



Land rights status based on the Supreme Court decision number 3116 K/Pdt/2020

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Abstract

Article 18 of the Law No. 5 of 1960 on the Basic Regulations of Agrarian (*Undang-Undang Pokok Agraria*) states that "For the general interest, including the interests of the nation and the state and the common interest of the people, the land rights may be revoked, with compensation for a reasonable loss and in the manner prescribed by law". This is juridical normative research. This research aims to explain the status of ownership of land rights based on the decision of the Supreme Court Number 3116 K/Pdt/2020. The results of the research show that the status of ownership of the right to land according to the Supreme Court Decision No. 3116 K/Pdt/2020 becomes State property or State ownership with the Status of Usage Rights with the Certificate of Use Rights No. 0007/Desa Gunong Kleng dated December 8, 2016, registered on behalf of the Government of the Republic of Indonesia cq Religious Ministry of the Republic of Indonesia.

Keywords: Status, land rights, Supreme Court decision

Introduction

Regarding land matters, it has been found that issues that raise disputes in a society are either concerning physical land data, jurisdictional data, or even such disputes arise as a result of an agreement between two or more parties one of which commits acts against the law. Conflict can arise anytime and anywhere, whether between individuals and individuals, individuals and groups, groups and group, companies and companies, corporations and states, and so on. In other words, disputes can be public or private and can take place locally, nationally, or internationally.

A dispute over land rights may arise as a result of a lawsuit by a person or a legal body containing a legal claim for a legal act that has damaged the claimant's land rights. As stipulated in Article 18 of the Law Number 5 of 1960 on the Basic Regulations of Agrarian (*Undang-Undang Pokok Agraria* later called as the UUPA), which states that "For the general interest, including the interest of the nation and the state and the common interest of people, the land rights may be revoked, with compensation for due damage and in the manner prescribed by law ^[1]".

One of the cases relates to the ownership dispute over land controlled by the State Islamic Religious High School (STAIN) Tengku Dirundeng Meulaboh located in the City of Meulaboh, West Aceh district. As in Judgment No. 2/Pdt.G/2019/PN Mbo which has been corrected by the High Court of Banda Aceh by Judgement No. 9/PDT/2020/PT BNA on February 26, 2020 between Irwan Gunawan, M. Yunus, Syahril Saputra, Rustam Efendi, Herlan Toni, and Suharti as 1st, 2nd, 3rd, 4th, 5th, and 6th plaintiffs against Bupati Aceh Barat, Yayasan Pendidikan Teuku Umar Johan Pahlawan, the Government of the Republic of Indonesia cq. Ministry of Religion, State School of Islamic Religion (STAIN) Tengku Dirundeng Meulaboh, Head of the Department of Agriculture District of West Aceh, PPAT Cut Ida Kahirani, PT. Harum Jaya, and PT. Belalang Jaya as the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th and 8th defendants.

The plaintiff claims that the land that is partly controlled by the State Islamic Religious High School (STAIN) Tengku Dirundeng Meulaboh of 7.450 m² is land belonging to Plaintiff I which has been proven by the land certificate (SKT) made by the local village head. It has been obtained the fact that the land declared as belonging to the plaintiff as in its development has been dominated by the 4th Plaintiff (campus of STAIN) who is now in the construction of the facilities and facilities of the campus so that there has occurred dualism of the status of ownership of the land in the case of the Claimant and the Defendant both declared on such land is the legitimate owner based on the evidence provided.

In the case of a dispute relating to the status of ownership of the right to land, the plaintiff claims that the land continuously occupied by the Plaintiff is the land of the State which is also recognized as the land belonging to the government which has certified the right of use and has been registered as State Property. However, in this case, the Claimant considers that the land occupied through continuous cultivation is the property of the Claimant which has had proof of the Land Declaration Letter or SKT that is made by the local village head.

The Supreme Court decision No. 3116 K/Pdt/2020 on the consideration made by the High Court Judge stated that the *Judex Facti* consideration (the Banda Aceh High Court which corrected the Meulaboh State Court judgment) had misapplied the law. The Supreme Court acknowledges that the property which has certified the right of use of building No. 03/Desa Gunong Kleng on 12 August 2013 and is registered on behalf of the 2nd defendant who subsequently applied for registration/re-registration of the Certificate of Rights of Use of the Building into the Certificates of Right of Use No. 0007/Dessa Gunong Kleng on 8 December 2016 has been registered in the name of the Government of the Republic of Indonesia cq Ministry of Religious Affairs of the Republik of Indonesia with the status of ownership of the asset has been recorded as State Property.

The controversial object of the grant process has been used for the general interest, carried out based on good faith, and used for the general interest/development of Islamic educational means. The land before the issue of the Usage Rights Certificate No. 0007/Desa Gunong Kleng on 08 December 2016 has issued the Building Usage Right Certificate (SHGB) No. 03/Desa Gunong Kleng on 12 August 2013 which was registered on behalf of the plaintiff II, then under the provisions of Article 32 paragraph (2) of Government Regulation Number 24, 1997 on Land Registration (PP 24/1997) then the Plaintiff can no longer claim the land that has been certified in the name of another legal entity, if for 5 (five) years since the issuance of the certificate he did not file a claim to the Court, while the land was acquired by such other legal body with good faith and physically possessed by the legal body that obtained its approval. Based on the legal issues described above, an analysis will be carried out on the status of ownership of land rights based on the Supreme Court decision Number 3116 K/Pdt/2020"

Research Method

This research uses methods of normative jurisprudence or doctrinal law research, i.e. legal research using secondary data ^[2]. Normative research is carried out by studying library materials and legislative regulations which are also called library research ^[3]. The doctrinal law research process deviates from the norms and principles of positive law and ends up finding foundations or doctrines of law that work analytically inductively ^[4]. There are two approaches used in this study, namely the Statute Approach approach and the Conceptual approach. After the data collection process has been completed, then the data analysis will be carried out using quantitative descriptive methods.

Results and Discussions

Land is unique because its supply is constant, meaning that it cannot be produced or reduced and its location cannot be moved or moved. Then any problems that arise relating to land will imply the whole aspect of life that is interrelated because land for society has a multidimensional meaning. From the economic side, land is a means of production to produce goods that can bring prosperity. Politically, land can determine a person's position in the decision-making of society and as a culture can determine the height of the low social status of its owner.

According to Ismail, "It has land related to self-esteem (social values), sources of income (economic value), power and rights privilege (political value), and places to worship the Creator (sacral-cultural values)". Having no land means losing self-esteem, resources of life, power, and the place of connection between man and Creator. The need to possess land is a necessity ^[5].

The right of possession in Article 33 paragraph (3) of the Basic Law of the State of the Republic of Indonesia of 1945 is published in the UUPA. The provision of the right to possession of the state is contained in Article 1 of the Law No. 5 of 1960. That the earth and the water and the space, including the natural wealth contained therein, are at the highest level under the rule of the nation.

According to the rule of the kingdom, there are all kinds of rights in the land, which may be given to, and possessed, either by one person, or by others, and by the courts. (Pasal 4 UUPA). A land right is a right of possession of the land

that contains a set of authorities, obligations, and/or prohibitions for the right holder to "do something" concerning the land. "Something" that may, be obligatory or prohibited to do, which is the content of the right to possession that is the criterion or denial of the distinction between the right of ownership of land regulated in the land law ^[6].

The legal consequences of not using the land according to the circumstances and nature of its rights, thus not bringing benefits and happiness to the people and the state, if reviewed from the perspective of national land law are categorized as land abandoned. Subsequently, the right to land (HM, HGU, HGB) was abolished under Article 27 letter a number 3, article 34 letter e, and Article 40 Letter e UUPA, and the termination of the legal relationship and affirmed as land directly controlled by the state.

Article 20 verse (1) of the UUPA explains that property rights are the descending, strongest, and most complete right that can be possessed by a person on the ground. The meaning of the phrase in the article "strongest and the most complete" according to the explanation of U UPA is to distinguish it with the right of use of enterprise, building rights, use rights, and others, to show that among the rights on the fields that a person can possess is the "ter" (meaning: the most) strong and full.

The problem of land ownership about the recognition of the right to own land is sometimes based only on how long a person has occupied, used, and cultivated the land so that he has felt as if he was the owner of the land. Recognition of ownership of land becomes an urgent matter so that the owner can transfer his land to others either through the process of sale, exchange, adjudication, giving by will, inheritance, and so on, so the status of the land ownership must be clear who the actual owner according to the law.

One of the cases relates to the ownership dispute over land controlled by the State Islamic Religious High School (STAIN) Tengku Dirundeng Meulaboh located in the City of Meulaboh, West Aceh district. As in Judgment No. 2/Pdt.G/2019/PN Mbo which has been corrected by the High Court of Banda Aceh by Judgement No. 9/PDT/2020/PT BNA on 26 February 2020 between Irwan Gunawan, M. Yunus, Syahril Saputra, Rustam Efendi, Herlan Toni, and Suharti as the 1st, 2nd, 3rd, 4th, 5th, 6th claimants against Aceh Barat Head of District, Teuku Education Foundation Umar Johan Pahlawan, Government of the Republic of Indonesia cq. Ministry of Religion, State Islamic Religious High School (STAIN) Tengku Dirundeng Meulaboh, Head of the Department of Agriculture District of West Aceh, PPAT Cut Ida Kahirani, PT. Harum Jaya, and PT. Belalang Jaya Prima as the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th and 8th defenedants.

The plaintiff claims that the land that is partly controlled by the State Islamic Religious High School (STAIN) Tengku Dirundeng Meulaboh of 7.450 m² is land belonging to Plaintiff I which has been proven by the land certificate (SKT) made by the local village head. The plaintiff acquired the land and claimed to be the rightful owner of the land by cultivating and opening up the farmland which had been in the possession of the plaintiffs for a long time, continuously and without interruption to this day.

The fact that the land declared as belonging to the Applicant as in its development has been dominated by the 4th claimant that is Campus STAIN who is now in the construction of facilities and premises of the campus so

there has been dualism of the status of ownership of the land in the case of the Appellant and the Defendant both declared that the land is the legitimate owner based on evidence of the existing letters. This is because the land belonging to the Prosecutor has been claimed by the 1st defendant (West Aceh Governorate) as land owned by the Government of the West Aceh District, which then handed over the land to 2nd defendant (Yayasan Education Teuku Umar Johan Pahlawan) with a total area of 1.990.000 M2 (one million nine hundred ninety thousand square meters) or 199 Ha (one hundred and ninety-nine hectares) as in the News of the Event of Granting Granted Land Number: 011/BAHT/IV/2011 dated June 4, 2011 which was signed by the prosecutor I who acted on behalf of the Governments of the Western Aceh District as a donor.

After the grant was received, 2nd claimant submitted an application for registration of rights and issuance of land certificates to 5th claimant (Head of the Agriculture Office) to issue a Certificate of Rights of Use of Building No. 03/Desa Gunong Kleng Dated 12 August 2013 amounting to 500,000 (five hundred thousand square meters) or 50 Ha (fifty hectares), and subsequently the Prosecutor II handed over the land to the prosecutor III (Government of the Republic of Indonesia cq Religious cease) with the status of Right of Use under the Grant Act No. 150/2016 dated 04 May 2016 which was made and carried out before the Prosecutions IV of the Officer of the Land Act Maker (PPAT) in the West District of Aceh. As the Grant Act has been signed by Sdr. Rushmadi, S.H. as the Chairman of Teuku Umar Johan Pahlawan Educational Foundation as the donor. Now the Certificate of Rights of Use of the Building has been changed to the Usage Rights Certificate No. 0007/Desa Gunong Kleng dated 08 December 2016 which is registered on behalf of the 3rd claimant and was settled by the 2nd claimant.

In the certificate of the right of use, then the 3rd claimant permitted to 4th claimant that is School of State Islamic Religion, Stain, Tengku Dirundeng Meulaboh) on the land granted to be used as the construction activities of the building and the activities facilities and facilities of campus STAIN Tengku dirundeng MEULaboh carried out by the parties (work conducted by the 7th and the 8th claimants. In this case, the 4th claimant has fully possessed the land on the granted permission. However, on the land claimed to be the property of the Government by Prosecutor I and now in its development has been used for the construction of a campus on the part of the land owned by Prosecutor I of 7,450 m2, the Prosecutors are now neglecting the rights of the Prosecution by not making any attempt to compensate for the loss of land that has been taken over by the Prosecutions to cause losses to the claimant.

The 1st plaintiff did not explain the origin of the acquisition of the land that was proven by a valid document, which was also completed by a map showing clear boundaries according to applicable law. When associated with the existence of the West Aceh Bupati Letter No. 590/1659/1992 dated 22 August 1992 on the prohibition to the working community to no longer cultivate land around the location of Teungku Dirundeng Education campus, then the Prosecutors have wronged the letter above, so the actions of the Prosecution who remain in control and cultivate the land of the area is precisely an act that is against the law.

The Defendants state that the 1st Defendant I has “claimed” the land “owned” by the Defenders. This sentence is a blurred and unfounded statement because the fact is that Claimant I is not “claiming” the land, but rather issuing a Decision against an area of public interest under the authority granted by the Law. The settlement then proceeded with an attempt to replace the workers under the agreements and regulations, as well as the applicable law. Since it has been done to replace the above-mentioned people, then the rights of the working people have been fulfilled by the 1st Claimant, so that the process carried out by 1st Claims subsequently handing over the land to 2nd Claimant until finally handed over to the 4th Claimant is valid under the rules and laws.

The Prosecutors also mentioned that 1st claimant had “claimed” the land “owned” by the claimants. This sentence is a factless and unfounded statement because the fact is that since 1959 the territory of the filthy fields has been a State forest area or before the defendants were born. In 1982 the Bupati West Aceh at that time had established that the Penyareng Field would be used as an agricultural campus to visit the Teuku Chik Dirundeng foundation covering 343.2 H. and in 1992 by the Government of West Aceh district issued a ban on opening/working the land of Teungku Dirunden educational campus site, and in 2007 the West Aceh District Government again issued the ban on not conducting land sale transactions, exploiting the land and establishing buildings on the land Teuku Umar University District Complex.

According to Article 23 (1), UUPA states that the ownership rights, as well as the transfer, deletion, and assignment of other rights, shall be registered by the provisions referred to in Article 19. whereas Article 19 (1) U UPA states that to guarantee legal certainty by the government is held land registration throughout the territory of the Republic of Indonesia according to provisions regulated by the Government Regulations.

By the theory of legal certainty based on the legal purpose, by registering land then the disputed land obtains the basis of its right as authentic evidence in proof in court. The land dispute that has occurred as described above, has been decided by the Supreme Court that the defendants do not have legal certainty over land because the disputed land does not have any ground right over land that can be proven, only a Land Registration Letter (SKT) issued by the village head.

According to the Decision of the Constitutional Court (MK) No. 12/Law-XIX/2021 mentioned to obtain legal certainty of ownership of land rights (in this case property rights), any legal act concerning the transfer or its charge becomes null, and void if it is not registered with the designated authority. Furthermore, such a provision is also an obligation to be passed under the procedures and procedures established by the regulations of the legislation.

Constitutional Judge Enny Nurbaningsih also explained the process of transfer of rights that makes receipts as a bookkeeping tool. The act of sale made before the PPAT also could not be declared as proof of ownership as new as one of the conditions of the transfer of rights. Proof of legitimate ownership of land is a certificate of land rights because through land registration it will be known who is the owner of the land rights, when the right to the land was transferred, and who the new owner, including also if the land is burdened with the right of possession. If only the

receipt is the basis for ownership of land rights, it can obscure the essence of the legal certainty of ownership rights to land.

Based on the above, it can also be inferred that the Land Registration Letter (SKT) issued by the village chief as proof of ownership of the right to land is not a strong basis for being a tool of proof, because the SKT is not as authentic evidence in proof in court. The status of the disputed land is State property or State property rights with the status of Right of Use with the Certificate of Rights of Use No. 0007/Desa Gunong Kleng dated 08 December 2016 registered on behalf of the Government of the Republic of Indonesia cq Religious termination of the Republik Indonesia. Thus, the local government as an organization of power "regulates" so that it makes rules, then "conduct" means executing (execution) its use, preservation, and maintenance. (maintenance). The Regional Government shall also be entitled to determine and regulate any rights that may arise from such domination ^[7]. If the land is necessary for the interests of the people, then it can be used to exercise the right of possession of the state.

Conclusion

To sum up. the Land Declaration Certificate or SKT that is issued by the village chief as proof of ownership of land rights is not a strong basis for being a tool of proof, because the SKT is not as authentic evidence in proof in court. The status of the disputed land as State property or State property rights with the status of Right of Use with the Certificate of Rights of Usage Number 0007/Desa Gunong Kleng dated 8 December 2016 registered on behalf of the Government of the Republic of Indonesia cq Religious Ministry of the Republic of Indonesia.

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