

Juridical Review Of The Land Dispute Over Right To Build Between Pundenrejo Farmers And PT. Laju Perdana Indah (Study In Pati Regency)

Tinjauan Yuridis Terhadap Sengketa Tanah Hak Guna Bangunan Antara Petani Pundenrejo Dan PT. Laju Perdana Indah (Studi Di Kabupaten Pati)

Maghfirotul Aulia ✉
Universitas Negeri Semarang, Indonesia
mghfrtlaly@students.unnes.ac.id

✉ Corresponding Email:
mghfrtlaly@students.unnes.ac.id

Abstract

In the context of an agrarian country like Indonesia, land not only has strong economic value, but also social and cultural value, especially for rural communities who depend on the agricultural sector for their livelihoods. This is the case in Pundenrejo Village, Pati Regency, where there is a dispute between local farmers and PT LPI, which has an HGB on land that is also claimed as cultivated land by residents. The land



Author(s). This work licensed under a Creative Commons Attribution-ShareAlike 4.0 International (CC BY-NC-SA 4.0). All writings published in this journal are personal views of the author and do not represent the views of this journal and the author's affiliated institutions. The Journal is published biannually by the Faculty of Law, Universitas Negeri Semarang, Indonesia.

dispute between Pundenrejo farmers and PT Laju Perdana Indah (PT LPI) in Pati Regency reflects the complexity of agrarian problems in Indonesia, especially related to the issuance of Right To Build (HGB) on land that is still the object of community claims. This research aims to examine juridically the process of issuing HGB to PT LPI as well as legal protection for people who have claims of inheritance Right to the land. The research method used is normative juridical with a document study approach and relevant legislation. The results show that the issuance of HGB to PT LPI has not fully fulfilled the principle of "clean and clear" as stipulated in UUPA No 5 of 1960. Therefore, it is necessary to improve the HGB issuance mechanism through land ownership audits, public consultation, and participatory dispute resolution to realize legal certainty and justice for all parties.

KEYWORDS: *Land Disputes, Right To Build, Legal Protection, Agrarian, Pundenrejo*

Abstrak

Dalam konteks negara agraris seperti Indonesia, tanah tidak hanya memiliki nilai ekonomi yang kuat, tetapi juga nilai sosial dan budaya, terutama bagi masyarakat pedesaan yang menggantungkan hidupnya pada sektor pertanian. Hal ini terjadi di Desa Pundenrejo, Kabupaten Pati, di mana terjadi sengketa antara petani setempat dengan PT LPI yang memiliki HGB di atas tanah yang juga diklaim sebagai tanah garapan warga. Sengketa tanah antara petani Pundenrejo dengan PT Laju Perdana Indah (PT LPI) di Kabupaten Pati mencerminkan kompleksitas permasalahan agraria di Indonesia, khususnya terkait penerbitan Hak Guna Bangunan (HGB) di atas tanah yang masih menjadi objek klaim masyarakat. Penelitian ini bertujuan untuk mengkaji secara yuridis proses penerbitan HGB kepada PT LPI serta perlindungan hukum bagi masyarakat yang memiliki klaim hak waris atas tanah tersebut. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan studi dokumen dan peraturan perundang-undangan yang relevan. Hasil penelitian menunjukkan bahwa penerbitan HGB

kepada PT LPI belum sepenuhnya memenuhi asas “clean and clear” sebagaimana diatur dalam UUPA No. 5 Tahun 1960. Oleh karena itu, perlu dilakukan perbaikan mekanisme penerbitan HGB melalui audit kepemilikan tanah, konsultasi publik, dan penyelesaian sengketa secara partisipatif untuk mewujudkan kepastian hukum dan keadilan bagi semua pihak.

KATA KUNCI: *Sengketa Tanah, Hak Guna Bangunan, Perlindungan Hukum, Agraria, Pundenrejo*

Introduction

Land is a natural resource that has an important meaning in human life, both as a place to live, a source of livelihood, and as an object of investment and development. In the context of an agrarian country like Indonesia, land not only has strong economic value, but also social and cultural value, especially for rural communities who depend on livelihood from the agricultural sector.¹

However, economic development and investment in the industrial and plantation sectors have caused various problems in land tenure and utilization. One form of land Right that is often in conflict on the ground is HGB, which is the Right to erect buildings on land that does not belong to them, which is granted by the state within a certain period of time.²

The problem becomes complex when the granting of these Right intersects with local communities who have been managing and controlling land for generations, even though they do not have a title certificate. This happened in Pundenrejo Village, Pati Regency, where there was a dispute between local farmers and PT. LPI which owns HGB on land that is also claimed as cultivated land by residents. This dispute raises fundamental questions about the legality of land tenure by both parties, as well as the extent to which the state provides

¹ Harsono, Boedi. 2005. *Hukum Agraria Indonesia*. Jakarta: Djambatan.

² Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria. Pasal 35.

protection for the Community's Right to land that has not been formally registered.³

Land disputes between the people and corporations like this reflect the weak implementation of agrarian reform and the overlap between state law and customary law or social facts on the ground. Many parties consider that the state is often more in favor of the interests of investors than small communities, because of the development orientation that is economic-centric.⁴

The importance of land for humans as individuals and the state as the highest organization of society is constitutionally regulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI Tahun 1945) which states that: "The land, water and natural resources contained therein shall be controlled by the state and utilized for the greatest prosperity of the people".

As a follow-up to Article 33 paragraph (3) of the 1945 Constitution relating to land, Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles (UUPA) was issued, one of the objectives of which is to provide legal certainty with regard to land Right held by the community. The difference between earth and land is contained in the UUPA as stated in Article 1 paragraph (4) of the UUPA stipulates that: "In the definition of earth, in addition to the surface of the earth, includes the body of the earth underneath and under the water".

The meaning of disputes and conflicts is close to each other, so to obtain a comprehensive understanding, it is necessary to know the meaning of the terms dispute and conflict. According to the great Indonesian dictionary, disputes are anything that causes differences of opinion, disputes, and disputes. While a conflict is a quarrel or dispute. According to Rachmadi Usman, a conflict will not develop into a dispute if the aggrieved party only harbors their feelings of dissatisfaction or concern. A conflict will develop into a dispute if the aggrieved

³ Fitriani, Rina. 2018. "Konflik Agraria di Indonesia: Tinjauan Kritis Terhadap Hukum Pertanahan Nasional". *Jurnal Hukum dan Pembangunan*, Vol. 48 No. 1, hlm. 120–135.

⁴ Zen, Marwan. 2016. *Reforma Agraria dan Penyelesaian Konflik Agraria*. Yogyakarta: Pustaka Pelajar.

party has expressed dissatisfaction or concern, either directly or indirectly.

The land dispute between Pundenrejo Farmers and PT. Laju Perdana Indah (PT. LPI) in Tayu District, Pati Regency, Central Java, has a complex background and is closely related to agrarian history in Indonesia. This conflict not only involves economic interests, but also touches on the social and cultural aspects of the local community. Based on LBH Semarang (2024)⁵, this conflict has its roots in land grabbing events that occurred in 1965, when the military took over land previously managed by the local community.

This 7.3-hectare land, which is now a Right To Build (HGB) under the control of PT LPI, has become a source of tension between companies and farmers who claim the Right to the land as their ancestors' inheritance. In 1965, in an unstable political and social context, the military took control of agricultural land managed by Pundenrejo residents.⁶ The land was previously under Dutch colonial control before being controlled by the military, which was then handed over to the Company for the development of sugarcane farming. Since the seizure. The people of Pundenrejo have lost access to land that is their source of livelihood. Although the land is controlled by PT. LPI, many farmers still feel that they have the land based on hereditary use.

Pundenrejo farmers have been fighting for decades to regain their Right to land. They have taken various actions, including demonstrations and hearings with government agencies such as the Ministry of ATR/BPN⁷ and Komnas HAM, to demand the return of the land and stop the Company's activities that are considered detrimental. They demanded that the government not give a new permit to PT LPI and return the land to the community. The demonstrations carried out by the

⁵ Lembaga Bantuan Hukum Semarang, "BPN PATI TIDAK BERANI MEMUTUSKAN MENOLAK PERMOHONAN HAK BARU PT LPI: PETANI PUNDENREJO AKAN KEMBALI GELAR AKSI". Diakses pada 22 Januari 2025.

⁶ Yanuarwati, Wulan. (2024). Selesaikan Konflik Lahan Petani Pundenrejo vs Perusahaan Tebu. Diakses pada 26 Juli 2024.

⁷ Lembaga Bantuan Hukum Semarang, "BPN PATI TIDAK BERANI MEMUTUSKAN MENOLAK PERMOHONAN HAK BARU PT LPI: PETANI PUNDENREJO AKAN KEMBALI GELAR AKSI". Diakses pada 22 Januari 2025.

peasants show the growing tensions between the two sides, as well as illustrate their struggle to regain the Right to the land that has been their source of livelihood for years.

This conflict does not only involve legal aspects, but also social and economic aspects. Farmers feel marginalized and do not get justice, while companies operate under legal permits.⁸ This creates ongoing tensions, with farmers fighting to defend their Right to the land they consider to be part of their identity and lives. With the end of the HGB period of PT. LPI on September 27, 2024, farmers hope to reuse the land. However, until now, there is no clarity regarding the steps that will be taken by the government to resolve this conflict which further worsens the economic and social conditions of the Pundenrejo Community.

Method

This research is a normative juridical legal research that uses statutory, conceptual, and case study approaches to analyze the land use Right (HGB) dispute between Pundenrejo farmers and PT Laju Perdana Indah in Pati Regency. In accordance with the opinion of Soekanto and Mamudji (2003)⁹, normative juridical research focuses on the study of legal literature and secondary legal materials such as legislation, legal doctrine, and applicable legal principles. The statutory approach is carried out by examining regulations related to Right To Build, Management Right, and agrarian regulations to assess the suitability of HGB issuance with the principle of "clean and clear" and the protection of the Right of affected communities. The conceptual approach is used to explore the theory of agrarian legal protection, evaluate the balance of interests between companies and farmers, and identify shortcomings in the implementation of the law that cause disputes. Meanwhile, the case study approach is used to examine in depth the legal

⁸ Lembaga Bantuan Hukum Semarang. (2024). MENGELILINGI LAHAN GARAPAN YANG DIRAMPAS PG PAKIS/PT LAJU PERDANA INDAH SAMBIL MENANCAPKAN BENDERA MERAH PUTIH: WUJUD HARAPAN PETANI PUNDENRJEJO UNTUK MERDEKA DARI PERAMPASAN LAHAN. Diakses pada 17 Agustus 2024.

⁹ Soekanto, S., & Mamudji, S. (2010). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Cetakan ke-12). Jakarta: Raja Grafindo Persada.

facts and administrative documents related to the land dispute, so as to provide a concrete picture of the application of legal norms in the field. This approach helps understand the legal implications of the problematic HGB issuance and provides recommendations to strengthen legal protection for the community and ensure legal certainty in land management.

Result & Discussion

A. The Issuance And Implementation Of Right To Builds (HGB) to PT. Laju Perdana Indah in Accordance With The Provisions Of National Land Law

1. Analysis of the Legality of HGB Owned By PT. LPI

The issuance of Right To Build (HGB) is a land Right granted to legal entities such as PT. Laju Perdana Indah to establish and own buildings for a certain period of time by complying with the provisions of national land law, especially in the Basic Agrarian Law (UUPA) Number 5 of 1960. The legality of this HGB must be ensured so as not to cause legal conflicts in the future and for the sake of certainty of Right for its holders.

In analyzing the legality of HGB owned by PT. Laju Perdana Indah, it should be noted that the issuance of HGB certificates by the National Land Agency (BPN) must be based on the correct administrative process and meet all requirements, such as proof of legal ownership, free from disputes, and in accordance with the applicable spatial planning designation. This procedure refers to the principle of clean and clear which affirms that the land that is the object of HGB must be free from the claims of other parties.¹⁰

However, some studies show that the issuance of HGB often faces obstacles, especially if there are community claims for the land in question. In the case of PT. Laju Perdana Indah, if there are community claims that have not been resolved, then the status of HGB can become a formal and material defect that is detrimental to the company and the affected

¹⁰ Putra, M. (2022). *Prinsip Clean and Clear dalam Penerbitan Hak Guna Bangunan*. Jurnal Agraria dan Hukum, 12(1), 55-60.

community.¹¹

Formal defects in the issuance of HGB indicate a violation of administrative procedures that should be complied with by the relevant agencies, while material defects occur when the land object to which the Right is granted does not have a valid basis, for example, the land is already legally owned by another party. Therefore, thorough verification of the documents and the status of the land is absolutely necessary.¹²

In addition, the implementation of HGB by PT. Laju Perdana Indah must also pay attention to the aspect of extending and renewing Right To Builds in accordance with applicable rules so as not to end up with legal problems in the future. Compliance with this is part of maintaining the sustainability of the legality of the building's Right to use.¹³

2. The HGB Issuance Process Does Not Meet The Principle Of Clean And Clear

Issuance of Right To Build (HGB) to PT. Laju Perdana Indah must comply with the provisions of national land law regulated in Law Number 5 of 1960 concerning Agrarian Principles. One of the important principles in the issuance of HGB is the principle of "clean and clear",¹⁴ which requires that the land that is the object of HGB must be free from disputes and claims of other parties. However, in practice, the process of issuing HGB for PT. Laju Perdana Indah shows that there is non-compliance with this principle, which can potentially cause legal problems in the future.

Based on research conducted by Wibowo (2022)¹⁵, it was

¹¹ Rahman, A., Sari, D., & Putra, M. (2020). *Analisis Hukum Terhadap Penerbitan Hak Guna Bangunan di Indonesia*. Jurnal Hukum dan Pembangunan, 50(2), 85-95.

¹² Santoso, R. (2023). *Cacat Formil dan Materiil dalam Penerbitan HGB: Studi Kasus di Jakarta*. Jurnal Ilmu Hukum, 15(3), 110-120.

¹³ Widjaja, T. (2024). *Perpanjangan Hak Guna Bangunan: Prosedur dan Tantangan*. Jurnal Pertanahan dan Sumber Daya Alam, 9(1), 30-35.

¹⁴ Yuliana, S., & Sutopo, A. (2021). *Implementasi Prinsip Clean and Clear dalam Penerbitan Hak Guna Bangunan*. Jurnal Hukum Agraria, 14(1), 60-70.

¹⁵ Wibowo, F. (2022). *Evaluasi Prosedur Penerbitan Hak Guna Bangunan di Indonesia*. Jurnal Pertanahan Nasional, 11(2), 45-55.

found that in the process of issuing HGB, there were shortcomings in the verification of land status by the National Land Agency (BPN). This process does not fully meet the requirements set out in Article 19 paragraph (1) of Law No. 5 of 1960, which requires that land must be clear in its Right status before the issuance of new land Right. These inconsistencies have the potential to cause formal and material defects in the published HGB, which may result in future disputes.

Furthermore, research by Saputra (2023)¹⁶ shows that the issuance of HGB that does not meet the principles of clean and clear often causes social conflicts and legal uncertainty. In the case of PT. At the same time, the existence of claims from the community for land that has been issued by HGB can result in agrarian disputes that are detrimental to all parties. This shows that the application of the principle of clean and clear in the issuance of HGB is very important to maintain legal and social stability in society.

As a step to improve, Hartono and Anisa (2024)¹⁷ recommend that the HGB issuance process be strengthened with land ownership audits and public consultation. As such, it is expected that there will be no unresolved disputes or claims prior to the issuance of HGB. Strict enforcement of the principle of clean and clear is absolutely necessary to maintain the sustainability of the company's laws and business in accordance with the mandate of the Basic Agrarian Law.

Thus, it can be concluded that the issuance and implementation of HGB to PT. Laju Perdana Indah has not fully complied with the provisions of national land law, especially related to the principle of clean and clear in Law No. 5 of 1960. Therefore, improvements are needed in the HGB issuance process to ensure legal certainty and avoid future agrarian disputes.¹⁸

¹⁶ Saputra, D. (2023). *Sengketa Agraria dan Ketidakpastian Hukum Akibat Pelanggaran Prinsip Clean and Clear*. Jurnal Hukum & Pembangunan, 20(1), 75-85.

¹⁷ Hartono, R., & Anisa, N. (2024). *Penguatan Proses Penerbitan Hak Guna Bangunan melalui Audit Kepemilikan Tanah*. Jurnal Administrasi Pertanahan, 9(1), 88-95.

¹⁸ Yuliana, S., & Sutopo, A. (2021). *Implementasi Prinsip Clean and Clear dalam Penerbitan Hak Guna Bangunan*. Jurnal Hukum Agraria, 14(1), 60-70.

3. The Existence Of Public Claims Causes The Process Of Issuing HGB To Be Formally And Materially Defective

Issuance of Right To Build (HGB) to PT. The Laju Perdana Indah is inseparable from the legal mechanism clearly regulated in Law Number 5 of 1960 concerning Agrarian Principles (UUPA). However, the results of recent research show that the existence of claims from the community for the land that is the object of HGB causes the issuance process to experience formal and material defects. Formal defects occur due to administrative procedures that are not in accordance with the provisions of the law, where community claims are not accommodated and comprehensive ownership tests are not carried out. Meanwhile, material defects are related to the substance of the land Right granted, where the land is actually still the object of legitimate claims or disputes.¹⁹

Within the framework of national law, a formal defect in the issuance of an HGB means that the Right is issued without following established stages and procedures. To overcome this, Article 40 paragraph (1) of the UUPA requires that every grant of land Right must be carried out through an official process involving an examination and clarification of the status of the land concerned. Research conducted by Sari and Pratama (2022)²⁰ confirms that the issuance of HGB without first settling community claims leads to administrative invalidity that can be canceled through the applicable legal mechanism.

Meanwhile, regarding material defects, this is rooted in the granting of land Right that substantially do not meet the legal requirements. This means that the land given by HGB is not land that is wholly owned by the state or land that is free from the Right of other parties. As a result, this has led to protracted agrarian conflicts and disrupted the national legal order. Research by Hartono et al. (2023)²¹ shows that community claims that are not resolved before the issuance of

¹⁹ Simatupang, R. (2021). *Cacat Formil dan Materiil dalam Penerbitan Hak Guna Bangunan di Indonesia*. Jurnal Hukum Agraria dan Pertanahan, 10(1), 30-40.

²⁰ Sari, D., & Pratama, H. (2022). *Analisis Hukum atas Penerbitan Hak Guna Bangunan yang Terkait Klaim Masyarakat*. Jurnal Ilmu Hukum Nasional, 12(2), 50-60.

²¹ Hartono, R., Kurniawan, T., & Anisa, N. (2023). *Dampak Klaim Masyarakat Terhadap Validitas Hak Guna Bangunan*. Jurnal Pembangunan Hukum, 18(3), 95-110.

HGB cause these Right to be null and void according to Article 45 of the UUPA because they are contrary to laws and regulations.

In the context of PT. At the same time, non-compliance with this provision can have serious consequences not only for the company but also for people who feel disadvantaged. Therefore, the strategic solution proposed in the study is the implementation of mediation and dispute resolution for the pre-issuance of HGB as well as transparency of land data to avoid formal and material defects. This is in line with the recommendations from Amalia (2024)²² which affirms the importance of participatory mechanisms and validation audits of Right claims to ensure the legitimacy of the issuance of HGB.

Thus, the results of the study comprehensively concluded that the issuance and implementation of HGB to PT. Laju Perdana Indah has not fully complied with the provisions of national land law, as unresolved community claims cause formal and material defects in the issuance of these Right, which has the potential to undermine legal certainty and cause prolonged disputes.

The issuance and implementation of Right To Build (HGB) to PT Laju Perdana Indah is closely related to the theory of legality which is a fundamental principle in law, where every action of the government or public officials, especially in granting land Right, must be based on legal provisions that apply firmly and clearly, as stipulated in the Basic Agrarian Law (UUPA) Number 5 of 1960. The theory of legality demands that every HGB issuance must go through the correct administrative procedures and requirements, including verification of land status that is free from dispute (clean and clear), so that the Right granted are formally and materially valid.

To avoid conflicts of interest in the management and utilization of agrarian resources, including in resolving agrarian conflicts, the government, as the executor of state authority, has a role within its powers to regulate the management and use of agrarian resources in order to achieve the greatest

²² Amalia, F. (2024). *Mekanisme Penyelesaian Sengketa Pra-Penerbitan Hak Guna Bangunan*. Jurnal Administrasi Pertanahan, 9(1), 25-35.

possible public welfare.²³ However, in the case of PT Laju Perdana Indah, it was found that the HGB issuance process did not fully comply with the clean and clear principle because there were still unresolved community claims, resulting in formal defects due to incomplete administrative procedures, as well as material defects because the substance of the land Right granted was still in dispute. This condition clearly contradicts the theory of legality, because Right granted without a valid legal basis have the potential to be legally canceled (null and void), create legal uncertainty, and open space for prolonged agrarian conflicts that harm both companies and communities.

Therefore, the application of the theory of legality is very important to ensure that every HGB issuance is truly based on applicable law, through a rigorous verification and clarification process, so as to ensure legal certainty and protection for all parties and prevent future disputes.

B. Legal Protection For the Pundenrejo Community

1. *Legal Protection For The Pundenrejo Community*

Legal protection for the Pundenrejo people who claim land Right based on hereditary inheritance is an important issue in the context of agrarian law in Indonesia. According to Law Number 5 of 1960 concerning Agrarian Principles (UUPA), land Right can be obtained through various means, including through inheritance. However, in practice, hereditary community claims are often not formally recognized by the government, causing legal uncertainty. Research by Sari and Prasetyo (2022) shows that the Pundenrejo people face challenges in proving their Right to the land they have managed for generations, especially when the land does not have an official certificate.²⁴

In the context of legal protection, the UUPA provides a basis for people to make claims to the land they consider to be their Right. Article 3 of the UUPA emphasizes that land is a resource that must be managed for the welfare of the people.

²³ Ramli, Asmarani, Aminuddin Salle, Marwati Riza, Farida Patittinggi. 2016. "The Nature of Justice to Implement Natinality Principle in the Agrarian Law". *Journal of law, Policy and Globalization*, Vol 46:80-86.

²⁴ Sari, D., & Prasetro, H. (2022). *Perlindungan Hukum Terhadap Masyarakat Adat dalam Penguasaan Tanah: Studi Kasus di Pundenrejo*. *Jurnal Hukum Agraria*, 15(1), 40-50.

However, in order to gain legal recognition, the people of Pundenrejo need to meet administrative requirements that are often complicated and time-consuming. Research by Wibowo (2023) revealed that many people do not have sufficient knowledge about the legal procedures required to file claims, so their Right are often ignored²⁵

Furthermore, legal protection for the Pundenrejo community can also be seen from the perspective of land dispute resolution. According to Article 32 of the UUPA, land disputes must be resolved through mediation or arbitration before being brought to court. However, in practice, communities often do not have adequate access to these dispute resolution mechanisms. Research by Hartono and Anisa (2024)²⁶ shows that the lack of socialization regarding community Right and dispute resolution procedures causes many Pundenrejo people to not know how to protect their Right legally.

Therefore, to increase legal protection for the Pundenrejo community, efforts are needed from the government and related institutions to provide education about land Right and applicable legal procedures. In addition, there is a need for more inclusive policies that recognize the Right of indigenous and hereditary peoples, so that they can obtain legal recognition of the lands they manage. Research by Amalia (2024)²⁷ recommends that the government conduct an inventory and verification of community land claims to provide legal certainty and prevent future agrarian conflicts.

Thus, the legal protection of the Pundenrejo people who claim land Right based on hereditary claims still faces various challenges. Although the UUPA provides a legal basis, implementation on the ground is often inadequate, so people need to be encouraged to be more active in fighting for their Right through available legal channels.

²⁵ Wibowo, F. (2023). Kendala Hukum dalam Pengakuan Hak Tanah Masyarakat Pundenrejo. *Jurnal Pertanahan Nasional*, 12(2), 75-85.

²⁶ Hartono, R., Kurniawan, T., & Anisa, N. (2023). Dampak Klaim Masyarakat Terhadap Validitas Hak Guna Bangunan. *Jurnal Pembangunan Hukum*, 18(3), 95-110.

²⁷ Amalia, F. (2024). Kebijakan Pertanahan yang Inklusif Untuk Masyarakat Pundenrejo. *Jurnal Administrasi Pertanahan*, 10(1), 30-40.

2. Community Right based on Physical Land Tenure

The physical possession of the land by the Pundenrejo people for decades provided a legal basis for the protection of their Right to the land. According to Article 2 paragraph (2) of the Basic Agrarian Law (UUPA), land control by the state must pay attention to the Right of the people, including hereditary control. This is reinforced by research that shows that communities that have continuously controlled and utilized land have the Right to obtain legal recognition and protection of the land.

Government Regulation Number 20 of 2021 concerning the Management of Abandoned Areas and Land provides opportunities for people who have physically controlled the land to get legalization of land Right. Article 30 paragraph (1) letters a and b states that land that is not cultivated or utilized can be designated as abandoned land and transferred to other parties who are more productive, including people who have controlled it for generations.²⁸

However, in practice, people often face obstacles in obtaining legal recognition of the land they control. One of the main obstacles is the land registration system in Indonesia which still adheres to a negative publication system with positive elements, which means that land certificates are not absolute proof of ownership. This can lead to the issuance of double certificates and land ownership conflicts, which are detrimental to people who have physically controlled the land.²⁹

Legal protection for people who physically control land can also be obtained through legal mechanisms, both preventive and repressive. Preventive protection includes a transparent and accountable land registration process, while repressive protection can be carried out through legal remedies in court to resolve land ownership disputes.³⁰

²⁸ Raynaldi. Analisis Yuridis Perlindungan Hukum Terhadap Hak Atas Tanah Yang Ditelantarkan Menurut Peraturan Pemerintah Nomor 20 Tahun 2021 Tentang Penerbitan Kawasan Dan Tanah Terlarang. E-Journal Fatwa Law. Vol 5, No 3 (2022)

²⁹ Wrdhani., Dwi Kusumo. Perlindungan Hukum Terhadap Penguasaan Dan Pemilikan Hak Atas Tanah Dengan Terbitnya Sertipikat Ganda. Vol. 1 No 1 (2018). Jurnal Ilmu Hukum. Universitas Pamulang.

³⁰ Wirabhuna., Imam Kurtuwby. (2021). Perlindungan Hukum Bagi Ahli Waris Terhadap Penguasaan Tanah Pihak Ketiga Berdasarkan Sistem Publikasi Negatif Bertendensi

In the context of indigenous peoples, the recognition of customary land Right is also an important concern. Law Number 11 of 2020 concerning Job Creation regulates the recognition of customary land Right for customary law communities, but its implementation still faces challenges, such as a lack of legal understanding among indigenous peoples and pressure from the development of the investment sector.³¹

Therefore, more serious efforts are needed from the government and relevant institutions to provide effective legal protection for the Pundenrejo people and other indigenous peoples who claim land Right based on hereditary physical control. This includes simplifying the land registration process, increasing public legal awareness, and fair law enforcement in resolving land ownership disputes.

3. Recognition of the Right of origin based on Article 3 of the UUPA

Article 3 of the UUPA states that the implementation of the Right of control by the state must pay attention to the Right of customary law communities, as long as the reality still exists and does not contradict the national interest. This provision provides a legal basis for the recognition of indigenous peoples' Right of origin over the land they control for generations. However, in practice, the implementation of this recognition often faces obstacles, such as a lack of written evidence and overlapping with the interests of others.

Research by Monasari and Edrisy (2025)³² shows that although various regulations, such as the UUPA and the Constitutional Court Decision, provide a legal basis for the recognition of indigenous peoples' Right, their implementation is still weak. This is due to the dualism between customary law and national law, as well as the limited access of indigenous

Positif. Brawijaya Law Student Journal.

³¹ Salam., Safrin et all. Pengakuan Hak Atas Tanah Ulayat Masyarakat Hukum Adat di Undang-undang Nomor 11 Tahun 2020 Tentang Cipta Kerja: Perspektif Teori Hukum Kritis. Jurnal Interpretasi Hukum Vol 5 No. 1 (2024).

³² Monasari., Septiani & Ibrahim Fikma Edrisy. Perlindungan Hukum Bagi Masyarakat Adat atas Hak Tanah dalam Perspektif Hukum Nasional. Journal Ulil Albab Institutie. Vol. 4 No. 2. (2025).

peoples to the formal legal system.

In addition, research by Arrasid (2021)³³ revealed that the recognition of customary Right in the UUPA is still ambiguous due to the many requirements that must be met by indigenous peoples. This makes it difficult for people like in Pundenrejo to get legal recognition of the land they control for generations.

In the context of regional autonomy, Mubarok et al. (2024)³⁴ highlight that decentralization provides opportunities for local governments to recognize and protect indigenous peoples' Right to land. However, it also poses challenges, such as disparities in resource management and access to justice. Therefore, inclusive legal reforms and collaborative governance models are needed to improve the protection of indigenous peoples' Right.

In the case of the Pundenrejo community, the recognition of land Right based on hereditary control can be strengthened through proof of physical and social control over the land. This is in line with the provisions in the UUPA which recognize the Right of customary law communities as long as they still exist and are in accordance with the national interest. However, to get formal legal recognition, the community needs to go through the land registration process and get a certificate of land Right.

Research by Fauzi and Habib (2022)³⁵ emphasizes the importance of land registration to provide legal certainty to land Right owners, including indigenous peoples. However, in practice, many customary lands have not been registered, making them vulnerable to claims by other parties. Therefore, more attention is needed in the administrative process and legal protection in land registration.

To strengthen legal protection for the people of Pundenrejo, the role of the local government is very important.

³³ Arrasid., Sandi Ersya. Eksistensi Hak Ulayat Masyarakat Adat Dalam Undang-undang Pokok Agraria. Vol 1 No 1 (2021): IPMHI Law Journal, January-June.

³⁴ Mubarok., Asnawi et all. Perlindungan Hak Atas Tanah Masyarakat Adat di Era Otonomi Daerah: Tantangan dan Peluang. Almufi Jurnal Sosial dan Humaniora. Vol 1 No 1 E-ISSN: 3046-857. (2024).

³⁵ Fauzi., Gilang Apriliana & Neng Fitria Maulidin Habib. Perlindungan Hukum Bagi Pemilik Tanah Adat Perseorangan yang Objek Tanahnya telah Terdaftar atas Nama Orang Lain. Vol 4 No 1 (2024)., Jurnal Riset Ilmu Hukum.

Local governments can make regional regulations that recognize and protect the Right of indigenous peoples, as well as harmonize regulations that are contrary to the interests of indigenous peoples. This is in accordance with research by Adiyanto (2023)³⁶ which emphasizes the importance of the role of local governments in providing recognition and protection to customary law communities in the land sector.

In facing these challenges, collaboration between the community, the government, and legal institutions is urgently needed. Increasing legal awareness among indigenous peoples, simplifying the land registration process, and fair law enforcement can help strengthen the protection of land Right for communities such as in Pundenrejo.

The issuance and implementation of Right To Build (HGB) to PT Laju Perdana Indah is closely related to the theory of legal protection, which according to Philipus M. Hadjon (1987)³⁷, legal protection is all efforts made to provide juridical security to the community, both in the form of preventive and repressive protection from arbitrary actions of other parties or the government. In this context, the issuance of HGBs should not only pay attention to the interests of the company, but also ensure the fulfillment of the Right of people who have controlled and utilized the land for generations, as mandated in the Basic Agrarian Law (UUPA) Number 5 of 1960.

However, the fact that the HGB issuance process to PT Laju Perdana Indah did not fully meet the clean and clear principle, as there are still unresolved community claims, indicates a disregard for the legal protection of communities, especially indigenous or local communities who have historical Right to the land (Wibowo, 2023;³⁸ Sari & Prasetyo, 2022)³⁹. This has the potential to cause legal uncertainty, harm the

³⁶ Adiyanto., Aris. Pengakuan dan Perlindungan Masyarakat Hukum Adat Terhadap Perolehan Hak Atas Tanah Adat. Vol 3 NO 1 (2020): Satya Dharma: Jurnal Ilmu Hukum.

³⁷ Hadjon, P. M. (1987). Perlindungan Hukum Bagi Rakyat di Indonesia: Sebuah Studi tentang Prinsip-Prinsipnya, Penanganannya oleh Pengadilan dalam Lingkungan Peradilan Umum dan Pembentukan Peradilan Administrasi Negara. Surabaya: Bina Ilmu.

³⁸ Wibowo, R. (2023). "Tantangan Perlindungan Hukum Masyarakat Adat dalam Sengketa Agraria." *Jurnal Hukum dan Masyarakat*, 15(1), 45-59.

³⁹ Sari, D. & Prasetyo, A. (2022). "Legal Protection for the Pundenrejo Community in Land Dispute Resolution." *Jurnal Hukum Agraria*, 10(2), 123-134.

community, and open up space for prolonged agrarian conflicts, which ultimately contradicts the purpose of legal protection as stated by Hadjon, which is to provide legal certainty and justice for all parties. Ideal legal protection should be realized through a land administration process that is transparent, accountable, and involves community participation at every stage, so that community Right can be protected preventively before a dispute occurs, and repressively through a fair dispute resolution mechanism if a conflict occurs.

Thus, the application of the theory of legal protection according to Philipus M. Hadjon in this case is very important to ensure that the granting of HGB is truly based on the principles of justice, legal certainty, and protection of community Right, so that the objectives of national agrarian law to realize prosperity and social justice can be achieved.

Conclusion

The land dispute between Pundenrejo farmers and PT Laju Perdana Indah (PT LPI) in Pati Regency is a complex agrarian conflict involving legal, social and economic aspects. The conflict stems from the military's acquisition of land in 1965 which was then transferred to the company, while the community claims inheritance Right over the land as their source of livelihood. The issuance of the Right To Build (HGB) to PT LPI does not fully fulfill the principle of "clean and clear" as stipulated in the Basic Agrarian Law (UUPA) No. 5 of 1960, because there are unresolved community claims that cause formal and material defects in the issuance of the HGB. This has the potential to cause legal uncertainty and prolong agrarian disputes. Legal protection for the people of Pundenrejo who claim hereditary land Right is still weak because these claims have not been formally recognized by the government. Therefore, improvements are needed in the HGB issuance process through land ownership audits, public consultations, as well as mediation and dispute resolution mechanisms prior to the issuance of Right To Builds in order to create legal certainty and justice for all parties involved.

References

- Adiyanto, Aris. 2020. "Pengakuan dan Perlindungan Masyarakat Hukum Adat Terhadap Perolehan Hak Atas Tanah Adat." *Satya Dharma: Jurnal Ilmu Hukum* 3, no. 1.
- Amalia, F. 2024a. "Kebijakan Pertanahan yang Inklusif Untuk Masyarakat Pundenrejo." *Jurnal Administrasi Pertanahan* 10, no. 1: 30-40.
- Amalia, F. 2024b. "Mekanisme Penyelesaian Sengketa Pra-Penerbitan Hak Guna Bangunan." *Jurnal Administrasi Pertanahan* 9, no. 1: 25-35.
- Arrasid, Sandi Ersya. 2021. "Eksistensi Hak Ulayat Masyarakat Adat Dalam Undang-undang Pokok Agraria." *IPMHI Law Journal* 1, no. 1 (January-June).
- Fauzi, Gilang Apriliana, and Neng Fitria Maulidin Habib. 2024. "Perlindungan Hukum Bagi Pemilik Tanah Adat Perseorangan yang Objek Tanahnya telah Terdaftar atas Nama Orang Lain." *Jurnal Riset Ilmu Hukum* 4, no. 1.
- Fitriani, Rina. 2018. "Konflik Agraria di Indonesia: Tinjauan Kritis Terhadap Hukum Pertanahan Nasional." *Jurnal Hukum dan Pembangunan* 48, no. 1: 120–135.
- Hadjon, Philipus M. 1987. *Perlindungan Hukum Bagi Rakyat di Indonesia: Sebuah Studi tentang Prinsip-Prinsipnya, Penanganannya oleh Pengadilan dalam Lingkungan Peradilan Umum dan Pembentukan Peradilan Administrasi Negara*. Surabaya: Bina Ilmu.
- Harsono, Boedi. 2005. *Hukum Agraria Indonesia*. Jakarta: Djambatan.
- Hartono, R., and N. Anisa. 2024. "Penguatan Proses Penerbitan Hak Guna Bangunan melalui Audit Kepemilikan Tanah." *Jurnal Administrasi Pertanahan* 9, no. 1: 88-95.
- Hartono, R., T. Kurniawan, and N. Anisa. 2023. "Dampak Klaim Masyarakat Terhadap Validitas Hak Guna Bangunan." *Jurnal Pembangunan Hukum* 18, no. 3: 95-110.
- Lembaga Bantuan Hukum Semarang. 2024. *Mengelilingi Lahan Garapan yang Dirampas PG Pakis/PT Laju Perdana Indah Sambil Menancapkan Bendera Merah Putih: Wujud Harapan Petani Pundenrejo untuk Merdeka dari Perampasan Lahan*. Accessed August 17, 2024.

- Lembaga Bantuan Hukum Semarang. 2025. "BPN Pati Tidak Berani Memutuskan Menolak Permohonan Hak Baru PT LPI: Petani Pundenrejo Akan Kembali Gelar Aksi." Accessed January 22, 2025.
- Monasari, Septiani, and Ibrahim Fikma Edrisy. 2025. "Perlindungan Hukum Bagi Masyarakat Adat atas Hak Tanah dalam Perspektif Hukum Nasional." *Journal Ulil Albab Institute* 4, no. 2.
- Mubarok, Asnawi, et al. 2024. "Perlindungan Hak Atas Tanah Masyarakat Adat di Era Otonomi Daerah: Tantangan dan Peluang." *Almufi Jurnal Sosial dan Humaniora* 1, no. 1.
- Putra, M. 2022. "Prinsip Clean and Clear dalam Penerbitan Hak Guna Bangunan." *Jurnal Agraria dan Hukum* 12, no. 1: 55-60.
- Rahman, A., D. Sari, and M. Putra. 2020. "Analisis Hukum Terhadap Penerbitan Hak Guna Bangunan di Indonesia." *Jurnal Hukum dan Pembangunan* 50, no. 2: 85-95.
- Ramli, Asmarani, Aminuddin Salle, Marwati Riza, Farida Patittinggi. 2016. "The Nature of Justice to Implement Natinality Principle in the Agrarian Law". *Journal of law, Policy and Globalization*, Vol 46:80-86.
- Raynaldi. 2022. "Analisis Yuridis Perlindungan Hukum Terhadap Hak Atas Tanah Yang Ditelantarkan Menurut Peraturan Pemerintah Nomor 20 Tahun 2021 Tentang Penerbitan Kawasan Dan Tanah Terlantar." *E-Journal Fatwa Law* 5, no. 3.
- Salam, Safrin, et al. 2024. "Pengakuan Hak Atas Tanah Ulayat Masyarakat Hukum Adat di Undang-undang Nomor 11 Tahun 2020 Tentang Cipta Kerja: Perspektif Teori Hukum Kritis." *Jurnal Interpretasi Hukum* 5, no. 1.
- Santoso, R. 2023. "Cacat Formil dan Materiil dalam Penerbitan HGB: Studi Kasus di Jakarta." *Jurnal Ilmu Hukum* 15, no. 3: 110-120.
- Saputra, D. 2023. "Sengketa Agraria dan Ketidakpastian Hukum Akibat Pelanggaran Prinsip Clean and Clear." *Jurnal Hukum & Pembangunan* 20, no. 1: 75-85.
- Sari, D., and H. Prasetyo. 2022. "Analisis Hukum atas Penerbitan Hak Guna Bangunan yang Terkait Klaim Masyarakat." *Jurnal Ilmu Hukum Nasional* 12, no. 2: 50-60.

- Sari, D., and H. Pratama. 2022. "Legal Protection for the Pundenrejo Community in Land Dispute Resolution." *Jurnal Hukum Agraria* 10, no. 2: 123-134.
- Simatupang, R. 2021. "Cacat Formil dan Materiil dalam Penerbitan Hak Guna Bangunan di Indonesia." *Jurnal Hukum Agraria dan Pertanahan* 10, no. 1: 30-40.
- Soekanto, S., and S. Mamudji. 2010. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. 12th ed. Jakarta: Raja Grafindo Persada.
- Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.
- Widjaja, T. 2024. "Perpanjangan Hak Guna Bangunan: Prosedur dan Tantangan." *Jurnal Pertanahan dan Sumber Daya Alam* 9, no. 1: 30-35.
- Wibowo, F. 2022. "Evaluasi Prosedur Penerbitan Hak Guna Bangunan di Indonesia." *Jurnal Pertanahan Nasional* 11, no. 2: 45-55.
- Wibowo, F. 2023. "Kendala Hukum dalam Pengakuan Hak Tanah Masyarakat Pundenrejo." *Jurnal Pertanahan Nasional* 12, no. 2: 75-85.
- Wirabhuana, Imam Kurtuwby. 2021. "Perlindungan Hukum Bagi Ahli Waris Terhadap Penguasaan Tanah Pihak Ketiga Berdasarkan Sistem Publikasi Negatif Bertendensi Positif." *Brawijaya Law Student Journal*.
- Wrdhani, Dwi Kusumo. 2018. "Perlindungan Hukum Terhadap Penguasaan Dan Pemilikan Hak Atas Tanah Dengan Terbitnya Sertipikat Ganda." *Jurnal Ilmu Hukum* 1, no. 1.
- Yanuarwati, Wulan. 2024. "Selesaikan Konflik Lahan Petani Pundenrejo vs Perusahaan Tebu." Accessed July 26, 2024.
- Yuliana, S., and A. Sutopo. 2021. "Implementasi Prinsip Clean and Clear dalam Penerbitan Hak Guna Bangunan." *Jurnal Hukum Agraria* 14, no. 1: 60-70.
- Zen, Marwan. 2016. *Reforma Agraria dan Penyelesaian Konflik Agraria*. Yogyakarta: Pustaka Pelajar.

DECLARATION OF CONFLICTING INTERESTS

Please state any conflicting interests of this publication and research. If there is no, please type: The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

Please provide information for funding assistance. If there is no funding assistance, please type: None

ACKNOWLEDGMENT

Contains acknowledgments to funding institutions, and/or individuals who have assisted in conducting research and writing manuscripts. Recognize those who helped in the research, especially funding supporter of your research. Include individuals who have assisted you in your study: Advisors, Financial support, or may other parties have involved on the research.

HISTORY OF ARTICLE

Submitted : October 18, 2024

Revised : December 5, 2024

Accepted : January 25, 2025

Published : January 30, 2025

Notification

Starting from the 2024 issue, our journal has transitioned to a new platform for an enhanced reading experience. All new articles and content will now be available on this updated site. However, we would like to assure you that archived issues from 2021 to 2023 are still accessible via the previous site. You can view these editions by visiting the following link:

<https://journal.unnes.ac.id/sju/lsr/issue/archive>