DUE TO THE LAW OF DUAL CERTIFIED LAND HOLDERS IN SUMBAWA REGENCY

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Abstract: This research aims to analyze the causes of multiple certificates in Sumbawa Regency. The type of research used is empirical legal research, using conceptual approach, Legislative approach, and sociologic approach. The type of data used is Primary data and Secondary data. Data analysis used qualitative descriptive. Based on the result of research that causing double certificate in Sumbawa Regency comes from several factors namely law factor, law enforcement factor, facility or facility factor, society factor and culture.

Keywords: due to law, double certificate

I. INTRODUCTION

The purpose of land registration to provide legal certainty to the right holder of a plot of land.1 But in reality, there are still some cases of double certificates. This makes it important to do this research for several reasons:

Firstly, the land registration system has not fully guaranteed the certificate holder because there are still cases of double certificates on certified land objects. The emergence of cases of double certificates became 'anomalies' in the land administration system. As the investigators search there are a number of cases of double certificates in court decisions such as Decision No. 492/Pdt/2015/ PT SMG, Supreme Court Verdict No. 300 pk/pdt/2009, and does not rule out similar cases like 2 (two) different certificates with the same land object that is, the title certificate with number 1841 and number 1665, located in Lempeh Village which is now Keurahan Brang Seeds, District Sumbawa.

Secondly, it is interesting to investigate socio-legally, the factors that lead to the issuance of double certificates, whether the regulatory factors that open the gap or the possibility of multiple certificates, or the weakness of land administration and integrity of land implementing officers (ATR/BPN), or the technological problems used by the ATR/BPN office are not sufficient.

Prior to 2011, there was no CTF system (Computerized Land Office) by the National Land Agency. The absence of technology is an internal factor that can lead to the emergence of multiple certificates. Currently, the efforts taken by BPN to minimize the emergence of double certificates is to develop a digital land system or Computerized Land Office (CTF) and a single map. With the existence of this CTF system, double certificates are expected to not happen again, because the measured map goes in one map nationally and there are certain numbers. However, the system is actually still leaving the problem, because the new CTF system began in 2011. As a result, the certificate that appears before the year is actually still not known the exact coordinate point by BPN. The certificate exists, but its location does not fit into a single map of land registration.²

Although technological reforms with the CTF can ensure that there will no longer be double certificates, fixed technology, technological sophistication does not matter much if it is not supported by the integrity of its executives, so this research will also need to look at the integrity of the officials and the executing apparatus.

Third, this study needs to look at how the legal protections of the certificate holder and the consequences of double-certified land rights law. As we know, the purpose of the land certificate in addition to ensuring legal certainty for the status of the listed land, the registration of the land is also to protect the holders of land rights, so that the ownership of their rights is not disturbed. To that end, juridical affirmed in Article 19 paragraph 2 subparagraph c of the LoGA, that "The registration of land in this Article includes: The provision of proof-of-papers as a powerful evidentiary instrument."

Fourth, Government Regulation Number 10 Year 1961, Article 13 paragraph (3) describes that what is meant by the provision of validation certificates as a strong evidentiary means that the certificate, which is meant by "Certificate" is a copy of Land Book and letter of measurement after being sewn together together with a cover paper set up by the Minister of Agrarian, called a certificate and given to the right.³

Proof tool given in the form of certificate also mentioned in Government Regulation of Republic of Indonesia Number 24 year 1997, Article 1 point 20 that is:

"A certificate shall be a certificate of right as referred to in Article 19 paragraph 2 sub-paragraph c of the LoGA for land rights, rights of management of wakaf land, property rights of apartment units and mortgages which are already recorded in the land books concerned."

The certificate of land rights as stipulated in the Basic Agrarian Law Number 5 of 1960 is a strong evidence, as long as there is no other evidence that states (proves) untruth, then the information contained in the certificate must be considered true and there is no need for evidence additional. As a strong evidence, the certificate has a very important meaning for the protection of legal certainty of the holder of land rights.⁴

The land certificate granted will give meaning and importance to the right holder who can serve as a proof of land rights. The owner of the land with strong evidence and with a

³ Regulation of the Government of the Republic of Indonesia Number 10 Year 1961, concerning Land Registration, (State Gazette Number 28 Year 1961, Supplement to State Gazette Number 2171).
⁴ Boedi Harsono, Hukum Agraria Indonesia, Himpunan Peraturan-Peraturan Hukum Tanah, Jakarta, Djambatan, 2006, p. 11.
clear status will be guaranteed legal certainty and legal protection, so it will be easier to prove that the land is his property.5

The problem, between das sollen and das sein occasionally occurs gap, as in the initial assessment, found object that is still certified double ground, there are 2 (two) different certificates with the same land object that is, the certificate of property with number 1841 and number 1665, which is located in Lempeh Village which is now Keurahan Brang Biji, Sumbawa Subdistrict, Sumbawa Regency, West Nusa Tenggara Province, so it is interesting to be studied and studied in the form of research.

Based on the above description the author intends to examine the causes of multiple certificates in Sumbawa Regency.

II. RESEARCH METHOD

The type of research used is empirical legal research, using conceptual approach, Legislative approach, and sociologic approach. The type of data used is Primary data and Secondary data. Data analysis used qualitative descriptive.

III. RESULT AND DISCUSSION

There are several factors causing double certificate that occurred in Sumbawa Regency, such as:

3.1 The Legal Factor

In relation to land regulations, the obstacles are the lack of databases on the areas of land both registered and unregistered.6 Should the lands registered at the Land Office be recorded and deleted on the registration maps, so that if the land is registered again it can be known the land is already certified or not. So, the data is not systematic even though there are now improvements but still many old certificates are not stored and managed properly so as to enable the emergence of double certificates because here the body keeps the stay accept the request. Or because of the inaction of Official Land Office officials in issuing land certificates, in addition to the existence of people who do to gain personal gain so as to act deviate in the sense of not carrying out duties and responsibilities.

3.2 Law Enforcement Factors

These factors include the parties that make up or impose law or law enforcement. The law enforcement sections are law enforcement officers capable of providing legal certainty, fairness and legal benefits proportionally.7 The importance of qualified human resources will have an impact on improving the quality of work from the Land Office.

Factors of the land office are not careful and inaccurate in conducting land history investigation and mapping the boundaries of land ownership in the framework of the issuance of Certificate; Land Office does not conduct research or see the image of land registration

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6 Interview with Junaedi, Head of Section Land Dispute Land Affairs Office of Sumbawa Regency, May 14, 2018.
Due to the Law of Dual Certified Land Holders in Sumbawa Regency

map owned. Then the village or village that does not have data on the land that has been certified and already existing mastery or invalid data. If there are people who apply to make a letter of control of the land which is then published, keep on suddenly because there are people whose intention is not good who came claiming to own the land and want to make a letter of land ownership. Local governments are created and sometimes they do not take measurements, do not check the location of whether the land is properly lands or the land has not been registered on behalf of others. Or for the area concerned is not available soil registration map so it is easier for someone who has a bad intention to copy the certificate.

3.3 Facilities and Infrastructure Factors

Support facilities can simply be formulated as a means to achieve the goal. Its scope is primarily a physical means that serves as a supporting factor. Support facilities include skilled and skilled human resources, good organization, adequate equipment, sufficient finance and so on.

Associated with facilities and facilities that lead to multiple certificates in Sumbawa district is the lack of equipment related to computerized systems, lack of measuring equipment and less competent measuring officers.

3.4 Community and Culture Factors

Law enforcement comes from the community and aims to achieve peace within the community. Society is a human organization that is interconnected with each other, while culture is a system of moral and value that organized into guidance for the community. These societal and cultural factors play a very important role; this is related to the level of legal awareness and legal compliance. Legal awareness is a process that includes elements of legal knowledge, legal understanding, legal attitudes and legal behavior. The level of legal awareness is reached when the community obeys the law.

Factors from the Owner or Land Holders are the landowners do not show the boundaries of the plot of land properly controlled as regulated in PP 24 Year 1997 Article 17 paragraph (3), thus causing cases of overlapping land tenure/double certificate. Then the community still lack knowledge and understand the laws and regulations on the implementation of land especially on the procedure of making land certificates.

IV. CONCLUSION

Based on the results of the above research and discussion, the authors can draw the conclusion that the cause of multiple certificates in Sumbawa regency comes from several factors namely legal factors such as the lack of databases on the field of land either registered or unregistered, law enforcement factors in the form of inaccurate and inaccurate investigation of land history and mapping of boundaries of land ownership in the framework of issuance of certificates, facilities or facilities lack of equipment related to computerized system, lack of measuring equipment and less competent measurers,

8 The result of interview with Apriadi Kusuma, Lurah Brang Biji Sub-district of Sumbawa, May 15, 2018.
9 Soerjono Soekanto I, Op Cit., p. 17.
10 Soerjono Soekanto, Faktor-Faktor Yang Mempengaruhi Penegakan Hukum (hereinafter referred to as Soerjono Soekanto II). Rajawali Pers, Jakarta, 2007, p. 8
community and cultural factors namely the landowners do not show the boundaries of plots that are properly controlled, then people still lack knowledge and understand the laws and regulations on the implementation of land, especially regarding the procedure of making land certificates.

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