



Transfer of Gogol Turnover Land to Freehold Land in Tuban Regency

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Abstract: In terms of land ownership, the conception of national land law states that land throughout Indonesia belongs to the Indonesian nation, which is also a symbol of unity for the integrity of the nation and state, therefore it cannot be bought and sold or traded, and must not be used as an object of control that causes disintegration of the nation. One of the former Indonesian land rights (customary land) that was converted into property rights is the gogolan rights. Apart from being able to be converted into ownership rights, these gogolan rights can also be converted into use rights according to the type of right that applies. Gogol land has still been assigned land status and its rights holders based on a Joint Decree (SK) of the Minister of Home Affairs and the Minister of Agrarian Affairs converted into freehold land, while Gogol land in rotation has not had a decree issued and to date has not been regulated. The research results show that land rights that existed before the enactment of the UUPA were changed to land rights stipulated in the UUPA so that now there is only one type of land ownership right. Then the transition to the UUPA was to provide legal certainty regarding land rights for the people as a whole, through land registration institutions and statutory regulations as the legal basis for its implementation. The conversion of permanent gogolan, pekulen or sanggan rights into property rights as intended in Article VII paragraph (1) of the Conversion Provisions of the Basic Agrarian Law is carried out by means of a decision letter confirming the Head of the Agrarian Inspection concerned.

Keywords: Legal Consequences, Gogol's Land, Land Transfer.

1. Introduction

For society, land has become a very important economic object and can also be used for commerce. Because of the importance of land for human life, humans always try to own and control as much land as possible to meet their living needs and improve their welfare (Soetiknyo, 2008), (Mulyadi, 2017).

One element of a plot of land that is very important for plant growth and productivity is soil. Soil not only serves as a growing medium for plants, but also holds and supplies water, nutrients, and other elements that plants need to grow (Wahyudi, 2020), (Islamiyati, 2023). In terms of physical properties, soil functions as a place where vertical roots can grow and develop to support plant growth and meet their needs for air and water. Soil can also refer to the stretched, weathered layer of the earth's crust that may contain organic substances. then soil is a mineral material that is not solid (unconsolidated) located on the surface of the earth, which has been and will continue to be treated and influenced by genetic and environmental factors which include parent material, climate (including humidity and temperature), organisms (macro and micro) and topography at a certain period and time (Zuhaida, 2018), (Rahmanto, 2020).

In agriculture, soil is defined as a medium in which plants grow. Soil comes from weathering rocks mixed with the remains of organic material and organisms that live on or in them, such as animals or vegetation (Gofar, Permatasari, & Setiawati, 2021), (Dj, Pagi, & Zainuddin, 2021). Ground water comes from rainwater which is retained by the soil so that it does not seep out. During the soil formation process, soil layers or horizons are formed in addition to the amalgamation of mineral and organic materials. Soil is a

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natural object found on the surface of the earth consisting of organic mineral materials, water and air, which functions as a medium for plant growth. Soil nutrient levels in agricultural land are influenced by parent materials, climate, topography, organisms, vegetation, and time; However, in this case the level of soil fertility really determines the yield of the plants planted (Arifin, Putri, Sandrawati, & Harryanto, 2019), (Saosang, Mambuhu, & Katili, 2022).

Land is referred to as the surface of the earth. Furthermore, one of the things covered in the Agrarian Law is land. more people and organizations. According to Article 4 (paragraph 1) of the UUPA, "on the basis of the state's right to control" as implied in Article 2, it is stipulated that there are various rights that exist on the surface of the earth, namely land rights which can then be given to someone and can be owned by people either individually or jointly. the same as other people or legal entities, "Land regulated in the Agrarian Law is not land in its various aspects, but land from its juridical aspect (Arba, 2015), (Imeldalius, 2020).

Land is further regulated in Articles 1 and 2 of Government Regulation Number 24 of 1997 concerning Land Registration, which states that "land is a limited part of the Earth's surface". Land rights are rights to a certain part of the earth's surface which of course has boundaries and is regulated by land law. Land in the juridical sense is the entire surface of the earth. Land owned and given to people with rights granted by UUPA must be used. Because the related issues are still related to strong customs in each region, it is difficult to change land ownership. They may even be remnants of traditional laws that prioritized justice and profit from Gogol's estate. By collaborating with the village, sharecroppers rotate their land objects periodically. This can hinder the aim of legal certainty in the form of certifying land rights through PTSL in accordance with Article 19 UUPA.

2. Materials and Methods

The type of research used is empirical normative research which then emphasizes the study of the normative application of legal provisions in each particular legal event that occurs in a society. Secondary data obtained from normative legal research is used as initial data to carry out empirical normative legal research to obtain the truth of reality in society in accordance with applicable legal regulations. This method of carrying out empirical normative legal research is basically a combination of a normative legal approach with the addition of various empirical elements. Hypotheses can serve as the basis for empirical legal studies, and data are needed to test theories. Depending on the characteristics of the population studied, data can be collected using stratified random sampling, purposive sampling, random sampling, or sometimes no sample at all. (Butarbutar, 2018).

3. Results and Discussion

3.1 *Transfer of Gogol Gilir Land to Freehold Land in Tuban Regency*

Land rights can be transferred due to legal acts and legal events. Transfer of land rights due to a legal act is defined as a transfer of land rights that occurs due to a legal act carried out intentionally and with the intention of carrying out the transfer. Transfer of land rights that occurs due to legal events, such as buying and selling, grants, participation in companies, and division of joint rights. The transfer of land rights due to a legal event is when land rights are transferred to the heir due to the legal event of death according to (Sutedi, 2007). Then, regarding the transition of Gogol Gilir land into ownership in Tuban Regency, until now there has been no clarity on ownership. This is not in line with the welfare theory approach, those who cultivate this land are local people, non-village government officials, such as the local Linmas/Hansip to collect the land. The land legally belongs to the cultivator, so far the land has been managed by the community who receive assignments from the village without village government officials, then

they are given awards in the form of wages/incentives and they have the right to work on the rice fields. The transition of the Gogol land to rotation has been managed or under construction for more than 20 years. So that when applying for the transfer of the Gogol Gilir land to ownership by the village government, it is approved with administrative conditions in the form of the Village government being given a contribution by the applicant for the transfer of rights, the contribution will increase the Village's Original Income and the funds will be used according to the allocation of applicable regulations. (Kusuma, 2024).

There are two conditions required to be called a Gogolan Right: if the Gogol holder dies the right to the Gogol land can be given to one of his heirs, but if there are no heirs it will be given to his widow. According to Article VII of the UUPA, gogolan land is: Once published, the UUPA regulates the conversion of land rights. (a) "The permanent rights of gogolan, pekulen or sanggan which existed at the time this Law came into force become the property rights referred to in article 20 paragraph (1). (b) Gogolan, pekulen or sanggan rights that are not permanent become use rights in Article 41 paragraph (1), which provides the authority and obligations that the right holder has at the time this Law comes into force. (c) "If there is any doubt as to whether a gogolan, pekulen or sanggan right is permanent or non-permanent, then it is the Minister of Agrarian Affairs who decides."

As regulated in Article I, Article II, and Article VII paragraph (1) of the UUPA Conversion Provisions, ownership rights to land are created by law. Since the enactment of the UUPA on September 24 1960, all existing land rights must be changed to one of the land rights regulated in the UUPA. This conversion aims to fulfill statutory objectives. Based on the Minister of Agrarian Agriculture Regulation (PMPA) No. 2 of 1962 concerning the Affirmation and Registration of Indonesian Land Rights on Land, originating from customary land, stipulates that conversion is a change in the status of land rights from land rights according to the law in force before the UUPA came into force (Santoso, 2012). With this conversion, there is no longer any HPAT based on old law or western rights. Conversion of old rights is carried out when the right holder applies for land rights to be registered in accordance with statutory regulations regarding land registration. If the application for former land rights still exists and has not been determined, namely five years after the enactment of the UUPA, the rights will be granted through confirmation of rights by the Defense Office (Supraptriningih, 2021).

To provide legal certainty to land rights holders, this Government Regulation determines the strength of certificate evidence, which is recognized by the UUPA as strong evidence. Thus, the physical and juridical data included in the certificate must be considered correct as long as it has not been proven to the contrary, both in daily legal practice and in disputes in court. It is impossible for the community to claim land that has been certified in the name of another person or legal entity if the community has not filed a lawsuit in court within 5 (five) years since the certificate was issued. This applies if the land is acquired with good intentions and is physically controlled by another person or legal entity with their consent (Article 32 Paragraph (2) of this Government Regulation).

In accordance with the provisions of Article 20 paragraph (1) of the UUPA, rights to Gogolan land are permanent, since the enactment of the UUPA which then changes to property rights. Furthermore, based on Article 41 paragraph (1) UUPA, rights to Gogolan land that are not permanent become use rights. For further information, Gogolan land rights are also regulated in Article 20 Paragraphs (1) and (2) "Regulation of the Minister of Agrarian Affairs Number 2 of 1960 concerning the Implementation of the Provisions of the Basic Agrarian Law" (Permen Agrarian 2/1960) which reads: (a) "The conversion of permanent gogolan, sanggan or pekulen rights into property rights as intended in article VII paragraph (1) of the Conversion Provisions of the Basic Agrarian Law is carried out with a confirmation letter from the Head of the Agrarian Inspection concerned. (b) The

rights of the gogolan, sanggan or pekulen are permanent if the gogols continue to own the same land-gogolan and if the gogol dies, the gogol falls on his particular heirs."

Gogolan rights, both fixed and non-fixed, were transformed into property rights and use rights, and from then on they were no longer subject to Gogolan regulations, but only to agrarian regulations. Therefore, the regulations regarding Gogolan land rights follow the regulations in force in Indonesia regarding the extension of ownership rights and use rights. This is due to statutory provisions that set time limits for land rights.

3.2 *Legal Consequences of the Transfer of Gogol Gilir Land to Ownership in Tuban Regency*

Juridically, the consequences of this transition resulted in the formation of the UUPA. The aim of the UUPA is to build a legal basis that will guarantee land rights for everyone through statutory regulations and land registration institutions. However, Article 16 Paragraph 1 of the UUPA makes land law simpler because land rights are no longer recognized according to Western or customary law; instead, they have been converted into land rights that have been established by the UUPA.

In the basic provisions of the national land law (UUPA), the government is given the authority, authority and responsibility to register land throughout the territory of the Republic of Indonesia according to the provisions stipulated in government regulations. 1. Measurement, arrangement and bookkeeping; 2. Registration of land rights and their transfer; and 3. Providing strong evidence as proof of rights.

As is known, the UUPA has 3 main objectives, one of which is "to lay the foundations for establishing legal unity and simplicity in the land sector". Therefore, the aim of the UUPA is to end messy land law practices and combine land law and land rights in accordance with the legal consciousness of the Indonesian people. Since the enactment of the UUPA on September 24 1960, land rights according to customary law and land rights according to customary law are no longer used. Therefore, previously existing land rights which have the same or almost the same authority as land rights according to the UUPA are changed to become one of the UUPA land rights. Therefore, the conversion of the UUPA is considered an act of change, and this change is considered to have occurred since September 24 1960, whether legally or not (Harsono, 1995).

The concrete legal relationship between the state and Indonesian land, which is discussed in Article 2 paragraphs (2) and (3) of the UUPA, has other legal consequences, namely that the legal institution is given the name "State Controlling Rights Over Land" by the basic agrarian law. This gives the Government the authority to control land by registering someone's land ownership, and the UUPA also gives authority to land rights owners to manage and utilize their land as regulated in Article 4 of the UUPA.

State control rights as regulated in Article 2 of the UUPA include various rights to land, known as land, which can be granted and owned by individuals, both individually and in groups, as well as legal entities. In addition, he stated that land is the surface of the earth. In full, the UUPA explains that only the surface of the earth, namely land, can be a person's right (According to Triningsih & Aditya, 2019). However, Article 4 paragraph 2 of the UUPA states that the land rights mentioned in paragraph (1) of this article give the authority to use the land, as well as the body of earth, water and space above it, for purposes directly related to the use of the land. within the limits according to this law and other higher legal regulations. However, land rights are regulated by many laws, not just the UUPA.

In general explanation II number 2 of the UUPA explains the legal basis for the right of every citizen to obtain ownership rights to land, which states that guided by the aim of achieving the greatest prosperity of the people in order to create a just and prosperous society, the state can provide the land to a person or legal entity with rights such as property rights to land (Zamil, 2017).

The government's agrarian and land policies relate to Gogol Gilir land. Individual land originating from customary land does not always have legal status as private land;

however, they may still be recognized as state land or owned by third parties in Simarmata research, 2019). Communal owned land, also referred to as *germeen bezit*, is the right of a person or family to utilize certain land as part of village communal land which cannot be sold and is used periodically on a rotating basis (Sukirno., 2018).

Article VII paragraph (1) explains how permanent *gogolan*, *hittingen* or *sanggan* rights become property rights, and Article 20 paragraph (1) states that permanent *gogolan*, *hittingen* or *sanggan* rights become use rights in Article 41 paragraph (1), which gives the authority and obligations of the rights holder as of the entry into force of this law. Paragraph (3) states that the agrarian minister is responsible for determining whether the rights of *gogolan*, *pekulen*, or *sanggan* are permanent or non-fixed if there is doubt.

Regarding *gogolan*, *pekulen* or *sanggan* rights, it is regulated in Article 20 of the Minister of Agrarian Regulation Number 2 of 1960 which reads: 1. "Conversion of permanent *gogolan*, *pekulen* or *sanggan* rights into property rights as intended in Article VII paragraph (1) Provisions -The provisions of the Conversion of the Basic Agrarian Law are implemented with a confirmation letter from the Head of the Agrarian Inspection concerned. 2. *Gogolan*, *sanggan* or *pekulen* rights are permanent if the *gogols* continue to own the same *gogolan* land and if the *gogol* dies, the *gogol* passes to his particular heir. 3. The Head of Agrarian Inspection determines the decision letter in paragraph (1) of this article by taking into consideration the permanent or non-permanent nature of the *gogolan* rights according to the reality. 4. If there is a difference of opinion between the Head of Agrarian Inspection and the Regent/Regional Head regarding the question of whether a *gogolan* right is permanent or non-permanent, as well as if the village concerned has a different opinion with the two officials, then the matter is raised first with the Minister of Agrarian Affairs for approval. decision."

Article 3 of the Minister of Agriculture and Agrarian Affairs Regulation Number 2 of 1962 concerning Confirmation of Conversion and Registration of Former Indonesian Rights to Land regulates rights that are not described in the land title letter. These rights must be proven by an Indonesian agricultural or *verponding* tax certificate or a letter granting rights by the authorized agency, with the measurement letter included.

Village Head's statement letter confirmed by the *Wedana* assistant (district head) which contains a justification letter or letter of proof of rights, relating to information about the land to be transferred to housing or agricultural land, containing information about who has the rights, if any, accompanied by derivative sales documents buy the land as well as valid proof of citizenship from the person who has the rights. According to the provisions of Article 3, if land is subject to customary law but is not registered as land that can be converted according to the provisions of the UUPA, land rights can be obtained by submitting an "Affirmation of Rights" effort to the Head of the local Land Registration Office. After that, there must be preliminary evidence, such as tax evidence or a previous sale and purchase letter.

Furthermore, Article 24 paragraph (1) PP Number 24 of 1997 clearly states "For the purposes of registering rights, land rights originating from the conversion of old rights are proven by means of evidence regarding the existence of such rights in the form of written evidence, statements witnesses and/or statements in question whose degree of truth is considered by the Adjudication Committee in systematic land registration or by the Head of the Land Office in sporadic land registration to be sufficient to register the rights, rights holders and the rights of other parties burdening them. Paragraph (2) In the event that the complete means of proof as intended in paragraph (1) are not or are no longer available, registration of rights can be carried out based on the fact of physical control of the land plot in question for 20 (twenty) years or more consecutively. by the registration applicant and their predecessors, with the following conditions: a. Such control is carried out in good faith and openly by the person concerned as the person entitled to the land, and is confirmed by the testimony of a trustworthy person. b. "This

control, both before and during the announcement as intended in Article 26, is not disputed by the customary law community or village/sub-district concerned or any other party."

Therefore, this provision is in accordance with Article 1 Paragraph 3 of the 1945 Constitution, which states that Indonesia is a legal state. As a legal state, all its citizens are bound by applicable laws and regulations. There is no deed made by an authorized Land Deed Making Officer (PPAT) that can register the transfer of land rights and apartment ownership rights through sale and purchase, exchange, gift, entry into a company, or other means of transfer of rights, except for auction. However, in some cases, the Head of the Land Office can register the transfer of land rights and apartment ownership rights between individual citizens. Exceptions should be made for remote areas that do not yet have temporary PPATs to help communities implement land laws. Different from PP no. 10 of 1961, which stipulates that for main land that has not been registered, the deed must be witnessed by the village head or village administrator, and attended by the parties involved in the case (Ekawati, Wardhani, Prastiwi, Prayitno, & Purwanto, 2021).

However, land rights, management rights or apartment unit ownership rights can be transferred due to merger or consolidation to individuals or cooperatives without being preceded by the liquidation of the merged or merged company or cooperative. This transfer can be registered based on a deed that is proven after the merger or consolidation is ratified by the authorized official in accordance with the applicable provisions (article 43 paragraph (1) PP No. 24 of 1997). If a company or cooperative is merged or merged before the liquidation of the company or cooperative, the land rights or ownership rights to the apartment units will be transferred. The transfer of rights in the context of liquidation is documented by a deed made by the authorized PPAT.

According to the provisions of article 45 PP no. 24 of 1997, outlines that the head of the land office refuses to register the transfer of rights, if there is one of the following circumstances: (a) "Certificates and statements regarding the condition of land rights do not match the lists at the Land Office, (b) Legal actions that are not proven by a PPAT deed or quotation from auction minutes, except in certain circumstances, (c) The documents required to register the transfer of the encumbrance of the rights in question are incomplete, (d) Failure to fulfill other requirements specified in the relevant laws and regulations, (e) The land in question is the object of a dispute in court, (f) Legal actions proven by a PPAT deed are void or annulled by a court decision that has permanent legal force. (g) "The legal action was canceled by the parties before it was registered by the land office."

In the legal concept, the relationship between people and objects is a relationship called rights. This means that the right to own an object is called the property right to that object. When someone owns something, they have the right to own it. In terms of land ownership rights, there is a control process that must be gone through. This process requires occupation or occupancy to gain control and then it will become property rights for a certain period of time. Land ownership rights are regulated by Article 28 letter h paragraph (4) of the 1945 Constitution, which states that every person has the right to land ownership rights.

Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Principles Regulations, regulates land ownership rights for Indonesian citizens. Article 4 paragraph: (1) "On the basis of the State's right to control as intended in article 2, it is determined that there are various rights to the surface of the earth, called land, which can be given to and owned by people, either alone or together with other people and legal entities. (2) The land rights referred to in paragraph (1) of this article give authority to use the land concerned, as well as the body of earth and water and the space above it, as necessary for purposes directly related to the use of the land within the limits -limits according to this Law and other higher legal regulations. (3) Apart from the rights to land

as intended in paragraph (1) of this article, rights to water and outer space are also determined."

4. Conclusion

The Gogol Gilir land in Tuban Regency is owned by the state and managed by the local village government. This land is used by non-official personnel, such as community protection (linmas) and hansip, while they carry out village security duties. In other words, the responsible community receives benefits from the use of the rice fields, and the village benefits from these achievements as village security personnel. This is a change initiated by the people who work on rice fields in Tuban Regency from gogol rotation status to freehold land. This is done through village deliberations and a village head's decision letter to propose permanent gogol land. After approval by the regent, the land will be purchased by the Tuban Regency Land Office. After completion of the transition process regulated by statutory regulations, the Gogol land becomes the property of Tuban Regency. This procedure begins with a village meeting (musdes) led by the village head and village consultative body (BPD), then ratified by the regent as regional head, and then registered by the head of the Tuban Regency land office.

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