

# Legal Protection for Land Right Holders in Land Acquisition For Public Interest

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**ABSTRACT:** To describe the juridical foundation (essentially) the legal protection for rights holders to land; the juridical requirement “Kelasiran land rights” becomes the basis for enforcing land rights; and factors that affect legal protection for land rights holders. The analysis shows that the community does not understand the function of certificates as evidence of land rights due to lack of legal socialization, especially regarding land certificates. The legal considerations and decisions of the Panel of Judges in the Supreme Court are not clearly and explicitly stated about the principles, principles and theories of agrarian/land law, but rather focus on the principle of proof of civil ownership. Therefore, legal protection for holders of evidence of ownership of land rights has not received protection in accordance with existing laws. As a form of respect for the rights of the holders of land rights, the party who needs the land, in this case the government agency, provides appropriate compensation based on the agreement of both parties through deliberation. The form of legal protection provided for land rights holders is the determination of compensation based on deliberation, appropriate compensation that can provide a better survival than the level of socio-economic life before being exposed to land acquisition, as well as filing an objection to the amount of compensation.

**Keywords:** Legal Protection, Land Rights

## I. INTRODUCTION

The problem of land is a problem that always attracts attention because land is a source of life besides water. In this life there is no human who does not need land, let alone countries that are still agrarian. Therefore, land issues are still the main problem faced by countries whose economic livelihoods are still supported by the agricultural sector.

Timor-Leste as an independent and sovereign nation so that the main thing that the leaders do is to build all aspects of the life of the small and underdeveloped East Timorese nation so that it can catch up with other nations in this world or the region. Seeing the potential and the existing situation that the people of Timor-Leste have natural resources, such as: Oil and Gas in the Timor Gap and on land, marble, sandalwood, etc. as capital that can be used by Timor-Leste as a source of state finance in running its government.

The need for land for development purposes must also receive attention in order to achieve a just and prosperous society, therefore a balance must also be sought between the need for land for personal or individual purposes and the interests of many parties or the community in general .

Land has cross-sectoral functions, namely: land has social, economic, security and defense functions, etc., so that the status of land in a country must be formulated in concrete law, namely the status of land must be clear in the applicable law in a country because in its development human needs The amount of land from time to time will increase due to the increase in population.

The country of Timor-Leste can also be said to be an agrarian country, this can be proven by about 75 % (percent) of the population of Timor-Leste whose livelihood is in agriculture, such as: farming, farming, raising livestock, fishing, etc. So land is something that is very important in the lives of farmers because the land owned

by the farmer can produce agricultural products, such as: rice, corn, sweet potatoes, peanuts, etc., so that they can be consumed and or traded in order to earn income for meet family needs.

The use of land must be adapted to its conditions and the nature of its rights, so that it is beneficial for the welfare and happiness of those who own it as well as for the community and the state. This provision does not mean that individual interests will be totally suppressed by the public interest (the community).

Looking at the existing legal basis in the State of Timor-Leste, namely the Constitution of the Republica Democratica de Timor-Leste as the highest law governing land, Article 54 and Article 141.

Article 54 stipulates that: 1. Every individual in the state has the right to private property, which can be transferred to another person, as long as he is alive or at the time of death, in accordance with the law. 2. Private property must not be used in a way that is detrimental to its social function. 3. Formal prosecution and expropriation of ownership in the public interest can only be carried out after proper compensation has been paid, in accordance with the law. 4. Only national citizens have land ownership rights.

After Timor-Leste received recognition from the International Community on 20 May 2002, the government established an institution under the Ministry of Justice, namely the Institution: Direcção Nacional de Terras, Propriedades e Serviços Cadastrais/DNTPSC (East Timor's BPN). S e hingga this institution serves for the land register, issuing certificates and settlement komplik land in Timor-Leste by the applicable law in East Timor. The legal basis governing land law in Timor-Leste is based on Article 54 and Article 141 of the RDTL Constitution so that during the independence period from 2002 until now the laws and regulations that have been made by the government in Timor-Leste are as follows:

1. Law Number 1 of 2003 concerning Legal Regulations part I: Immovable property and published in the Jornal da Republica RDTL, dated March 10, 2003).
2. Decree No. 19 concerning Year 2004 Real Estate Law Regulations: Officers, Duties and Leasing of Real Property in State-Owned Powers and published in the Jornal da Republica RDTL , December 29, 2004).
3. Law No. 12 of 2005 concerning Legal Regulation II: Real Estate section: Between Private Leases and published in the Jornal da Republica RDTL, 12 september 2005).
4. Decree No. 6 of 2011 concerning Compensation granted by the State for Occupied Buildings and published by Jornal da Republica RDTL, dated January 26, 2011).
5. Decree Number 27 of 2011 concerning Legal Regulations Regulating Non-problematic Immovable Assets).
6. Ministerial Decree No. 16 of 2011 concerning Legal Decree No. 27 of 2011 concerning Legal Regulations Regulating Non-problematic Immovable Assets

**however, this remains us a problem to solve as to** What are the factors that influence legal protection efforts for land rights holders?

## II. DISCUSSION

Today the role of land for various purposes is increasing, both as a place to live and for business activities. In connection with this, the need for support in the form of legal certainty in the land sector will also increase. The provision of legal certainty in the land sector requires the availability of written, complete and clear legal instruments that are carried out consistently in accordance with the spirit and content of the provisions. In addition, in the context of dealing with various real cases, it is also necessary to carry out land registration activities that allow land rights holders to easily prove their rights to the land they control, and for interested parties to obtain the necessary information regarding the land that is the object of their control. legal actions to be carried out, as well as for the government to implement land policies.

This provision implies that as long as the contrary has not been proven, physical data and juridical data included in the certificate must be accepted as correct data, both in daily legal actions and in disputes in court, as long as the data is in accordance with what is stated in the letter. measuring and the relevant land book. Legal protection for land rights holders is generally caused by lack of knowledge and public awareness of the importance of proof of property rights. Although normatively, the government has attempted to do so through regulations that have been drawn up to protect the community as far as possible from the law of ownership of land rights.

The following are several factors that affect legal protection efforts for land rights holders :

Understanding of the functions and uses of certificates

The community in general does not understand the function and use of certificates, this is due to the lack of accurate information about land registration. Due to the lack of accurate and easy-to-understand information about land registration, it will affect people's awareness to register their land.

What's even worse is that people think that land rights certificates are only seen from an economic value, such as:

The assumption is that certificates are only needed to increase the price of a plot of land as compensation for the cost of obtaining a certificate to the land office, while people assume that the economic price of a plot of land is assessed based on the size and quality of the land.

The assumption is that a certificate is only needed if there is a need to apply for a loan at a bank as a guarantee for granting credit which will be used as an object of mortgage.

The long time factor in obtaining certificates The assumption that the community takes a long time to process land title certificates is very reasonable, as revealed by respondents who have registered their land sporadically individually.

The presumption factor for the basis of land rights owned is very strong, many people do not know the function and use of certificates, most think that the evidence they have so far is a certificate from the sub-district head/village head, or without written evidence but the people around the land admit it is strong evidence of rights, especially for land obtained from inheritance, generally community members know the history of the owner of the land so that this belief will be stronger.

Expensive Cost Factors for Implementing Land Registration Furthermore, based on the results of research in the field, the implementation of land registration did not work, apart from the influence of lack of accurate information on land registration , it turns out that the level of public education affects people's awareness to register their land and is also influenced by the assumption that to Registering land costs a lot of money.

### III. CONCLUSION

1. Right is an interest that is protected by law and gives pleasure to individuals to exercise it. Owner is a legal subject who is burdened with ownership rights to a movable or immovable property. Property rights are the most absolute rights where the holder as a legal subject has a relationship with a legal object and other legal subjects respect the relationship, the rights of the right holder as a legal subject are free to control and use it. The right of ownership of land in question is the right to land controlled by citizens of Timor-Leste with the status of property rights obtained before the independence period.

2. Protection is an act or thing to protect. Legal protection is an act of protecting legal subjects with applicable laws and regulations and can be enforced with a sanction. Owner is a legal subject who is burdened with ownership rights to movable or immovable property. The intended legal protection is to protect the rights and obligations of the holder of property rights to the lands of the citizens of Timor-Leste which were obtained before independence by the policies of the Government of Timor Leste.

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