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Aspectos jurídicos do serviço de administração de terras com sistemas de informação de computerização de terras em Sidoarjo

Legal aspects of land administration service with land computerization information systems in Sidoarjo

Aspectos legales del servicio de administración de tierras con sistemas de información de computerización de tierras en Sidoarjo

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Resumo

O objetivo desta análise refere-se a vários problemas que dizem respeito ao Serviço de Administração de Terras na Agência Nacional de Terras e ao Aspecto Jurídico do Serviço de Administração de Terras com o Sistema de Informação da Informatização no BPN Sidoarjo. Esta pesquisa aplica a abordagem Normativa Jurídica, especialmente em Direito da Terra, com a análise Descritiva e Analítica e qualitativa. O resultado mostrou que o Gerenciamento de Dados da Terra utilizou a tecnologia da informação, o que é absolutamente necessário, está relacionado às características dos próprios dados da terra, que são de natureza multidimensional, relacionadas a questões econômicas, políticas, de defesa e segurança e socioculturais. Pode-se concluir que informações e transações eletrônicas, algumas dúvidas sobre o uso de dados eletrônicos terrestres, encontraram uma clareza, principalmente em relação aos documentos eletrônicos utilizados como meio de comprovação e segurança dos dados eletrônicos.

Palavras-chave: Serviço de Administração de Terras; Lei de Terras; Sistema de Informações sobre Informatização de Terras; Sistema Nacional de Gerenciamento e Informação de Terras; Constituição Eletrônica de Transação de Informações.

Abstract

The aim of this analysis is referred to several problems which are concerning the Land Administration Service in National Land Agency and Law Aspect of Land Administration

Service with the Computerization Information System in BPN Sidoarjo. This research applies the Juridical Normative approach especially in Land Law with the Descriptive and Analytic and qualitative analysis. The result showed that Land Data Management used the information technology which is something that absolutely must be done is related to the characteristics of the land data itself which are multidimensional in nature related to economic, political, defense and security and socio-cultural issues. It can be concluded that information and electronic Transaction, some doubts about the use of electronic land data have found a clarity, especially relating to the electronic documents that are used as a means of proving and electronic data security.

Keywords: Land Administration Service; Land Law; Land Computerization Information System; National Land Management and Information System; Information Transaction Electronic Constitution.

Resumen

El objetivo de este análisis se refiere a varios problemas relacionados con el Servicio de Administración de Tierras en la Agencia Nacional de Tierras y el Aspecto Legal del Servicio de Administración de Tierras con el Sistema de Información de Computarización en BPN Sidoarjo. Esta investigación aplica el enfoque normativo jurídico, especialmente en el derecho de la tierra, con el análisis descriptivo, analítico y cualitativo. El resultado mostró que Land Data Management utilizó la tecnología de la información, algo que debe hacerse absolutamente en relación con las características de los datos de la tierra en sí, que son de naturaleza multidimensional en relación con cuestiones económicas, políticas, de defensa y de seguridad y socioculturales. Se puede concluir que la información y la transacción electrónica, algunas dudas sobre el uso de los datos electrónicos de la tierra han encontrado una claridad, especialmente en relación con los documentos electrónicos que se utilizan como medio de prueba y seguridad de los datos electrónicos.

Palabras clave: Servicio de Administración de Tierras; Ley de Tierras; Sistema de Información de Computación de Tierras; Sistema Nacional de Gestión e Información de Tierras; Constitución Electrónica de Transacciones de Información.

1. Introduction

Theoretically, a country is established by people of a region within a purpose to fulfill all the needs of every components member through the concept of togetherness. On a wish of

every member of society, the country has as function to provide every need of its people regarding a life constellation within society (Sadjijono, 2017).

Public service means every activity carried out by authorized agent on serving all the public needs of the member on behalf of the State. On the context of country, achievement of public need can be an achievement of civil rights of its people. The public service generally is not given in the form of goods but a service, including the administration service. The result obtained from the public service by service provider can be in the form of goods or another public service usually done by Government, but also by initiative of the private sector (Sadjijono, 2017).

The public service is generally divided into two categories in accordance with the level of importance of the needs of citizens, which are primary and secondary. The primary public service refers to all the service types from an agency, either government or private to fulfill the needs which is absolute from citizenry (Soesanobeng, 1997). Citizen Identification Card/KTP is a requirement for each people which qualified, especially in the term of legal age (18 years and above). The public service fulfillment such as clean water, electricity, and transportation are the needs that are essentials for every individual. On the other hand, the secondary public service refer to all services are not absolute for a citizen, such as cosmetic, entertainment and etcetera. For all the services that are absolute, the State is obliged to provide quality services and ease of access, at anytime (Abdurrahman, 1999).

The main factors that become obstacles in good public service can be analyzed from two angles, namely bureaucracy and public service standards. Lack of standardization of public services that can be a guideline for every government official are another side become the weakness of government (and also the private sector) in provide good public services. Each institution can made the law and own guidelines according to their individual tastes, and even these standards can change at any time according to the personal desires and needs of the leaders of these institutions (Abdurrahman, 1999). The quality of public services varies greatly from one department to another, between one region and another.

According to the title of research and discussion above, this research refers to some problems regarding land administration service and legal aspects of land administration service with the land computerization information systems in BPN Sidoarjo (Ihroni, 1999).

The Land Service to the citizen initially held in manual, both the information service or land registration service and measurement until the final product. In accordance with the passage of time and the development of an era that has entered information technology, the National Land Agency (BPN) has not developed concordantly, which is increasing the quality

of its services to the public by using highly sophisticated information technology (Soerojo, 1984). The land service has been carried out through various activities using computers, starts from the information until the last product's result in the form of decree or freehold title. (Widodo, Effendi, *et al.*, 2019) states that faced with valid data, the exact market value of construction services is difficult to define. It also reflects the unavailability of those appointed department to study all construction activities.

The general purpose of this study is providing input to Government institutions regarding the legal aspect of land administration service in BPN Sidoarjo. In addition, the specific purpose, the research seeks to outline clearly the legal aspects of the Computerized Land Information System.

2. Methodology

This research used the juridical normative's approach focused on the legal of land policy, with a descriptive analysis. It has a core on the rules of constitution as positive norms. Data collection was done by inventorying the laws and regulation regarding with land law. Then, legal material was collected with card system that was arranged based on the subject matter of research (Rahardjo, 2002)

The law material was collected by detailing its completeness and consistency with each other, then disistematiring systematic reading in accordance with the main research problem. Then Systematic interpretation is carried out, so that the legal material has meaning. The analysis used is qualitative analysis. With this analysis, the steps of analysis taken are based on the steps of logical thinking, systematic to obtain answers to the main problems raised in this study (Rahardjo, 2002).

3. Results and Discussion

3.1 Land Administration Concept Within the Computerization System

There are several forms of service which can be provided to the community; verbal language; body language; the atmosphere of the room; dexterity and speed; etc. One of the elements that becomes service material is data delivery and information. Clearly, the completeness and transparency are important keys in the delivery of those services. The land service is a service about information, because of what is being sold is a database in the office

to be delivered, legitimized by the authorized officials then the community has certainty on the asset that is owned (Saptomo, 1995).

3.2 Land Data Basis

Basis Data is the data collection in an organization, small scale, medium scale and large scale in the context of institutional and state. Staff database is a data set of people who work and are gathered in an organization that includes data entities (which division belongs); attribute name; staffing number; address; etc) and data value (each staffing name; ages; and others).

Referring to the regulation from Head of BPN number 3/2006, about the organization and work procedure of the National Land Agency of the Republic of Indonesia (BPN RI) (Sumardjono, 1998), there are quite monumental changes regarding land tasks. Besides assignment and main function as stated in the previous regulation (Chief BPN decree Number 26 of 1988) there is a significant expansion of authority, namely the existence of policies in land valuation, abandoned land management and community empowerment in the field. It aims to promote the optimization of the tasks carried out by BPN in managing natural reources, especiallay in the field of land and its repercussions, as mandated by Constitutional 45, which for the Indonesia citizenry prosperity (Rahardjo, 1998).

With the additional task and those functions, land data then include several elements related with:

a. Survey, measurement and mapping;
b. Land administration service;
c. Land registration;
d. Determination of land rights;
e. Land stewardship, agrarian reform, arrangement of special areas;
f. supervision and control of ownership of land;
g. community empowerment in the land sector;
h. handling disputes, conflicts and land cases.

Land data can be saved in the form of lists; files; books and maps (paper base). In accordance with the principle of regitration, mirror principle, land ownership have the original copy evidence stored in the Land Office. The target is the number of parcels that must be

certified (± 85 million land plot/parcel or equivalent ± 67,5 million hectare). This amount refers to the amount of Land Building Tax (PBB). With the accelerated land registration program of 3,5 million land plot/years, within the 15 years all the field which are the object of land registration have already been certified.

The database concept stems from more and more volumes collected in data management. Human limitation to the processing of conventional data triggers the creativity in utilization of information technology that can help in its management. Usually, one characteristic is the structured data. The basis data system refers to the systems of collection, compilation, and recording (record) and is to be saved by using a computer as the procesing machine with aims to serve the information at any time for various purposes. Referring to the concept above, data basis component includes the elements that play a role in building a system consisting of hardware, software (opeartion systems, application, database/DBMS) and user.

3.3 Land office computerization

Land services at the Land Office in principle are land data and information services. Data stored in Land Office are the data obatained and processed through a complicated and long process following the rules set forth on the Head of BPN decree number 1/2005 regarding to the Land Services Standard Operating Procedures (*SPOPP*). The data updating is always done if there is a change in the subject or object of landing rights. Due to its very dynamic, land data have the rate of return *(retrieval)* and (*updates)* are quite high. The one side requires speed with the standards set in pulling/retrieving data, the other side will require the requirement in saving the data *(storage)* can be the supporting process data retrieval (Parlindungan, SH., 1998).

Furthermore, in one of the interviews published in (*Federation Internationale des Geometers-International Federation of Surveyors)* edition of May 2009 states:

The key technologies in support of land administration system can be divided into GIS tools and modern measurement tools. Model GIS tools support e-Government in terms of designing and implementing suitable spatial data infrastructures and implementing a suitable IT-architecture for organizing spatial information that can improve the communication between administration systems and also establish more reliable data due to the use the original data instead of copies (FIG Journal, edition of May 2009).

According to Stig Enemark, 2005 technological process is one of the ways to access the data basis in an effort to shape the realization of electronic-based government service (e-Gov). The advanced technology in optimization of data utilization is very relevant if it is related that the 21st century is the information era.

One of the efforts to optimalize the land service tasks by using the information technology is the construction and development of Computerized Land Offices (KKP). The Land Office is the foremost base in services activities.

It developed the service model at an online system basis. The development of online services, electronic base data, hardware infrastructure and connection signal, increase in human resources in the ability to master IT and the socialization of activities in the internal and external circles are the stages of activities that must be carried out in offices that are already implementing KKP.

Some advantages in implementing the CTF include:

1. Transparency of services, because the public can obtain information directly in terms of cost, implementation time and certainty of completion.
2. Time efficiency, one capture multi used principal are the main key in optimizing the use of electronic databases.
3. The data quality reliable because reliable because the numbering of the questionnaire numbers is done by the system automatically
4. Executive Information System which allows decision makers to be able to obtain and analyze data so that information is integrated
5. Data exchange in the framework of building integrated government services **(one stop services)** and develop spatial data development planning **(spatial planning)**.

3.4 Legal Aspects of Digital Technology and Land Documentation

In this information era, the roles is the utilization of information technology and communication with the idea of becoming more strategic and begin to master the life order of the people, both in individual or organization. The development of information technology and communication has also caused world relations to become borderless and cause social, economic, and culture changes significantly and rapidly (Dalimunthe, 1998).

Utilization of information technology in an electronic system is the widespread usage of computer system that includes hardware; software; communication signal and electronic

data. This system is an integrated system between human and machine which includes hardware, software; standard procedure; human resources; and information substance that includes the functions of input, process, output, storage and communication. The land data process with using the technology information is something that absolutely must be done, this is related to the characteristics of land data itself which has a multidimensional view to economic, political, land and security and social cultural issues. The land data processing itself must attend the integrity of an Information System and National Land Management (SIMTANAS) which distributes information between all organization units in Head Office Level, Regional Office, and Land Office (Rahardjo, S.H., 2002).

3.5 Legal Basis for Land Data Management

In the uncertainty of the usage of information and communication technology, actually six types of regulations are available (Kemenristekdikti, 2008) states that the ITE Law was passed in 2008, which can be used as a foundation in supporting the development of a national land database. The six rules, according to (Kemenristekdikti, 2015) are:

A. The constitutions Number 11/2008 about information and the constitution of electronic transaction this provides many legal breakthroughs relating to the use of electronic data, electronic transaction procedures and data security and legality through electronic signatures *(digital signatures).*
B. Government regulation Number 24/1997 about land registration.
C. Presidential Regulation Number 10/2006 about the National land agency article 3 point r. data processing and information in the land sector which was followed up with the establishment of the Land Data and Information Center (PUSDATIN).
D. The presidential decree number 34/2003 about National Policy in land sector in Paragraph 1 point b, commissioned the National Land Agency to develop and develop the National Land Management and Management Information System (SIMTANAS) point 2 regarding the preparation of textual and spatial data applications in land registration services and the compilation of land tenure and land ownership databases, which are linked to *e-government, e-commerce and e - payment.*
E. Regulation of the Minister of Agrarian National/Head of National Land Agency number 3 of 1997 concerning Provisions for Implementing Government Regulation

number 24/1997 about the land registration explain about the storage media and regulation data storage and land document.

F. Decree of the Head of the National Land Agency number 1/2005 about Standard Operating Procedure Arrangements and Services. This decree is operational base and National Land Agency service to public in utilization of information technology and communication.

3.6 Information, Document and electronic signature (Constitution Number 11/2008)

Constitution number 11/2008 (Kemenristekdikti, 2008) regarding information and electronic transaction are the legal rules for procedures in the utilization of information technology in the sense of conventional legal system approaches not being relevant currently. The use of information technology causes the world to be *borderless* realizing that the activities have been done from another country.

Reinvented in the constitution is the first that related with the proof of problem which has very important factor, demeaning not accommodation of electronic data in Indonesia reinvented law, the second is start using the electronic signature (digital signature) that used to fulfill the transaction development in electronically called as e-commerce, which has become part of the business things both national or international. The electronic signature has the legal strength and causes the official law and the same with the conventional signature which using the wet and stamp ink.

The Constitution explains some details that are related to electronic information, electronic document and electronic signature. Some provisions are shown below:

A. Electronic Information and/or Electronic Document and/or the print out are the official law proof tools
B. Electronic Information and/or Electronic Document and/or print out as it means in paragraph (1) are the widespread of the official proof tools in accordance with Law.
C. Electronic Information and/or Electronic Document declared valid if using Electronic System in accordance with the condition.
D. The condition regarding the Electronic Information and/or Electronic Document as mentioned in paragraph (1) is invalid for: a. a letter in according to Constitutions must made in the form of written; b. the letter and the document in

according to Constitution must made in the form of notary deed or deed has been made by Land Deed Official.

Electronic signature is the signature consists of Electronic Information attachment, association or related with the other Electronic Information that used as the tools verification and authentication.

4. Conclusions

A. Conclusion

Based on the explained above, the conclusion is: a) with the passage of the Constitutions number 11/2008 about the Information And Electronic Transaction then some complicated using of the land data in electronic has been found the resolution especially related with the electronic document that used as a proof tools and electronic data security, b) National Land Agency (BPN) as the provider of Land Information Provider and Service Provider for Granting Land Rights and Land Registration, land quality data must be one of the main priority, c) moreover it requires the main law to arrange the rights and obligation to the party that provide and needs this service.

B. Suggestion

The suggestion to the party that related in this study is with this information technology era, BPN continue to improve it's performed especially to gives the service through the citizenry. For this reason, it is hoped that all parties will participate in the process of improving services especially in BPN Sidoarjo and in this Era of Information Technology, all parties including the public are expected can take advantage of the services that have been available.

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