

Legal Status of Transfer of Inherited Land Rights

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Abstract. Western land rights and customary land rights were abolished on September 24, 1960. The organization does not exist anymore, while the current freedoms have been changed over by the UUPA into new privileges. To anticipate legal issues that arise as a result of changes in regulations in the land sector, the government through conversion regulations reaffirms the ownership status of inherited land rights, which is also a principle outlined in the UUPA. Legacy of land possession freedoms should in any case be founded on the arrangements of the Fundamental Agrarian Regulation and its Carrying out Guidelines. The beneficiary of the exchange of proprietorship privileges to land or the new holder of possession freedoms to land should be an Indonesian resident by the arrangements of Article 9 of the Fundamental Agrarian Regulation and Article 21 section (1) of the UUPA that main single Indonesian residents can have proprietorship privileges, without differentiation among people who have a similar chance to get land freedoms, and to get the advantages and results, both for them as well as their families.

Keywords: Legal Status; Land Rights; Inheritance.

1 Introduction

The need for land today is increasing in line with the increase in population and increasing other needs related to land. Land is not only a place to live, and a place to farm but is also used as collateral to get a loan at the bank, for buying and selling and renting. It is so important that the use of land for public purposes for individuals or legal entities requires a guarantee of legal certainty over the land.[1]

In Indonesia prior to 1960, land law was dualism. From one viewpoint, Dutch pioneer land freedoms regulations apply to land which is dependent upon and managed by Western Common Regulation which is many times called Western Land or European Land, for instance, eigendom land privileges, opstall freedoms, erfpacht freedoms, and others. Responsibility for with the privileges of native individuals or local land which is dependent upon Standard Regulation which doesn't have composed proof, which is claimed by inhabitants is much of the time called standard land that is standard land, conventional land, Yasan land, Gogolan land, and others.

September 24, 1960, is a critical day considering the way that on that date Guideline Number 5 of 1960 concerning Fundamental Agrarian Principles for all locale of Indonesia was broadcasted and articulated strong. Indonesia's agrarian laws have undergone significant revisions since the implementation of Regulation Number 5 of 1960, which established Essential Agrarian Standards Guidelines (then known as UUPA). These revisions focused primarily on land area.[2]

According to Article 9 of Informal regulation No. 24 of 1997 concerning Region Enlistment, what can be the object of land enrollment are: a. plots of land held with property honors, business use opportunities, building use honors and use opportunities; b. land the board honors; c. waqf land; d. ownership honors to apartment suite units; e. contract honors; f. state land; In all actuality, it just so happens, in the public eye there are still eigendom privileges, opstal freedoms, erfpacht privileges as well as local or local land privileges which are subject to Standard Guideline which doesn't have created verification, which is guaranteed by tenants is generally speaking called standard territories, for instance, standard land, regular land, Yasan land, Gogolan land, and others.

Considering the courses of action of Article 9 above, clearly land beginning from Western honors can't be enlisted. If these grounds can't be joined up, it will be unfavorable to the landowners, since they will clearly lose their opportunities. Because of this, there needs to be a way for this land to be included, and the way that should be possible is to change over the land that begins with Western freedoms. With the difference in land from Western opportunities, it is believed that the neighborhood experience any lack of their honors because directly following being changed over these honors will really need to be selected.

In light of the arrangements of Article 20 passage (2) UUPA connecting with the exchange of proprietorship freedoms to land, in particular that possession privileges can be endlessly moved to another party. The words endlessly move imply that they are an exchange of proprietorship privileges to land. The meaning of "move" is an exchange of privileges where in light of the fact that the proprietor of the freedoms has kicked the bucket, his freedoms consequently move to his main beneficiaries. Article 20 passage (2) UUPA states that possession privileges to land can be moved and can be moved. Move of proprietorship freedoms to land can happen because of lawful activities and legitimate occasions. Move of possession privileges to land because of legitimate activities can happen in the event that the holder of proprietorship freedoms to land purposely moves the privileges they hold to another party. In the interim, the exchange of land possession privileges because of legitimate occasions happens when the proprietor of the possession freedoms to the land passes on, then, at that point, consequently or with practically no purposeful lawful activity from the freedoms holder, the possession privileges are moved to the freedoms holder's beneficiaries.[3]

According to the ATR/BPN ministry, from the 2018-2021 period, 3,145 land dispute cases had not been resolved. RB's Director General for Handling Land Disputes and Conflicts, Agus Widjayanto, said that there were 8,625 cases of defense disputes and conflicts for the 2018-2020 period. Currently, 5,470 cases, or around 63.5 percent have been resolved. There are still 3,145 cases remaining whose resolution process is still ongoing.[4]

The large number of land question cases so far can't be isolated from the State's powerless insurance of individuals' freedoms and admittance to land and other normal assets as a feature of the financial, social, and social privileges ensured by the Constitution. With this problem, the government is obliged to find a solution to what is happening in society so that there is legal protection for land rights or people who have original certificates for land that are deliberately used by mafia perpetrators to carry out their crimes.

Inheritance law is a law that regulates the inheritance of assets of a person who has died which is given to those who are entitled, such as family or society who have more rights. Regarding inheritance, it is certain that what is left behind is in the form of objects. In this case regarding objects, namely land, there are two conflicting opinions, namely the opinion of Soebekti, and the opinion of Sofwan, regarding the question of whether in our material law, the principle of accession (attachment) will be adhered to or not.[5] The first of these considerations openly adheres to the opinion that the principle of accession is necessary

because this principle in social practice/reality is something normal; in other words, someone who owns a house is usually also the owner of the land on which the house stands. So it is an aberration, or not a normal thing, that the owner of the house is not the owner of the land. This principle of accession is important for the law of evidence. Whether or not a subject is entitled to an object must be proven following the description of evidence, namely that evidence is something that, before being submitted to trial, already functions as evidence.[6]

A large number of people's ignorance about the laws and regulations regarding land registration related to the procedures for making land certificates has resulted in the issuance of multiple certificates becoming increasingly widespread. People are not yet aware of the importance of land certificates before being faced with compelling circumstances. Often when inheritance is distributed, we understand the significance of claiming a declaration of land privileges. Legacy of freedoms can be deciphered as the exchange of proprietorship privileges to land from the successor to the beneficiaries on the grounds that the right holder has passed on. Along these lines, these privileges are moved to the current beneficiaries.[7]

There is a transfer of rights from heir to heir due to death or certain legal events, not only the object but also the rights are transferred. If a letter or even a land certificate is left behind, the land certificate will also move. In accordance with Article 26 of Law No. 5 of 1960 Concerning Basic Agrarian Principles Regulations (hereinafter referred to as UUPA), inheritance can occur as a result of statutory provisions or even the will of the heirs.[8]

The problem in this paper is "What is the Legal Status of Inherited Land Rights?"

2 Method and Approach

2.1 Method

The strategy utilized recorded as a hard copy this applied paper is an unmistakable scientific technique, in particular by utilizing information that obviously portrays issues straightforwardly in the field, then examination is completed and afterward ends are attracted to take care of an issue. The information assortment strategy is through perception and writing study to acquire answers for issues in setting up this paper.

In accordance with the examination targets to be accomplished, the space of this exploration is remembered for the subjective domain, subsequently, a subjective methodology will be utilized. Soerjowinoto et al. claim that subjective strategies are methods that underscore the scientist's comprehension interaction of issue definition to build a perplexing and all encompassing legitimate peculiarity.[9]

2.2 Approach

The standardizing juridical methodology is done on specific legal guidelines or composed regulations connecting with the Legitimate Status of Acquired Land Rights.[10] This exploration portrays the state of the article under study, in particular zeroing in on the guidelines and lawful status of acquired land. freedoms by and by.

3 Discussion

3.1 Legal Status of Inherited Land Rights

Based on Law Number 5 of 1960 concerning Agrarian Principles, valid land certificates in the eyes of the law are Ownership Rights Certificates (SHM), Building Use Rights Certificates (SHGB), and Flat Unit Rights Certificates (SHSRS). However, it turns out, there are other types of letters that Indonesian people often use as proof of mastery of something.

This type of control is perceived by Indonesian land guidelines. This type of proprietorship is verification of possession that existed before the approval of UUPA Number 5 of 1960, which incorporates: Girik, Petok D, Letter C, Surat Ijo (Green letter), Rincik, Wigendom or Eigendom Verbonding, Ulayat Privileges, Opstaal, Gogolan, Gebruik, Erfpacht, Bruikleen. These sorts of land proprietorship are letters that are as yet utilized in Indonesia.

Western common regulation with respect to land regulation beginnings from focusing on private interests (individualistic/liberalistic), so the premise and focus of guideline lies in eigendom-recht (eigendom freedoms), specifically full and outright individual possession, notwithstanding the verklaring (space articulation) of land proprietorship by the state. Standard land regulation is essential for the main piece of standard regulation what begins from the assortment of local area intrigues which results in continuously thinking about the public interest and individual interests. In standard regulation, there are ulayat privileges, and that implies legitimate local area freedoms to land.

So the philosophical premise connected with land privileges is not the same as Western common regulation as follows:[11]

- a) Land rights according to Western Civil Law.
The sorts of land privileges that were authorized during the Dutch frontier period are generally called Western freedoms which are managed and dependent upon Western common regulation (Burgerlijk Wetboek) which are called western land (European land) including Eigendom land freedoms, privileges. After the authorization of the UUPA then Western land privileges that poor person been dropped by the gatherings by the arrangements of the UUPA are as yet legitimate and are not promptly abrogated and are as yet perceived, nonetheless, to have the option to become possession freedoms to land, they should be introduced, erpacht privileges and others follow the framework that has been directed. in the UUPA which should initially be changed over as per its carrying out guidelines.
- b) Land rights according to Customary Law.
Residency of land with the freedoms of native individuals (bumi putera) which is dependent upon standard regulation where unwritten regulation applies so there is no composed proof of the land being referred to. Sorts of land privileges as indicated by standard regulation incorporate standard land, Yayasan land, standard land, and gogolan land.

Both civil law and Islamic law are familiar with what is meant by legitimate Portie. Every heir has absolute rights which must be fulfilled or cannot be diverted by the heir,[12] indicating that every subject who by his/her position has the right as an heir, that is, what is his or her right cannot be diverted or given to another heir. The

Civil Code explains the absolute or legitimate portion of the portion and the deductions from each gift that would reduce the absolute portion. As per Article 913 of the Common Code, it is expressed that the outright legitimate portion is a piece of the legacy that should be given to the main beneficiaries in an orderly fashion as per regulation, to which part the deceased is not allowed to assign anything, either as a gift between the living or as a will.

Article 188 of the Accumulation of Islamic Regulation expresses that main beneficiaries, either mutually or independently, can submit solicitations to different successors to disseminate legacy resources. In the event that any of the beneficiaries don't consent to the solicitation, then the individual concerned can document a claim through the Strict Court to separate the legacy. Settling Islamic heritage issues is the force of the Severe Court. This is supported by the second correction to Regulation 50 of 2009 regarding strict courts and the overall clarification of Regulation 3 of 2006 regarding strict courts. In Article 1 segment (1) of Guideline Number 7 of 1989 concerning Severe Courts, it is figured out that the force of the Severe Courts is confined unequivocally to people who are Muslim so heritage issues are the force of the Severe Courts whose objective relies upon Islamic inheritance guideline.[13]

Inheritance law is intended to regulate procedures for distributing inherited assets so that they can benefit the heirs and/or the parties left behind fairly and well. So that this does not cause legal problems later.[14] This goal means that inherited assets are assets and/or property rights of the heir that he obtained through his efforts or obtained because he was an heir. This is so that the heirs can be legally justified in the eyes of religion and state law.[15] Likewise, the purpose of this inheritance is so that heirs can be allowed to own inheritance through procedures that are legal and justified by custom, religion, and/or state law. Inheritance law has a very important place in Islamic law. This is because inheritance is something that is certain and will be experienced by everyone. Apart from that, because inheritance is directly related to the property left behind, if definite legal regulations are not provided, it will have an impact on the emergence of disputes between heirs.[16]

Juridically, the trading of ownership opportunities to land as a result of inheritance is associated with Guideline No. 5 of 1960 concerning "Major Rules on Agrarian Guidelines Juncto PP No. 24 of 1997 concerning "Land Enrollment". While moving area freedoms because of offer and buy, present, or legacy, prior to completing the exchange cycle you should actually look at the truth of the land and its starting point to give legitimate assurance and give lawful security to both the provider of the land privileges and the individual who gets it.[3]

The conditions for transferring rights to inherited land are registration of the transfer of rights due to inheritance. The applicant only needs to submit proof of being the legal heir, which was originally stated in the inheritance fatwa. In registering the transfer of rights, the applicant submits proof of being the legal heir, it strives to ensure that the legal heir can replace the legal position of the deceased person regarding his assets. So, naturally, the right to control land and/or buildings falls autonomously to the heirs. However, like other legal acts, the heirs must register the transfer of their rights at the land office first for legal certainty regarding the land obtained from the heirs.

With proof of land ownership in the form of a certificate of title to the land, the transfer of rights can be carried out by completing the specified requirements by attaching the certificate and with a deed made by the PPAT and other requirements. However, in transferring rights to land, where the land is inherited land, it must be

proven by a death certificate of the testator issued by the village/district head. Because if there is a certificate, if you transfer rights to ownership, it has legal protection. The intervention of the PPAT and the land office regarding the transfer of land rights can provide a guarantee that the name of the person registered is truly the one who has the right without closing the opportunity for those who have the real right to still defend it in the UUPA. The meaning of registration is not interpreted in a positive system but must be linked with the UUPA itself.

The agrarian constitution is a constitution that contains the reason for the connection between the state and residents in regards to land and other regular assets, the agrarian constitution is to perceive how the constitution in a nation figures out agrarian equity and agrarian relations with respect to control, possession, use and use and the executives of land and other normal assets in its established reports.[17] The rule of genuine relations with people responsible for customary resources contained in Article 33 of the 1945 Constitution of the Republic of Indonesia is ordinarily called the choice to control the state as a control capacity for the state to oversee ordinary resources for the best flourishing people.[18] The choice to control the state is the vitally material right unequivocally permitted by the constitution to the Indonesian state.[19]

granting land rights in accordance with Minister of Agrarian Regulation No. 1 paragraph 8 9/1999 is an Administration Declaration that awards privileges to state land, expansion of the term of freedoms, reestablishment of privileges, changes to freedoms, including giving privileges to land with The board Freedoms. Heritage guideline as contained in Article 171 (a) of the Social occasion of Islamic Guideline is the law that manages the exchange of possession privileges to acquired property (tirkah) of main beneficiaries, figuring out who has the option to be a main beneficiary and how much every individual will share. As found in instances of move of land privileges because of legacy which makes land freedoms declarations the object of question, certificates can be interpreted as proof of rights. This is contained in Article 1 number 20 of Unofficial law Number 24 of 1997 concerning Area Enrollment (hereinafter alluded to as the PP Ashore Enlistment). The issuance of a land title certificate must go through several processes to obtain legal rights. Thus, if the process of obtaining a land title certificate is not by applicable procedures, it can be called a legally defective certificate.[20]

The implementation of the inheritance law system in Indonesia is as follows:[16]

- a. Islamic Inheritance Law applies to Indonesian products that are Muslim;
- b. Western Inheritance Law (BW) applies to residents who adhere to the Western legal system;
- c. Meanwhile, Customary Inheritance Law applies to people who adhere to Customary Law. This is adhered to by the majority of Indonesian people who live far from urban areas.

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freedoms because of legacy which makes land privileges authentications the object of question, declarations can be deciphered as evidence of privileges. This is contained in Article 1 number 20 of Unofficial law Number 24 of 1997 concerning Area Enlistment (alluded to as the PP Ashore Enrollment). The issuance of a land title testament should go through a few cycles to get lawful freedoms. Hence, if the most common way of getting a land title testament doesn't follow material techniques, it very well may be known as a lawfully flawed declaration.[21]

Legacy of land freedoms should be founded on the arrangements of the Essential Agrarian Regulation and its Carrying out Guidelines. The successors to the exchange of land possession privileges or the new land freedoms holders should be Indonesian inhabitants by the arrangements of Article 9 of the Fundamental Agrarian Regulation and Article 21 section (1) of the UUPA that main Indonesian occupants can have property freedoms, without capabilities or receptiveness among individuals who have equivalent chances to acquire choices ashore and to get advantages and returns, both for them as well as their families.

The transfer of rights through inheritance can occur automatically when the testator dies. It will bring about changes to the juridical information connected with the premise of freedoms that are objects of legacy. Changes in the exchange of land freedoms should be enrolled and should be completed assuming that there are changes to the actual information and juridical information. This is to give lawful insurance to beneficiaries and for efficient land enrollment organization.

Reports that demonstrate the presence of land freedoms in legacy as expressed in Article 39 section (1) of the PP Ashore Enrollment. This should be given since enlistment of the exchange of freedoms must be completed after the principal enrollment of the privileges being referred to is done for the sake of the inheritor. On the off chance that the beneficiary of the legacy comprises of one individual, enrollment of the exchange of freedoms is done to that individual in light of a letter of evidence as the successor concerned, however assuming the beneficiary of the legacy is more than one individual and at the time the exchange of privileges is enlisted it is joined by a deed of conveyance of legacy containing data ashore privileges.

The issue of justice in the actual application of the law cannot be separated from the concept of legal protection for land rights holders. Gustav Radbruch expressed that three fundamental qualities need to be sought after and have to get serious consideration from regulation implementers, to be specific the upsides of lawful equity, legitimate conviction, and legitimate advantages so that with the choice of negative publicity systems (with positive elements), the three values themselves will not be possible to achieve. The aim of the land law policy in the choice of negative publicity system (with positive elements) is closely related to the aim of the land law system itself, namely the creation of a just, prosperous and prosperous society, the choice of using the land law system in the negative publicity system (with positive elements) should be oriented towards basic legal values, namely realizing order and regularity, peace and justice.[22]

4 Conclusion

The transfer of rights through inheritance can occur automatically when the testator dies. It will bring about changes to the juridical information connected with the premise of freedoms that are objects of legacy. Changes in the exchange of land freedoms should be enrolled and should be completed assuming that there are changes to the actual information and juridical information. It is to give legitimate security to main beneficiaries and deliberate land enlistment organization.

Legacy of land freedoms should be founded on the arrangements of the Fundamental Agrarian Regulation and its Executing Guidelines. The replacements to the trading of land ownership honors or the new land opportunities holders ought to be Indonesian tenants by the game plans of Article 9 of the Fundamental Agrarian Guideline and Article 21 section (1) of the UUPA that super Indonesian occupants can have property honors, without capabilities of receptiveness among residents who have equivalent chances to get choices ashore and to acquire advantages and returns, both for them as well as their families.

Juridically, the trading of ownership opportunities to land as a result of inheritance is associated with Guideline No. 5 of 1960 concerning "Major Rules on Agrarian Guidelines Juncto PP No. 24 of 1997 concerning "Land Enrollment". While moving area freedoms because of offer and buy, present, or legacy, prior to doing the exchange interaction, we should really take a look at the presence of the land and the land beginning to give legitimate conviction and lawful security for both the provider of the land privileges and the beneficiary.

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