

Benefits And Legal Certainty For The Community On Participatory Mapping Services At The Medan City Land Office

Wahyu Utomo*

Magister Hukum , Universitas Dharmawangsa , Medan, Indonesia

Kusbianto**

Magister Hukum , Universitas Dharmawangsa , Medan, Indonesia

Azmiati Zuliah***

Magister Hukum , Universitas Dharmawangsa , Medan, Indonesia

Abstract

The purpose of this study was to determine the public service in Medan City Land Office. To find out the administrative system of land mapping in Medan City Land Office. To determine the effectiveness of legal benefits for the community on participatory mapping of Land Services at the Medan City Land Office. The research methods used are normative and empirical juridical research. The nature of the research used in this study is descriptive analysis. Sources of data used in this study are primary and secondary data. The data analysis method used in this study is descriptive qualitative. Based on the results of the study is the National Land Agency (BPN) is a vertical agency, as a vertical unit that organizes Land Services. Vertical service units are service units that are under the ministry / central institution but have services up to the regional level. The National Land Agency (BPN) is a Non-departmental government agency under and responsible to the president and headed by the head of the National Land Agency (BPN). BPN is regulated through Presidential Regulation Number 10 of 2006 concerning the National Land Agency. The administrative system of land registration in the National Land Agency of Medan through the right path that is through the procedures made by the agency to Agrarian. In PP No. 24 of 1997 regulates a number of lands that have been in doubt about the evidence to absenteeism as well as the process and evidence of their rights have been affirmed as land that can be converted into rights according to the Constitution with the development of a legal institution "adjudication" which is regulated in Article 24 FST of PP 24 of 1997. From the provisions of this PP, there are several other things that are the object of conversion or evidence that can be forwarded to be used in the management of land certificates. As for efforts to minimize obstacles undertaken by the Medan Land Office, namely: trying to eradicate scalpers, the need for increased quality and quantity of equipment so that it can be used properly, increased quality human resources means participating in following specifically in the Diploma program or Bachelor's level in cadastral mapping and measurement, seeking costs.

Keywords: Expediency, Legal Certainty, Service, Participatory Mapping

*Email/Corresponding Author: wahyu.utomo@dharmawangsa.ac.id

** Email :kusbianto_yanto@yahoo.co.id

***Email: emizuliah@dharmawangsa.ac.id

1. INTRODUCTION

The government as a provider and service provider must be able to give satisfaction to the community because it has become the duty of the government in public services, considering that each community has a different character in responding to the services provided by the government and interpret the satisfaction of different services. The government must have a strategic concept in dealing with various public perceptions about the services provided by the public service.¹

All types of services are provided and provided to the community by government officials, both central and local officials, but in general have not much to satisfy the community. This is because the services provided are too convoluted by reason of not in accordance with the procedure, the cost of levies, and a very long time, so that the services provided tend to be ineffective and efficient.²

One form of public services provided by the government is a service in the issuance of land certificates. Soil is an object that can meet the basic needs of human life, it can be said, almost all human life activities and other living things related to the soil. Every person needs land not only for his life, but at the time of death man needs land for his burial place. Man has always been in contact with the land, due to the importance of the land for life, man has always sought to own and control the land. Land tenure is pursued as much as possible to improve the welfare of his life.³ The name of the common asset legalization activity, currently known as PTSL, formerly named PRONA, stands for the agrarian National Operations Project. PRONA is one form of asset legalization activities and is essentially a land administration process that includes; adjudication, land registration until the issuance of certificates/proof of land rights and held en masse. PRONA was started in 1981 based on the decree of the Minister of Home Affairs number 189 of 1981 on the agrarian national operation Project. Then through the regulation of the Minister of Agrarian affairs and Spatial Planning/head of the National Land Agency Number 35 of 2016 on complete systematic land registration. Based on this decision, PRONA organizers are tasked with processing land certification en masse as a manifestation of the orderly chess program in the land sector.⁴

The background of the implementation of the PTSL program is that the government still finds land in Indonesia that has not been certified or does not have a certificate. Land certificates are strong evidence of land tenure by

¹ Husni Thamrin. *Hukum Pelayanan Publik*. Yogyakarta: Aswaja Presindo, 2013,p.138

² Sirajuddin. *Hukum Pelayanan Publik*. Malang: Setara Press, 2012,p.13-14

³ Muhammad Yamin Lubis dan Abd.Rahim Lubis, *Hukum Pendaftaran Tanah*, CV. Mandar Maju, Bandung, 2010, p.197-198

⁴ Bachtiar Effendi, *Kumpulan Tulisan tentang Hukum Tanah*, Alumni, Bandung, 1993, p.25

the community. The government does not charge the public for the land registration process, but only charges administrative fees, such as the provision of land certificates for land that does not yet have a land certificate, making and installing boundary signs, transitional taxes, as well as stamp fees, photocopies of evidence of land ownership such as letter C, or witness fees.⁵

Participatory mapping for various purposes has been carried out both with guidance from government agencies and private parties. Several District Land Offices have successfully organized participatory mapping with village communities with the aim of supporting complete systematic land registration activities. Such as plots of land that are not eligible for issuance of certificates, plots of land that are still in a state of dispute or case in court, subjects of land plots that are unknown, unclear, or not in place, and unclear land boundaries.⁶

In fact, the phenomenon or problem faced by the Office of the National Land Agency of Medan in providing land registration services, that is, people still think that the service in the field of land is still too difficult and convoluted in the completeness of the file procedures and processing time. The cause could be due to less than optimal Medan City BPN services, so most of them give the responsibility to register their land to other people or third parties. Meanwhile, this does not necessarily speed up the registration process, because not everyone who is appointed to register the land is directly taking care of it.⁷

In the implementation of participatory mapping of land registration systematically / mass allegedly burdensome to the community and hinders the realization of orderly administration in general which is the weakness of the implementation of land registration is the type of land documentation management activities and measurement of participatory mapping in the Office of the National Land Agency of Medan city is the limited cost, and energy, and equipment.⁸

Based on data submitted by the Office of the National Land Agency of Medan City, the number of human resources to complete the certification target until August 2020, for ASN of the Ministry of ATR/BPN is 2052 people, while licensed Cadastral surveyors are 5544 consisting of cadastral surveyors as many as 1160 and ASK as many as 4384.

⁵ Ridwan, Juniarto & Achmad Sodik Sudrajat, *Hukum Administrasi Negara dan Kebijakan Publik*, Nuansa Cendekia, Bandung, 2010, p.165

⁶ Soetandyo Wignyosoebroto. *Hukum Kolonial ke Hukum Nasional, Dinamika Sosial Politik dalam Perkembangan Hukum di Indonesia*, Jakarta: Rajawali Pers, 2005, p.84

⁷ Uar, Aty, "Pengaruh Pelaksanaan Prinsip-Prinsip Good Governance Terhadap Kinerja Pelayanan Publik Pada Badan Pertahanan Nasional (BPN) Kota Ambon," *Jurnal Ilmu Pemerintahan*, 6(1): 1-11, April 2016.

⁸ Sulistiyani, Ambar Teguh, dkk. *Memahami Good Governance dalam Perspektif Sumber Daya Manusia*. Yogyakarta: Gava Media, 2011.p.117

2. RESEARCH METHOD

This study includes the type of normative legal research, namely research done by studying the literature as a basis for breaking trouble.⁹ The object of study in this study is to examine the provisions legislation on agrarian particularly relating to land registration and literature on Agrarian in particular about Registration Of Land Title. The last stage in this study is a qualitative data analysis aims to simplify the data into a better form, easy to read and interpret.¹⁰ At this stage the selected data, prepared and described in such a way that successfully concluded truths that can be used to answer questions discussed. So the principle of this analysis is mengkaitkan between data collected with the theory used and link between the data one with other data. From this tesebut will be interpreted and constructed in the form of descriptions, explanations, and conclusions.¹¹

3. RESULT AND ANALYSIS

3.1. Land Registration And Participatory Mapping Services At The Medan City Land Office

Tradition or bureaucratic culture in Indonesia tend to have characteristics, characteristics of participating in the same system, namely feudal, legal system on land law policy, on the choice of using negative publicity stelsel authoritarian positive elements. Land law policy still places citizens as objects of law so that the land registration system tends to be discriminatory.¹²

The responsibility of a government official should not only be to the organization he manages or to his superiors but to citizens who are directly or indirectly affected by the policies he takes. Public policy, including land law, is a preference for the values of the ruling elite, while it should be a reflection of the demands of the people. Completeness and ratification of evidence of land papers in PPAT in land registration is the implementation of land law policies implemented by the Land Office, in order to smooth the implementation of land registration duties, the government gives authority to other officials to assist BPN in the implementation of its duties. The existence of officials in a constitutional order is needed, because these officials are the executors of the tasks of the perseonification of the state. State in a constitutional concept in carrying out its functions represented by

⁹ Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum Dan Jurimetri*, Jakarta: Ghalia Indonesia, 1988, p.2

¹⁰ Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Empiris & Normatif*, Yogyakarta: Pustaka Pelajar, 2010, p.34

¹¹ Salim HS dan Erlies Septiana Nurbaini, *Metode Penelitian Hukum*. Yogyakarta: Indeks, 2007, p.29

¹² Budi Winarmo, *Kebijakan Publik, Teori dan Proses*, Cetakan Kedua, Yogyakarta: Medpress, 2008, p.42

the government, the government in carrying out its functions and duties in order to merelisasikan purpose of the state is also represented by officials. The success of a state institution is also determined by the ability of the officials assigned to run the wheels of irresponsible government, in conjunction with the inability to manage the legislative mandate in the execution of the provisions outlined, dysfunctional, which is below the standard refers to the prevalence of the inappropriate side of the distributive function in the context of the effectiveness, which is shaped by history and political reality that works in an authoritarian habit that is very active in taking the initiative role in the preparation of public policy with a vertical orientation through a corporatist network that is always oriented upwards and complex, non-arrogant , which is associated with the performance of less responding and facilitating issues and practices of democratization of orders to face the interests of the people.¹³

3.1.1. Land Mapping Administration System In Medan City Land Office

With BPN Online maps, people who need information about land plots no longer need to come to the land office, but simply access the BPN website on <http://map.bpn.go.id>. however, the data presented on the current online map stored in the Geodatabase is not 100% correctly and completely recorded.¹⁴ This is because some input data is still manual and must be digitized first and not all measured data is mapped in the BPN online map. For this reason, the National Land Agency requires an accelerated process of data validation of land plots involving interest users, including landowners. The prototype design produces an online map design that displays maps and data of land plots measuring Certificate Number , identification number of land plots , rights number displayed in the form of a grid and design form which is the application of participatory mapping techniques to facilitate community participation , especially landowners to provide input in the form of correct data regarding the measuring certificate number , identification number of land plots, rights number, shape and relative position of land plots in accordance with their certificates.¹⁵

The result of this research is a prototype of BPN online map that provides an interaction interface for users to draw their land plots and provide input in the form of correct textual information consisting of a measuring certificate number , identification number of land plots and

¹³ Chadidjah Dalimunthe. *Pelaksanaan Landreform di Indonesia dan Permasalahannya*. Medan: USU Press, 2000, p.13

¹⁴ Agung Kurniawan, *Transformasi Pelayanan Publik*, Pembaruan, Yogyakarta, 2005,p.68

¹⁵ Abdul Kadir, Terra Ch. Triwahyuni, *Pengenalan Teknologi Informasi*, Yogyakarta, 2003,p.51

rights number. In the PPAT Office,¹⁶ the first thing about the registration procedure for the transition of land rights in the PPAT Office is of course to meet the material requirements for both the transferor and the transferee for the transition process. The party entitled to transfer is the one whose name is listed in the certificate or other than the certificate. If the owner of the land is two people, then the right to sell is two people together.¹⁷

No one can act as a seller. The person who will transfer it must be an adult and if not, must be represented by his guardian. If he wants to be in charge, then he should be in charge of his servants.¹⁸ If you want to be transferred is a joint property then there must be consent from the wife or husband. If the object of buying and selling the land is the right to use the building, then the party who can buy the land is an individual citizen of Indonesia, a legal entity established according to Indonesian law and domiciled in Indonesia. If the object of sale and purchase of land is a right of Use, then the party that can buy land is the subject of private use rights, namely individual Indonesian citizens, individual foreign citizens residing in Indonesia, legal entities established under the laws of Indonesia and domiciled in Indonesia, foreign legal entities that have representatives in Indonesia.¹⁹ The grantor has existing property or goods to be donated, not property or goods that will be in the future. Specifically for the sale and purchase of land, the deed of sale is made by a special PPAT, namely a BPN official appointed by his position to carry out PPAT duties by making certain PPAT deeds specifically in the framework of the implementation of certain government programs or tasks.²⁰

In this regard, the special PPAT is an official within the National Land Agency, especially for the manufacture of deed of acquisition of rights to land that has the right to use. PPAT must check the certificate to the Land Office or commonly called a clean check. The deed made is two copies of the original. Then PPAT must read the deed made in front of the parties and witnesses. PPAT submits the documents required for balik nama no later than seven working days from the signing of the deed of transition. Documents that must be submitted by PPAT to the Land Office are regulated in regulation of the Minister of Agrarian Affairs/Head of the Land Agency Number 3 of 1997 concerning the implementation provisions of Government

¹⁶ Urip Santoso. *Pendaftaran dan Peralihan Hak Atas Tanah* . Jakarta: Indeks. 2005,p.8

¹⁷ Adrian Sutedi. *Peralihan Hak Atas Tanah dan Pendaftarannya*. Jakarta: Sinar Grafika, 2004, p.31

¹⁸ C.G. Howard & R. S. Mummers, *Law, Its Nature and Limits*, 1965, p.46-47

¹⁹ Efendi Perangin, *Praktik Jual Beli Tanah*, Raja Grafindo Persada, Jakarta, 1994, p.24

²⁰ Dominikus Rato, *Filsafat Hukum Mencari: memahami dan memahami hukum*, Yogyakarta: Laksbang Pressindo, 2010, p.59

Regulation Number 18 of 2021, either by buying and selling, exchanging, grants, inheritance, income into companies, distribution of joint rights.²¹

3.1.2. Effectiveness Of Legal Benefits For The Community On Participatory Mapping Of Land Services At The Medan City Land Office

Where in this case is often the problem that is in the process of measuring the boundaries of land in the field. At the time of measuring the boundaries of the land on which the transition registration will be carried out, it turns out that it is in a state of dispute with other people. In this case, the City Land Office will stop the measurement process because the land has not been fully controlled by the applicant. Where one of the heirs claims his rights in part but the other party does not agree to the decision. Because the Land Office will not continue or refuse to handle disputed cases and does not complete the conditions that have been determined.²²

Located in the Sub-District Head Office, Land officials and staff socialized the land registration law to them. The socialized material will be forwarded by the village and kelurahan heads to the people they lead.

The external Land Office provides an understanding of the understanding to the parties who want to see and know the physical/juridical data required in accordance with applicable laws and regulations as appropriate and explain to the parties who can not accept, that it can be shown in front of the court if the land object is involved in a problem or case and in this case the Land Office of Medan City suggests that the owner directly come and receive all the explanations given.

4. CONCLUSION

The National Land Agency (BPN) is a vertical agency, as a vertical unit that organizes Land Services. Vertical service units are service units that are under the ministry / central institution but have services up to the regional level. The National Land Agency (BPN) is a Non-departmental government agency under and responsible to the president and headed by the head of the National Land Agency (BPN). BPN is regulated through Presidential Regulation Number 10 of 2006 concerning the National Land Agency. According to the regulation of the head of the National Land Agency of the Republic of Indonesia No. 1 of 2010 on Land Service Standards and regulation, this land service group consists of : First Time land registration, maintenance of land registration Data, Land Registration and information,

²¹ Boedi Harsono, Hukum Agraria Indonesia, *Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi Dan Pelaksanaannya, Jilid I, Edisi Revisi, Cetakan Kesebelas*, Jakarta : Djambatan, 2007, p.129

²² Wahyudi Kumorotomo, *Etika Administrasi Negara*, Raja Grafindo Persada, Jakarta, 2009, p.112

measurement of land parcels, arrangement and arrangement of Land, Management of complaints against a land case submitted or complained and handled by the National Land Agency. The administrative system of land registration in the National Land Agency of Medan through the right path that is through the procedures made by the agency to Agrarian. In PP No. 24 of 1997 regulates a number of lands that have been in doubt about the evidence of their validity and the process and proof of their rights have been affirmed as land that can be converted into rights according to the law with the development of a legal institution "adjudication" which is regulated in Article 24 etc. of Government Regulation Number 18 of 2021. From the provisions of this government regulation there are several other things that are the object of conversion or evidence that can be forwarded to be used in the management of land certificates. In practice, this type of land registration is based on Government Regulation Number 18 of 2021, including: affirmation of rights, recognition of rights, granting of Rights.

REFERENCE

- Abdul Kadir, Terra Ch. Triwahyuni, *Pengenalan Teknologi Informasi*, Yogyakarta, 2003.
- Adrian Sutedi. *Peralihan Hak Atas Tanah dan Pendaftarannya*. Jakarta: Sinar Grafika, 2004.
- Agung Kurniawan, *Transformasi Pelayanan Publik*, Pembaruan, Yogyakarta, 2005
- Bachtiar Effendi, *Kumpulan Tulisan tentang Hukum Tanah*, Alumni, Bandung, 1993
- Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi Dan Pelaksanaannya, Jilid I, Edisi Revisi, Cetakan Kesebelas*, Jakarta : Djambatan, 2007.
- Budi Winarmo, *Kebijakan Publik, Teori dan Proses*, Cetakan Kedua, Yogyakarta: Medpress, 2008 .
- C.G. Howard & R. S. Mumners, *Law, Its Nature and Limits*, 1965.
- Chadidjah Dalimunthe. *Pelaksanaan Landreform di Indonesia dan Permasalahannya*. Medan: USU Press, 2000.
- Dominikus Rato, *Filsafat Hukum Mencari: memahami dan memahami hukum*, Yogyakarta: Laksbang Pressindo, 2010
- Efendi Perangin, *Praktik Jual Beli Tanah*, Raja Grafindo Persada, Jakarta, 1994 .
- Husni Thamrin. *Hukum Pelayanan Publik*. Yogyakarta: Aswaja Presindo, 2013.
- Muhammad Yamin Lubis dan Abd.Rahim Lubis, *Hukum Pendaftaran Tanah*, CV. Mandar Maju, Bandung, 2010.
- Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Empiris & Normatif*, Yogyakarta: Pustaka Pelajar, 2010.
- Ridwan, Juniarso & Achmad Sodik Sudrajat, *Hukum Administrasi Negara dan Kebijakan Publik*, Nuansa Cendekia, Bandung, 2010.
- Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum Dan Jurimetri*, Jakarta: Ghalia Indonesia, 1988.

- Salim HS dan Erlies Septiana Nurbaini, *Metode Penelitian Hukum*. Yogyakarta: Indeks, 2007.
- Sirajuddin. *Hukum Pelayanan Publik*. Malang: Setara Press, 2012.
- Soetandyo Wignyosoebroto. *Hukum Kolonial ke Hukum Nasional, Dinamika Sosial Politik dalam Perkembangan Hukum di Indonesia*, Jakarta: Rajawali Pers, 2005.
- Sulistiyani, Ambar Teguh, dkk. *Memahami Good Governance dalam Perspektif Sumber Daya Manusia*. Yogyakarta: Gava Media, 2011.
- Uar, Aty, "Pengaruh Pelaksanaan Prinsip-Prinsip Good Governance Terhadap Kinerja Pelayanan Publik Pada Badan Pertahanan Nasional (BPN) Kota Ambon," Jurnal Ilmu Pemerintahan, 6(1): 1-11, April 2016.
- Urip Santoso. *Pendaftaran dan Peralihan Hak Atas Tanah* . Jakarta: Indeks. 2005
- Wahyudi Kumorotomo, *Etika Administrasi Negara*, Raja Grafindo Persada, Jakarta, 2009.