

Legality of Issuing a Certificate of Rights Land With Object in on Waters Sea (Studies Case Publishing Certificate Right Purpose Building Fence Sea in Tangerang)

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Article Info	ABSTRACT
<p>Keywords: Legality, land certificate, above sea.</p>	<p>Based on Law Number 27 of 2007 Jo. Law Number 1 of 2014 Concerning Management of Coastal Areas and Small Islands, the Government has the rights and controls. Regional governments, districts/cities have the responsibility to make plans for regulations or decisions in the management and utilization of resources for the benefit of the community. The issuance of land rights certificates on sea waters has a complicated background, involving legal aspects, regulations, and practices. In general, the sea is part of the natural resources controlled by the state, so it cannot be directly certified as land rights. However, there are exceptions for buildings or constructions built on waters, which can have land rights. The formulation of the problems discussed are: 1) What are the legal basis and legal considerations in issuing land title certificates with objects located above sea waters? and 2) How is the validity of land title certificates issued without meeting the requirements in the Complete Systematic Land Registration (PTSL)? The research method used is the normative touristic method, namely research that prioritizes library data, namely research on secondary data. The secondary data can be in the form of primary, secondary or tertiary legal materials. Based on the results of the study, the author concludes that the legal basis and legal considerations in issuing land title certificates with objects located above sea waters have a complex legal basis and require careful legal considerations. In general, land rights on land and at sea have different regulations, with the sea being considered a public space controlled by the state. Issuance of certificates for objects in sea waters often requires adjustments to regulations on licensing activities in sea space and considering the basic principles of agrarian law, namely: a) Basic Agrarian Law (UUPA); b) Law No. 27 of 2007 concerning Management of Coastal Areas and Small Islands; c) Government Regulation (PP) related to Sea Space; and d) Government Regulation No. 24 of 1997 concerning land registration. While the legal considerations are: a) Nationality Principle; b) State Control Rights; and c) Application of the HGB Principle (Building Use Rights) or Usage Rights.</p>
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INTRODUCTION

In social life, each individual has a perception of what is accepted as positive and what is

considered negative, For a nation, the sea is *public property* that requires state regulation and management. For Indonesia, coastal and marine areas represent a crucial, long-standing resource for the nation. The sea not only represents a nation's sovereign territory but also serves as a resource and ecosystem, serving as a medium for social and cultural contact. The state has the right to control the natural resources of the water column, seabed, and subsoil of its territorial waters.

Indonesia's sustainable maritime policy is based on an ocean governance approach that relies on marine spatial planning in accordance with the principles of Integrated Coastal Management. Ocean Governance is an effort to realize a design for public management of coastal and marine areas and the utilization of the natural resources contained therein.

Based on Law Number 27 of 2007 in conjunction with Law Number 1 of 2014 concerning Management of Coastal Areas and Islands Small, Government own right And control. Regional, district, and city governments are responsible for developing plans and decisions regarding the management and utilization of resources for the benefit of the community. This responsibility includes developing strategic plans and spatial zoning for coastal and marine areas. in order to maximize the management and utilization of coastal and marine areas.

Marine spatial planning in its policies and strategies results from a process political. This means that policy arranged And implemented through a structured process of analysis and negotiation among various stakeholders, based on the principles of integrated coastal management. Marine spatial planning in Indonesia is the process of regulating and planning the use of marine space to meet national needs and interests, while protecting the marine environment and resources. This process involves the planning, utilization, supervision, and control of marine space.

Marine spatial planning must be oriented toward sustainable development and is essential to ensuring responsible, sustainable, and equitable use of the sea for all parties. This encompasses the planning, utilization, control, supervision, and development of marine space, involving government, government area, public, perpetrator business, and other users of marine space. Therefore, the success of sustainable development will depend on the commitment of all stakeholders.

The maritime fencing case in Tangerang came to light due to the construction of a 30.16-kilometer-long sea fence in the waters off Tangerang Regency, Banten. This fence sparked controversy due to its impact on the activities of fishermen and coastal communities. The fence was eventually dismantled by the Indonesian Navy, the Ministry of Maritime Affairs and Fisheries, and local residents.

Since early January, the public has been shocked by the discovery of a mysterious 30.16-kilometer-long sea fence in the waters off Tangerang Regency, Banten. The barrier in Tangerang consists of bamboo poles embedded in the seabed. Several authorities, from the local government to the central government, have intervened in the fence's construction. Some have acknowledged their role in its construction. the sea, while the other party deny. It doesn't stop there, a number of officials' names were also dragged into the vortex of the case. fence Tangerang sea. Which sensational is it turns out in on It turns out that several

building use rights certificates have been issued to the fenced area in the names of several "important people" in Indonesia.

The issuance of Land Rights Certificates (SHAT) over sea areas gives rise to conflict authority between various institution Government agencies, such as the National Land Agency (BPN), the Ministry of Maritime Affairs and Fisheries (KKP), and local governments. The Indonesian Ombudsman highlighted the potential for malpractice in issuing Land Ownership Certificates (SHM) in marine areas that should not be used. can be used as an object of private property rights. Cross-institutional collaboration is needed to address this issue and ensure that administrative procedures are carried out in accordance with laws and regulations. The applicable law, Law Number 5 of 1960 concerning Basic Agrarian Regulations, stipulates that certificates serve as proof of land ownership. Government Regulation Number 24 of 1997 concerning Land Registration further regulates the registration and issuance of certificates. The Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) also regulates the types of certificates and their issuance mechanisms.

The issuance of land title certificates over sea waters has a complicated background, involving aspect law, regulation, And practice. In general, the sea is part of the natural resources controlled by the state, so it cannot be directly certified as land rights. However, there are exceptions for buildings or constructions. built on waters, which can have land rights.

As for procedure publishing certificate right on land involving several stages, starting from submitting an application at the National Land Agency Office (BPN), measurement land by officer BPN, until by paying the land acquisition fee (BPHT) and issuing a certificate. Requirements for issuing land rights generally include the applicant's identity, proof of land acquisition (such as a Deed of Sale and Purchase, deed of gift, or old certificate), a measurement letter (if applicable), a Land and Building Tax (PBB) SPPT (Property Ownership Tax), and a statement of no disputes.

Therefore, issuing land title certificates over maritime waters is a complex issue and requires a careful approach. It is crucial to understand the principles of state control over the sea, specific provisions related to coastal spatial planning, and potential conflicts that may arise. Certificate issuance must be based on applicable regulations and consider the balance between the interests of the state, the community, and the rights holders.

The author's concern in this research is the legal basis and juridical considerations in issuing land title certificates with objects located above sea waters and the validity of land title certificates issued without fulfilling the requirements in the Complete Systematic Land Registration (PTSL). Based on the description above, the author determines the title of this research is: LEGALITY OF CERTIFICATE ISSUANCE RIGHT ON LAND WITH OBJECT IN OVER SEA WATERS (Case Study of Issuance of Certificate of Land Use Rights for Sea Fence Buildings in Tangerang). The formulation of the problem in this study is as follows: 1) What is the legal basis and juridical considerations in issuing land rights certificates with objects located above sea waters? 2) How is the validity of land rights certificates issued without fulfilling the requirements in the Complete Systematic Land Registration (PTSL)?

RESEARCH METHODS

Which in use in writing thesis Which The research entitled : "Legality of Issuance of Land Title Certificates with Objects Above Sea Waters" is normative juridical, namely analyzing the relationship between applicable laws and regulations with legal theories and the practice of implementing positive law concerning the issues discussed. This research will analyze legal issues, facts, and other legal phenomena related to the legal approach, then obtain a comprehensive picture of the problem to be studied. The normative approach uses only secondary data sources, namely statutory regulations, legal theories and the opinions of leading legal scholars. The research that shaped descriptive analysis This only will describe the condition of the object or problem and is not intended to take or draw generally applicable conclusions regarding the legality of issuing land title certificates with objects above sea waters.

RESULTS AND DISCUSSION

Legal basis And Consideration Juridical In Publishing Land Title Certificate for Objects Located Above Sea Waters

The issuance of land title certificates in Indonesia has a strong legal basis, particularly as stipulated in Law No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA) and Government Regulation No. 24 of 1997 concerning Land Registration. These certificates serve as legal proof of ownership and are a crucial instrument for ensuring legal certainty over land for the community.

Technically, the certificate issuance process involves submitting an application to the National Land Agency (BPN), accompanied by various required documents, such as the applicant's identity, proof of land ownership, proof of tax payment, and a declaration of no dispute. This is followed by document verification, field measurements, and title determination before the certificate is issued.

Regarding land certificate processing, the public has two options: independently or through the government's Complete Systematic Land Registration (PTSL) program. The PTSL program is free for certain stages, but there are additional fees, the amount of which varies by region, as stipulated in the Joint Decree (SKB) of the Three Ministers. Meanwhile, for those who choose the independent route, the procedure is similar but requires independent funding for almost every stage, including the costs of measurement and field inspections.

However, problems arise when the object for which the certificate is being requested is located in marine waters. Legally, the sea is not an object of land rights. Therefore, issuing certificates for these areas requires careful legal consideration and must refer to specific regulations. Some relevant regulations in this regard include Government Regulation No. 32 of 2019 concerning Marine Spatial Planning, Government Regulation No. 43 of 2021 concerning Land Management in Coastal Areas and Small Islands, and Law No. 6 of 1996 concerning Indonesian Waters. The granting of land rights in marine waters can only be

done if there are legal buildings or activities that have obtained official permits from the authorized agency, while still taking into account environmental aspects and legal certainty.

One concrete example that emerged was the case of the issuance of land title certificates in the sea area of Tangerang Regency. In this area, Building Use Rights (SHGB) and Ownership Rights (SHM) certificates were found to have been issued over sea areas that should not be privately owned. This case triggered an investigation by the National Police Criminal Investigation Unit (Bareskrim Polri), due to allegations of document forgery, the involvement of village officials, and collusion with the company. The Kohod Village Head, Arsin, who was implicated in this case, claimed to be a victim and stated that the documents were processed by a third party without his knowledge of the details.

The government, through the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), has stated that the certificates issued in the sea fence area are procedurally and materially flawed and will be revoked. Furthermore, this case has raised public concern about weak oversight of land governance in coastal areas, as well as the importance of strengthening inter-agency coordination and increasing vigilance in land administration services at the village level.

Therefore, the issuance of land certificates in maritime areas must be carried out selectively, in accordance with applicable regulations, and with due regard for legality, environmental sustainability, and legal protection for all parties involved. The Tangerang case serves as an important lesson that legal compliance and transparency in land administration are essential.

The Validity of Land Title Certificates Issued Without Fulfilling the Requirements in Complete Systematic Land Registration (PTSL)

Validity of Land Title Certificates Without Meeting PTSL Requirements

Land title certificates issued through the Complete Systematic Land Registration (PTSL) remain valid and legally binding, even if the issuance process encounters discrepancies or fails to meet all specified administrative requirements. However, the validity of these certificates is not absolute, meaning they can still be revoked if proven to contain errors, procedural errors, or fabrication/forgery.

In general, a land certificate is valid and strong proof of land ownership. However, in Indonesia's land law system, which adheres to a negative system with a positive tendency, certificates can still be challenged by other parties who believe they have rights to the land. This means that even though the certificate has been issued by the land office, other parties are still given the opportunity to file a lawsuit in court if they believe their rights have been violated, within five years of the certificate's issuance.

Principles in Land Registration

According to Government Regulation Number 24 of 1997, land registration is carried out based on the following principles:

1. Simple Principles – Procedures are easy for the public, especially landowners, to understand.
2. Principle of Security – Guarantees precision and accuracy in land data so as to provide legal certainty.

3. Affordable Principle – Registration fees and procedures are adjusted to be accessible to people from all walks of life, including those from lower economic classes.
4. Up-to-date Principle – Land data must always be updated to reflect current conditions.
5. Open Principle – Land information can be accessed by the public in a transparent manner.

In addition, there is a principle of accountability in the implementation of PTSL, as stated in the Regulation of the Minister of ATR/BPN No. 6 of 2018, which emphasizes the importance of accountability from each program organizer to prevent land disputes and ensure justice for the community.

The Power of Certificates as Evidence

According to Article 19 of the UUPA and Government Regulation No. 24 of 1997, a land title certificate is a strong legal document, both in daily activities (such as obtaining a building permit) and in resolving disputes in court. This certificate comprises two forms of evidence:

1. Documentary Evidence – Certificates, girik, or other documents as the basis for applying for land rights.
2. Physical Evidence – Actual control over land, such as cultivating, occupying, or using it.

The validity of this certificate is not absolute because the Indonesian land system does not fully adopt the *registration of title system*. Therefore, other evidence is still required, including witnesses, allegations, and confessions in the event of a dispute. In fact, a certificate can be revoked by a court or other authorities if legal defects are found in the issuance process.

Complete Systematic Land Registration (PTSL) and Legal Certainty

PTSL is a national program aimed at accelerating systematic land registration throughout Indonesia. Through this program, the government seeks to provide legal certainty and protection for community land ownership. Systematic registration is considered more effective than sporadic registration because it is conducted simultaneously, supported by budgets and professional staff, and produces more complete and accurate land data.

However, this program must still refer to the principle of legal prudence, because even though the certificate produced by PTSL is valid as strong evidence, the data listed must be physically and legally correct. This provision is emphasized in Article 32 paragraph (1) and (2) of Government Regulation No. 24 of 1997, which states that a person cannot sue for ownership of land that has been certified if within 5 years since its issuance there is no objection or lawsuit.

The Case of Land Certificates Over the Sea in Tangerang

One prominent case involving the validity of certificates concerns the issuance of land certificates over the sea in Tangerang, which was conducted through the PTSL scheme. In this case, the certificates issued were located outside the coastline (sea fence), and

therefore should not have been subject to certification because they were part of state-owned waters, not private property.

ATR/BPN Minister Nusron Wahid stated that the certificates were issued through the conversion of girik (land title) to SHM or SHGB (land title), not through the granting of new rights. However, because the land was located outside the area that can be privately owned, the certificates were declared procedurally and materially flawed and were legally revoked.

Of the total certificates found, 50 have been revoked, and the remainder are undergoing verification and evaluation. The majority of these certificates were issued in Kohod Village and Karang Serang Village in Tangerang Regency, where overlapping coastlines and certified land plots were found. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) has also summoned and questioned the officials and surveyors involved as part of law enforcement efforts.

Legal Affirmation: Land Certificates Are Not Always Absolute

Based on the explanation above, it can be concluded that although land certificates resulting from PTSL (Complete Land Acquisition) have legal force as evidence, their validity still depends on the accuracy of the data and the issuance process. In certain cases, such as issuance in maritime areas or unauthorized reclamation, the certificate can be revoked by the government.

Certificates deemed defective do not require a court decision to be revoked if they have not yet reached the age of five years, as stipulated in Government Regulation Number 15 of 2021. This gives the ATR/BPN the authority to correct administrative errors directly, without having to go through the litigation process.

CONCLUSION

Legal basis and juridical considerations in issuing land title certificates for objects located above sea waters, Land rights have a complex legal basis and require careful legal consideration. In general, land rights on land and at sea are regulated differently, with the sea considered a public space controlled by the state. Issuing certificates for objects in marine waters often requires adjustments to regulations governing permits for marine activities and consideration of basic legal principles. agrarian affairs, namely: a) Basic Agrarian Law (UUPA); b) Law no. 27 of 2007 concerning the Management of Coastal Areas and Small Islands; c) Government Regulation (PP) concerning Marine Space; and d) Government Regulation Number 24 of 1997 concerning land registration. While the legal considerations are: a) National Principle; b) State Control Rights; and c) Application of the HGB (Building Use Rights) or Right of Use Principle. The validity of land title certificates issued without fulfilling the requirements in the Complete Systematic Land Registration (PTSL) remains has validity, but with limitations. The certificate still serves as proof of land rights, but can be revoked if errors or discrepancies are later proven. PTSL aims to collect and establish physical and legal data regarding land registration objects, including boundary determination, measurement, mapping, and the announcement of physical data. Data

collected through the PTSL process should be valid and can be used as the basis for issuing certificates.

SUGGESTION

In principle, the sea cannot be certified either in terms of ownership rights or building use rights because the sea is a natural resource controlled by the state for the greatest prosperity of the people, so the parties who have power should consider this carefully. morals not to use the sea for personal gain. So that land certificate holders are more vigilant because even if the certificate is issued without fulfilling the requirements in the Complete Systematic Land Registration (PTSL), it still has legal validity, but it can become the basis for a dispute if another party files an objection. can be revoked if there is evidence to the contrary, such as data errors or the existence of disputes.

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