agency of Makassar City are aspects of Land Certifier Official (PPAT), aspects of National Land Agency (BPN) Official, and community aspect.*

Keyword: National Land Agency, land ownership certificate, Makassar City

1. Introduction

Article 9 Section 1, Government Regulation (PP) No. 24 of 1997, affirmed that the object of land registration includes; freehold rights, cultivation rights, building rights, use rights, management rights land, charitable land, property rights over flats, mortgages rights, and state land. The intended registration is *rechts-cadastre*, means that the registration of the land undertaken aims to ensure legal certainty for the owner. [PP No. 24, 1997]

Based on the empirical data published by the Central Agency of Statistics, South Sulawesi in 2011 figures that the South Sulawesi province area is $\pm 4.578.453 \text{ km}^2$, then distributed to 21 regencies and 3 cities, 304 districts, and 2.953 subdistricts. Then based on the registered land recapitulation from 2010 to March 2016 at the Regional Office of BPN of South Sulawesi Province totaling 2.475.778 Ha, of the total of registered land area, the government only registered land rights totaling 1.104.587 Ha and more lands have not been registered, so it is the duty and responsibility of the government to realize the registration of land in South Sulawesi, as mandated by law.

The conscious use of legislation by the government as a means to carry out organized social change is characteristic of the modern state according to Dror, cited by Hamzah Baharuddin, state that the law can be used as an instrument to organize the changing societies. Legal development in these instruments is to create changes through the regulation of citizens' behavior toward the desired goal [Hamzah, 2014]

Nevertheless, one of the fundamental issues of land problems and the emergence of legal uncertainty in the matter of control and use of land plots by citizens, is not yet implemented proper registration, accurate and continuity including the maintenance of registration data.

In addition, there is also a lack of synchronization of the rule of law regarding land registration and regulation of land authority, so will affect the process of land registration in Indonesia.

The problem now, should be looked for the root of problem causes the occurrence of chos in the implementation of land registration. This requires special attention from law experts, academics, law practitioners and government officials to anticipate any possible differences between *das sein* and *das sollen*.

Then it should be seen, that with the difference between *das sein* and *das sollen*, means be potential to fail the implementation of land registration. While the failure of the implementation of land registration, in itself the objective of legal (justice, benefit and legal certainty) is not achieved [Lawrence 1975]. It is even suspected that legal objectives not achieved is due to various factors of legal substance, legal culture, legal awareness, human resources, and facilities, as influential factors become problems that must be solved.

2. Basic Theory

a) *Theory of Existence*

Plato argues that essence is more real than if participating in matter and when assimilating the existence of essence then matter will be associated with nothing.

b) *Theory of Service*

Service is an activity aimed at fulfilling the needs of human life of effort either through activity themselves or indirectly according to the activities of others [Moenir, 2001]

c) *Theory of Legal Certainty*

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Legal certainty in the eyes of the legalistic community, the characteristic just makes the product of legislation and apply by simply using a narrow horseshoe (Achmad Ali, 2012). With the strength of the position and power of the state and government, the application of justice moves into the hands of the state and thus is institutionalized, especially in this case is owed by the state. From the application of justice, now more specific terms, namely: "law enforcement" of "administration of justice" [Satjipto Rahardjo, 1986]

d) *Theory of National Land Agency*

National Land Agency of the Republic of Indonesia hereinafter abbreviated as BPN RI is a Non-ministerial Government Agency under and responsible to the President who has government duties in the field of national, regional and sectoral land as referred to in Presidential Regulation No. 10 of 2006 about National Land Agency. National Land Agency has the duty to implement the task of government in the field of land in national, regional and sectoral. [PP No. 10, 2006]

e) *Public Policy Theory*

Public services in democratic country should at least meet three indicators, namely Responsiveness, Responsibility and Accountability. [Charles Lenvine, 1990]

3. Research Methods

a) *Types of research*

Based on the research focus that has been described in the identification of the problem then the type of research to be used in this research is qualitative research. This research is considered relevant because to reveal a phenomena to research object. This qualitative research aims to understand more deeply about the meaning of the process, the interaction of the participators in the land sector.

b) *Research sites*

The location of this research is in the office of the Land Agency of Makassar City that is a technical implementing institution of the government of Makassar City which has the main duty is to provide public services in the field of land in Makassar, so researcher choose the office of the National Land Agency of Makassar as the right place for get data related to the problems in this research.

c) *Data analysis*

This research uses qualitative method of phenomenology approach, so that the appropriate data analysis technique is qualitative analysis technique.

4. Results and Discussion

a) *The Existence of the National Land Agency in Providing Legal Certainty of Land Ownership*

The existence of the National Land Agency in providing legal certainty over land is to provide assurance of legal certainty and protection of rights, this is in line with the theory of the essence that emphasizes the essence of truth and also based on normative or positivistic studies as regulated in UUPA which has outlined the necessity to implement land registration in Indonesia, as mandated by Article 19 of UUPA. The article contains general

provisions of land registration in Indonesia, such as, to ensure legal certainty by the government carried out land registration throughout the territory of the Republic of Indonesia in according to the provisions regulated by government regulations.

b) *Responsiveness, Commitment and Consistency of National Land Agency in Providing Legal Certainty of Land Ownership*

The responsiveness, commitment and consistency of the National Land Agency in order to issue the land ownership certificate in Makassar is still quite low.

c) *Factors Affect The Service of Land Ownership Certificate by The National Land Agency of Makassar City*

Factors that affect the service of land ownership certificate by the National Land Board of Makassar City are:

- Land Certifier Official (PPAT), which is at the beginning of the year often happens in office of Land and Building Tax has not issued SPPT for the current year, when the applicant came to change the right of land, then NJOP data required is not there, it can happen PPAT postpone SPPT issuance process until SPPT issued.
- BPN Officials in giving informations or explanations to the public seem to be convoluted, previous files in BPN office not completed on time, limited of field operators in BPN Makassar, and still often encountered disputes with land borders, borders of the land is unclear and there is no information from the land owners of the border.

5. Conclusion

a) The existence of the National Land Agency in the service of the Land Ownership Certificate in Makassar City is to provide legal certainty and protection of rights.

b) Responsiveness, commitment and consistency of National Land Agency in order to issue the right of ownership certificate on land in Makassar City is still quite low.

c) Factors that affect the service of land ownership certificate by the National Land Board of Makassar City are:

- Land Certifier Officials (PPAT), which is at the beginning of the year often happens in office of Land and Building Tax has not issued SPPT for the current year, when the applicant came to change the right of land, then NJOP data required is not there, it can happen PPAT postpone SPPT issuance process until SPPT issued
- BPN officials in giving informations or explanations to the public seem to be convoluted, previous files in BPN office not completed on time, limited of field operators in BPN Makassar, and still often encountered disputes with land borders, borders of the land is unclear and there is no information from the land owners of the border.
- People who do not understand or know about land registration, still consider that registration of land requires a high cost

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