

Dynamics of Legal Protection of Customary Land Rights in Batu Belah Village Kampar Regency

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ABSTRACT

The rights of customary law communities are divided into two, namely individual and communal rights. The land tenure of customary law communities contained in the UUPA is a customary right (territory) to show to the land which is the environmental area of the legal community concerned. One of the problems related to customary land in Batu Belah Village is regarding the boundaries of the land. Unclear customary land boundaries give rise to disputes. The same thing ultimately hinders the process of registering customary land in Batu Belah Village, Kampar Regency. Based on this background, the main issues that the author wants to raise, among others, are first, How is the protection of customary land laws in Batu Belah Village, Kampar Regency? Second, what is the status of customary land in Batu Belah Village, Kampar Regency?, The type of research used by the author is sociological legal research, sociological legal research is also called empirical law research. The results of the study show that Batu Belah Village, Kampar Regency has not been registered because of several constraints. Thus, until now customary land in the region has not had a clear legal basis and is only interpreted on the basis of customary recognition in the sense that it has not received clear legal protection.

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INTRODUCTION

Land is a natural resource that is blessed by God Almighty to the Indonesian Nation. In Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) it is stated that, "The earth and water and the natural resources contained therein are controlled by the state and used for the greatest possible prosperity of the people". With this, the article very clearly contains a constitutional mandate, namely in utilizing and using mandatory land to provide welfare to all Indonesian people because every right to land must have certainty about the subject, object and exercise of the authority of its rights.(1)

Along with the development of the times which has implications for the increase in the number of population, of course, the need for land also increases, both to be used as a place to live and for livelihood. On the other hand, land is also a valuable state asset that can be used as a development aid.(2) This is in line with the opinion of Arie Sukanthi Hutagalung who stated that, "Land is a state asset which is the basic capital for development towards a just and prosperous society".(3) Due to the increasing need for land for development,

it is not uncommon for the government to procure land for the public interest by using customary land owned by customary law communities. Customary land is land that is a right and is jointly owned by customary law communities. Customary land is part of the customary rights of indigenous peoples guaranteed in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that, "The State recognizes and respects the units of customary law communities as well as their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in the law".(4)

Then, the recognition of customary rights is also enshrined in Article 3 of the Basic Agrarian Law (UUPA), which states that, "By binding the provisions in Articles 1 and 2 the implementation of customary rights and similar rights from customary law communities, as long as they are in reality, must be in such a way that they are in accordance with the national and state interests, which are based on the regulations of the nation and must not be contrary to the law and other higher regulations".(5)

The rights of customary law communities are divided into two, namely individual and communal rights. The land tenure of customary law communities contained in the UUPA is a customary right (territory) to show to the land which is the environmental area of the legal community concerned.(5) Based on these rights, customary law communities are given the authority to utilize natural resources on land in the area for their living needs. Registration of customary land is an essential thing so that the land has recognition from the state and has a guarantee of legal certainty which is manifested in the form of a certificate of land rights which of course will be economically beneficial as well as have a stronger civil legal foundation.(6)

Batu Belah Village is one of the villages in Kampar Regency. This village is approximately 50 KM from the city of Pekanbaru. Most of its citizens make a living in agriculture, taking resin and rubber sap and oil palm plantations. With these livelihoods, land for them is very important for their survival, especially in the economic field which in the end in its use often or easily conflicts of interest between land users.(7) In general, the Batu Belah area, Kampar District, was initially mostly a forest area that was overgrown with many production timber trees, including, meranti, keruing, balam, pulau, terap and other production forest timber which was then cleared by cutting down and cultivated by local residents, the timber was sold and the land was planted with rice tubers, corn, fruits, also known as farming by the local community.(8)

One of the problems related to customary land in Batu Belah Village is regarding the boundaries of the land. Unclear customary land boundaries give rise to disputes. The same thing ultimately hinders the process of registering customary land in Batu Belah Village, Kampar Regency. Based on the background that has been described above, the main issues that the author wants to raise, among others, are (1) How is the protection of customary land laws in Batu Belah Village, Kampar Regency? (2) What is the status of customary land in Batu Belah Village, Kampar Regency?

METHODOLOGY

The type of research used by the author is sociological legal research, sociological legal research is also called empirical law research, is legal research that examines the law whose concept is real behavior (actual behavior), as an unwritten social phenomenon, experienced by everyone in social life relationships.(9) The location of the research was carried out in Batu Belah Village, Kampar Regency as a place where problems occurred. The data collection techniques in this study are:

Interview

The interview was conducted using direct interview techniques with village officials and traditional leaders in Batu Belah Village, Kampar Regency.

Literature Review

Literature review through documents or reading materials such as books in the library or books owned by the authors themselves, as well as reviewing, studying and analyzing as literature related to the problem being researched.

Based on the formulation of the problem and the discussion above, the author's data analysis technique is carried out by qualitative method, the author collects from limited location observations with several respondents interviewed, which then the data the author understands and the author gives meaning to the next writer to make writing and information that can provide an explanation or formulation of the problem that the author raises, and in drawing conclusions the author uses a deductive method, namely the way thinking that draws a conclusion from a general statement or postulate into a special statement.(10)

RESULTS

Legal Protection of Customary Land in Batu Belah Village, Kampar Regency

Through interviews conducted with village officials and local traditional leaders, it can be known that customary land in Batu Belah Village, Kampar Regency has not been registered because of several constraints. Thus, until now customary land in the area has not had a clear legal basis and is only interpreted

on the basis of customary recognition in the sense that it has not received clear legal protection. In general, land registration is regulated in Article 19 of Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA).

The definition is explicitly contained in Article 1 number (1) of Government Regulation Number 24 of 1997 concerning Land Registration or Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Land Registration states that, "Land registration is a series of activities carried out by the Government on a continuous, continuous and regular basis, including the collection, processing, bookkeeping, and presenting and maintaining physical data and juridical data, in the form of maps and lists, regarding land plots and flats, including the issuance of certificates of proof of rights to land plots to which there are already rights and property rights to flats and certain rights that encumber them".(4)

In fact, customary property rights are recognized by the UUPA which to make them property rights must be registered at the BPN office. The UUPA exists as a regulation that harmonizes the dualism of conception in terms of the land law system that lived in the colonial era. The western conception of land law prioritizes individualism and liberalism, while the conception of customary land law prioritizes the balance between common interests and individual interests by giving a focus on harmony for its ownership and utilization.(11) This dualism will eventually give birth to problems, because the difference in the essence of this concept can cause legal uncertainty, especially when there is a dispute between two lands that adhere to different concepts. Since the enactment of the UUPA, land with western rights and customary rights must be found in the UUPA. (12)

Land registration needs to be carried out in order to provide certainty and qualified legal protection for the owner and the land he owns. In general, land registration includes the measurement of land mapping and bookkeeping, registration of land rights and transfer of these rights, as well as the provision of valid proof of rights as a strong means of proof. If we talk about customary land, then in essence the land must go through the land registration process first to have clear ownership and rights through the existence of a certificate to be issued. Land registration for the first time is a mechanism that can be taken by customary land to be registered. (6)

What is the Status of Customary Land in Batu Belah Village, Kampar Regency

Customary land in Batu Belah Village, Kampar Regency does not have a clear legal status because the reserve has been registered. This means that land in the affected area also does not have a certificate as a basis for rights that have legality. The procedure for land registration for the first time includes:(3)

The applicant registers/submits the application file to counter II (registration counter/application file submission counter);

Counter officer II: the proofreader checks the files and completeness of documents, juridically, formally and administratively in accordance with applicable rules;

If the application is complete, the proofreader will provide a file to the data entry officer to be input on the computer and make an SPS (Deposit Order);

If the file is incomplete and a note of the deficiency is given and informed to the applicant (the file is returned) to be fulfilled first;

After the SPS is signed by the Head of Subsi, then the special treasurer of the recipient calls/invites the applicant to pay according to the amount stated in the SPS;

After paying at counter III, the treasurer makes a payment receipt as well as a proof of registration which will later be used as evidence for taking the certificate;

If the application requires the measurement of the land plot, the applicant is welcome to the measurement counter to determine the schedule and surveying officer appointed by the coordinator;

If the registration process has been completed, then the applicant only needs to wait for the implementation of the measurement, announcement and completion of the certificate in accordance with the predetermined time schedule and has been installed on the information board;

The management and completion of the application file will be handled and prepared by each sub-section according to the type of application;

For the first land registration application, the measurement must be carried out and the boundary sign must be shown by the owner of the land concerned and witnessed by the neighbors bordering the land for which the certificate is applied;

Announcement for 2 months at the Village Office where the land is located and at the Land Office to apply the principle of publicity, where this announcement provides an opportunity for the person concerned and a third party to submit objections and objections to the land for which the certificate will be issued;

If within the period of 2 months there are no objections or rebuttals, the certificate will be processed and issued, starting from the ratification of the announcement, data input for the bookkeeping of rights and printing of land books and certificates as well as corrections by the head of subdivision and kasi and signatories by the Head of the Land Office m. The handover/collection of certificates is carried out at counter

IV by the appointed officer.

The registration of customary land in Batu Belah Village, Kampar Regency is constrained in terms of territorial boundaries that are still in conflict with neighboring villages around it and there is also no implementing regulation on customary land management, such as Regional Regulations or Regent Regulations. Therefore, the status of the customary land has not been registered and of course has not been certified.⁽¹⁾

CONCLUSION

Batu Belah Village, Kampar Regency has not been registered because of several constraints. Thus, until now customary land in the region has not had a clear legal basis and is only interpreted on the basis of customary recognition in the sense that it has not received clear legal protection.

The registration of customary land in Batu Belah Village, Kampar Regency is constrained in terms of territorial boundaries that are still in conflict with neighboring villages around it and there is also no implementing regulation on customary land management, such as Regional Regulations or Regent Regulations. Therefore, the status of the customary land has not been registered and of course has not been certified.

SUGGESTION

The government must make clear rules related to the recognition of customary land through a Regional Regulation or Perbup of Kampar Regency in order to provide protection for Customary Law Communities in Kampar Regency.

There is a recognition of customary land for customary law communities so that it is not abused by company individuals who want to control the land.

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