



# Legal Protection For Occupants Of Magersari Land Held For 90 Years

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**Abstract :** This study examines the form of legal protection for the community that has occupied Magersari land for approximately 90 years against illegal transfer of rights. Long-term occupation of land has given rise to certain rights for the occupants, but these rights are often threatened by illegal actions that have the potential to harm them. The approach of this study used normative juridical, examining the provisions of laws and regulations, legal doctrines, and relevant court decisions. Based on Article 24 paragraph (2) of PP No. 24 of 1997 concerning Land Registration, individuals who have physically controlled land for more than two decades in good faith and without dispute can apply for registration of land rights. This provision is very relevant to the condition of Magersari land, where the community has occupied the land for generations and is recognized by the surrounding community. Evidence of physical control, reinforced by a letter of reference from the local village office, can be used as an administrative basis for the legalization process. The results of the study confirm that legal recognition through land registration is an important step in ensuring legal certainty, protecting community rights, and preventing future agrarian disputes.

**Key words:** Legal protection, Land tenure, Magersari land

## 1. Introduction

Land has a very important position in the lives of Indonesian people. In addition to being a source of livelihood and shelter, land is also a valuable economic and social asset. Therefore, every citizen has the right to legal protection over the land they control, as stipulated in Article 33 paragraphs (3) of the 1945 Constitution of the Republic of Indonesia, which states that "the land and water and natural resources contained there in shall be controlled by the state and used for the greatest prosperity of the people". This provision affirms the role of the state in regulating, managing, and protecting the rights of the people to land (Undang-Undang Dasar 1945).

Land ownership is an important issue in land affairs, especially with population and territorial growth. Clarity on the legal status of land is necessary to provide legal certainty and reduce the risk of disputes or conflicts over rights (Wardani, 2018).

The Magersari settlement in the Kanoman Palace is an example of an area with unclear land ownership. Uncertainty over whether the land belongs to the palace, the state, or specific rights creates the risk of disputes between residents and with the authorities. Confirming the legal status of land is important to prevent conflict and ensure orderly administration (Ardhini, Novelia Tri Yuniyanto, 2018).

Land rights give a person or legal entity the authority to control, use, and utilize certain land. These rights are limited to the surface of the earth and are subject to applicable legal provisions (Santoso, 2012).

In Yogyakarta, Magersari land is known in customary law as the residential land of the customary law community. Some of it is located on Sultan Ground Land, so it has a

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dual status: subject to customary law and national regulations (Tilman, 2018). In many areas, including land under the palace or state agencies, communities often occupy Magersari land for years without a certificate. Because there is no official transfer of rights, the legal position of the occupiers is weak and prone to disputes.

Cases of land tenure lasting 90 years, such as that of Magersari land, are interesting because they involve hereditary tenure that has been open, peaceful, and without objection from other parties. Article 24(2) of Government Regulation No. 24 of 1997 on Land Registration, continuous physical possession of land for at least 20 years may serve as a basis for the recognition of land rights, provided that such possession is carried out in good faith and is free from any dispute (Peraturan Pemerintah Nomor 24 Tahun 1997). Accordingly, possession extending up to 90 years should offer occupants a solid foundation to obtain legal protection over the land they have controlled.

From the perspective of Law No. 5 of 1960 concerning Basic Agrarian Law (UUPA), the state has an obligation to provide legal certainty and protection to land rights holders through a land registration system. However, for long-time occupants such as the Magersari community, the registration process is often not carried out due to limited knowledge, costs, or unclear land status. As a result, land that has been controlled for generations is actually more vulnerable to abuse by other parties who take advantage of loopholes in the land administration system.

The legal status issues surrounding *Magersari* stem from the historical dynamics between the central government and local governments following the nationalization of land. The state holds formal authority over the granting of land rights, while local governments have long managed its use through residential permits such as the Magersari system. After the implementation of regional autonomy, the powers of both entities no longer aligned: the National Land Agency (BPN) oversees land certification, whereas local governments continue issuing occupancy permits that lack formal legal rights. This imbalance results in Magersari being recognized administratively and socially, yet lacking agrarian legitimacy, leaving its legal status unresolved.

## 2. Materials and Methods

This study uses descriptive research. Descriptive research is research that attempts to describe phenomena that occur realistically, tangibly, and in the present, because this study involves producing systematic, factual, and precise descriptions or illustrations of the facts, characteristics, and interrelationships of the phenomena under examination (Ajat, 2018). Normative juridical legal research or normative legal research is basically an activity that will examine aspects (to resolve existing problems within) the internal aspects of positive law (Benuf & Azhar, 2020). This research is conducted using secondary data. This normative legal research is based on secondary legal materials, namely research that refers to the norms contained in legislation, both related to the issues discussed, and that is Indonesian positive law (Zainal Askin Amirudin, 2012). In this study, secondary data was obtained from various written sources related to the legal issues of land tenure in Magersari and protection against illegal transfer of rights. Secondary data were employed to reinforce the theoretical and juridical analysis of the case, drawing on Law No. 5 of 1960 on the Basic Agrarian Law (UUPA), Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Apartment Units, and Land Registration, as well as relevant prior research..

## 3. Results and Discussion

### 3.1. Forms of Legal Protection for Magersari Land Residents

#### a. Legal Basis and Legal Protection for Land Tenure in Magersari

Land is an important element in national development and plays a role in supporting the welfare and prosperity of all Indonesian people. Most humans depend on land and consider it a basic necessity of life, so it is not surprising that land has a very close relationship with daily human life. Humans' needs for land are very important and varied, including a place to stand, a place of worshipping and business, farming or cultivation, utilizing natural resources in the form of mining products, and planting crops that produce food and other commodities that have economic value for human welfare. All of these activities are always related to land and are carried out on land (Sanjaya, 2023).

Property rights are one type of land rights that grant the broadest authority to the rights holder. In the Indonesian agrarian legal system, property rights are clearly regulated in Law No 5 of 1960 concerning Basic Agrarian Law (UUPA), specifically in Article 20 paragraph (1), which states that: Property rights are hereditary, strongest, and most complete rights that a person can have over land (UU No. 5 Tahun 1960).

Land rights are rights that authorize the holder to use and/or derive benefits from the land to which they have rights. The word "use" implies that the right to land is for the purpose of constructing buildings (non-agricultural), while the word "benefit" implies that the right to land is for purposes other than constructing buildings, such as for agriculture, fisheries, livestock, and plantations (Santoso, 2015).

Ownership in the context of tenure is defined as the right to possess, use, transfer, and derive benefits from property. There are three major types of property rights: private ownership, state ownership, and communal ownership (Muthiah, 2017). The Magersari settlement is historically related to the Palace, as a residence permit for *abdi dalem* (royal servants). However, legally, Magersari is not a customary right because it originates from the authority of the *swapraja*, not an autonomous customary community. After the UUPA and PP No. 224/1961, this land became state property, so the palace could no longer grant formal rights. The residence permits that remain are only a social practice, not positive legal rights (S & Fardani, 2021).

The community occupying Magersari land utilizes the land through temporary non-formal residence permits. These permits are not borrowing rights because only legal rights holders can grant them. Rights to Magersari are not uniform in duration and can end if the permit is revoked, returned, informally transferred, or the recipient dies. Legally, this land remains *de facto* control without a basis in official rights.

Property rights in Indonesia differ significantly from the control exercised over Magersari land. Property rights are full and hereditary rights that can be transferred, while Magersari has the status of state land. Its controllers cannot automatically have property rights without official procedures from the state. Linking property rights to Magersari without considering the status and conditions for granting rights can lead to errors in analysis.

To ensure that land rights are recognized by the state, owners need to register their land. Regulations on land use, utilization, and ownership are important to maintain legal certainty and prevent disputes. Legally, land also determines the existence of individual legal relationships and their impact on other parties (Rahayu et al., 2023).

Land is very important for the social, economic, and legal life of Indonesian society. Many citizens occupy land for years without legal ownership, such as in the case of Magersari land, which is state-owned or owned by other parties and occupied based on informal residence permits. The unclear legal status or transfer to third parties often causes disputes and legal uncertainty for residents.

Land ownership is an important element in Indonesian agrarian law according to the 1960 UUPA, which emphasizes the social function of land and its benefits for the welfare of the community. Legal certainty over land is important to protect individual rights while supporting equitable economic development. The UUPA requires the government to register all land and rights holders to register their rights in accordance with the provisions, as stipulated in Article 19.

Land ownership is a fundamental aspects of Indonesia's agrarian legal system, as stipulated in Law No. 5 of 1960 on the Basic Agrarian Law. The UUPA emphasizes that land has a social function and that every right to land must provide benefits for the welfare of the community. In this regard, ensuring legal clarity over land ownership is crucial, not only to guarantee the protection of individual rights, but also to support equitable national economic development. To achieve legal certainty and certainty of land rights in Indonesia, Law No. 5 of 1960 has imposed an obligation on the government to carry out land registration throughout Indonesia, in addition to requiring rights in accordance with applicable regulations, as further elaborated in Article 19 of the UUPA (Suyikati, 2019).

Legal certainty requires land registration, which aims to provide legal certainty for land rights holders, protect their rights, and prevent disputes that may arise due to unclear ownership status. This is regulated in Article 19 paragraph (1) of Law No. 5 of 1960 concerning Basic Agrarian Law (UUPA), which states that the government shall carry out land registration in Indonesia to provide legal certainty to land rights holders. In addition, this provision is explained in more detail in Article 3 of Government Regulation (PP) No. 24 of 1997 concerning Land Registration, which explains that the implementation of land registration has the following objectives: 1) To provide legal certainty and protect holders of land rights and other rights registered in the relevant land area, in order to facilitate proof of ownership; 2) To provide information to the parties concerned to facilitate the acquisition of information required to carry out legal procedures involving registered land; 3) To realize orderly land management (Christy & Pandamdari, 2025).

It is legally inaccurate to say that Magersari land is almost equivalent to Right of Use. Right of Use can only be granted through an official state decision, so historical residence permits from the palace are not equivalent to official rights. Magersari residents are only de facto rulers without formal rights, unless the state officially grants Right of Use or other rights through land procedures.

Magersari residents do not automatically receive administrative protection like registered rights holders. Protection from eviction only applies to parties with legal relationships, such as Right of Use Holders or registered tenants. Without a written agreement or state recognition, residents do not have a strong legal basis to demand eviction or revocation of rights.

The relationship between residents and the palace is not considered a legal relationship under the Basic Agrarian Law, because since Government Regulation No. 224/1961, former autonomous territory land has become state land. Permission to reside from the palace after 1960 does not create official rights or legal relationships recognized by the land administration. Control of Magersari is factual and has social and historical value, but does not provide a formal legal basis without a state designation.

Legal certainty can be obtained through written regulations that are implemented in accordance with their provisions, and land rights holders can prove themselves as rightful owners of the land, while other interested parties can easily obtain the necessary data on the land in question (Harsono, 2015). Although land registration regulations already exist, in reality, most of the land in Indonesia has not been registered, so there is a need to accelerate systematic land registration as one of the government's programs, namely Complete Systematic Land Registration (PTSL) program, as governed by the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia (Permen ATR/BPN) No. 6 of 2018 concerning Complete Systematic Land Registration. The National Land Agency (BPN) as the organizer that implements Complete Systematic Land Registration (PTSL) simultaneously throughout Indonesia, provides access for all people from various economic groups, including low-income groups, to obtain certificates (Christy & Pandamdari, 2025).

PTSL is the first land registration process, carried out simultaneously for all land parcels throughout Indonesia in a village/sub-district or equivalent area, by collecting legal and physical data on each land parcel that is the subject of land registration. PTSL objects include all land parcels, both those without encumbrances and those with boundaries, as well as those without boundaries or whose boundaries will be determined after the execution of the Complete Systematic Land Registration initiative (Wahidhadi & Sumanto, 2022).

From a legal perspective, land is an important object for human needs because it can determine the continuity and existence of legal relationships and actions carried out between individuals or groups. This is one of the reasons for the existence of land law because it can prevent conflicts among communities in regulating, using, and controlling land (Malaka, 2018).

Article 53 of the UUPA recognizes the temporary validity of customary law as long as it does not conflict with national interests. This provides a socio-historical basis for the practice of magersari, but does not make it an official land right. Magersari control is permissive, informal, and dependent on permission, so it does not result in permanent or transferable rights. The legitimacy of magersari is only recognized socially and culturally, not as a land under the UUPA.

The claim that residents face "illegal transfer of rights" must be explained juridically. In the Indonesian land registration system, BPN certificates issued procedurally are valid and have legal force until revoked by the court. Magersari residents only have de facto control without official rights, so they do not automatically receive legal protection. Social-historical considerations are relevant anthropologically,

but cannot form the basis for rights or invalidate arguments must be placed in proportion so as not to distort national law.

This issue raises a fundamental question: what form of legal protection can be provided to the residents of Magersari who have controlled the land for 90 years against the transfer of unlawful rights? Can such long-term control be recognized as ownership under Indonesian positive law, and what legal mechanisms can be pursued if there is a transfer of rights without a valid basis?.

Given this reality, it is important to study the legal protection for the occupants of Magersari land who have controlled the land for 90 years against unlawful transfer of rights. This study is expected to provide a deeper understanding of the application of the principles of legal certainty and social justice in the agrarian sector, as well as provide practical recommendations for the government and land agencies to strengthen protection for communities that have long controlled land legally according to social facts, even though they do not yet have formal legal evidence.

The notion of physical possession of land is frequently utilized as evidence to substantiate ownership claims in civil proceedings. Continuous, lawful, open, and uninterrupted possession over a certain period may serve as compelling proof to support such claims. Disputes regarding land ownership often emerge once someone is deemed the legal owner of another party's land. To address these challenges, the government must ensure proper land registration throughout Indonesia so that Ownership Certificates can be issued (Sabila et al., 2023).

Article 24(2) of Government Regulation No. 24 of 1997 does not create new rights but provides a mechanism for proving land registration when written evidence is insufficient. Physical control for more than 20 years can be evidence of long-standing rights if recognized by law. For Magersari land, which is generally state land after the *swapraja*, hereditary control does not automatically become ownership or Right of Use without an official state decree. Valid third-party certificates remain valid until revoked by the court, so claims of "illegal transfer" must go through judicial or administrative processes.

Physical possession alone does not automatically make someone the legal owner of the land. A legal and administrative verification process is still required before the land official, accompanied by research into the history of land control by village officials and the surrounding community. Therefore, for Magersari land occupants who have occupied the land for more than two decades, this provision opens up the possibility of legalizing ownership through initial land registration, as long as it can be proven that there are no conflicts or objections from other parties.

The registration of Magersari land cannot be based on "socially recognized physical control" because Government Regulation No. 24/1997 does not recognize social recognition as a basis for rights. This government regulation only regulates the proof of first registration with legal rights, such as certificates, deeds, court decisions, or physical control supported by authorized official, not the surrounding community. Long-term possession does not automatically become a land right that must be recognized or granted by the state. Therefore, the Magersari registration must follow the national land administration to ensure legal certainty.

### **b. Legal Consequences of Land Possession**

Possession of land without a certificate does not by itself grant land rights. Article 24 paragraph (2) of Government Regulation No. 24 of 1997 only provides a means of proving ownership upon initial registration, if physical possession has lasted for 20 consecutive years in good faith and without disturbance. This provision is not intended to create new rights but to facilitate the registration of existing rights under the law (Arisaputra, 2019).

Holding *Magersari* land physically for over 20 years does not result in the acquisition of ownership rights, as the land belongs to the state or the palace. Good faith is not fulfilled if the controller knows the land is not theirs. Thus, long-term control only records the social fact of land use without creating ownership rights, unless there is an official designation by the state in accordance with legal procedures.

In practice, physical control of land is issued by the village government in the form of a letter of physical control of land. The letter of physical control of land can be used as a guideline, reference, and proof of ownership for customary law communities as long as the ownership has been carried out for 20 consecutive years, with good faith and openness, and proven by the testimony of trustworthy witnesses (Salam, 2023).

A letter of physical control of land is not proof of ownership, but rather administrative evidence of control that can supplement land registration, proof of ownership must refer to legal rights in accordance with Article 23 of Government Regulation No. 24/1997, such as *girik*, *petok D*, PPAT deeds, court decisions, or rights according to customary law (Zefanya & Lukman, 2022). Therefore, physical possession, even if supported by a statement from the village head or a letter of declaration, cannot give rise to ownership rights without a prior legal basis. (Mujiburohman, 2021). Article 24 paragraph (2) of Government Regulation No. 24/1997 does not provide a legal solution for parties without legal grounds, but only facilitates the first registration for land whose rights already exist but are not yet certified. Physical possession letters serve as additional evidence when legal evidence is lacking, not as a basis for creating new rights. Therefore, the claim that physical possession letters prove ownership contradicts the principle of *rechtskadaster*, where registration aims to publish rights, not create them.

### **4. Conclusions**

Land has a vital position in Indonesian society because it is the main source of livelihood and social welfare. Within Indonesia's agrarian legal framework, the regulation of land ownership and land control aims to ensure legal certainty and protection, as outlined in Law No. 5 of 1960 on the Basic Agrarian Law (UUPA) and Government Regulation No. 24 of 1997 on Land Registration.

The most feasible pathway for *magersari* residents to obtain a legal basis without creating disputes with the certificate holder is through administrative and non-litigation approaches. The safest measures include applying for a permit to use the land or a temporary right of use, entering into a written agreement with the certificate holder (such as a lease, loan-for-use arrangement, or land-use cooperation), and engaging in mediation facilitated by the local government to produce a documented agreement. This approach provides legal legitimacy for the residents without affecting the validity of the certificate and helps reduce the risk of conflict. Filing a lawsuit in court is only appropriate if there is strong evidence of administrative irregularities in the issuance of the certificate.

This study concludes that the community's decades-long control of Magersari land does not automatically confer land rights under the national agrarian legal framework. The UUPA and PP No. 24 of 1997 emphasize that evidence of physical control only serves as an aid to proof in land registration, not as a source of independent rights. On the other hand, the status of Magersari land, which originated from former autonomous land after Government Regulation No. 224 of 1961, meant that the historical residence permits previously granted by the palace no longer had the power to establish rights before the state. The novelty of this research lies in the assertion that the root of the Magersari problem is not only the absence of certificates, but also the loss of the legal status of the autonomous permit after the land nationalization process. This explains why the transfer of rights to third parties administratively is still considered valid, even though it contradicts the reality of local community control. Based on this analysis, legal protection for Magersari residents needs to be directed towards formal mechanisms of land administration, such as the determination of rights, PTSL, or land registration that integrates long-term control into the positive legal system. This effort is important to achieve legal certainty while maintaining a sense of justice for the community that has in fact occupied the land for a long time.

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