



Publication of Usage Rights Certificates on Ownership Land by the Regional Government for the Development of Public Facilities

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Abstract

This study aims to determine the legal implications of the issuance of right of use certificates on land owned by individuals, as well as the responsibility of the National Land Agency and the Gowa Regency Government for the issuance of certificates of use rights on land owned by individuals. This study uses an empirical legal research type, which examines and analyzes how the law works in the community. Research results (1) there are no rules governing the transfer of personal rights into state ownership, but in practice if such a thing happens, the legal basis used is Article 131 of the ART/BPN Ministerial Regulation Number 3 of 1997. Where the registration of the abolition of rights itself must be accompanied by a statement of release of rights to the state which is signed before the Head of Regency/City BPN. (2) The BPN is also responsible for revoking/cancelling one of the certificates deemed invalid. Meanwhile, the local government of Gowa Regency is responsible for clearing the land without any burden on it.

Keywords: *Transfer of Land Rights, Usage Rights, Ownership Land*

A. INTRODUCTION

Land in human life has a dual function, namely as a Social Asset and as a Capital Asset. As social asset, land has a social function, it is in accordance with the basis contained in Article 6 UUPA, whereas as capital asset land has an economic function, where land becomes the object of capital in economic transactions. Along with the increasingly limited land supply and increasing land needs, this causes high land prices, because today land on one side grows as a very important and valuable economic object and has grown, on the other side the land is used and used to the greatest extent for the well-being of the people.

Therefore, on the basis of the above-mentioned issues, the State facilitates a legal system and an orderly and well-organized system of land administration to provide legal protection and guarantees of legal certainty to the landowner in a fair manner as stipulated in the National Agrarian Law, namely Law No. 5 of 1960 on the Basic Regulations of Agrarian Law and Government Regulation No. 24 of 1997 on Land Offering. Therefore the land registration will be an obligation for the government as well as the land holder in accordance with Article 19 of the UUPA. In the implementation of land administration and land registration registered in the Land Office must always be in accordance with the actual situation or status of the land in question, either deny physical data about the land, nor about the legal relationship concerning the land area, or this juridical data, especially the recording of changes in the juridical data already recorded earlier.

According to Article 27 of Government Regulations No. 24 of 1997 on Land Registration, the transfer and assignment of land rights can be registered only if proven by the Act of the Land Act Maker (PPAT). The PPAT has been in force since the publication of the



Government Regulation No. 10 of 1961 on the Registration of Land, which is an enforcement of the Act No. 5 of 1960 on the Basic Regulations of Agrarian Trees. In these regulations, the PPAT is referred to as the officer who serves to make acts intended to transfer land rights, grant new rights or assign land rights. The functions of PPAT are further affirmed in the Act No. 4 of 1996 on the Rights of Ownership of Land and Matters Related to Land and Government Regulations No. 24 of 1997 on Land Registration, which replaced Government Regulation No. 10 of 1961, namely, as public officials authorized to make acts of transfer of land rights, land entitlements, and other acts regulated by the regulations of the applicable laws and assist the Head of the Farm Office in carrying out the land registration by making the acts which will serve as the basis for the registration of changes in land registrations data.

In Government Regulation No. 24 Year 2016 On Amendments to Government Regulations No. 37 Year 1998 On the Regulations of the Department of the Land Acting Officers. The acquisition of the right to land under the provisions of Article 27 of Government regulation Number 24 Year 1997 occurred as a result of the transfer of rights and amendment of rights, thus resulting in the right of the land transferred / transferred to another person who acquired the land marked with certain evidence in accordance with the regulations of legislation. One is the means of proof that the land is the property of a person, i.e. with the ownership of the certificate of ownership as an enclosure of such certificate in accordance with Article 20 paragraph (1) of the Law on Agrarian Trees, in other words, the property certificate is a document proof of the right to the land for its holder to possess, use, take advantage of his land in a manner consistent, strongest, and fully. On the property rights of the land that is the basis for the issuance of the Certificate of Land ownership in the land office is a means of evidence that can be used as a tool proofing the legal data on ownership or possession of a land, either in writing or on the basis of a testimony according to Articles 23 and 24 of the Government Regulations No. 24 of 1997. The authority of the Land Acting Officer (PPAT) pursuant to Government Regulation No. 37 of 1998 as amended in Government Regulations No. 24 of 2016 on the Regulations of the Department of the Officer of land Acting is to make authentic acts concerning certain legal acts relating to the right to land or ownership of housing units.

According to the provisions of the laws in force, the Office of the Land Act Maker (PPAT) is a public official who is authorized to make an act of transfer of land rights and other acts in the framework of the imposition of the land rights, the form of which the act is determined, as proof of the commission of a certain legal act concerning land located in its respective area of operation. In practice, there is often a transfer of land rights without the



presence of the right holder. This could be the case when the rightholder authorizes someone to take care of the transfer of rights or it could be due to the inadequacy of the Office of the Land Act Maker (PPAT) in carrying out a transfer. This happens often in everyday life. Like the case handled by the Sungguminsa State Court of Gowa District with the number of decision 58/Pdt.G/2020/PN.SGM, around 1970 the object of the dispute that is now made Puskesmas is a land belonging to the grandmother/parents of the plaintiffs about 0.15Ha or 1500MP which has been registered and registered as a compulsory IPEDA for the first time in the class of 1942 until now.

According to the document of identification of object or subject of tax Number 6452/WPJ.08/KT.3111/ 1986 from the head of the office of service outside TK.1.IPEDA Ujung Pandang dated 12 August 1986 at the request of the chief of the district of Palangga with a letter dated 10 July 1986 number 64/P/KT/III/86 JO. The signature of the owner of Indonesia's land on behalf of Yapasa binti Manai dated July 16, 1957 signed by Sapa dg Daga in the name of the head of the T'jabang Office of Makassar number 34 at KOHIR 452CI. Because of its strategic location, there were a lot of demands from the public for it to be a temporary market in the 1970s, on the condition of paying a daily retribution to the defendant's grandfather named Basari D. Jannag. In 1971, in view of the growing number of plaintiff's grandparents, the local government made it a market and built a number of kiosks in order to make its management faster and more organized, with the pledge to the petitioner's parents that it would be temporarily used by the government as well as the appointment of his grandparent as a taxpayer by the local petitioners.

After the petitioner's grandparents became old and sick and were no longer able to work as market taxpayers, they were replaced by other market payers without any service or remuneration from the local government until their death. Around 2005 the object of the dispute was no longer functioning as a market and the claimants wanted to take back the land, but in 2014 the local government, the Chief of the village of Kanjilo came to the location with the BPN to measure the name of the claimant prevented and to ask the intentions and purposes of the chief of village as local government of the location measurements on the grounds that only want to see the area and do not want to use it again. However, in 2015 the local government established the Kanjilo Puskesmas and showed the license number: 00005 on 915 square meters, the date of publication 23/02/2015, by the BPN of Gowa district until the plaintiffs claimed the legitimate owner of the object of the dispute felt very badly hurt by the actions of the



defendants and several times the prosecutors submitted objections but ignored by local government, so it was categorized as an act against the law¹.

Based on the background of the above issues, the author is interested in a study entitled “Publication Certificates of Rights of Use on Land Rights of Ownership by the Regional Government for the Development of Public Facilities”. (Studi Terhadap Pembangunan Pusat Kesehatan Masyarakat Desa Kanjilo Kabupaten Gowa)”.

B. RESEARCH METHODS

This research uses the type of empirical law research, which studies and analyzes how law works in a community environment.² or, in other words, a research conducted on the real situation or real situation that occurs in society with the intention to know and find the facts and data needed, after the required data is collected and then towards the identification of problems that ultimately lead to the solution of the problem³.

In this research, use data that is related to the interpretation and purpose of the research. As to the types and sources of data that the authors use in this research they are as follows:

- a. Primary data is data obtained directly from the first source. In the use of primary data, data is collected through field research primarily using direct interview methods.⁴
- b. Secondary data, is data obtained by studying official documents such as books, results of research data from the Internet, regulations of laws, or other written sources that are still related to the object of research.⁵

The method of data analysis used in this writing is qualitative descriptive analysis, i.e. the analysis of data from field studies and errors by explaining and displaying the result or reality of objects to be logically organized.

C. RESULTS AND DISCUSSION

1. Implications Of The Issuance Of Certificates Of Right Of Use On Behalf Of The Government Of Gowa District On The Land Of Private Ownership For The Construction Of The Kanjilo Puskesmas Carried Out Without The Knowledge Of The Holder Of The Certificate Of Ownership

¹ Putusan Perdata Gugatan Nomor 58/Pdt.G/2020/PN.SGM, Hal. 4-5

² Bambang Wuloyo, 2002, *Penelitian Hukum dalam Praktik*, Jakarta : Sinar Grafika. Hal. 15

³ Soerjono Soekanto, 2010, *Pengantar Penelitian Hukum*, Jakarta : UI Press, Hal. 43

⁴ Amiruddin, 2004, *Pengantar Metode Penelitian Hukum*, Jakarta : PT Raja Grafindo Persada, Hal. 30

⁵ *Ibid.*



a. Implications of the Law of the Publication of the Certificate of Land Rights

One of the purposes of land registration as set out in Article 3 of Government Regulation No. 24 of 1997 is to provide legal certainty and legal protection to the owner of the right to a land, a housing unit, and other rights registered so as to be able to easily prove himself as the holder of the rights in question.

One of the activities in land registration as affirmed in Article 19 paragraph 2 of the UUPA, is the provision of letters of proof of right which is valid as a powerful proof. In Government Ordinance No. 10 of 1961 it is stated that the name of the letter of proof of rights is called a certificate. According to article 13, paragraph 3, of Government Regulation No. 10 of 1961, what can be understood by certificate is a copy of the land book and the measurement letter after sewing into one together with a cover paper whose form is determined by the Minister of Agriculture. Government regulation No.10 of 1961 is declared no longer in force by Government Regulations No. 24 of 1997. In Article 1 para. 20 of Government Regulation No. 24 of 1997 the meaning of certificate is given, i.e. a sign of proof of equal rights as referred to in Article 19 para. 2 letter c UUPA for the right to land, the right of management, the land of wages, the ownership of the units of houses, and the dependence rights, each of which is recorded in the relevant land book.

Physical data is a description of the location, boundaries, and area of the land and housing units registered, including information about the presence of a building or part of the building on it. The certificate contains a copy of the land book that contains physical data and jurisdictional data, and a measurement note containing physical data. Furthermore, the purpose of issuing a certificate is for the rightholder to be able to easily prove that he is the right holder, to provide legal certainty, and to guarantee legal protection for the rights holder. Certificate issued by the District or City Farm Office. The certificate is issued in the interests of the rightholders concerned, i.e. in accordance with the physical data and jurisdictional data that has been registered on the land register. Urip Santoso stated that the official who can sign the land certificate under Government Regulation No. 24 of 1997 Jo. Regulation of the Minister of Agriculture/ Head of the National Farming Agency No. 3 of 1997 is:

- 1) In systematic land registration, the certificate can be signed by the Chairman of the Adjudication Committee, i.e. on behalf of the Head of the Farm Office of the District or City;



- 2) In a land registration that is sporadically individual, the certificate can be signed by the Head of the Farm Office of the District or City;
- 3) In land registration will be carried out sporadically of a mass nature, i.e. the certificate can be signed by the Head of the Section of Measurement and Land Registration on behalf of the Chief of the Farm Office of the District or City.

According to the meaning of the certificate contained in Article 1 paragraph 20 of Government Regulation No. 24 of 1997, there are various kinds of certificates, namely: 1) Certificate of Land Rights, i.e. Certificates of Ownership Rights, certificates of Usage Rights of Enterprises, certificate of Rights of Use of Buildings, as well as certificates for Usage of Rights; 2) Certificates for Rights of Management; 3) Certificates on Land Wakaf; 4) Certificates in Rights of Dependency; 5) Certificate on Rights of Property on Housing Unit.

In the settlement of disputes over land concerning the issuance of the certificate of the right to land, can be obtained by two ways, namely: litigation, settling disputes of land by submitting a claim to the court. If the dispute is confidential, then the claim is submitted to the State Court. (PN). If the dispute is a state business, then the lawsuit is filed with the PITUN; Non Litigation, the settlement of land disputes outside by the parties to a dispute through negotiation, mediation, reconciliation, and arbitration. The cancellation of a certificate of land rights issued by the District/City Agriculture Office can be obtained in 2 (two) ways, namely: First, the Cancellation of the certificate on land rights to the Chief of BPNRI. Cancellation of certificates of land rights is regulated in the Regulations of the Minister of Agriculture State or the Chief of BPN RI No. 9 Year 1999 on the Procedure of Granting and Cancelling Granting of Land Rights and Rights of Management. Administrative legal deficiencies, including: procedural errors; misapplication of legislative regulations; errors in the subject of the right; error in the object of the rights; error of the type of rights; widespread miscalculation; overlapping of land rights; incorrect legal or physical data; or other errors of the nature of administrative law. The handling of cases, disputes, conflicts, and land matters are regulated in the BPN RI Chief Regulations No. 3 of 2011 on the Management, Review, and Handling of Land Cases. Second, the cancellation of the certificate of land rights through a lawsuit to the court. A party who feels injured by the issuance of a certificate of land rights shall bring a lawsuit to the State Court if the dispute is secret, or to the Supreme Court if it is a dispute of state business. On the basis of a court ruling which has a fixed legal force, then the winning party in the court decision submits an application for cancellation of the certificate of land rights to BPNRI.



b. Publication of Certificate of Rights of Use on Land of Ownership

The case being the object of research in this case is a case related to a land dispute with decision number 58/ Pdt.G/2020/PN.Sgm. Ownership of land belonging to the deceased Yapasa Binti Manai (grandmother of the plaintiffs) during his life possessed land of the size of $\pm 0,15$ are (1500 M2) PERSIL 34 DII, KOHIR 452. CI, located in the village of Bontomanai (Dahulu), Dusun Bontomenai (now), Kanjilo village, Limbung district (Now), Barombong district, Gowa district which now stands a Puskesmas Kanjillo building. That the problem arose from the construction of the Kanjilo Puskesmas on the land of the deceased Yapasa Binti Manai which is based on the issue of the certificate of use by the government of Gowa District, but in the issuance of certificates of such use without the presence of prior permission or agreement with the heirs of the late Yapasa binti manai.

Further based on the results of an interview conducted with Sekertaris Desa Kajilo on behalf of Munir Aras on Monday 14 March 2022, which followed the construction of Puskesmas Kanjilo and the issuance of the certificate of use with Number: 00005 915 square meters, date of publication 23/02/2015, by BPN District of Gowa. That the ownership of the land does not belong to the deceased Yapasa Binti Manai on the grounds that the land has been cultivated for decades by the government of Gowa district, and the map of land details is not registered on the name of the late Yapasa binti manai in the registration book that is owned by the Kanjilo village office then for that reason in 2015 the Gowa county government that is represented by Kantor village office accompanied with the BPN of Gowa county did not measure the land for the publication of exploitation certificates that later on the land now stands a Puskesmas kanjilo building.

At different times in an interview with Ramli on Monday, March 14, 2022, one of the heirs of the deceased Yapasa Binti Manai, said that the land on which it is now standing the Kanjilo Puskesmas building is true that it belongs to his grandmother's decease which can be proven by some documents as proof of ownership of the land that has been proven in court. Ramli said that it was true that the land had been cultivated by the government of Gowa district, because during his lifetime his grandmother had made an agreement that it would be built a market with the agreement of his grandma to receive tax money from the market but Ramli clearly said that he never sold the land to the governor of the district.

From the two interviews conducted by the researchers between the heirs and the Gowa district government represented by the Kanjilo village secretary, the two sides said that the ownership of the land that the Puskesmas had been standing is theirs. The case continued and



was settled in the Sungguminasa State Court of Gowa district which was won by the heirs as the plaintiff which means in this case the Gowa District Government has committed an act against the law by issuing a certificate of the right of use on the land of property and stating that all the letters held by the claimant (in this case, the Gowa District Government) in connection with the object of the dispute have no binding legal force, as well as to punish the subsequent claimant whoever acquired from his right to immediately dismantle the building of Puskesmas Kanjilo and hand over such object of dispute to the claimants in empty, perfect, intact and without any burden on it.

Further in an interview with the BPN of Gowa district represented by Abudzar Algiffari on Thursday April 14, 2022 explained that there are no rules governing the transfer of personal rights into state ownership, but in practice when such a thing happens the legal basis used is the registration of the deletion of rights Article 131 of the Regulations of the Minister of State Agraria / Head of the National Agriculture Agency No. 3 Year 1997. Where the removal of the right itself must be accompanied by a declaration of expiration of the rights to the state signed before the Head of the Farm Office of the district/city. After the personal certificate is declared no longer valid then the local government agency may have the right to handle the application for the certificate of validity. So for the acquisition of land rights without the consent of the owner of the right is not possible because in the transfer of the land right requires the voter to sign the act of sale listed in the certificate, unless the owner can not be present the right to the land must first make the authorization of sale made by the PPAT. If there is a transfer of the right to land without the consent or knowledge of the owner, it is usually due to the landowner's lack of attention to the limits of the land that he possesses.

2. Responsibility of the National Agriculture Agency (NAP) and the Government of the Gowa District for the issuance of the certificate of right of use on the land owned by individuals for the construction of the Kanjilo Puskesmas
a. Responsibility of the National Farming Agency (BPN)

The National Agriculture Agency (abbreviated as BPN) is a non-ministerial government agency in Indonesia that has the task of carrying out governmental duties in the field of agriculture in accordance with the provisions of the regulations of the laws and regulations. The existence of land regulations in Indonesia does not preclude the possibility of various conflicts in the field of land. One of the problems that often arise is regarding the issue of certificates issued by the BPN. The problem that arises in the issuance of a certificate is the occurrence of more than one certificate issued on the same land caused by negligence or



inadequate care of the landlord in carrying out land transfers resulting in legal uncertainty and legal protection for the legitimate owner of the right to the land. The issuance of a duplicate record or the issue of a record of the right of use on the property without the consent of the owner of the copyright causes, among others:

- 1) There was legal uncertainty
- 2) The occurrence of a criminal offence for the use of a fake certificate that could harm the original owner or any other party
- 3) Public distrust of certificates

BPN is the party responsible for the issuance of the certificate and BPN also is responsible for revoking/cancellation of certificate deemed invalid either settlement through direct mediation in the BPN authority or through the court, BPN has also to obey the judgment of the court that has a fixed legal decision. Then according to Abudzar Algiffari the problem in the issue of certificates generally occurs on empty soil, the appearance of more than one ordinary bolt caused by some things, such as:

- 1) When carrying out measurements or research in the field, the applicant deliberately or unintentionally indicates the position of the ground and the boundary is incorrect or less fixed.
- 2) There is evidence or acknowledgement of the right that is proven to be incorrect.
- 3) For the area concerned there is no land map available.

Next at the moment in the settlement of land disputes can be resolved through three ways, namely:

- 1) Direct settlement by the parties with a dispute, it is stipulated in the Pancasila as the basis of social life and regulated in UUD 1945. The dispute is carried out outside the court with or without the presence of a mediator, mediator usually having an influence, for example, local officials or public figures.
- 2) Arbitration is the settlement of a dispute by one or more arbitrators appointed on the basis of agreement or agreement between the parties and agreed that the decision taken is binding and final. The prerequisite for being able to use arbitration as a dispute settlement is the existence of an agreement made in written form and agreed upon by the parties to the dispute. If an arbitral clause has been written in an arbitration agreement and the other party wishes to settle its legal issue to the court then the court proceedings shall be postponed until the arbitral proceeding is settled in the court of such arbitral dispute. Thus, the court must recognize and respect the authority and function of the arbitrator.



- 3) The settlement of disputes by the court, as regulated in the laws in general settling of land disputes related to ownership disputes is submitted to the general court, disputes concerning the decision of BPN through the courts of state corporations while the dispute concerning wakaf is referred to the religious court.

The dispute settlement of both litigation agencies and non-litigation guardians so far is clear that such a system has not been able to resolve the problem of land disputes urgently in a fast time, even in its settlement is quite slow and takes a long time. The mediation process often carried out by the BPN has not been able to resolve the land dispute at the moment, especially addressing the issue of certificates due to still overlapping some rules or regulations that apply in the registration of land rights.

Further, Abudzar Algiffari explained the legal consequence of the decision number 58/Pdt.G/2020/PN. Sgm is to cancel the certificate of use with Number: 00005 915 square meters, the date of publication 23/02/2015 which has been published by the BPN district of Gowa. It is in accordance with Article 1 para 14 of the Agrarian State Regulations/Heads of the National Farming Agency No. 9 of 1999 on the Granting and Cancellation of National Land Rights and Management Rights. In addition to administrative reasons, the cancellation of the certificate of land rights can also occur in case there is another party that can prove that a field of land that has been issued that certificate is legally and genuinely its ownership and it is supported by the presence of a court ruling that has *incrachht*.

b. Responsibility of the Government of Gowa District

The judgment of a judge in force of law (*in kracht vqn gewijsde*) shall be deemed to be true, and if it is a condemnation, it shall be enforced. (*eksekusi*). Characteristics of the condemnator nature of a judgment, can be seen in the *amar* and/or *dictum* of the judgment, e.g. sentence of surrender/expulsion of the object of dispute, and sentence for carrying out a performance/payment of a sum of money. In the case of land accident with the number of judgment 58/Pdt.G/2020/PN.Sgm. decided that the Government of the District of Gowa District as the defendant declared losing and must obey the outcome of the court decision which in the judgement explains that:

- 1) Stating that the object of dispute extends to \pm 915 square meters of fraction of land extending to 1500 square meter, pearls 34 D II, kohir 452 C I on behalf of Yapasa binti Manai that was formerly located in the village Bontomanai District Limbung, now Dusun Bontomenai Village Kanjilo, Barombong district of Gowa.



- 2) Stating that possession by the claimant (Government of Gowa District) of the object of the dispute above without the permission and as long as the plaintiffs are deemed to be the legitimate owners and are not willing to hand over the return of such object to the claimants is an act against the law.
- 3) Declare that all letters in the possession of the claimant that have any connection with the object of the dispute have no binding legal force.
- 4) Punish the following accused whoever acquired the right from him to immediately dismantle the building of Puskesmas Kanjilo and hand over the object of the dispute to the accused in empty, perfect, intact and without any burden on it.

Some of the above points are to be held accountable by the Gowa District Government as the losing party in the trial. Furthermore, at the time of conducting research in the village of Kanjilo there was a strange thing that the researchers noted, namely that he did not execute the building of Puskesmas Kanjillo or that was no plain of the court or of the heirs who stated that the land belonged to the deceased Yapasa Binti Manai. Then from that, at the time of the interview with Munir Aras as the Secretary of Kanjilo Village, he explained under the non-existence of execution on the building Puskesmas kanjilo because the Government of the District of Gowa district is still making advanced legal efforts to prove that the land belongs to the Gowa peasants. He further explained that he had made an attempt to delay the execution of the Puskesmas Kanjilo building before the verdict of the high court came out. On the grounds that the disputed land that has been built in the Puskesmas Kanjilo building belongs to the petitioner on the basis of the evidence that it has sought to gather such as the absence of defects in the map of rincis on the name of the deceased Yapasa Binti Manai.

Execution in civil affairs is an exhausting process, capturing energy, cost and mind. A civil verdict does not have any meaning when the defeated party is unwilling to execute the verdict voluntarily. True victory can only be achieved after a long process of execution to realize that victory. The execution process has become lengthy and complicated because the defeated party has difficulty accepting the judgment and is reluctant to fulfil the obligations imposed on him. The culmination of a civil matter is when a judge's judgment is enforceable. Furthermore, in an interview with Munir Aras as a member of the Kanjilo Village, the author asked how the government of Gowa District would be held accountable if it lost the appeal level. He explained that the government of Gowa County will continue to work hard to carry out the proofs until the final trial and if the outcome remains the same, then the Gowa District Government must obey and obey the judgment of the court because our country is a state of law and if we are



declared losing by the court with the efforts and proof that we have provided then we will execute the content of the decision that is to dismantle the Puskemas Kanjilo building and empty the land without any burden on it.

c. Registration of land for the first time in the Batulapisi neighborhood

Tinggimoncong district is a high land area in Gowa district that has an area of 142.87 hectares with a forest area of 29.583 hectares while Batulapisi Inner Environment that is located in the Malino Exit has a total area of ±665 hectares. The land area of Batulopisi Inne Environment includes community settlements, agricultural land, protected forest area and forest area Conservation. As the population of the Batulapisi neighborhood increases, according to the Malino population data for 2019, there are 395 heads of family residing in this neighborhood, consisting of 245 families in the RW 01 and 150 families in RW 02.

Initially, the settled communities had taken possession of the land claimed to be a forest area downwards and were only located in RW 01. The former parents who lived in the batulapisi neighborhood in this area had existed before 1945.⁶ Although the number of communities that have settled in the batulapisi neighborhood is not as large as it is now, but the machinery has been engaged in agricultural activities. The public in particular in RW 01, almost all communities have the right to a certificate of ownership issued by the National Farming Agency of Gowa District.⁷ However, the ownership of the land in RW 01 is not fully equal, some of the people in Rw 01 who have not yet had the right of difficulties carrying out the land registration because the land they possess is claimed into the forest area.⁸

In effect SK.434/Menhut-II/2009 on 23 July 2009 designated part of Batulapisis Environment in entry as a nature conservation and conservation area so that a community that has possessed and used land can not make registration of land rights. Thirty respondents in the Batulapisi In neighborhood were interviewed, 24 of whom still do not have the right to land. They can't do land registration because they're declared a conservation forest area. Where of the 24 respondents who have not yet had the right to the land they possessed, 8 respondents have tried to challenge the application for registration but could not be served by the BPN of Gowa County on the grounds that the land to be registered for the right of land is in the forest conservation area. And the other 16 respondents have never applied for land registration for

⁶ Wawancara dengan Kepala Lingkungan Batulapisi Dalam Kelurahan Malino (Bundu Daeng Beta) 6 september 2021

⁷ *Ibid.*

⁸ Pide, A.Suriyaman Mustari, 2017, *Hukum Adat Dabulu, Kini, dan Akan Datang Cet.3*, Kencana: Jakarta. Hlm.32.



the land they own. It's because of the cost constraints and the lack of knowledge of the system of land registration applications.

The provisions of guarantees of legal certainty have been listed in the general explanation of the Law of the Republic of Indonesia No. 5 of 1960 on the Basic Regulations of Agrarian Trees (hereinafter referred to as UUPA):⁹

“Because for the indigenous peoples the agricultural laws of the colonization do not guarantee legal certainty, then there is a need for a new agricultural law that is national, which will replace the law in force today that no longer applies dualism, which is simple and which guarantees the security of the law for the entire Indonesian people”.

The legal certainty applied to matters in the middle of the state is essential to resolving the conflict that arises as a result of land ownership in the batulapisi neighborhood in the country. The confidence that exists between the people and the government and between the peoples. It has been demonstrated that at the moment in RW 01 Batulapisi environment, there is a conflict of land ownership between local communities and government agencies, as well as between investors and entrepreneurs.

Implementation in the implementation of the current land registration can be done after the removal of part of the Batulapisi Inner area from the forest area of conservation under SK.362/MENLHK /SETJEN /PLA.0/5/2019 on the change of the allocation of forest area to non-forest area of \pm 91.337 Ha (nine thousand three hundred thirty seven hectares) and the change in the functioning of the area of forest of \leq 84.032 Ha (eighty four thousand thirty two hectares), and the designation of non-Forest area to forest area \pm 1.838.Ha (one thousand eight hundred and thirty-eight hectars) in the province of South Sulawesi. Once the area is removed from the forest area (enclave) will be carried out by the method of land registration sporadically. BPN of Gowa district will conduct land measurements sporadically. Sporadic land measurement is the process of determining the boundary of one or more land areas based on the application of the rightholder or the potential new rightholder who is located bordered or scattered in a village or village in the framework of land registration sporadically.¹⁰

In the land registration sporadically consists of two activities:¹¹

⁹ Irwansyah, 2017, *Teori Hukum Kumpulan Bahan Bacaan, Fakultas Hukum Unbas*, Makassar. Hlm.65.

¹⁰ Peraturan Menteri Negara Agraria / Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 7 Tahun 2019 tentang perubahan kedua atas Peraturan Menteri Negara Agraria/Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 3 tahun 1997 tentang ketentuan pelaksanaan peraturan pemerintah nomor 24 tahun 1997 tentang pendaftaran tanah.

¹¹ Wawancara dengan pejabat fungsional penata kadastral kasubsi pengukuran dan pemetaan kadastral Badan Pertanahan Kabupaten Gowa, (Priyo Sudarso) 15 September 2021



- 1) Front Office activities include information services, administrative activities, front Office activities such as checking documents or files, making receipts of files or application documents and loading details of costs. Back Office Activities
- 2) Back office activities are divided into several sections namely administrative activities, field activities and processing of physical and jurisdictional data.
 - a) Administrative Activities
 - b) Field Activities
 - c) Processing of physical and jurisdictional data

Land registration sporadically is not independent of the active role performed by the claimant on the right to land. Often times in land registration Sporadically found various obstacles especially experienced by the community in the Batulapisi Environment in Kelurahan Malino. As for the obstacles faced by society among others:

- 1) Lack of public knowledge about land certification.
- 2) The cost of carrying out expensive land registration.
- 3) It's not clear whether the land status is in the forest area or not.

d. Land Registration Rights in Batulapisi Inland Environment

The registration in the Batulapisi Environment in Kelurahan Malino district of Tinggimoncong must be based on proof of ownership of the old rights, the ownership declaration of the land to be registered for the first time and the proceeds of the sale. As is known before the entry into force of the UUPA, two devices of the law of the indigenous land and the other originated in the West law or called the West Law of the land. Because of the application of the agrarian law of a national nature (UUPA) then against the lands with the right of the West as well as the land with the rights of the inheritance to be able to enter into the system of UUPAs by the method of settlement of the conversion institutions. In the implementation of the conversion there are three (3) ways in the land registration, i.e.¹²

- a) Converted to property when the property has existed since the entry into force of the UUPA.

¹² Wawancara dengan pejabat fungsional penata kadastral kasubsi pengukuran dan pemetaan kadastral Badan Pertanahan Kabupaten Gowa, (Priyo Sudarso) 15 September 2021



- b) Assertion for land that is subject to adar law but not listed in the conversion provisions as land that can be converted to a land right under the UUPA provisions, but that land must be recognized as land of inheritance.
- c) the right to the land which is not in existence, or where there is no evidence of the right;

In the way Malino did with some basic transitions among others:

- 1) Recognition of the possession of old rights
- 2) Heirs
- 3) Buy and sell
- 4) SK Minister of the Environment and Forestry.

Registration of land in Batulapisi Environment In Kelurahan Malino in laukan based on four types of right base ranging from recognition of old rights, inheritance, sale and based on SK Minister of Environment and Forestry of RI which issued and named the recipient of SK Blue for land registration. The author looks at the problems that have arisen in society to this day, namely the greatest difficulties of entrepreneurs in carrying out land registration and transfer for land - land that does not have the basis of the right and either of inheritance, sale and purchase of land first registration or recognition of rights. A means of proof in making land registration one of them is the Village Register (Letter C) it is marked with proof of payment of Land Tax and Buildings that have been owned by the community Batulapisi Inner Environment even for land claimed as a forest area.

e. The process of land registration sporadically in the BPN district of Gowa.

The National Agriculture Agency of the Gowa District in carrying out its duties and authority in registering land is not apart from the provisions that have been regulated in the Presidential Regulation No. 24 of 1997 concerning land registration. Land registration must be based on a simple, safe, affordable, proprietary and open basis.¹³

Land fields of the community in the Batulapisi Environment in Kelurahan Malino district of Tinggimoncong until now have not been registered in the land registration book.¹⁴ Therefore, in the Batulapisi Environment in the Malino Malurahan land registration fields are

¹³ Rizka Fitri Ana, Muki Wicaksono, Auviar R. Wicaksanti, Riche Deswita, *Antara Ulayat Adat dan Hutan Nagari : Sebuah Kebijakan Perhutanan Sosial di Minangkabau, Jurnal Antropologi: isu-isu sosial budaya, Vol.20 No.2, Desember 2018. Hlm.54.*

¹⁴ Wawancara dengan pejabat fungsional penata kadastral kasubsi pengukuran dan pemetaan kadastral Badan Pertanahan Kabupaten Gowa, (Priyo Sudarso) 15 September 2021



carried out for the first time. This means that the land and the right holders are first recorded in the register of registration, either as first owners (from the beginning of ownership, for example, from the opening of the forest) or as last owners. (For example, land acquired through purchases, grants and so on.).¹⁵

Registration of the right to land in the Batulapisi neighborhood in the malino complex of the current high-rise can be done. Government through the Ministry of the Environment and Forests of the Republic of Indonesia in Decision of the Minister of Environment, Forests and Life of the Republik of Indonesia No. SK.362/MENLHK/SETJEN/ PLA.0/5/2019 concerning the change in the allocation of forest area to non-forest area of $\pm 91,337$ Ha (nine hundred one thousand three hundred thirty seven hectares) and the change of the functioning area of forest of ≤ 84.032 Ha (eighty-four thousand thirty two hectares), and the designation of non-Forest area to forest area $\pm 1,838$ Ha (one thousand eight hundred and thirty-eight hectares) in the province of South Sulawesi. has released the inner battalion environment from the conservation forest area.¹⁶

The land registration in Batulapisi district in the Malino district of Kelurahan Tinggimoncong, the National Farming Agency of Gowa district, is conducted sporadically in accordance with the provisions of Article 13 paragraph 3 of the Regulations of Inspection No. 24 of 1997 before the registration of land:

In case a village/family has not been designated as a land registration territory systematically as referred to in paragraph (2), its registration is carried out through land registrations sporadically.

The National Farming Agency of Gowa District in accommodating the land registration sporadically has provided the necessary blank. In addition to the blank prepared by the national farming body of gowa District, the applicant who wishes to apply for the right to the land must attach the requirements.

If the evidence of ownership of the above-mentioned land is incomplete or nonexistent, then the proof of the ownership on the land may be made by other evidence with the claimant's statement and a credible testimony of at least two witnesses from a neighborhood that has no family relationship with the applicant. A family relationship means a family relationship either vertically or horizontally. The witness stated that the land in question was the

¹⁵ Atang Suryana, A.Suriyaman M.Pide, Kahar Lahae, 2021, *Pelepasan Hak Atas Tanah Masyarakat Adat Suku Hatam : Tantangan dan Perkembangan Kontemporer*, *Jurnal Al-Azhar Islamic Law Review*, Vol.3 No.1. hlm.34.

¹⁶ Sri Susyanti Nur, 2015, *Pola Penguasaan Dan Pemanfaatan Wilayah Perairan Pesisir Secara Turun-Temurun Oleh Suku Bajo*. *Prosiding Seminar Nasional Multi Disiplin Ilmu Unisbank (Sendi_u)*. hlm.11



real owner of the land. in the case of proof of land ownership as referred to in paragraph 2 of article 23 of Government Regulation No. 24 of 1997 on land registration:¹⁷

In the event that the means of proof referred to in paragraph (1) are not or are no longer fully available, proof of the right may be made on the basis of a statement of physical possession of the land in question for 20 (twenty) years or more in a row by the applicant for registration and prior pre-registration provided:¹⁸

1. It was done in good faith, and openly, by those who were in possession of the land, and confirmed by the testimony of faithful men;
2. Such possession, either before or during the incarceration as referred to in article 26, shall not be challenged by the community of indigenous law or by the village/family concerned or by any other party.

Applications on land should be joined with :¹⁹

- a) Letter of declaration of application stating the following:
 - 1) that the applicant has possessed the land in question for twenty years or more in succession, or that he has acquired possession of it from the other party or parties who have owned it, until the period of possession between the claimant and his predecessor is twenty or more years;
 - 2) That the possession of the land is done with good ducks;
 - 3) The possession of the land has never been interfered with the claim, thanks to the arena is deemed to be recognized and justified by the community of customary law or the village/ municipality concerned.;
 - 4) The field is now not in dispute;
 - 5) If the statement contains things that do not conform to the truth, the signer is willing to be charged before the court in criminal or civil proceedings and to give false testimony.
- b) A statement by the village head and at least two witnesses whose testimony is credible, because of his functions as a local customary elder and/ long-established inhabitant of the village/ Landlord concerned does not have a family relationship with the applicant until the

¹⁷ Jandy M. Kasakeyan, *Kajian Yuridis Hak-Hak Masyarakat Adat Terhadap Pemanfaatan Tanah-Tanah Pasini Di Minabasa, Jurnal Lex Et Societatis, Vol. VII. No.4, April 2019. Hlm.44.*

¹⁸ Cornelia Junita Welerubun, *Perlindungan Hukum Hak Atas Tanah Ulayat Masyarakat Hukum Adat di Kabupaten Maluku Tenggara. Jurnal Media Hukum dan Peradilan, Vol.5 No.1, Mei 2019. Hlm.56.*

¹⁹ *Ibid.*



second degree in either vertical or horizontal proximity that permits the application statement in the statement of service.

3. Implications of land registration after the liberation of forest areas in the environment of stone layers in the Malino district of High Moncong District of Gowa.

a. Authority of the Ministry of the Environment and Forestry

The legal protection of forest areas needs to be enhanced, as well as accommodating the frequent settlement of conflicts. Factors affecting the effectiveness of law enforcement in protecting forest areas.²⁰

- a) Its own legal factors, in this case, are limited to the Law.
- b) The law enforcement factor, i.e. the parties that form or enforce the law.
- c) Factors of means or facilities that support law enforcement.
- d) A community factor, that is, the environment in which the law applies or applies.
- e) Cultural factors, that is, as a result of the work, creation, and taste based on the human flesh in the social life.

The influencing factor is a dream in looking at the effectiveness of law enforcement in forest areas. Frequent conflicts in forest areas are usually the result of forest proliferation and land opening activities. One factor is the minimum amount of boundaries that provide information about the boundary of the forest, as well as the lack of public attention and participation related to the border of forest areas.²¹

Resolving the conflict in the forest area, the government in this respect has endeavoured one of them by issuing the Presidential Decree of the Republic of Indonesia No. 88 of 2017 on Land Administration in the Forest Area, becoming one of the government's programmes in resolving and providing legal protection for the rights of the people:²²

- 1) Extraction of land in forest areas through change of forest areas
- 2) Switching forests
- 3) Provide access to forest management through social forestry programmes, or

²⁰ Wahid, A.M Yunus, Naswar Bohari, Achmad, *Penegakan Hukum Lingkungan di Sektor Kebutuhan (Studi Kawasan Hutan Lindung di Kabupate Sinjai, Sulawesi Selatan)*, Jurnal Hasanuddin Law Review, Vol.1 No.1, 2015. Hal 71

²¹ Aryo Suboro, *Peran Negara Dalam Menjaga Eksistensi Masyarakat Hukum Adat*. *Yuriska: Jurnal ilmiah* Vol 11 no.1, Februari 2019. Hlm.81.

²² Arto Oktavianto, dkk, *Eksistensi Hak Ulayat Masyarakat Hukum adat Ngata Toro*, *Jurnal Jurisprudentie*, Vol 7, No 2, Desember 2020. Hlm.56.



4) Doing resettlement

Government Regulation 88 of 2017 on solving the problem of forest areas already occupied and used by existing communities. For example, for the agricultural activities of the communities, such as forests and shrubs, settlements, public facilities and social facilities, agriculture of dry land, which is the main source of livelihood of local communities.²³ In practice, the agrarian conflict resolution scheme in PP 88 of 2017 is a policy scheme or a proposal specified by the central government to the local government or the implementing UPTD in the region. The central government in this case determines and decides the location by creating an indicative map. The indicative map itself is the allocation of forests for the provision of land resources for the object of agrarian reform.²⁴

In determining the forest area, the Ministry of Environment and Forestry of the Republic of Indonesia (KLHK) in this case still acknowledges the nature of forest areas established since the Dutch era or before Indonesia's independence, so that malino at present still has the status of forest area.²⁵ With the expansion of the Malino Plain, the addition of non-forest area continues to increase since 1965 to the present day. The forest area of the gowa district according to SK434/Menhut-II/2009 as of 23 July 2009 is 72,970 Ha, consisting of :

NO	KAWASAN HUTAN	LUAS (HA)
1	Limited Production Forest	20.330
2	Forest Production	23.825
3	Sheltered Forest	24.911
4	Forest Conservation Nature Tourist Park	3.309
5	Forest Conservation Wildlife Refuge	40
6	Buru Park Conservation Forest	480

Sumber : RTRW Kabupaten Gowa 2012 - 2032

Addition of non-forest area or deforestation of forest area the last implemented in particular in the South Sulawesi Province is the eradication of forest areas with the publication of the Decree of the Minister of Environment and Forestry of the Republic of Indonesia No.

²³ Wawancara dengan Kepala Seksi ISDHL BPKH Wilayah VII Makassar, (Suleman Patiung, S.Hut) 15 Januari 2022.

²⁴ Trina Rejekiningsih. *Asas Fungsi Sosial Hak Atas Tanah Pada Negara Hukum (Suatu Tinjauan Dari Teori, Yuridis Dan Penerapannya Di Indonesia)*, *Yustisia Jurnal Hukum*, Vol.5 No.2. Agustus 2016.. blm.76.

²⁵ *Ibid.*



SK.362 / MENLHK /SETJEN /PLA.0/5/2019 on the change of the allocation of the forest area to non-Forest area of ± 91.337 Ha (nine hundred one thousand three hundred thirty seven hectares) and the change in the functioning of the area of the forests ± 84.032 Ha (eighty-four thousand thirty two hectares), and the designation of non -forest areas to forest area of extent ± 1.838 .Ha (one thousand eight hundred and thirty eight acres) in the province of South Swaziland.

The publication of SK No. 362/ MENLHK /SETJEN /PLA.0/5/2019, also becomes a revision of the forestry setting in the ninth province of South Sulawesi is SK.434/Menhut-II/2009. In the decree of the Minister, the previous 768 hectares of conservation forest area was set to 416 hectares, while the previous 294 hectares were set to 277 hectares. So the discharge of forest areas, especially conservation forests and production forests, was limited to other areas of use (apl) which was 46% for conservation wood from the original area and 6% for limited production forest.

The clearance of forest areas in Southern Sulawesi province is carried out using the Method of Space Management Review (RTRW). Mechanisms for clearing forest areas visit SK. 362 / MENLHK /SETJEN /PLA.0/5/2019.

The forest area determination mechanism with the RTRW Review Method refers to the provisions of Article 39 of the Ministry of Environment and Forestry Regulation No. 7 of 2021 on forestry planning, changes in forest area allocation and functional changes as well as use of forest area.

Considerations of the Ministry of the Environment and Forests of the Republic of Indonesia in determining forest areas are carried out carefully. Where in determining a forest area there is a certified land area, where it will be examined by satellite image whether the party concerned exists first or only after a territory has been designated as a forest land. When from the previous satellite image of the declaration of the parties concerned is true and has completed the document according to the rules, then will be released from the forest area.²⁶

b. Role of the National Farming Agency of Gowa District

The authority of the Gowa District Farming Authority in carrying out land registration in particular in the Batulapisi Environment in the Malino Landscape may be carried out when removing land fields in the forest area through changes in the boundaries of forest area or

²⁶ *Ibid.*



exchanging forests.²⁷ In order to legal certainty over the land belonging to the people, the Minister of the Environment and Forestry of the Republic of Indonesia removed the land controlled by the people from the forest area has been carried out. It is stipulated in the Decree of the Minister of Environment and Forestry of the Republic of Indonesia No. SK.362/MENLHK /SETJEN /PLA.0/5/2019 concerning the change in the allocation of forest area to non-forest area of \pm 91,337 Ha (nine hundred one thousand three hundred thirty-seven hectares) and the change of the functioning of the forest area of 84,032 Ha (eighty-four thousand thirty two hectares), and the designation of non-Forest area to the area of forest \pm 1,838 Ha (one thousand eight hundred three and thirty eight ha) in the province of South Sulawesi.

Through SK.362/MENLHK/SETJEN/PLA.0/5/2019, becomes the basis of the public in the realization of legal certainty by implementing the application for land registration to the Agriculture Agency of Gowa District. In accordance with Article 2 of the Presidential Regulations of the Republic of Indonesia No. 20 Year 2015 on the National Agriculture Agency, BPN has the duty to carry out governmental duties in the field of agriculture according to the provisions of the Legislative Provisions.²⁸

Gowa District Agriculture Agency in carrying out land registration in particular in the Batulapisi Environment in Malino Kelurahan can be done when removing land in the forest area through the change of the boundary of forest area or exchange of exchange for forest area. In this case, the role of the BPN of Gowa district is limited to conducting administrative activities in land, full authority over the possession and use of land in forest areas becomes the responsibility of the Minister of Environment and Forestry of the Republic of Indonesia.

c. Coordination between BPN of Gowa District and Ministry of Environment and Forestry

The registration of land rights, of course, in practice follows the coordination between the institutions of both the Regional Government and the Central Government. Specifically for land management of former forest areas or land released from forest areas is the role of each State institution in carrying out its tasks between the National Welfare Agency and the Ministry of the Environment of the Republic of Indonesia. A good coordination requires an

²⁷ Wawancara dengan pejabat fungsional penata kadastral kasubsi pengukuran dan pemetaan kadastral Badan Pertanahan Kabupaten Gowa, (Priyo Sudarso) 15 September 2021

²⁸ *Ibid.*



understanding of each individual's role depending on the method or mechanism in deforestation to land registration.²⁹

From the results of research obtained in the field in particular on the discharge of forest areas in Batulapisi Environment In Kelurahan Mlino department of Tinggimoncong using a mechanism based on the Space System Review Scheme (RTRW).³⁰ Of course this affects the role and form of coordination between the National Agriculture Agency and the Ministry of Environment and Forestry. In the former land registration of forest areas through the Space System Review Scheme (RTRW), where land that has been removed from forest areas or other use areas (apl) has entered the authority of the BPN of Gowa district to carry out its registration. The community that has acquired the SK Minister is SK Tora or commonly called SK. Blue which later became one of the bases and conditions for granting the right to the land by the Gowa District Farming Agency.

If in the registration of the area that is directly bordered with the forest area then the applicant registration on the land must attach clarification or recommendation issued by the forestry authority namely the Forest Area Monitoring Hall in this case BPKH region 7 makassar or Forestry Department of the Province of South Sulawesi.³¹ Recommendations or clarifications are essential in order to meet the precautions of the BPN in the implementation of land registration. BPKH of 7 Makassar Territory will provide an overview and location that includes areas and not forest areas that can be registered with land rights. Procedure in giving clarification or recommendation is carried out by way of BPN or society submitting an application to BPKH with attached proof of ownership and list of location coordinates.³²

Meanwhile, prior to implementation of forest clearance under SK.362/MENLHK/SETJEN/PLA.0/5/2019 and the community that did not obtain the blue SK, 8 respondents of the 30 respondents interviewed had made an application for land registration to BPN Gowa were asked to make an application in person to the forestry

²⁹ A.M Yunus Wahid, Naswar Bohari, Achmad, *Penegakan Hukum Lingkungan di Sektor Kebutanan (Studi Kawasan Hutan Lindung di Kabupate Sinjai, Sulawesi Selatan)*, *Jurnal Hasanuddin Law Review*, Vol.1 No.1, April 2015., Hlm.65.

³⁰ Elizabeth Arden Madonna, 2019, *Pelepasan Hak Masyarakat Hukum Adat Dalam Pengelolaan Hutan Di Indoneisa*. *Jurnal Bina Hukum Lingkungan*, Vol 3, Nomor 2. Hlm.23.

³¹ Wawancara dengan Pejabat Fungsional Penata Kadastral Kasubsi Pengukuran Dan Pemetaan Kadastral Badan Pertanahan Kabupaten Gowa, (Priyo Sudarso) 15 September 2021.

³² Wawancara dengan Kepala Seksi ISDHL BPKH Wilayah VII Makassar, (Suleman Patiung, S.Hut) 15 Januari 2022.



authorities. But the Chief of the Section of PKH BPKH Region VII Makassar Ribka Linggi L.L., S, Hut is of the opinion:³³

Clarification or recommendation requested should be requested by the Gowa District Farming Agency which coordinates directly by sending a letter to the BPKH of the 7 Makassar Region by attaching a list of applications for land rights either directly bordering or indicated to be in forestry collectively or in one region and coordination is running between the bureaucracy of state institutions.

Land certification is the agenda and responsibility of the National Agriculture Agency. Therefore, various obstacles arise from the process of land registration administration. There are two dilemmas about this certification process, namely:³⁴

- a. The members of the National Agriculture Agency (BPN) believe that this slowdown is a consequence of the lack of participation of the landowners, while the people are blamed on the overwhelming bureaucracy of the national agricultural agency, which they believe is slow, the process is long and the cost is high. (expensive).
- b. The main dilemma is that the substance is attractive and becomes a barrier to land certification.

The above obstacles are also consistent with what happened when the people in the Batulapisi Environment were unemployed in making the application for land registration. The results of the interview with the respondents were 8 respondents out of 30 respondents who have applied for the registration of land rights. The constraints are expensive costs and complicated bureaucratic processes due to the need to visit various government agencies ranging from the Ministry of Environment and Forestry to the Governor and Bupati regional governments. The authority of any government agency or agency has limitations in the exercise of authority and role. As a result of this limitation, it is the applicant who has to actively file the application not only that of one government institution but of the entire government body that has authority in relation to forest areas and the provision of territory or spatial arrangements of the provinces and districts.

Land registration for the first time especially in Batulapisi neighborhoods is carried out gradually, with the presence of an application from the interested parties of the land to be registered. The BPN of Gowa District does not simply carry out its functions without paying

³³ Ja Posman Napitu, 2007, *Pengelolaan Kawasan Konservasi, Artikel Sekolah Pasca Sarjana Universitas Gadjah Mada, Jogjakarta., blm.76.*

³⁴ A.Suriyaman Mustari Pide, *Quo Vadis Pendaftaran Tanah.* (PUKAP, Makassar) 2008, Hal. 27



attention to the policy that the government has established in this regard the Minister of Environment of the Republic of Indonesia. In carrying out its functions, the BPN must also play an active role in accommodating the policy of the authorized parties over the management and exploitation of forest areas.³⁵

The coordination between the Gowa District Agriculture Agency and the Kawassan Forest Heating Hall of 7 Makassar Territory, showed in the registration of land rights in the Batulapisi Environment in Malino Kelurahan was seen from the administrative and bureaucratic process that was going on in chains. The BPN of Gowa district wishes that every bordered or indicated land be in the forest area to be registered, each claimant for the right to the land must take care of the recommendation letter issued by the forestry authorities. Meanwhile, the BPKH of the 7 Makassar district recommends that any application for land rights that belongs to the BPN of the Gowa district but is bordered or indicated is in the forest area so that the BPKH of Gowa District can group the land that requires clarification or recommendation from the forestry to be requested collectively and directly from the BPL of the gowa District to the BPKH.

D. Conclusion

Based on the explanation and the results above, the conclusion that can be obtained is that:

1. Tidak terdapat aturan yang mengatur tentang peralihan hak pribadi menjadi kepemilikan negara, akan tetapi dalam prakteknya apabila terjadi hal yang seperti itu dasar hukum yang dipakai adalah pendaftaran hapusnya hak Pasal 131 Peraturan Menteri Negara Agraria/Kepala Badan Pertanahan Nasional Nomor 3 Tahun 1997. Where the registration of the abolition of the right itself must be accompanied by a declaration of expiration of rights to the state signed before the Head of the Farm Office of the District/City. After the personal certificate is declared no longer valid then the local government agency can have the right to handle the application for the certificate of validity. So for the acquisition of the right to land without the consent of the owner of the rights is not possible because in the transfer of rights to land requires the voter to sign

³⁵ Wawancara dengan pejabat fungsional penata kadastral kasubsi pengukuran dan pemetaan kadastral Badan Pertanahan Kabupaten Gowa, (Priyo Sudarso) 15 September 2021



the act of sale listed in the certificate, unless the owner can not be present required first to make the authorization of sale made by the PPAT.

2. The National Agriculture Agency (BPN) is the party responsible for issuing the certificate. Then the BPN party is also responsible for withdrawing/canceling one of the certificates considered invalid whether the settlement is through direct mediation by BPN or through a court ruling gugagatan.

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