



## **Implementation of the Principle of Accountability in the name Transfer Procedure of Property Rights Certificate at the Land Office Jayapura District**

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### **Abstract**

To ensure legal certainty, it is important to fulfill obligations during the process of changing the name on the title certificate at the Jayapura Regency Land Office. The aim of this research is to determine the application of the principle of Accountability in the process of changing the name of a property rights certificate at the Jayapura Regency Land Office and to identify the variables that cause this process to encounter obstacles. The research approach used is normative, meaning it refers to secondary legal materials such as books, articles, written regulations and other legal documents. The findings of this research indicate that the Jayapura Regency Land Office, in accordance with the Republic of Indonesia PERKABAN, has implemented the principle of accountability fully and correctly in the process of submitting title transfers for land ownership certificates. There are 2 (two) obstacles, both internal and external, in implementing land ownership rights at the Jayapura Regency Land Office. Internal obstacles include a lack of human resources and the large volume of applications that have been submitted to the Jayapura Regency Land Office. Meanwhile there are external challenges, such as the large number of heirs and tax arrears.

**Keywords:** Implementation, Principles of Accountability, Procedures, Transfer of Names, Certificates

### **Introduction**

In fact, the term "land" refers to the surface of the earth, with the limitations of its use, as well as the body of the earth beneath it and the space above it. If someone has the rights outlined in the UUPA, then that person is the land owner. Land rights are the legal right to use a certain area or territory on the surface of the earth, including the land itself, water bodies below it, and the space above it, with the limitation that it can only be used for personal

interests and not as a means of obtaining property (Boedi Harsono, 2008). Because land that exists now or in the future is very important for human life, it is not surprising that everyone wants to own or control it, which causes land disputes or problems. As a result, according to Indonesian land law, every owner of land rights must revoke his rights or register his ownership rights (Boedi Harsono, 1999).

The Republic of Indonesia is a unitary state that guarantees and protects the rights of citizens, including their ability to acquire, own and enjoy land rights. Implementing state expertise on the allocation and management of natural resources (Adrian Sutedi, 2018).

Land has an economic value that continues to increase over time, apart from residence, place of business, or buying and selling. It must be clear who owns the land or building, whether the owner is still the same as the first or whether it has been transferred to a second or third party but the certificate is still in the name of the first owner. Therefore, to ensure legal certainty, people in Jayapura Regency should be more careful about the completeness of documents for land or buildings that they wish to sell to other parties. If the complete documents are available then the status of the land clearly belongs to person A or person B.

With change, population growth, and economic progress, human needs will increase. Likewise, land prices always rise due to the conflict between demand for land which increases day by day and limited land supply. People always try to own and control land because it is very important for human life and because land prices continue to increase (Boedi Harsono, 2010).

According to the Basic Agrarian Law Number 5 of 1960, every transfer of ownership rights to land must be submitted to the local Land Office. This regulation regulates the implementation of registration of ownership rights to land by buying and selling. To reveal to a third party that there has been a sale and purchase of a plot of land, the transfer of rights must be disclosed.

Land rights must be secured, with a land title certificate as the final result, to guarantee legal certainty over these rights. Land ownership certificates are a reliable source of evidence. According to UUPA Article 19 Paragraph 2 Letter C, this is the most crucial task. If the name appears clearly on the certificate, a person or legal entity can easily determine that he or she is the owner of the rights to a particular piece of land (Adrian Sutedi, 2011).

Rights imposed on people or bodies that obtain rights to land and/or buildings. When a person or organization purchases rights to land or buildings, it can be interpreted that they place a higher value on those rights, where some people may not have the means to purchase land or buildings.

Even though the name change process may only take 7-20 days, in practice there are cases where it takes longer, up to months, and the applicant does not receive a name change certificate, especially in Jayapura Regency. This is also supported by the fact from the local community that the information for changing the name of the certificate has not yet been processed at the Jayapura Regency Land Agency Office. This long process of course makes people who have bought and sold land have doubts about the quality of the work of BPN employees and services.

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### **Literatur Review**

Basically, the term "certificate" comes from English (certificate) which means a diploma or statement made and issued by an authorized official. By providing this certificate, it means that the official concerned has provided a status regarding a person's condition. The term "Land Certificate" in Indonesian is also interpreted as a certificate of proof of the holder of land rights and acts as a strong means of proof of ownership of a plot of land (Eli Wuria Dewi, 2014).

In Government Regulation Number 24 of 1997 concerning Land Registration in Article 1 number 20 explains that: Certificate is a letter of proof of rights as intended in Article 19 paragraph (2) letter (c) UUPA for land rights, management rights, waqf land rights ownership of the apartment unit, the respective mortgage rights have been recorded in the relevant land book.

Article 7 of Law Number 28 of 1999 explains that what is meant by the principle of accountability is the principle which determines that every activity and result of state administration activities must be accountable to the community/people as the holder of the highest sovereignty of the state in accordance with the provisions of the applicable laws and regulations. .

### **Research Method**

The method used for this research is the Normative Juridical Legal Research method. The Normative Juridical approach is "an approach that refers to the laws and regulations in force" or known as doctrinal legal research. The methodology of doctrinal legal research explains legal issues based on doctrines or previous legal opinions relevant to the legal issues under discussion. Therefore, this thesis is more based on theoretical foundations in identifying the core issues, guided by literature studies or document studies on secondary data.

The researcher reads or conducts library studies on books related to the researched issues, then collects legal materials and data related to the researcher's issues. In this research, the researcher gathers legal materials, both primary and secondary legal materials, then categorizes them based on their types, and analyzes or examines the legal materials according to the research problem formulation.

The analysis used in this thesis is analyzed using normative qualitative analysis, which is a research technique that does not involve processing legal materials and is presented in the form of sentence descriptions or comprehensive data explanations. Then, it is analyzed using a perspective, namely analyzing issues based on existing rules.

### **Result and Discussion**

In general, people in Jayapura Regency do not understand well what is behind the name of a good certificate and what its uses are. Likewise, based on the rules or time period, just think that if you already have a certificate, it means that you have the right to the land or building. However, if the owner of the land and building has died, the heirs must immediately change the name of the certificate so that it has clear legal status and can carry out legal

actions in accordance with applicable regulations. The same as buying and selling land from the owner who has the rights to the land and building and has a certificate. If you have made a sale and purchase deed before a notary, you must immediately transfer the name to the certificate. So that the new owner of the land is recognized by law and can carry out appropriate legal actions in accordance with applicable legislation.

The procedure for changing the name of a land title certificate at the Jayapura Regency Land Office is:

1. Certificate is registered. Registration must not only be carried out on property that has not been registered (not yet received a certificate), but also on property that has been certified but there has been a change in ownership of the property.
2. Inspection of files at the Land Office. The files will be checked by the appropriate agency when they arrive at the Land Office. To prevent errors or discrepancies in applicant data, self-checking is carried out. In accordance with the Service Standards and Land Management Regulations issued by PERKABAN RI. No. 1 of 2010.
3. Registration of rights is subject to a fee. Of course, there are costs that must be incurred if we want to maintain or need this institution, just like other government agencies. The fees referred to are services required by the applicant in accordance with applicable regulations regarding the procedures for transferring the name of the title certificate.
4. Done within 7 to 20 days. In carrying out their duties and responsibilities, officers or employees from the Land Office must be able to complete the transfer of names according to the time specified.
5. Issuance of Certificates. In accordance with the physical and legal information that has been regulated in the land book.

Internal and external obstacles such as the following are some of the things that usually become obstacles in the process of changing the name on a land certificate:

1) Internal Constraints

- a. Human Resources (HR). The ability of an organization to achieve its goals depends on its human resources. The Land Office may experience difficulties in its operations and services due to a lack of human resources. The current era of information technology demands fast action to complete tasks. However, all human resources do not have the same ability to implement innovation today, the situation is as it is today.
- b. The number of requests received exceeds the capacity of the officers working on them. The Land Office service process is hampered by the mounting workload and insufficient Human Resources (HR). Energy requirements increase with work volume. The Land Office receives a large number of applications, which often overwhelms its staff, resulting in services not being as expected.

2) External Constraints

- a) The heirs live far away. Dividing an inheritance among many heirs or transferring rights to land that is jointly owned often raises its own problems. Transfer of ownership rights to property owned jointly by several heirs and requires unanimous consent from all heirs before it can be sold to a third party. It will be difficult for PPAT to execute the deed if the heirs are spread throughout Indonesia and far from each other, because it is difficult to find them one by one. Usually a power of

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attorney will be made and notified to the authorized official to handle this for heirs who are unable to attend. Once signed, the power of attorney is returned as the basis for making the deed.

- b) There are unpaid tax arrears. Until the Transfer Tax (PPH and BPHTB) owed is paid in full as proven by proof of payment, PPAT is not permitted to transfer the deed. The fact that the tax owed must be paid first is usually not understood by the parties. Because the person concerned must sign the SSPD BPHTB, sign the PPAT, pay to the bank, and report to the Tax Service Office before fulfilling these requirements, it seems that the process is complicated. This will be a challenge for individuals who live outside the city and require travel time.

### **Conclusion**

Based on the research results above, the author can conclude as follows:

1. The Jayapura Regency Land Office, in accordance with the Regulation of the Head of the National Land Agency of the Republic of Indonesia (PERKABAN RI), is responsible for ensuring that the principle of accountability has been fully implemented in the process of transferring names on certificates as well as based on SOP No. 1 of 2010 relates to service standards and land agreements where the community must be served according to procedures and there is no favoritism, familiarity or irregularity. The specified time must be in accordance with existing regulations so that the community is satisfied with the service from BPN officers.
2. At the Jayapura Regency Land Office there are internal and external obstacles that hinder the transfer of land certificates. Internal barriers include a lack of human resources (HR) and the volume of applications received there. The large number of distant heirs, as well as the need to hide tax arrears, are external obstacles.

### **Recommendation**

Based on the conclusions above, the author can suggest the following:

- 1) The government hopes that the Papua Province BPN can work together with the Regency/City Land Office in the future to increase reliable human resources, understand their duties and responsibilities and must ensure that Land Office employees can continue to provide excellent service to the community regardless of who comes, who those we know or our own relatives, officers still have to be fair and work according to the rules that have been set.
- 2) Residents of Jayapura Regency who also wish to apply for a land title certificate must be prepared and pay close attention to the documents required by the Land Office and the applicant's obligation to pay the applicable taxes. The Land Office will automatically take longer to process the name change application if the debt is not paid in full or there are arrears. Apart from that, there is also a lack of cooperation from the community and BPN officers. If something is missing or incomplete, there must be communication so that

everything in the future can run smoothly according to the plans desired by both the applicant and the officers.

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