

PUBLICITY PRINCIPLE AS THE LEGAL CERTAINTY ELEMENT OF LAND RIGHTS OWNERSHIP

Anne Gunadi Martono Widjojo*

Pelita Harapan University, Indonesia

Published 21 September 2020

ABSTRACT

Before Basic Regulations on Agrarian Principles (UUPA) is enacted, Indonesian land law was based on the customary law. Land registration was done in “fiskal kadaster” which is known as “kohir” or “verponding”. Neither is a proof of rights yet proofs of tax collection which can also be a basis of rights transfers. Both were recorded in Village or “Kelurahan” Land Books, videlicet Letter C Books and “Kerawangan Desa” Books.

Customary law is the main source of UUPA therefor since its enactment, customary land rights were converted with “kohir” and “verponding” as the basis. Owned lands to which legal actions have never been done since UUPA enactment, doesn’t have to be converted. They are called former customary lands.

On a former customary land there’s only a Letter C Quotation. This administrative governance creates legal uncertainties because Letter C Quotations are not proofs of rights, measurements according to “recht kadaster” or land registrations hadn’t been conducted, many underhand transactions weren’t recorded, and the manual system which were not comply the publicity, openness, nor transparence principle.

Village and “Kelurahan” Administrative Governance needs to be changed into a computerized basis in a web or real-time online system with login and logout features. This administration will be run by an administrator whose authority given by the village or “kelurahan” according to the applicable regulation. This website shall be opened to public where public files recorded in the online system can be downloaded and used as proofs after legalized by the authorized officials to become a land legal actions basis. Through this administrative governance, the customary law still exists in written legal norms form.

Juridical basis of this administrative governance is governed in the Act of Electronic Information and Transactions as for the system shall be governed in Government Regulations and furthermore in Village Head Regulations.

Keywords: Land rights ownership, Legal uncertainties, Tax collection.

*Correspondence to: Anne Gunadi Martono Widjojo, Pelita Harapan University, Tangerang City, Indonesia, E-mail: notarisanne@gmail.com