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### **Juridical Study on Ownership of Certificate of Rights to Coastal Areas**

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#### **Abstract**

Property rights are rights that have been passed down from generation to generation, the strongest and most complete that people can have on land. Ownership of property rights can be granted to individuals and legal entities originating from the land of the Indonesian nation or state land. However, not all state land can be granted property rights, including marine and coastal areas. The ownership rights in the area cannot be granted because it is still state land and its full control is owned by the state so that it cannot be burdened by property rights. The research method used in writing this thesis is normative juridical research.

Based on the results of the study, it can be concluded that the legal status and ownership of certificates over coastal areas or equivalent beaches, are areas controlled by the State so that neither individuals nor legal entities are entitled to obtain property rights in the form of certificates for the area, therefore the suggestion is The National Land Agency as an agency that has the right to issue certificates of ownership should conduct research on objects that are used as property rights certificates, so that it does not become a problem in the future considering that coastal areas or coastal equivalents are areas controlled by the state which can be designated for the public interest for the welfare of the community.

## **Keywords**

Rule of Law; Property Rights; Coastal Area

### **A. Introduction**

Property rights are rights that have been passed down from generation to generation, the strongest and most complete that people can have on land. Ownership of property rights can be granted to individuals and legal entities originating from the land of the Indonesian nation or state land. However, not all state land can be granted property rights, including marine and coastal areas. The ownership rights in the area cannot be granted because it is still state land, and its full control is owned by the state so that it cannot be burdened by property rights.

In Article 1 paragraph (21) of Act Number 27-year 2007 concerning the Management of Coastal Areas and Small Islands stated that:

"The coastal border area or better known as the coastal border is land along the edge whose width is proportional to the shape and physical condition of the beach at least 100 (one hundred) meters from the highest tide point towards the land". The coastal border area, hereinafter referred to as the coastal border, is a place used by fishermen to anchor their boats. Apart from being used as a place to lean boats, the fishermen also carry out other activities such as repairing fishing rods and nets which are supporting tools in marine activities. The coastline in its state is a long stretch of sand or soil that stretches along the edge of the sea.

Furthermore, in Article 5 paragraph (1) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 17-year 2016 concerning Land Arrangement in Coastal Areas and Small Islands also states that:

"The granting of land rights on the coast as referred to in Article 4 letter a, can only be granted for buildings that must exist in the coastal area, including: Buildings used for defense and security; harbor or wharf; Beach visitor safety guard tower; The place of residence of indigenous peoples or community members who have lived in that place for generations; and/or power generation."

Referring to the provisions of Article 5 paragraph (1) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 17 year 2016 concerning Land Management in Coastal Areas and Small Islands, it cannot be justified or not allowed to have land registration on coastal areas. , but in reality there is an individual ownership who has a certificate of ownership of land that spreads to the coast of the coastal area, namely in the coastal area of Kuda Laut, Meral District, Karimun, Riau Islands, legal subjects or private individuals can have a Certificate of Ownership Number 0052 on behalf of Rinto With an area of 19,972 M2 and above the sea and coastal areas (coastal border areas), where fishermen catch fish, Certificate of Ownership Number 0051 in the name of Randi has an area of 11,453 M2 with a total of almost 4 hectares and part of the land leads to the coastal area covering the sea (Alba, 2017).

This is the main issue to be studied related to the issuance of certificates of property rights to land including coastal areas to remember that the coastal area to the sea is an area that is free to use for every individual or legal entity for the public interest and welfare. Based on the description of the background above, the study in this paper is: What is the Status of Ownership of Certificates of Ownership of Coastal Areas?

## **B. Research Method**

The research method in this paper uses normative juridical research that examines positive legal provisions, legal principles, and legal doctrines. (Marzuki, 2016: 5) The type of research used is descriptive, that is, by using legal concepts from the existing literature.

## **C. Results and Discussion**

### **1. Status of Ownership of Coastal Areas**

Management of coastal areas can not be separated from the status of the function and ownership of land in the area. The granting of land rights, whether individually controlled or traditionally controlled for land areas that are not affected by tides, is easier to complete, because it has been regulated by the LoGA and other laws and regulations. Another problem is very prominent that the lands in the coastal area move unstable and unpredictable. This land shift can be caused by landslides or the presence of soil arising from sedimentation.

In the effort to use land, there are differences of opinion. There is "land" that has been used when it is not yet in the form of "land", but only as a shallow pool of water. There is also a plot of raised land that has been used, when the nature of the soil is still not suitable for processing to become agricultural land, because the salt content of the soil is still high. The control of coastal land and the management of coastal areas depend on who physically controls the coast. Generally, if a tourism business stands on a coastal area, then the entrepreneur is the one who controls and utilizes it. Vice versa, if there are no tourism businesses adjacent to the coastal area or located above the coastal area, the control and utilization is carried out by the community.

Coastal or coastal areas are areas that very vulnerable to changes, both natural changes and changes caused by human activities. For the sake of the public interest, it is possible to use coastal areas with a note taking into account the limited carrying capacity, sustainable development, being able to maintain ecosystems and biodiversity and preserving environmental functions. Therefore, management is the key to whether or not the coastal area is used for the public interest.

Regarding the status of coastal land that is controlled by the community in Indonesia in general, it is land with the status of rights controlled by the State.

Broadly speaking, the status of the coastal land occupied by the community is only given the right to use and the right to manage, on condition that all applicable regulations must be complied with. In other words, if one day the government wants to take over the land, then the people who live in the area must surrender it (Patittingi, 2008: 9).

Property rights are natural rights of every individual based on the principle of justice. Government relations in the re-arrangement of these rights can be carried out as long as there is a concession to the individual's rights. Thus, government action to protect property rights is only as long as the rights to life. Land in coastal areas in general has been occupied by the community for a long time and some have even been inhabited or settled in the area for generations. The hereditary control is related to the control of coastal areas by indigenous peoples which is then recognized in the law. As for what happened in the coastal area of Kuda Laut, Meral District, Karimun, Riau Islands, the issuance of certificates of property rights to legal subjects or private individuals appeared Certificate of Ownership Number 0052 in Rinto's name with an area of 19,972 M2 and above the sea where fishermen caught fish had certificate of ownership Number 0051 was issued in the name of Randi with an area of 11,453 M2 with a total of almost 5 hectares and part of the land towards the sea. So that the status of the land in the area changed to property rights. Based on the description above, the land status of the coastal area according to the author is land or territory controlled by the State (Wu, Ban, et al., 2022).

## **2. Does Everyone Have the Right to Has a Certificate of Ownership of the Coastal Area**

A right is a right of control over land which contains responsibilities, obligations and/or prohibitions for the holder of the right to do something on the land that is entitled. something that is allowed or prohibited to be done, which is a property right which is a criterion or benchmark between land tenure rights as regulated in the Land Law (Patittingi, 2008; Wu, Wang, et al., 2022).

Ownership and control of land in coastal areas is permitted only according to the applicable laws and regulations. The enactment of Act Number 27-year 2007 concerning the Management of Coastal Areas and Small Islands which in its development was later amended by Act Number 1 year 2014 concerning Coastal Areas and Small Islands provides more guarantees of legal certainty for people living in coastal areas (hereinafter referred to as the Coastal Law).

Regarding the status of coastal land controlled by the community in Indonesia, in general, land with the status of controlling the state or controlled by the state. However, the people who live in the area have been in confinement for quite a long time, which is an average of approximately 30 (thirty) years. Broadly speaking, the status of the coastal land occupied by the community is only given the right to use and the right to manage, on condition that all applicable rules must be complied with (Harsono, 2007: 24).

Article 5 Paragraph (1) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 17-year 2016 concerning Land Management in Coastal Areas and Small Islands also states that:

"The granting of land rights on the coast as referred to in Article 4 letter a can only be granted for buildings that must exist in the coastal area, including:

- a. buildings used for defense and security.
- b. harbor or wharf.
- c. beach visitor safety tower.

the place of residence of the customary community or members of the community for generations have resided in that place; and/or

- d. power plant".

Based on Article 5 paragraph (1) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 17-year 2016 can be explained as follows:

- a. The development of marine infrastructure is one of the important things in coastal planning. This development must of course have a sustainable nature and support in terms of the potential of the sea and its people.
- b. Buildings for public use.
- c. Settlements on the water for indigenous peoples; and/or
- d. tourist

The coast is a meeting area between land and sea. To lead to land which includes parts of the land that are still influenced by the characteristics of the sea such as tides, sea breezes, and infiltration of salt water. Meanwhile, the area towards the sea includes the part of the sea that is still influenced by natural processes such as sedimentation and fresh water flow, as well as those caused by human activities on land such as deforestation and pollution.

### **3. Certificate of Ownership of the Coastal Area**

Ownership Certificate is a type of certificate with full ownership of land rights by the owner of the certificate. The Ownership Certificate is also the strongest proof of ownership of the land or land in question because there is no longer any interference or possibility of ownership by other parties<sup>6</sup>. The status of ownership of a plot of land is very important. Proof of land ownership must be contained in a certificate issued by the National Land Agency (BPN). This certified land is not a status that has legal certainty, but also has a high selling power compared to other lands whose status is still unclear and land can also be used as an investment in the future (Cermati.com, 2015).

In this scope, ownerships rights is the strongest right to land which gives authority to the owner to give back a right to the land that is given. almost the same as the authority of the state (as ruler) to give land rights to its citizens. Ownership rights regulated in the Basic Agrarian Law can be seen that basically Land Ownership Rights can only be owned by a single Indonesian citizen and cannot be owned by foreign countries and legal entities, both those established in

Indonesia and those established outside the country. country with a statement of certain legal entities.

In Government Regulation Number 38-year 1963. Apart from single Indonesian citizens, and bodies designated in Government Regulation Number 38-year 1963, which consist of:

- a. Banks established by the state (hereinafter referred to as Bank Negara).
- b. Agricultural Cooperative Associations established based on Act Number 79-year 1958 (State Gazette of 1958 Number 139).
- c. Religious bodies, appointed by the Minister of Agriculture/Agrarian after hearing the Minister of Religion.
- d. Social agencies appointed by the Minister of Agriculture/Agrarian after hearing the Minister of Social Welfare. The appointment of legal entities is carried out based on considerations for the implementation of the implementation, as well as for the needs that according to the desire to control the land with property rights, with the following provisions:
- e. State Banks may be granted ownership rights to land used as building sites needed to perform services as well as for the needs of their employees.
- f. Agricultural Cooperative Associations may have ownership rights over land whose area does not exceed the maximum limit stipulated in Act Number 56-year 1960 concerning Land Procurement;
- g. Religious and social bodies may own property rights to land used for purposes directly related to religious and social enterprises.

Based on these provisions, everyone can simply violate the Property Rights on the land. The Basic Agrarian Law provides for the songs of Right of ownership (Muljadi & Widjaja, 2007: 30-32). One of the objectives of land registration as stipulated in Article 3 of Government Regulation Number 24-year 1997, is to provide legal certainty and protection of rights to a property, apartment unit and other registered rights so that they can easily prove themselves as the holder of the rights concerned. To provide legal certainty and legal protection, land rights holders are given certificates of land rights. In article 19 paragraph 2 letter c of the LoGA that the end of land registration held by the government is to present a certificate of proof of rights, which acts as strong evidence, the LoGA does not mention that the name of the certificate of proof of the registered land.

Article 13 paragraph (3) of Government Regulation Number 10-year 1961 states that the certificate of registered land rights, namely the land book and measuring document, after being sewn together, together with the cover paper is determined by the Minister of Agrarian Affairs. Land registration activities for the first time produce a letter of evidence as a right, in the form of a certificate. The purpose of issuing a certificate in land registration activities for the first time is so that the right holder can easily prove that he is the holder of the right (Santoso, 2008: 42). In a coastal area there are one or more coastal environments and resources.

The coastal environment can be natural or artificial. Natural environments found in coastal areas include coral reefs, mangrove forests, seagrass beds, sandy

beaches, pescarea formations, baringtonia formations, lagoons and deltas. Meanwhile, the artificial environment in coastal areas includes ponds, tidal rice fields, tourism areas, industrial areas, agro-industrial areas and residential areas. The planning and management of coastal areas by sector is usually related to only one type of utilization of coastal resources or space by a government agency to meet certain goals, such as capture fisheries, aquaculture, tourism, ports, settlements or the oil and gas industry. This management can lead to conflicts of interest between interested sectors that carry out development activities in coastal areas. Article 2 paragraph 2 of the Basic Agrarian Law states that the right to control the state is the right to regulate and organize the allocation, supply and maintenance of earth, water and space.

State rights, means the state that owns the land, but authorizes the state as an organization of power from the Indonesian nation at the highest level to regulate and administer the designation, use, supply and maintenance of earth, air and space.

Many people already live in coastal areas and some even have land rights in coastal areas. This then has an impact on changes in coastal ecosystems because the people who live in the area exploit coastal resources. However, there is a negative impact, there is also a positive impact, namely the maintenance of coastal ecosystems because those who live in the area view that this is their life potential. Ownership and control of land in coastal areas is permitted only according to the applicable laws and regulations. The enactment of Act Number 27 year 2007 concerning the Management of Coastal Areas and Small Islands which in its development was later replaced by Act Number 1 year 2014 concerning Amendments to Act Number 27 year 2007 concerning Coastal Areas and Small Islands provides more assurance of certainty law for people living in coastal areas (hereinafter referred to as the Coastal Law) (Arisaputra, 2015).

#### **4. Status of Ownership of Certificate of Ownership of Coastal Areas**

Management of coastal areas can not be separated from the status of the function and ownership of land in the area. The granting of land rights, both individually controlled and traditionally controlled to overcome the tides of sea water is easier to resolve, because it has been regulated by the LoGA and other laws and regulations. Another problem that is very prominent is that the lands in the coastal area move unstable and unpredictable. This land shift can be caused by landslides or the presence of soil arising from sedimentation.

In the effort to use land, there are differences of opinion. There is "land" that has been used when it is not yet in the form of "land", but only as an anticipation of shallow air. There is also a plot of raised land that has been used, when the nature of the soil is still not suitable for processing to become agricultural land, because the salt content of the soil is still high. The control of coastal land and the management of coastal areas depend on who physically controls the coast. Generally, if a tourism business stands on a coastal area, then the entrepreneur is

the one who controls and utilizes it. Vice versa, if there are no tourism businesses adjacent to the coastal area or located above the coastal area, the control and utilization is carried out by the community.

Coastal or coastal areas are areas that are very vulnerable to changes, both natural changes and changes caused by human activities. For the sake of public interest, it is possible to use coastal areas by taking into account the limited carrying capacity, sustainable development, can maintain ecosystems and biodiversity and maintain environmental functions. Therefore, management is the key to whether or not the coastal area is used for the public interest.

Regarding the status of coastal land controlled by the community in Indonesia, in general, land with the status of rights controlled by the State, however, the people who live in the area have a fairly long period of time, which is an average of approximately 30 (thirty) years. Broadly speaking, the status of the coastal land occupied by the community is only given the right to use and the right to manage, on condition that all applicable regulations must be complied with. In other words, if one day the government wants to take over the land, then the people living in the area must surrender it (Patittingi, 2008: 9).

#### **D. Closing**

Based on the background, problems and discussion described above, it can be said that: from the results of the research and the facts found in the writing of the settlement of customary land disputes between Ohoi Ad and Ohoiiraut in Kei Besar Island, what was obtained was legal evidence of ownership of the disputed land. on the part of Ohoi Ad, based on the civil decision Number 01-year 1970 of the tual district court. Based on the results of the evidence in the evidence, it has been proven that the party who has the more right to the land is Ohoi Ad, more than that, the complaint is based on the story, and based on the actions that were carried out only independently, while the juridical fact is in the decision of the civil court 01-year 1970.

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