



Rente as Proof of Land Ownership

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ABSTRACT

Rente or proof of payment of land taxes is no longer able used as proof of landownership, however there still people who think rente as proof of land ownership. This research is juridical empirical that analyze the position and perception of society that think rente as proof of ownership of the land in Pangkajene Islands Regency. The result of the study are rente position after the enactment of the Basic Agrarian Law is no longer able to be used as proof of land ownership. On the other hand the National Land Board still receive rente as written evidence to register a land, and there are still people who think rente as proof of land ownership.

Keywords: Rents; Land Ownership, Society Perception.

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INTRODUCTION

The main requirement for land rights is ownership evidence in text form is certificates for land that has been registered as well as supporting evidence for the land that has not been registered, the evidence may be the deed of sale, grant, inheritance decision, decree granting rights to land and buildings, it is to provide certainty and legal power over land ownership¹ the function of certificate is to prove their land rights and subject entitled to the land through the physical data and juridical data contained in the certificate².

Basically proof of land and building payment or known by local society as rente can not be the base of land ownership by Supreme Court of February 3, 1960 No. 34k / 1960 that the payment of land taxes (petuk) is not a proof for people who are listed by name in the payment of taxes, even before the enactment of the basic Agrarian Law, rents are still recognized as the base of land ownership, which was originally a land registration system in Indonesia has enacted fiscal cadaster³ that land registration

¹ Andy Hartanto (2015) *Panduan Lengkap Hukum Praktis Kepemilikan Tanah*, Surabaya: Laksbang Justitia. p. 58

² Fahmi Yuniar Siregar (2016) *Kekuatan Hukum Sertifikat Hak Milik Dalam Sengketa Tanah, Kajian Putusan Nomor 25/Pdt.G/2014/PN.Dps*. *Jurnal Yudisial* No. 3 Vol. 9 Desember 2016. p. 345.

³ A. Suriyaman Mustari Pide (2009) *Quo Vadis Pendaftaran Tanah*. Makassar: PUKAP. p. 11.

conducted with land tax collection, where the system by a taxpayer is the rights holder or owner.

Facts about the persistence of the society who perform physical control of land, which in this case people use rente as proof of land ownership, while the local society understanding was understood that they were taken after the enactment of the basic Agrarian Law . Moreover, in the realm of proof rente are still being debated because there is polemic evidence of previous studies compared with girik certificate that also known as rente that the Supreme Court Decision No. 05PK / PDT / 2005⁴.

The reality of what happened in the community is a phenomenon which indicates the difference in patterns of behavior expected by the rule of law with a pattern of behavior that occurs in the community. If the function and purpose of the law is not working properly, then surely the law is not effective. The function of the law in this case, as both the active function as law as a tool of social engineering⁵ and the passive function as a law as a tool of social control.

The statement that the taxpayer of land can be landowners became the basis for this research This issue becomes important for certainty of landownership in Indonesia.

This research outlines as follows to explain: 1. Rente Position after the enactment of Law No. 5 of 1960 on the Basic Principles of Agrarian, 2. Public perception of the position of rente as a proof land ownership in Pangkep Regency.

METHOD

This type of research is empirical juridical wich aims to find out implementation of the rule of law (das solen) in the field (das sein). The research was conducted in the District of Ma'rang, District Pangkajene, District Mandalle, District Minasatene, District Labbakkang, District North Tupabbiring Liukang and the Ministry of Agrarian and Spatial Planning or National Land Agency Pangkajene Islands Regency.

Data was collected by library research through data and books related to the topic of research, it also conducted field research that includes observation and interviews with some of the parties related to the research topic. Data analysis used in this study is a qualitative analysis that presented descriptively, which analyzes data from field studies and literature by explaining and describing the results or the fact that organized logically.

DISCUSSION

Rente Position after the enactment of Law No. 5 of 1960 on the Basic Principles of Agrarian

Rente is a term that is often used by local society on the land tax held and controlled by the public and issued by the local government. After the proclamation of

⁴ Rini Oktavia (2011) *Kekuatan Pembuktian Sertifikat Dibandingkan dengan Girik, Studi Kasus Terhadap Putusan Mahkamah Agung Nomor 05PK/PDT/2005* (Tesis). Jakarta: Universitas Indonesia. p. 5

⁵ Soerjono Soekanto (2005) *Pengantar Sosiologi Hukum* . Jakarta: PT. Raja Grafindo Persada. p. 135.

Indonesian independence in 1945, the name 'landrente' during the colonial era in Indonesia change its name to land rent and in 1951 up to 1959 the name of department manager of land tax is Indonesian Land ownership Registration which has the task of registering and issuing temporary registration for owned lands were registered. The enactment of Law No. 11 Prp 1959 on Taxes The Earth, on land that is subject to the customary law, known as a tax levied dues Regional Development.

The relation between tax and land ownership begun when the enacted of land registration system using the fiscal cadaster or land registration is done for the purpose of taxation that imposed until 1961. As described in the book Andi Suryaman Mustari Pide said that cadaster itself is a technical term for a record, cadaster comes from the Latin meaning '*capistrum*' that showing a register or capite which is the term used in Roman times used for land tax. Cadastre or the record is used as a term of registration of land rights which implies registration of land by the government against all immovable goods⁶, particularly tax purposes and interests of property rights and transfer of material rights. Thats why cadastre is a good tool in providing a description and identification of soil and serves as a continuous recording of rights on the ground.

Land registration through fiscal cadaster for land rights is Verponding Europe (VE), to lands of indigenous property rights in the city is Verponding Indonesia (VI) and to the lands of indigenous property rights outside the city is landrente or Land tax. On that system, a taxpayer is the owner. Eigendom Verpoding (EV) is a land rights derived from the rights of the west, but in fact Eigendom Verponding published in the Dutch colonial era for Indonesian citizens, so it is not absolutely essential if the Eigendom Verponding is the right understanding of western lands. Literally interpreted that eigendom are proprietary to remain on the ground and verponding are bills of land tax. Right now, verpoding has turned into The Inform Letter of Tax Return on Land and Building, while the eigendom converted into types of land rights, as set in the Law No. 5 of 1960 on the Basic Principles of Agrarian.

After the enactment of Law No. 5 of 1960 on the Basic Principles of Agrarian a proof of ownership placed in conversion term. Article 2 states that rights to land that gave authorities as or similar to the rights referred to in Article 20 paragraph 1 as it is called by the name right Agrarisch eigendom, property, yasan, andarbeni, the right to druwe, the right to druwe village, pesini, grant sultan, landerijenbezitrecht, altijddurende erfpacht, the right to attempt former private land and other rights by whatever name called to be confirmed further by the Minister of Agrarian since the enactment of this law becomes the property referred to in Article 20, paragraph 1, unless who have not qualified as mentioned in Article 21.

Based on the regulations mentioned above, it is known that the proof of tax payments is not proof of land ownership in accordance with that set in Article 4 of Law No. 12 of 1985 on Land and Building Tax, but to obtain proof of ownership of land rights in the form of a certificate issued by the National land Agency, the evidence of land tax or rents issued before the enactment of Government Regulation No. 10 of 1961 on land Registration can still be used as a basis for obtaining proof of land ownership.

⁶ A. Suryaman Mustari Pide, *Loc.Cit.*

It is consistent with the results of interviews with Mr. Dinar, that rente or letter C or even written in local language as *sima'na butayya* was evidence beginning to process, already owned land but still need to registrate by different process. That kind of right classified under Article 24 of Government Regulation No. 24 of 1997 on Land Registration that rente or rincik known as conversion, if the transfer of the land ownership is clear or owned for generations, it can be directly registered at the National Land Agency. If ownership is not hereditary or history is not contiguous then National Land Agency performed recognition of the right. Procedure recognition of the rights need an announcement two months against the sporadic and one month for systematic. Recognition of the right by rente still recognized, because there are still villages complete with its F book. Where in it that book there are names who owns percil and kohir numbers, so it must be taken announcement, although the direct conversion've never found again⁷.

Public perception of the position of rente as a proof land ownership in Pangkajene and Islands Regency

An understanding of the rents basically be divided into two kinds of understanding, the first understanding is the rent as proof of payment of taxes for people who utilizing a plot of land before enactment Law No. 5 of 1960 on the Basic Principles of Agrarian, and the second understanding is people who think that The Inform Letter of Tax Return on Land and Building which then reworded by local society as rente.

Perception is the response or acceptance by public perception of the use of rente as a proof of land ownership. Society in this study were residents Pangkajene and Islands Regency. Perception of society are classified into 3 types of perception, the first is the people that know the use of the rent and comply with the rules in the procedure of land ownership, people who know the use of the rent but do not obey rules and people who do not know the rules and become disobedience to law.

Perception of people who think that the rent is evidence of land ownership is a form of legal behavior that developing in the local society. Another essence of the study of the sociology of law is the law is autonomous, wich mean that the making and enforcement of laws affected by various non-legal factors, such as economic factors, political, social and cultural. In this case, the public perception about the rent could be affected by factors that are not related to law such as economic conditions, level of education and culture that flourished in the community.

Generally, people who understand the use of the rent is people who have experienced or have been registrate land ownership. The level of society knowledge is basically associated with one of the main objects of sociology of law studies called stratification. The stratification as the object of discussion in sociology of law is not the law, for example in the concept Hans Kelsen with Groundnorm theory, but stratification, which can be found in the social system. Stratification in the society system can be measured by indicators of wealth, power, honor and education.

⁷ Interview with head Section of Land Rights and Registration National Land Agency in Pangkep Regency.

HC Kelman expressed the obedience that is Internalization, if someone obeyed a rule, really because he felt that the rules were in accordance with the intrinsic values⁸. Intrinsic value is meant in this case that someone might not have something in this case land, without any process to have these objects, both the process of obtaining purchase as well as a gift.

Perception of people who know and do not obey who had been aware that proof of land ownership is the certificate of ownership, but the sample is also working to have the land with a variety of interests. The interest is motivated by economic factors⁹. This is consistent with the views expressed by Achmad Ali that the most fundamental obedience to obey or disobey a law, it is for their interest. The opinion is the influence of the study of economic law, which looked at a variety of economic factors strongly influence the observance of a person, including a person's decision relating to factor in the cost or sacrifice, as well as an advantage if he obeys the law, are also factors that determine obedience to law, is determined by its assumptions, perception-presepsinya as well as various other subjective factors. On the other hand, there are samples understanding that rents or land tax evidence can still be used as proof of land ownership due to the fact there is still some dispute which has stood in court and won the rente as a proof of landownership.

The third category is the public perception that does not know the use of the rente and do not obey the rules. In fact there are still people who do not obey the rules that apply because of lack of knowledge. The fact that 56 years after the enactment of the Basic Agrarian Law and there are still people who do not know the use of the rent is an indication of a lack of effective law, it means that the active function of law as a tool of social engineering¹⁰ not working properly. In this third category, the samples aware of any regulations governing land ownership, but do not know for certain laws that govern. Samples know that the ownership certificate is proof of land ownership, but also consider that rente or land tax can be used as proof of land ownership. Samples with custom reason stating that rents since ancient times used as proof of ownership of land and it is recognized by the government.

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⁸ Achmad Ali (2009) *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence)*. Jakarta: Kencana. p. 107.

⁹ *Ibid.* p. 350

¹⁰ Abdul Manan (2009) *Aspek-aspek Pengubah Hukum*. Jakarta: Kencana. p. 26.

¹¹ Soerjono Soekanto (2009) *Pokok-Pokok Sosiologi Hukum*. Jakarta: Rajawali Pers. p. 35.

As for samples on the grounds of lack of knowledge is basically a community that not adequate level of education and residing in area which is far from urban area, so the access to obtain information related to the rules of land ownership is not easy. Even the fact that the ownership of land in the area is not a major source of conflict for their high sense of respect for the community to others, the language used by the people in this case is called "siri" or culture of shame to admit or claim land that not thier right.

People understanding who think that rents as proof of ownership rights to land also closely related to one part of the elements of the legal system put forward by Lawrence M. Friedman that legal culture or the culture of law which is the law of life (living law) adopted in a society¹². Legal culture with more simply concepts put forward by Krtizer¹³ that the legal culture does not recognize the formal procedures and structure, but only indicates the local custom or simply put how we do things here.

CONCLUSION

Position rents or proof of payment of taxes after the enactment of the Basic Agrarian Law is no longer able to be used as proof of land ownership. On the other hand the National Land Agency still receive rents as one written evidence to register land, and there are still people who think rents as proof of land ownership with variety of reasons such conflict of interest, economic factors, court ruling, lack of knowledge and hereditary custom.

¹² Lawrence M Friedman (2009) *Sistem Hukum Persepektif Ilmu Sosial*. Penerjemah M. Kosim, diterjemahkan dari bukum Lawrence M. Friedman, *The Legal System: A Social Science Persepective* (New York: Russel Sage Foundation, 1975) Bandung: Nusa Media. p. 103.

¹³ Ritzer H M dan Zemans F K. (1993). *Legal Culture and the Control of Litigation*. Law and Society Review. No. 27 Vol. 3. p. 357.

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