

CLASH BETWEEN TWO RESIDENTS IN PROBOLINGGO DUE TO THE ACTUAL LAND RIGHT HOLDER DISPUTE

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Abstract

This study aims to evaluate the reliability of land title evidence, including tax stakes and land certificates, both of which are issued by authorized institutions in good faith to individuals, corporations, or other legal entities. The most typical way to acquire land rights is through transferring rights, though there are other ways. However, disagreements over the actual owners of the rights develop as a result of changing times and laws. Since two owners acknowledge that one of them is the valid owner of the land, there is a disagreement between 2 (two) residents in this writing. While the other party has a certificate obtained through the buying and selling process, one of the parties has evidence in the form of an Excerpt Letter C Book. Both are accepted as valid proof for land ownership. However, more investigation is required to determine how strong each proof is and how land rights are acquired and transferred.

Keywords: Land Rights, Letter C, Land Certificate

INTRODUCTION

Indonesian citizens have individual rights to land, including land rights, following Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (from now on, referred to as UUPA). There are two types of land rights: primary rights and secondary rights. Land rights granted on public lands are considered primary rights. Ownership rights, building use rights, cultivation rights, and use rights are examples of primary rights. Secondary rights, on the other hand, are property rights that come from the land of other parties rather than the state due to an agreement with other land rights holders. One of the land rights often chosen by the community is the right of ownership (one of the primary land rights) because it is hereditary, strongest, and fullest, and only Indonesian citizens can own it.

Before the UUPA, it was possible to demonstrate land ownership by providing evidence of payment of the crop tax or "*landrenta*" (patuk tax). Furthermore, known as Girik, Ketitir, Pipil, and, one of which will be discussed in this article, Book Quotation Letter C. Because it is presumed that whoever pays the tax has a claim to the land, tax payment documentation is regarded as proof of land ownership. A certificate is a reliable, authentic proof of land regulation law in Indonesia. If the land is state land, it can be acquired through an application for rights to the state. Otherwise, obtaining a certificate as proof of land rights requires looking at the status of the land. If an individual/legal entity already owns the land, the acquisition can be through the transfer of rights, relinquishment, and granting or revocation of rights. Land registration can provide proof for land whose evidence is still contained in the tax stamp. According to Article 23 paragraph (2) of Law No. 5 of 1960 Concerning Agrarian Principles, certified land is land that the owner has registered, and the registration is a powerful means of proof regarding the abolition of property rights as well as the validity of the transfer and assignment of these rights.

There may be misunderstandings and land disputes in some areas due to the UUPA, established in 1960. One instance discussed is a land dispute between 2 (two) parties in Probolinggo Regency, specifically in Sepoh Gembol Village, Wonomerto District. This dispute involves 4000 m² of rice fields, and the parties cannot agree on who is the valid land right holder.¹ Each side asserts to have certain types of land rights. Party 1 (also known as Imam Hanafi's party), which wanted to mark ownership of the rice field with a stake, was prevented from doing so because Party 2, also known as the Sumila party, believed that he had a right to the rice field. According to the Imam Hanafi party, he acquired ownership of the rice fields by purchasing and selling from a man named Sugeng, who already had a certificate on the property. Additionally, Imam Hanafi acknowledged that he had filed a lawsuit with the court but that it had been rejected. Sumila claimed that she had owned the property for more than 30 years and received a grant from her parents. The ownership of a letter in the form of letter C served as Sumila's proof.

RESEARCH METHOD

This study employs a descriptive research design and normative juridical legal research, or *library research*, methodology. Data from numerous legal works of literature, as well as relevant legislation and regulations, were gathered through a literature review. Qualitative analysis is the technique utilized for data analysis.

RESULTS AND DISCUSSION

Strength of Proving Land Rights with Quotations from Letter C Books and Land Certificates according to Indonesian Law

Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (after this referred to as UUPA) Article 4 paragraphs 1 and 2 regulates the state's right to control there are various types of rights over the earth's surface called land and can be given to and owned by people either alone or together with other people and legal entities and given the authority to use the land as well as the body of the earth and water and the space above it for the direct benefit of using the land and following this law and other relevant regulations.² The types of land rights mentioned in Article 4 paragraph 1 of the UUPA are the rights regulated in Article 16 paragraph 1 of the UUPA. The types of

¹M Rofiq, "2 Kelompok Warga di Probolinggo Nyaris Bentrok Gegara Sawah Sengketa". <https://news.detik.com/berita-jawa-timur/d-5149128/2-kelompok-warga-di-probolinggo-nyaris-bentrok-gegara-sawah-sengketa>, terbit Kamis, 27 Agustus 2020

² Indonesia, *Undang Undang tentang Peraturan Dasar Pokok-Pokok Agraria*, UU No. 5 Tahun 1960, (selanjutnya disebut UUPA) LN Nomor 1960/No.104, TLN No. 2043, Ps. 4 ayat (1) dan (2)

land rights consist of ownership rights, cultivation rights, building rights, use rights, lease rights, land clearing rights, rights to collect forest products, and other rights that are not included in the abovementioned rights. Other rights not included in the abovementioned rights will be stipulated by law, as well as rights of a temporary nature, as mentioned in article 53.³ Individuals and Indonesian citizens are the subjects of the conflict between 2 (two) citizens. The implication is that the dispute over who is the true ruler still affects land rights.

If someone claims to have land rights, they should be able to show ownership of the property. Letter C Book and Land Certificate are two instruments used to demonstrate land ownership. This Letter C Book was acknowledged as one of the pieces of evidence of land tenure before the UUPA was established. The Letter C Book's definition is not governed by law. However, in essence, it serves as a record of a person's land ownership or as their tax clerk, and it was created in or is currently kept in the village/ward office where the land is situated.⁴ Most people know that the Letter C Book will contain a quote given to the owners of the land, which will take the form of girik, petuk D, or kekitir. During the Dutch colonial era, tax collectors used the Letter C book to collect taxes from landowners, a letter of imposition, and a sign of payment.⁵ According to R. Soeprapto's quotation from Edy Suparno's legal writing, the contents of Letter C Book are as follows:⁶

1. Land Register
2. Owner's name with serial number
3. Tax amount

Letter C book can be used as proof of control over land that has not been certified. Moreover, because the land listed in the book has been under the holder's control for a long time, notaries or employees of the land office can judge that the holder has the right to the land.⁷ One of the conversions of customary land rights can also be done using the Letter C book. A landowner with Letter C Book as proof of ownership may register their property at the land office. The implementation follows Article 3 of the Regulation of the Minister of Agriculture and Agrarian Affairs Number 2 of 1962. Which is based on the nature of the proof of the Letter C Book as an initial reference to produce proof of land rights that have not been certified as evidence of juridical data, namely land certificates.⁸ Since it is assumed that the data in the Letter C Book is accurate and up-to-date if there is a change in the data on the land, it is possible to determine the rights to uncertified land parcels using the Village Letter C Book.⁹

The Book Excerpt Letter C is not evidence of land tenure after the UUPA takes effect, according to the UUPA. Although it is acceptable evidence, neither the strength of the proof in the Letter C Book nor the strength of the proof in the Civil Law is perfect. It is necessary to have additional evidence in addition to the Letter C Book, such as:

1. Land Peg
2. Land and building tax (PBB) and proof of payment
3. Certificate of Land History from Village administration

Furthermore, it is well known that Article 19 paragraph (1) of the UUPA regulates the use of a land certificate as proof of land ownership and governs the strength of such proof. This Article explains that land registration is necessary to ensure legal certainty, which is further explained in paragraph (2), and that land registration includes:¹⁰

- a. Mapping and land bookkeeping measurements;
- b. Registration of land rights and the transfer of such rights;
- c. Provision of letters of proof of rights, which serve as strong evidence.

Similar rules can be found in Article 31 paragraph (1) of Government Regulation No 24 of 1997 concerning Land Registration (after this, referred to as PP 24/1997). This article explains that

³ Ibid., Ps. 16 ayat (1) huruf a s.d. h

⁴ "Jenis-Jenis Surat Sebagai Bukti Penguasaan Atas Tanah" <https://omtanah.com/2016/06/09/jenis-jenis-bukti-penguasaan-tanah/>, omtanah.com, diakses pada 28 Oktober 2021

⁵ "Sejarah Keberadaan Girik/Leter C Sebagai Bukti Kepemilikan Tanah" <https://omtanah.com/2016/04/26/sejarah-keberadaan-girik-leter-c/>, omtanah.com, diakses pada 28 Oktober 2021

⁶ Edy Suparno, "Kutipan Buku Letter C Sebagai Alat Bukti untuk Memperoleh Hak Atas Tanah di Kecamatan Duren Sawit, Jakarta Timur", http://eprints.undip.ac.id/17220/1/EDY_SUPARYONO.pdf, diakses pada 28 Oktober 2021

⁷ Harry Soepandi dan Putranto Hari Widodo, "Perancangan Sistem Informasi Pertanahan Buku C Desa Berbasis Web di Desa Satriyan Kec. Tersono Kabupaten Batang" IC-Tech Volume XVI No. (1 April 2021), hlm. 44

⁸ "Apa itu Buku C/Leter C (Masalah Pertanahan)?", <https://omtanah.com/2010/04/15/apa-itu-buku-cletter-c-masalah-pertanahan/>, omtanah.com, diakses pada 29 Oktober 2021

⁹ Harry Soepandi dan Putranto Hari Widodo, "Perancangan...", hlm. 49

¹⁰ Indonesia, UUPA, Ps. 19 ayat (1) dan (2)

land certificates are issued for the benefit of the relevant right holders and that the certificates are recorded following both physical and legal data.¹¹

In addition to giving rights holders legal protection, the existence of a land certificate serves as solid evidence of rights and provides legal certainty. According to Article 32 paragraph (1) of PP 24/1997, a land certificate is a certificate of proof of land ownership rights that is strong and contains physical data and juridical data following the data contained in the letter of measurement and the book of land rights in question, which must be accepted as valid data as long as it cannot be proven otherwise.¹² Then it is clarified in Article 32 paragraph (2) that if a certificate of land has been issued legally in the name of the person or legal entity that acquires the land in good faith and controls it, then the other party who feels he has the right to the land can no longer demand the exercise of the said right if within 5 (five) years from the issuance of the certificate it does not submit a written objection to the certificate holder and the relevant Head of the Land Office or does not file a lawsuit to the Court regarding the control of the land or the issuance of the certificate.¹³ What is meant by solid evidence is related to the publication system adopted by the Indonesian state. The State of Indonesia follows a negative publication system with a positive tendency, which means the country uses a system for registering property rights that generate letters of proof of ownership, but the certificate's legal standing as evidence of these rights is vital. Article 19 paragraph 2 letter c, Article 23 paragraph 2, Article 32 paragraph 2, and other articles governed by PP 24/1997 can be used to analyze this situation.¹⁴ This land certificate was obtained through land registration following the relevant laws and regulations.

Legal Holders of Land Rights 4000 m2 Sepoh Gembol Village Reviewing the Process of Transfer of Rights

If the letters belonging to the Party providing evidence of Book Letter C and land certificates are examined, both provide equally reliable evidence. The issue that still needs to be addressed is how the two parties transferred their land rights in time, specifically as follows:

- Citizens A - Imam Hanafi party (Pilang Village, Kademangan District)
 - Trying to put stakes in the fields
 - Have a land certificate by buying from a person named Sugeng
 - Had sued in court, but the lawsuit was not accepted
- Citizens B - Sumila's party, a resident of Sepoh Gembol Village, Wonomerto District
 - Claims to have owned the land for decades, acquired with a grant from his parents
 - Owned the land for more than 30 years
 - Have a Letter C Book

It is known that resident A, the Imam Hanafi party, acquired the land through buying and selling with a man named Sugeng, who also provided a written certificate. The procedure for purchasing and selling land is governed by Article 37, Paragraph 1, of PP 24/1997, which specifies that the procedure is valid if a deed made by PPAT supports it and for the procedure of later registering rights with the land office.¹⁵ Following the UUPA, the process of buying and selling land in Indonesia is carried out openly and in cash, which is based on Article 5 of the UUPA, which reads, "Agrarian law that applies to earth, water and space is customary law, as long as it does not conflict with national and state interests, which are based on national unity, with Indonesian socialism as well as with the regulations contained in this Law and with other laws and regulations, everything by heeding the elements that rely on religious law."¹⁶ According to the definition of light itself, the surrender or transfer of land rights must occur in front of the appropriate official, known as the Land Deed Maker Official (PPAT). While payments and land rights transfers are made concurrently, the nature of cash itself is intended.¹⁷ Based on the two nature explanations, it can be inferred that land sales and purchases must occur before the PPAT, be made in cash, and be accompanied by documentation, precisely the existence of a Sale and Purchase Deed, to demonstrate the transfer of land rights.

¹¹ Indonesia, *Peraturan Pemerintah tentang Pendaftaran Tanah*, Peraturan Pemerintah Nomor 24 Tahun 1997 (selanjutnya disebut PP No. 24/1997), LN. 1997 No. 59, Ps. 31 ayat (1)

¹² Ibid., Ps. 32 ayat (1)

¹³ Ibid., Ps. 32 ayat (2)

¹⁴ Broto Susanto, "Kepastian Hukum Sertipikat Hak Atas Tanah Berdasarkan Peraturan Pemerintah Nomor 24 Tahun 1997" *DIH, Jurnal Ilmu Hukum* (Agustus 2014, Vol. 10 No. 20, Hal 76 - 82), hlm. 79-80

¹⁵ Indonesia, *PP No. 24/1997*, Pasal 37 ayat (1)

¹⁶ Indonesia, *UUPA*, Ps. 5

¹⁷ "Sengketa Tanah", <https://www.hukumonline.com/klinik/detail/ulasan/cf7025/sengketa-tanah/> hukumonline.com, diakses pada 29 Oktober 2021

The MA-RI Jurisprudence No. 123/K/SIP/1970, which states that the legality of buying and selling can be judged from the material legal actions of buying and selling, can be used to review the legal terms of the sale and purchase. The necessary materials are:

1. The seller has the right to sell the land in question
2. The buyer has the right to buy the land in question
3. The land in question may be traded
4. The land in question is not in dispute

The only parties involved in buying and selling are a seller and a buyer. However, it must also be supported by personal information about the subjects, such as information from identity cards (KTP), family cards (KK), tax identification numbers (NPWP), and other pertinent paperwork. Naturally, a land book document must be attached when buying or selling, regardless of whether it still takes the form of a Letter C Book or has a land certificate. The proof of old rights as written evidence for land registration (which will later lead to the buying and selling process) is regulated in Article 24, paragraphs (1) and (2) of PP 24/1997. Additionally, if the judicial requirements are not met, the proof of the old right can be done by demonstrating physical control of the subject property for 20 (twenty) years or more in a row, provided that it is done in good faith, openly with witnesses, and no fraud is involved.¹⁸ Suppose the land has previously been certified for the transfer of rights. In that case, the certificate must be included as a document, which must be given to the land office, following Article 103 paragraph (2) letter f Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997, concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration (after this referred to as PMNA 3/1997).¹⁹ From these rules, it can be inferred that to sell land, and a person must demonstrate that they legally and physically own the property.

It is not stated in this instance whether or not the sale and purchase process satisfied the precise, cash, or material requirements. However, it can be seen from Imam Hanafi's statement that they possess land certificates. The conditions should have been satisfied because the Land Office, which of course must go through a process that must be passed, as in Articles 37 to 40 of PP 24/1997, will write and replace written juridical data that will change the subject and physical data (if there is a change in physical data), and also because the material requirements are satisfied, during the process of transferring land rights. If it is completed before the PPAT, it has been established that the seller is a legitimate individual with the authority to sell the land and the right to transfer rights and change names with the proper documentation following the applicable laws and regulations.

Regarding the land purchase by resident B, or Sumila's group, he said that he had owned the property for 30 years and had received it as a grant from his parents. Before, it was essential to consider whether the requirements had been satisfied to implement a grant. In Articles 1666 to 1693 of the Civil Code, grants are governed. Article 1666 of the Civil Code defines a *grant* as an agreement in which a grantor is a person still alive and delivers an item for free, without the ability to withdraw it, for the benefit of the person receiving the delivery of the item. This definition also specifies the subject of the grantor.²⁰ This article explains that only individuals who are still alive may make grants. According to article 1676 of the Criminal Code, everyone may give and receive grants except those legally declared incapable.²¹ It makes sense that the grantor and recipient must possess the legal expertise required by the law to become the subject of the grant.

The grant's conditions are also viewed in terms of the object. The Civil Code's Article 1667 regulates donated items, stating that only items that already exist at the time of the grant are permitted. Grants are not allowed for items that do not yet exist. Grants are canceled if they include items for which the grant has not been implemented.²² According to the article, if the grant's object is land or land rights, it can be assumed that the land must already exist and be the giver's property, both legally and physically. As a result, the grant's object cannot be merely wishful thinking.

Along with the subject, the terms of the grant are also apparent from the procedure for transferring rights, governed by Article 37 paragraph (1). This process states that the transfer of land rights, through one of them is a grant, can only be registered if it is supported by a deed made by the

¹⁸ Indonesia, *PP No. 24/1997*, Ps. 24 ayat (1) dan (2) huruf a dan b

¹⁹ Kementerian Agraria dan Tata Ruang/Badan Pertahanan Nasional, *Peraturan Menteri Negara Agraria/Kepala Badan Pertanahan Nasional tentang Ketentuan Pelaksanaan Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah*, Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertahanan Nasional Republik Indonesia Nomor 3 Tahun 1997, (selanjutnya disebut *PMATR/BPN No. 3/1997*), BN 2019/No. 722, Ps. 103 ayat (2) huruf f

²⁰ Indonesia, *Kitab Undang-Undang Hukum Perdata [Burgerlijk Wetboek]*, (selanjutnya disebut *KUHPer*), Ps. 1666

²¹ *Ibid.*, Ps. 1676

²² *Ibid.*, Ps. 1667

authorized PPAT following other applicable laws and regulations.²³ The Civil Code's Article 617 serves as the foundation for this, stating that a deed granting real property must be done in authentic form, or else it may be threatened with cancellation. This deed aims to demonstrate that a sale of goods held through the office's intermediary follows current laws or to be held must be regarded as an authentic deed.²⁴ According to PP 24/1997, the process of transferring rights is essentially similar to the process of buying and selling.

Sumila's claim that she has documentation in the form of a Letter C Book proves that the land has not been registered with the land office, as we can see from Sumila's statement. This condition raises the question of whether the disputed land can be donated in light of the Letter C Book's supporting documentation. Generally speaking, granting land that has not yet received certification is possible, but this will unavoidably have adverse effects. In contrast to the first discussion of the main issue, Letter C Book is only used as a starting point for land registration because of the UUPA and other relevant laws and regulations. However, Letter C Book can prove that a person is a rightful owner.

Since these pertinent laws and regulations have been passed, it is mandatory to convert rights to make land transfers, and the process must also go through the designated official, in this case, PPAT. The granting process may have occurred before the UUPA and without the regulation of PP 24/1997 on land registration because it was conducted many years ago. If the author's supposition is accurate, then Sumila's grant can be implemented without any issues. Due to the Letter C Book's accurate and current information on changes to land data. If so, follow Letter C Book's explanation of the situation covered in the previous chapter's subject matter without omitting any additional grant requirements.

CONCLUSION

Generally speaking, it can be said that before the UUPA and other pertinent regulations were passed. The Letter C Book was a reliable source of information demonstrating ownership of a land right. The Letter C Book is still accepted as evidence despite the UUPA and other regulations' existence. However, if there is a transfer, the land rights should be registered with the land office to generate a land certificate, as this will serve as reliable proof of the rights to the land. Since the land certificate is ultimately strong evidence of ownership rights, no other party may demand the implementation of these rights if it has been lawfully issued.

What efforts can both parties make to identify the valid rights, *a quo*, if both are considered legitimate land rights holders? The author claims that Sumila is still the owner of the fundamental right. Imam Hanafi, the certificate owner, is still being questioned regarding how the land was purchased and sold. Because Sugeng, the seller, lacks the authority to transfer the land's rights if the Book of Letter C is still on Sumila's side. Because the Letter C Book is the original beginning, it serves as the foundation for all subsequent land certificates that prove ownership. Quoting from the news, Sumila's legal adviser also suggested that Imam Hanafi, a resident who claims to have bought the land, looked for Sugeng, who had a land certificate, and sold the land, which then transferred the rights to the land to Imam Hanafi. If Sumila still has the Letter C Book, how did Sugeng obtain the certificate, and who is Sugeng? These are all valid questions. The actions taken by Imam Hanafi to file a lawsuit, in this case, can also be regarded as appropriate. Because it must be known with legal certainty who the owners of land rights are. The court can determine the land rights holder's identity by proving the information in the existing documents and using other pertinent evidence.

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²³ Indonesia, *PP No. 24/1997*. Ps. 37 ayat (1)

²⁴ Indonesia, *KUHP*, Ps. 617

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