

PIPIL DOCUMENTS LEGALITY AS PROOF OF LAND OWNERSHIP RIGHTS OWNERSHIP IN BALI

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Abstract

Pipil as proof of land ownership is not comparable in strength to a certificate. Pipil is used as proof of ownership of a land based on the Customary Agrarian Law which later became the source of the formation of the National Agrarian Law which was subsequently ratified by the Basic Agrarian Law of 1960 which was reinforced by Law No. 24 of 1997 concerning Land Registration. This study aims to find certainty that there is a legal basis for using pipil as proof of ownership rights, to provide information to the public regarding the importance of registering their land with the BPN and as a material consideration for communities who have not changed their proof of land ownership rights to the National Land Agency (BPN). The method used in this study is a normative method by studying laws and regulations and the results of research and writings from legal circles. The main topic of discussion is the legal basis for using pipil as proof of land ownership and the factors that form the basis for why there are still people who use pipil.

Keywords: Certificate, National Agrarian Law, Pipil, Proof of Land Ownership

1. INTRODUCTION

Land is a promising investment land in the future which at the same time makes it something rare and valuable. A plot of land becomes valuable and rare because land is something that cannot grow or develop, especially since we produce it using sophisticated human-made machines. However, we need to remember that development on a plot of land is not only a matter of buildings and structures but also of living things that live on it and living things that need land to support their lives. Therefore, it can be understood that the source of our main life is soil. The dependence that occurs between humans and land is very close because land existed before humans were born and humans could not be born if there was no land (Suwahyuwono, 2018).

For human life, land also provides value which includes social, economic, cultural and religious values (Suwahyuwono, 2018). Land as an inheritance that has been left by the ancestors is land that is worthless. Land ownership in Bali is carried out in a *niskala* and *sekala* manner. Land registration in Bali is done with *Nyakapin Karang* which aims to purify and unite the land with the owner of the land so that harmony and harmony arise in acting which also serves as *niskala* information that the land has been occupied and owned by someone. (Yogantara & Darna, 2020).

On a scale or in real terms, land is registered by submitting an application to the National Land Agency which is then given proof of granting a certificate to the applicant. However, because land ownership in Bali is generally owned through inheritance, letters or proof of ownership still use previous evidence, namely the *pipil* of land, since it was inherited

considering that there is no clarity to whom the ancestors inherited it because the inheritance system in Bali is in accordance with the family system it adheres to. namely the patrilineal family system. Hence, an inheritance falls automatically into the hands of the sons in the family. But this can no longer be maintained, bearing in mind that the turmoil that will be caused requires valid and authentic evidence so that it can be recognized by the state and legal in the eyes of the law.

Previously the author had explored several scientific papers related to the registration of land certificates, one of which was a scientific paper written by Sinaga (2014) with the title “*Sertifikat Hak Atas Tanah dan Implikasi terhadap Kepastian Kepemilikan Tanah*”. The discussion written is about polemics that can arise in the certification process and the implications that occur in society. And scientific writing from Febriawanti & Mansur (2020) entitled “*Dinamika Hukum Waris Adat di Masyarakat Bali pada Masa Sekarang*”. This article discusses the inheritance law system in Bali in its current condition which has involved the courts in the distribution of inheritance while still being guided by the customary inheritance system.

Based on tracing a number of scientific writings, according to the author it is important to conduct research and write about the legality of *pipil* documents which are an inheritance to be legally registered and recognized by the community and the state, considering that land in Bali is a legacy that will continue to be passed down to the next generation and where the customs in Bali take place.

This study aims to find certainty that there is a legal basis for using *pipil* as proof of ownership rights, to provide information to the public about the importance of registering their land with the National Land Agency (hereinafter referred to as BPN) and as a consideration for people who have not changed their proof of land ownership rights to the National Land Agency (BPN).

2. RESEARCH METHOD

The research method used the normative legal research method or also called doctrinal legal research which looked at norms in society to found legal principles and legal doctrines. The approach used in this research was the statutory approach (Marzuki, 2021). The making of this journal was based on primary data and secondary data. Primary data comes from Basic Agrarian Law (hereinafter referred to as UUPA) and Law No. 24 of 1997 concerning Land Registration while secondary data taken through scientific writings from scholars who had previously conducted research. In technical analysis, the authors used descriptive analysis techniques that provide reaffirmation of the research that had been done.

3. RESULT AND DISCUSSION

3.1. Legal Basis for the Use of *Pipil* as Proof of Land Ownership Rights

The definition of land ownership rights has been stated in the Basic Agrarian Law, namely Article 2 which states that the state is the owner of the highest right that controls the right to use and also determines the legal relationship between a person and legal consequences regarding earth, water and space. Article 4 of the UUPA also regulates land ownership rights that can be owned by a person, either individually or with a legal entity.

As part of human daily life which is a foothold, a source of daily livelihood and also as a symbol of wealth in certain areas which is handed down directly by ancestors to their grandchildren, such as in Bali. The land in question does not only regulate all of its parts, but also land which also regulates juridically or can be referred to as rights. Land ownership rights inherited in Bali are determined by customary provisions which also include *ulayat* rights and individual land rights (Nugroho et al., 2017).

Proof of this right is shown by the ownership of a land certificate that has been registered with the National Land Agency. The agency is an agency under the Ministry of Agrarian Affairs which is given the authority to carry out state tasks, especially in the land sector. This is based on the regulations that have been stated in the provisions of the law (Taqiyyah & Winanti, 2020). However, not infrequently the community still uses other evidence as ownership of their land, such as private ownership in Bali or a Certificate of Customary Land (hereinafter referred to as SKTA) in Central Kalimantan given by a Damang (Kayun, 2017). *Pipil* is a Tax Payment Receipt issued before 1960, the Balinese know *pipil* as proof of ownership of land rights (Pradipta et al., 2020). The use of *pipil* for evidence of land ownership is inseparable from the Customary Agrarian Law that was in force before the 1960 UUPA was codified, where ownership of land rights is based on *eigendom-recht*, namely ownership of individual property that is full and absolute, rather than land ownership by the state (Pradipta et al., 2020).

Prior to the promulgation of the agrarian law as a law containing rules regarding land, dualism and legal pluralism in Indonesia it was still valid. This was part of the consequences of the legal politics of the Dutch East Indies government. In land law, legal dualism shows that apart from being based on customary law, land law is also based on western pedate law. Based on the source, customary land law is abstract in nature to help and kinship in accordance with the nature of customary law. Meanwhile, the pluralism of customary land law shows differences based on the region or community where it applies or can be simplified to show the diversity of customs and cultures that exist in Indonesia (Utama, Arya Made I, 2017).

Surojo Wignjodipuro who has separated two types of land rights based on customary law, including:

1) Commonwealth rights to land.

Van Vollenhoven gave a new term to the union, namely *Beschikkingrecht* which in the Indonesian sense means customary rights which are also called lordship rights. The term of this right is only found in legal partnerships based on territorial equality and legal alliances based on territorial equality and blood ties (Atu Dewi, Anak Agung Istri, 2016).

2) Individual rights to land.

In this right, the partnership has the right to exercise legal ties. The legal affinity in question is the relationship between the land and its owner along with those in the land. The land ownership rights can be in the form of:

- a) Property rights over land
- b) The right to enjoy or control no more than one harvest (Arisaputra, 2011).

Regulations regarding customary agrarian law then became the beginning of the formation of the Basic Agrarian Basic Regulations Law which stipulates that in Article 19 it regulates land registration which also carries out land surveying activities, draws land maps and keeps land books, as well as registration of land rights and the transfer of these rights, and finally voting as a sign of ownership of the rights.

Meanwhile, based on national agrarian law, the acquisition of land rights is seen based on the status of available land, whether it is state land or private land. If it is state land, an application for rights must be registered with the National Land Agency (BPN). If Land Rights, then the process of obtaining the land rights by way of transfer of rights (buying and selling, exchange grants, exchange) (Anatami, 2017)

3.2. What are the factors on which *pipil* is still used as evidence of ownership of a land?

The creation of various provisions by the government is aimed at a systematic data collection process and concrete evidence in order to maintain the convenience and security of assets owned by all Indonesian people, without exception. Various provisions that have been created and codified are sourced from customary laws in Indonesia to ensure that rights that have existed for a long time can be properly maintained.

Proof of ownership rights to land from the past until now has undergone such changes in order to ensure ownership rights are confirmed. However, it is not uncommon for this goal to encounter opposition from the public both because of different views and lack of education from the government to the ancient community regarding land registration. The purpose of land registration itself has been stated in the 1960 Agrarian Law and Government Regulation Number 24 of 1997 concerning Land Registration which aims to provide legal certainty and legal protection to right holders with evidence in the form of land books and land certificates consisting of copies of land books and measurement letter (Korompis, 2018). The UUPA also regulates the legal consequences that can arise from land registration to the owner, which is regulated in Article 19 paragraphs (1) and (2) (Kumara et al., 2021).

Types of land certificates are divided into three (3), including:

1) Freehold Title.

Property rights are rights that can be used to benefit from these rights. Benefits that can be used can be in the form of objects as long as they are not against the law and violate the rights of others. Certificates with proprietary status can only apply to Indonesian citizens or citizens and can have economic value.

2) Usage Rights Certificate.

Certificates of usage rights or building use certificates are generally used in building ownership. This is because it provides usufructuary rights to use the building with non-private ownership status because the building stands on state-owned land. Building use rights certificates can be guaranteed as debt with a maximum validity period of fifty years.

3) Business Procurement Right Certificate.

Business procurement rights certificates can generally be used for land accounting responsibilities, fishponds or livestock activity. Business procurement rights are only valid for 25 – 35 years and can be extended by mutual agreement for up to twenty five years (Mahawira & Landra, 2019).

One of the factors that has become a factor for people in Bali is not to register their land with the National Land Agency (hereinafter referred to as BPN) because the land where they live is inherited land or *girik*. The inheritance system in Bali uses a mayoral inheritance system where the inheritance will go to the eldest son, especially in Bali it goes to the oldest son (Febriawanti & Mansur, 2020). This is in accordance with the kinship system in Bali which still adheres to the patrilineal kinship system or *lempeng ka purusa* (Arta et al., 2018), which gives more inheritance rights to sons - considering that the burden that will be borne by a son is wider than that of a daughter who will enter (*nyeburin*) into the husband's family after marriage later (Wayan & Sudantra, 2016). In this inherited land or *girik*, there are more than one family who inhabit the inherited land, because sons will not leave their families. Unless the boy does a *nyentana* marriage into the girl's family. *Nyentana* or *nyeburin* marriages are marriages in which everything starts from the woman's side, starting from the application procession to the wedding carried out by the woman (Astiti, Putra Astiti Tjok, 2017).

Because in this inherited land there is more than one family head who lives, this is the main factor that people in Bali have not registered their ownership rights to their land with a certificate as valid proof in the eyes of the law.

Even so, the existence of the land must still be converted to BPN in order to subsequently obtain a certificate for proof of ownership in order to avoid the emergence of juridical problems (Sinaga, 2014). On the basis of Government Regulation No. 10 of 1961 or Government Regulation No. 24 of 1997, the real owner can take the procedure for changing ownership and then obtain proof of ownership on behalf of the real owner as the applicant. The conditions that must be met to make the change are as follows:

1) Management in the Village

a) Certificate of no dispute.

It is necessary to ensure that the land being managed is not problematic land. This can be proven by the applicant having valid evidence. As supporting evidence, the applicant also provides signatures from the Head of the Environment and the authorized traditional leaders.

b) Certificate of Land History.

The second requirement is to provide a land history letter to explain in writing the owner's history of acquiring land, starting from the registration at the ward to the current owner's ownership. For example, inherited land that has been sold and the portion of land that has been transferred is also recorded and explained.

c) Certificate of Sporadic Land Ownership.

This land certificate provides information regarding the acquisition date of a land.

2) Management at the Land Office.

a) Apply for a certificate.

This submission requires several documents to support the issuance of a land certificate. The documents needed include: attaching documents that have been previously issued by the village, identity card and family card of the applicant, ongoing annual land and building tax, and other required documents.

- b) Measurement.
The measurement of the land area will be carried out by the land officer after the documents are declared appropriate and the documents are obtained from the land office.
- c) Approval letter
Land measurements that have been completed by officers will then be printed and mapped by BPN signed by the authorized official as a form of validation.
- d) Committee Officer A.
Committee A members are a combination of BPN officers and the local village chief tasked with conducting research on the land for which the certificate is being applied for.
- e) Announcement of data at the Village chief Office and the State Land Agency Office.
Announcement of data made at the village chief office and the BPN office is in the form of information regarding the applicant's legal status for sixty days. This refers to Article 26 Government Regulation Number 24 of 1997 concerning Land Registration with the aim of providing certainty that after the legal status of the land is ascertained there are no parties who object.
- f) Issuance of Certificate of Land Rights.
A Certificate of Land Rights can be issued if after sixty days no party has objections to the legal status of the land. Ownership proven by *pipil* can be replaced by the issuance of a Certificate of Ownership.
- g) Acquisition Duty of Right on Land and Building (BPHTB)
BPHTB payments are adjusted to the land area and the Sales Value of Tax Objects (NJOP).
- h) Registration of Certificate of Right to issue a certificate.
The next stage is the registration of a Certificate of Rights which is marked by the issuance of a certificate for Registration of Rights and Information (PHI).
- i) Certificate Retrieval.
For the last stage, namely taking the certificate of ownership, the owner can take the certificate at the counter that has been provided at the BPN office (Indonesia.Go.ID, 2021).

In order to provide smoothness in the land registration process, the Government implements a program based on Ministerial Regulation (hereinafter referred to as PERMEN) No. 2 of 2015 which created the Community Service for Land Certification (LARASITA) program as an e-government based service to assist communities in certifying land to facilitate certainty, open and systematic flow to improve service delivery to the public to support the implementation of one-stop integrated services according to what has been stipulated in Presidential Decree No. 97 of 2014 (Rampi, 2018).

4. CONCLUSION

Proof of ownership of a land in the form of *pipil* is based on customary agrarian law which was subsequently ratified through the 1960 Basic Agrarian Law which was further regulated through Government Regulation Number 24 of 1997 concerning Land

Registration. *Pipil* as proof of land ownership must be certified immediately. The factor that underlies the community's not yet registering their land with the BPN and obtaining a certificate is that the land is inherited land or *girik* land that is occupied by more than one family head. Nonetheless, land ownership as evidenced by a certificate is an important matter and has legal force and cannot be contested unless there are other documents as opponents. The process of registering inherited land or **girik** land at the BPN is required to go through two stages, namely registering at the subdistrict office and then registering at the land office.

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