

The Effectiveness of Decree of The Minister of Agrarian and Spatial Plan Number 276 Concerning the Appointment of Pakraman Village as The Holder of Land Rights

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ABSTRAK

Pendaftaran hak atas tanah sebelum diterbitkannya Keputusan Menteri Negara Agraria Nomor 276 Tahun 2017 tentang Penunjukan Desa Pakraman sebagai subyek pemegang hak atas tanah belum selesai dan berdasarkan Surat Keputusan tersebut. Semua tanah Desa Druwen dapat didaftarkan secara kadaster untuk memperoleh bukti hak yang disebut sertifikat dengan tidak merugikan tata krama desa yang sebelum dikeluarkan keputusan ini telah memanfaatkan/menggunakan tanah desa Druwen. Permasalahannya adalah keseimbangan penguasaan dan kepemilikan hak atas tanah milik Desa Pakraman untuk menciptakan pemerataan penguasaan tanah oleh Krama Desa. Penelitian ini menggunakan jenis penelitian hukum empiris dengan penelitian deskriptif-analitik. Pendekatan yang digunakan adalah pendekatan sosiologis, dengan jenis data: data primer dan data sekunder, sumber data lapangan dan sumber data pustaka, dan lokasi penelitian di Kecamatan Buleleng Kabupaten Buleleng. Pendaftaran tanah desa druwen di wilayah Kecamatan Buleleng Kabupaten Buleleng telah dilaksanakan secara tuntas. Namun beberapa desa belum terdaftar karena tanah desa druwen dikuasai oleh krama desa dalam kelompok yang disebut krama dadia. Selebihnya sudah efektif menerapkan Keputusan Menteri Agraria Nomor 276 Tahun 2017 di Kecamatan Buleleng Kabupaten Buleleng.

ABSTRACT

The land rights registration before issuing the Decree of the Minister of State for Agrarian Affairs Number 276 of 2017 concerning the appointment of Pakraman Village as the subject of the holder of land rights has yet to be completed and based on the Decree. All druwen Village lands can be registered on a cadastral basis to obtain evidence rights called certificates without harming village manners which, before this decree was issued, had utilized/used the druwen village lands. The problem is balancing control and ownership of land rights belonging to Pakraman Village to create an even distribution of land tenure by Krama Desa. This study uses a type of empirical legal research with descriptive-analytical research. The approach used is a sociological approach, with the types of data: primary and secondary data, data sources are field and library data sources, and the research location is in Buleleng District, Buleleng Regency. The registration of druwen village lands in the Buleleng sub-district, Buleleng Regency, has been carried out completely. However, some villages have yet to be registered because the village druwen lands are controlled by village krama in groups called krama dadia. The rest have effectively implemented the Decree of the Ministry of Agrarian Affairs Number 276 of 2017 in Buleleng District, Buleleng Regency.

1. INTRODUCTION

Land issues are an inseparable part of human life. Land issues are the same as human death issues, therefore between humans and land have an eternal relationship (Article 1 Section 3 Law Number 5 of 1960 concerning Basic Agrarian Regulations, which is often called the Basic Agrarian Law, abbreviated as UUPA) states that the relationship between humans and land is eternal (Amaliah et al., 2021; Hisbullah, 2018). It means that humans still need land from birth until they die. Because of the importance of land for human life, the land is often said to be part of human life. Because of the importance of land, land issues often occur both between individuals and between one group and another.

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The land reform program is the most effective government program for equal distribution of ownership and control of agricultural land. Land reform is the government's effort to make people who own land exceed the maximum limit to be given to farming communities who do not own cultivated land. (Putra et al., 2021; Tristanto, 2020). The same thing applies to rural communities that apply village regulations by regulating and managing Druwen Village lands in Bali, especially in Buleleng District. UUPA requires a change in land ownership and control structure that reflects partiality to the interests of farmers and farm laborers, who constitute most of the Indonesian people from an agrarian country. Likewise, before the Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 276, there was a stagnation between the law and the reality in practice (Amalia et al., 2020; Wahyudi et al., 2021). Article 19 of the UUPA states, among other things, that land in the entire Unitary State of the Republic of Indonesia (NKRI) must be registered. However, on the other hand, land belonging to traditional villages may not be registered. This needs to be clearer and easier to apply the law. However, after the issuance of these regulations, there is synergy between one law and another. In the course of UUPA as a spirit of land reform, it faces obstacles, both from outside the body of UUPA and from within. Obstacles from within many land reform provisions include clauses of exclusion for certain groups of people. The exception is stipulated in Government Regulation 4 of 1977 concerning absentee ownership of agricultural land. This regulation states that civil servants based on PP No. 224/1961, in conjunction with PP No. 41/1964, are exempt from the provisions regarding the prohibition of owning agricultural land in groups (absentee) (Nuriyanto, 2020). This exception does not apply to retired civil servants, but these pensioners are equated in practice. This exception is applied intensively will reduce the weight of the land reform law. Likewise, for example, the UUPA provides exceptions to civil servants and ABRI to own agricultural land absentee. Obstacles from outside are strong opposition to land reform from groups that will be disadvantaged and the absence of strong farmer organizations to support the implementation of land reform. (Wicaksono et al., 2018).

The emergence of land issues from before Indonesia's independence, both between natives and between natives and foreigners (Dutch), even though various Agrarian Regulations had been issued. However, land issues have always arisen until now, not even a little until criminal incidents have occurred. It means that the integrity of the land's relationship with humans is very inherent, which results in their defending the stake of their lives (Kosalya et al., 2022; Prawita et al., 2022). It happened because existing regulations still need to be implemented regarding land registration to ensure legal certainty. The Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 276 concerning the Registration of Pakraman Village is a regulation that refines existing regulations. Because the previous regulations considered Pakraman Village as not a legal subject, all land belonging to Pakraman Village could not be registered in a *recht* cadastral manner to obtain legal certainty. Buleleng-Bali, which before independence was called Sunda Kecil as the center of government in Bali, the people should have been able to enjoy happiness, especially regarding the control and ownership of land rights, especially from the druwen lands of Pakraman Village. However, the reality is that there is still a limping, even leaving myriad problems. It means that some people control and have rights over land that exceed the maximum limit. On the other hand, many people still do not own and control land; such people should be given control over land belonging to Pakraman Village by providing a definite basis for rights.

Suppose this is related to the facts that exist in villages in Bali, especially in Buleleng District. In that case, the obstacle faced by village residents is implementing a non-transparent system of granting control. It can trigger a conflict between Prajuru Desa and Krama Desa. The government needs to be more consistent in applying a mandate from existing laws and regulations. In short, Land reform is a process to make those who work on the land (farmers/ cultivators) own the land they need or get protection for the land they use. However, the reality is that it is just wishful thinking. Even officials still show their greed to own agricultural land on a large scale, and the land is abandoned. It is feared that such practices will also occur in villages in Buleleng District.

2. METHODS

The method used is a literature study or literature review. A literature study is a research design to collect data sources related to a topic. The literature study aims to describe the main content based on the information obtained. Data collection for the literature study was carried out using a database search tool which served as a literature search stage. The strategy used in the literature search was obtained through a database of national and international journal providers. National and international journal provider databases can be accessed through several websites.

3. RESULTS AND DISCUSSIONS

Results

Ownership of Druwen Village land by Krama Desa in Buleleng District and Regency. The land is part of human life. We get land meaning from various sources, experts, and legislation. Land, when viewed etymologically, means the surface of the earth or the layers of the earth that are above it. A land is an object of land law. Land law does not regulate land as a whole but only regulates one aspect of it. One aspect of the land is tenure rights over land. Land, the topmost surface of the earth, is mostly used for agricultural business, especially food crop farming. Land, in terms of its function, has two functions: as a Social Asset and Capital Asset. Social Assets, namely as a means of binding social unity among the community to live and live. Therefore the Druwen Village land belongs to the Krama Desa concerned, so the Krama Desa should control it. Capital Asset, the land is a capital factor in the development and has grown as a very important economic object, a trading material, and an object of speculation. In legal sociology, the land is part of the social object that is fundamental to forming land policy. The land belongs to the people of Indonesia, and the country is the embodiment of the people who have the right to regulate its use to pursue common prosperity. The word "land belongs to the people of Indonesia" means that every citizen of Indonesia has the right to control and have rights to land, both agricultural land and residential land, without exception, for the common welfare of the people. One of the forms of embodiment of this welfare is the existence of legal protection of human rights for each nation, which in Pakraman Village means Krama Desa.

There is two control over land rights, namely the full control over land rights by the country, which is called country land (Article 1 Letter a Government Regulation of the Republic of Indonesia No.8 of 1953). It means that there is no right attached to the land. Mastery of land rights by the country is partial. It means that a certain right has been attached to the land. The rights in question can be in the form of physical control rights or juridical control rights. Arrangements for the tenure of land rights were originally found in unwritten laws that were developed and formed jointly by the community concerned and which apply and adhere to are limited to the unity of the community. Therefore, the Druwen Village lands, which communally belong to the village, can be controlled individually by Krama Desa physically with the legality granted by Pakraman Village. Given the importance of the functions and values of land in human life, legal protection from the government is urgently needed based on the authority it has for the welfare of the people in the form of a determination of tenure issued by Pakraman Village through Prajuru Desa. Agrarian countries in the world place the use of land as agricultural land, which is entrusted with management to farmers. It is different in Indonesia when farmers are viewed from the dimension of social status as weak and poor as having very low values. In terms of human life, farmers are a factor that has the potential to manage agricultural land for food production. Throughout Indonesia's history, most of the farmers who have been the backbone of the agricultural sector, since the colonial era, independence, until now have not enjoyed what true independence means, namely being free from oppression and poverty and becoming a nation with dignity in the international world. Because of this, the Druwen Village lands in Bali, especially in the Buleleng Sub-District, especially agricultural land need to be managed and balanced by Krama Desa by granting management rights to Prajuru Desa.

The land is the topmost loose layer of the earth's surface. What is used for growing plants is called arable land, yard land, agricultural land, and plantation land. Meanwhile, the building is called building land. From top to bottom, there are cultivated ridges as deep as the plow's wedge, the humus-forming layer, and the deep layer in the arable land. The Decree of the People's Consultative Assembly of the Republic of Indonesia Number II/MPR/1993 concerning the Outlines of State Policy provides the mandate that the arrangement of land tenure by the country is directed so that its utilization can realize prosperity and social justice for all Indonesian people, while the arrangement of land use is carried out in a planned manner to realize the greatest welfare of the people. The arrangement of land use needs to pay attention to people's rights to land, the social function of land rights, and the maximum limit for land ownership, including various efforts to prevent the concentration of land control so that an integrated, harmonious, effective and efficient land management system can be realized, which includes orderly administration.

This formulation is conditional on the values contained in Pancasila, namely Sila II (A just and civilized humanity), Sila IV (Democracy, led by the wisdom of the representatives of the people), and Sila V (Social justice for all Indonesian people.). If this can be realized, land conflicts throughout the archipelago can be minimized. It means that arrangements regarding land use are adjusted to the community's needs. Equal distribution of control and ownership of land rights can be realized as a mirror of social justice for all people. Government policy the granting of land rights is realized by realizing the land reform program as a form of implementing agrarian reform Article 4 Section (1) of the UUPA states that "Based on the right to control from the state as referred to in Article 2, it is determined that there are various kinds of rights to the surface of the earth, which called land, which can be given to and owned by o people, both alone and together with other people and legal entities". Bearing in mind that agricultural land in the territory of the Republic

of Indonesia has become increasingly narrow during the development era, it is already a public opinion that extensification of agricultural land is urgently needed, such as clearing forests to obtain agricultural land, abandoned land, state land, arable land designated as cultivator's land originating from excess land belonging to landlords and so on. In China, in the context of expanding agricultural land, the government took firm action and even moved cemeteries. Article 9 Section (2) states that ownership and control of land by Indonesian citizens is a right. Every Indonesian citizen has the right to acquire land, especially from cultivators. If there is still arable land, there is no equal distribution. Because the word cultivating means they work on the land belonging to other people with excess land ownership. The study results show that many rural farmers still work on other people's land by sharing the results. It follows the information from the Head of Baktiseraga Village, Head of Pengalatan Village, Head of Poh Bergong Village, Head of Naga Sepaha Village, Head of Sari Mekar Village, Head of Kali Bukbuk Village, and Alas Angker.

The land reform program is the most effective government program for equal distribution of ownership and control of agricultural land. Land reform is the government's effort to make people aware that those who own land exceed the maximum limit to give it to farming communities who do not own cultivated land. The same thing applies to rural communities that apply village regulations by regulating and managing Druwen Village lands in Bali, especially in Buleleng District. UUPA requires a change in land ownership and control structure that reflects partiality to the interests of farmers and farm laborers, who constitute most of the Indonesian people from an agrarian country. Likewise, before the enactment of the Minister of Agrarian and Spatial Planning Number 276, there needed to be more consistency between the law and the reality in practice. Article 19 of the UUPA states, among other things, that land in the entire Unitary State of the Republic of Indonesia (NKRI) must be registered. However, on the other hand, land belonging to customary villages may not be registered. This needs to be clearer and easier to apply the law. However, after the issuance of these regulations, it appears that there is synergy between one law and another. In the course of UUPA as a spirit of land reform, it faces obstacles, both from outside the body of UUPA and from within. Obstacles from within many land reform provisions include clauses of exclusion for certain groups of people. The exception is stipulated in Government Regulation 4 of 1977 concerning absentee ownership of agricultural land. This regulation states that civil servants based on PP No.224/1961 and PP No.41/1964 are exempt from the provisions regarding the prohibition of owning agricultural land on an absentee basis. This exception does not apply to retired civil servants, but these pensioners are equated in practice. This exception, if implemented intensively, will reduce the weight of the land reform law. Likewise, the UUPA provides exceptions for civil servants and the Armed Forces to own agricultural land in absente. Obstacles from the outside are the strong opposition to land reform from groups that will be disadvantaged and the absence of strong farmer organizations to support the implementation of land reform.

Finally, the delay in implementing land reform was due to changes in development politics which were more oriented to the interests of the owners of capital (investors) than those of the peasant people. In the 1960s, President Sukarno delivered a speech citing the UN report that "defects in the agrarian structure, and particular systems of land tenure, prevent a rise in the standard of living of small farmers and agricultural laborers and impede economic development," which is less more translation is "damage in the agrarian structure, and in particular in systems of land tenure, preventing the improvement of living standards of small peasants and agricultural workers, as well as hindering economic development." Suppose this is related to the facts that exist in villages in Bali, especially in Buleleng District. In that case, the obstacle faced by village residents is implementing a non-transparent system of granting control. It can trigger a conflict between Prajuru Desa and Krama Desa. The government is inconsistent in applying a mandate from existing laws and regulations. In short, Land reform is a process to make those who work on the land (farmers) own the land they need or get protection for the land they use. However, the reality is that it is just wishful thinking. Even officials still show their greed to own agricultural land on a large scale, and the land is abandoned. It is feared that such practices will also occur in villages in Buleleng District.

Discussion

The main driving factor (major driven) is the uneven control of Druwen Village land by Krama Desa in Buleleng District and Regency. The right to the land belongs to the Indonesian nation. In contrast, the Indonesian people are individually part of the Indonesian nation. So based on Article 9 Section (2) of the UUPA, all Indonesian citizens must be distinguished. Both men and women have the same opportunity to control and have rights above ground. Likewise, Article 2 Section (4) of the UUPA states that in areas where land is delegated to autonomous regions and customary law communities (Puspadewi et al., 2018). It means that the land that Pakraman Village controls can give control to Krama Desa, who are active in carrying out their obligations in the village, as long as they do not commit violations in the village concerned (Putra et al., 2021; Rachma 2019). Based on the information from the Land Office in filling out the questionnaire, it

stated that the factors supporting the application of regulations on equal distribution of tenure and ownership of land rights in Buleleng Regency, one of which was the issuance of the Land reform law were to provide for a fair and equitable distribution of tenure and ownership of land rights. for the source of income and livelihood of the farming people in the form of land so that with this distribution an equitable distribution of results can be achieved and also eliminate smallholder farmers (Tristanto, 2020). Likewise, based on some information from the Head of Pakraman Village, one of the causes of the uneven control of Druwen Village land by village karma is the limited area of land. In contrast, karma continues to increase so that those who control it first only pass it on to their descendants. At the same time, other families do not pay attention, thus causing inequality in Druwen Village land tenure by Krama Desa.

Relevant and functional regulations are to be developed to balance the tenure over land rights of Druwen Pakraman Village to create an equal distribution of land tenure by Krama Desa in the Buleleng District and Regency. Law Number: 56 Prp of 1960 concerning maximum limitations on control and ownership of land rights implies that the law is essentially aimed at providing equal distribution of control and ownership of land rights (Putra et al., 2021; Tristanto, 2020). The word limitation refers to the fact that it is not permissible to control and have land rights beyond the limit, meaning that the excess of the maximum limit is intended for farmers who do not have their arable land, not the property of other people (landlords). Some still have farmland that is not theirs but that of someone else, where they only get a share of the produce from the land they cultivate. Regulations that can be used as a basis for regulating land use in Buleleng Regency, as a means of balancing control and ownership of land rights, the Regional Government can take action. First, the government of Buleleng Regency is obliged to protect farmers in rural areas by increasing their right to control state land or cultivated land originating from landowners who control land beyond the maximum limit that becomes their property and guaranteeing legal certainty. The foundation for the Regional Government in providing legal protection for farmers can be used Article 28 A Section (1), 28 H Section (1), 33 Section (3) of the 1945 Constitution of the Republic of Indonesia, Article 2 Section (4), Article 3, Article 5 and Article 9 Section (2) UUPA, Article 61 PMNA/KBPN No. 3 of 1997, Article 13 Section (1) letter k Law no. 32 of 2004 was replaced by Article 12 Section (2) letter d of Law no. 23 of 2014, and Article 13 of Law no. 19 of 2013.

Second, not all existing regulations regulate the boundaries that are within the authority of the Buleleng Regency Government in granting the status of rights to state land or land originating from landowners that exceed the maximum limit to farmers in the Buleleng Regency area, but this can be interpreted into the authority to regulate the allotment and use of existing land in its territory. Therefore the authority to regulate allotment, including equalizing land ownership and control, is the authority of the Buleleng Regency Government. Recommendations for public policies that are feasible to be developed by the Buleleng Regency government are related to relevant superior approaches and programs developed in balancing tenure and ownership of land rights. Democracy is one of the most important issues in the life of a country. Democratic life in every country is strongly influenced by the regime in power in the country concerned. Democracy is the sovereignty of a country's people, meaning that the highest sovereignty is in the hands of the people. Democracy in Indonesia is characterized by the widest possible implementation of autonomy in various regions. The regions want the Central Government to hand over as much of the affairs that the Central Government has handled to the Regional Governments, which by law are designated as autonomous regions or regional autonomy. The term autonomy comes from the Greek, namely "autos," which means self, and "nomos," which means regulation. So autonomy means self-regulation or self-law, which then develops its meaning to run self-government. Regional government administration uses the principles (Fathulloh et al., 2021; Kholik, 2020). First, decentralization is the transfer of government authority by the government to autonomous regions to regulate and manage government affairs within the system of the Unitary State of the Republic of Indonesia (Fathulloh et al., 2021; Fitri, 2018). Thus, the Central and lower government units implement the regional government, both territorially and functionally. Second, deconcentration is the delegation of governmental authority by the government to the Governor as the government's representative and to vertical agencies in certain areas. Third, Assistance tasks are assignments from the government to regions and villages, from the provincial government to districts/cities and villages, and from district/city governments to villages to carry out certain tasks. Co-administration tasks are carried out by financing, facilities and infrastructure, as well as human resources, with the obligation to report their implementation and be accountable to those assigned.

A number of the mentioned above became very popular in the early 2000s. Changes in the concept of government administration to empower local participation led to a shift in government power patterns (Noviyanti et al., 2020). This term has also obtained content material in the 1945 Constitution of the Republic of Indonesia, especially the articles governing regional government. Article 18 Section (2) states that provincial, regency and city regional governments regulate and manage their government affairs according to the principles of autonomy and co-administration. Thus, deconcentration is not regulated in

the administration of regional government because, as part of the administration of the central government, the authority of the Central Government is inherent. The Governor, as the Regional Head of the Province, and the representative of the Central Government in the regions, receives part of the delegation of authority from the central government in carrying out governance based on the deconcentration principle. Section (5) of this article states that regional administrations carry out the widest possible autonomy, except for government affairs which are determined by law as the affairs of the central government. The affairs that fall under the central government's authority include foreign policy, defense, security, land affairs, monetary, justice, and religion. The authority in administering the regional government, according to Jimly Asshiddiqie, is that regional government based on Article 18 Section (2), (5) and (6) of the 1945 Constitution of the Republic of Indonesia has the right or authority. Regulate and manage government affairs according to the principles of autonomy and co-administration. Has a DPRD whose members are elected through general elections. Carry out the widest possible autonomy, except for government affairs which are determined by law as the affairs of the central government. Establish regional regulations and other laws and regulations to carry out autonomy and co-administration tasks. In the context of land, this provision at least creates confusion when it is linked to Article 33 of the 1945 Constitution of the Republic of Indonesia, which is the basis of the Basic Agrarian Law Number 5 of 1960. This law does not mention the possibility of handing over land, water, and natural resources contained therein to the Regional Government. Instead, it must be controlled by the country and used for the greatest prosperity of the people (Wibowo et al., 2021).

Based on Law Number 23 of 2014 concerning Regional Government, which is based on the principle of decentralization, regional governments carry out their household affairs delegated from the Central Government to Regional Governments. Regional Governments have the authority to manage their regional household affairs, including matters in the land sector (Dayat et al., 2020; Wicaksono et al., 2018). Affairs in the land sector are one of the affairs that Regional Governments must carry out, both Provincial Governments and Regency/City Governments, according to the scale of each region. It followed the previous provisions of Article 13 Section (1) letter k of Law no. 32 of 2004 and replaced with Article 12 Section (2) letter d of Law Number 23 of 2014 concerning the Regional Government that the affairs of land services are one of the obligatory matters that the Provincial Government must carry out. Mandatory affairs that fall under the authority of provincial and regional governments are affairs on a provincial scale, which include development planning and control. Spatial planning, utilization, and supervision. Implementation of public order and public order. Provision of public facilities and infrastructure. Handling the health sector. Implementation of education and allocation of potential human resources. Overcoming social problems across districts/cities. Implementation of the human resources sector across districts/cities. Facilities for developing cooperatives, and small and medium enterprises, including across districts/cities. Environmental control. Land services include cross-districts/cities. Population and civil registration services. Government general administrative services. Investment administration services include across districts/cities. They are implementing other basic services that districts/cities still need to implement and other mandatory matters mandated by laws and regulations.

Furthermore, the mandatory affairs that the Regency/City Government must carry out mentioned in Article 14 Section (1) letter replaced by Article 12 Section (2) letter d, which includes 16 mandatory government affairs, namely development planning, and control. Spatial planning, utilization, and supervision. Implementation of public order and public order. Provision of public facilities and infrastructure. Handling the health sector. Implementation of education. Overcoming social problems. Implementation of the field of employment. Cooperative development facilities, small and medium enterprises. Environmental control. Land service. Population and civil registration services. Government general administrative services. Investment administration services. It implements other basic services and other mandatory affairs mandated by laws and regulations. Based on the provisions in Article 13 Section (1) letter k and Article 14 Section (1) letter k Law Number 32 of 2004, replaced by Article 12 Section (2) letter d of Law Number 23 of 2014 concerning Regional Government, the affairs land services fall under the authority of the Provincial Government and Regency/City Regional Government to be administered about regional autonomy. Thus "land service" becomes a government affair that must be carried out by the Provincial Government and Regency/City Regional Government. Thus, it is appropriate for the Central Government, especially the agency that manages land affairs, to gradually hand over the affairs of land services to the Provincial and Regency/City Regional Governments. However, the government needs to finalize the regulation on the transfer of authority in the land sector.

The Central Government is still delaying the transfer of authority in the land sector to the Regions based on provisions. Presidential Decree (Kepres) No. 10 of 2001, which among other things, states that authority in the land sector will be regulated later in a Government Regulation. Article 1 (6) Presidential Decree No. 62 of 2001, it is emphasized that some government tasks carried out by the National Land Agency (BPN) in the regions will still be carried out by the Central Government until all laws and regulations

in the land sector are enacted, no later than two years. Presidential Decree No. 34 of 2003 states that the implementation of the authority of the District/City Government in the land sector is suspended. Article 3 Section (2) states that the issuance of regulations in the land sector for the regions will be carried out by BPN no later than August 1, 2004. The three Presidential Decrees are policies of non-enforcement (policies not to apply the law) of regional autonomy in the land sector. However, these provisions should be obeyed by Regional Governments (Provincial and Regency/City) throughout the territory of the Republic of Indonesia because those who make these regulations are the highest head of state government based on the constitution. Thus, based on these provisions, the authority to manage the land sector remains with the Central Government, with the National Land Agency (BPN) as the implementing unit at the Central and Regional Offices of the National Land Agency at the Provincial level and the Land Office at the District/City level.

In principle, the right to control land by the state is formulated in Article 2 of the UUPA, which gives authority to the government to regulate and determine various aspects of land tenure, which from the beginning, according to their nature, have always been considered the task of the central government. Article 2 Section (1) of Presidential Decree Number 34 of 2003 concerning National Policy in the Land Sector stipulates that Regency/City Governments exercise the portion of government authority in the land sector. In Section (2), this article stipulates the authority of the Regency/City Government in question, namely granting location permits, organizing land acquisition for development purposes, settlement of arable land disputes, settlement of issues of compensation and compensation for land for development, determination of subjects and objects of land redistribution, and maximum compensation for excess land and absentee land (Darmawan et al., 2019; Prawita et al., 2022). Determination and settlement of customary land issues. Utilization and settlement of vacant land. Granting permission to open land. Regency/city area land use planning. For the authorities referred to in Section (2) that are cross-regency/municipal in one province, carried out by the relevant provincial government. In exercising the authority referred to in Article 2, the National Land Agency shall compile norms and standardization of the mechanism for managing product quality and qualifications of the required natural resources.

Based on the national land policy framework prepared by the technical team of land policy development and management programs, it is stated that land policy is based on principles. Land policy is based on consistent efforts to carry out the mandate of Article 33 Section (3) of the 1945 Constitution: "earth, water, space and the natural resources contained therein shall be controlled by the State to be used for the greatest prosperity of the people." Therefore, the country must protect people's rights to land and provide fair access to agrarian resources, one of which is land. Land policy is the basis for implementing development programs to accelerate economic recovery, focusing on the people's economy, national economic stability, and environmental preservation. Land policy is the basis and guideline for all sectoral development activities directly or indirectly related to land use (Amalia et al., 2020; Kosalya et al., 2022). Land policy is built on the participation of all community groups to realize the principles of good governance in land management (Fitri, 2018; Wahyudi et al., 2021). The land policy is directed towards implementing TAP MPR Number IX/2001 concerning Agrarian Reform and Management of Natural Resources, particularly Article 5 Section (5). Land is the asset of the Indonesian nation, which is the basic capital of development towards a just and prosperous society. Therefore, its use must be based on principles that grow and develop in Indonesian society. In this case, attempts to turn land into merchandise, objects of speculation, and other things that conflict with the principles contained in Article 33 Section (3) of the 1945 Constitution must be avoided.

Efforts to realize the goals of the land policy, the direction of the land policy, and action plans. Reform of laws and regulations related to land, with action plans: to develop and stipulate basic laws that cover all other sectoral laws and regulations; synchronization of all laws and regulations related to land; revision of all land laws and regulations that are inconsistent with the principles contained in Article 33 Section (3) of the 1945 Constitution; integrating the implementation and enforcing various provisions of the law on land for all parties. Development of land institutions with action plans to determine authority in the land sector between sectors and levels of government; determine the institutional structure of land following the authority mentioned above; strengthening land institutions according to their duties and functions; as well as increasing the capacity of human resources implementing land management to streamline services to the community as stated in the principle of implementing regional autonomy. Improving the management of land registration and its acceleration with action plans: developing an effective and efficient land registration system as an effort to provide guarantees of legal certainty and legal protection for holders of land rights; developing an integrated and comprehensive land-based information system to support the accelerated process of land registration and land taxation systems; obliges land registration of all types of land rights; structuring land registration infrastructure to improve the quality of service to the community. Development of land use stewardship with an action plan: developing a

comprehensive land use planning mechanism following the characteristics and carrying capacity of the environment by applying the principles of good governance (transparency, participation, and accountability) starting from the national, regional, and local levels; implementing a land use plan transparently based on the needs of the community, the government and the private sector; establishing control mechanisms for the implementation of land use plans that involve the various parties involved effectively; developing a licensing mechanism to increase the usability and efficiency of land use management (Puspawati et al., 2018; Wahyudi et al., 2021).

Development of land-based information systems with action plans to determine and develop land-based information system standards for each level of government and institutions; determine and develop arrangements for data exchange and access to information, changes to data regarding updating and editing, as well as presentation of the information; developing a pattern of technical coordination for exchanging and utilizing data from various institutions that collect, store/possess, and use land-based information in the framework of efficiency and effectiveness of information services for all parties; developing a land information system supported by information technology, computerized and communication systems, and reliable human resources. Settlement of land disputes with an action plan: resolve land disputes comprehensively; establish mechanisms and institutions for resolving land disputes as an effort to eliminate various social upheavals resulting from disputes, as well as prioritizing the handling of disputes to structural cases that have huge socio-economic and political impacts in a just manner (Kosalaya et al., 2022).

Development of a land taxation system with action plans: developing a land taxation system as one of the instruments in a just distribution of land assets; determining the mechanism for the distribution of income sourced from land tax as a means and use of land; as well as providing incentives to encourage maximum land use and disincentives for excessive land tenure that does not provide maximum benefits. Protection of community rights to land with an action plan: recognizing and protecting all types of land rights that are currently owned, both by individual communities, community groups (ulayat land), certain legal entities, and certain government agencies following laws and regulations valid invitation; as well as providing guarantees of legal certainty regarding patterns of institutional relations in land tenure. Increasing access to land with action plans; open, fair access to all people, especially the poor, to be able to control and or own land as a source of livelihood through land reform activities; link land reform activities with various other development activities as an effort to overcome the problem of poverty, both in rural and urban areas; as well as empowering poor community groups who receive land as objects of land reform and society in general through programs of the relevant government departments or agencies. The government using public authority must follow the rules of State Administrative Law so that there is no abuse of authority. These decisions are bound by three legal principles, namely the principle of the jurisdiction (Rechtmatigheid), which means that governmental and administrative decisions may not violate the law (onrechtmatige overheidsdaad). The principle of legality (wetmatigheid) means that decisions must be taken based on a statutory provision. The principle of discretion (discretie, freies ermesen) means that officials in power may not refuse to make decisions because there are no rules. Therefore, they are free to make decisions according to their own opinion as long as they do not violate the principles of jurisdiction and legality. There are two kinds of discretion: "free discretion," if the law only determines the limits, and "bound discretion," if the law stipulates several alternatives to be chosen, the one that administration officials consider the closest.

From a legal standpoint, government organs act within certain limits by looking at the underlying authority. Suppose an organ of the government takes action based on bound authority. In that case, the underlying laws and regulations must be observed and considered, whether related to authority, material or substance, procedure, a form of action, and so on. Conversely, in the case of the government basing itself on discretionary authority that can be used as a corridor for such action, it is no longer the applicable laws and regulations but unwritten laws, for example, the general principles of good governance. The authority must be limited in terms of territoriality, in terms of substance, and at the same time, in terms of the time it is used. Likewise, the procedures for acting and the substances decided must all comply with the applicable regulations. The use of authority by the government is not only to regulate but also to administer. The government is pursuing a determination aimed at individuals. In this case, the government's authority must be carried out based on clear law so that it can be accounted for. One stipulation the government issued is "determination of control and ownership of the agricultural land area." The government deems it necessary to set a maximum and minimum limit for mastery and ownership of the agricultural land area. It is done by the country (government) to strive for equity, use of land, and avoid monopolistic actions that are detrimental to society and the public interest.

Meanwhile, the minimum restriction on ownership of agricultural land is aimed at preventing land splitting from improving farmers' standard of living. It is necessary to stipulate arrangements for the control and ownership of the agricultural land area to be more directed towards ensuring orderly land

administration to realize legal certainty in the land sector. According to F.P.C.L. Tonnaer, "Overheidsbevoegdheid wordt in dit verband opgevat als het vermogen om positive recht vast te stellen en aldus rechtsbetrekkingen tussen burgers onderling en tussen overheid en te scheppen". (Government authority in this regard is the ability to implement positive law. Thus, a legal relationship can be created between the government and citizens). In a rule-of-law state, government authority comes from applicable laws and regulations, which means that the government's source of authority is statutory regulations. Theoretically, authority originating from these laws and regulations can be obtained through 3 ways: attribution, namely the granting of governmental authority by legislators to government organs. Delegation is the delegation of government authority from one government organ to another. An attribution of authority always precedes delegation. The mandate that the occurrence of mandate is when a government organ allows its authority to be exercised by another organ on its behalf.

Attribution is the occurrence of the granting of new government authority by a provision in statutory regulations to government organs. In another sense, attribution is usually outlined through the division of powers by the constitution. Attribution is the authority to make decisions (*besluit*) directly sourced from the law in a material sense. Attribution can also be said as a normal way to obtain governmental authority; authority obtained through attribution by government organs is a genuine authority because this authority is obtained directly from laws and regulations. Attribution means the emergence of a new authority that previously did not belong to the organ of the government concerned. Article 33 Section (3) of the 1945 Constitution stipulates that the land, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. The prevailing positive law claims that the country controls the land, water, and natural resources. Therefore, at the highest level, the country has the authority or right to regulate its designation and utilization (Article 2 UUPA). Article 6 of the UUPA states that land has a social function, meaning that land rights are not absolute, but any land rights if required for the public interest, must be relinquished. All parties with a legal relationship with the land are obliged to use the land by maintaining it, increasing its fertility, and preventing land damage so that it is more efficient, effective, and beneficial for the community's welfare.

Presidential Decree (Kepres) Number 26 of 1988 on July 19, 1988, concerning the National Land Agency in conjunction with Presidential Regulation of the Republic of Indonesia (Perpres RI) Number 10 of 2006 dated April 11, 2006, concerning the National Land Agency can be interpreted that the President as the Head of Government establishes the Institution of the Land Agency National which stipulates that affairs in the land sector become the authority of the National Land Agency. The authority given by the President to the Land Agency is the authority of the delegation. This means that all legal consequences arising from a decision issued by the President are the responsibility of the delegation; thus, the responsibility and accountability rests with the recipient of the delegation, in this case, the Head of the National Land Agency of the Republic of Indonesia. The National Land Agency, which was first formed based on Presidential Decree No. 26 of 1988, this formation is an improvement from the Directorate General of Agrarian Affairs, Ministry of Home Affairs. The National Land Agency is a Non-Departmental Government Agency (LPND) that is under and directly responsible to the President. Since the formation of this institution, all employees, finances, and equipment of the Directorate General of the Ministry of Home Affairs relating to land affairs have been transferred to the National Land Agency. All organizations within the Office of the Directorate General of Agrarian Affairs, Provincial Directorate of Agrarian Affairs, and Regency/City Agrarian Offices carry out the duties and functions of the National Land Agency. Following the position, duties, and functions of the executive, the President's authority to form non-departmental government institutions is inherent in the position and power of the President as the holder and administrator of government as stipulated in Article 4 Section (1) of the 1945 Constitution of the Republic of Indonesia. For the smooth implementation of governmental tasks, the President has the authority to form government-implementing units outside the departments formed through a Presidential Decree. The National Land Agency, as a non-departmental government institution, is a central government agency that carries out the authority, duties, and responsibilities in administering governance in the land sector. This government agency is under and directly responsible to the President, with a lower position than the department.

Regulations regarding non-departmental government agencies such as the National Land Agency do not explicitly regulate authority, duties, and functions. In this formulation of duties and functions, the authority of the National Land Agency is implicitly contained to issue various arrangements, both in the form of regulations and decisions, which are generally regulatory based on delegated authority from higher laws and regulations. Thus, the contents of regulations or decisions from the National Land Agency concern land tenure and use, land ownership, measurement, and land registration. Based on the Regulation of the President of the Republic of Indonesia (Perpres) Number 10 of 2006 concerning the National Land Agency, Article 28 stipulates that to carry out the duties and functions of the National Land Agency in the regions,

Provincial National Land Agency Regional Offices (Kanwil BPN) are formed in the Province and Regency/City Land Offices in the Regency/City. The organization and work procedures of the Regional Offices of the Provincial National Land Agency and the District/City Land Offices shall be further stipulated by the Head of the National Land Agency after obtaining approval from the Minister responsible for the utilization of the state apparatus.

Furthermore, the Head of the National Land Agency issued Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 4 of 2006 concerning the Organization of Work Procedures for Regional Offices of the National Land Agency and the Land Office. Article 2 stipulates that the regional office of the National Land Agency has the task of carrying out some of the tasks and functions of the National Land Agency in the province concerned. In Article 3, it is stipulated that in carrying out the tasks referred to in Article 2, the Regional Office of the National Land Agency has the function of preparing plans, programs, and budgeting in the context of carrying out land tasks. Coordinating, fostering, and conducting surveys, measurements, and mapping; land rights and land registration; land arrangement and management; land control and community empowerment; and reviewing and handling land disputes and conflicts. Monitoring and evaluating the implementation of land activities within the province. Coordinating land user stakeholders. Management of the National Land Management Information System (SIMTANAS) in the Province. Coordinating research and development and coordinating the development of human land resources and implementing administrative affairs, staffing, finance, facilities and infrastructure, legislation, and land services.

From the description above, it is clear that there is a delegation of authority in the land sector from the Head of the National Land Agency to the Regional Office of the National Land Agency to carry out the duties and functions of the National Land Agency at the provincial level, and the delegation of authority in the land sector to the Land Office to carry out the duties and functions of the National Land Agency at the Regency/City level. Given the delegation of authority, the delegation procedure is a routine relationship between superiors and subordinates vertically, so it is called a mandate. Because it is in the form of a mandate, all legal consequences arising from a decision issued by a mandate are the responsibility of the person giving the mandate, namely the Head of the National Land Agency. Based on the delegation of authority mentioned above, to follow up on the Presidential Regulation above, a Regulation of the Head of the National Land Agency of the Republic of Indonesia was issued Number 5 of 2008 concerning Job Descriptions of Sub-Divisions and Sections at Regional Offices of the National Land Agency and Job Descriptions of Affairs and Sub-Sections at the Land Office. Thus, based on Article 2 above, it can be seen that the Regional Office of the National Land Agency does not carry out technical implementation in the land sector directly but rather monitors or supervises the Land Office except within the limits of its authority following the rules that have been stipulated, or in other words, have limited authority.

The Land Office implements the land sector at the district/city level with an organizational structure consisting of 5 (five) work units, namely the Administrative Work Unit and the technical work unit consisting of (1) Land Survey, Measurement, and Mapping Work Unit; (2) Land Rights and Land Registration; (3) Land Administration and Management; (4) Land Control and Empowerment; (5) Disputes, Conflicts, and Cases. Based on the Regulation of the Head of the National Land Agency Number 5 of 2008 concerning Job Descriptions of Affairs and Sub-Sections at Regional Offices of the National Land Agency and Job Descriptions of Affairs and Sub-Sections at the Land Office, which regulates the determination of control and ownership of agricultural land area at the Land Office is the Regulatory Section and Land Management. The Land Management and Arrangement Sub-Section at the Land Office has the task of preparing materials and carrying out land use stewardship, land reform, land consolidation, and land management in coastal areas, small islands, borders, and certain other areas. A visible standard operating procedure (SOP) was developed to balance the tenure over the Pakraman Village druwen's land rights to create equal land tenure distribution by the Krama Desa in the Buleleng District and Regency. The regulations used to standardize tenure of Druwen Village lands are tenure rights by krama desa because, in principle, equal distribution of control over Druwen Village lands may not be detrimental to Krama Desa, who before this regulation took effect had controlled Druwen Village lands unless it can be proven that those who control Druwen Village lands have violated the regulations or awig-awig owned by the village concerned. After the enactment of the Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 276, the Pakraman Village had a stronger regulation that underlies the implementation of the division of Druwen Village land tenure for Krama Desa.

4. CONCLUSION

Registration of Druwen Village lands based on the Decree of the Ministry of Agrarian Affairs and Spatial Planning Number 276 of 2021 in Buleleng District, Buleleng Regency, was carried out effectively. A

visible standard operating procedure (SOP) was developed to balance the tenure over the Pakraman Village druwen's land rights to create equal land tenure distribution by the Krama Desa in the Buleleng District and Regency. The regulations used to standardize tenure of Druwen Village lands are tenure rights by Krama Desa because, in principle, equal distribution of control over Druwen Village lands may not harm krama desa who, before this regulation came into effect, controlled Druwen Village lands unless it can be proven that those who control Druwen Village lands have violated the regulations or awig-awig owned by the village concerned. After the enactment of the Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 276, the Pakraman Village has a stronger regulation that underlies the implementation of the division of Druwen Village land tenure for Krama Desa.

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