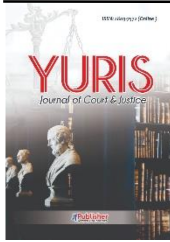

ISSN 2809-7572 (Online)
YURIS (Journal of Court and Justice)
https://journal.jfpublisher.com/index.php/jcj
Vol. 1, Issue. 3, (2022)
doi.org/10.56943/jcj.v1i3.150

Priority Rights in the Process of Converting Eigendom Verponding Land Into Property Rights: A Juridical Analysis

(Case Study of Decision Number: 337/Pdt.P/2013/Pn.Jr)

Rendy Firmansyah[1*], Lolita Permanasari[2]
[1]reendy182@gmail.com, [2]lolita_sari@yahoo.com
Universitas Bhayangkara Surabaya

[*]Corresponding Author: Rendy Firmansyah
Email: reendy182@gmail.com

ABSTRACT

The land ownership by an individual or a group have right to freely use it. According to the philosophy of customary law, rights are the authority, power and ability of people to act on objects. There are many cases of ex-western land rights that have not been converted after 20 years of the UUPA has been in force. For instance, a case that occurred is the ex-western land of Eigendom Verponding number 3529 in Jember district. The judge has tried to determine. The main problem of this research is the way to recognize and prioritize priority rights in the process of converting Eigendom land into property rights. Juridical analysis used to examine the priority rights in the process of converting Eigendom Verponding land into property rights (case study of case determination No. 337/pdt.p/2013/pn.jr). This problem was studied using a normative method, with a case approach and legislation. The conclusion of this study is that priority rights are used in solving land problems to obtain land rights, determine ownership rights, obtain compensation due to the abolition or cessation of land use and utilization rights, and determine the subject of rights who have the right to manage the land properly.

Keywords: *Eigendom Rights, Land Conversion, Priority Rights*

INTRODUCTION

The land ownership by an individual or a group have right to freely use it. Ownership of an object, in this case land, cannot be separated from the physical power of controlling the object, which is closely related to civil rights. Ownership and control over land is a fact matter in the field. According to the philosophy of customary law, rights are the authority, power and ability of people to act on objects. A person who initially controls the land in real or de facto terms is recognized as having ownership rights or is called jus possessionis. Furthermore, for quite a long time without dispute, the property rights get stronger legal recognition which is called jus possidendi. If the government gives legal recognition to the right of ownership of jus possessionis, it changes to have de jure legal force. Thus, it becomes called property rights as the highest personal right based on de facto and by de jure.[1] Those who have ownership rights or jus possessionis as described above are recognized as legitimate by the government, hereinafter often referred to as having priority rights. The facts contain a theoretical description as follows:

1. Property right is the right to use and do freely on the object with full sovereignty as long as it does not conflict with the laws or general regulations stipulated by a power that has the right to stipulate it. Besides that, it does not interfere with the others' right. Thus, it occurred without reducing the possibility of the right revocation in the public interest based on the provisions of the law and the payment of compensation.
2. Priority rights are owned by former rights holders to be prioritized so that their rights are given back to the former rights holders. Principally, everyone has the same opportunity to obtain land rights. However, those who control the former land rights for a certain period of time in good faith will get priority in obtaining land rights.
3. Land rights according to western law in civil law are dualistic. In addition to customary law which is civil law for the Indigenous/Bumiputera population, the Dutch colonial population and similar (European) groups apply Dutch civil law (Burgerlijke wet boek/BW/Kitab Undang-Undang Hukum Perdata/Civil). According to the Indische Staatsregeling (I.S.), the population of the Dutch East Indies was divided into 3 groups, namely:[2] (Maulana, 2022)
   a. European (white)
   b. Foreign Eastern Group (China and another foreign east)

[1] H Soesangobeng, *Filosofi, Asas, Ajaran, Teori Hukum Pertanahan, Dan Agraria* (Yogyakarta: STPN Press, 2012).
[2] Arief Maulana, "Beragam, Sistem Hukum Waris Di Indonesia Sulit Disatukan," *Universitas Padjadjaran*.

c. Original Indonesian group (bumiputera/indigenous)

Based on Article 131 paragraph 2 sub b. Indische Staatsregeling (I.S.) and Article 15 of Algemene Bepalingen van Wetgeving (A.B.), native Indonesians in the field of private (civil) law apply customary law. However, it is possible to deviate from customary law. If it turns out, that the deviation needs to be related to social needs or in the public interest. The existence of the dualism of civil law was also followed by the dualism of land law. Hence, at that time it was known that:

1. Customary lands originating and Indonesian Customary Law; and
2. European lands sourced from Burgerlijke wetboek/BW/The Civil Code.

The objective of this research is to find out and analyze priority rights in the process of converting Eigendom land into property rights. Eigendom rights are the most extensive material rights. The definition of Eigendom based on Article 570 of the Civil Code (Burgerlijke wetboek/BW) is "The right to use and do freely on that object with full sovereignty as long as it does not conflict with the law or general regulations. It is determined by the competent authority and does not interfere with the rights of others; all of this without prejudice to the possibility of revocation of such rights in the public interest based on the provisions of the law and payment of a certain amount of compensation".

RESEARCH METHODOLOGY

This research used a normative legal research type. Meanwhile, normative legal research is commonly known as document study, uses qualitative methods in analyzing data, and uses secondary data sources, such as regulations, court decisions, books, legal theory, and doctrine.[3] It was aimed at the concept of law and legislation and other related legal sources. As for in this study, the author wanted to examine the status of priority rights in converting former eigendom verponding land into property rights in terms of the principle of legal certainty by using existing laws and regulations, UUPA, and implementing government regulations.

RESULTS AND DISCUSSION

The Existence of Land Rights

The occupation of land known as adverse but it is not causing a fuss in some countries after leading to the acquisition. Acquisitions are often mistakenly described by some as theft of land. The provision of rights through such ownership is a legal process to create a sense of security for those who are unable to prove original ownership. The birth of customary community land rights in Indonesia

[3] Johnny Efendi, Jonaedi & Ibrahim, *Metode Penelitian Hukum Normatif Dan Empiris*, 1st ed. (Depok: Prenada Media Group, 2016).

before the LoGA was recognized through a growth process based on the interaction of three main elements, namely:

1. Real possessions to live in and manage;
2. Effect of length of time;
3. Inheritance

Furthermore, Article 22 of Law Number 5 of 1960 regulates the birth of property rights as follows:

1. "The occurrence of property rights according to customary law is regulated by a Government Regulation."
2. "In addition to the method as referred to in paragraph 1 of this article, property rights occur because:
   a. Government stipulations, according to the methods and conditions stipulated by government regulations,
   b. statutory provisions.

Van Vollenhoven called "the control rights of indigenous peoples as 'beschikkingsrecht' was the right to regulate the provision, granting of power to use land. Thus, the results can be enjoyed by individuals, families, and indigenous peoples." The right to control the customary law community is not the absolute highest right of ownership over the private property rights of individuals, families and community organizations. Hence, the right to control the customary law community cannot be equated with the highest absolute property right which is understood in the teachings and principles of English Common law and Anglo-Saxon America. The concept of the 'right to control the land' as the 'master' of the customary law community, has been proven to have been reinterpreted in a contemporary way, and has even been institutionalized into a basic constitutional norm in Article 33 of the 1945 Constitution and Article 2 paragraph (1) and (2) Law no. 5/1960. The eternity of human-society relations and land has also been re-standardized in the formulation of article 1 paragraph 3 of the 1960 BAL. Hence, the concept of customary philosophy regarding the power rights of customary law communities and the eternity of human relations with land and its legal community, has been translated with a new interpretation and institutionalized. It is back into basic Indonesian constitutional norms in the formulation of article 33 of the 1945 Constitution and its implementing regulations in article 2 of the 1960 BAL.

Customary law communities and their customary rights must be automatically recognized as owners of land with property rights, because both legal community members and customary law communities have their existence recognized in the 1945 Constitution. The recognition causes indigenous peoples to automatically switch legal status to citizens Indonesia, and the legal position of indigenous and tribal peoples are still recognized by the 1945 Constitution. Thus, any formulation of laws and regulations that deny the position and recognition of the 1945 Constitution is unconstitutional and can be categorized as a criminal act.

This is because the formulation and legal action taken by the official is a violation of the citizenship rights of Indonesian citizens to their ownership rights to land.

Customary civil rights were born from the process of growing rights as one of the main arguments of the Indonesian Customary Land Law. This process proves that civil rights to land grow and develop through the control and occupation of land parcels to be utilized and used by members of the legal community. This control and occupation is the basis for the birth of a strong and full civil right to land, based on four main principles, namely:

1. Because of the legal position of the person as a member of the legal community alliance;
2. Because it has obtained approval in the form of a permit and with the knowledge of the head of the customary law community association;
3. Because the purpose and objective of the control is to manage it directly so that the results can be enjoyed;
4. There is no intent and purpose of land tenure to be used as an object of trade for one's own benefit.

The fulfilment of these four conditions by the person who controls and occupies the land, and is justified by the community members and the head of the customary law community. It causes the recognition of people's civil rights to the land parcels occupied and controlled by them. So the nature of the civil rights of indigenous peoples to their land becomes strong and certain with the guarantee of the legal community.

The civil rights of indigenous peoples to their lands are basic rights that are fundamental in nature, which should not be violated arbitrarily by community members or the rulers of indigenous peoples, either in the form of revoking their property rights or selling them to outsiders which causes eternal termination. Community power rights means the land of the customary law community, may not be sold freely for ever to foreigners, because they are not members of the customary law community. Indigenous peoples, never have to lose, let alone have their customary ownership rights revoked by the State. These principles and teachings are rooted in the sixth teaching of the Customary Land Law, which has been interpreted and institutionalized into a basic constitutional norm in the formulation of Article 33 of the 1945 Constitution. Hence, the paradigm is called “The Right to Control from the State” (HMDN). Based on the HMDN paradigm, the Republic of Indonesia has no right to decide on the civil rights of Indonesian citizens' land ownership, including the rights of indigenous peoples through the institution of revocation of rights.

The Minister of Home Affairs Regulation Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Law Communities more clearly regulates the existence of indigenous peoples. Article 1 of the Regulation of the Minister of Home Affairs Number 52 of 2014 concerning

Guidelines for the Recognition and Protection of Indigenous Law Communities emphasizes the existence of customary law communities as follows:

1. "Customary law communities are Indonesian citizens who have distinctive characteristics, live in groups in harmony according to their customary law, have ties to ancestral origins and/or the same place of residence, have a strong relationship with land and the environment, and have a value system that determine economic, political, social, cultural, legal institutions and utilize a certain area for generations."
2. "Customary territory is customary land in the form of land, water, and or waters along with the natural resources that exist on it with certain limits, owned, utilized and preserved from generation to generation and in a sustainable manner to meet the needs of the community obtained through inheritance from their ancestors or claims for ownership in the form of ulayat land or customary forests."
3. "Indigenous territory is customary land in the form of land, water, and or waters along with the natural resources that exist on it with certain limits, owned, utilized and preserved from generation to generation and in a sustainable manner to meet the needs of the community obtained through inheritance from their ancestors or claims for ownership in the form of ulayat land or customary forests."

For instance, the emergence of priority rights in land events that arise due to natural events that occur quickly. This raised land is often a bone of contention. Embossed soil can form on the banks of rivers or on seaside beaches. On the banks of the river, the soil arises from the erosion of the river bank and settles on the other bank. The occurrence of landslides that cover part of the river will divert the direction of the river which results in the destruction of a plot of land on one side and a new plot of land emerges on the other, or due to erosion for tens to hundreds of years the shape of the river flow is twisting like the letter S on the other side. The meanders become straight so that new rivers are formed, while the former rivers become dry land and become new land. Article 3: The Head of the Regency/Municipal Land Office shall make a decision regarding:

1. "The granting of ownership rights to agricultural land with an area of not more than 2 ha (two hectares)"
2. "Granting of Ownership Rights on non-agricultural lands with an area of not more than 2,000 m2 (two thousand square meters), except for lands that were ex-Hak Guna Usaha"
3. "The granting of ownership rights to land in the context of implementing the program:
    a. transmigration;
    b. land redistribution;
    c. land consolidation;

d. mass land registration, both in the context of implementing systematic and sporadic registration.

The Existence of Eigendom Rights

During the Dutch East Indies period, a citizen of the Netherlands, Europe, Foreign East, and Bumiputra who controls a plot of land and will apply for ownership of his plot of land with eigendom rights must first obtain:

1. the decision letter for the determination (beschikken) of the District Court Judge regarding the status of the material rights on the respondent's land parcel which is called 'gerechtelijk acte van zakelijk recht'; and
2. stipulation letter (beschiken) of the District Court Judge regarding the granting of 'eigendom privaat' property rights to the applicant called 'gerechtelijk acte van eigendoms recht'.

For foreigners, such as Chinese, Arabs, Indians, Moors or Bumiputras, they are not automatically recognized as the same as Europeans. These foreign easterners who wish to have an equal position with the Dutch (gelijkgestelde Europeanen), before obtaining the two decrees from the District Court Judge, they have obtained a decree from the Director of the Department of the Interior of the Dutch East Indies regarding the equality of their rights with the citizens of the Dutch East Indies. The Dutch state or their social position is equated with Europeans (gelijkgestelde besluit) so they deserve to be subject to western civil law. This equality of position is very important, because it determines whether the ownership of the 'acte van eigendom' of a Foreign East or Bumi Putra can be recognized as legal or not as a civil right as regulated in Article 570 BW/KUHPerdt. The decision letter (besluit) of equalizing legal status to the Bumiputra and the Foreign East is only given, if the person concerned fulfills five conditions:

1. managed to show that he can speak Dutch fluently as well as Dutch people;
2. dressed like a Dutchman;
3. socialized in the Dutch community;
4. the possibility of facilitating the trading business of the Dutch; and
5. as far as possible the same religion as the Dutch, namely Christian or Catholic. Without the fulfilment of most of these requirements, neither the Bumiputra nor certain Eastern Foreigners will receive a decree on legal equality with the Dutch.

Before obtaining two decision letters, the District Court Judge must first ask for a certificate regarding the legal certainty of the location of the boundary of the land object from the Cadastre Office (Kadastral Dients) which is domiciled under the Ministry of Justice called "Registered Land Certificate" (landmeter kennis) along with a picture explaining regarding the location of the boundaries of the land

parcels. The Kenis Landmeter is like a Land Registration Certificate (SKPT) which is attached with a picture of the location of the boundary of the land parcel. After obtaining two decisions of the District Court Judges whose originals were kept in the District Courts called 'minuut', the applicant obtained a copy of the originals called 'grosse acte'. Furthermore, the applicant appears before a Notary to obtain a "proof of ownership" called 'acte van eigendom'. This 'Acte van eigendom' must be registered with the Cadastre Office to be recorded in the "general register" fulfilling the principle of publicity of land registration in order to have the power as authentic evidence.

Priority Rights Arrangement in Customary Law

Setiady[4] stated that "if the signs given by people have been removed or lost, then the rights of other people to the object reappear and in this situation the rights of the partnership reappear." The members of the alliance who have given the first sign only have previous rights (voorkeuresch recht) on the land."

This is also emphasized by the xplanation of the various types of land rights according to customary law of the Indigenous Law Community (Partnership), namely: "Previous Rights (Voorkkeurs Recht). Customary law also recognizes previous rights (voorkkeurs recht), the rights given to someone to cultivate land where that person takes precedence over others. This former right by Soekanto used the term "Right of Choice", this happened on a plot of scrub land which was land from ulayat or land in the form of ulayat land. People who have previous rights:

1. People again return to ulayat rights after the land by the person who first gave signs of the upper boundary of the land. Land that has been marked in Dayak is called Pupuh or Siruan;
2. The former rights are also granted to the last person to cultivate the land. Since it is known that land that is no longer cultivated is reverted to customary rights after the land becomes shrubs and is willing to be cultivated again, the person who first has the title for the land is the person who last has the title for the land. In Kalimantan this land is called Baduan.
3. The former rights are also granted to people whose land borders the Scrub Land. In South Sumatra this land is called Tail Land or Hapuan.

National Land Law Priority Rights Arrangement

Customary civil rights are born from the process of growing rights as one of the main arguments of Indonesian Customary Law. The process proves that civil rights to land grow and develop through the control and occupation of land parcels to be used by the legal community. The control and occupation of land is the basis

[4] T Setiady, *Intisari Hukum Adat Indonesia (Dalam Kajian Kepustakaan)* (Bandung: Alfabeta, 2008).

for the birth of a strong and full civil right to land, based on four main principles, namely:

1. Because of the legal position of the person as a member of the legal community alliance;
2. Because it has received approval in the form of a permit and with the knowledge of the head of the customary law community association;
3. Because the intent and purpose of its control is to be managed directly by yourself so that you can enjoy the results; and
4. There is no intent and purpose of land tenure to be used as an object of trade for one's own benefit.

The fulfilment of these four elements of conditions by the person who controls and occupies and is justified by the community members and the head of the Indigenous Law Community causes the recognition of people's civil rights to the parcels of land occupied and controlled by them. After the land is controlled and occupied, it is registered in accordance with the provisions of state law, the legal position changes to property rights. At this level of growth in the position of ownership rights, people become the full and strongest owners in the protection and guarantee of security and ownership by the State. This protection and guarantee is evidenced by the issuance of proof of ownership rights called the Certificate of Ownership.

Priority Right to Land Former Eigendom

The panel of judges in their decision No. 337/Pdt.P/2013/PN Jr. has correctly decided on the former eigendom verponding No. 3529, because the Basic Agrarian Law has strictly prohibited the transfer of land rights in any form to foreign nationals. The transfer of land rights to foreign nationals is usually through legal smuggling. The Basic Agrarian Law has emphasized that foreign nationals cannot have rights to land in Indonesia, except for rental and usufructuary rights. However, the problem is that the panel of judges only cancels the agreement and declares the land back to be state land.

Regulations on civil rights and priority rights to ex-titled state land are not explicitly regulated, even tend to be vague, but in practice their existence is recognized, it is clearly seen in many court decisions acknowledging their existence. Priority rights to land are defined as the right to get first priority or take precedence based on the sequences of recipients of land rights to obtain recognition, grant/stipulate land rights. While civil rights regarding the legal relationship between the subject of the right to the land. This means that civil rights are settled first, then priority rights can be given based on the priority sequences of rights recipients.[5] Priority rights in the implementation of land law have been recognized

[5] Dian Aries Mujiburohman, “Akibat Hukum Pembubaran BP Migas,” *Mimbar Hukum* 25, no. 3 (2013).

for their existence. People can obtain or lose land rights with priority rights and because of priority rights one's land rights are also revoked.[6]

Hadiatmodjo substantively the legal subjects who get priority to apply for a land right from the conversion of this western right are[7]:

1. “The first priority is on the state, with a note if needed for projects related to public interest (Article 2 and Article 3).”
2. “The second priority is the former holders of state land rights to the former western rights. The former rights holders include state and regional owned companies or state agencies that are still controlled (owned) for the land with renewal of rights; with a note taking into account the problems of land use, natural resources and the environment, the condition of the garden and its inhabitants, development plans in the area and the interests of former rights holders and cultivators/occupants (Articles 3, 6, and 1).”
3. "The third priority is the cultivators and residents of the former western rights state land and will be given new rights that meet the requirements (Article 4 and Article 5)."

Land tenure for more than 20 years is commonly called rechtsverwerking, namely the passage of time which causes people to lose their rights to the land they originally owned.[8] Rechtswerverking is when a person owns land but for a certain period of time leaves the land unkempt, and the land is used by other people in good faith, he can no longer demand the return of the land from other people. A person who in good faith has mastered and utilized the said plot of land, has the right to obtain rights to the land that has been utilized by him. The provision of good faith is the opposite of bad faith or dishonesty. It is difficult to identify good faith because it has an abstract meaning that gives rise to different meanings.[9]

One of the rights to land that is born from management rights is the right to build. The birth of the right to use the building was preceded by the making of a land use agreement between the holder of the management right and the prospective holder of the right of building.[10] The transfer of parts of land with management rights to third parties that give birth to ownership rights is carried out in the form of relinquishing land with management rights by the holder of the right. Management rights do not break the legal relationship between the holder of the management

---

[6] D. W Andari, *Laporan Hasil Penelitian Strategis* (Yogyakarta, 2015).

[7] Fani Martiawan Kumara Putra, “Pembatalan Sertifikat Hak Atas Tanah Karena Cacat Administratif Serta Implikasinya Apabila Hak Atas Tanah Sedang Dijaminkan” 20, no. 2 (2015): 101–117, http://jurnal-perspektif.org/index.php/perspektif/article/view/152/pdf_1.

[8] Sophar Maru Hutagalung, *Hak Cipta : Kedudukan Dan Peranannya Dalam Pembangunan*, ed. Tarmizi & Suryani (Jakarta: Sinar Grafika, 2012).

[9] Dian Aries Mujiburohman, *Penegakan Hukum Penertiban & Pendayagunaan Tanah Terlantar* (Yogyakarta: STPN Press, 2019).

[10] Urip Santoso, “Penggunaan Tanah Hak Pengelolaan Oleh Pihak Ketiga,” *Jurnal Dinamika Hukum* 13, no. 2 (2013).

right and the land. Ownership rights to land management rights break the legal relationship between the holder of the management right and the land.

Principally, the priority right of transition from the former eigendom land rights to property rights takes into account three interests, namely;

1. Public interest;
2. Interests of former rights holders;
3. The interests of the people who control/use the land physically in good faith.

Position Case

Djamilah, who resides in Jember Regency as an applicant through his legal representative, submitted an application letter dated April 15, 2013 to the Registrar of the Jember District Court with register number 107/Pendaft/Pdt/2013 to get priority over his plot of land in the form of land belonging to the former eigendom verponding land area of ± 92 M² which is located in Jember Lor Village, Patrang District, Jember Regency which was purchased from the original owner, namely Sujono through a sale and purchase agreement number 05 dated 04 February 2013 with the intention of changing the status of the land to property rights so that the yard land can function socially as stated in in article 6 of Law no. 5 of 1960 concerning the LoGA.

Juridical Analysis based on Case No. 337/Pdt.P/2013/Pn.Jr Legal facts

The facts which are legal events that were appointed to be considered by the judge in the determination of case number 337/Pdt/P/2013/PN.Jr are as follows:

1. The land and buildings occupied by the Petitioner (Djamilah) are lands belonging to the former eigendom Verponding land No. 3529 with an area of ± 92 M² which is located on Jalan Bedadung, Jember Lor Village, Patrang District, Jember Regency.
2. On the basis of a sale and purchase agreement, evidence P-3 number: 5, dated February 4, 2013 made by a Notary & PPAT named Diyah A. Permatas Sari, S.H. then a priority application is submitted to change the status of the land to land with ownership rights.
3. The land was controlled by the applicant (Djamilah) due to the sale and purchase agreement is true that it was previously controlled and occupied by witness Sujono for generations.
4. The land submitted as an application is not in dispute, is not being used as collateral or credit collateral, and there is no other party that puts priority on it.

Analysis of the Structure of Legal Norms

For the analysis of the structure of norms, legal facts were found in the determination of case number 337/Pdt/P/2013/PN.Jr as follows, namely:

1. There is a sale and purchase agreement (legal facts point 3)

2. There is a sale and purchase agreement supported by the testimony of witness Sujono, who is also the former owner.
3. There must be a district court ruling related to the use of priority rights in order to support the requirements for submitting an application to the land agency or the land office.
4. There are no other parties who propose priority over the same land object.
5. The land is not in dispute and is not being used as collateral or credit collateral.

Analysis of Legal Norms

Based on the legal facts as referred to in point number 2, it is true that the applicant as a legal subject is the party who has the right to apply for priority rights to land ownership rights to the Jember District Court according to the absolute competence possessed by the Jember District Court regarding this application. The condition of the legal object is that it is properly controlled and occupied by the applicant and no other party is applying for priority over the same land object and the land is not in dispute and is not being used as collateral or credit collateral. Whereas based on the above matters, it is therefore in accordance with the provisions in Articles I, III and V of Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles Juncto Article I paragraph (I), Presidential Decree No. 32 of 1979 Regarding Policy Principles in the Context of Granting New Rights to Land of Origin Conversion of Western Rights, at the expiration of the rights in question, namely on August 19, 2005, the legal status of the land changed to land controlled by the state, so that the authority related to the policy in the framework of granting new land rights originating from the conversion of the western rights to the State, in this case the National Land Agency, Jember Regency Land Office.

Analysis of Legal Considerations by Judges

Legal considerations by judges in the process of drawing conclusions (syllogisms) are clearly detailed and precise. The considerations used in the determination of the judge are based on the facts of the trial through letter evidence and witness statements which are written and compiled in detail and accurately in the use of words, all of which are categorical propositions in determining the case.

Analysis of the Judge's Determination

The decision made by the judge in stipulating case number 337/Pdt/P/2013/PN.Jr by granting the applicant's request (Djamilah) through his attorney is correct. This is based on the consideration that the applicant is proven to be the party that has the priority right to apply for ownership rights to the registered eigendom land. 3529 with an area of ± 92 M² which is located as requested by the applicant.

In addition, in the determination with the imposition of a court fee of Rp. 141,000, - (one hundred and forty one thousand rupiah), after stating legal certainty, the judge provided a solution as a follow-up to the application submitted, namely with a stipulation that reads "Ordering the Head of the Office of the National Land Agency of Jember Regency, to process the Application for Ownership of Eigendom land belonging to the applicant, registered Land Certificate of Ownership of former Eigendom Verponding land No.3529, Area ± 92 M^2, located in Jember Lor Village, Patrang District, Jember Regency for the applicant to continue the process of changing the status of land ownership rights in accordance with the UUPA.

CONCLUSION AND SUGGESTION

Conclusion

Priority rights to land are interpreted as the right to get first priority or take precedence based on the sequence of recipients of land rights to obtain recognition, grant/stipulate land rights. According to the article 4 Presidential Decree number 32 of 1979, the former HGB and HP village lands from the conversion of Western rights which have become settlements or are occupied by the people, will be given priority to the people who occupy them after the fulfilment of the requirements concerning the interests of the former land rights holders. From the following explanation, it can be concluded that priority rights are the sequence of recipients of land rights, for people who meet the requirements and occupy state lands ex-eigendom rights within a certain time are given priority to apply for land rights. The existence of priority rights is used in solving land problems, among others: obtaining land rights, determining ownership rights, obtaining compensation due to the abolition or cessation of land use and utilization rights, determining the subject of rights who have the right to manage the land properly. Of course, by taking into account the priority rights in Presidential Decree No. 32/1979.

The conclusion from the judge's decision number 337/Pdt.P/2013/Pn.Jr is that the applicant is the owner of the priority right where the right is to get priority for submitting an application for Property Rights to the Head of the National Land Agency Office of Jember Regency on Eigendom verponding land of former western rights. recorded in the Village Certificate.

Suggestion

Based on this research, the researcher provided some suggestion for the further research, these are (1) the government immediately implements the order of Article 22 paragraph (1) of the LoGA to make a Government Regulation regarding the occurrence of Property Rights according to customary law; (2) minister of Agrarian Affairs and Spatial Planning to emphasize laws and regulations which are often interpreted differently.

REFERENCES

Andari, D. W. *Laporan Hasil Penelitian Strategis*. Yogyakarta, 2015.

Efendi, Jonaedi & Ibrahim, Johnny. *Metode Penelitian Hukum Normatif Dan Empiris*. 1st ed. Depok: Prenada Media Group, 2016.

Hutagalung, Sophar Maru. *Hak Cipta : Kedudukan Dan Peranannya Dalam Pembangunan*. Edited by Tarmizi & Suryani. Jakarta: Sinar Grafika, 2012.

Kumara Putra, Fani Martiawan. "Pembatalan Sertifikat Hak Atas Tanah Karena Cacat Administratif Serta Implikasinya Apabila Hak Atas Tanah Sedang Dijaminkan" 20, no. 2 (2015): 101–117. http://jurnal-perspektif.org/index.php/perspektif/article/view/152/pdf_1.

Maulana, Arief. "Beragam, Sistem Hukum Waris Di Indonesia Sulit Disatukan." *Universitas Padjadjaran*.

Mujiburohman, Dian Aries. "Akibat Hukum Pembubaran BP Migas." *Mimbar Hukum* 25, no. 3 (2013).

———. *Penegakan Hukum Penertiban & Pendayagunaan Tanah Terlantar*. Yogyakarta: STPN Press, 2019.

Santoso, Urip. "Penggunaan Tanah Hak Pengelolaan Oleh Pihak Ketiga." *Jurnal Dinamika Hukum* 13, no. 2 (2013).

Setiady, T. *Intisari Hukum Adat Indonesia (Dalam Kajian Kepustakaan)*. Bandung: Alfabeta, 2008.

Soesangobeng, H. *Filosofi, Asas, Ajaran, Teori Hukum Pertanahan, Dan Agraria*. Yogyakarta: STPN Press, 2012.