



The Legal Status of Lawful Landowners and Legal Protection in Land Possession Disputes Without Rights Under National Agrarian Law

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Abstract: Land ownership disputes without rights are a common land issue that disrupts legal certainty for legitimate landowners. Although the national land law system has regulated land registration and the issuance of certificates as forms of legal protection, in practice conflicts are still found between physical possession and legal ownership. This research aims to analyze the legal status of the rightful landowner and the forms of legal protection in land ownership disputes without rights. The research method used is normative legal research with a statutory approach and a conceptual approach, examining Law Number 5 of 1960 concerning Basic Agrarian Regulations, Government Regulation Number 24 of 1997, and Government Regulation Number 18 of 2021. The research results show that land ownership certificates have strong evidentiary power and place the legitimate landowner in a more protected legal position, while unauthorized land possession does not gain legal legitimacy and can be qualified as an unlawful act. Therefore, legal protection for legitimate landowners must be consistently enforced to achieve legal certainty and justice in the field of land ownership.

Keywords: Land Disputes; Land Title Certificate; Legal Certainty; Legal Protection; Unlawful Land Possession.

1. INTRODUCTION

Land is a resource of strategic value in the social, economic, and legal life of Indonesian society. Land ownership and utilization are directly related to meeting basic needs and national development. Therefore, the state is obligated to regulate and guaranty legal certainty over land rights. These regulations are outlined in Law Number 5 of 1960 concerning Basic Agrarian Regulations. The UUPA serves as the national legal basis for realizing justice and legal certainty in the field of land. The UUPA emphasizes that the right to land must provide legal certainty for its holder. This legal certainty is intended to protect landowners from interference by other unauthorized parties. In Article 19 of the UUPA, the state is ordered to conduct land registration throughout the territory of Indonesia. Land registration aims to provide legal certainty and protection to right holders. Thus, land registration is a key instrument for legal protection in the national land system.

The implementation of land registration is further regulated in Government Regulation Number 24 of 1997 concerning Land Registration. This regulation affirms that the result of land registration is the issuance of a certificate of land rights. The certificate contains physical and legal data that has been verified by the state. Article 32 paragraph (1) of Government Regulation Number 24 of 1997 states that a certificate is strong evidence. However, in practice, the existence of certificates has not been fully able to prevent land disputes. One common form of land dispute is the dispute over land possession without rights. This dispute arises when a

piece of land is physically occupied by a party that does not have a valid legal basis for their claim. This condition leads to conflict between physical control and legal ownership. Unlawful land ownership is contrary to the principles of national agrarian law.

This phenomenon indicates a gap between legal norms and on-the-ground practices. Unlawful land occupation is often carried out thru acts of encroachment or the unauthorized use of land without the owner's permission. In many cases, these actions are accompanied by unilateral claims not supported by legitimate legal grounds. Legally, these actions violate the rights of the legitimate landowners. Article 1365 of the Civil Code provides the legal basis for seeking accountability for such actions. Thus, land occupation without rights can be qualified as an unlawful act. The problem becomes even more complex when the party in possession of the land without rights bases its claim on the length of physical possession. This kind of claim is often used to undermine the legal standing of the rightful landowner. In fact, in the Indonesian land law system, mere physical possession does not give rise to land rights. Land rights can only be obtained thru mechanisms regulated by legislation.

In order to strengthen legal certainty in land matters, the government also issued Government Regulation Number 18 of 2021. This regulation reaffirms the importance of accuracy in the physical and legal data research of land. The goal is to prevent the issuance of legally defective certificates. Land administration errors can create opportunities for disputes over land ownership without rights. The regulation highlights the crucial role of the state in preventive legal protection. Although the legal framework has been comprehensively regulated, land ownership disputes without rights still occur in various regions. This indicates that preventive legal protection is not yet functioning optimally. The low legal awareness of the community also exacerbates this condition. Additionally, weak oversight of land use is also a major cause. This condition directly impacts the disruption of the legitimate landowners' rights.

In the context of dispute resolution, the rightful landowner is entitled to receive repressive legal protection. This protection can be pursued thru both litigation and non-litigation channels. Law Number 48 of 2009 concerning Judicial Power guaranties the right of every person to obtain justice thru the courts. Additionally, ATR/BPN Ministerial Regulation Number 21 of 2020 regulates the mechanism for resolving land disputes thru mediation. Both mechanisms are part of the legal protection for legitimate landowners. In judicial practice, a land ownership certificate plays a central role as a piece of evidence. A certificate provides stronger legal legitimacy compared to physical possession without rights. However, the certificate is not absolute and its authenticity can still be tested in court. This shows that the

Indonesian land law system adheres to the principle of balance between legal certainty and justice.

Legal protection for legitimate landowners is not only related to the recognition of rights, but also to the enforcement of court decisions. Many cases show that even final and binding decisions are difficult to execute. Execution barriers mean legal protection is not felt in reality. This condition leads to public distrust of the legal system. Research on legal protection for legitimate landowners in land possession disputes without rights is highly relevant to conduct. This research is important to assess the extent to which legislation provides effective protection. Additionally, this study can identify both normative and implementation weaknesses in the land law system. A normative legal approach is used to analyze the applicable legal norms. Thus, this research is expected to contribute both academically and practically.

Based on the description, it can be understood that land ownership disputes without rights are a complex legal issue that directly impacts the legal certainty of land rights. Although the national legal framework has regulated protection for legitimate landowners thru the Basic Agrarian Law (UUPA) and its implementing regulations, the implementation of such legal protection still faces various challenges. This condition indicates a gap between legal norms and the practice of land administration on the ground. Therefore, a comprehensive normative legal study is needed to analyze the form and effectiveness of legal protection for legitimate landowners in land ownership disputes without rights.

2. RESEARCH METHOD

This research uses a normative legal research method with a statutory approach and a conceptual approach. The legal approach was carried out by reviewing the legal provisions governing the right to land and the legal protection of legitimate landowners, including Law Number 5 of 1960 concerning Basic Agrarian Regulations, Government Regulation Number 24 of 1997 concerning Land Registration, and Government Regulation Number 18 of 2021. The conceptual approach was used to analyze the concept of land ownership certificates as proof and land possession without rights from an agrarian law perspective. The legal materials used consist of primary legal materials such as legislation and court decisions, as well as secondary legal materials such as legal literature and journals. The analysis was conducted qualitatively using deductive reasoning to draw conclusions regarding the legal status and form of legal protection for legitimate landowners in land disputes involving unauthorized possession.

3. RESULTS AND DISCUSSION

Legal Status of Lawful Landowners: Land Title Certificates as Evidence and the Concept of Unlawful Land Possession

A land title certificate is a product of state administrative law issued through the land registration process. The existence of the certificate is intended to provide certainty and legal protection to the land rights holder. Article 19 of the Basic Agrarian Law states that land registration aims to ensure legal certainty. The certificate contains physical and legal data that has been verified by land officials. Therefore, certificates hold a central position in the system of proving land rights. According to Article 32 paragraph (1) of Government Regulation Number 24 of 1997, a land title certificate is strong evidence. This evidentiary weight means that the data contained in the certificate is considered true unless proven otherwise. Thus, the certificate is not absolute. The certificate can still be challenged if there is evidence showing a legal defect. This indicates that the Indonesian land law system adheres to the principle of open proof.

A certificate of land ownership is not immune to legal challenges from other parties who feel aggrieved. A lawsuit can be filed if the certificate was issued unlawfully or in violation of legal provisions. Administrative defects or legal defects can be grounds for invalidating the certificate. Therefore, certificate ownership must be supported by a legitimate process of acquiring rights. This principle aligns with the principles of justice and legal certainty in agrarian law. Although not absolute, the certificate still provides a stronger legal standing compared to other forms of evidence. A certificate has higher probative value than mere physical possession. In land disputes, the party holding the certificate is generally in a more advantageous position. This is because a certificate is a written proof officially recognized by the state. Thus, the certificate becomes the primary basis for determining the rightful landowner. In judicial practice, judges often use certificates as the primary evidence in resolving land disputes. However, judges also consider other evidence such as witnesses, letters, and facts of possession.

The certificate will be stronger if there is no evidence to contradict its validity. Conversely, if legal defects are proven, the certificate can be set aside. This shows that certificates must be understood proportionally within the legal system of proof. The certificate's status as strong evidence reflects a balance between legal certainty and justice. The state provides protection to certificate holders, but still allows for corrections through judicial mechanisms. Thus, the certificate is not used as a tool to legitimize unlawful acts.

This principle is important to prevent abuse of authority in issuing certificates. Therefore, the certificate remains the primary instrument of legal protection for legitimate landowners.

Unlawful land occupation is a condition where an individual or legal entity occupies land without a valid legal basis. This occupation is not supported by land titles recognized by law. In the context of agrarian law, possession without rights contradicts the principle of legal land ownership and use. Such actions often lead to conflict between the legal rights holders and the physical occupants of the land. Land occupation without rights is a serious issue in land law. Legally, the unauthorized possession of land can be classified as an unlawful act. Article 1365 of the Civil Code serves as the basis for liability for such actions. The element of unlawful act is fulfilled because there is an action, fault, damage, and a causal relationship. The legal landowner can sue for damages for the losses incurred.

Beside being an unlawful act, the unauthorized possession of land is also a violation of the principle of legal certainty in land ownership. The principle of legal certainty requires that all land ownership be based on legitimate rights. Unjustified physical possession creates uncertainty for the rightful owners. This condition contradicts the purpose of land registration conducted by the state. In Indonesian agrarian law, physical control of land does not automatically create land rights. Land rights can only be obtained thru mechanisms regulated by legislation. Physical control without legal basis cannot override legitimate legal rights. This principle aims to protect the rights holders who legally acquired the land.

Often, those who occupy land without right use the length of their occupation as the basis for their claim. That reason cannot be justified if it is not supported by a valid legal basis. Long-term possession does not automatically extinguish the rights of the rightful owner. In judicial practice, judges tend to reject such claims. This demonstrates the consistent application of agrarian law in protecting legal rights. Therefore, the unlawful possession of land cannot be used as a basis to defeat the legal status of the rightful landowner. The Indonesian land law system prioritizes the legality of rights as the main factor in determining ownership. Legal protection is granted to owners who can legally prove their rights. Physical possession without right actually leads to legal consequences for the perpetrator. Therefore, the rightful landowner has a strong legal position in the face of land ownership disputes without rights.

Legal Protection for Legitimate Landowners

Legal protection for legitimate landowners is a primary mandate of national land law, as stipulated in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles. Article 19 of the UUPA explicitly states that land registration is carried out to

ensure legal certainty. This legal certainty is intended to protect legitimate landowners from claims by other unauthorized parties. In the context of land ownership disputes without rights, legal protection becomes an important instrument for maintaining the legitimacy of legal rights. Thus, legal protection is the essence of the national land system's administration.

Legal protection in land law can be classified into preventive and repressive legal protection. Preventive legal protection aims to prevent disputes from occurring in the first place thru land administration mechanisms. This is in line with Article 3 and Article 19 of the UUPA, which emphasize orderly land administration. Meanwhile, repressive legal protection is provided when a dispute has already occurred. These two forms of protection are complementary in guaranteeing the rights of the legitimate landowner. Preventive legal protection is primarily realized thru land registration as regulated in Government Regulation Number 24 of 1997. Article 32 paragraph (1) of the regulation states that the certificate is strong evidence of physical and legal data. With the certificate, the landowner gains a more protected legal position. Land registration also prevents the unauthorized occupation of land by others. Therefore, land registration is a fundamental form of preventive legal protection. In addition to Government Regulation Number 24 of 1997, the strengthening of preventive legal protection is also regulated in Government Regulation Number 18 of 2021. This regulation emphasizes the importance of accuracy in the physical and legal data research before issuing a certificate. These provisions aim to prevent the issuance of legally defective certificates. Errors in the administrative process can lead to disputes over land ownership without rights. Thus, Government Regulation Number 18 of 2021 reinforces the state's role in preventive legal protection. The role of the National Land Agency is crucial in providing legal protection for legitimate landowners. The National Land Agency (BPN), as the land registration implementer, is obliged to adhere to the principles of caution and professionalism. This is in line with the principles of good governance in administrative law. BPN's negligence in conducting verification can lead to land conflicts. Therefore, the state's administrative responsibility becomes part of the legal protection for landowners.

When preventive legal protection fails and disputes persist, then repressive legal protection becomes the primary mechanism. The legal landowner can file a civil lawsuit in the district court. The lawsuit is generally based on unlawful acts as regulated in Article 1365 of the Civil Code. Unlawful land possession meets the elements of an illegal act because it harms the rightful owner. Thus, civil law provides the basis for repressive legal protection. In the litigation process, the land title certificate plays a central role as a piece of

evidence. Article 32 paragraph (1) of Government Regulation Number 24 of 1997 places the certificate as strong evidence. Judges generally use certificates as the starting point for proof. However, the strength of the certificate can still be tested thru other evidence at trial. This reflects a balance between legal certainty and justice.

Repressive legal protection can also be pursued thru out-of-court dispute resolution. Minister of ATR/BPN Regulation Number 21 of 2020 regulates the mechanism for handling and resolving land cases. Land mediation is one of the instruments for resolving disputes. This mechanism aims to reach an agreement thru deliberation. Mediation provides faster and more efficient legal protection for legitimate landowners. However, resolution thru mediation is not always successful. If mediation fails, the landowner still has the right to pursue legal action. This is in line with the principle of access to justice as guaranty in Law Number 48 of 2009 concerning Judicial Power. The courts serve as the final bastion of legal protection for citizens. Thus, the state continues to provide a comprehensive mechanism for legal protection. A court decision recognizing the rights of the rightful landowner is a form of legal protection that is both declaratory and constitutive. This decision affirms the legal status of the landowner regarding the disputed object. However, legal protection doesn't stop at the verdict alone. The implementation or execution of the decision becomes a crucial stage. Without execution, legal protection loses its effectiveness. Executing decisions in land ownership disputes without rights often faces obstacles in the field. These obstacles can include physical or administrative resistance from the losing party.

This condition indicates a gap between legal norms and implementation. The state, thru law enforcement agencies, must guaranty the implementation of court decisions. Thus, legal protection is truly felt by the rightful landowners. Under certain conditions, legal protection for legitimate landowners can also be pursued thru criminal channels. Unlawful land occupation accompanied by document forgery or fraud can be prosecuted under criminal law. However, the criminal approach must be used proportionally. Criminal law serves as a last resort or *ultimum remedium*. Criminal law protection complements civil protection within the legal system. Normatively, legal protection for legitimate landowners reflects the application of the principles of legal certainty and justice.

Legal certainty ensures that rights acquired lawfully cannot be arbitrarily deprived. Justice demands that those who possess land without right are not protected by law. These two principles are the foundation of national agrarian law. Thus, legal protection must be enforced consistently. Based on the description, it can be understood that legal protection for legitimate landowners has been comprehensively regulated in legislation. The main

challenge lies in the effectiveness of its implementation in the field. Synergy between legal norms, law enforcement agencies, and public awareness is essential. Strengthening legal protection will increase public trust in the land system. Ultimately, effective legal protection will bring about legal certainty and justice in disputes over land ownership without rights.

4. CONCLUSION

The legal owner of the land has a strong legal position in disputes over land possession without rights because their rights are normatively protected by the UUPA and its implementing regulations. A certificate of land ownership, as strong evidence, provides higher legal legitimacy compared to physical possession without legal basis. Unlawful land occupation cannot be legally justified and may be classified as an illegal act. Therefore, the Indonesian land law system is, in principle, on the side of protecting legitimate legal rights. This reflects the application of the principles of legal certainty and justice in national agrarian law. Legal protection for legitimate landowners is realized through complementary preventive and repressive mechanisms. Land registration and land administration order are forms of preventive protection, while dispute resolution through mediation and the courts are forms of repressive protection. Although the legal framework is comprehensively available, the main challenge lies in the effectiveness of implementation and enforcement on the ground. Therefore, it is necessary to strengthen the role of the state, law enforcement agencies, and land institutions in ensuring the protection of land rights. With effective legal protection, legal certainty and justice in land ownership disputes without rights can be realized.

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