

The legality of Arable Land Minimizes Disputes

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ABSTRACT

Realizing the legality of ownership of arable land can be obtained by the community by carrying out land registration referring to the Regulation of the Minister of Agrarian Affairs dated February 9, 1999 Number 3 of 1999 concerning Delegation of Authority for Granting and Cancellation of Decisions on State Land Rights continued with the PMNA/Head. BPN Number 4 of 1998 jo. KMNA/Ka.BPN Number 6 of 1998 concerning Guidelines for Determining income in the Granting of State Land Rights. Settlement of disputes over the ownership of arable land in Bogor Regency can be carried out through litigation or outside of litigation and in the case of arable land disputes in Bogor it can be resolved through peace through mediation. It is suggested that the government should schedule counseling on the legality of land ownership to the public so that ordinary people understand the legality process so that the community's economic level is stable and even becomes strong.

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Introduction

Arable which comes from the word garap has the meaning of working, then arable land contains the understanding that the land is land that is being used because in arable land is known and utilized in everyday life by farmers the land is used by tilling, agricultural and plantation arable income becomes income for the fulfillment of daily life as well as continuing family life with various ideals. Cultivation rights have been known since the time of the kingdoms as well as the colonial era of the Dutch East Indies until Indonesia became independent and the national land law was marked by the issuance of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA).

Land registration regulates the legal relationship of citizens, legal entities with the principle of conformity with land use plans and land spatial planning where the granting of rights must prioritize land rights in agrarian business fields as stipulated in Article 12 and Article 13 of the Law. The meaning of land registration is a registration service in accordance with Pasal 19 UUPA which states that to ensure legal certainty by the government, land registration is held throughout Indonesia. Registration includes the process of measuring, mapping and land bookkeeping activities then registration of land rights and continues with the provision of letters of proof of rights in the form of certificates.

Land rights within the framework of implementing agrarian reform all strengthen the ownership of the economically weak or poor people over the land and prevent the transfer of ownership rights and functions of land that are able to provide justice to the small people and poor peasants who manage arable land.

E. Utrecht was quoted by Boedi Harsono as explaining that agrarian law in the narrow sense is land law and is part of the State Administrative Law because it examines the special relationship of officials in charge of managing agrarian matters. The study of agrarian law, including forestry law, regulates the rights of control over forests and forest products.⁵ Public relations also concern the relationship of each citizen's land to the natural resources contained in the territory of the Unitary State of the Republic of Indonesia according to the limits of their rights, because other people also have the same rights to land. Satjipto Raharjo said the law aims to integrate, coordinate the interests of the community in the traffic of interests, certain protection can be done by limiting interests on the other hand.⁶

Land cases are related to conflicts and land disputes that contain several things such as the involvement of strong economic, policy and social actors. The duration of time is very long, there are administrative problems (complicated adjudication processes), as well as more complicated cases can be found in forestry areas that will be converted to plantations. Like the problem of plantation location permits given by the local government, it is a strategy of companies in extracting wood products. This settlement is more complicated because the rules of forestry and land law overlap with land regulations regarding their authority, cases like this are also related to the interests of logging workers, indigenous peoples (kampung) to reforestation funds and land rehabilitation that are quite tempting.

Disputes in their broad sense (including differences of opinion, disagreement, or conflict) are common in social life, which can occur when two or more people interact at an event/situation and they have different perceptions, interests, and desires towards the event/situation. Dissent disputes that have led to a particular escalation or surfaced. Disputes usually start from a situation where one party feels aggrieved by the other party. This is preceded by subjective and closed feelings of dissatisfaction that can be experienced by individuals and groups. Feelings of dissatisfaction will come to the surface when there is a conflict of interest. The aggrieved party will convey its dissatisfaction to the second party. If the second party can respond and satisfy the first party, resolve the dispute. But if the reaction of the second party shows a difference of opinion or has different values, there is what is called a dispute. The dispute process occurs because there is no common ground between the disputing parties and potentially, two parties who have different stances/opinions can move into a dispute situation.

Dispute or conflict is a conflict or discrepancy between the parties who will or are entering into a relationship or cooperation caused by the absence of a meeting point between the parties about something. A dispute is a conflict between two or more parties who have different interests in one or several objects of Land Rights. Land registration activities for the first time produce proof of rights in the form of certificates. In land registration activities, there can be a transfer of rights, encumbrance of rights, extension of the period of land rights; splitting, separating and merging land parcels; sharing of common rights; abolition of land rights and property rights of flats; transfer and removal of dependent rights; changes in land registration data based on court decisions or determinations; and the change of name of the right holder must be registered with the

local District/City Land Office until it remains in accordance with the latter circumstances.

Legal interests take care of human rights and interests so that the law must be born as a legal order, basically an agreement between members of society and individuals with the government. The main problems studied are: 1. How to realize the legality of ownership of arable land that can be obtained by the community. 2. How to resolve disputes over ownership of arable land in Bogor Regency.

Research Methods

Research on the legality of arable land ownership minimizes land ownership disputes in Bogor Regency using the Normative juridical research method examines analyzing legal and legal norms in regulations that have been published as secondary data laws doctrinal legal research "The studies are a posteriori, meaning that theoretical ideas come later while the fact that the data appears to be strategically inducted and ideas are only hypotheses supported by data evidence raised as a result of research .26 Research is basically a planned activity with scientific methods aimed at obtaining new data to prove the truth or invalidity of an existing phenomenon or hypothesis.

Sources and Data Types The study uses secondary data with several sources. Secondary data are obtained from various literature such as applicable legal regulations and books, articles, scientific papers from research results on land.

Data collection using the triangulation method is done by comparing information or data in different ways is a data validity checking technique that utilizes something other than the data for the purposes of checking or comparing the data. Triangulation includes four things, namely methods, between researchers, data sources, and theories. Collect data that simultaneously tests credibility and checks data credibility with collection techniques from various data sources.

Data validation will be carried out through techniques of checking the validity of diligence of observations and triangulation of methods carried out with checking strategies through data collection techniques, in-depth interviews / in-depth interviews to policymakers granting rights determination in ATR / BPN. The Land Office deals with issues of Human Resources (HR) and HR Management, administrative facilities, technology, information transparency and service management called service management.

Data analysis techniques the process of organizing and sequencing data in patterns, categories and basic descriptions so that themes can be found and working hypotheses can be formulated as suggested by the data.³⁴ Qualitative data analysis is carried out through organizing and sequencing data dividing in detail into manageable units synthesizing data, dividing in detail into manageable units, synthesizing searching and finding patterns, and discover what is being conveyed to others.³³ The data analysis technique in this study is qualitative data analysis, which focuses on the general principles underlying the manifestation of symptom units in human life or patterns analyzed socio-cultural symptoms using the culture of the community concerned to obtain an overview of the prevailing patterns. (35)

Results and Discussions

- 1. Realizing the legality of ownership of arable land that can be obtained by the community.**

Having a land certificate for the owner to have authority in the sense of rights, of course, there are restrictions that are general because of their general nature, restrictions must not cause harm to other parties or disturb others, while restrictions due to the nature of land rights are in accordance with the designation and use of the type of land rights requested and granted based on the provisions of laws and government determinations. The word land registration was originally a cadastre word from the Dutch technical term for a record of data showing the area, value and ownership on which a parcel of land is based meaning a register or unit originally made in Roman times for land tax.

A legal certainty of the object of land rights includes certainty of the location, boundaries and area of land parcels and sometimes we experience loss of land parcel boundary marks either because they are lost or shifted due to natural events or other things so that physical boundary marks of land parcels are lost, so avoiding disputes needs to be done land parcel boundaries. Land registration throughout the territory of the Republic of Indonesia is regulated by Article 19 of the UUPA to ensure legal certainty by the Government of land registration, for Land Protection and to avoid disputes or even know the issue of disputes, it is necessary to explore the activities of measuring, mapping, and bookkeeping of land, registration of land rights and transfer of these rights so that land certificates as a strong evidentiary tool.

The surface of the earth that covers land throughout Indonesia as the concept of unity of all Indonesian territories as a unity of the homeland of all Indonesian people, means that land is not only the right of its owner but also is a common right of the Indonesian people which is a kind of relationship of customary rights of the Indonesian nation. Based on the provisions of Government Regulation Number 24 of 1997 concerning Land Registration, Article 1 number 1 explains the definition of Land Registration as follows:

"Land registration is a series of activities carried out by the Government continuously, continuously and regularly, covering the collection, processing, bookkeeping, and presentation and maintenance of physical data and juridical data, in the form of maps and lists, regarding land parcels and units of flats, including the provision of letters of proof of their rights to land parcels that already have rights and property rights to apartment units and certain rights that burden them"

Normatively, the provisions of Article 2 of the Agrarian Principles Law (UUPA) regulate the allocation of earth, water and space including the natural resources contained therein at the highest level controlled by the state. Understanding the earth covers the surface of the earth, including the body of the earth below and above it, the understanding of water is inland waters and seas of Indonesian territory, while the understanding of space is space above the earth and above the waters. The scope of the earth's surface includes land throughout Indonesia in accordance with the concept of the unity of all Indonesian territories as a unitary homeland of all Indonesian people, meaning that land is not only the right of its owner but also a common right of the Indonesian people which is a kind of relationship of customary rights of the Indonesian nation.

Land certificates are strong evidence, but the government or the State does not guarantee legal certainty. So that many land disputes and conflicts arise, empirically it can be seen that there are conflicted social dimensions, ranging from social relations, religion, community sustainability and also self-esteem and human dignity (HumanDignity). The above reality raises problems of justice for victims and legal certainty for the parties so that there are various negative consequences (multy flyer effect) including social inequality, poverty and other social injustices.

The state has an administrative institution in the land sector, namely the Ministry of Spatial Planning and Land / National Land Agency which is a vertical institution and the bottom part is the Land Office, one of the functions of the National Land Agency is the regulation and determination of land rights. The implementation of the function of regulating and determining land rights can be carried out alone by the Head of the National Land Agency of the Republic of Indonesia, or it can also be delegated authority to the Head of the Regional Office of the Provincial National Land Agency, or the Head of the District/City Land Office. The authority to grant land rights handed over to the Head of the District/City Land Office according to the Regulation of the Minister of Agrarian State/Head of the National Land Agency Number 3 of 1999 includes: :

1. Granting Ownership Rights over agricultural land covering an area of no more than 2 (two) hectares.
2. Granting Title to non-agricultural land covering an area of not more than 2,000 M2 (two thousand square meters).
3. Granting of Ownership Rights to land in the context of implementing programs such as transmigration, land redistribution, land consolidation, mass land registration both in the context of implementing systematic and sporadic land registration.
4. Granting of Building Use Rights on land that is not more than 2,000 M2 (two thousand square meters), except regarding former Right to Use Land
5. All grants of Building Use Rights on land Management Rights.
6. Granting Right of Use on agricultural land covering an area of no more than 2 Ha (two hectares).
7. Granting Right of Use on non-agricultural land covering an area of no more than 2,000 M2 (two thousand square meters), except regarding former Right to Use land.
8. All grants of Right of Use on land Right of Management.
9. All changes in land rights, except changes in Business Use Rights to other rights.

The Head of the National Land Agency of the Republic of Indonesia is authorized to provide policies on state land rights to individuals or legal entities, in its implementation can be delegated to the Head of the Regional Office of the Provincial National Land Agency or the Head of the Regency / City Land Office. The regulation that regulates the authority in granting state land rights is the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning the Delegation of Authority to Grant and Cancel Decisions on Granting State Land Rights.

Land rights are rights as referred to in the provisions of Article 16 of Law Number 5 of 1960 concerning Basic Regulations of Agrarian Principles, namely Primary land rights (originair) are land rights directly granted by the state to subjects of rights such as Property Rights, Business Use Rights, Building Use Rights, Secondary land rights. Secondary land rights are the right to use land belonging to other rights such as Building Use Rights, Use Rights, Production Sharing Business Rights, Riding Rights. The meaning of land rights all give the authority to use certain plots of land in order to meet needs that are essentially limited to land use only two purposes, first to fulfill the purpose to be cultivated, for example for agriculture, plantations, fisheries, maybe also livestock, and second, land is used as a place to build something for various companies, each of which is named Hak Milik, Hak Guna Usaha, Right to Build, and Right to Use.

As stipulated in the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning the Delegation of Authority to

Grant and Cancel the Decision on Granting State Land Rights in Article 4 (four) explains Before applying for rights, the applicant must control the land requested as evidenced by juridical data and physical data in accordance with the provisions of the applicable laws and regulations, in the case of the land requested is Land Management Rights. The applicant must first obtain an appointment in the form of a land use agreement from the Management Rights Holder. In the case of land requested is forest area land. It must first be released from its status as a forest area in accordance with the provisions of applicable laws and regulations. Certain lands required for conservation determined by the minister cannot be invoked with any right to land

Land rights obtained from the state consist of Property Rights, Business Use Rights, Building Use Rights, Use Rights and Management Rights. Each right has its own characteristics and all must be registered according to the provisions of the law and the applicable legislation, according to Article 20 of the Law Property Rights are hereditary, strongest and fullest rights that people can have over land, property rights can be transferred and transferred to other parties. One of the particularities of this Property Right is not limited by time and is given for an unlimited period of time, that is, as long as this property right is still in the framework of the enactment of the Law.

2. Settlement of arable land ownership disputes in Bogor Regency.

The case of the Garapan land dispute story studied in Bogor Regency is in the case of a land dispute between Rocky Gerung and Sentul City, in the settlement of this case the Ministry of ATR / BPN Central and the Cibinong Land Office (Kantah) see in advance the coordinates and then it is known that the coordinates overlap the land claimed by both parties. The Ministry of ATR / BPN will also check all HGB documents owned by PT. Sentul City both physical data and juridical data, as well as documents that are also owned by residents in the disputed area.

Based on state authority derived from the right to control land by the state as stipulated in Article 4 paragraph (1) of the UUPA where the state is authorized to determine and grant various rights to land that can be owned by people either alone or together with other people and legal entities. The various rights to land referred to are as stated in Article 16 (1) of the UUPA are Property Rights, Business Use Rights, Building Use Rights, Use Rights, Rental Rights, Land Clearing Rights, Forest Product Collecting Rights and other rights that are not included in these rights which will be stipulated by law, as well as temporary rights.

Rocky Gerung controls the land that is in dispute with PT Sentul City, controlled by Rocky Gerung since 2009 from residents who have physically controlled the land since 1960 with the identity owned is a certificate of no dispute signed by the Head of Bojong Koneng Village at that time in his letter the old owner, Andi Junaedi, stated under oath that he had a land located in Block 026 Kampung Gunung Batu RT 02 RW 11, Bojong Koneng Village.

The influence of personal social forces, including certain interest content that affects the enactment of the concept of land law justice, requires the role of the state and is even indispensable in community relations and its framework in efforts to regulate land to achieve justice. Community relations include the relationship of meeting land needs, every citizen has the same rights to the natural resources contained in the territory of the Unitary State of the Republic of Indonesia according to the limits of their rights, because other people also have the same rights to land. Satjipto Raharjo said the law aims to integrate, coordinate the interests of the community in the traffic of interests, certain

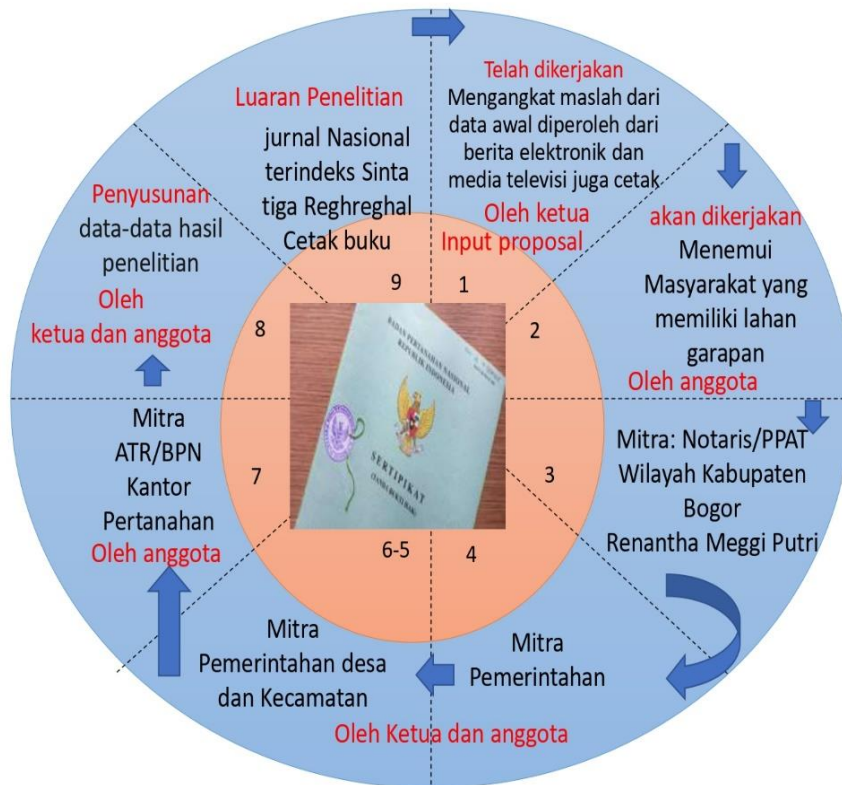
protection can be done by limiting various interests on the other side.

The case of arable land disputes in Bogor can finally be resolved peacefully with a mediation process so that the litigation process did not continue but was silenced because of the peace mediation process. Legal interests dealing with human rights must be born as a basic legal order that is an agreement between society and between individuals and governments that are considered to represent the interests of society. Settlement of arable land ownership disputes in Bogor Regency. as the scheme below explains that the fact of arable disputes contains the involvement of strong economic, policy and social actors.²⁰ There have also been more complicated administrative problems found in forestry areas that have been converted to plantations such as the problem of permits granted by local governments more complicated by land regulations regarding their authority, cases like this are related to the interests of the community.

. The aggrieved party expresses its dissatisfaction with the second party if the second party can respond and satisfy the first party, resolve the conflict, if the reaction of the second party shows differences of opinion or has different values a dispute occurs. The dispute process occurs because there is no meeting point between the disputing parties and potentially the parties have different stances/opinions and can move into a dispute situation.

The emergence of legal disputes stems from complaints from a party (person/entity) containing objections and claims for land rights both against land status, priorities and ownership in the hope of obtaining an administrative settlement in accordance with applicable regulatory provisions. The causes of various land disputes such as:

- a. Misunderstandings and/or differences in interpretation
- b. the vagueness of settings
- c. dissatisfaction and/or offense
- d. Suspicion
- e. Inappropriate, Cheat or Dishonest Actions
- f. arbitrariness or injustice
- g. the occurrence of unforeseen circumstances



Mediation is an alternative dispute resolution that can be taken in overcoming problems in the community. Given that the main purpose of mediation is to solve problems, not just apply norms or create order, its implementation must be based on the following general principles:

a. Mediation activities include:

1. Overcoming obstacles to relationships between parties (personal relationships between parties).
2. Break the ice between the two sides of the dispute, the atmosphere is familiar, not rigid.
3. Explanation of the role of the mediator
 - a) As an impartial third party (neutral).
 - b) The will of the parties is not restricted.
 - c) The position of the parties and the position of the mediator himself must be neutral.
 - d) The key to this session was the affirmation of the parties' willingness to resolve the dispute through mediation and by mediators of the National Land Agency of the Republic of Indonesia.
 - e) In certain cases based on his authority (authoritative mediator authority) the mediator can intervene / intervene in the process of seeking agreement from the disputed issue (not impartial), to place the agreement to be reached in accordance with land law. This needs to be understood

by the parties so as not to give rise to a priori conjectures.

4. Clarification of the parties

- a) The parties know their position.
- b) It is conditioned that there is no a priori feeling on either party / both parties with the same objectivity of dispute resolution, position, rights, and obligations.
- c) Each has the right to provide and obtain information/data submitted by the opponent.
- d) The parties may dispute or seek clarification from the opponent and are obliged to respect the other party.
- e) Mediation arrangements
- f) From the beginning of mediation, mediation rules have been conveyed that must be obeyed by all parties involved in mediation.
- g) The rule is initiated by the mediator or drafted a new agreement of the parties, such deviations can be carried out with the consent of the parties.
- h) These rules include determining :
 - (1) What mediators can and cannot do
 - (2) Rules of Order, Discussion and Negotiation
 - (3) Utilization of caucuses
 - (4) giving time to think, etc.
 - (5) The formulation of these rules may invite a long debate, but for mediators who are used to doing their job it is not difficult to overcome it.

The definition of legal protection according to experts among others Satjipto Raharjo that "Legal Protection is to provide protection to human rights that are harmed by others and such protection is given to the community so that they can enjoy all the rights provided by law." Satjipto Rahardjo said that the law present in society is to integrate and coordinate interests that can collide with each other. Coordinating these interests is done by limiting and protecting these interests. Regarding legal protection in the Unitary State of the Republic of Indonesia has the meaning of *rechstaat* and rule of law, in the explanation of the 1945 Indonesian Constitution it is stated that "The State of Indonesia is based on law, (*rechtsstaat*), not based on mere power (*Machtsstaat*)".

As Satjipto Raharjo quotes that the beginning of the emergence of the theory of legal protection originated from the theory of natural law or the school of natural law, pioneered by Plato, Aristotle (a student of Plato), and Zeno (founder of the Stoic school), in the school of natural law states that the law comes from God who is universal and eternal, and between law and morals should not be separated. Adherents of this school view that laws and morals are reflections and rules internally and externally of human life manifested through laws and morals.

Repressive legal protection aims to resolve disputes. The handling of legal protection by the General Court and the Administrative Court in Indonesia is included in this category of legal protection. The principle of legal protection against government actions rests and originates from the concept of recognition and protection of human rights because according to history from the West, the birth of concepts about the recognition and protection of human rights is directed to the limitation and laying of obligations of society and government. The second principle underlying legal protection of governmental acts is the principle of the rule of law. Associated with the recognition and protection of human rights, the recognition and protection of human rights takes

precedence and can be linked to the purpose of the rule of law.

Bentham defines the legal protection of ownership of land rights physically controlled by other parties in the land registry in Indonesia as the nature of all such objects likely to produce pleasure, goodness, or happiness, or to prevent the occurrence of damage, suffering, or evil, as well as unhappiness on behalf of those whose interests are considered.

The land registration in question substantially accommodates the conceptions of Customary Law that are alive and rooted in the community, thereby strengthening the framework of the UUPA objective which is to create a unification of the National Land Law which is indeed based on Customary Law. The law gives legitimacy to the implementation of public policy and as a law it has presented its figure as one of the tools to implement policy.

The flow of utility considers in principle the purpose of law only to create benefit or happiness of society. The utility school includes practical moral teachings aimed at providing the greatest benefit or happiness to as many citizens as possible. The legal protection of ownership of land rights physically controlled by other parties in land registration in Indonesia agrees with Bentham that the state and law exist solely for the true benefit, namely the happiness of the majority of the people.

Land rights include all rights acquired directly from the state called primary rights and all rights derived from holders of other land rights based on collective agreements, called secondary rights. The two rights generally have something in common, where the holder is entitled to use the land he controls for himself or to benefit from others through an agreement in which one party grants secondary rights to the other.

Land rights of any kind give the authority to use certain plots of land in order to meet the needs of the right holder. In essence, the use of land is only limited to two purposes, namely: to be cultivated and to build something. Because land throughout Indonesia is jointly owned by the Indonesian people, based on this it is possible to individually control a piece of land by Indonesian citizens in meeting their needs.

Land Rights originating from the state's control rights over land can be given to individuals, both Indonesian citizens and foreign nationals, groups of people together and legal entities, both private legal entities and public legal entities. In terms of land origin, land rights are divided into two groups, namely primary land rights and secondary land rights.

Primary land rights are land rights originating from state land such as Hak Milik, HGU, HGB, over State land, Right of Use on State Land while Secondary land rights are land rights originating from other parties' land such as HGB over Right of Management land, HGB over Right of Ownership Land, Leasehold Rights for Buildings, Liens (Land Pledges), Production Sharing Business Rights (Production Sharing Agreements), Hitchhiking Rights and Agricultural Land Lease Rights.

Reaffirmed in the Regulation of the Minister of Agrarian State/Head of the National Land Agency, dated February 9, 1999 Number 3 of 1999 concerning the Delegation of Authority to Grant and Cancel State Land Rights Decisions in conjunction with PMNA / Head. BPN Number 4 of 1998 jo. KMNA / Ka.BPN Number 6 of 1998 concerning Guidelines for Determining Income Money in Granting State Land Rights.

Conclusion

Realizing the legality of arable land ownership can be obtained by the community by registering land with the land office by referring to the Regulation of the Minister of

Agrarian State/Head of the National Land Agency, dated February 9, 1999 Number 3 of 1999 concerning the Delegation of Sovereignty for Granting and Canceling Decisions on State Land Rights in conjunction with PMNA / Head. BPN Number 4 of 1998 jo. KMNA / Ka.BPN Number 6 of 1998 concerning Guidelines for Determining Income Money in Granting State Land Rights.

The settlement of arable land ownership disputes in Bogor Regency can be done through litigation or outside litigation and in the case of arable land disputes in Bogor resolved through peace with mediation channels.

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