

Efforts of The People of Geyongan Village In Obtaining Rights To Former Pangonan Land

**Junaedi, Dandhy Nuralamsah Ramadhan, Aditiar Hafidh Anwar, Irma Maulida,
Gusti Yosi Andri**

Universitas Swadaya Gunung Jati, Indonesia

E-mail: jufahjunaedi@gmail.com, dandhynurramadhan@gmail.com,
anwaraditiarhafiidh@gmail.com, irma.maulida@ugj.ac.id, gusti.yosi@gmail.com

*Correspondence: jufahjunaedi@gmail.com

KEYWORDS

publishing; use rights;
state land

ABSTRACT

The certificate of right to use on state land is a legal instrument that gives the holder the right to use state land for a certain period of time in accordance with the provisions of the applicable laws. This study examines the case of State Land intended for pangonan, which is located in Dukupace Block, Geyongan Village, Cirebon Regency, where the villagers use the abandoned Pangonan land, then they control it for various purposes such as agriculture and housing. Even though they have controlled the land for many years, the community does not have its ownership status. This will cause problems in the future if the status of the land is not yet owned by the people who occupy the land. The research method used is empirical juridical, with reference to various previous studies on state land ownership and land distribution justice. The results of the study show that there is a lack of public understanding of procedures and ownership conflicts. To overcome these obstacles, it is necessary to simplify the mechanism regarding rules and increase socialization. This study provides fair and inclusive policy recommendations, as well as concrete steps to improve the process of issuing use rights certificates and recognition of land rights based on long-standing physical tenure.

Attribution- ShareAlike 4.0 International (CC BY-SA 4.0)



Introduction

A certificate of right to use on state land is a legal instrument that gives the holder the right to use state land in a certain way. The process of issuing this certificate involves the National Land Agency (BPN) and is based on the Basic Agrarian Law (UUPA) Number 5 of 1960.(Gautama, 1990)

The state as an organization of power and all the people regulates and makes regulations, then organizes the use, supply and maintenance of it and the earth, water, space and natural resources contained in it. Also to determine and regulate (establish and make regulations) what rights can be developed from the right of control of the State

(Selo, 1962).

A certificate of right to use is an official document that gives individuals or entities the right to use state land for a certain period of time in accordance with the provisions of applicable laws. This certificate serves as proof of the legality of land use and provides legal certainty for the holder of the right to use (Hartono & Khisni, 2018). The importance of the right to use certificate can be seen from various aspects, ranging from the use of land for personal and commercial purposes, to the development of public infrastructure. State land in Indonesia has a very strategic role in national development. The management and use of state land must be carried out wisely and based on the law in order to provide optimal benefits for the community and the state. (Maria, Sumardjo, Hidden Property Ownership 2001)

The issuance of a certificate of right to use state land is a form of land management regulated in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA) and its implementing regulations (Luthfi et al., 2016). However, the process of issuing a certificate of right to use on state land does not always run smoothly. Various obstacles are often faced by the applicant and the National Land Agency (BPN) as the authorized authority. These obstacles include complex bureaucracy, lack of public understanding of procedures, conflicts of ownership and land use, and limited resources at BPN. Therefore, an in-depth study is needed to understand the existing processes and obstacles, as well as find solutions to overcome these obstacles.

The case of Geyongan Village is of special concern in the context of issuing a certificate of right to use. This village applied for a certificate for state land used by its citizens. However, this process does not always run smoothly, especially related to the origin of village land based on perdais.

In this study, we will delve deeper into the problems and obstacles faced in the effort to issue a certificate of right to use on state land, a case study of Geyongan Village. In addition, it will discuss legal certainty in the process of issuing a use right certificate.

The following is a description of previous research to obtain a comparison:

1	Heading	Legal mechanism of the community in obtaining right to use state land	land rights dispute resolution	use and the ownership to state land	Juridical review of the granting of ownership rights to state land	efforts of the people of geyongan village in obtaining rights to the land of the former pangonan
2	Writer	Rivaldy Kurnia	Theo Languju	S Sappe, AI Latturete, N Uktolseja	Zahrah Farhataeni Rohman, Heru Sugiyono	Junaedi, Dandhy R, Nuralamsah A, Aditiar Hafidh A, Irma Maulida, Gusti Yosi Andri
3	Year	2019	2021	2022	2024	
5	Research Methods	Juridisical-Normative Method	Normative Legal Methods	Juridisical-Normative Method	Juridis-Empirical Method	

Therefore, this study aims to find out how efforts to issue a Right to Use certificate on State land, besides that this research also aims to find out how to obtain land hectares on the strength of physical control for more than 20 years.

Research Methods

This study uses an empirical juridical approach with descriptive analysis. The data used consisted of primary data and secondary data. Primary data was obtained through interviews with related parties, including village officials and the people of Geyongan Village. Secondary data is collected through literature studies, including literature, laws and regulations, and other official documents.

These two data are needed in this study to be able to provide a comprehensive and in-depth picture and can produce a richer, valid, and relevant analysis to examine the Efforts of the Process of Issuing Certificates of Right to Use on State Land.

Results and Discussions

The land can be categorized as state land based on agrarian law, especially based on the provisions of Article 21 of Law No. 5 of 1960 concerning Agrarian Principles. This article states that land that is abandoned or not used in accordance with its functions for a period of time that has been determined by law, can become state property. In this context, the 20-year physical neglect of land and its functional changes became a solid basis for establishing the status of land as state land. The process of determining this status usually involves a careful examination of evidence of neglect and non-use, as well as through legal procedures regulated by the land authority or authorized legal entity. Thus, based on the applicable agrarian law, the pangonan land is eligible to be declared as state land because it has met the conditions stipulated in the Basic Agrarian Law (Mujiburohman, 2021).

Based on the results of research found in the field, there are several points of trouble experienced by residents of Geyongan Village, Arjawinangun District, Cirebon Regency, including the following:

1) Socio-Economic Background

The decision to convert the land in the Gembur Block was rooted in the urgent need of the local community for a place to live. Many families in Geyongan Village live in less prosperous conditions, with some families living in one house. This decision reflects a response to socio-economic pressures, where the provision of housing is considered a solution to improve people's well-being.

2) Land Distribution and Distribution Process

The division of pangonan land into plots is carried out by involving community leaders to ensure fair distribution. This process shows that there are efforts to maintain transparency and fairness in land allocation. However, despite good intentions, this process may pay less attention to the deeper legal and administrative aspects, which ultimately leads to ownership issues later in life.

3) Government Support and Implementation

The support from the Regent of Cirebon for the period 1998 - 2003, through the provision of clean water and building materials, shows the active involvement of the local government in supporting this initiative. This shows that this initiative is not only supported by the community but also by the local government. However, administrative constraints in the land legalization process may not be paid attention to, which then becomes a problem.

4) Ownership and Administration Problems

The main problem that arises is the lack of legal administrative completeness, such as land certificates. SPPT and sale receipts are not strong enough to provide legal ownership rights. This shows weaknesses in the legal and administrative

aspects of this land conversion process. Without adequate administrative completeness, the people occupying this land do not have clear legal certainty.

5) Mediation and Resolution Efforts

The mediation efforts carried out by Mr. Harmono with PUPR and BPN show that there are steps to find a solution. However, the results of mediation that asked the community to wait for a decision from the Provincial Government showed that this settlement process was still unclear and time-consuming. This creates prolonged uncertainty for the community that has occupied the land for more than two decades.

6) Long-Term Implications

This uncertainty of land ownership has the potential to cause long-term social and economic problems. Without legal certainty, communities may face difficulties in making optimal use of land and accessing credit or other assistance that requires proof of legal land ownership. This can also hinder the development of infrastructure and public services in the area.

Efforts to issue a certificate of right to use on state land.

The decision to grant this right of use is by granting rights by the Head of the National Land Agency of the Republic of Indonesia (BPNRI) or BPNRI officials who are given the authority to grant land rights. This right to use occurs since the decree on granting the right to use is registered by the applicant to the head of the Regency/City land office whose working area includes the location of the land concerned to be recorded in the land book and issued a certificate as proof of his rights (Suartini et al., 2020).

The mechanism or procedure for obtaining the right to use through the granting of the right to use is regulated in the Regulation of the Minister of State Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for the Grant and Cancellation of State Land Rights and Management Rights. And the following is the legal mechanism or procedure to obtain the right to use the State's land, the application for the right to use as referred to in Article 51 paragraph (1). It is submitted to the minister through the head of the land office whose work area includes the location of the land concerned.

After the application file is received, the head of the land office:

- a) Examining and researching the completeness of juridical data and physical data.
- b) Take notes in the form of fillouts.
- c) Provide a receipt for the application file according to the fill form.
- d) Notify the application with its details in accordance with the provisions of the applicable laws and regulations.

Land rights can be increased and lowered. This can be done in accordance with the interests of the holder of the right to the land. The reduction of land rights is carried out to meet the needs of land rights holders who may not be eligible to hold land rights from newly received land. This happens when a legal entity wins land with ownership rights at public auction even though the legal entity is not allowed to own land with ownership rights. Meanwhile, land rights can be increased to obtain property rights that are used as residential houses. (Languju, 2019)

The legal mechanism for changing property rights into use rights is regulated in the Decree of the Minister of State Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for the Grant and Cancellation of Rights to State Land and Management Rights. as follows:

- a) The application for change of rights is submitted in writing.
- b) The application for change of rights as referred to in paragraph (1), contains:
 - a. Applicant's details:

Efforts of The People of Geyongan Village In Obtaining Rights To Former Panganan Land

- 1) If an individual: name, age, nationality, place of residence and occupation as well as information about his wife/husband and children who are still dependents.
- 2) If a legal entity: name, place of residence, deed or regulation of establishment, in accordance with the provisions of the applicable laws and regulations.
- b. Information about the land which includes juridical data and physical data:
 - 1) The basis of control or the basis of rights is in the form of certificates, graduation decisions, PPAT deeds, deed of relinquishment of rights, and auction minutes.
 - 2) Location, boundaries and area (mention the date and number of the letter of survey).
 - 3) Type of soil (agricultural/non-agricultural).
 - 4) Land use plan.
- c. Others :
 - 1) Information on the number of plots, area and status of land owned by the applicant, including the land plot applied.
 - 2) Other information that is considered necessary.
 - 3) The application for change of rights as referred to in Article 94 paragraph (1) is attached to:
 - a. About the applicant:
 - 1) If an individual: a copy of the proof of identity letter, proof of citizenship letter.
 - 2) If a legal entity: photocopy of deed or regulation in accordance with the provisions of applicable laws and regulations.
 - b. Regarding the soil:
 - 1) Certificates of ownership and use rights of the building for which the change of rights are requested, or proof of ownership of the land in question in the case of property rights that have not been registered.
 - 2) An excerpt of a pamphlet issued by an authorized official if the right in question is won by a legal entity in a public auction.
 - 3) A letter of approval from the holder of the right of dependency if the right to the land is encumbered with the right of dependency.
 - 4) PPAT deeds, words of waiver of rights, court decisions or other land acquisition letters in accordance with the provisions of applicable laws and regulations.
 - c. The applicant's statement letter regarding the number of fields, area and status of the lands owned, including the land parcels requested.
 - 4) The application for change of rights as referred to in Article 94 paragraph (1) is submitted to the head of the land office whose work area includes the location of the land concerned.
 - 5) In the event that the land rights applied for have been registered, after the application file is received, the head of the land office:
 - a. Checking and researching the completeness of the application file.
 - b. Take notes in the form of fillouts.
 - c. Provide a receipt for the application file according to the fill form.
 - d. Notify the applicant to pay the necessary fees to complete the application with the details in accordance with the provisions of the applicable laws and regulations.
 - 6) The head of the land office examines the completeness and correctness of the application file as intended in Article 94 paragraph (1) and checks the feasibility of whether or not the application can be granted or in accordance with the

provisions of the applicable laws and regulations.

Efforts to obtain land rights over physical control power for more than 20 years.

According to Indonesian law, a person who legally controls a piece of land for 20 consecutive years without any claim from another party has the right to apply for recognition of rights at the local land office. This physical mastery is usually done by building a house on the ground and living in it yourself. (Zefanya & Lukman, 2022)

There are several types of proof of ownership of land, including Certificate of Ownership, Certificate of Building Rights, Certificate of Right to Use, Business Rights, and Management Rights. Agrarian law regulates these rights, and customary law remains valid as long as it does not conflict with national law. (Sumiati & Kadaryanto, 2021)

According to jurisprudence, if a person allows his land to be controlled by another person for 18 years, it is considered to have relinquished the right to the land. If the physical possession lasts for 20 years or more continuously, the land becomes the right of the person who controls it. Government Regulation No. 24 of 1997 also states that physical possession for 20 years can register as a right holder. (Sinaga, 2014) So, if physical control over the land lasts for 30 years or more uninterrupted, the owner no longer needs to question his rights.

Based on Presidential Regulation Number 62 of 2023 concerning the Acceleration of the Implementation of Agrarian Reform, the mechanism for granting the right to use through land objects of agrarian reform (TORA) consists of several important steps. First, the determination of TORA includes land controlled by the state and/or land that has been owned, controlled, and/or utilized by the community for redistribution or legalization. Second, agrarian reform planning is carried out through asset legalization strategies, land redistribution, economic empowerment of agrarian reform subjects, agrarian reform institutions, and community participation (Hastarini, 2022). Third, the determination of agrarian reform subjects includes the determination of TORA recipients who meet the requirements and are determined to receive TORA. Fourth, asset structuring includes land redistribution and legalization of land assets. Land redistribution is carried out by the government in the context of the distribution and/or granting of land rights sourced from TORA to agrarian reform subjects accompanied by the granting of land rights certificates. Fifth, the granting of right-of-use certificates includes certification of rights to transmigration land, residential land, business land, and public facilities to support the implementation of agrarian reform. The right to use is given for public facilities and/or social facilities in the form of land rights certificates. Finally, the institution of agrarian reform is regulated through the establishment of a national agrarian reform acceleration team tasked with coordinating, controlling, and supervising the implementation of agrarian reform. With this mechanism, it is hoped that the implementation of agrarian reform can run faster and more effectively, provide legal certainty and land ownership rights to the community, and support economic and social development in areas in need.

The criteria for physical tenure recognized in the context of land rights based on physical tenure for more than 20 years involve several important elements: (Patittingi, 2011)

- 1) Land Ownership: Physical possession must occur on land that does not yet have a rightful owner. If the land already has a registered owner, physical possession will not recognize the right to the land.
- 2) Continuous Mastery: Physical mastery must last continuously for at least 20 years. This means that there should be no interruptions or interruptions that stop physical mastery during that period.

- 3) Clear and Real Mastery: Physical mastery must be clear and real. This can be evidenced by the presence of buildings, plants, or other activities that show active use of land.
- 4) No Claims from Other Parties: During the period of physical possession, there should be no claims or claims for land rights from other parties. If there is a claim, physical possession may not be recognized.
- 5) Supporting Evidence: In addition to physical possession, the right holder must be able to provide supporting evidence, such as witnesses, tax payment records, or other documents showing land tenure.

Procedures for issuing the Right to Use Certificate.

The mechanism or procedure for obtaining the right to use through the granting of the right to use is regulated in the Regulation of the Minister of State Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for the Grant and Cancellation of State Land Rights and Management Rights. The following is the legal mechanism or procedure for obtaining the right to use state land:(Setiawan & Sari, 2019)

1. Application Submission: The applicant must submit an application for the right to use to the local Land Office by attaching the necessary documents such as the applicant's identity, proof of payment of administrative fees, and a certificate from the relevant agency.
2. Land Verification and Measurement: After the application is submitted, BPN officers will verify documents and land measurements to ensure the boundaries and area of the land requested.
3. Determination of Use Rights: Based on the results of verification and measurement, BPN will determine the use rights on the country's land. This process also involves consideration from relevant government agencies.
4. Issuance of Certificate: After the determination of the right to use, BPN will issue a certificate of the right to use which is submitted to the applicant. This certificate contains information about the right holder, land area, and tenure period.

Land rights can be increased and lowered. This can be done in accordance with the interests of the holder of the right to the land. The reduction of land rights is carried out to meet the needs of land rights holders who may not be eligible to hold land rights from newly received land. Land rights can be increased to obtain property rights that are used as residential houses.

The legal mechanism for changing property rights to use rights is regulated in the Decree of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for the Grant and Cancellation of State Land Rights and Management Rights.

Obstacles in the Issuance of Use Rights Certificates

Obstacles experienced by the community in efforts to issue a Right to Use certificate.(Ayu, 2019)

1. Complex Bureaucracy: Long and convoluted procedures often lead to the process of issuing a right-of-use certificate taking a long time. There are many stages that must be passed and require approval from various parties.
2. Lack of Public Understanding: Many people do not understand the procedures and requirements for applying for a right of use. This often results in the submission of incomplete applications or not in accordance with the provisions.
3. Conflicts of Ownership and Land Use: Conflicts between the applicant and the other

party regarding the ownership or use of land often arise, especially if the land being applied for has been used by the other party for a long time without an official certificate.

Efforts to Overcome Obstacles

1. **Simplification of Bureaucratic Procedures:**(Ayu, 2019) The government needs to simplify bureaucratic procedures to make it easier for people to apply for use rights. This can be done by reducing the number of stages and speeding up the approval process.
2. **Counseling and Socialization:** Increasing public understanding of the procedures and requirements for applying for the right to use can be done through more intensive counseling and socialization. BPN and related agencies need to actively provide information to the public.

Mediation and Conflict Resolution: To resolve land ownership and use conflicts, there needs to be an effective mediation mechanism between the parties to the dispute. BPN can work with mediation institutions to resolve conflicts peacefully.

Conclusion

This study found that there is a lack of public understanding of procedures and ownership conflicts. To overcome these obstacles, it is necessary to simplify the mechanism regarding rules and increase socialization. In addition, the recognition of land rights based on physical control for more than 20 years is also an important step in providing legal certainty for people who have long controlled and used state land.

This study provides fair and inclusive policy recommendations, as well as concrete steps to improve the process of issuing use rights certificates and recognition of land rights based on long-standing physical tenure. The recommendations include:

Simplification of the mechanism regarding the rules in the issuance of use right certificates and recognition of land rights.

Increase socialization and public understanding of the procedures for issuing certificates of use rights and recognition of land rights.

Thus, it is hoped that this research can make a positive contribution in improving justice and legal certainty for people who have long controlled and utilized state land, as well as supporting sustainable and inclusive national development.

References

- Ayu, I. K. (2019). Problematika Pelaksanaan Pendaftaran Tanah Melalui Pendaftaran Tanah Sistematis Lengkap Di Kota Batu. *Legality: Jurnal Ilmiah Hukum*, 27(1), 27–40.
- Gautama, S. (1990). *Tafsiran undang-undang pokok agraria*.
- Hartono, E. P., & Khisni, A. (2018). Peranan PPAT Dalam Pembuatan Akta Peralihan Hak Atas Tanah Dan/Atau Bangunan Bekas Hak Milik Adat Berkaitan Dengan Pembayaran Bea Perolehan Hak Atas Tanah Dan/Atau Bangunan. *Jurnal Akta*, 5(1), 159–166.
- Hastarini, A. (2022). Kedudukan Hukum Masyarakat Adat Dalam Memperoleh Hak Atas Tanah di Indonesia. *Jurnal Hukum Sasana*, 8(2).
- Languju, R. T. K. (2019). Mekanisme Hukum Masyarakat Dalam Memperoleh Hak Pakai Terhadap Tanah Negara. *Lex Et Societatis*, 7(5).
- Luthfi, A. N., Andari, D. W. T., & Mujiburohman, D. A. (2016). *Problematika Pemberian Hak atas Tanah Bekas HGU di Sumatera Utara*.
- Maria, S. W., Sumardjo, W. N. A., & Pemilikan Hak Milik Terselubung, K. (2001). Kebijakan Pertanahan antara regulasi dan implementasi. *Jakarta, Kompas*.
- Mujiburohman, D. A. (2021). Legalisasi Tanah-Tanah Bekas Hak Eigendom. *Jurnal Yudisial*, 14(1), 117–137.
- Patittingi, F. (2011). Penegasan Alas Hak Penguasaan Fisik Turun-temurun Dalam Praktik Pendaftaran Tanah. *Amanna Gappa*, 19(4).
- Selo, S. (1962). Land Reform in Indonesia. *Asian Survey*, 1(12), 23–30.
- Setiawan, I. K. O., & Sari, M. (2019). *Hukum Pendaftaran Tanah & Hak Tanggungan*.
- Sinaga, P. R. G. (2014). Sertifikat hak atas tanah dan implikasi terhadap kepastian kepemilikan tanah. *Lex et Societatis*, 2(7).
- Suartini, M., Budiarta, D. G., & Yadnya, P. A. K. (2020). Kekuatan Hukum Pendaftaran Hak Atas Tanah Bekas Hak Eigendom. *Majalah Ilmiah Universitas Tabanan*, 17(1), 63–68.
- Sumiati, H., & Kadaryanto, B. (2021). Kepastian Hukum Sertifikat Hak Milik Atas Tanah Dalam Hukum Pertanahan Indonesia. *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum*, 7(2), 135–145.
- Zefanya, A., & Lukman, F. X. A. (2022). Tolak Ukur Pemenuhan Penguasaan Fisik Atas Tanah Melalui Surat Pernyataan Penguasaan Fisik Bidang Tanah. *Jurnal USM Law Review*, 5(2), 441–454.