

***Eigendom Verponding*-Based Land Disputes in Indonesia: Case Studies and Legal Reconstruction**

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Abstract. This article reviews *eigendom verponding*-based land disputes in Indonesia through case studies and legal reconstruction with a focus on solutions to the complexity of land ownership. The analysis in the article identifies key factors that trigger land disputes, including unclear legality of *verponding* documents, lack of efficiency in the land registration system, and a lack of public understanding regarding land ownership rights. The proposed legal reconstruction emphasizes the importance of recognizing the legality of *verponding* documents, increasing the transparency of the land registration system, empowering communities in land management, stronger legal protection, and collaboration between the government and related parties as key steps in resolving *verponding eigendom* land disputes. By implementing comprehensive legal reconstruction, it is hoped to create an obvious and fairer legal environment regarding *eigendom verponding* land ownership. These corrective steps are expected to reduce the potential for land conflicts and disputes in Indonesia while providing better legal protection for landowners who refer to *verponding* documents. Through the proposed case study approach and legal reconstruction, it is hoped that a more effective and fair resolution of the often-complex land disputes in Indonesia can be achieved.

Keywords: Land disputes, *Verponding Eigendom*, Reconstruction.

1 Introduction

Land is a legal subject vulnerable to various types of disputes. Land disputes can occur between individuals, between individuals and legal entities, between legal entities, or involve governmental bodies such as the National Land Agency (Badan Pertanahan Nasional or BPN). In Indonesia, one of the legal foundations governing land is Article 33 Paragraph (3) of the 1945 Constitution. This article states that "the land and waters as well as the natural wealth contained therein are controlled by the state and used for the greatest prosperity of the people." Before the Basic Agrarian Law (Undang-Undang Pokok Agraria or UUPA), land regulations in Indonesia were governed by various laws issued during the colonial period. These laws include the Agrarian Law 1870 and the Forestry Laws of 1874, 1875, and 1897. During that period, the principle of state domain was applied, which stated that all land without individual ownership status under Western law would be considered state property. [1]

The principle of state *domein* allowed the government to claim lands lacking valid ownership documents under Western law as state property. It usually led to disputes because Indigenous communities and local inhabitants who had long occupied the land did not possess legally recognized ownership documents. This situation was more complicated by various colonial policies that frequently disregarded the traditional rights of local communities. When

the Basic Agrarian Law (Undang-Undang Pokok Agraria or UUPA) was enacted, the principle of state domain was replaced by a new legal-political concept known as State Control Rights (Hak Menguasai Negara). Through this concept, the central government gained authority to regulate the possession, ownership, use, and exploitation of land and natural resources. With the implementation of UUPA, land rights originating from Western law should be converted within 20 years after the law's enactment. [2]

The government provides legal protection to new owners of land rights previously *eigendom* (European-style ownership). However, in practice, even though more than 20 years have passed since the enactment of the Basic Agrarian Law (UUPA), many still hold land rights based on Western law. If these land rights are not changed to Indonesian land rights, as per the *Domein Verklaring* theory, land whose ownership cannot be proven would go back to being owned by the state. It is stipulated in Article 1 of the Minister of Internal Affairs Regulation No. 3 of 1979 concerning Provisions on Applications and Granting of New Rights to Land Originating from the Conversion of Western Rights. The State Control Rights introduces a new approach to land management in Indonesia. The central government is granted broad authority to regulate all aspects related to land and natural resources, aiming to ensure that land use aligns with national interests and the prosperity of the people. It marks a shift from the colonial legal system that was previously in place. [3]

The definition of *eigendom verponding* is a land right originating from Western law issued during the Dutch colonial period for Indonesian citizens. *Eigendom* means permanent ownership rights to land, while *verponding* is a tax bill for the land or building in question. This *verponding* letter was later changed to a Tax Notification Letter for Land and Building Tax Payable (SPPT-PBB). According to Article 570 of the Civil Code, *eigendom* rights are absolute, giving the owner the right to enjoy and use the land as widely as possible. Under the Conversion Provisions in the UUPA, *eigendom verponding* rights as of the enactment of this law must be changed to ownership rights in Article I paragraph (1) Part Two. [4]

The UUPA provides 20 years to convert *eigendom verponding* land rights into ownership rights. However, many *eigendom verponding* owners without converted by the time limit expired on September 24, 1980. Ownership rights in Indonesia can only be owned by Indonesian citizens, government banks, or religious and social bodies. The problem arises because many landowners with *eigendom verponding* rights have not converted their rights, resulting in legal ambiguity regarding the power of proof. Article 1 of Regulation 3 of 1979 by the Minister of Home Affairs stipulates that if the rights are not converted within 20 years, the state will assume control of the land. However, Article 24 of Government Regulation Number 24 of 1997 concerning Land Registration states that old rights, including *eigendom verponding*, can still be registered or converted into ownership rights even though the 20-year time limit has passed after the UUPA was enacted. [5]

This situation causes legal uncertainty, especially for landowners with unconverted *eigendom verponding* rights. Land disputes often occur when the land is controlled by another party while the original owner still holds the rights to the *eigendom verponding* land. It creates conflict and difficulty in resolving land disputes, considering that the two regulations contradict each other.

2 Method

2.1 Method

The research method used in this study is the normative legal method, which aims to analyze laws and regulations and legal doctrines related to land disputes based on *eigendom verponding*. This method involves a study of primary legal materials, such as laws, government regulations, and court decisions, as well as secondary legal materials, such as legal literature and expert opinions. With the normative legal method, this study seeks to understand and interpret the applicable legal provisions to evaluate how the law is applied in the context of land disputes in Indonesia.

2.2 Approach

This study also uses a legislative approach and an analytical approach. The legislative approach focuses on examining various legal regulations governing land rights, including the Basic Agrarian Law (UUPA), Regulation of the Minister of Home Affairs Number 3 of 1979, and Government Regulation Number 24 of 1997. Meanwhile, the analytical approach is used to analyze the implementation and effectiveness of these regulations in practice, as well as to identify legal problems that arise. Through the combination of these two approaches, this study is expected to provide a comprehensive picture of the legal framework governing land rights and provide recommendations for more effective and fair land dispute resolution.

3 Result and Discussion

3.1 Position of Land Rights *Eigendom verponding* in Agrarian Law in Indonesia

The right of ownership is the right to enjoy an item freely and to use it fully, as long as it does not conflict with the law or general regulations, and does not interfere with the rights of others. This right is the highest in Western land law and is regulated in Article 570 of the Civil Code (KUHPerduta). If it conflicts with the law, the right can be revoked. Although the right of ownership is considered an absolute right for its owner, its essence is different from the right of ownership in the UUPA, which prioritizes public interests over individual interests.. [6]

After the Basic Agrarian Law (UUPA) was enacted on September 24, 1960, land rights regulated in the Civil Code (KUHPerduta) were no longer valid, except for mortgage rights which were still applied. UUPA serves as a new legal basis that regulates and provides various land rights, including Building Use Rights, Usage Rights, Cultivation Use Rights, and Ownership Rights. Conversion provisions were issued in the second part of UUPA which regulates the stipulation for land rights conversion. The term "*eigendom verponding*" may sound foreign because in UUPA it is more frequently referred to as eigendom rights. *Verponding* itself is a tax on fixed assets, as stated in Article 1 of Law Number 33 of 1953 concerning the Determination of "Emergency Law Number 15 of 1952 for the Collection of *Verponding* Taxes in the Years 1953 and Thereafter." *Verponding* is a form of the tax bill for land or buildings which is then changed into a Land and Building Tax Payable Notification Letter (SPPT-PBB). [7]

With the enactment of UUPA, all land rights previously regulated by Western law must be converted into the national agrarian law system. This conversion process aims to integrate various existing land rights into a national legal framework that is more in favor of the public interest and national development. UUPA also provides a clearer and more consistent legal framework for land ownership and use, replacing the colonial legal system previously applied in Indonesia. According to the Letter of the Department of Agrarian Affairs No. Unda 1/7/39, the citizenship status of Indonesian Citizens (WNI) was considered on September 24, 1960. Owners of *eigendom verponding* land rights who have WNI status are required to come to the Head of the Land Registration Office (KKPT) within six months to convert the rights into ownership rights. If the owner is not present or unable to demonstrate their rights during that time frame, the *eigendom verponding* rights will be transformed into Building Use Rights valid for 20 years, expiring on September 24, 1980. [8]

This provision emphasizes the importance of proactive action by landowners to ensure that the status of their land rights is by applicable law. For Indonesian citizens who do not convert their *eigendom verponding* rights within the specified period, the rights are automatically converted into Building Use Rights. However, even though the rights have been converted into Building Use Rights, the landowner still has the opportunity to convert them back into ownership rights. Landowners have the flexibility to modify the status of their rights based on their needs and changes in the law. Meanwhile, for foreign citizens, the rights to *eigendom verponding* land are converted directly into Building Use Rights. The distinction in handling reflects the distinct policies for land ownership and usage between Indonesian and foreign nationals. The conversion of *eigendom verponding* rights into Building Use Rights for foreign citizens mirrors the government's efforts to regulate land ownership by foreign parties more strictly, while still providing the right to use the land for a certain period. [9]

After 20 years of the Basic Agrarian Law (UUPA), if the owner of the *eigendom verponding* land rights does not register the land, the land will become state property. However, the author argues that the land does not fully become state property. Based on Articles 24 and 25 of Government Regulation No. 24 of 1997 concerning Land Registration, land registration carried out by the National Land Agency (BPN) for old rights such as *eigendom verponding* can still be carried out and converted into ownership rights. The conversion process requires written evidence, witness statements, or valid statements regarding the land rights. In addition, the BPN will collect and assess legal data to ensure the truth of the evidence submitted. [10]

So, even though the land has not been registered for 20 years, the land rights owner still has the opportunity to convert the *eigendom verponding* rights into ownership rights. The provision provided the land as not being used or utilized by the state for public purposes. Based on Presidential Decree Number 32 of 1979 concerning the Main Principles of Policy in the Framework of Granting New Rights to Land Originating from the Conversion of Western Rights, the conversion process is still possible if the land owner can prove their rights with valid evidence and by applicable provisions. If land owned with *eigendom verponding* rights has been taken over by the state for a public interest, the land owner is entitled to compensation as long as they can meet the necessary evidentiary requirements. Despite the conversion provisions, the rights of the landowner are still acknowledged, and the state is obligated to provide equitable compensation if the land is acquired for public use. This policy offers legal safeguards for landowners while ensuring that the state's land use is just and does not unfairly impact individuals without proper compensation.

3.2 Efforts to Settle Control Disputes by Other Parties of Verponding Eigendom Land Rights

Land disputes related to Western land rights, especially *eigendom verponding* rights, are still common and increasing. One of the main issues is the uncertainty in legal protection for owners of *eigendom verponding* rights. These disputes involve situations where land with *eigendom verponding* rights is controlled by another party. Owners of *eigendom verponding* rights whose land has been taken over by others and certified by the National Land Agency (Badan Pertanahan Nasional or BPN) have the right to reclaim ownership of the land, regardless of who controls it. *Eigendom verponding* rights, one of the strongest in the Western legal system, are converted into full ownership rights under the UUPA for Indonesian citizens. It provides owners of *eigendom verponding* rights with significant legal power to reclaim their land.

If *eigendom verponding* rights are controlled by another party, the rightful owner can file a lawsuit and must prove errors in the certification process by BPN that led to overlapping rights. Even though the conversion deadline has passed, *eigendom verponding* rights remain strong evidence as long as there has been no official transfer of rights and the land ownership has not been fully transferred. This means that despite the land being certified by another party, owners of *eigendom verponding* rights still have a strong legal basis to reclaim ownership if they can prove legal flaws in the certification process.

Before owners of *eigendom verponding* rights file a lawsuit to reclaim their land, they must register their rights as full ownership rights with the National Land Agency (BPN) through the land registration procedure by Government Regulation No. 24 of 1997. This procedure involves several crucial steps:

1. **Sporadic Land Registration:** Land registration is conducted based on requests from interested parties, including individuals or entities with rights to the land or their representatives. This registration may be carried out individually or collectively by the rights holders or their representatives. The objective is to ensure that all legitimate land rights are accurately recorded.
2. **Creation of Basic Registration Maps:** In areas not designated for systematic land registration, the National Land Agency (BPN) must provide basic registration maps to support sporadic land registration. This process involves the installation, measurement, mapping, and maintenance of national technical reference points in each district or city.
3. **Determination of Land Boundaries:** To acquire the physical data necessary for land registration, the boundaries of the land to be mapped must be established. This process involves measuring and placing boundary markers at each corner of the land parcel, with efforts made to reach an agreement among the interested parties.
4. **Measurement and Mapping:** Once the boundaries of a land parcel are determined, it is measured and then mapped onto the basic registration maps. In the absence of a basic map, other qualifying maps may be utilized. This mapping process is crucial for ensuring the accuracy of data regarding the location and dimensions of the land parcel.
5. **Creation of Land Registers:** Land parcels mapped and numbered on the registration map are recorded in a land register. This is a critical step in officially documenting land rights.
6. **Issuance of Measurement Certificates:** After the measurement and mapping are completed, a measurement certificate is issued for the surveyed land. This certificate is required for the registration of rights and serves as legal evidence of the land's dimensions and boundaries.

7. Proof of New and Existing Rights: For the registration of rights, rights derived from the conversion of existing rights must be substantiated with evidence such as written documents, witness statements, or relevant declarations. The local Land Office Head will verify these proofs to ensure their validity.
8. Announcement of Juridical Data and Measurement Results: Juridical data and measurement results are announced for 60 days to allow interested parties to file objections. The announcement is completed at the local Land Office, Village/Urban Office, and other relevant locations.
9. Validation of Announcement Results: The results of the announcement and the review of juridical and physical data are validated through the creation of an official report. This report forms the basis for recording land rights, acknowledging rights, and granting land rights.
10. Recording of Rights: Land rights, including management rights, waqf land, and ownership rights for apartment units, are recorded in the land book. The land book includes juridical and physical data of the concerned parcel, with each registered right documented based on valid measurement certificates.

After the rights to the former *eigendom verponding* land have been successfully registered as ownership rights, the landowner has the right to sue based on the regulations stipulated in the Head of BPN Regulation No. 3 of 2011 concerning Management, Assessment, and Handling of Land Cases. The regulation provides several mechanisms for resolving land disputes and conflicts, including:

1. The National Land Agency (BPN) is mandated to enforce court decisions that have permanent legal authority, meaning that it must carry out the legal provisions when a land dispute has been conclusively decided by the court.
2. Aside from legal recourse, land disputes can be addressed through administrative channels. Some administrative steps that can be pursued include:
 - a. Cancellation of Land Rights: If there is a legal defect in the administration related to land rights, the BPN can cancel the rights to correct the error.
 - b. Recording in Land Certificates and Books: If there is an error or legal defect in the recording of land rights on a certificate or land book, the BPN can make corrections by recording the necessary changes in these documents.
 - c. Issuance of Land Administration Letters or Decisions: In cases of legal defects in the issuance of land administration letters or decisions, the BPN has the authority to issue new letters or decisions to correct the error.

Issues related to disputes over *eigendom verponding* land controlled by other parties often stem from the National Land Agency (BPN) neglecting to thoroughly verify land certificates. A key problem lies in the BPN's failure to consistently conduct comprehensive investigations into the concerned land, including the determination of its boundaries. This lack of diligence in the investigative process can lead to conflicting land rights, where the rights to *eigendom verponding* land are not duly acknowledged or new certificates are issued without proper verification.

The consequence of this lack of precision is the creation of legal uncertainty for all parties involved. Both new land certificate holders and owners of *eigendom verponding* land face challenges in establishing rightful land ownership. This overlap undermines legal certainty and compounds the complexity of land disputes, as parties with legitimate rights often feel disadvantaged by inaccurate administrative decisions.

Article 2 of Government Regulation No. 24 of 1997 concerning Land Registration emphasizes the principle of up-to-dateness, which stipulates the importance of maintaining accurate and sustainable land registration data. Registration data should always reflect field conditions, and the public should have continuous access to correct information. Adhering to this principle is anticipated to prevent overlapping rights and enhance transparency and accuracy in land registration.

4 Conclusion

Land dispute cases of *eigendom verponding* in Indonesia are often caused by the inaccuracy of the National Land Agency (BPN) in issuing land certificates due to the lack of thorough investigation of the land area and its boundaries. This inaccuracy can result in overlapping rights and create legal uncertainty, both for new certificate owners and *eigendom verponding* rights owners. Although the UUPA provides a new legal framework for land rights conversion, this problem still exists because land registration data is not always up-to-date and by field conditions. To solve this issue, it is crucial to implement the most up-to-date guidelines from Government Regulation No. 24 of 1997. It will guarantee precise, enduring, and easily available land registration information for the public, preventing long-lasting land conflicts and disagreements.

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