

Legal Counseling on Changing the Status of Building Use Rights to Ownership Rights in Merjosari Village, Lowokmaru District, Malang City

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Abstract

In 1997 the government regulated the policy of granting ownership rights to very simple houses and simple houses through KMNA/KBPN No. 9 of 1997 and KMNA/KBPN No. 6 of 1998 concerning Granting Ownership Rights to Residential Houses. The existence of this decision is very beneficial for land owners and residential houses located in housing complexes built by developers and for Indonesian citizens who own land with Building Use Rights for residential homes, it is easy to obtain changes to their land rights into Ownership Rights. To address the fact that in the statutory regulations, regulations regarding changing the status of Building Use Rights to Ownership Rights, it is deemed necessary to provide counselling / lectures so that the community in Merjosari Village, Lowokmaru District, Malang City knows the process and obstacles encountered in changing the status of Use Rights. The building becomes property rights. The counselling / lecture on the topic of changing the status of Building Use Rights to Ownership Rights involved lecturers from the Law Faculty of Cipta Wacana Christian University as a service team and involved law students from Cipta Wacana Christian University. Community service activities carried out in Merjosari Village, Lowokmaru District, Malang City can be said to have been carried out well in accordance with expectations.

1. Introduction

Land has an important meaning in the life of the Indonesian people, considering that the Republic of Indonesia is an agricultural country whose people's lives largely depend on land. Apart from being used as a place to live, land also functions as agricultural land, plantations and so on. Because humans and land have a close relationship very closely, because land is a source of life and a place to earn a living. Everyone certainly needs land, the area of land that can be controlled by humans is very limited.

Apart from land, buildings are also important objects for humans. Buildings in the form of residential houses provide benefits for the owner as well as a place for activities. 1 Before the enactment of Law No. 5 of 1960 concerning Basic Agrarian Principles (hereinafter referred to as UUPA), land law in Indonesia was dualistic, meaning that in addition to recognizing the validity of land law customs originate from customary law, it is also recognized that land regulations are based on western law. After the enactment of the UUPA on September 24 1960, the period of dualism in Indonesian land law ended and became a unification of land law. Property Rights as a legal institution in land law have been regulated both in land law before the UUPA, as well as in the UUPA. 2 Land rights are one of the individual rights to land. Individual rights to land are rights that authorize the holder of the rights (an individual, a group of people together, a legal entity) to use, in the sense of controlling, using, and/or benefiting from a particular plot of land. 3 Rights to land are a right that authorizes the holder of the right to use the land or take advantage of the land to which he has ownership. The word use implies that the right to the land is used for building (non-agricultural) purposes, while the word take advantage implies that the right to the land is used for non-building purposes, for example for agricultural, fisheries, animal husbandry and plantation purposes. The legal basis for granting land rights to individuals or legal entities is contained in Article 4 paragraph (1) of the UUPA. To understand the Property Rights regulated in the UUPA, the provisions regarding Property Rights will be explained as in Article 16 paragraph (1) letter a of the UUPA. Specifically regulated in Articles 20 to 27 of the UUPA.

According to Article 50 paragraph (1) UUPA states that, "Further provisions regarding Property Rights are regulated by law". The law in question has not yet been formed, for this reason Article 56 of the UUPA has been implemented. The definition of property rights according to Article 20 paragraph (1) of the UUPA which states that: "Ownership rights are hereditary, strongest and fullest rights that people can have over land by remembering the provisions in Article 6".

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This is different from building use rights which are intended for residential homes and offices. In principle, building use rights holders are not that different from ownership rights holders, except that building use rights are limited to the use of the land. The owner of the Building Use Rights must extend the validity period. In various Decrees of the Minister of State for Agrarian Affairs/Head of BPN, Building Use Rights held by Indonesian citizens for residential houses, with the conditions stipulated therein, through short and inexpensive procedures, with the relevant decisions generally being changed or granted with Rights Owned by. The consideration is that in accordance with the spirit and provisions of the UUPA, property rights which are not limited in validity period are land rights which are provided and therefore the most appropriate for Indonesian citizens, for their personal and family needs.⁴

In 1997 the government regulated the policy of granting ownership rights to very simple houses and simple houses through KMNA/KBPN No. 9 of 1997 and KMNA/KBPN No. 6 of 1998 concerning Granting Ownership Rights to Residential Homes. The existence of this decision is very beneficial for land owners and residential houses located in housing complexes built by developers and for Indonesian citizens who own land with Building Use Rights for residential homes to get ease in obtaining changes to their land rights to Ownership Rights.

To address this, in the statutory regulations regarding changing the status of Building Use Rights to Ownership Rights, it is deemed necessary to provide counseling/lectures so that the community in Merjosari Village, Lowokmaru District, Malang City knows the process and obstacles encountered in changing the status of Use Rights. The building becomes property rights.

2. Method

A. Realization of Problem Solving

The problem will be solved by involving lecturers from the Faculty of Law at Cipta Wacana Christian University as a service team as well as involving students from the Bachelor of Laws at Cipta Wacana Christian University, who will then provide an understanding of the process of changing the status of Building Use Rights to Ownership Rights. After being given a presentation, counseling/lecture, the participants will be actively involved, giving the participants the opportunity to ask questions related to the material presented. Apart from that, activities will also be equipped with the provision of related documents, so that they can provide suitable solutions to solve problems.

The community service activities will be carried out for 4 (four) months starting from June 1 to September 30 2021.

B. Target Audience

The target audience for the service is the entire community in Merjosari Village, Lowokmaru District, Malang City. No less important, the main target is the community members who have used the land for residence.

C. Activity Method

The method used in carrying out community service activities is by providing counseling/lectures, followed by questions and answers to obtain results and solutions as a form of solving problems and obstacles faced, by providing examples of cases that have occurred. When providing counseling/lectures, the equipment used to make it easier to convey the material is a laptop and LCD projector, making it easier for the public to understand the topics being presented.

3. Result and Discussion

Community service activities carried out in Merjosari Village, Lowokmaru District, Malang City can be said to have been carried out well according to expectations. The driving factor for implementing this activity is an effort to implement the Tri Dharma of Higher Education, one of which is community service.

It can be said that community service activities in Merjosari sub-district have quite high community enthusiasm. This was seen when the Service Team distributed material handouts which were followed by community participation in attending lectures, listening and taking notes on important things presented in the lectures, apart from that there were also several community members who asked questions. Until the end of the event, none of the participants left the place. This shows that the community really needs

legal education regarding changing the status of Building Use Rights to Ownership Rights. So the Community Service lecture material presented by the service team is very right on target. The atmosphere during the activity is presented in Figure 1.



Figure 1. Atmosphere during the activity

The positive response from the community in the implementation of counseling/lectures was felt, considering that in the initial stages the Service Team had previously provided a general description of the target audience for the service. The lecture material which took + 60 (sixty) minutes was delivered by Erlyna Setiawati, Team Leader from the Faculty of Law, Cipta Wacana Christian University. He explained that land with Building Use Rights status can have its status changed to Ownership Rights. Applicants who wish to submit changes

This is only for Indonesian citizens with an area of less than 600 square meters, the applicant or owner has controlled and used a residence with Building Use Rights status continuously as proven by a statement of physical control of the land plot. Requirements for submitting an application to change the status of Building Use Rights to Ownership Rights include:

1. Fill in the form provided by the Land Office National;
2. Fill out and complete the application letter for changing Building Use Rights to Ownership Rights;
3. Attach supporting documents:
 - Original Certificate of Original Building Use Rights requested to be converted into Ownership Rights;
 - Sale and Purchase Deed or Letter of Acquisition regarding the house and land concerned;
 - Letter of approval from the Mortgage Right holder, if the land is encumbered with Mortgage Rights;
 - Photocopy of Building Construction Permit (IMB) which permits it to be used for building construction (states that the building is intended for residence or a certificate from the local Village/Subdistrict Head, if the IMB has not been issued by the authorized agency)
 - Proof of personal identity or applicant's identity
 - Photocopy of the latest PBB SPPT (Land and Building Tax), specifically for land with an area of 200 square meters or more)
 - Letter of application to the Head of the local Land Office
 - Declaration of ownership of no more than 5 plots of land, all of which cover an area of no more than 5000 square meters.
 - Tax: (Land NJOP – 20 million) x 2%
4. Pay additional court fees:
 - Can use the services of a Notary and PPAT (Land Deed Official) to process Building Use Rights into Ownership Rights.
 - The legal basis is the Decree of the Minister of State for Agrarian Affairs/KBPN No. 6 of 1998.

Apart from that, the presenter also outlined the legal basis for changing the status of Building Use Rights to Ownership Rights, including:

1. Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles;
2. Decree of the Minister of State for Agrarian Affairs/KBPN No.9 of 1997 concerning Granting Ownership Rights to Land for Very Simple Houses (RSS) and Simple Houses (RS);
3. Decree of the Minister of State for Agrarian Affairs/KBPN No.15 of 1997 concerning Amendments to Decree of the Minister of State for Agrarian Affairs/KBPN No.9 of 1997 concerning the Granting of Ownership Rights to Land for Very Simple Flats (RSS) and Simple Houses (RS);
4. Decree of the Minister of State for Agrarian Affairs/KBPN No.1 of 1998 concerning the Expansion of Granting Ownership Rights to Land for RSS/RS According to Decree of the Minister of State for Agrarian Affairs/KBPN No.9 of 1997;
5. Decree of the Minister of State for Agrarian Affairs/KBPN No.2 of 1998 concerning the Granting of Ownership Rights to Land for Residential Houses Purchased by Civil Servants from the Government;
6. Decree of the Minister of State for Agrarian Affairs/KBPN No.6 of 1998 concerning Granting Ownership Rights to Land for Residential Homes;
7. Regulation of the Minister of State for Agrarian Affairs/KBPN No. 4 of 1998 concerning Guidelines for Determining Income Money in Granting Rights to State Land;
8. Regulation of the Minister of State for Agrarian Affairs/KBPN No. 4 of 1998 concerning Guidelines for Determining Income Money in Granting Rights to State Land;
9. Before the Service Team ended the counseling/lecture, one of the community members named Wayan Kariada asked a question. He asked about the process for changing the status of Building Use Rights to become Ownership Rights. One of the Service Team members answered this question. A person who will carry out the legal act of changing Building Use Rights to Ownership Rights is carried out before a Notary-PPAT, the applicant will sign a deed of Relinquishment of Land Rights along with filling in the form from the Head of the Land Office and submitting the necessary supporting documents. The file will be processed by the National Land Agency where the object/land is located.

4. Conclusion

In the process of changing the status of Building Use Rights to Ownership Rights, the applicant is required to fill in a form from the National Land Office, a photocopy of the building construction permit (IMB), a photocopy of the last PBB SPPT (Land and Building Tax), a letter stating that he does not own more land. from 5 plots which all cover an area of not more than 5000 square meters, Letter of approval from the Mortgage Right holder if the land is encumbered with Mortgage Rights; Proof of the applicant's personal identity or identity and the most important thing is the original Building Use Rights certificate whose status will be changed to Ownership Rights. If the applicant does not fulfill these requirements, the status change process cannot be carried out.

Obstacles encountered in the process of changing the status of Building Use Rights to Ownership Rights are due to the community of Penatih Village not understanding the process of changing the status of Building Use Rights to Ownership Rights, as well as the applicant's lack of awareness of completing the requirements that have been determined by the relevant agencies in particular Land Agency Office, so the process of issuing the Ownership Certificate takes quite a long time.

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