

The Application of The Contradictoire Delimitative Principle of Land Registration Provides Legal Assurance of Land Rights

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Abstract. This research takes the title "Application of the Contradictories Delimitative Principle of Land Registration to Provide Legal Certainty of Land Rights." Throughout the Republic of Indonesia, land registration is carried out in accordance with the provisions of a Government Regulation to ensure legal certainty for the government. This type of research is empirical normative research. This study aims to determine the application of the contradictoire delimitative principle, to find out the variables that become impediments to land registration implementation through the contradictoire delimitative. although not everything is like that. Due to land boundary disputes, the land is not marked with stakes, so the boundaries of the land are not clear. The way to overcome this is to resolve boundary disputes by deliberation.

Keywords: Delimitative; Land Right; Legal Assurance

1 Introduction

This land, which is called the People can use and employ the earth's surface by demonstrating the rights that have been controlled in the law, which are known as land rights. [1] Land rights are limited rights to a specific area of the earth's surface that have two dimensions: length and width scattered throughout the archipelago, there are areas that easy to reach, there are also areas that are very difficult to measure and map.2 Various regions in the archipelago certainly have characteristics of land problems that differ from one region to another. This situation is getting more real as a consequence of the basic Indonesian people's understanding and views on land.[2]

One of the goals of the establishment of Law No. 5 of 1960 on Agrarian Principles (hereafter referred to as UUPA) was to set the groundwork for providing legal clarity and protection for the Indonesian people as a whole in terms of land rights. "To ensure Land registration is held" throughout the Republic of Indonesia, in accordance with the provisions provided by Government Regulation, according to UUPA article 19 paragraph (1).

The principle of Contradictoire Delimitative is a principle where before the measurement is carried out, it is witnessed by the parties directly adjacent to the land being measured, with the

goal of coming to an agreement on the limits. [3] For the first time, land registration is carried out using two forms of registration: systematic land registration and occasional land registration. Land registration should be done in a systematic manner carried out simultaneously with Government initiatives, in this case the National Land Agency (hereinafter referred to as BPN), to register uncertified land parcels based on a long-term and annual work plans and implemented in the regions determined by the Minister of State for Agrarian Affairs/Head of the Department of Agriculture BPN while Sporadic land registration is carried out on the initiative of the owner of the land parcel not registered.

The purpose of the *Contradictoire Delimitatie* principle is the government's efforts in this case the Land Office, either district or city, so that the land that has been measured and mapped does not cause disputes or disputes regarding its boundaries, so that land owners feel safe from objections about the limits that have been set.[4]

After defining the location and limits of the plots of land to be mapped, boundary markers are set in each corner of the land parcel as needed involved, according to Article 17 paragraph (1) of Government Regulation No. 24 Year 1997. Specifically for the determination of the actual boundaries in the implementation of the measurement, a method of determining the boundaries by *Contradictoire Delimitatie* must be adopted, in which the owners of the adjacent land together make an agreement in determining the determination of the boundary before it is provided by the measuring officer carrying out the measurement. This is very necessary so that if in the future it is needed, then the re-definement of the boundaries will be reconstructed.

From the statement above, it can be said that the principle of *Contradictoire Delimitatie* is an important aspect in the system of administering land registration in Indonesia in order to offer legal certainty in the land sector (*Recht Kaaaster*).

With such a background, the National Land Agency as a Non-Departmental Government Agency and its apparatus and apparatus have the attitude and determination to improve services in land certificates. In the context of land certificate efforts, before being given a certificate of right (certificate), which acts as a strong evidence, field works must be carried out first. "Field works are measurement activities, including among others location orientation and bonding points, measurement of the basic framework and boundaries of land parcels including the situation therein".

2 Research Methods

This study is descriptive in nature. Descriptive research seeks to characterize something in a specific location and at a specific time. Typically, the researcher has gathered or has an overview of the problem to be examined in the form of preliminary data. In descriptive research, a researcher has often used theories and perhaps hypotheses.

Descriptive The goal of research is to precisely define the features of a specific person, ailment, symptom, or group in order to see if there is a link between one symptom and others in society. This study aims to review how the legal study of the application of a complete systematic To provide legal certainty over land, a land registration scheme is being implemented registration for the community.

3 Discussion

3.1 PTSL Measurement by Third Parties After the Implementation of the Contradictoire Delimitatie Principle

Provisions regarding the implementation of the contradictoire delimitation principle are contained in PP 24 of 1997 Articles 17, 18 and 19. Provisions for the Implementation of Land Registration are regulated in PMNA No. 3 of 1997, this contradictoire delimitatie principle must be carried out by the applicant (land owner) before the measuring officer of the National Land Agency takes measurements, by bringing in parties directly adjacent to the land owned by the land owner, then also presenting village officials and the applicant also showing the boundaries. boundaries of his land and at the same time put up boundary signs at the agreed limits. According to PMNA No. 3 of 1997 in Article 19 it is stated that the determination of land parcel boundaries is The Adjudication Committee and the Head of the Land Registry are in charge of systematic land registration Office or land office employees assigned to sporadic land registration.

According to Article 18 paragraph (1), the The Committee determines the limits of a parcel of land that is previously owned with a right that has not been registered or has been registered but no measurement letter/drawing of the situation exists, or a letter of measurement/drawing that no longer conforms to the actual situation. In intermittent land registration, adjudication is based on the determination of borders by the holders of the in question land rights and, to the extent possible, approval by the holders of nearby land rights. The approval mentioned in paragraphs (1) and (2) is documented in an official report signed by those who made the decision issued the approval, according to Article 18 paragraph (4).

In addition to PP 24 of 1997 which discusses the determination of land parcel boundaries, there is also PMNA No. 3 of 1997 Article 57 which states that if the measurement of land parcels is carried out by BPN employees, the boundary determination is carried out by the Measurement and Mapping Task Force on behalf of the Chair of the Adjudication Committee. If the measurement of land parcels is carried out by a Third Party, the determination of land parcel boundaries is carried out by the Juridical Data Collection Task Force on behalf of the Adjudication Committee. According to PMNA No. 3 of 1997 in Article 58, it is stated that After the determination of boundaries and the placement of boundary signs has been completed, land parcels will be measured and mapped. The Adjudication Committee is assisted by the Physical Task Force, the Juridical Task Force, and the Administrative Task Force, according to PP No. 24 of 1997, PMNA No. 3 of 1997, and Permen ATR/BPN No. 6 of 2018.

In accordance with the description above, the implementation of boundary determination carried out by the Adjudication Committee is carried out after the contradictoire delimitatie principle and boundary approval by both parties are proven by the preparation of Minutes of Installation of Boundary Marks or also called Statement Letters of Boundary Marks and Wide Differences (BAPTBP) at the Office Land signed by both bordering parties and acknowledged as true by the local village apparatus.

Sporadic boundary determination is carried out by the applicant submitting an application for registration of his land to the land office individually, the requirements for the application are the applicant's identity, the basis for land rights, application forms. One of the things that must be included by the applicant is the BAPTBP where the official report is written evidence that the contradictoire delimitatie principle has occurred, which is carried out between the land owner, bordering parties and witnessed by village officials. Making BAPTBP prior to the

application is a strategy carried out by the Land Offices. This strategy is carried out to accelerate. For the first time, I went through the land registration process.

When the application file has been processed and submitted to the measuring officer, the limit can be determined and measured by the surveyor concerned. Furthermore, the process of the measurement results is stated in the Measurement Drawing as evidence that the measurement of the land parcel has been carried out which has fulfilled the *contradictoire delimitatie* principle. Boundary determination activities at PTSL are not much different from the process, which is carried out after completion of counseling activities carried out by BPN regarding PTSL. There should be no difficulty in making BAPTBPB in signing the approval of boundary witnesses, considering that PTSL is carried out simultaneously.

After completing the counseling, then the implementation of the installation of boundary markings is carried out simultaneously by PTSL participants who are accompanied by the Adjudication Committee team, the surrounding community that borders and at the same time the BAPTPL is made. After making BAPTPL, which is approved and agreed upon by the bordering parties, at that time The Adjudication Committee also sets the restrictions.

The results of the determination of the boundary will be stated in the Minutes of Juridical Data and Boundary Determination or List of Contents 201 (DI 201), for DI 201 the contents include: location of land, subject information, sketch of land parcels, approval of parcel boundaries by bordering neighbors, proof of ownership, history land, type of building, land status, and others. In addition to containing what has been mentioned, it also contains juridical conclusions regarding the owner, land status, and completeness of evidence.

Interviews conducted by the researchers with the Adjudication Committee team and their village apparatus/devices stated that for filling out the signatures of bordering neighbors in the Juridical Data Minutes both at the Land Office must be filled out/signed by the owner of the adjacent land parcel.

3.2 Barriers to Measurement and Implementation of the *Contradictoire Delimitatie* Principle

Disputes that occur in a field can create hostility and interested parties do not want to meet each other in measuring land. The parties have their respective positions regarding the placement of the boundaries of the land parcels they control. Neither the applicant nor the owner of the adjacent land can be present at the time of land boundary determination, this hampers the measurement so that it slows down the completion of land registration.[5]

Lack of public awareness to maintain the boundary markings or stakes of their land parcels will make it difficult for surveyors from Third Parties because the boundaries of the land are not clear, this makes measurement and mapping difficult and results in delays in the implementation of land parcel measurements. PTSL activities at the research site contained several parcels of rice fields whose names were not known to the owners of the land parcels, because the owners concerned were outside the area, and also the incomplete history or history of the land contained in the village office, lurah office. In addition, there is no overall land map, so administrative ownership of the land parcels is unknown.

Low public awareness about the importance of land rights certificates which actually have high economic value. Some people are not interested in it yet. The obstacle is because they think that even if their field is certified or not, it will not affect their economic life.

Disputes about boundaries between several bordering land parcels or disputes over who has the right to a plot of land, the Committee tries to settle those rights with the interested parties amicably (Article 5 PP No. 10 of 1961). Article 6 states that if the above-mentioned efforts fail, then those with an interest in boundary disputes as well as in disputes about who is actually

entitled to the plot of land can submit the matter to a judge. The lands which are the subject of dispute on the maps and registers referred to in Articles 4 and 7 are stated with a registration number or recorded as disputed land until the dispute is resolved.

Settlement of boundary disputes according to Article 19 PP 24 of 1997, namely: If the holders of land rights in question and If the holders of adjacent land rights cannot agree on the boundaries of the land parcels as referred to in Article 18 paragraph (1), the measurement of the land parcels shall be attempted while the boundaries which in reality constitute the boundaries of the land parcel in question; if at the appointed time the holder of the land right in question cannot agree on the boundaries of the land parcel in question, the measurement of the land parcels shall be attempted; if at the appointed time the holder of the land right in question cannot agree on the boundaries of the land parcel in question, the measurement of the land parcels shall be attempted while the boundaries which in reality constitute the boundaries of the land parcel in or the holder of the rights to the adjacent land is not present, after the summons has been made, the measurement of the plot of land will be temporarily carried conducted in compliance with the paragraph (1) provisions; In systematic land registration, the Head of the Adjudication Committee makes the decision, while in sporadic land registration, the Head of the Land Office makes the decision an official report regarding the temporary measurement as referred to in paragraphs (1) and (2), including regarding the absence of agreement on boundaries or the absence of the holder of the land right in question.

Socialization to village officials/devices as well as to PTSL participating communities, regarding the importance of installing boundary markers to ensure legal certainty for land rights holders, as well as making and distributing land registration manuals and procedures for installing boundary markings. The existence of boundary markers, of course, the boundaries of the land parcels will be clear and have certainty of location and area that can be accounted for. Barriers to public disinterest in not participating in PTSL are carried out by land office officers in collaboration with village officials trying to make people aware that they are willing to participate in the PTSL program by providing an understanding of the positive impacts that will occur if the parcels of land owned are already certified. After that, according to the interview with the PTSL team, the village apparatus / apparatus and the community will be emphasized, if all are not registered, the certificate will not be issued for reasons of orderly administration.

4 Conclusion

The implementation of The Adjudication Committee is in charge of putting the contradictoire delimitation concept into practice after the counseling and during the measurement. In general, the implementation of the contradictoire delimitatie principle is in accordance with PP No. 24 of 1997 and PMNA No. 3 of 1997. Making Measurement Drawings carried out by Third Parties, especially PT. Geomosaic for PTSL in the Land Office area does not comply with applicable regulations and does not comply with the guidelines in JUKNIS No: 01/JUKNIS-300/1/2018 in appendix 10d. This is very risky if one day for some reason the missing boundary points will be difficult to restore because the bordering party does not sign the boundary witness column on the Measurement Drawing.

Obstacles experienced such as boundary disputes, internal conflicts, during the implementation of PTSL measurements, if they cannot be resolved by deliberation and forwarded to the court, the land registration process will be skipped or the issuance of the rights will be delayed, for fear that it will not be sufficient and time will run out. litigation process, while PTSL activity itself is a job with a very large number of target fields and with a specified time.

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