

Analysis Of Purchasing Certificates Based On Regulations Minister Of Agrarian Spatial Planning Land Agency Number 13 Of 2017

Ruslan*

Magister Hukum , Universitas Dharmawangsa , Medan, Indonesia

Abstract

This paper aims to describe how the implementation of blocking Land certificate based on sweets ATR / Ka BPN number 13 of 2017 on blocking and confiscation procedures and how legal consequences of blocking the land certificate. To discuss this issue, the authors conducted the study using normative research methods. That the implementation of blocking and its stages must refer to ATR/ BPN Regulation Number 13 Year 2017 on procedures for blocking and confiscation. Where Is The Office Land should be processed as soon as possible if there is a request to block and notify applicant to register with the local District Court due to the validity period of the block only 30 (thirty) days from the date of input of the Land Office application and ends by itself. For notary / land deed officer (PPAT) for each certificate which will be carried out the transfer of rights or encumbrance in order to file application cheking first to the Land Office before making his deed PPAT, the goal is that the requested certificate is not in the process of blocking

Keywords: Purchasing Certificates; Regulation, Agrarian

1. INTRODUCTION

Application for blocking of the certificate of title to the land can be made the court because of a lawsuit, including because of the double certificate, accounts payable or due to bankruptcy, as occurs in various areas such as those in Fifty City district, Certificate of property rights No. 95 Nagari Koto Tangah Batu Void on behalf of MM has been mortgaged to the SS, to prevent the transfer of rights then Ss blocking certificate on behalf of the Mm to the Land Office Fifty-City district on December 11, 2018. In the everyday sense in the community, proof of land rights in question is referred to as a certificate land rights. Indeed, in the UUPA never called land certificate, in Article 19 only mentioned as proof of Rights. In the sense of everyday signs evidence of this right has often been interpreted as a land certificate, and the writing here makes the same understanding that the proof of Rights is a certificate.⁴ certificate of land rights a letter of proof of land rights that can be used as a means of proof as the provisions of Government Regulation No. 24 of 1997 on registration Land which states

*Email/Corresponding Author: ruslan@dharmawangsaa.ac.id

that “the certificate is proof of rights as referred to Article 19 paragraph (2) letter c UUPA.¹

Land registration by the government was organized by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency(BPN), which is a government agency in the form Ministries whose areas of work include land. Land Office is a unit work of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (BPN) in the province and the district or city, which carries out activities registration of land rights and maintenance General Register of land registry. In carrying out their duties Land Office assisted by Land deed officials (PPAT), namely public officials who are authorized to make deeds related to land. In accordance with the provisions of Article 34 of the regulations Government Number 24 of 1997 on land registration, the physical data documents and data juridical stored in the Land Office can basically be known to everyone (principle publicity), but the documents listed in the list of names only open to certain agencies (principle of specialization) because the main duties and functions of the position, for example by order of the judge in the evidence presented in court may be presented to the litigants. Information about the certificate of title to land in the Land Office is required for know the suitability of the land rights certificate data in question is equal to the Data Book land in the Land Office. In addition, it is also necessary to know the above loads the land is like a mortgage attached to the land rights in question, and more it is important to know whether the land rights in question are not in the object dispute. Explanation of Government Regulation No. 24 of 1997 on Land Registration mentioned that in government regulations that enhance government regulation No. 10 of 1961 has now been issued Ministerial Regulation No. 13 year 2017 on procedures for blocking and confiscation as a reference in the implementation of more specific.²

The Minister of Agrarian Affairs and Spatial Planning published on the procedures for blocking and confiscating August 9, 2017. The basis for the issuance of Permen ATR / head of BPN No. 13 years old 2017 is for guidelines for the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regional Office of the National Land Agency and the Land Office in carrying out recording and removal of blocking and confiscation or the existence of disputes and cases concerning the right to land. In addition, procedures for recording is still spread over several provisions, not yet complete, not uniform and there are settings that are not in accordance with the demands and dynamics community development, so it should be arranged in its own rules. Based On Article 1 Regulation of the Minister of Agrarian Affairs and Spatial Planning / head of the National Land Agency

¹ Pasal 19 ayat (2) huruf c Undang-Undang Nomor 5 Tahun 1960

² S. Chandra, Sertipikat Kepemilikan Hak Atas Tanah Persyaratan Permohonan di Kantor Pertanahan, PT. Gramedia Wididia Sarana Indonesia, Jakarta, 2005, pp. 47.

Number 13 year 2017 on the procedure for blocking and confiscation, the recording of blocking is an administrative act of the head Land Office or officials appointed to establish the state of the status quo (freezing) on the right to land that is temporary to legal acts and legal events on land, while the recording of the seizure is the administrative action of the head of the Land Office or officials appointed to record the seizure of the judiciary, investigators or other authorized agencies.

Based on the Court Judge's order, the head of the Land Office to make records in the land book and the General Register are concerned in the Status Quo. Status Quo is a fixed state as the current state), but within a period of 30 days from the date of the recording was not followed by the decision to confiscate the bail from the Court Judge then the sita record is deleted by itself. The security deposit can also be conducted by the head of the Land Office at the request of the prosecutor's Office, Office Police, or auction Office. Other records in the land book in addition to records of foreclosure collateral in the civil or criminal case cannot be carried out by the head of the Land Office, except submitted and approved by the Minister/Head of the National Land Agency.

Regarding the application for blocking the land submitted by the objecting party not necessarily granted by the Land Office fifty cities, because in practice, land blocking must be done for obvious reasons. The parties apply for blocking of the land is indeed the party who is entitled to the land or it is true to have an interest in the land used object of dispute. Land Office of fifty cities provide the conditions under which the parties who filed a block application against the land must submit a copy of the lawsuit prove that it is true that the land to be proposed blocking is object of dispute in the local District Court, then the reason for the application block by the parties the objection was not granted by the Land Office of fifty cities is because the applicant block or proxies do not understand the land that can be submitted block application.⁷ since 2018 until mid-2021 has been recorded as many 27 Application File block certificate on Land Office computerized application (CTF)⁸ districts fifty cities. The number of people or agencies blocking certificate to the District / City Land Office is not close the possibility of legal problems. Refer to the description above problems that will be described how the implementation of blocking land certificates on Land officebased on Permen ATR / Ka BPN number 13 of 2017 on blocking and confiscation procedures and how.

2. RESEARCH METHOD

This research is descriptive that is to discuss the problems of blocking certificate of land in the Land Office of fifty cities based ATR/BPN Regulation

Number 13 of 2017 on procedures for blocking and confiscating. Approach research is normative, normative juridical approach or sadalah approach by looking at something based on applicable rules.³

3. RESULT AND ANALYSIS

Provisions set forth in Article 126 PMA / KBPN 3 year 1997 on regulation Implementation of PP 24 of 1997 which states that interested parties can ask to be recorded in the land book that the right to land or property rights to housing units Arrange will be the object of a lawsuit in court by submitting a copy of the letter the lawsuit concerned. The record deletes itself within 30 days from the date of recording or if the party requesting the recording has revoked request before that time expires. When Time ends without action further, and in the future the same applicant wants to apply again for the same reason, the Land Office will refuse application, unless the application is accompanied by evidence that the object the land has been disputed and recorded in court.⁴

Block based on the request of parties who feel interested, but his interests are undisturbed recorded in the Land book that is in the Office Land District / City Local Land Administration Area and will remove by itself within 30 (thirty) days unless followed by a decision of confiscation guarantees and minutes of execution of the application for blocking. The security deposit can also be conducted by the head of the Land Office upon request from the prosecutor's Office, Police Office, or auction Office. Records of confiscation on land books and General lists others in civil or criminal cases can only be canceled or appointed confiscation after the case has been stopped or the case has been decided by the judge and has permanent legal force, as evidenced by a writ of lifting the confiscation in accordance with the copy official minutes of the execution of the clerk of the court concerned.

National Land Agency has the task of carrying out government duties in land sector in accordance with the provisions of legislation. Therefore, BPN office also has the authority to block the certificate of rights over land. Land Office tries its best to implement the provisions in laws that do not apply to all certificate blocking request, because to record the block on a land rights must meet all the requirements that have been specified in SPOPP that has been arranged.

In the regulation of the Minister of Agrarian Affairs and Spatial Planning number 13 of 2017 on Procedures for blocking and confiscation, applications for blocking records can be submitted by individuals, legal entity, or law enforcement. Individuals or legal entities are required have a

³ Ariman Sitompul, Metode Penelitian Hukum Normatif (Strategi Praktis Penulisan Skripsi, Tesis & Disertasi), Mazda Media, Malang, 2022, pp. 109 lihat juga Bambang Sunggono, Metodologi Penelitian Hukum, PT Raja Grafindo Persada, Jakarta, 2009 pp. 41

⁴ Anisa Sekardari dkk, Pelaksanaan Pencatatan Blokir Sertipikat Hak Atas Tanah (Studi di Kantor Pertanahan Kabupaten Sleman dan Bantul), Jurnal Tunas Agraria, Vol.2 No.2, 2019, pp.118

legal relationship with the land requested blocking, and provide a clear reason and be willing to do the examination.⁵

Applicants who have a legal relationship in question consists of: 1) land owners, both individuals and legal entities; 2) the parties to the agreement either notarized or under hand or joint ownership of property not in marriage; 3) heirs or joint ownership of property in marriage; 4) the agreement maker either notarized or under hand, based on the power of attorney; or 5) The Bank, in the case of which it is contained in the notarial act of the parties.⁶

Individual block submission requirements application form, which contains a statement of agreement that block logging is deleted when the term expires; b. photocopy of the applicant's identity or power of attorney, and the original Power of attorney if powered; c. copy of deed of establishment of legal entity; d. information about the name of the rights holder, type of rights, number, Area and location block-applied land; e. proof of deposit of non-tax state revenue regarding block recording; f. evidence of the legal relationship between the applicant and the land, such as: 1) Lawsuit letter and case register number or suspension by the court State administration, in the case of block application accompanied by a lawsuit in courts; 2) marriage certificate/marriage book, Family card, or Court decision with regard to divorce or declaration of inheritance, in the case block application on joint property disputes in marriage and / or inheritance; and 3) Court decision regarding debt or deed of agreement sale and purchase agreement, deed of loan and loan, deed of exchange that has been legalized by the competent authority, in the case of block application about legal acts. g. Other requirements in accordance with the provisions of legislation.

Requirements for filing a law enforcement block, namely the application form; b. Investigation Warrant; c. Letter of request for blocking from law enforcement agencies with a reason proposed blocking by containing a clear description of: 1) name of rights holder; 2) the type and number of rights; and (3) the length and breadth of the land, or d. other requirements in accordance with the provisions of legislation.⁷

Procedure For Recording Block a. In the case of the assessment received :

- a recording request, Head Office Land or officials appointed to record the block.
- b. In the event that the results of the assessment rejected the application for recording, the head office Land notify in writing by official letter to block applicants and / or the parties concerned with the reasons his refusal.
- c. Block logging can be done manually or electronically.

⁵ Pasal 4 Peraturan Menteri Agraria dan Tata Ruang/ Kepala BPN Nomor 13 Tahun 2017 tentang Tata Cara Blokir dan Sita.

⁶ Pasal 5 Peraturan Menteri Agraria dan Tata Ruang/ Kepala BPN Nomor 13 Tahun 2017 tentang Tata Cara Blokir dan Sita.

⁷ Pasal 7 ayat (2) Peraturan Menteri Agraria dan Tata Ruang/ Kepala BPN Nomor 13 Tahun 2017 tentang Tata Cara Blokir dan Sita

- d. Block recording is done by the head of the Land Office or officials designated on the Land book and the relevant measurement letter.
- e. Recording block at least contain information about the time (hour, minutes and seconds) and the date of recording, the subject who filed application, as well as the reason for the application.
- f. Block recording as intended is done by recording the description Block notes according to the format that reads: "on the date ... and the clock ... minutes ... seconds ... block has been recorded based on your request ... with reason ... "/"On the date ... and the clock ... minutes ... seconds ... it has been noted block on command ... with reason ... "/"On the date ... and the clock ... minutes ... seconds ... it has been noted block based on considerations ... " 1) writing the land book, in the column recording the registration of the transfer of Rights, Encumbrances and other records; and 2) measuring letter, on the drawing sheet measuring letter is still available.
- g. In the event that there is no free space on the measurement letter to record the block then block recording is done on a separate paper and attached to the mean measurement.
- h. The registration of the block is confirmed by signing by the official make records and affixed stamp Land Office.
- i. After the block recording is approved as referred to in paragraph (4), Head of Land Office or officials who have duties in the field legal relations keagrariaan notify in writing by letter authorized to the applicant block and/or the parties concerned fit.
The blocking period is as follows:
 - Note block by an individual or legal entity is valid for a period of 30 (thirty) calendar days from the date of block recording. Term tersebut dapat time extended by a court order in the form determination or decision (Article 13).
 - Note block by law enforcement is valid until terminated criminal cases under investigation and prosecution, or until with the removal of the blocking by the investigator concerned (Article 14). The head of the Land Office may request information from the relevant investigator case.

Block records by individuals or legal entities, can be deleted if the blocking period expires and is not extended, the Requesting Party recording has revoked his request before the term expires, head The office removes the block before its term expires, or there is an order the court shall make a decision or determination (Article 15).

If the block record is extended by court order then the record block can be removed if there is a court order in the form of a decision or fixing. The application for the removal of the blocking record is submitted in writing to the head of the Land Office. Records block by law enforcement, delete if the criminal case under investigation and prosecution has been be terminated; or the investigator submits to the removal of the blocking record (Article 16). Request for deletion of Block records submitted in writing to Head Of The Land Office.

Removal of blocks is carried out by the head of the Land Office or officials designated on the Land book and the relevant measuring letter.

Removal block at least contains a description of the time (hours, minutes and seconds) and the date of recording, the subject who submitted the application, the reason removal (Article 17). Provisions for recording blocks in land books and letters measure and validation *mutatis mutandis* (with changes necessary or important-ed.) with the terms of removal of the block. Removal the block record is notified in writing by an official letter to the applicant block and / or the parties concerned properly.

After the blocking period ends, all recording or switching the rights submitted by the certificate owner can be processed again by the Office Land, and the applicant block can not dispute it thus because it is in accordance with applicable regulations, if there is a loss for the party doing the blocking it is outside the authority of the Land Office. Because as has been explained by the Land Office to the applicant block when block registration that the block period is only 30 days from the date of entry in the computerized application of the Land Office.

Maintenance of land registration data is done in the event of changes in data physical or juridical data of land registration objects that have been registered. The right holder concerned shall register the changes concerned to the Land Office. PPAT Act is one of the data sources for the preservation of registration data land. Therefore, it must be made in such a way that the basis can be presented strong for registration, transfer and imposition of the rights concerned. Therefore, based on the regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 3 Of 1997 On The Implementation Of Government Regulation No. 24 Year 1997 on Land Registration, PPAT is responsible for checking requirements for the validity of the legal act in question, among others, match data contained in the certificate with the lists in the Land Office.

Certificate as the last product of land registration is a letter of evidence rights containing a copy of the land book with a measuring letter containing juridical data and physical data field of land, apply as a powerful means of proof, contain understanding that as long as it can not be proved otherwise, physical data and juridical data listed in in it must be accepted as correct data. Individuals or legal entities feel their interests harmed against the issuance of certificates of title to the land, have the right to file a lawsuit with the court. Therefore, those who feel interests harmed can block the certificate of rights to the land by submitting it to the Local Land Office.⁸

According to the provisions of Article 37 paragraph (1) of Government Regulation 24 of 1997 jo Article 94 PMA / KBPN number 3 of 1997, in addition to the sale and purchase, the transfer of rights can also occurs because of grants, exchanges, distribution of joint rights, because the appointment auctions, court decisions, inheritance, wills and income in the company. Except because of the auction, the transfer of land rights can only be registered if proven with the deed made by the PPAT authorities according to legislation- the invitation took place. One of the reasons PPAT

⁸ Syuryani, Nessa Fajriana Farda, *Pembelokiran Sertipikat Tanah Kabupaten Lima Puluh Kota Berdasarkan Peraturan Menteri Agraria Tata Ruang /Badan Pertanahan Nasional Nomor 13 Tahun 2017 Tentang Tata Cara Blokir dan Sita*, Menara Ilmu, Vol. 15, No.2 , 2021, pp. 76

refused to make the deed is when the object of the legal act (land) in question is in dispute. In Article 39 paragraph (1) letter A of Government Regulation No. 24 of 1997 on registration Land mentioned that PPAT refused to make the deed if, on the land already registered or property rights to the unit flats, to him not delivered original certificate of rights in question or certificate submitted is not in accordance with the lists are in the Land Office. Therefore, the PPAT is obliged to do certificate checking at the Local Land Office.⁹

Legal disputes arising from the complaint of a party (person / legal entity) which contains objections and demands for land rights both to the status of land, priority and ownership in the hope of obtaining a settlement administrasi in accordance with the provisions of applicable regulations. Blocking events certificate is usually seen when PPAT officials will make the deed of transfer of rights land, the act of encumbrance of land rights or the act of authorisation encumbering rights Bail. Before making and signing the deed, PPAT required to carry out inspection or certificate checking at the office land that aims to determine the suitability of physical data and data information juridical on the certificate with the land book at the Land Office. When there is discrepancy between the data certificate with the data recorded in the land book, then Land Office will issue a Certificate of Land Registration (SKPT) for PPAT based on data recorded at the Land Office. When all the data in certificate is appropriate, then the Land Office will affix a stamp as evidence that the certificate data is true.¹⁰

In the case of encumbrance related to blocking, a right Dependents must be preceded by The Making of the act of encumbrance (APHT) in front of the PPAT. APHT is made to be proof of the agreement granting rights dependents which is an additional agreement to complete a credit agreement as a deal anyway. With the status of blocking the right to land made the object of liability, it can not be implemented by making the act PPAT, as the provisions of Article 39 of Government Regulation No. 24 of 1997 that it is forbidden for PPAT to deed, if the land is not registered the original certificate is indicated, or the object is in blocking. This can be known by doing a clean check on the land by PPAT at the Office Land.¹¹

Under the law guarantees one of the properties of mortgage rights, namely, provide strong guarantee against creditors who are the holders of liabilities and rights dependents remain according to the object in the hands of whoever the object is (*droit de suite*). To the right of the land, and later used as a dispute in court, basically against the right such liability can not be placed foreclosure guarantee, because the position of liability is to provide a strong guarantee for the creditor right holders such.

As long as there is a record in the land book in this case block certificate, then according to government regulation 24 of 1997 determined that : a. The head of the Land Office is obliged to refuse to carry out transitional registration and the imposition of rights if the rights to the land concerned are the object of dispute in court according to Article 45

⁹ Kurnia Martini Dwi Putri A.T. Status Hukum Peralihan Hak Atas Tanah Yang Diperoleh Dari Lelang Berdasarkan Hak Mendahulu Negara. *Fiat Justisia Journal* Vol. 10, No. 3, 2016, pp.503.

¹⁰ Pasal 39 ayat (1) huruf f Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah

¹¹ Pasal 39 Peraturan Pemerintah Nomor 24 Tahun 1997

paragraph 1 letter e.21 b. PPAT may refuse to make the deed if the object of legal action concerned is in dispute about data fisik and juridical data in Article 39 paragraph 1 letter f.¹²

In Government Regulation No. 24 of 1997 on Land Registration and PMNA / KBPN number 3 of 1997 on the implementation of government regulations No. 24 of 1997 on Land Registration, there is no set on protection law to holders of land rights in the case of recording block and confiscation on certificate of title to land by the Land Office. A holder of land rights the certificate is currently on Block record and sita has no protection legal because it has become a risk or legal consequences if the certificate is being in a blocked state in order to protect the right to land suspended until it is clear who is entitled to the land.¹³

In a state of land rights indicated obtained based on the results corruption, Land Office still can not play an active role or unilateral initiative to blocking the certificate of title to the land. Land Office only waiting for the application, because during the acquisition of land is carried out on the basis of administration appropriate in the eyes of the Land Office then the right to land is considered true as property subject of the land. New blocking can be done after the competent authorities checking and making an application to the Land Office.

With the blocking of land rights the Land Office give legal effect to land rights, both in transition and against imposition of rights to the land. with the status of block on land rights, then for a while the owner of the certificate can not make the transition or loading right to land because PPAT as an official in making the deed can not perform their duties, as in the provisions of Article 39 of government regulation No. 24 of 1997 prohibited for PPAT to make the deed, if the land is registered it is not indicated the original certificate, nor is the object in blocking.

4. CONCLUSION

Implementation of the blocking of the District/City Land Office has not well done, this is because the procedural problems of negligence sipemohon so that the implementation can not run in accordance with applicable regulations. Negligence here is on the applicant who did not continue blocking the process of blocking to the District Court so that the validity of the block for 30 (day) counted in the Land Office computerized application expires and the block deletes itself. And the legal consequences of blocking certificates land rights exercised at the District Land Office fifty cities, namely with the status of blocking the right to land as the object of mortgage, then it can not be implemented by making the act PPAT, as the provisions of Article 39 Government Regulation No. 24 of 1997 that

¹² Kadek Julia Mahadewi. Tinjauan Yuridis Karakteristik Penggunaan Hak Pakai dalam Kepemilikan Apartemen oleh Warga Negara Asing di Indonesia. Jurnal Gema Keadilan, Vol 6, No.2, 2019, pp. 184

¹³ Hendra Kesuma Putra Setiyabudi, J. Ronald Mawuntu, Kajian Hukum Terhadap Pemblokiran Pada Buku Tanah Dalam Pendaftaran Tanah, *Lex Et Societatis*, Vol. 8, No.3, 2020, pp.17

prohibited for PPAT to manufacture deed, if the registered land is not shown the original certificate, or the object in blocking. Likewise for the process of transition rights such as selling speckles, grants, inheritance, and others. This can be seen by doing a clean check of the land by PPAT on Land Office.

REFERENCE

Anisa Sekardari dkk, Pelaksanaan Pencatatan Blokir Sertipikat Hak Atas Tanah (Studi di Kantor Pertanahan Kabupaten Sleman dan Bantul), Jurnal Tunas Agraria, Vol.2 No.2, 2019,

Ariman Sitompul, Metode Penelitian Hukum Normatif (Strategi Praktis Penulisan Skripsi, Tesis & Disertasi), Mazda Media, Malang, 2022.

Bambang Sunggono, Metodologi Penelitian Hukum, PT Raja Grafindo Perseda, Jakarta, 2009.

Hendra Kesuma Putra Setiyabudi, J. Ronald Mawuntu, Kajian Hukum Terhadap Pemblokiran Pada Buku Tanah Dalam Pendaftaran Tanah, *Lex Et Societatis*, Vol. 8, No.3, 2020.

Kadek Julia Mahadewi. Tinjauan Yuridis Karakteristik Penggunaan Hak Pakai dalam Kepemilikan Apartemen oleh Warga Negara Asing di Indonesia. Jurnal Gema Keadilan, Vol 6, No.2, 2019.

Kurnia Martini Dwi Putri A.T. Status Hukum Peralihan Hak Atas Tanah Yang Diperoleh Dari Lelang Berdasarkan Hak Mendahulu Negara. Fiat Justisia Journal Vol. 10, No. 3, 2016.

S. Chandra, Sertipikat Kepemilikan Hak Atas Tanah Persyaratan Permohonan di Kantor Pertanahan, PT. Gramedia Wididia Sarana Indonesia, Jakarta, 2005.

Syuryani, Nessa Fajriana Farda, Pemblokiran Sertipikat Tanah Kabupaten Lima Puluh Kota Berdasarkan Peraturan Menteri Agraria Tata Ruang /Badan Pertanahan Nasional Nomor 13 Tahun 2017 Tentang Tata Cara Blokir dan Sita, Menara Ilmu, Vol. 15, No.2, 2021.

Undang-Undang Nomor 5 Tahun 1960 tentang Pokok-Pokok Agraria.

Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah.

Permen ATR/ Ka BPN Nomor 13 Tahun 2017 tentang Tata Cara Blokir dan Sita.