



The Effectiveness of Land Tenure Certificate Based on the Utilization of the Full Systemic Land Registration Program (Study Case: Karimun Regency, Riau Islands Province)

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Abstrak:

Program Pendaftaran Tanah Sistematis Lengkap (PTSL) merupakan inisiatif Pemerintah yang bertujuan untuk memberikan kepastian hukum dan perlindungan kepada rakyat Indonesia dalam hal kepemilikan tanah. Namun, persyaratan yang disederhanakan untuk membuktikan hak atas tanah dalam Program PTSL telah mengubah nilai hukum dari prosedur yang sebelumnya dijelaskan dalam Peraturan Pemerintah Nomor 24 Tahun 1997. Surat Keterangan Penguasaan Tanah (SKPT), yang dikeluarkan oleh kepala desa/lurah dan diakui oleh camat, tetap berfungsi sebagai bukti hak, tetapi telah dikecualikan dari Program PTSL. Di Kabupaten Karimun, telah diterapkan kebijakan untuk mengatur prosedur penerbitan SKPT melalui Peraturan Bupati Karimun Nomor 41 Tahun 2016. Namun, implementasi kebijakan ini tidak sejalan dengan Program PTSL. Akibatnya, program PTSL telah memperkenalkan tantangan baru dalam hal membuktikan hak atas tanah. Penelitian yuridis empiris, yang dilakukan dengan menggunakan teknik *purposive sampling*, telah mengidentifikasi beberapa faktor yang memengaruhi hambatan penggunaan SKPT sebagai bukti hak dalam Program PTSL. Faktor-faktor tersebut meliputi faktor hukum, penegak hukum, fasilitas infrastruktur pendukung, dan faktor yang terkait dengan masyarakat.

Abstract:

The Complete Systematic Land Registration Program (PTSL) is an initiative by the Government aimed at providing legal certainty and protection to the Indonesian people in terms of land ownership. However, the simplified requirements for proving land rights in the PTSL Program have resulted in a shift in the legal value of the procedures previously outlined in the Government Regulation Number 24 of 1997. While the Land Tenure Certificate (SKPT), issued by the village head/lurah and acknowledged by the sub-district head, continues to serve as proof of rights, it has been excluded from the PTSL Program. In Karimun Regency, a policy has been implemented to regulate the procedure for issuing SKPT through Karimun Regent Regulation No. 41 of 2016. However, the implementation of this policy does not align with the PTSL Program. Consequently, the PTSL program has introduced new challenges in terms of proving land rights. Empirical juridical research, conducted using purposive sampling techniques, has identified several factors influencing the barriers to using SKPT as proof of rights in the PTSL Program. These factors include legal, law enforcer, supporting infrastructure facilities, and community-related factors.



INTRODUCTION

Land holds significant value in terms of livelihood and overall well-being (Sari et al., 2022). Article 33, paragraph (3) of the 1945 Constitution states that "land, water, and natural resources contained therein are under state control and should be utilized to the maximum extent for the prosperity of the people." Building upon this constitutional provision, Law No. 5 of 1960, known as the Basic Regulations on Agrarian Principles (UUPA), emphasizes the wise use of land as part of natural resources to achieve the people's prosperity and welfare. Ultimately, the state/government holds the highest authority over land (Atikah, 2022).

As development progresses rapidly across various sectors, the demand for land increases, necessitating the establishment of legal certainty regarding land ownership. The government ensures legal certainty through land registration. Through the land registration process, individuals acquire land certificates, which serve as strong evidence of ownership (Saifuddin & Qamariyanti, 2022). These certificates are deemed authentic and, unless proven otherwise, the physical and juridical data contained within them must be accepted as accurate. The physical and juridical data in the certificate are derived from the land book and the measurement records associated with the specific land parcel. Consequently, the certificate possesses indisputable evidentiary power for the owner, compelling judges to rely on the data mentioned in the certificate unless another party can provide contradictory evidence. Therefore, the purchase and sale of registered or certified land carry minimal legal risks, as ownership rights are clearly established (Hartanto, 2009).

Furthermore, as part of ongoing efforts to enhance legal certainty and improve community welfare through land registration, the Government introduced a policy known as Permen ATR/Ka, BPN No. 12 of 2017, which focused on accelerating the Complete Systematic Land Registration. This policy was subsequently refined and amended in Ministerial Regulation ATR/BPN No. 6 of 2018, specifically addressing the Complete Systematic Land Registration Program (PTSL).

Karimun Regency is one of the regions that has implemented the PTSL Program since 2017. Based on preliminary data collected by researchers from 2017 to 2019, out of the targeted 43,375 land parcels, 30,318 have been issued land rights certificates. However, there are still many individuals in Karimun Regency, particularly those residing in remote islands, who choose not to register their land under the PTSL Program. They believe that the Land Tenure Certificate (SKPT) issued by the village head/subdistrict head and recognized by the district head is sufficient evidence of land ownership. There is a difference between the Land Tenure Certificate (SKPT) and the Certificate of Ownership (Sertifikat Hak Milik/SHM). The SHM is a valid proof based on Article 20, paragraph (1) of the UUPA, which states: "Ownership is an inheritable, strongest, and fullest right that a person can have over land...". However, there are other evidences of ownership of a piece of land, such as Girik, Petok D, Letter D, Green Certificate, and others serve as evidence of ownership used by the community in the past and continue to be used to prove their rights to a piece of land (Rudinasyah et al., 2022). SKPT is a document that explains the usage and occupancy of state land by an

individual or legal entity. It is issued by the subdistrict head based on the mechanisms and provisions stipulated by the laws and regulations (Alfarizi et al., 2021). While the SKPT serves as a written proof of ownership, its evidentiary strength does not match that of an authentic deed. Nevertheless, given its classification as a legal foundation or juridical data concerning the land, necessary for meeting the completeness criteria when applying for land rights as outlined in land laws and regulations, the SKPT becomes a pivotal document in the issuance process of land title certificates (Wasono, 2017). It is undeniable that many lands in practical terms are still owned or controlled by the community based on the SKPT. Consequently, buying and selling transactions often rely solely on trust between the seller and the buyer, facilitated by a hand-signed agreement witnessed by two individuals and acknowledged by the village head/subdistrict head and district head (Rudianto, 2010).

To establish the legal basis for issuing SKPT, the Regent of Karimun enacted Regent Regulation No. 41 of 2016, which addresses land administration in Karimun Regency. This regulation emphasizes the need to register/record lands without certificates in order to achieve organized land administration at the village/kelurahan and sub-district government levels. The issuance of SKPT by the village head/sub-district head as a means to prove land ownership/control aligns with the provisions outlined in PP No. 24 of 1997 on Land Registration (Article 7, Article 8, and Article 39), Permen Agraria/Head of BPN No. 3 of 1997 on the Implementation of Government Regulation Number 24 of 1997 on Land Registration (Article 60 paragraph (2) letter g, Article 61 paragraph (2) letter b, and Article 76 paragraph (3) letter b), and PP No. 37 of 1998 on the Regulation of the Office of The Land Deed Maker (Article 5 paragraph (3) letter a).

In relation to the PTSL Program, there appears to be a discrepancy in policies concerning proof of land rights. The issuance of land certificates through the PTSL Program no longer necessitates a certificate from the village head/sub-district head to establish rights. However, upon closer examination, this opens up the potential for fraudulent written statements regarding land ownership/control, as they lack the supporting certificate from the village head/sub-district head and the testimony of at least two trustworthy witnesses, such as the Head of the Neighborhood Association (RT) and the Head of the Citizens Association (RW). This situation can lead to land grabbing and disputes, rendering the certificates issued through the PTSL Program unable to guarantee legal certainty. This fact is corroborated by information gathered from the community and internal sources within the Government of Karimun Regency, which indicates that the issuance of PTSL program certificates has resulted in land dispute problems.

According to the accounts of landowners along Jalan Poros, Pamak Village, Tebing Subdistrict, their land, based on the SKPT, has been included in the PTSL program and has been surveyed by the Karimun Regency Land Office. However, no certificate has been issued yet. On the other hand, another community member in Parit Benut Village, Meral District, reported that they have received a land certificate from the PTSL

Program based on their SKPT. Furthermore, through joint coordination between the Karimun Regency Regional Asset Protection Team and the Head of the Karimun Regency Land Office, it was discovered that land certificates resulting from the PTSL Program have been issued for land assets owned by the Karimun Regency Government in Pamak Village, Tebing District. This issuance was done as part of the process to secure Regional Property.

Based on the aforementioned research background, the study aims to address the following problems: 1) How effective is the issuance of the Land Tenure Certificate (SKPT) by the Village Head/Subdistrict Head/District Head in the context of the Complete Systematic Land Registration Program (PTSL) in Karimun Regency? 2) What are the factors that hinder the Village Head/Lurah/Camat from issuing Land Tenure Certificate (SKPT) for the Complete Systematic Land Registration Program (PTSL)?

The researchers employed empirical legal research with a sociological juridical approach to investigate the effectiveness of SKPT and identify relationships between various variables. Secondary data was initially gathered and supplemented with primary data obtained through document studies, observations, and interviews. The sociological juridical approach focuses on examining the application of the law and analyzing the gap between desired legal rules (*das Sollen*) and the existing facts (*das Sein*) concerning legal protection and certainty for land ownership/control (Waluyo, 2002).

To address the research problems, the following research stages were undertaken:

- a. Primary data collection (field research) involved conducting unstructured interviews with relevant stakeholders such as the Department of Housing, Settlement & Cleanliness, the Head of the Land Office of Karimun Regency, the Heads of Districts Kundur, North Kundur, Ungar, and Tebing, and the Village Head of Sungai Buluh and the Head of Alai subdistrict. Additionally, observations were made in the Belat and Ungar districts.
- b. Secondary data collection was conducted to analyze statutory provisions related to land registration and the authority of the Village Head/Subdistrict Head/District Head. Literature review was also performed, involving relevant books and journals related to the research problems (Shahrullah & Cokro, 2020).

The study utilized a qualitative methodology for data analysis, which encompassed a combination of library research and field study (Mardiani & Nurlaily, 2022).

RESULTS AND DISCUSSION

The Effectiveness of the Issuance of the Land Tenure Certificate (SKPT) by the Village Head/Subdistrict Head/District Head in the Context of the Complete Systematic Land Registration Program (PTSL) in Karimun Regency

The effectiveness of issuing the SKPT by the Village Head/Subdistrict Head/District Head in the context of the Complete Systematic Land

Registration Program (PTSL) in Karimun Regency is a critical aspect to consider. According to the Basic Regulations on Agrarian Principles (UUPA), both the right holders and the government have an obligation to conduct land registration across Indonesia (Sudiro & Putra, 2020). The UUPA, particularly Article 23, Article 32, and Article 38, aims to encourage right holders to register their land, providing them with certainty regarding their rights. Additionally, Article 19 of the UUPA instructs the government to carry out the land registration process, ensuring that land registration is conducted throughout the country with a "rechts-cadastral" nature, which aims to guarantee legal certainty. As a result of land registration, a certificate is issued as proof of rights.

In order to establish legal certainty, certain conditions must be met, as stated by (Sutedi, 2011), These conditions include:

- a. Clear and consistent legal rules;
- b. Consistent application of the rule of law by government agencies;
- c. Compliance and adjustment of behavior by the community to the rule of law;
- d. Independent and impartial judges who consistently and diligently apply the rule of law when resolving legal disputes;
- e. Concrete implementation of court decisions.

These conditions are essential for ensuring the effectiveness of the SKPT issuance process in providing legal certainty for land ownership/control (Mujiburohman, 2018).

Meanwhile, in terms of legal protection for land rights holders in land registration, Santoso stated that it can be achieved if three cumulative conditions are met: 1) The issuance of land certificates is 5 years or older; 2) The certificate issuance process is based on good faith; and 3) The land is physically controlled by the right holder or authority (Mujiburohman, 2018). Additionally, Dalimunthe mentioned that land registration serves not only to protect the owner but also to determine the status of a land parcel, including ownership, rights, size, and designated use. The guarantee of legal certainty in land registration involves the certainty of registered rights, the certainty of the subject of the right, and the certainty of the object of the right (Mujiburohman, 2018).

To fulfill the instructions outlined in Article 19 of the Basic Agrarian Law, the government has implemented various land registration programs. Firstly, the National Agrarian Operations Project (PRONA) was carried out in 1981, aiming to process land certificates in a mass, integrated manner for all levels of society, particularly the economically disadvantaged, and to resolve strategic land disputes comprehensively. Secondly, from 1995 to 2001, Indonesia implemented the Indonesian Land Administration Project (ILAP) with the support of the World Bank. This project led to the replacement of Government Regulation No. 10 of 1961 with Government Regulation No. 24 of 1997 concerning Land Registration, as the former was deemed insufficient after more than 35 years of implementation. Only approximately 16.3 million out of around 55 million eligible land parcels were registered during this period. Thirdly, the Land Management and Policy

Development Project (LMPDP) was implemented from 2004 to 2009. Despite the acceleration programs such as adjudication and PRONA associated with ILAP and LMPDP, the registration of all land parcels, including mapping, could not be completed (Wahyuni, 2017). Fourthly, in 2016, to accelerate land registration and minimize land disputes, the Ministry of Agrarian and Spatial Planning (ATR)/Head of the National Land Agency (BPN) introduced the PTSL Program under Presidential Regulation No. 3 of 2016, which aimed to promote economic growth, equitable development, community welfare, and regional development by providing free certificates to the public. This program was further regulated in Ministerial Regulation ATR/Head of BPN No. 12 of 2017, as amended by Ministerial Regulation ATR/Head of BPN No. 6 of 2018. The Ministry of ATR/Head of BPN set a target to register and certify a total of 126 million land parcels in Indonesia by 2025, with an annual target of 10 million parcels until 2025. The program aimed to register 5 million parcels in 2017, 7 million parcels in 2018, and 9 million parcels in 2019 (Mujiburohman, 2018).

The crucial aspect in land registration for ensuring legal certainty and protection is the proof of land ownership (Laurentine et al., 2023). The regulations governing this matter are found in Article 24(1) and (2), as well as Article 39(1)(b)(1) and (2) of Government Regulation No. 24 of 1997, and Article 61 and Article 76(2) and (3) of Government Regulation No. 3 of 1997 on Agrarian Affairs. These provisions highlight the significant role of the Village Head/Subdistrict Head in establishing ownership of a land parcel. As representatives of the local government at the grassroots level, the Village Head/Subdistrict Head is considered a reliable official with knowledge of the land's ownership history. Although the SKPT issued by the Village Head/Subdistrict Head, and acknowledged by the District Head, is not an authentic deed, it is recognized and serves as a requirement for land registration at the National Land Agency (BPN).

Furthermore, the researchers conducted a review of the normative authority concerning the role of the Village Head, Subdistrict Head, and District Head in land affairs, particularly in the issuance of SKPT. Before delving into this topic, it is important to understand the concept of land affairs. According to Article 12(2)(d) of Law No. 23 of 2014 on Regional Governments, as amended multiple times, most recently by Law No. 9 of 2015, land affairs are among the mandatory responsibilities of local governments that are not directly related to basic services. These land affairs encompass location permits, land acquisition for public purposes, disputes over arable land, compensation and land restitution for development, subjects and objects of land redistribution, as well as compensation for maximum excess land and absentee land, ulayat land, vacant land, permits for land clearance, and land use.

The Village Head, as defined in Article 1(3) of Law No. 6 of 2014 on Villages, refers to the Village Government, which is one of the elements of village government alongside village officials. The authority of the Village Head is outlined in Article 26(2) of Law No. 6 of 2014, which includes the following responsibilities: a) overseeing the administration of the Village

Government; b) appointing and dismissing Village officials; c) managing Village finances and assets; d) establishing Village Regulations; e) determining the Village Revenue and Expenditure Budget; f) promoting the welfare of the Village community; g) maintaining peace and order in the Village community; h) fostering and improving the Village economy; i) developing income sources for the Village; j) proposing and accepting the delegation of state wealth for the welfare of the Village community; k) developing the socio-cultural life of the Village community; l) utilizing appropriate technology; m) coordinating participatory Village Development; n) representing the Village in legal matters; and o) carrying out other authorities as stipulated by legislation.

The District Head is the leader of the district area, which is a part of the district/city jurisdiction. The duties of the District Head are regulated in Article 10 of Government Regulation No. 17 of 2018 on Districts, which include: a) conducting general government affairs; b) coordinating community empowerment activities; c) coordinating efforts to maintain peace and public order; d) coordinating the application and enforcement of Regional Regulations and Regional Head Regulations; e) coordinating the maintenance of public service infrastructure and facilities; f) coordinating government activities at the sub-district level; g) overseeing and supervising village governance in accordance with the applicable laws and regulations; h) carrying out government affairs within the district/municipality that are not handled by the sub-district work units; and i) performing other duties as specified by legislation.

The Subdistrict Head serves as the administrator of the sub-district area, responsible for carrying out government administration in the village area. The duties of the Subdistrict Head, also known as Lurah, are regulated in Article 25(3) of Government Regulation No. 17 of 2018, which include: a) implementing village government activities; b) promoting community empowerment; c) providing community services; d) maintaining public peace and order; e) maintaining infrastructure and public service facilities; f) performing tasks assigned by the Subdistrict Head; and g) carrying out other duties as specified by legislation.

When examining the responsibilities and authorities of the Village Head/Subdistrict Head and District Head mentioned earlier, it is not explicitly clear regarding their authority in land affairs, particularly in relation to the issuance of SKPT. However, Article 26(2)(o) of Law No. 6 of 2014 and Article 25(3)(g) of Government Regulation No. 17 of 2018 indicate that the Village Head/Subdistrict Head has additional duties and authorities as stipulated by legislation. Thus, the provisions in Article 76 and Attachment 14 of Government Regulation No. 3 of 1997 on Agrarian Affairs, which define the format of the Physical Control Letter for the Land Sector, serve as the basis/authority for the Village Head/Lurah and Camat to issue SKPT.

Regarding the involvement of the District Head in the issuance of SKPT, it can be observed in Article 10(g) of Government Regulation No. 17 of 2018 that the Subdistrict Head is responsible for fostering and supervising

the administration of village governance in accordance with the laws and regulations governing the village. Additionally, Article 229(2) of Law No. 23 of 2014 states that the current subdistrict is no longer considered a regional apparatus but rather a district apparatus. In other words, all the duties and authorities of the Subdistrict Head are directly accountable to the District Head.

Based on these provisions, even though the village, as an autonomous region, is no longer hierarchically bound to the district, and despite the absence of a requirement in Government Regulation No. 24 of 1997 and Ministerial Regulation Agrarian/ Ka. BPN No. 3 of 1997 for the District Head's involvement in the issuance of SKPT, it is important to maintain orderly land administration at the village/subdistrict and district levels. As a form of supervision, the District Head also registers the SKPT as a party who is aware of the SKPT issued by the Village Head/Subdistrict Head within their jurisdiction.

Considering the above provisions and as a reflection of local wisdom, taking into account the geographical conditions of Karimun Regency as an archipelago and to meet the community's needs in land affairs while supporting the smooth provision of land services at the village/subdistrict and district levels, the Karimun Regency Government established a policy through Karimun Regent Regulation No. 41 of 2016 concerning Land Administration in Karimun Regency. This policy outlines procedures for issuing SKPT and defines the applicable form of SKPT in Karimun Regency.

However, the significant role of the Village Head/Subdistrict Head and District Head in proving land ownership rights appears to have been disregarded by the PTSL Program. When it comes to proof of rights, Ministerial Regulation ATR/Head of BPN No. 6 of 2018 specifies that if the evidence of community land ownership is incomplete or nonexistent, it can be completed and proven through a written statement stamped on the ownership and/or physical control of the land parcel, made in good faith by the concerned individual in accordance with the provisions outlined in Article 22, paragraph (3) and paragraph (5) of the aforementioned regulation. These provisions state the following:

- (3) The fact of physically controlling, using, utilizing, and maintaining the land over a certain period of time and/or acquiring it without violating the provisions of laws and regulations.
- (5) a. The statement must be witnessed by at least 2 (two) individuals from the local community who do not have any familial relationship up to the second degree, both vertically and horizontally. These witnesses should declare that the concerned individual is the rightful owner and controller of the land parcel
- b. The statement must be based on truthful information that can be accounted for both civilly and criminally. If any false elements are found in the statement in the future, it is not the responsibility of the PTSL Adjudication Committee.

These provisions highlight the importance of the Village Head/Subdistrict Head and District Head in verifying and validating land ownership claims. However, it seems that the PTSL Program has overlooked this crucial aspect.

To assess the effectiveness of the SKPT issued by the Village Head/Subdistrict Head and District Head in proving land rights within the PTSL program, empirical research was conducted by comparing legal facts (*das sein*) with the actual situation on the ground (*das solen*) regarding the successful implementation of PTSL in Karimun Regency, Indonesia.

The research revealed that there are still challenges in the implementation of PTSL, particularly regarding the provision of legal certainty and protection to the community. The simplified requirements in the PTSL Program, which do not involve the participation of the Village Head/Subdistrict Head and District Head, have led to new issues and disputes over land ownership. During interviews with Mr. Jemmy Dolly Winerungan, A. Ptnh., the Head of the Karimun Regency Land Office, the researchers learned that in 2019, the office mediated three cases of land disputes related to certificates obtained through the PTSL Program. This number increased to nine cases in 2020. The disputed certificates were based on proof of rights using the format specified in Attachment VI of Ministerial Regulation ATR/Head of BPN No. 6 of 2018. However, the mediation process did not result in a mutually beneficial solution for the parties involved, leading to the recommendation of pursuing civil lawsuits to resolve the disputes. As an internal preventive measure, the Karimun Regency Land Office internally blocked the certificates, preventing any transfer of rights to the disputed land plots until a court decision determined the rightful ownership.

Overall, these findings highlight the challenges and limitations of the PTSL Program in providing effective legal certainty and protection for landowners, necessitating further improvements and consideration of the involvement of local government officials in the process.

There is no need for SKPT in issuing certificates previously instructed by the Minister of ATR/Ka. BPN, namely Ferry Mursyidan Baldan, by issuing a Circular of the Minister of ATR/BPN No. 1756/15.I/IV/2016 concerning Guidelines for the Implementation of Community Land Registration on April 14, 2016, which contains instructions to the Head of BPN Regional Offices and Heads of Land Offices throughout Indonesia to: 1) Accelerating land registration activities throughout Indonesia, either through government funds or community self-funding; 2) In terms of basic mastery and/or evidence of community ownership is incomplete or has absolutely no basis for ownership and / or evidence of land ownership to be evidenced by a written statement about the physical mastery of the land in good faith from the concerned; 3) Good faith as mentioned above is proven as follows: a. There are no objections from the other party to the controlled land/not in dispute; b. Not included as an asset of the Government and the Regional Government; c. Not included in the forest area; 4) The affidavit as referred to above is made by witnessing at least 2 (two) witnesses from the

local environment who do not have family relations with the concerned up to the second degree, both in vertical and horizontal kinship stating that the person concerned is right as the owner and control of the plot of land. 5) The affidavit is made based on the actual information and the party making the statement of responsibility both civilly and criminally if in the future there is an element of untruth in the statement and is willing to cancel the certificate and be processed by law in accordance with applicable regulations and does not involve other parties. 6) The affidavit as mentioned above is made in accordance with the attachment of this letter (Susanti, 2017).

The rationale for the issuance of the Circular is to ensure legal certainty over the community's land rights and to improve the welfare of the public community through land registration. Considering that there are still people who control the evidence of land ownership (pedestal rights) in full and even have absolutely no proof of ownership so constrained in the application for registration of land rights (Devita, 2016). With this, it is hoped that it will simplify and speed up the land registration process, the community and BPN do not need to wait for the issuance of a land certificate from the village/subdistrict, which often takes a long time.

In relation to the provisions of PP No. 24 of 1997 and Ministerial Regulation Agrarian/ Ka. BPN No. 3 of 1997, it can be observed that there are synchronized regulations. However, the principle of *lex specialist derogate legi generalis* applies in this case, which means that special regulations override more general regulations. In the context of improving community welfare and regional development, Ministerial Regulation ATR/Head of BPN No. 6 of 2018, as a special regulation, can override the general nature of PP No. 24 of 1997. It should be noted, however, that this does not entail the abolition or elimination of the general rules. As Ismail (2020: 38) pointed out, Ministerial Regulation ATR/Head of BPN No. 6 of 2018 does not violate or contradict PP No. 24 of 1997; it simply streamlines the requirements outlined in PP No. 24 of 1997 to achieve the goal of land certification in Indonesia, which aims to reach 100% by 2025.

Moreover, the ease of requirements in the PTSL Program is also based on the UUPA (Law on Agrarian Principles), which adopts a negative publicity system (with positive elements) or a negative system with positive tendencies. This can be observed in the explicit explanation of Article 32 of PP No. 24 of 1997, which states that land registration ordered by the LoGA (Land Office General Affairs) does not utilize a positive publication system where the accuracy of the data presented is guaranteed by the state. Instead, it employs a negative publication system. In other words, the state does not guarantee the absolute accuracy of the data recorded in the land book at the Land Office. Consequently, if someone challenges the ownership of a land that has been certified, the certificate can still be subject to cancellation through legal proceedings.

Based on the findings of the field research, it was observed that the number of SKPT applications and issuances in all villages, subdistricts, and districts in Karimun Regency decreased from 2018 to 2020. In 2018, there

were 4,702 SKPT applications, which decreased by almost 63% to 1,732 in 2020. Similarly, the number of registered SKPTs decreased by almost 67% from 5,865 in 2018 to 1,969 in 2020. Furthermore, observations made by the researchers on November 18, 2020, in Belat District and on February 10, 2021, in Ungar District revealed that no individuals were engaged in the management of SKPT. These findings suggest a decline in public interest in SKPT management in Karimun Regency, possibly due to the influence of the PTSL Program, which has introduced changes to the land registration procedure outlined in PP No. 24 of 1997.

However, it is important to note that the decrease in public interest does not imply that an ineffective SKPT is required as a means of proving rights in land registration. According to Mr. Jemmy Dolly Winerungan, A. Ptnh. (Head of the Land Office of Karimun Regency), SKPT remains necessary in land registration processes conducted by BPN (National Land Agency), particularly for routine land registration. The purpose of SKPT is to provide a legal basis for land parcels that currently lack any form of documentation. Although the PTSL Program has its own specific technical instructions outlined in Ministerial Regulation ATR/Head of BPN No. 6 of 2018, SKPT still plays a crucial role in land registration. It is worth mentioning that while the public's interest in the PTSL Program is high, there are individuals who object to participating in the program due to concerns about future burdens, such as tax costs and non-tax state income (PNBP) during the transfer of rights process.

This aligns with the interviews conducted by the researchers with Mr. Syaifullah, S.E., M.M (Kundur District Head), and Mr. Isnaidi, S.Pd., M.Pd (North Kundur District Head), who highlighted the high public interest in obtaining land certificates through the PTSL Program due to its free nature. However, some individuals are hesitant to participate in the program as they are aware that the subsequent transfer of rights will involve additional costs. In general, the community prefers to handle land management matters at the village, subdistrict, and district offices, which are more accessible compared to the Karimun Regency Land Office located on Karimun Induk Island, requiring significant expenses and travel time.

The Factors that Hinder the Village Head/Lurah/Camat from Issuing Land Tenure Certificates (SKPT) for the Complete Systematic Land Registration Program (PTSL)

The obstacles faced by the Village Head, Sub-district Head, and District Head in issuing SKPT for the PTSL Program can be assessed by considering the factors outlined in the theory of Legal Effectiveness. These factors, proposed by (Soekanto, 2007), include:

1. Legal factor. This factor refers to the effectiveness of the law itself. It involves examining whether the legal provisions regarding the issuance of SKPT are clear, comprehensive, and conducive to achieving the desired goals of the program.
2. Law enforcer factor. This factor focuses on the role of law enforcement officials in implementing the law. It assesses whether the Village Head,

Sub-district Head, and District Head are adequately trained and equipped to carry out their duties effectively in issuing SKPT and ensuring compliance with legal requirements.

3. Facilities factor. This factor pertains to the availability of facilities and resources necessary to support law enforcement. It examines whether the Village Head, Sub-district Head, and District Head have access to the necessary infrastructure, technology, and administrative support to facilitate the efficient issuance of SKPT.
4. Community factor. This factor considers the attitudes and behaviors of the community towards the SKPT issuance process. It investigates whether the community is aware of the importance of obtaining SKPT and whether they actively participate in providing the required documentation and information.
5. Cultural factor. This factor relates to the cultural context in which the SKPT issuance takes place. It examines whether there are cultural norms or practices that hinder or facilitate the process. For example, cultural beliefs regarding land ownership and transfer may influence community attitudes towards SKPT.

These five factors are interconnected, and their relationship is crucial in determining the effectiveness of the SKPT issuance process. By analyzing these factors, researchers can identify the specific obstacles faced by the Village Head, Sub-district Head, and District Head and propose measures to overcome them, thereby improving the effectiveness of the PTSL Program.

The obstacles faced by the Village Head, Sub-district Head, and District Head in issuing SKPT for the PTSL Program can be assessed through the factors outlined in the theory of Legal Effectiveness. These factors include:

1. Legal factor plays a crucial role in determining the effectiveness of the SKPT issuance process. In the case of Karimun Regency, interviews with Mr. Drs. Hurnaini, M.Si, the Plt. Head of the Department of Housing, Settlement, and Cleanliness of Karimun Regency, revealed that some provisions in Perbup. Karimun No. 41 of 2016 are perceived as burdensome by the Village Head, Sub-district Head, and District Head. These provisions overlap with the authority of the National Land Agency (BPN) in land registration, causing non-compliance and inconsistency with the PTSL Program. Therefore, a thorough evaluation of these regulations is necessary. Moreover, although there are Standard Operating Procedures (SOP) for Land Administration Services outlined in Kep. Regent Karimun No. 595 of 2016, the absence of defined service completion timelines has resulted in lengthy processes. This issue was raised in the 2019 Rapid Assessment conducted by the Ombudsman of the Republic of Indonesia, Representative of the Riau Islands Province, regarding the issuance of Land Certificates (SKPT) at the Village and Sub-District Levels in Karimun Regency. By identifying and addressing these legal factors, such as the need for regulatory evaluation and the establishment of clear service completion timelines, the obstacles faced by the Village Head, Sub-district Head, and District Head in issuing SKPT

can be effectively mitigated, thereby enhancing the efficiency and effectiveness of the PTSL Program.

2. Law enforcer factor is crucial in determining the effectiveness of a law, as the mentality and personality of law enforcement officers play a significant role. Instances have been identified where some District Heads refuse to register SKPTs, while some Village Heads and Sub-district Heads issue SKPTs based on habit rather than in accordance with the provisions outlined in Perbup. Karimun No. 41 of 2016 and the SOP in Kep. Regent Karimun No. 595 of 2016. This raises concerns regarding potential maladministration, as highlighted in the 2019 Rapid Assessment conducted by the Ombudsman of the Republic of Indonesia, Representative of the Riau Islands Province. As representatives of the Regent Head, District Heads should fulfill their role as supervisors of the duties and authority of the Village Heads and Sub-district Heads within their jurisdiction, specifically in terms of SKPT registration. The involvement of District Heads also serves as guidance for the Village Heads and Lurah in case of errors or discrepancies in the publication process. Data on the control of community land parcels is essential for the Regent's submission of the Karimun Regency Regional Government Implementation Report (LPPD) annually. Village Heads and Sub-district Heads should adhere to the provisions outlined in Perbup. Karimun No. 41 of 2016 and its derivatives when issuing SKPTs, moving away from habitual practices. This local regulation serves as a legal framework to protect their actions in carrying out their duties. In terms of the competence of measuring officers, Village Heads, Sub-district Heads, and District Heads lack employees or staff members with expertise in land measurement. Additionally, there is a lack of position maps within the village, sub-district, and district offices, resulting in community land measurement and mapping being conducted manually with basic measuring tools, instead of utilizing tools aligned with land measurement standards. When individuals are given the option to seek assistance from third-party services with measurement expertise, they often decline due to associated costs. This information was gathered from interviews conducted with the Tebing District Head's representative, Mrs. Ike Fitriani, S.STP, as the Head of the Tebing District Government Section, Mr. Raji'I, the Head of Sungai Buluh Village, and Mr. Rudy Sidharta, who revealed insights as the Alai Village Land Staff, representing the Subdistrict Head of Alai. The lack of coordination between the Karimun Regency Land Office and the village/kelurahan and sub-district levels regarding the land tenure history for PTSL applications has resulted in land disputes, as certificates issued through the PTSL Program have been found to overlap with existing titles belonging to other parties.
3. Facilities factor plays a crucial role in ensuring the effective enforcement of legal rules within society. According to Mr. Syaifullah, SE., MM, the Kundur District Head, it is evident that there are no charges for issuing public community SKPTs, and there is no specific budget allocation for land services. Consequently, when staff members or village/sub-district

personnel assist in measuring public community land, they do not receive any financial assistance for expenses such as consumption, transportation, and honorarium. This condition poses a significant burden on the staff, especially considering the geographical challenges of Karimun Regency, which is comprised of islands where community-owned lands are often not located near the village/sub-district offices, resulting in additional costs to reach them. Additionally, Mrs. Ike Fitriani, S.STP, the Head of the Tebing District Government, emphasized that the absence of a land database is a significant cause of land overlap. To establish a comprehensive land database, aside from financial support, there is a need to enhance human resources through training and the provision of adequate equipment.

4. Community factor also contributes to the ineffectiveness of SKPTs issued by the Village Heads, Lurahs, and Camats for the PTSL Program. The lack of cooperation from the community, particularly in terms of land measurement during the SKPT application process, makes it challenging for staff members and village/sub-district personnel to assist with measurements. Often, the absence of clear land boundary markings and defined boundaries further complicates the process. Although the responsibility for maintaining land primarily lies with the landowners, the public community tends to rely on the village/sub-district offices for these tasks, despite it not being their duty. As stated in Article 15 of the UUPA, "Maintaining the land, including increasing its fertility and preventing its damage is the obligation of every person, legal entity, or agency that has a legal relationship with the land, with regard to the economically weak party."
5. Cultural factor relates to the cultural context in which the SKPT issuance takes place. the researcher's observations conducted on November 18, 2020, in Belat District and on February 10, 2021, in Ungar District, up to present, it was found that no one has been managing the SKPT process in these two districts. After confirming with the parties involved in Ungar District and Belat District, it was revealed that this was due to the community's enthusiasm for registering their land to obtain free land certificates through the government's PTSL Program. Since the PTSL Program is a national initiative supported by various budgets, it does not impose any costs on the community, making it highly appealing. Moreover, the program's simplified requirements have attracted a significant number of people interested in registering their lands and obtaining land certificates. With the conversion of public community land tenure into property rights, there will no longer be a need for Village Heads, Sub-district Heads, and District Heads to issue SKPTs. However, since 25 July 2022, Sungai Lakam Timur Sub-District of Karimun Regency has opened registration to issue the SKPT. This was also realized to support the government's PTSL Program (hbabe.co.id, 2022).

All these inhibiting factors contradict the implementation of the PTSL Program, which has a target completion timeframe. Due to the time-consuming nature of the process, the Karimun Regency Land Office follows

the guidelines outlined in the Regulation of the Minister of ATR/Head of BPN No. 6 of 2018 to prove the rights to community land tenure.

CONCLUSION

Based on the findings discussed in the previous sections, the study concludes that the SKPT issued by the Village Heads, Sub-district Heads, and District Heads in Karimun Regency is still effectively utilized as evidence of land ownership in land registration. However, the introduction of the PTSL Program has led to a shift in the legal value of the land registration procedure, with the special technical guideline provided by the Ministerial Decree ATR/Head of BPN No. 6 of 2018. BPN still requires SKPT for regular land registration on a sporadic basis, as there are still numerous parcels of land controlled by the community without any established basis.

However, the obstacles faced by the Village Heads, Sub-district Heads, and District Heads in issuing SKPT for the PTSL Program can be attributed to five factors: legal factors, law enforcement factors, facilities and infrastructure factors, community factors, and cultural factors. These factors intertwine and contribute to the effectiveness or ineffectiveness of the SKPT issuance process.

In order to address these obstacles and improve the effectiveness of the SKPT issuance process, it is crucial to evaluate and address each of these impeding factors comprehensively. By doing so, the authorities can ensure a smoother implementation of the PTSL Program and enhance land registration procedures in Karimun Regency..

BIBLIOGRAPHY

- Alfarizi, F., Surya, I., & Saleh, M. H. (2021). Implementasi Pelayanan Administrasi Terpadu Kecamatan (PATEN) di Kantor Camat Bengalon Kabupaten Kutai Timur [Studi Pelayanan Pembuatan Surat Keterangan Penguasaan Tanah (SKPT)]. *Jurnal Ilmu Pemerintahan*, 9(4), 132-139.
- Atikah, N. (2022). Kedudukan Surat Keterangan Tanah sebagai Bukti Kepemilikan Hak Atas Tanah dalam Sistem Hukum Pertanahan Indonesia. *Notary Law Journal*, 1(3), 263-289.
- Devita, I. (2016). Untuk Pensertifikatan Tanah Sudah Tidak Perlu Lagi SKT dari Kelurahan. *Irmadevita.Com*. <https://irmadevita.com/2016/untuk-pensertifikatan-tanah-sudah-tidak-perlu-lagi-skt-dari-kelurahan/>
- Hartanto, J. A. (2009). Problematika Hukum Jual Beli Tanah Belum Bersertifikat. *Laksbang Mediatama*.
- hbabe.co.id. (2022). Warga Sambut Penerbitan SKPT oleh Kelurahan. *Hbabe.Co.Id*. <https://hbabe.co.id/warga-sambut-penerbitan-skpt-oleh-kelurahan/>
- Laurentine, L. L., Kuntoro, A. N. A., & Berliani, R. A. (2023). Analisis Status Hukum Tanah yang Hanya Berdasar pada Alas Hak Surat Keterangan

Penguasaan Tanah yang Ditulis Dibawah Tangan yang Terjadi di Kota Balikpapan. *Lex Suprema*, 5(2), 227-247.

Mardiani, J. N., & Nurlaily. Sociology of Law Perspectives in Reviewing the Effective Social Control for Social Medias. *Journal of Law and Policy Transformation*, 7(1), 1-8.

Mujiburohman, D. A. (2018). Potensi Permasalahan Pendaftaran Tanah Sistematis Lengkap (PTSL). *BHUMI: Jurnal Agraria dan Pertanahan*, 4(1), 88-101.

Rudianto, M. (2010). Perjanjian Pengikatan Jual-Beli sebagai Perjanjian Pendahuluan. Rajawali Press.

Rudinyah, M., Tista, A., & Azizah, N. (2022). Kekuatan Hukum Surat Keterangan Tanah (SKT) sebagai Alat Bukti Kepemilikan Tanah berdasarkan Surat Edaran Menteri ATR/BPN No. 1756/15.I/IV/2016 tentang Petunjuk Pelaksanaan Pendaftaran Tanah Masyarakat. Universitas Islam Kalimantan Muhammad Arsyad Al Banjari Banjarmasin.

Saifuddin, S. S., & Qamariyanti, Y. (2022). Kepastian Hukum Sertifikat Hak Milik Atas Tanah atas Terbitnya Surat Keterangan Tanah pada Objek Tanah yang Sama. *Notary Law Journal*, 1(1), 31-48.

Sari, M. L., Yamin, M., & Rosnidar. (2022). Kedudukan Hukum Surat Keterangan Penguasaan Tanah sebagai Bukti Kepemilikan di Kabupaten Karo. *Jurnal Hukum Kaidah: Media Komunikasi dan Informasi Hukum dan Masyarakat*, 21(2), 372-386.

Shahrullah, R. S., & Cokro, H. H. (2020). Penegakan Hukum bagi Pedagang Usaha Mikro, Kecil dan Menengah terhadap Para Pelaku Usaha Monopoli. *Journal of Law and Policy Transformation*, 5(2), 113-127.

Soekanto, S. (2007). Faktor-Faktor yang Mempengaruhi Penegakan Hukum. Raja Grafindo Persada.

Sudiro, A. A., & Putra, A. P. (2020). Kepastian Hukum terhadap Hak Atas Pendaftaran Tanah dan Hak Kepemilikan Atas Tanah yang Telah Didaftarkan. *Jurnal Magister Ilmu Hukum*, 5(1), 36-46.

Susanti, N. (2017). Pendaftaran Tanah Pertama Kali Berdasarkan Jual Beli Dibawah Tangan di Kabupaten Padang Pariaman. Universitas Andalas.

Sutedi, A. (2011). Hukum Perizinan dalam Sektor Pelayanan Publik. Sinar Grafika.

Wahyuni. (2017). Problematika Pelaksanaan Pendaftaran Sistematis Lengkap dan Alternatif Penyelesaiannya (Studi Kasus di Provinsi Sumatera Utara). Sekolah Tinggi Pertanahan Nasional.

Waluyo, B. (2002). Penelitian Hukum dalam Praktek. Sinar Grafika.

Wasono, D. D. (2017). Kekuatan Hukum Surat Keterangan Penguasaan Tanah (SKPT) sebagai Bukti Hukum Penguasaan Atas Sebidang Tanah (Studi di Kota Pontianak). Universitas Tanjungpura.