

JURIDICAL REVIEW OF THE REVERSAL OF THE NAME OF THE OWNERSHIP STATUS OF THE OWNERSHIP CERTIFICATE ABOVE IT ESTABLISHMENT OF CATHOLIC RELIGIOUS INSTITUTION BUILDING IN THE AREA OF DIOCESAN MINISTRY WORK SUFRAGAN TANJUNG KARANG

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Abstract

In civil cases, cases filed in court are generally in the field of unlawful acts. To find out what is meant by Unlawful Acts (Onrechtmatigedaad). The research method in this study is a normative legal approach and an empirical approach and is known by deductive thinking so that it becomes a general description of the answer to the problem based on the results of the study. The results of the study show that the method of transferring the name of the ownership status of the certificate of ownership on which the building stands that the files that must be prepared are the application form for changing the name that has been filled in and signed by the applicant, the Deed of Sale and Purchase and the Land Deed Making Officer, and the Identity Card of the buyer and seller, proof of Income Tax Payment Letter, proof of payment of the Land and Building Acquisition Fee Payment Letter, and also the original land certificate, Land and Building Tax Payable Notification Letter, After all the documents are ready, the next step is to bring the files to the local National Land Agency Office. The authorities will issue proof of receipt of the name change application. Furthermore, the National Land Agency will delete the name of the old rights holder and change it to the name of the new rights holder in the land book and also the certificate. Judge's considerations regarding the change of name Decision Number: 54/Pdt.G/2023/PN.Tjk that it is true that the Defendant was once a Bishop in the Suffragan Diocese of Tanjung Karang/Plaintiff and was part of the Diocese of Tanjungkarang/Plaintiff, and it has also been proven that the Defendant and Co-Defendant I in carrying out the sale and purchase transaction of the land object of the case acted on behalf of the Diocese of Tanjungkarang/Plaintiff

Keywords: Transfer; Change of Name; Ownership Status, Religious Institution.

Abstrak

Dalam kasus perdata, perkara yang diajukan ke pengadilan umumnya berada di bidang perbuatan melawan hukum. Untuk mengetahui apa yang dimaksud dengan Tindakan Melanggar Hukum (Onrechtmatigedaad). Metode penelitian dalam penelitian ini adalah pendekatan yuridis normatif dan pendekatan empiris dan dikenal dengan pemikiran deduktif sehingga menjadi gambaran umum jawaban atas masalah berdasarkan hasil penelitian. Hasil penelitian menunjukkan bahwa metode perubahan nama status kepemilikan sertifikat kepemilikan tempat bangunan berdiri yang berkas yang harus disiapkan adalah formulir permohonan perubahan nama yang telah diisi dan ditandatangani oleh pemohon, Akta Jual Beli dan Pejabat Pembuat Akta Tanah,

dan Kartu Identitas pembeli dan penjual, bukti Surat Pembayaran Pajak Penghasilan, bukti pembayaran Surat Setoran Bea Perolehan Hak Tanah dan Bangunan, dan juga sertifikat tanah asli, Pemberitahuan Pajak Terutang Pajak Tanah dan Bangunan, Setelah semua dokumen siap, langkah selanjutnya adalah membawa berkas tersebut ke Kantor Badan Pertanahan Nasional setempat. Pihak berwenang akan mengeluarkan bukti penerimaan aplikasi perubahan nama. Selanjutnya, Badan Pertanahan Nasional akan menghapus nama pemegang hak lama dan mengubahnya menjadi nama pemegang hak baru dalam buku tanah dan juga sertifikat. Pertimbangan Hakim mengenai perubahan nama Putusan Nomor: 54/Pdt.G/2023/PN.Tjk bahwa memang benar bahwa Tergugat pernah menjadi Uskup di Keuskupan Suffragan Tanjung Karang/Penggugat dan merupakan bagian dari Keuskupan Tanjungkarang/Penggugat, dan telah dibuktikan juga bahwa Tergugat dan Rekan Tergugat I dalam melakukan transaksi jual beli objek tanah perkara bertindak atas nama Keuskupan Tanjungkarang/Penggugat.

Kata kunci: Peralihan; Balik Nama; Status Kepemilikan, Lembaga Keagamaan.

INTRODUCTION

Background

Land is a gift of God Almighty, as well as one of the natural resources that are important for the survival of mankind. The reality of history shows that the survival of humans, both as individuals and as social creatures, always needs land to meet their living needs by making connections and utilizing land resources, both above and in the soil.

Land has an important role in people's lives as infrastructure in the fields of Housing, Industry and Roads as Public Interest. Land has a fairly high economic value and land can be assessed as a fixed object that can be used as savings because the economic value of land is increasing year by year as a selling power in the community. In addition, land is a place of settlement for most of humanity, in addition to being a source of life for humans who make a living through agriculture and plantations, which finally land is also used as the final resting place for someone who has died.¹

The relationship between humans and the land is not just a place to live for humans but more than that, the land provides resources in the form of natural resources to be used in such a way that it is able to be sufficient in various aspects of human life.

Indonesia is an agrarian country which in this case has been stated in the history of land in Indonesia and has had special provisions that regulate land, namely in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles which is hereinafter referred to as the UUPA, As a basic regulation, the UUPA only regulates the principles or main issues in its outline in the form of national land law. This UUPA is an implementation of Article 33 paragraph (3) of the Constitution of the Republic of Indonesia in 1945 which mandates the State that "everything related to land as part of the earth, water and natural resources contained in it in Indonesia must and must be managed and utilized for the greatest possible prosperity of the people of Indonesia". This is emphasized by Article 2 of the UUPA regarding the right to control from the State.

The general explanation of the UUPA in detail aims to:

¹Sudiro, A. A., & Putra, A. P. 2023. *Legal certainty on the right to land registration and ownership rights over land that has been registered*. Journal of Master of Law, 5(1), pp. 36-46.

- a. Laying the foundations for the drafting of the national agrarian law, which is a tool to bring prosperity, happiness and justice to the state and the people in the context of a just and prosperous society;
- b. Laying the foundations for unity and simplicity in land law; laying the foundations to provide legal certainty regarding land rights for the people as a whole.²

Land is an object in various sources of law, be it Criminal Law, Civil Law or in State Administration. Land disputes can also occur that make the actual owner of the land controlled by another person without the knowledge of the land owner. The existence of a law that regulates land can make land owners legally protected. Indonesia country as a country that adheres to the Continental European Legal System (*civil law system*), the existence of laws and regulations is very important, because when it is associated with the principle of legality, which means that every government action must have a basis in the applicable laws and regulations.

In the Agrarian Tree Law, there are several primary land rights, namely:

1. Title (HM)
2. Right to Use Business (HGU)
3. Building Rights (HGB)
4. Right of Use (HP).

In the land rights will have strong legal certainty by first registering these rights at the National Agriculture Agency (BPN) office and so that these rights are guaranteed to have authentic deeds. Due to the rapid development of the economy and the large amount of land involved in economic activities, such as buying and selling, renting, and others, it is considered necessary to guarantee certainty and certainty of rights in the field of agrarian activities.³

Everyone who makes a mistake must be acted upon. As we all know, the purpose of law is order, justice and legal certainty, including legal protection for land rights holders. To obtain maximum land, formal proof is needed in the form of use and management rights, as well as the most authentic and highest form of land rights, namely property rights (certificates).

Land issues are also one of the development sectors that require very serious and extra careful handling from the government. This extra caution is needed because land is a very vital need for the community, this is where the role or position of the government in dealing with land problems is faced with difficult problems. On the one hand, the government has an obligation to protect, regulate public order and welfare, and on the other hand, the demand for the acceleration of economic development must be spurred which ultimately requires land as a foothold for the economy.⁴

To obtain land ownership, land registration is carried out to obtain a certificate of land rights as evidence given to the right holder.⁵ Based on Article 1 of Government Regulation Number 24 of 1997 concerning Land Registration, it is explained that "Land registration is a series of activities carried out by the Government on a continuous, continuous and regular basis, including the collection, processing, bookkeeping, and

²Sutikno. 2023. *Agrarian Law and Agrarian Policy in Indonesia. Court Review*. Journal of Legal Research (e-ISSN: 2776-1916), 3(03), pp. 22-27.

³ Munir Fuady. 2023. *Business Law in Theory and Practice Second Book*, Citra Aditya Bakti, Bandung, p.84

⁴Andy Hartanto. 2024. *Complete Guide to Practical Law: Land Ownership*, Laksbang Justitia, p. 154

⁵NM. Wahyu Kuncoro. 2023. *Transaction Risks of Buying and Selling Property*, Achieve Asa Sukses, Jakarta, p. 178

presentation and maintenance of physical data and juridical data, in the form of maps and lists, regarding land plots and flats, including the provision of certificates of proof of rights for the fields land that already has rights and ownership rights to the flats unit and certain rights that burden it.

Article 2 of Government Regulation Number 24 of 1997 concerning Land Registration states that, "Land registration is carried out based on the principles of simplicity, safety, affordability, up-to-date and open". Based on Article 3, land registration aims to:

1. To provide legal certainty and protection to the holder of the right to a plot of land, flats and other registered rights so that they can easily prove themselves as the holder of the right concerned;
2. To provide information to interested parties, including the Government, so that they can easily obtain the necessary data in carrying out legal acts regarding land plots and flats that have been registered;
3. For the implementation of orderly land administration. In providing certainty and legal protection to land rights holders, it is explained in Article 4 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration which states that "In order to provide certainty and legal protection as referred to in Article 3 letter a to the right holder concerned, land rights are given".

People who own or control land often experience disputes. The public's understanding of land ownership is still relatively minimal in terms of knowledge. As the owner of the land that they control, if there is a letter (whatever the name of the letter and whoever issues it), as long as it is related to the creation with a government agency, then the community will interpret their land as having been registered, for example: proof of payment of PBB or other letters, such as a letter of sale and purchase under hand, a sale and purchase that is known or approved by the village head or village head or sub-district head and so on.⁶

Legal certainty of land rights, especially regarding land ownership and control, will provide clarity about the person or legal entity that is the holder of land rights, as well as certainty about the location, boundaries, area and so on. A land right certificate is a strong but not absolute proof of rights, meaning that the land right certificate guarantees legal certainty for the owner as long as the certificate:

- a. Published in the name of the entitled.
- b. The right to the land was obtained in good faith.
- c. Physically controlled.
- d. No other party can prove otherwise.

Regarding this certainty, it is very meaningful, especially in relation to the development planning of a region, supervision of land ownership and land use. To achieve this goal, based on Article 2 paragraph (2) of the UUPA, the authority of the State in the field of land has the right to control the entire territory of the Republic of Indonesia over the earth, water and space and the natural resources contained therein, with the authority to:

1. Regulating and administering the allocation, use, provision and maintenance of the earth, water and space;
2. Determine and regulate the legal relationships between people and the earth, water and space;

⁶ Rahmat Ramadhani. 2020 *"Land Registration as a Step to Obtain Legal Certainty on Land Rights"*. Journal of Economics and Society. Vol. 2.No. 1, p. 32

3. Determine and regulate the legal relationships between people and actions related to the earth, water and space.⁷

The provisions of Article 2 mentioned above are the state in the sense of an organization of power from all the people to regulate agrarian (land) issues. The position of the state as a ruler (the right to control from the state) is nothing but to achieve the greatest prosperity of the people in the context of a just and prosperous society. In this framework, the State is given the authority to regulate starting from planning, use, determining the rights that can be given to a person, as well as regulating legal relations between people and legal acts related to land.

The elaboration of Article 33 paragraph (3) regarding the right to control land by the state is further regulated in Article 2 of the UUPA. The word "master" has the following meanings:

1. Controlling physically is a person who has physically controlled his land, so that person has rights and obligations to the land, for example his right to build a house,
2. The right to control juridically, is the control of land that is based on its rights and is juridically protected by law. The increase in population will affect the need for land, the land area is not proportional to the increase in population will have an impact on disputes in controlling the right to control the land.

In civil cases, cases submitted to the court are generally in the field of unlawful acts. To find out what is meant by an unlawful act (*Onrechtmatigedaad*), Article 1365 of the Civil Code stipulates as follows: Every act that causes harm to another person, obliges the person who is guilty of causing the loss, to compensate for the loss. Civil Law (*Burgerlijkrecht*) is a series of legal regulations that regulate the legal relationship between one person and another, with an emphasis on individual interests.⁸

Based on one of the examples of name change cases found in Decision Number: 54/Pdt.G/2023/PN.Tjk. That first of all, the Plaintiff (Sufragan Diocese of Tanjungkarang) is a Religious Institution that oversees Catholicism in the area of service work in the Diocese of Sufragan Tanjungkarang, while the Defendant is also the Bishop of Sufragan Diocese of Tanjungkarang which oversees service work to Catholics in the area of Sufragan Tanjungkarang. That the object in this lawsuit is a piece of land and the building on it located in Tanjung Baru Village, Sukarame District, Bandar Lampung City, Lampung Province, which has been issued a Certificate of Ownership Number: 11580/Tj.B, Survey Letter Number: 172/Tj.B/1998 dated November 10, 1998 with a land area of 1,500 M2, in the name of Monseigneur Andreas Hendrisoesanto, where the land has been physically controlled by the Plaintiff since 1998 until now (about 24 years).

That *the land a quo* was obtained by the Defendant who at that time was in his position and position as the Bishop of the Diocese of Sufragan Tanjungkarang, purchased from the Co-Defendant II, as stated in the Deed of Sale and Purchase Number: 60/JB/SKR/Tj.B/1996 dated February 14, 1996, through the Co-Defendant I who at that time acted as the Defendant's Attorney based on the Power of Attorney under the hand with a sufficient seal dated February 10, 1996. That because the purchase of the land was for the Plaintiff, the Defendant, who at that time was still acting as the Bishop of Sufragan Tanjungkarang, by the Co-Defendant I as the Staff of the Secretariat of the Sufragan

⁷Joshua's suhanan. 2023. *Arising Land Rights (Aanslibbing) in Indonesia's Land Law System*. Restu Agung, Jakarta, p. 50.

⁸Rizky Reza Pahlevi, Zulfi Diane Zaini, and Recca Ayu Hapsari. 2021. *Analysis of unlawful acts (onrechtmatigedaad) on land rights ownership disputes*. Pagaruyuang Law Journal. Vol. 5, No. 1.

Diocese of Tanjungkarang, had handed over the land to the Sufragan Diocese of Tanjungkarang, which was marked by the handover:

- a. Certificate of Property No. 11580 dated February 11, 1999, in the name of Monseigneur Andreas Hendrisoesanta (Respondent);
- b. Deed of Sale and Purchase No. 60/JB/SKR/Tj.B/1996 dated February 14, 1996.

That because the Certificate of Ownership of the land is still in the name of the right holder, namely the Defendant, and the Plaintiff intends to change the name/change the name of the Certificate of Ownership Number 11580/Tj.B dated February 11, 1999, Survey Letter Number: 172/Tj.B/1998 dated November 10, 1998 with a land area of 1,500 M2, in the name of the Defendant, into the name of the Plaintiff, namely: Sufragan Diocese of Tanjungkarang. However, considering that the Defendant is no longer known and his place of residence and heirs are unknown, the Plaintiff is determined to defend the Plaintiff's rights by filing this lawsuit so that it has a basis to change the name of the holder of the right to land aquo.

Considering that in the process of managing the change/change of the name of the land title certificate, it requires the Right Holder as a person whose name is listed in the Land Title Certificate, or at least his Heir for the fulfillment of the administration and/or procedures imposed by the Co-Defendant III. As a result, the Plaintiff cannot fully enjoy the right to the land a quo and cannot transfer other rights to the object of the land a quo. That therefore, through this application, with the intention of protecting the Plaintiff's right to a quo land obtained by the Plaintiff from buying and selling through power of attorney with Co-Defendant I, which is in the name of the Defendant's personal name, not on behalf of the Plaintiff (Sufragan Diocese of Tanjungkarang), the Plaintiff requests the District Court Class I A Tanjungkarang to ratify the Letter/Deed of Sale and Purchase Number: 60/JB/SKR/Tj.B/1996 dated February 14, 1966, in order to have legal force and can be used as the basis for the right to manage the transfer of rights/change of name of the certificate at the Office of the Third Defendant which was originally in the name of Monseigneur Andreas Hendri Soesanto to be in the name of the Diocese of Sufragan Tanjungkarang.

RESEARCH METHODS

The research methods in this study are normative juridical approach and empirical approach and are concluded with deductive thinking so that it becomes a general overview of the answer to the problem based on the results of the research. After the data is obtained, it is then analyzed using a qualitative juridical analysis method, that is, after the data is obtained, it is systematically described and concluded in a deductive way of thinking so that it becomes a general picture of the answer to the problem based on the results of the research.

RESULTS AND DISCUSSION

A. How to Change the Name of the Ownership Status of the Certificate of Ownership on which the Catholic Religious Institution Building Stands in the Service Work Area of the Diocese of Sufragan Tanjung Karang (Study of Decision Number: 54/Pdt.G/2023/PN.Tjk)

Land ownership rights have been regulated in Article 20 of the Basic Agrarian Law that land ownership is a hereditary right that has been regulated in customary law, the strongest and fullest that people can have over their land.

It is undeniable that customary law lives in the midst of Indonesia society. Ownership of land has the most special characteristics, among others, it can change hands to other people because of inheritance that is hereditary, its use is free and not restricted as long as it does not conflict with the laws that govern, other land rights can be granted over property rights by the owner.

Property Rights are the strongest rights to land, which then give the owner the authority to give back another right over the land he owns (can be in the form of Building Rights and Management Rights), which is almost the same as the State's authority to grant land rights to its citizens. In human life, the existence of land will not be separated from all the actions of man himself, because land is a place, for human beings to live and continue their lives. Therefore, land is needed by every member of the community so that there are often disputes between others, especially those related to land. For this reason, rules are needed that regulate the relationship between humans and the soil. One example of an individual's relationship with land is: Property rights are hereditary, which is the strongest and most complete right that can be owned by a person or legal entity over land, taking into account its social function.

The Basic Agrarian Law is the initial milestone to create a foundation that guarantees legal certainty for all people regarding land rights, this can be realized with two efforts, namely; First, there are laws and regulations that are written, complete and clear and are applied consistently in accordance with the spirit of the provisions. Second, the implementation of *real estate* registration provides an opportunity to prove the rights to the land controlled and obtain the necessary information about the land which is the subject of a legal act that has legal force, and can assist the government in implementing land policy.

Buying and selling land and buildings that stand on it is an activity that is often carried out and in the process of buying and selling problems (disputes) are often found. Based on Article 1469 of the Civil Code, buying and selling can be said to take place if there has been an agreement on certain goods along with their prices even though the payment process has not been carried out. In Article 1320 of the Civil Code, it has been stated that the conditions for the validity of a sale and purchase transaction include that both parties have been able to make an agreement and make an agreement that binds both parties about a certain good and for reasons that are not prohibited. The majority of land buying and selling activities in Indonesia adhere to customary law, which is at least fulfilling the principles of light and cash. The Cash Principle implies that purchases are made at an agreed price. The Principle of Light means that the buying and selling process is carried out openly and is not covered. Government Regulation Number 18 of 2021 on Management Rights, Land Rights, Flats Units and Land Registration requires that land purchase and sale activities must be carried out in the presence of the Land Deed Making Officer, so that the sale and purchase activities are clear and have strong evidence in the form of a Sale and Purchase Deed.

According to Alfarabi as an Officer of BPN Lampung Provincial Office, land and buildings can be transferred from their owners to other parties who want the land and buildings, the transfer of ownership of land and buildings is closely related to legal provisions to provide certainty of rights for a person who acquires land and buildings The legal relationship between people and land has a guarantee and legal certainty when the right holder has proof of rights recognized by the State. Therefore, to get this proof of evidence, the right holder must register his right to the appointed agency to issue the proof

in the form of a certificate, because in carrying out the process of transferring rights, one of the document requirements that must exist is the original certificate.

According to Alfarabi as an Officer of BPN Lampung Provincial Office, the transfer of land rights is also regulated in the Implementation Regulation of the Basic Agrarian Law, namely Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, which says that every transfer of land rights and property rights through buying and selling, grants, income in the company, and other legal acts of transfer of rights, except for the transfer of rights through auction can only be registered if it is proven by a deed made by the Land Deed Making Officer. In other words, the Land Deed Making Officer is an extension of the Land Office. Legal Protection provides protection to human rights that are harmed by others and the protection is given to the community so that they can enjoy all the rights provided by the law or in other words legal protection is a variety of legal remedies that must be provided by law enforcement officials to provide a sense of security, both mentally and physically from interference and various threats from any party.

According to Alfarabi as a BPN Officer of the Lampung Provincial Regional Office, the way to take care of the change of the name of the land certificate is as follows:

1. Creating PPJB

PPJB or binding sale and purchase agreement is an initial agreement between a prospective seller and a prospective buyer who promises to carry out a sale and purchase transaction on land.

2. Making a Deed of Sale and Purchase to PPAT

Changing the name of a land certificate due to sale and purchase is part of a change in juridical data in the form of a transfer of rights due to sale and purchase. The transfer of land rights through the sale and purchase can only be registered if it is evidenced by the sale and purchase deed ("AJB") made by the Land Deed Making Officer ("PPAT"). However, the deed can also not be made by PPAT in certain circumstances, namely for remote areas that have not been appointed by PPAT, then the transfer of land rights is registered by the Head of the Land Office, as evidenced by a deed that is not made by PPAT but which according to the Head of the Land Office is considered sufficient to register the transfer of the rights concerned. The preparation of the sale and purchase deed was attended by the parties who carried out the sale and purchase and witnessed by at least two witnesses. Then, PPAT no later than seven working days from the signing of the AJB must submit the deed and related documents to be registered with the land office.

3. Paying Income Tax for Sellers

According to Article 1 paragraph (1) of PP 34/2016, it is explained that on income received or obtained by individuals or entities from the transfer of rights to land and/or buildings, or binding agreements on the sale and purchase of land and/or buildings and their amendments, income tax ("Income Tax") is payable which is final. Income from the transfer of land and/or building rights is income received or obtained by the party who transfers land and/or building rights through sale, exchange, release of rights, assignment of rights, auction, grant, inheritance, or other means agreed between the parties. Meanwhile, income from the binding agreement on the sale and purchase of land and/or buildings and their amendments is income from:

- a. The seller whose name is listed in the binding sale and purchase agreement at the time of first signing; or

- b. The buyer whose name is listed in the binding sale and purchase agreement before the occurrence of the amendment or addendum to the binding sale and purchase agreement, upon the change of the buyer in the binding sale and purchase agreement. Thus, for land sellers, they are subject to final income tax after the transfer of land rights through AJB or after the existence of PPJB, as long as there has been payment or income received by the seller.
4. Paying BPHTB for Buyers
- Land and Building Rights Acquisition Duty ("BPHTB") according to Article 1 number 37 of Law 1/2022 is a tax on the acquisition of land and/or building rights. This tax is collected by the district/city government.^[7] One of the objects of BPHTB is the acquisition of land rights which includes the transfer or transfer of rights due to buying and selling. So, in the transfer of land rights, those who receive the land rights (buyers) are subject to taxes in the form of BPHTB. The land registration itself will only be carried out by the Land Office if the BPHTB has been paid in full, which is evidenced by proof of the BPHTB deposit.
5. Registration to the Office of the National Land Agency
- The next step is, you need to register with the Office of the National Land Agency ("BPN") by completing the documents for name change. The requirements for changing the name of the certificate that you need to prepare are listed below.
- According to Alfarabi as an Officer of BPN Lampung Provincial Regional Office, the requirements for changing the name of the land certificate are:
1. The application form that has been filled out and signed by the applicant or his attorney on the seal is sufficient;
 2. Power of attorney when authorized;
 3. Photocopy of the applicant's identity (KTP, KK) and power of attorney if authorized;
 4. A copy of the deed of establishment and legalization of a legal entity that has been matched with the original by the counter officer, legal entity section;
 5. Original certificate;
 6. Deed of sale and purchase from PPAT;
 7. Photocopy of ID card and the seller-buyer parties and/or their proxies;
 8. Permission to transfer rights if the certificate or decision contains a sign stating that the right can only be transferred if permission has been obtained from the authorized agency;
 9. Photocopy of SPPT and PBB for the current year that has been matched with the original by the counter officer, submission of proof of SSB (BPHTB) and proof of payment of income money (at the time of registration of rights).
- In addition to the above, you also need to pay attention to:
1. Self-identity;
 2. Area, location and use of the land to be applied;
 3. Declaration of non-disputed land; and
 4. The land/building statement is physically controlled.
- Land Certificate Name Change Fee
1. This PPAT fee is the cost for the AJB making process. According to Article 32 paragraph (1) of PP 24/2016, the service fee or PPAT or Temporary PPAT, including witness fees, must not exceed 1% of the transaction price stated in the deed.
 2. Income Tax costs for Sellers, the final income tax is as follows:
 - a. 2.5% of the gross amount of the value of the transfer of land and building rights in addition to the transfer of land and/or building rights in the form of simple

- houses or simple flats carried out by taxpayers whose main business is the transfer of land and/or building rights;
- b. 1% of the gross amount of the value of the transfer of land and/or building rights in the form of simple houses or simple flats carried out by taxpayers whose main business is the transfer of land and/or building rights; or
 - c. 0% on the transfer of rights to land and/or buildings to the government, SOEs that receive a special assignment from the government, or BUMDs that receive a special assignment from the regional head, as referred to in the law on land acquisition for development for the public interest. You can see the final income tax calculation for land sellers in full in the article [Seller and Buyer Taxes in Land Buying and Selling](#).
3. **BPHTB Fees for Buyers**
BPHTB is imposed based on the value of the tax object that is determined, one of which is the value of the purchase and sale transaction. Meanwhile, if the acquisition value of the tax object is unknown or lower than the Selling Value of the Tax Object ("NJOP") used for the imposition of land and building tax ("PBB") in the year of acquisition, then the amount of BPHTB is the same as the NJOP in the imposition of PBB in the year of acquisition. The BPHTB tariff is the highest at 5% and is determined by the local regulation of each region. Meanwhile, you can also see an example of BPHTB calculation in full in [Seller and Buyer Taxes in Land Buying and Selling](#).
 4. The cost of Managing the Name Change at BPN, furthermore, to take care of the name change at BPN as reported from [the Transfer of Sale and Purchase Rights](#), the fee is calculated based on the value of the land issued by the Land Office. The formula to calculate the cost is: $[\text{land value (per m}^2) \times \text{land area (m}^2)] / 1000 + \text{registration fee}$.

Based on the explanation above, it can be concluded that when taking care of the name change, the original certificate must be brought. Don't forget to include an Inheritance Certificate (SKW) and a Notary Will Deed if the certificate changes the name of the inherited land. Changing the name requires the completeness of the Sale and Purchase Deed (AJB) document from the Land Deed Making Officer (PPAT). Other documents that need to be attached are a photocopy of the seller's identity or the identity of the previous owner and a copy of the Land and Building Tax (PBB) Payable Tax Notice (SPPT). As stipulated in Article 37 paragraph 1 of Government Regulation Number 24 of 1997 concerning Land Registration stated, "The transfer of land rights and ownership of apartment units through sale and purchase, exchange, grants, income in the company and other legal acts of transfer of rights, except for the transfer of rights through auction can only be registered if proven by a deed made by the authorized PPAT in accordance with the provisions of the applicable laws and regulations". However, PPAT can refuse to register land as explained in Article 45 paragraph 1, "The Head of the Land Office refuses to register the transfer or encumbrance of rights, if one of the following conditions is not met:

1. Certificates or certificates about the state of land rights are no longer in accordance with the registers at the Land Office.

2. Legal acts as referred to in Article 37 paragraph (1) are not proven by PPAT deeds or quotations of auction minutes as referred to in Article 41, except in certain circumstances as referred to in Article 37 paragraph (2).
3. The documents required for the registration of the transition or encumbrance of the rights in question are incomplete;
4. Other conditions specified in the relevant laws and regulations are not met;
5. The land in question is the object of dispute in the Court;
6. Legal acts proven by the PPAT deed are void or canceled by a court decision that has obtained permanent legal force; or
7. The legal act as referred to in Article 37 paragraph 1 is canceled by the parties before it is registered by the Land Office.

Based on the Circular Letter from the National Land Agency Number B/HR.01 Page 39 dated April 4, 2023 regarding the Death Certificate as a condition in the application for first-time land registration and maintenance of land registration data. The certificate of sale and purchase from the village is then upgraded to a sale and purchase deed at the Notary or Temporary Land Deed Making Official. After that, coming to the National Land Agency is given an application letter, a physical statement, a statement letter of no problems and others there is an application at the National Land Agency equipped with boundary witnesses, before going to the field, you must first sign the boundary witnesses all witnesses must be ready. Only go to the field for measurement after cadastral issues a Land Plot Map, if there are no problems, they can continue to issue the Certificate. If there is a problem, he only publishes a Land Map and cannot continue. Furthermore, the first registration is the affirmation of rights (to take rights). After that, there was a committee going down to the location after the measurement. Its function is to check the soil, the knowledge is that there is indeed land that was inspected yesterday. After that, a pamphlet is made and an announcement is made to take the right to the process 30-60 working days of the announcement from the National Land Agency. The opinion concerned took the title number for the Certificate. After that, wait if the signatures of all committees have been completed, the Certificate will be issued (the process depends on the conditions in the field, it can be 6-8 months). If the land was originally from the parents, then make the initial Grant Deed. The process is the same, only initially the Grant Deed is not a sale. If the land was originally from the parents but has died. So initially you have to make a Certificate of Inheritance. The legal flow if there is a complaint about the Double Certificate will invite both parties or both owners of the Certificate for mediation. If no agreement is found or no settlement is obtained, the National Land Agency will help direct it to the State Administrative High Court, which can decide whether the Certificate is invalid or not, namely the State Administrative High Court. When there is a Double Certificate that occurs to the community, the responsibility of the National Land Agency is based on the Circular Letter from the National Land Agency Number B/HR.01 Page 39 dated April 4, 2023 regarding the Death Certificate as a condition in the application for first-time land registration and the maintenance of land registration data. When there is a Dual Certificate, the National Land Agency's form of responsibility is to help mediate between certificate owners. If it cannot be resolved through mediation, the National Land Agency will help direct the settlement in the District Court or the State Administrative Court.

Based on the explanation above, it can be concluded that all forms of land management processes as well as property rights and the issuance of certificates by the

National Land Agency have the authority and obligation to assist the community related to the process in it. The National Land Agency, Notaries and Land Deed Making Officials in carrying out their duties have been regulated by law, including in the above interviews, all processes are regulated in the Circular Letter from the National Land Agency Number B/HR.01 Page 39 dated April 4, 2023 regarding Death Certificates as a condition in the application for first-time land registration and maintenance of land registration data.

In Article 9 paragraph (2) letter c of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, it is stated that the issuance of proof of rights (land certificates) on land registration is a strong tool of proof. Carrying out the process of changing the name of the land purchased by the heirs is something that must be done by the appointed heirs. Considering that the land seller has also passed away and has heirs who can claim their rights in accordance with applicable laws and regulations. Furthermore, regarding the method or procedure for changing the name of the land certificate that has been obtained after the completion of the purchase and sale transaction. Changing the name of a land certificate is usually done for several reasons:

1. Buying land from the previous owner; (This is not too much of a problem if we buy it from a developer, because usually they have helped take care of the name at the same time).
2. Taking care of the name of the heir. So previously the parents' names, then the parents died and had to change their names to the heirs. Or if the husband dies, the land certificate is reversed in the name of the wife and children as heirs.

Article 3 of Government Regulation Number 24 of 1997 concerning Land Registration which was amended to Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration explains that land registration aims to:

1. To provide legal certainty and protection to the holder of the right to a plot of land, flats and other registered rights so that they can easily prove themselves as the holder of the right concerned;
2. To provide information to interested parties, including the government, so that they can easily obtain the necessary data in carrying out legal acts regarding land parcels and flats that have been registered.

Creditors who have liens on the land in question. Therefore, the division of the land may only be carried out after obtaining written approval from the creditor or other authorized party to agree to the removal of the other burdens concerned so that the burdens concerned do not always have to be removed. In the event that the right is encumbered by the right of dependents, the right of the dependents concerned still burdens the fields resulting from the settlement. It can be seen that changing the name of the land certificate to the name of the legal owner of the land is very important because the purpose is to provide legal certainty and protection. This means that if in the future there are problems that arise related to the land, then the name listed in the certificate will be protected by law. The initial step of the transfer of rights or the process of changing the name must be carried out with the existence of a deed made by the Land Deed Making Officer in accordance with Article 37 of Government Regulation Number 24 of 1997 concerning Land Registration which was changed to Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration which stipulates that: The transfer of land rights and ownership of flats units through sale

and purchase, exchange, grants, income in the company and other legal acts of transfer of rights, except for the transfer of rights through auction can only be registered if proven by a deed made by the authorized Land Deed Making Officer in accordance with the provisions of the applicable laws and regulations. How to take care of the change of the name of the land certificate can be done in two ways, namely:

1. By asking for the help of the Land Deed Making Office. So we don't need to bother going back and forth to the National Land Agency but just prepare the required documents and then submit them to the Land Deed Making Officer and they will help carry out the management until it is completed; or the second.
2. Take care of it yourself by visiting the local National Land Agency Office.

So the files that must be prepared are the application form for the change of name that has been filled out and signed by the applicant, the Deed of Sale and Purchase and the Officer who made the Land Deed, and the Identity Card of the buyer and seller, proof of Income Tax Payment Letter, proof of payment of the Land and Building Rights Acquisition Duty Deposit Letter, and also the original land certificate, Land and Building Tax Payable Tax Notice, if the land is State land or for flats, there needs to be a right transfer permit, as well as a statement letter of prospective beneficiaries. After all the documents are ready, the next step is to bring the file to the local National Land Agency Office. The authorities will issue proof of receipt of the name change application. Furthermore, the National Land Agency will delete the name of the old right holder and change it with the name of the new right holder in the land book and also the certificate. The legal basis of the Deed of Sale and Purchase as evidence of the transfer of land rights refers to Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration which was amended to Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration, which explains that the transfer of rights to land and/or buildings, One of them, through buying and selling, can only be registered if it is proven by the deed of the Land Deed Making Officer. The right to a piece of land that has been registered can be divided into several parts based on the request of the right holder concerned. Each of these fractions is a new unit of land parcel with the same legal status as the original land parcel. So based on the explanation above, the plaintiff then carried out the process of applying for the solution of the master certificate at the Office of the National Land Agency of Bandar Lampung City according to the domicile. As a form of legal certainty over land and legal rights.

B. Judge's Consideration of the Change of Name of the Ownership Status of the Title Certificate on which the Building of a Catholic Religious Institution in the Service Work Area of the Diocese of Sufragan Tanjung Karang (Study of Decision Number: 54/Pdt.G/2023/PN.Tjk)

In Indonesia, the principle of freedom of judges is fully guaranteed in Law Number 48 of 2009 concerning Judicial Power, hereinafter referred to as the Law on Judicial Power, where it is formulated that judicial power is the power of an independent state to hold the judiciary to uphold law and justice. The principle of judges' freedom includes also the freedom for judges in formulating legal considerations known as legal reasoning carried out by a judge in deciding a case he is adjudicating.

Judges are state officials who exercise judicial power as stipulated in the law. According to the Judicial Power Law, the judge's consideration is the judge's thoughts or

opinions in making a verdict by looking at things that can mitigate or burden the perpetrator. Each judge is obliged to submit a written consideration or opinion on the case being examined and is an integral part of the decision.

Judges are the personification of judicial institutions, in making decisions on a case, in addition to being required to have intellectual abilities, a judge must also have high morals and integrity so that it is expected to reflect a sense of justice, ensure legal certainty and can provide benefits to society. This is the legal basis for a judge in carrying out his duties to decide a case, that it must be based on various considerations that can be accepted by all parties and not deviate from the existing legal principles, which is called legal considerations or *legal reasoning*. Formulating and compiling legal considerations or *legal reasoning* must be careful, systematic and in correct and good Indonesian. The legal considerations must be complete containing facts of events, legal facts, formulation of legal facts, application of legal norms both in positive law, customary law, jurisprudence and legal theories and others, based on aspects and methods of legal interpretation, even a judge can make appropriate legal discoveries in compiling arguments or reasons that are the legal basis in the judge's decision.

According to Iskandar Zulkarnaen as a Judge of the Tanjung Karang District Court based on Decision Number: 54/Pdt.G/2023/PN.Tjk that the purpose and purpose of the Plaintiff's lawsuit which is basically for the Plaintiff to be declared as the rightful owner of a piece of land covering an area of 1,500 M2 (one thousand five hundred square meters) with a Certificate of Ownership No.11580/Tj.B, dated February 11, 1999 recorded in the name of the Defendant, located in Tanjung Baru Village, Sukarame District, Bandar Lampung City, and in order for the Plaintiff to be given the right to reverse the name of the Certificate of Ownership Number: 11580/Tj.B, dated February 11, 1999 from the name of the Defendant to the name of the Plaintiff. That the Defendant, Co-Defendant I, Co-Defendant II have never attended the trial or sent their legal representatives even though they have been legally and properly summoned, so that they are considered to have not defended their rights and based on the judge's suspicion, are considered to have justified the plaintiff's lawsuit.

In its legal considerations, the panel of judges considered the following points. That Defendant III in his answer basically states that in order for the Plaintiff to reverse the name of the Certificate of Ownership on the Object of the case and be determined as the rightful owner of the object of the case, it must be proven by the existence of control/maintenance of the land plot in question by the Plaintiff and it must also be proven that the Defendant was once part of the Diocese of Tanjung Karang/Plaintiff that to prove the postulate of the lawsuit. That the object of the case in this case is a piece of land covering an area of 1,500 M2 (one thousand five hundred square meters) located in Tanjung Baru Village, Sukarame District, Bandar Lampung City as per the Certificate of Ownership Number: 11580/Tj.B, dated February 11, 1999, Survey Letter No.: 172/Tj.B/1998, dated November 10, 1998, with the boundaries of the land as mentioned in the letter of claim, last recorded in the name of the Defendant, hereinafter referred to as the Object of the Case. Based on the Plaintiff's lawsuit and the answer of the Co-Defendant III, the first thing that must be proven is whether it is true that the Defendant was once part of the Diocese of Sufragan Tanjung Karang/Plaintiff.

That confirms that the Defendant was once a Bishop in the Diocese of Sufragan Tanjungkarang, thus it can be proven that the Defendant was once part of the Diocese of Sufragan Tanjungkarang. Furthermore, it will be considered whether it is true that the

Defendant when carrying out the transaction of buying and selling the land the object of the case is acting on behalf of the Sufragan Diocese of Tanjungkarang. The object of the case is the Certificate of Ownership Number: 11580/Tj.B dated February 11, 1999, last recorded in the name of the Defendant, Sale and Purchase Deed No.60/SKR/Tj.B. dated February 14, 1996, the Seller is Co-Defendant II, while the Buyer is Co-Defendant I who is acting on behalf of the Defendant based on the Power of Attorney dated February 10, 1996, so that Co-Defendant III, issued the object of the case of Certificate of Ownership Number: 11580/Tj.B, dated February 11, 1996, recorded on behalf of the Defendant that the Sale and Purchase Deed No.60/SKR/Tj.B dated February 14, 1996 was made before Hi. MOHD ZEIN, B.Sc., the Land Deed Making Officer of the Bandar Lampung Municipality, so that the sale and purchase of the object of the case has met the requirements of the applicable legal provisions, that the Power of Attorney dated February 10, 1996, has turned out to be the act of granting Power of Attorney from the Defendant to the Co-Defendant I in the transaction of buying and selling the land of the object of the case is not in his personal name but as his position as the Bishop of the Diocese of Tanjungkarang, from all the considerations mentioned above, it can be proven that it is true that the Defendant was once a Bishop in the Diocese of Tanjung Karang/Plaintiff and became part of the Diocese of Tanjungkarang/Plaintiff, and it has also been proven that the Defendant and Co-Defendant I in carrying out the transaction of buying and selling the land of the object of the case acted on behalf of the Diocese of Tanjungkarang/Plaintiff;, then the Plaintiff is considered to have been able to prove all the postulates of his lawsuit, then it is proven The Plaintiff is the legal owner of a plot of land covering an area of 1,500 M2 (one thousand five hundred square meters) located in Tanjung Baru Village, Sukarame District, Bandar Lampung City as per the Certificate of Ownership Number: 11580/Tj.B, dated February 11, 1996, Survey Letter No: 172/Tj.B/1998, and the Plaintiff has the right to reverse the name of the Certificate of Ownership Number: 11580/Tj.b from the name of the Defendant to the name of the Plaintiff, and ordered the Co-Defendant III to reverse the name of the Certificate of the object of the case from in the name of the Defendant to in the name of the Plaintiff, so that it should be granted.

ADJUDICATE:

1. Granting the Plaintiff's lawsuit in its entirety.
2. Declaring that the Letter/Deed of Sale and Purchase of Land Number: 60/JB/SKR/Tj.B/1996 dated February 14, 1996 which states that the Defendant is a Bishop of Sufragan Diocese of Tanjungkarang, has purchased a piece of land from Co-Defendant II located in Tanjung Baru Village, Sukarame District, Bandar Lampung City, Lampung Province covering an area of 1,500 M2 with Certificate of Ownership Number 11580/Tj.B dated February 11, 1999, Survey Letter Number: 172/Tj.B/1998 dated November 10, 1998 in the name of Monseigneur Andreas Hendrisoesanto belonging to the Diocese of Sufragan Tanjungkarang, is valid and legally binding.
3. Declaring a land area of 1,500 M2 with Certificate of Ownership Number 11580/Tj.B dated February 11, 1999, Survey Letter Number: 172/Tj.B/1998 dated November 10, 1998 in the name of Monseigneur Andreas Hendrisoesanto, located in Tanjung Baru Village, Sukarame District, Bandar Lampung City, Lampung Province, with the following boundaries:

To the North it is bordered by: Fernando land
To the East it is bordered by: Jumenan land
The South is bordered by: Sugiono land / Basuki Sawali
To the west it is bordered by: Jl. Morotai Island
It is legally valid for the Plaintiff.

4. Declaring that the Plaintiff has the right to transfer the right (change of name) of the Certificate of Property Rights No. 11580/Tj.B dated February 11, 1999, Survey Letter Number: 172/Tj.B/1998 dated November 10, 1998 which was originally in the name of Monseigneur Andreas Hendrisoesanto to be in the name of the Diocese of Sufragan Tanjungkarang
5. Ordering the Co-Defendant III to record the transfer of rights (name change) of the Certificate of Ownership 11580/Tj.B dated February 11, 1999, the Survey Letter Number: 172/Tj.B/1998 dated November 10, 1998 which was originally in the name of Monseigneur Andreas Hendrisoesanto to the name of the Sufragan Diocese of Tanjungkarang.
6. Sentence Co-Defendant I, and Co-Defendant II and Co-Defendant III to submit and obey this decision.
7. Sentence the Defendant and Co-Defendant to pay the Case Costs arising in this case in the amount of Rp.3,285,000.00,-(Three million two hundred and eighty-five thousand rupiah);

The judicial power is the body that determines the content and strength of positive legal rules by judges through their decisions. The main function of a judge is to give a verdict on the case submitted to him, where in criminal cases the judge examines and decides the case using the negative proof system (*negative wetterlijke*). The principle of the negative proof system (*negative wetterlijke*) is proof that determines that a right or event or mistake is considered to have been proven, in addition to the existence of evidence according to the law, the judge's conviction is also determined based on good moral integrity. The judge's decision is not solely based on juridical provisions that are used as the basis for the judge's consideration, but also based on the judge's conscience in seeing and assessing the applicant's motives and reasons.

Based on the explanation above, it can be analyzed that legal considerations recognized by a judge are also one of the duties and obligations of judges, namely the obligation to explore, follow, and understand the values of law and the sense of justice that live in society. This is a material that is processed to make legal considerations. It is also implied that a judge in carrying out his duties can make legal discoveries or *rechtvinding*.

CONCLUSION

Based on the results of the research and discussion, conclusions can be drawn:

1. The method of changing the name of the ownership status of the ownership certificate on which the building stands that the files that must be prepared are the application form for changing the name that has been filled out and signed by the applicant, the Deed of Sale and Purchase and the Officer Making the Land Deed, and the Identity Card of the buyer and seller, proof of Income Tax Payment Letter, proof of payment of the Land and Building Rights Acquisition Duty Deposit Letter, and also the original land certificate, Land and Building Tax Payable Tax Notice, After all the documents are ready, the next step is to bring the file to the local National Land

Agency Office. The authorities will issue proof of receipt of the name change application. Furthermore, the National Land Agency will delete the name of the old right holder and change it with the name of the new right holder in the land book and also the certificate.

2. The judge's consideration of the change of name of Decision Number: 54/Pdt.G/2023/PN.Tjk that it is true that the Defendant was once a Bishop in the Diocese of Tanjung Karang/Plaintiff and became part of the Diocese of Tanjungkarang/Plaintiff, and it has also been proven that the Defendant and Co-Defendant I in carrying out the transaction of buying and selling the land of the object of the case acted on behalf of the Diocese of Tanjungkarang/Plaintiff, then the Plaintiff is considered to have been able to prove all the postulates of the lawsuit. It is proven that the Plaintiff is the legal owner of a plot of land covering an area of 1,500 M2 (one thousand five hundred square meters) located in Tanjung Baru Village, Sukarame District, Bandar Lampung City as per the Certificate of Ownership Number: 11580/Tj.B, dated February 11, 1996, Survey Letter No: 172/Tj.B/1998, and the Plaintiff has the right to reverse the name of the Certificate of Ownership Number: 11580/Tj.b from the name of the Defendant to the name of the Plaintiff, and ordered Co-Defendant III to reverse the name of the Certificate of the object of the case from in the name of the Defendant to in the name of the Plaintiff, so that it should be granted.

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