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LAND OWNERSHIP BASED ON NATIONAL LAND LAW IN INDONESIA

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Abstract

This study examines the certainty of ownership of land rights under the national law on land in Indonesia. It is a type of nomative focusing on reviewing the laws governing land and ownership for Indonesian citizens and foreign nationals living in Indonesia. The approaches used were the conceptual and statute approaches to legislation. The data collected are in the form of articles of law that regulate and related to land and ownership. Qualitative method was a method used in analyzing and presenting data. The results indicate that the statutory provisions are indispensable. The ownership of land rights previously adopted from the Land Law of the West is no longer applicable to date in Indonesia. The study is recommended for those interested in the system and land law investigations to be used as reference material in the theoretical and practical review of the law.

Keywords: Land Ownership, National Land Law

1. INTRODUCTION

In the preparation of the National Land Law in Indonesia, firstly, a law containing a conception, its basic principles and provisions must be available. The law is the basis for the preparation of other regulations. In essence, in its formal form, this law corresponds to ordinary law - that is, a government-made regulation with the consent of the People's Representative Council (*DPR*) - but given its nature as a fundamental rule for the new Land Law, contained in the law only conception, principles and provisions in the broad outline only and hence it is called the Basic Agrarian Law (*UUPA*). The implementation is regulated in various other laws and regulations[1].

Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles enacted in the State Gazette of the Republic of Indonesia Year 1960 Number 104 on September 24, 1960. The *UUPA*, containing the basic provisions of the Land Law is aimed at eliminating previously occured dualisms in the field of Land Law, and is consciously intended to hold the unity of law in accordance with the wishes of the people as a united nation and in accordance with the interests of the economy.

The National Land Law, whose main provisions are contained in the *UUPA*, is a single Indonesian Law on Land which is arraged in a system based on the nature of Customary Law (the philosophy of Customary Law) concerning the legal relationship between certain Customary Law community and its communal land[2]. The conception of customary law contains the legal concepts according to custom regarding land which is then raised into the conception of National Land Law which, according to Boedi Harsono, is represented in a keyword, namely communal religious and formulated as a conception that allows the mastery of common parts of the land as a gift of the Almighty God for individual citizens with private land rights as well as an element of togetherness[3]. The principle of national land ownership reflects the goal and the

1. *Ibid.*, p. 174 – 175.
2. C. Van Vollenhoven, *Het Adatrecht van Nederlandsh Indie,* Jilid I Bagian Pertama 1925 mengemukakan adanya 19 macam lingkungan hukum adat (rechtskring).
3. Boedi Harsono, *Menuju Penyempurnaan Hukum Tanah Nasional* (Jakarta: Universitas Trisakti, 2005), p. 30. There is conception implied by the provisions of articles 1, 4, 6, 9, and 16 UUPA.

principle of preserving agricultural land reflects the means or the tool for achieving that goal. (The Land Narrative Rethinking Israel's National Land Policy)

The religious communal law relationship within the nature of legal thought, known as a communal right in legislation by the Law of the National Land is elevated at a national level to the legal relationship between Indonesian nation and all the lands throughout the territory of the state as common land, adapted to the development of current and future national and community circumstances and needs[4].

It is called a communal relationship in order to signify the nature of relationship between Indonesian Law and all land in all the territory of the state as a common land.

Communal land titling has become a popular tool for land-use management and governance in Southeast Asia in recent years. (Communal land titling dilemmas in northern Thailand). In the conception of the National Law of Land, religious element is indicated by claim that the earth, water, and space, including the natural wealth contained therein, are "The Gifts of God Almighty to the Nation of Indonesia". Particularly in the Law of the Land, this religious nature indicates the belief and recognition on that the common land that is of "the gift of God Almighty."[5] Inside customary law conception, the religious nature of the Communal Right has not received a clear description correctly through a formulation that whether communal land, as a "common ground", is a "relic of the ancestor" or as "the gift of a supernatural power". With the precepts of the "Believe in One Supreme God" in the five principles underlying the state ideology of Indonesia (*Pancasila*), in the National Agrarian Law, where the source of the Nation's Rights to the land which is a collective right and expressly declared as the Gift of God Almighty, the religious nature becomes manifestly clear[6].

Grounded the description it is clearly stated that in advance to applying *UUPA*, there were two different Land Law instruments required, namely West Land Law and Customary Land Law; however since September 24, 1960 a single land law known as National Law of Land which is clearly based on the Customary Land Law was enacted. Thus, various matters governed by the West Land Law, such as *domein verklaring*, shall be declared null and void. Currently Indonesian people are no longer familiar with the term state property (*landsdomein*) as regulated in the provisions of the West Land Law.

This needs to be reviewed since until now there is still a misunderstanding on the concept of state land. It is often interpreted as if the state land means that land owned by the state.

In a seminar organized by the Faculty of Law of Trisakti University a case was reported as follows:

Beginning of PT. MT is tied to a credit relationship with a BUMN Bank with a guarantee of Rights of Use and Structures (*HGB*) certificate of land on behalf of PT. MT. Often with the passage of time, the period of validity of the *HGB* certificate is exhausted and is due to become a "bad credit" guarantee in the form of *HGB* land becomes an object handled by General Board of State Electricity Company (*BPUPNL*). As time passes after the expiry of the agreement, Mayor I intends to "buy" the land for the establishment of Diesel Power Electricity Generator (*PLTD*), and "waterboom". Mayor I negotiates with BPUPNL but has not reached an agreement. Then it continued into the term of Mayor II and was finally settled.

After reaching an agreement, the following things are done.

A. Signing the APH between PT. MT with the Mayor.
B. Payment from Local Budget (*APBD*) mayor to BUMN/BPUPNL Bank.

Bank BUMN submitted all documents relating to the imposition of Mortgage Rights such as ex-*HGB*, Encumbrance Right certificate (SHT), hypothec cancellation (*Roya*), etc. certificates to the Mayor for possible applications for renewal of rights.

From the above case it can be seen that it occurs between private and government institutions, which uses the budget of revenues and expenditures (APBD) and the existence of indications of criminal acts of corruption. This occurs because of differences in interpretation of the

4. Ibid.
5. Boedi Harsono, Op.Cit., p. 31.
6. Arie Sukanti Hutagalung, Konsepsi Yang Mendasari Penyempurnaan Hukum Tanah Nasional, Speech Ceremony of Inauguration of Professor in Agrarian Law Faculty of Law University of Indonesia at the Central Board of the University of Indonesia Depok, Wednesday 17 September 2003.

provisions of Article 36 of Government Regulation (PP) 40/1996 which reads: 'The Removal of the Building Rights Title on State land as referred to in Article 35 causes the land to become State land' which means that when *HGB* expires, the land shall be returned to the State.

This provision is interpreted as if that when the land returns to the State, it shall become "the property of the State" (intepreted as to become a State Property) as it did in the colonial period. Furthermore, since it is a State Owned Land, why pay any compensation or any payment whatsoever, including when payment is made to pay off private debts to the BUMN Bank, though? If payment is made it can indicate corruption.

2. METHOD

This research is a type of normative research designed using conceptual and statute approaches to Indonesian law. Data collection was done by using documentary through study in the library. The data were collected in the form of articles of related law and which regulated the National Land Law in Indonesia. Data were analyzed and presented in qualitative descriptive.

3. DISCUSSION

A. Land Tenure Rights

In each Land Law there are arrangements regarding various land tenure rights. In the *UUPA*, for example, the hierarchy of land rights in the National Land Law is regulated and stipulated, namely[7]:

1. Rights of the Indonesian Nation;
2. Rights in Land from the State;
3. Comunnal Rights of Customary Law Community;
4. Individual rights to land:
5. Land rights;
6. Guarrantee rights over land;
7. Endowments

B. Rights of the Indonesian Nation (Article 1 of UUPA)

The right of the Indonesian Nation is the ultimate right of control over the common ground; immortal and is the parent of other land tenure rights. The statement of land controlled by the Indonesian people as a common ground shows the existence of legal relations in the field of civil law[8]. Although it shows the existence of a civil relationship, in the sense of the Rights of the Nation Indonesia still provides an opportunity for every Indonesian citizen to be able to own the land as part of the common ground. This is clearly indicated in Article 9 paragraph (2) of *UUPA*, which states:

"Each Indonesian citizen, both men and women have equal opportunity to obtain land rights and to benefit from the results both for themselves and their families."

In addition to the civil relationship, the Right of the Indonesian Nation contains elements of the task of authority. The duty of authority here means that the Indonesian nation has the authority to organize and manage the land together for the greatest prosperity of the people. Implementation of this authority is left to the State, as the organization of the power of all Indonesian people, as mandated by Article 33 paragraph (3) of the 1945 Constitution.

1. Control Rights over the State

The title of Right to Control over the State illustrates the legal institution and the concrete legal relationship between the State and the existing land in all parts of Indonesia. The relationship of the Right to Control over the State and the land throughout the territory of Indonesia is solely public[9]. This public authority comes from the delegation of the duty of the Indonesian nation to the land that exists in all parts of Indonesia. This is what distinguishes the occupation of land by the state during the Dutch East Indies government, where at that time known what is called *domein verklaring*. This *domein* implies that all land on which the other party cannot prove its *eigendom* is declared a state *domein*. So, at that time the country is called the land owner. This statement is necessary to legitimize the authority of the state in providing, selling or leasing land to the parties in need. With the entry into force of UUPA all provisions concerning this *domein verklaring* revoked.

In General Elucidation the number II states that the Basic Agrarian Law stems from the stance that, to achieve what is specified in Article 33 paragraph 3 of the Constitution is neither necessary nor in

7. Boedi Harsono, Op.Cit., p. 24
8. Ibid., p. 45
9. Based on the details and authorities of the State as contained in Article 2 paragraph (2) of the UUPA.

place, that the Indonesian nation or State acts as the owner of the land. It is more appropriate if the State, as the power organization of all people (nation) acts as the Governing Body. From this perspective, it should be seen the meaning of the provisions of Article 2, paragraph 1 of Law on which "Earth, water and space, including natural resources contained therein, at the highest level controlled by the State". In accordance with the aforementioned root of the above, the word "controlled" in this article does not mean "owned", but it does mean giving authority to the State, as the power organization of the Indonesian nation at the highest level:

a. regulate and administer the designation, use, inventory and maintenance of communal land. This duty of authority is known as land stewardship activity which is one of the main elements in spatial placement, as regulated in Law Number 26 Year 2007 on Spatial Planning, which stems from Article 14 *UUPA*.
b. determine and regulate the legal relationships between persons with such joint share of land. This duty of authority determines and regulates the control of land by individuals and legal entities with various rights to lands governed by the National Land Law. This includes the determination and regulation of the limitation of the number of domains and areas of land that may be controlled, known as landreform regulations. In the *UUPA* there are already provisions in articles 7 and 17, but not yet complete. Restrictions on the control of agricultural land has been regulated in Law Number 56/*Prp* Year 1960 (*LNRI* 1960-174, *TLNRI* 5117), which still needs to be adapted to the current situation. As for non-agricultural land until now there has been no regulation.
c. determine and regulate the legal relationships between persons and legal acts concerning the land. In this regard the National Land Law uses institutions already known in Customary Law, supplemented by institutions from other sources in serving the needs of modern society[10].

At the time of amendment to several articles in the 1945 Constitution, the word "controlled by the state" contained in Article 33 paragraph (3) of the 1945 Constitution, is proposed to be changed to "controlled and/or regulated by the State". With these two words indicates that there is a difference of understanding between being 'controlled' and 'regulated'. The term 'controlled' signifies a civil relationship, while the word is set to indicate a public relationship. Meanwhile, up to now, the *UUPA* and several other laws and regulations mean the word is 'controlled' including the authority to regulate. This is further reinforced by the Constitutional Court Decision interpreting the word "controlled by the state" in Article 33 paragraph (3) of the 1945 Constitution as:

a. Delegation of the mandate of the people collectively to the state for policy *(beleid)*;
b. Handling actions *(bestuursdaad)*;
c. Regulation *(regeling)*;
d. Managament *(beheersdaad)*; and
e. Supervision *(toezichthoudensdaad)*

For the greatest prosperity of the people, which by the Constitutional Court is given a four benchmarks, namely the benefit of natural resources for the people, the level of equitable natural resources for the people, the level of people's participation in determining the benefits of natural resources, and respect for the people' rights (from generation to generation) in utilizing natural resources[11].

2. Communal Rights of Customary Law Community

Common means territory. Communal right describes a legal relationship between the Customary Law Community and its territory. This legal relationship raises the authority of the community to do something about its territory. Thus, Communal right in the legal sense is a series of authority and obligation of a certain customary law society over a certain territory which is its territory; as the *lebensraum* of its citizens to benefit from natural resources, including the land within the territory.

3. Individual Land Title

The legal relationship between a person and a legal entity with a plot of land authorizing him to do something is called individual rights to land (individual rights to land). These rights consist of land

10. Boedi Harsono, *Op.Cit.,* p. 47
11. See Decision of the Constitutional Court Number 3/*PUU-VIII*/2010 concerning the judicial review of Law Number 27 Year 2007 on the Management of Coastal Areas and Small Islands Against the 1945 Constitution of the Republic of Indonesia.

rights, land rights, and charitable. The types of rights to primary land are Right of Ownership, Right of Cultivation, Right of Use of Structures, and Right of Use. In addition, there are types of secondary land titles, namely Building Rights title, Right of Use, Rights of Lease, Right of Security, Right of Production-Sharing Endeavor, and Right of Transient Occupancy. Each type of title to this land, contains authority, obligations, and restrictions or restrictions. The rights holder has the authority to use and benefit from a certain plot of land. In its use, there is an obligation to maintain its sustainability and fertility according to the contents of land rights and their designation in accordance with the spatial plan of its territory, as stated in Article 15 of the *UUPA*.

aThe UUPA provides a variety of land rights as a legal basis for the necessary land tenure and use. These rights include:

a. Right of Ownership (settled in Article 20 - 27 of UUPA)

Right of Ownership is the right to use land of a very special nature, which does not merely contain the authority to use a certain plot of land, which is caught, but also contains the psychological-emotional relationship between the rights holder and the land concerned. According to the Basic Agrarian Law, Right of Ownership is the strongest, most fulfilled, and hereditary right which everyone can have in the light of the social function. Timed Property is unlimited. The Subject of Property is Indonesian Citizen, Indonesian Legal Entity appointed by Government Regulation Number 38 Year 1963 namely State Banks, Agricultural Cooperatives, Religious Body, and Social Agencies.

Right of Ownership can occur due to the government's determination (granting of rights by the government on the basis of a request for rights) and the provisions of the law. Any change of title, delete it and impose it with other rights shall be registered in accordance with the provisions of the law.

According to Article 27 of the UUPA Right of Ownership can be abolished if:

1) the land falls to the state:

- due to the revocation of rights;
- because of the voluntary submission by the owner;
- being abandoned;
- because it is subject to the provisions of Article 21 paragraph (3) and 26 paragraph (2).

2) the land is destroyed.

Further provisions regulating specifically the Right of Ownership to date do not yet exist. This is in contrast to Right of Cultivation, Right of Use of Structures and Right of Use, whose implementation rules have been determined namely Government Regulation No. 40/1996 on Right of Cultivation, Right of Use of Structures, and Right to Use of Land.

b. Right of Cultivation (hereinafter is referred to as HGU, Stipulated for in Articles 28 - 34 UUPA)

HGU is the right to cultivate land that is directly controlled by the State within a certain period of time for agricultural, livestock, or fishery enterprises (agriculture in the broad sense). This definition means the land that can be given with *HGU* is state land. *HGU* is granted with a decision of granting rights by a designated official. The provisions on the procedures and requirements for application of HGU shall be regulated by law and regulation. The granting of this HGU shall be registered in the Land Book at the Land Office. Thus the occurrence of HGU since registered by the Land Office in the land book in accordance with applicable laws and regulations. As a proof of rights to holders of HGU certified rights to land.

The minimum land area that can be granted with *HGU* is 5 Ha. While the maximum area of land that can be given with *HGU* to individuals is 25 Ha. The maximum extent of land which may be granted with *HGU* to legal entities is stipulated by the Head of the National Defense Agency (*BPN*) with due regard to the consideration of the competent authority in the field of business concerned by considering the extent necessary for the implementation of the most efficient business unit in the field concerned.

Persons who may have *HGU* are Indonesian Citizens and Indonesian Legal Entities established under Indonesian law and domiciled in Indonesia. According to Government Regulation No. 40/1996, holders of *HGU* who no longer meet this requirement, within a period of one year shall release or transfer the *HGU* to other eligible parties. If this provision is not enforced, the *HGU* shall be abolished because the law and the land shall be returned back as a state land.

HGU is granted for a maximum period

of 35 years and may be extended for a maximum period of 25 years. After the *HGU* and renewal periods expire, *HGU* renewals may be granted to rights holders on the same land. The validity period of HGU may be extended or renewed upon the rights holder's application if eligible covering comprising:

1) the land are still cultivated properly in accordance with the circumstances, nature and purpose of granting such rights;
2) The terms of the grant of such rights are met completely by the right holder;
3) The right holder still qualifies as the right holder.

- Meanwhile, *HGU* holders are obliged to
- pay income to the state;
- carry out agricultural, plantation, fishery and/or animal husbandry activities in accordance with the designation and requirements as stipulated in the decision on the granting of their rights;
- self-finance of *HGU* land properly in accordance with the feasibility of business based on the criteria established by the technical institution;
- build, maintain environmental facilities and land facilities that exist within the environment of *HGU* areas;
- maintain soil fertility, preventing damage to natural resources and preserving environmental capability in accordance with applicable laws and regulations;
- submit a written report at the end of each year regarding the use of *HGU*;
- redeem the land granted with *HGU* to the country after the *HGU* has been abolished;
- submit the certificate of *HGU* which has been deleted to the Head of Land Office.

Holders of *HGU* shall not be permitted to submit *HGU* land concessions to other parties, except in cases permitted under applicable laws. Application for extension of *HGU* or renewal period shall be submitted no later than two years before the expiration of the period of the *HGU*. For the purpose of investment, renewal or renewal of *HGU* can be made at once by paying the income money specified for it at the first time to apply for *HGU*. In the event that the income is paid at the same time, extension or renewal of the *HGU* shall be charged only by the administrative costs of which the Head of BPN shall be determined upon approval of the Spatial Minister. Approval to grant extension or renewal of *HGU* and details of income is included in the decision of the *HGU* in question.

A *HGU* may be abolished, if:

- the term expires as stipulated in its grant or renewal decision;
- it shall be revoked by the competent authority before the expiry of the period due to:
- the holder of the *HGU* does not fulfill the obligations as stipulated in the laws and regulations;
- the existence of a court decision which has had permanent legal power;
- it is voluntarily released by the rights holder before the term expires;
- its rights are revoked under Law No. 20 of 1961;
- it is abandoned;
- the land is destroyed;
- the rights holder is no longer eligible.

Due to the removal of land *HGU* into state land. Should the *HGU* be removed and not renewed or renewed, the former rights holder shall dismantle the buildings and objects thereon and surrender the land and crops above the former *HGU* land to the state within the stipulated deadline. However, if such buildings, plants and objects are still required to carry on or restore its land concessions, the former holder shall be given compensation in the form and the amount of which shall be further regulated through a Presidential Regulation.

c. Right of Use of Structures (hereinafter referred to as HGB and stipulated in Articles 35 - 40 of the UUPA)

Right of Use of Structures is the right to establish and own buildings on land which is not his own. From the above definition, it is known that the land that can be provided with HGB is state land, Right of Cultivation land, and Right of Ownership land. *HGB* on state land shall be granted by a decision on the granting of a right by the Head of *BPN* or a designated official. *HGB* on Right of Cultivation shall be granted by decision of granting rights by Head of *BPN* or appointed official based on Right of Cultivation holders' proposal. The provisions concerning the procedure and requirement of application of *HGB* on state

land and on Right of Cultivation shall be regulated by law and regulation. The grant of this *HGB* shall be registered in the land book of the Land Office. Thus the occurrence of *HGB* on state land or on Right of Cultivation land begins since it is registered by the Land Office in a land book in accordance with applicable laws and regulations. As proof of rights of *HGB* certificate of land rights granted to holders.

Persons who may have *HGB* are Indonesian Citizens and Indonesian Legal Entities established under Indonesian law and domiciled in Indonesia. According to Government Regulation No. 40/1996, holders of *HGB* who no longer fulfill this requirement, within a period of one year shall release or transfer the *HGB* to other eligible parties. If this provision is not enforced, the *HGB* shall be removed because the law and the land into state land.

The obligations of *HGB* holders are:

- to pay income money in which the amount and mode of payment is stipulated in the decision to grant its rights;
- use the land in accordance with its designation and the requirements as stipulated in the decisions and agreements granted;
- maintain well the existing land and buildings and maintain the preservation of life;
- redeem the land granted with the *HGB* to the State by the holder of Right of Cultivation or holder of Right of Ownership in accordance with the *HGB* is deleted;
- submit the certificate of HGB that has been deleted to the Head of Land Office.

HGB on State Land or on Right of cultivation shall be granted for a maximum period of 30 years and may be extended for a maximum period of 20 years. After the *HGB* period and renewal expire, the right holders may be given *HGB* renewal on the same land.

HGB on State land may be extended or renewed upon the application of the right holder if it fulfills the following requirements:

- the land is still cultivated properly in accordance with the circumstances, nature and purpose of granting such rights;
- the terms of the grant of such rights are met completely by the rights holder;
- the right holder still qualifies as the holder of the right; the land is still in accordance with the Regional Spatial Plan concerned.

The Right of Cultivation of HGB on the Right of Cultivation of land may be renewed or renewed upon the application of the *HGB* holder after obtaining approval from Right of Cultivation holders. An application for extension of the *HGB* term or renewal shall be submitted no later than two years before the expiry of the *HGB* period. Further extension or renewal of the *HGB* is recorded in the Land Book at the Land Office. For investment purposes, an extension request or renewal of the *HGB* can be made at once by paying the income money specified for it upon first application of the HGB. In the event that the income money has been paid at the same time, extension or renewal of *HGB* shall only incur an administrative fee of the amount stipulated by the Head of *BPN* after obtaining approval from the Minister of Finance. Approval to grant extension or renewal of *HGB* and details of income is included in the relevant *HGB* decision.

HGB may be removed, because:

1) the term expires as provided in the decision of granting or extension or in its grant agreement,
2) being canceled by an authorized official who holds the Right of Management or the holder of the Property before the term expires because of:

- non-fulfillment of obligations of *HGB* holders; b) non-fulfillment of the terms or obligations contained in the provision of *HGB* between the *HGB* holder and the holder of the Right of Ownership or the land use agreement of Right to Management; a court decision that has had a permanent legal force.
- non-fulfillment of obligations of *HGB* holders;
- non-fulfillment of the terms or obligations contained in the provision of *HGB* between the HGB holders and holders of Right of Ownership or Right of Cultivation land-use agreements; c) a court decision having a permanent legal power.

3) Being released voluntarily by the rights holder before the expiry of the term;
4) Being removed its rights under Law

Number 20 Year 1961;

5) The land is abandoned;
6) The land is destroyed;
7) If the rights holder is no longer eligible.

The abolition of *HGB* on state land resulted in the land becoming state land. HGB removal of Right of Cultivation land leads to land returning to the holders of Right of Cultivation, whereas *HGB* removal of Right of Ownership results in land returning to the holders of Right of Ownership.

If the *HGB* on state land is abolished and not renewed or renewed, the former rights holder shall dismantle the buildings and objects thereon and shall surrender his land to the State in the empty state at the latest within one year of the annulment of the said *HGB*. However, if buildings and objects on *HGB* land are still required, the former holder shall be given compensation in the form and the amount shall be further regulated through a Presidential Regulation. If the former *HGB* holder are negligent in fulfilling their obligations, the buildings and objects on the former *HGB* land are dismantled by the government at the expense of the *HGB* holder.

If the *HGB* on Right of Ownership land or Right of Ownership land is cleared, the former HGB holder is required to deliver the land to the Right of Cultivation holders and holders of the terms agreed in the Land Rights Management Agreement or the *HGB* Agreement on Right of Ownership. It should also be noted that both *HGU* and *HGB*, do not contain psychological-emotional elements as in Right of Ownership. The relationship between the rights holder and the land that is purely forested is a straightforward relationship, simply to enable the holder of his right to use the land to meet a particular need.

D. Right of Use (stipulated in Article 41-43 of the UUPA)

Right of Use is the right that gives the authority to use the land belonging to another party. According to Article 39 of Government Regulation No. 40/1996 concerning Right of Cultivation, Right of Use of Structure and Right of Land Use, parties who may have Right of Use are Indonesian Citizens, foreigners domiciled in Indonesia, legal entities established by Indonesian law and domiciled in Indonesia, Departments, Non-Departmental Government Agencies, and Local Governments, religious and social bodies, foreign legal entities having representation in Indonesia, representatives of foreign countries and representatives of international bodies.

Obligations of holder of Right of Use are:

1) Pay the income which the amount and manner of payment is stipulated in its right of award decision, Right of Cultivation land use agreement or in the agreement of Right of Use;
2) Use of land of rights in accordance with its designation and requirements as stipulated in its granting decision or Right of Cultivation land agreement or Right of Use and Right of Ownership agreement;
3) Maintain well the land and buildings that are above it and preserve the environment;
4) Re-deliver the land granted with Right of Use to the State, holder of Right of Cultivation or Right of Ownership holder after the Right of Use shall be removed;
5) Submit the Right of Use certificate which has been removed to the Head of Land Office.

Right to Use may be granted on State land, Right of Cultivation Land, Right of Use on Land and Right of Ownership. Right of Use of state land shall be granted by a decision on the granting of a right by the Head of BPN or a designated official. Right of Use of Right of Cultivation shall be granted by a decision on the granting of a right by the Head of BPN or an appointed official based on the proposed Right of Cultivation holder. Right of Use, whether granted on state land, Right of Cultivation Land, or Right of Ownership, shall be registered. Right of Use on state land or on Right of Cultivation Land, occurred since it was registered by the Land Office in a land book in accordance with applicable laws and regulations. As a proof of right, Right of Us holders are granted a land title certificate. As for Right of Use on Right of Ownership land, occurs by granting land by Right of Ownership holders with deed made by Land Deed Official (*PPAT*). The granting of Right of Use on Right of Ownership land shall be registered in the Land Book at the Land Office. Right of Use of land Right of Ownership binds third parties from the moment of registration.

About the term of Right of Use, if owned by individuals or legal entities, it

lasts for 25 years and can be extended for another 20 years. Right of Use land used for special activities, i.e., for Ministries, Non-Departmental Government Agencies, and Local Governments, representatives of foreign States, and representatives of international bodies, religious bodies and social bodies, the period of time during which the land is required for activities in question. Right of Use on state land may be extended or renewed upon the application of the rights holder if fulfilling the following requirements.

1) The land is still being used well in accordance with the nature of the nature and purpose of granting such rights;
2) The terms of the grant of such rights are met well by the rights holder; and
3) The rights holder still qualifies as the rights holder.

Right of Use on Right of Cultivation land may be extended or renewed upon the Right of Cultivation holder's proposal. The application for extension of the Right of Use or renewal shall be submitted no later than two years before the expiry of the Right of Use period. The extension or renewal of this right is recorded in the land book at the Land Office. For investment purposes, renewal and renewal requests for Right of Use may be made at the same time with the payment of the income money specified for that upon first filing the Right of Use application. In the event that the income is paid at the same time, the extension or renewal of the Use Right shall only incur an administrative fee, the amount determined by the Head of *BPN* after obtaining approval from the Minister of Finance. Approval for extension or renewal of Right to Use and details of income is included in the Right of Use decision.

Use Rights may be removed due to:

1) the expiration of the period specified in the decision of granting or extension or in its grant agreement;
2) being canceled by an authorized official, the holder of the Right of Cultivation or Right of Use holder before the term expires due to:

- non-fulfillment of the rights holder's obligations or violation of laws and regulations;
- non-compliance with the terms or obligations set forth in the Right of Use agreement between Right holders and Right of Cultivation holders or Right of Cultivation land-use agreements; or
- a court decision that has had a permanent legal force

3) Releasing voluntarily by the rights holder before the expiry of the term;
4) Removal under the Law of Number 20 of 1961;
5) Abandonment;
6) The land is destroyed;
7) The subject of the rights holder is no longer eligible

The removal of Right of Use on state land resulted in the land becoming state land. Deletion of Right of Use on Right of Cultivation land leads to land reinstatement in Right of Cultivation holders. Deletion of Right of Use on the Right of Ownership land resulting in land returning to the control of Right of Ownership holders.

If the Right of Use on state land is abolished and not renewed or renewed, the former rights holder shall dismantle the buildings and objects thereon and submit the land to the state in the empty state within a period of one year from the abolition of the Right of Use at the expense of the holder of Right of Use. However, if the building, the objects are still subjected, to the former holder of the right is given compensation. If the former holder of Right of Use is negligent in fulfilling its obligations, the buildings and objects thereon are dismantled by the government at the expense of the holder of Right of Use.

If Right of Use on Right of Cultivation Land or on Right of Ownership land is abolished, former Right of Own holders are obligated to deliver their land to Right of Cultivation holders or holders of Right of Ownership and fulfill the agreed terms of Right of Ownership giving Right of Use to Right of Ownership.

4. CONCLUSION

To determine whether a legal act of acquiring land such as the transfer of rights, exemptions of rights, or other legal acts as a criminal act of corruption, before determining whether it meets the elements of a crime, the same understanding of the principles of law in the National Land Law including its statutory provisions is indispensable. Whereas currently applicable is the National Land Law, so that its provisions are no longer based on the West Land Law as it was in effect before the Basic

Regulation of Agrarian Principle (UUPA).

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