Legal Consequences Of Blocking The Certificate Of Land Rights (Case Study At Sidoarjo District Land Office)

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Abstract

Blocking a certificate of land rights carried out by the Land Office or BPN is a form of legal effort to protect the object of land rights by establishing a temporary freeze on land rights to legal actions and legal events on the land. The applicant blocking a certificate of land rights filed a request to block his land object at the Sidoarjo Regency Land Office due to several factors that influence the applicant to block the certificate or in accordance with his legal interests. The purpose of this study is to determine the legal consequences of blocking on land title certificates at the Sidoarjo Regency Land Office and to determine considerations for the Sidoarjo Regency Land Office in accepting and rejecting applications for blocking land certificates. This research uses an empirical juridical approach research method using data collection techniques such as from books, scientific journals, news articles, official documents, legislation, and interviews to solve the problem formulation. Data analysis method used is a qualitative research method of primary and secondary data. The results of the study can be concluded that due to the blocking of certificates of land rights at the Sidoarjo Regency Land Office is not able to take legal actions such as the transfer of rights or the imposition of rights to the object of land that is temporary. In addition, blocking is done as a form of prevention so that certificates of land rights are not abused by parties with bad intentions. Consideration of a request for a certificate block can be accepted on the grounds of a court suit due to a land dispute, an order from the court for investigation in the criminal domain, an illegal act, and a lost land certificate. An application can be rejected due to unclear reasons and the applicant has no legal interest or relationship.

Keywords: Block Certificates, Land Certificates, Land.

I. Introduction

Land has the benefits and position or important place in various human lives to meet their needs, especially as a place to live or housing even to carry out business activities. The rise of development in various fields of life, causes a reason that the land has high economic value and is difficult to control.1

In addition, with the increasing need, it will be needed in the form of legal certainty in the field of land which is written, clear and complete, which is carried out regularly in accordance with applicable regulations.

But in reality to get a certificate of land rights is not an easy matter. This is because the administration system is quite long so the management is quite long and the costs are

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1 Urip Santoso, Hukum Agraria Kajian Komprehensif, Kencana, Jakarta, 2017, p. 9
quite high. In addition, there are still certificates containing administrative legal defects such as the subject of rights, the wrong object, the wrong type of rights, and other administrative errors.

Certificates that contain administrative legal defects do not provide legal protection for rights holders as referred to in Article 19 of the Loga, namely the guarantee of legal certainty over land rights so that it can harm the right-holders. Certificates that experience administrative legal defects have legal consequences or consequences not only for the relevant right-holders, but also for third parties for the relevant land object.

One of the efforts made by the community in the event that there is an objection to a certificate of land rights, then it can be done by submitting / requesting a block to the agency authorized for the issuance of a certificate, namely the National Land Agency / Land Office.

In practice, despite the registration of the land, a dispute over land rights still occurred among the community that even brought a lawsuit to the Court, which caused the certificate to be blocked by the local Land Office.

Based on the incoming block request data from January to December 2019, as many as 54 blocked request files have been completed or granted and as many as 15 blocked request files have been rejected, in addition to that 23 block request files are still being processed at the Sidoarjo Regency Land Office. Among all the data included in the application for blocking of certificates of land rights, this was due to legal actions, lawsuits, defaults, for investigations and others including due to overlapping land, bankruptcy, accounts payable, and others that occurred in this reality.

In addition to being the object of the dispute, the blocking can occur due to the loss of the certificate of land rights, the owner can submit a block request to avoid abuse by parties who are not responsible for the certificate. The request for blocking can be made by reporting to the police and on the basis of a loss reporting letter.

The party who objects to the said application may request registration in the land book or better known as land blocking or recording of the block. This has resulted in blocking as an effort to temporarily prevent all forms of changes to the certificate of
land rights by the land office until a decision is made from the court. That way, the land object cannot be moved to another party through buying and selling or other things and cannot be burdened with leasing to a third party.²

Provisions on the implementation of the block of land certificate are stipulated in Permen ATR / BPN RI No. 13 of 2017 concerning the Procedures for Blocking and Confiscating. In the implementation of blocking of land title certificates in the field, it was found that there was a discrepancy in the procedure of blocking in accordance with the applicable provisions that caused legal consequences for both holders and applicants to block certificates of land rights at the Sidoarjo Regency Land Office itself.

The existence of land blocks and confiscation attached to the problematic land has temporarily suspended land rights. Block and confiscation have different effects but will simultaneously freeze land rights. The existence of blockade and seizure of land also affects the ability of a legal subject to carry out an achievement of buying and selling land that begins with an agreement as codified in Article 1320 paragraph (1) of the Civil Code.³

II. Method

The research method used by the author in this paper is empirical juridical research. Because it is an empirical legal research so in carrying out this research the author seeks to explore or see the legal facts that work in the community.

This research uses the empirical juridical method as a background because in this research it will discuss the legal consequences of blocking the certificate of land rights in a case study at the Sidoarjo Regency Land Office.

III. Main Heading of the Analysis or Results

A. Factors Affecting the Applicant’s Block of Land Rights Certificate at Sidoarjo Regency Land Office

² Sekarsari, Pelaksanaan Pencatatan Blokir Sertipikat Hak Atas Tanah (Studi di Kantor Pertanahan Kabupaten Sleman dan Bantul), Jurnal Tunas Agraria, Vol. 2, No. 2, Mei 2019, p. 118 accessed on December 20, 2019, at 06:17 WIB.
³ Prianggi Ayuni, Sistem Blokir Dan Sita Dalam Penyelesaian Sengketa Agraria Diluar Pengadilan Untuk Melindungi Hak Pembeli Beritikad Baik, Jurnal Ilmu Hukum, Vol 7, No. 5, November 2018, p. 9 accessed on December 20, 2019, at 07:13 WIB.
The applicant in submitting the application for a certificate of land rights must first understand why the certificate of land rights must be recorded by the local District / City Land Office. The recording of the block itself is an administrative act carried out by the Head of the Land Office or an official in the context of establishing a temporary freeze on land rights for acts / legal events on said land.

Blocking the certificate of land rights that have been recorded in the land book does not mean that they apply forever. The block has a period of 30 days from the date of recording the block. After 30 days have passed, the block is automatically declared as ended after being recorded in the land book.4

Blocking the certificate of land rights can be extended depending on a court decision or a judge’s decision. After that the block cannot be extended again if it has been twice against the same object by the same applicant as well. Blocking may only be done at least once by one applicant on the same land object as stated in Permen ATR / BPN RI No. 13 of 2017 concerning the Procedures for Blocking and Confiscating Article 3 paragraph 2 letters b.

Based on the author’s research at the Sidoarjo Regency Land Office there are several factors that influence the applicant to apply for a block of certificates of land rights at the Sidoarjo Regency Land Office as follows.

1. There is a lawsuit due to a land dispute.

Based on the results of the author’s research, the applicant blocked a certificate of land rights requested a block at the Sidoarjo Regency Land Office on the grounds that there were land disputes and or legal acts such as overlapping certificates, overlapping sales disputes, inheritance disputes, gono-gini disputes, sale and purchase transactions, defaults, payables and receivables, and others.5

2. There are court orders or decisions in the matter of investigation or prosecution in the criminal sphere.

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4 Interview with Mr. Suseno, Staff for Maintenance of Land Rights Data and Development of PPAT Sidoarjo in the workspace Maintenance of Land Rights Data and Development of PPAT on 09 January 2020, at 14:13 WIB

5 Interview with Ms. Rina Nurhayati, S.E. Staff of Tanah Book BPN Sidoarjo in the Tanah Tanah workroom on January 31, 2020, at 14:10 WIB.
In the case of a request for a block, in addition to being made by individuals or legal entities, it is also carried out by law enforcement. Law enforcers can submit applications for blocking for investigations and prosecutions in criminal cases, in carrying out investigations / prosecutions usually from police agencies. For example, there are cases of criminal acts of theft, fraud / embezzlement of land certificates, or falsification of certificates, and others.

3. Certificates of lost land rights.

The loss can be caused by natural disasters, being stolen by other parties, falling on the road, damaged and others. The certificate which is considered damaged is the certificate number or which shows data about the land which is not visible or cannot be read in part or in whole, then it is considered damaged.

The owner must report the loss of the land title certificate to the police first and submit a photocopy of the original land certificate in order to get a letter from the police before requesting a block from the local District / City Land Office to block the title certificate of the lost land so that it is not abused by the party Irresponsible who have bad faith.

B. The Reason for Blocking the Certificate on Land Rights was Granted or Rejected by the Sidoarjo Regency Land Office

Parties who can file a certificate of land rights block are parties who have legal relations over the object of land that is in dispute or that is being sued in court. Based on the results of the author's research, the applicant who applied for a block of land title certificate at the Sidoarjo Regency Land Office includes landowners, individuals or legal entities, parties to the agreement both notary and under-hand, heirs, notary agreement makers or under the hand based on legal counsel, and the bank.

In addition to the legal relationship that makes one of the reasons for the granting of a request for blocking by the Sidoarjo Regency Land Office is the completeness of the block application requirements document and in the request for recording a block must be given a clear reason for further examination of the request.

Based on the results of the author's research, in the case of rejection of the registration of the blocking of the certificate of land rights submitted by the applicant at the Sidoarjo Regency Land Office because there are several things including:
1. There is a legal relationship that is not strong.

One of the reasons for the rejection of the block of the certificate of land rights is that there is not a strong legal relationship such as the name of the right holder does not match the name of the applicant. For example, the name of the holder is certified by Person A, then the person who filed the block is B, but the basis for the request for blocking is not strong, the Land Office refuses the request or Person B is blocked because the Person A has said he has a debt, but the same person A has been sold to C, then the application for recording the block is rejected. Because the highest position for authentic data is the sale and purchase deed issued by the local PPAT, unless there is a legal basis in court. If it is only on the stamp duty, for example accounts payable and receivables may not.

2. Unclear purpose of the applicant in submitting a request for registration of a block of land certificate.

In this case, for example, the petitioner solely or playfully requests a block of certificate of land rights for mischief. Whereas the applicant’s land rights certificates have no cases or issues that arise or are free from disputes.

3. There are mortgage rights in the land book.

Based on the author's research, the recording of the block of land certificate is one of the reasons for the block being refused because of the Underwriting Right in the land book, that is because the mortgage is an executorial right held by the bank. If there is a mortgage right like that it will definitely be rejected.

C. Legal Consequences for Land Rights Certificate Holders Blocked by the Sidoarjo Regency Land Office

Based on the author's research, in the case of blocking the certificate of land rights has legal consequences for the holder of the certificate of land rights and for the applicant. In this case the holder of the certificate of land rights in question is a second party or the counterparty of the first party or the original owner of the certificate of land rights.

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6 Interview with Ms. Rina Nurhayati, S.E. Staff of Tanah Book BPN Sidoarjo in the Tanah Tanah workroom on January 31, 2020, at 14:20 WIB.

7 Interview with Ms. Rina Nurhayati, S.E. Staff of Tanah Book BPN Sidoarjo in the Tanah Tanah workspace on January 31, 2020, at 14:25 WIB.
that has an interest and legal relationship to an object of the land. The second party or the holder of the certificate of land rights here is a party that has bad intentions that can harm the original owner of the certificate of land rights.

The legal consequence of the certificate holder of the land right is that it cannot do legal actions against the object of the land. For example, the original owner loses his title to his land because it was stolen by a second party, then the second party will take legal actions such as the transfer of rights or transfer, sale and purchase agreement, exchange, grants, inclusion in company capital, giving in a will, and auction. However, because the original owner of the certificate of land rights has blocked the certificate of ownership over his land, the second party having bad intention cannot carry out the legal action.

D. Legal Consequences for Petitioners Blocking Land Rights Certificates at the Sidoarjo Regency Land Office

While the legal consequences for the petitioner, which is a form of prevention so that the certificate of land rights does not fall to other parties who have bad intentions so that they can not make buying and selling, transferring rights, transferring names, assigning rights to others and cannot be guaranteed or transferred until the blocking period is complete and revoked.

In addition, with the blocking of the land rights, for the time being the certificate holder of the land rights cannot charge or transfer his land rights because the PPAT cannot carry out his duties, as stated in Article 39 of Government Regulation No. 24 of 1997 concerning Land Registration.

IV. Conclusion

Based on the discussion raised by the author regarding the legal consequences of the blockade certificate on land rights at the Sidoarjo Regency Land Office, it can be concluded as follows:

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8 Interview with Mr. Suseno, Data Maintenance Staff for Land Rights and Development of PPAT Sidoarjo in the workspace Maintenance of Data on Land Rights and Development of PPAT on January 9, 2020, at 13.11 WIB.
9 Interview with Mr. Moch Marzuki Aptnh., MH, Head of Land Handling and Control Section in Sidoarjo BPN in the office of the Head of Land Handling and Handling Section, January 9, 2020, at 10.20 WIB.
1. In applying for a block of land certificate from the Sidoarjo Regency Land Office, the applicant whose application is accepted has an interest and or legal relationship to the object of land with clear reasons. The petitioner in applying for a block of certificate of land rights at the Sidoarjo Regency Land Office is caused by several factors such as a lawsuit brought to court due to land disputes, a court order or decision regarding an investigation or prosecution in the criminal sphere, an act against the applicant’s law, and a certificate of rights over the lost land. Blocking land title certificates requested by the applicant is not always granted but some are rejected by the Sidoarjo Regency Land Office because the reason for blocking the application is unclear or the applicant does not have a legal relationship in accordance with the applicable provisions and there is a burden of mortgage on land objects in the book the land.

2. The implementation of blocking of certificates of land rights is a legal event that causes legal consequences for the parties involved including, the first party as the original owner of the certificate of land rights and the second party who is the holder of the certificate of land rights that have bad intentions that can harm the party first as the original owner and certificate of land rights. With the blocking of the certificate of land rights, the owner or holder of the certificate of land rights can temporarily not transfer rights or assign rights on the land object until the 30 (thirty) days period is completed and revoked. In addition, for the original owner of the certificate of land rights as an effort to prevent one day the certificate of land rights is not misused by other parties who have bad faith and are not responsible that can harm the original owner of the certificate of land rights.

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Interview with Mrs. Rina Nurhayati, S.E. Staff BPN Sidoarjo Land Book Land Book workspace on January 31, 2020.