

**JURIDICAL ANALYSIS OF LAND SALE AND PURCHASE  
TRANSACTIONS THAT ARE NOT EQUIPPED WITH CERTIFICATES  
IN GROBOGAN REGENCY REGION**

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**ABSTRACT**

The primary objective of this study is to scrutinize and evaluate the process of transferring ownership rights to land lacking certification and its associated legal implications, while also assessing the proactive measures taken by National Land Agency Grobogan Regency in addressing instances of uncertified land transactions. Employing an empirical juridical research approach, which entails analyzing real-world social issues to acquire pertinent knowledge for resolution, this study seeks to gain insights into the subject matter. Findings from the research indicate that the transfer of ownership rights to uncertified land in Grobogan Regency can occur through both formal and informal channels. These factors are influenced, among other things, by incomplete land documentation, the high cost of sale and purchase deeds, the still strong legal culture of local communities, and the low level of legal knowledge of local communities to carry out effective sales and purchases in accordance with government regulations. The legal consequence of owning uncertified land in the Globogan Regency area is that it is detrimental to the party holding the rights to the land because there is no guarantee of legal certainty. National Land Agency Grobogan Regency's approach to addressing instances of land transactions lacking certificates involves implementing a free land registration program, also known as Complete Systematic Land Registration (PTSL) by the National Land Agency. This initiative aims to streamline the registration process, particularly for rural communities, thereby ensuring legal certainty and protecting community land rights. Embracing principles such as simplicity, affordability,

efficiency, safety, fairness, equity, transparency, and accountability, the program aims to facilitate accessible and fair land registration procedures.

**Keywords:** Buying and selling; Land; Certificate

## INTRODUCTION

A series of land rights are granted by the Basic Agrarian Law, including basic rights such as ownership, use and cultivation of land and secondary rights such as lease and collection of forest products. Mechanisms were created to provide legal certainty in land ownership due to the multiplicity of land rights. To ensure legal security throughout Indonesia, Article 19 of the Basic Agrarian Law mandates national land registration, which is conducted as a *recht kadaster*. Land title certificates, proof of legal ownership, are issued as a result of this registration effort. In order to provide legal certainty about land ownership rights, the Basic Agrarian Law's task of conducting land registration remains unfinished. This is mainly due to the public's lack of understanding of the importance of having a land title certificate. (1)

Many people, especially in rural areas, consider the fiscal cadastre, also known as *Surat C*, *Petuk D*, and *Girik*, among others, as sufficient proof of land ownership. These communities, however, are often unaware that the main purpose of fiscal cadastral registration is not to provide legal certainty, but to guarantee tax obligations related to land. This research aims to How is the transfer of ownership rights to land that has not been certified and its legal consequences and how the role of the National Land Agency of Grobogan Regency in responding to cases of buying and selling land without certificates and preventive measures? This research will explain the problems faced and provide an overview of the field. In addition, the results of this research are useful for the general public and students because they can find out the arrangements and consequences of the Transfer of Property

Rights on Land that has not been certified through a Sale and Purchase Agreement.

(2)

Grobogan Regency is an example of where land transactions without certificates are common. According to Ms. Endang Sri Wukiryatun, a Notary and Land Deed Official (PPAT) in Grobogan Regency, buying and selling land without a certificate may not cause immediate legal problems. However, she advises that the parties involved engage a Land Deed Official to obtain the certificate, although this entails costs. According to Ms. Endang Sri Mukiryatun, buying and selling land without certificates is still common, especially in mountainous areas. Research with the title **“JURIDICAL ANALYSIS OF LAND SALE AND PURCHASE TRANSACTIONS THAT ARE NOT EQUIPPED WITH CERTIFICATES IN GROBOGAN REGENCY”**

### **RESEARCH METHOD**

This research method uses an empirical juridical approach to field studies in the sociological tradition that looks at the relationship between people’s experiences and the laws that apply to them. The data sources in this research consist of primary legal materials, namely interviews with the authorities, namely Ms. Endang Sri Wukiryatun as a Notary and Land Deed Official in managing the transfer of uncertified land rights in Grobogan Regency and representatives of the National Land Agency of Grobogan Regency and others. Utilizing literature review as a data collection method involves collecting research findings from various written sources such as books, articles, reports, and other relevant literature relating to the research questions at hand. As well as field studies to obtain accurate data that exists in the reality of the problem.

### **RESULTS AND DISCUSSION**

**Transfer of Land Ownership Rights that have not been certified and its legal consequences**

### **1. Transfer of Property Rights on Uncertified Land**

Prior to the enactment of Presidential Decree No. 24/1997 on Land Registration, the transfer of ownership of land that did not have a valid title was usually done by a formal agreement between the parties concerned (buyer and seller), signed by the District Head or Head of the Regency. This act becomes the basis of land ownership and can later be registered in the Land Registry. However since the enactment of Presidential Decree No. 24 of 1997, any breach of trust involving non-securitized land must be proven by an act of sale of real estate approved by or under the supervision of a Land Deed Official. Within the scope of Government Regulation No. 24/1997, any attempt to register land rights without the registration and documentation of an authentic deed by a Land Deed Official will be rejected by the Head of the National Land Agency. (3)

Within the scope of Government Regulation No. 24/1997, any attempt to register land rights without the registration and documentation of an authentic deed by a Land Deed Official will be rejected by the Head of the National Land Agency.

Legal transactions of land sale and purchase without registered or certified rights result in the absence of registration with the National Land Agency, mainly because the land object does not have a land book in the agency's records. Therefore, once the sale and purchase deed is finalized, the first step is to request the National Land Agency to change the land title to the seller's name and issue a certificate. Subsequently, once the certificate is obtained, the registration process is repeated to transfer the name to the buyer, by enclosing the deed of sale and purchase made by the Land Deed Official.

The role of a land deed official in a sale and purchase transaction is described in Article 19 of Government Regulation No. 10/1961 on Land Registration. This provision expressly states that the deed of the Land Deed Official serves as evidence, without stipulating it as an absolute requirement for the validity of land sale and purchase. The registration of such transactions relies on the existence of a deed from a land deed official as evidence. Engaging in a sale and purchase

transaction without a deed from a land deed official will not result in the issuance of a certificate, regardless of the legal validity of the transaction, as the certificate serves as strong evidence for the right holder. (4)

Based on the results of the author's research at the National Land Agency office in Grobogan Regency, most transfers of land rights have been carried out in accordance with applicable procedures and laws and regulations. However, in rural areas there are still many practices of buying and selling uncertified land under the hand. Underhand means a land sale and purchase agreement in customary law where the legal action carried out is in the form of transferring rights with cash or partial payments made by agreement of the respective parties (seller and buyer) as evidenced by payment receipts. As stated by Mr. Musrani, "Most of the transfers of land ownership rights by the community in Grobogan Regency are in accordance with the procedures and applicable laws and regulations, but in rural areas, for example in the Boloh area, Grobogan Purwodadi Regency, many still make sales and purchases under the hand, the sale and purchase is only verbally, the buyer hands over a sum of money for payment and the seller hands over a receipt. Mr. Musrani also said that "The procedure for buying and selling land that has not been certified is that the transfer of rights must be registered immediately with the National Land Agency so that the certificate is immediately made". (5)

Although Government Regulation No. 24 of 1997 concerning Land Registration has explained that the sale and purchase of land rights must be carried out in the presence of a Land Deed Official / Temporary Land Deed Official, in reality there are still many people who do not carry out the process of buying and selling land rights in the presence of a Land Deed Official. This is caused by several factors that influence it, namely as follows:

- 1) Incomplete land documents
- 2) Expensive sale and purchase deed fees
- 3) The customary law culture of the local community is still strongly adhered to

4) Low legal knowledge of the local community

There are still many people in Grobogan Regency who buy and sell land through letters under the hand, especially rural communities, proving the difference in behavior patterns expected by legal rules and behavior patterns that occur in society. In the sociological sense, the difference in behavior patterns has the potential to weaken the applicable law in society. The weakening of the law can be caused because legal norms are incompatible with social norms that are not law, such as because the law is too progressive so that it is perceived as a norm that is foreign to society.

The sale of land without a certificate of title must comply with the regulations set out in Article 37 of Presidential Decree No. 24 of 1997 on Land Registration. This regulation indicates the proof of transfer of title in a title transaction, i.e. other land evidence and the village head, in the form of a handwritten deed executed by both the seller and the purchaser. Registration for the first time, which is addressed to the Land Office to be registered system through intermittent. The process of sporadic land registration involves the registration of land without official certification, usually the initial registration of land parcels within a certain area of a village or sub-district. This includes deliberately transferring land rights, separating them from the original holder and transferring them to another party. This initial registration process is outlined in Article 12(1) of Government Regulation No. 24/1997 on Land Registration. This involves registering previously unregistered land parcels either systematically or sporadically. Systematic registration involves the simultaneous registration of all unregistered land parcels in a designated village or sub-district area. This process is determined centrally by the Minister of Agrarian Affairs and can involve individual or mass registration. (6) In contrast, sporadic registration involves customizing the registration process based on the preferences of interested parties. The unit of registration is usually the village or sub-district, excluding certain types of land rights such as business use,

management, mortgage, and state land, which are managed at the district or city level.

Before changing ownership details, a notification must be submitted to the village and sub-district offices within the two-month time limit. This notice allows for potential objections to be raised regarding the transfer of ownership. If no objections are raised within the prescribed time period, the ownership details can be changed. The legal validity of land title certificates depends largely on the documentation provided as evidence of the acquisition of the land title and the method of acquisition. The legal validity of these certificates determines the validity of the land rights, and any discrepancies will weaken the rights associated with the land.

#### **Legal Effects of Transfer of Property Rights on Uncertified Land**

Some land ownership can result in losses to the party holding the land rights due to unregistered land sale and purchase transactions. This is due to the same legal irregularities as those caused by the land reclamation process, which aims to ensure legal compliance and rights to land. Despite the potential for physical improvements, the above-mentioned assets cannot be legally implemented in accordance with Article 19 of the Basic Agrarian Law and Presidential Decree No. 24/1997 on the Transfer of Assets. (7)

Article 37 of Government Regulation No. 24 of 1997 on Land Registration explains that many properties that are not registered for the purpose of real estate sales may hinder landowners' rights to use their land as a valuable asset, in accordance with Section 19 of the Basic Agrarian Law and Regulation No. 24 of 1997 on Land Registration. There are theories that consider law as social engineering that can change society to support economic and social capabilities, and even eliminate negative habits. In the context of land, there are land transactions that are conducted informally and without certificates. Therefore, if social engineering theory is applicable, such transactions should be conducted before a Land Deed Official in accordance with Article 37 paragraph (1) of Government Regulation No. 24/1997

on Land Registration. With the implementation of this regulation, the sale and purchase of land rights has a binding legal basis for the community. In addition, an interview with Mr. Musrani, Head of the Rights Determination and Registration Section of the National Land Agency of Grobogan regency, showed that buying and selling land without a certificate often causes problems in the ownership of land rights. Therefore, it is important for both land sellers and buyers to ensure that the land title certificate has been issued and is valid before conducting the transaction. Sellers should also check the status of the land to be sold to ensure there are no legal issues. This way, the seller can avoid legal risks and sell the land legally and safely.

### **The Role of the National Land Agency of Grobogan Regency in Responding to Cases of Selling and Buying Land without Certificates and Preventive Measures**

Based on the results of the interview with Mr. Musrani regarding the role of the Grobogan Regency National Land Agency in responding to cases of buying and selling land without certificates and preventive measures, namely by holding a free land registration program or can also be called Complete Systematic Land Registration by the National Land Agency. As explained by Mr. Musrani, namely: “In preventing these cases, there is a government program called Complete Systematic Land Registration, in which the community is given freedom regardless of the size of the land owned by the community is given relief to register certificates in mass free of charge. The program is also a form of effort to prevent cases of buying and selling land without certificates”. The Complete Systematic Land Registration Program is a government innovation implemented by the Ministry of Agriculture and Rural Development/Head of the National Food Agency that is easily broken to meet the needs of the general public, including rice, corn, and vegetables. Complete Systematic Land Registration more commonly known as land titling is intended to provide legal protection and cover up private property and land

rights. With this certification, the general public can use it as a reliable business tool to improve their quality of life. (8)

Cooperation between the National Land Agency and the Land Office is necessary for the efficient and effective implementation of Complete Systematic Land Registration. Article 6 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 6 of 2018 regulates this, with regard to the determination of locations for the distribution of Complete Systematic Land Registration targets in several villages/sub-districts and/or sub-districts by the Head of the Land Office, as well as the determination of locations by the Head of the Regional Office of the National Land Agency in several regencies/cities in one province. The Land Regulation implemented by the Grobogan Land Regulator refers to Ministerial Regulation No. 6/2018 on Complete Systematic Land Registration. The objective of the Complete Systematic Land Registration program implemented in Grobogan Regency is to reduce the number of sales transactions involving uncertified land in the area. (9)

The program also benefits people who have not yet registered their land, as there is no fee for issuing the certificate except for administrative costs. To prevent the practice of illegal levies, the Government issued a joint decree regulating the financing of the preparation of the Complete Systematic Land Registration. In addition, Complete Systematic Land Registration also aims to create a complete picture of the village and update the land database. Thus, the Complete Systematic Land Registration program conducted by the National Land Agency of Grobogan Regency can facilitate the community, especially in rural areas, in applying for land registration and provide legal certainty and protection of land rights. This is expected to improve community welfare, reduce land disputes, and achieve the overall objectives of the Complete Systematic Land Registration program.

## CONCLUSION

The transfer of property rights over uncertified land in Globogan Regency can be done in two ways, namely written and unwritten. In accordance with the provisions of Article 1320 of the Civil Code on the valid terms of a contract, the unwritten procedure can only be implemented with the agreement of the parties. The agreement is witnessed by family members, close relatives, and neighbors who witness the transfer process. On the other hand, the procedure document stipulates that the village head issues the sale and purchase deed after the contract is signed and the goods are handed over between the parties. These factors include incomplete land documentation, the high cost of the sale and purchase deed, the strong legal culture of the local community, and the low level of legal knowledge of the local community to conduct an effective sale and purchase in accordance with government regulations. The application for certification must be submitted for land registration in Government Regulation No. 24 of 1997 concerning Land Registration (b) The legal consequences of uncertified land ownership in the Globogan District area are detrimental to the party holding the land rights. This is due to the lack of legal security, which is the purpose of the Land Registry, which is to provide legal and equitable title on the surface of land that can be physically verified, but which lacks legal ownership. Therefore, in accordance with the special provisions of Article 19 of the Basic Agrarian Law and Presidential Decree No. 24/1997 on Land Registration, land that does not meet the registration requirements generally becomes a village (letter C). The Village Registration (Letter C) is not a summary of all properties. As such, the land registration process was not very smooth and there was no land registration for freehold titles due to the low level of public awareness, especially in rural areas.

The role of the National Land Agency of Grobogan Regency in responding to cases of buying and selling land without certificates is to conduct a free land registration program, known as Complete Systematic Land Registration by the National Land

Agency. The aim of this initiative is to make life easier for people, especially rural communities, by facilitating land registration procedures, providing legal guidance, and protecting public lands. In line with the principles of cooperation outlined by the Minister of Agrarian and Spatial Planning/Head of the National Land Agency, Minister of Home Affairs, and Minister of Villages, Development of Disadvantaged Regions, and Transmigration Number 34 of 2017 on Uniformity of Financing for Systematic Land Registration, this program emphasizes simplicity, speed, ease of use, and accessibility.

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