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State Land and the Receipt of Their Rights on the Basis of Physical Control over the State More Than 20 Years Is Constantly

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Abstract:

State land was in which is controlled by the state, where on it there has never been or not burdened with land rights particular. The mastery of the country is on the basis of the right to control state as the article 33 paragraph (3) constitution 1945. Against the free countries can be fulfilled its right to meet specified terms. But within the community, developing that physical interpretation control over the country for 20 years is constantly entitles automatically as the owner of the land. The methodology in this research using type of research normative legal principles and regulations legislation on land , mastery and the receipt of land rights countries .This research is descriptive using the data literature impact study to obtain secondary data use of legal primary materials derived from legislation in the field of land law , the law as stated in the library and resources from the internet .Research results analysis qualitatively where research results presented in the form of a series of sentence

Keywords: state land, mastery of physical

1. Introduction

1.1. Background Problem

The ground has significance in human life because most people's lives depend on land. This is because the land is a means of tying social unity within the community for survival, the land is also a factor in the implementation of development capital, and economic relationships, as seen from the land is a factor of production where people live on it. The term ground can have different meanings depending on the scientific point of view to perceive it. In terms of the land surface of the Earth is a juridical covering the surface of the Earth that exists on land and surface of the Earth that is on the bottom of the sea. Therefore, in the concept of law, land has three dimensions, namely, outer space, the surface of the Earth and under the Earth. Seen from the ground, the status of the classification of land in Indonesia land rights and differentiated into State land. According to Maria SW Soemardjono, national land law concept recognizes 3 types of land according to its status, i.e., State land, land rights and customary land (Rikardo Simarmata, <http://ejournal.undip.ac.id/index.php/lawreform/article/viewFile/697/564>: 1). The opinion of the case in accordance with Law No. 5 of 1960 concerning the basic Regulation Staple Staple Agrarian (BAL), where since the enactment of BAL, there are 3 kinds of soil types, namely:

1. State land. State land is the land upon which there has not been or is not yet burdened with certain land rights.
2. Land rights. Land rights are a ground upon which already there or already burdened with certain land rights.
3. Customary Land. Unalienated land is land owned by customary law society (Urip Santoso, 2011:207).

Regarding the State land is land owned by the State, is the concept of land ownership which is directly controlled by the State, where the land was not yet certified registered. According to the provisions of article 1 point (3) PP No. 24 of 1997 on land registry (PP land registry), State land or land that is directly controlled by the State is the land that does not belong to a land rights. It is currently not easy to determine how much land area of the country. At one party in Government requires land for the benefit of, done with taking land that belonged to the holders of rights (Maria S.W. Sumardjono, 2009:59).

State land can be differentiated into free State land and State land that is not free. Free State land is land that is directly under the domination of the State and on the ground that none of the rights owned by other parties. Going to therapy over land may be appealed to the Government right. While not free land is State land on which already carrying a right have others among other rights management (Herman Hermit, 2004:111).

It is said that towards the land of the free State, it is possible the ground state is given the status of land rights to someone. It means that against State land; If eligible; both the parties concerned and if the country does not need the land for the purposes of the Organization of the Government and other public services, that party may apply for the right to be able to have a right over the land (Djoko Waliajatun, 2009:68). State land can be given with a right over the land is State land. With the possibility to land rights status given country, the society develops an interpretation that state land that has been used continuously for 20 years or more may be

owned or say that someone who has mastered the state land for 20 years automatically becomes owners. Such opinions are justified by the law of the land remembers the sense of mastering should be distinguished between mastery and control as the owner of a person of land belonging to others, for example by means of a catch although ruled for 20 years may not be the owner, unless it has been obtained by way of passage rights (Anwar Barohima, 2015:2). Moreover, in a society there is also a form of mastery in the form of arable or arable land that is known for, which a number of legal literature land arable land potential by the use without the permission of the owner or of his authority and unauthorized occupation of land (*inwettige occupatie*) (Supriadi, 2007:23). Arable land is not a kind of right of land ownership which is set in the BAL, where to land plots not yet clung a right it is possible to be registered as property rights into provisions of the regulation on the registration of land. Work on rights is a particular land rights to another party.

1.2. Formulation of the Problem

Based on the aforementioned background problem description above, it can be formulated several problems, as follows:

1. how is the authority granting rights over State land?
2. what is the mastery of State land for 20 years in a row will automatically make the person who master it as owner?

1.3. Research Objectives

As for the goals of this research are as follows:

1. to discover, analyze and describe about the authority of granting land rights of the State.
2. to discover, analyze and describe about the mastery of State land for 20 years in a row will automatically make the person who master it as owner.

1.4. Research Methodology

The type of research used in this study is a type of normative research against the legal principles and laws and regulations on State land, mastery and obtaining the rights to the ground state. The study was descriptive in nature analytical by using a data collecting tools study library to acquire secondary data sourced from the primary legal materials emanating from the legal regulations in the field of the law of the land, secondary law materials that describe the primary legal materials emanating from the books mentioned in the references and sources from the internet. The research analyzed qualitatively where research results are presented in the form of a series of sentences.

2. Discussion

2.1. State Land

2.1.1. The Conception of State Land

Land at some stage as mandated by article 33 paragraph (3) of the Constitution by the State and used the people's prosperity, as most of the provisions of article 2 paragraph (1) BAL. In the provisions of article 4 paragraph (1) of *L aw on Basic Provisions of the Principal Subject of Agrarian* (BAL) said, "on the basis of the rights of the master of the State as referred to in article 2 defined the existence of various rights to the surface of the Earth, called a ground, which can be given to it and to others as well as legal bodies." With the concept of the rights of the master of the country, then all the ground is considered State land including land rights, namely that the right dominate of the country includes all land in the territory of the Republic of Indonesia, whether or not ground or in intellectual property with the right individual in the BAL land called controlled directly by the State (Boedi Harsono, 2003:274). To distinguish the two, the land rights of the so called State land in the narrow sense, whereas the ground state is called the ground state in the broad sense (Rikardo Sumarmata: 1). The sense of State land, applies only to the legal system, where the State is the absolute owner of land (*dominium eminens*) as ruler of the highest holder of the sovereignty of the law. That is, Countries that do not adhere to the legal system, where the State is the owner of the land, then the land's highest State is not needed. Because the legal conception of State land, the land is owned by the State as the Organization of the powers of sovereignty rights of the owners of the Supreme Law of the country, thus becoming the tallest landowners, as described in "the *I institutes of Justinian*" (Henry Campbell, 1979:719). Therefore, the use of the term "State land" such as Indonesia where the country is not the highest land owners, is contrary to the general law of civil liability in the conception of the modern world. In fact, the use of the term "State land" with the meaning "land of interpretation belongs to the country" (*staatsdomein*) or 'State land' (*landsdomein*), from September 24, 1960, was unconstitutional. Because both the philosophy, principles, doctrine and the theory of ownership "*eigendom*" in the law of the Land and agrarian NBW/Civil Code, as well as the teachings and theories of State ownership statement (*domeinsverklaring*) through article 1 Agrarische Besluit 1870, all of which have been repealed by Act No. 5/1960 (BAL 1960). Thus the concept of "Stateowned land" (*S taatsdomein*) as well as the land of "private property" (*p rivaateigendom*), has been repealed and does not have the force of law in force in Indonesia, since 24 September 1960. The concept of "State land", supposed to mean and is meant by the term "controlled countries" mentioned in article 33 paragraph 2 and 3 UUD1945. Constitutional terms which, in fact, means "belonging to the" for setting the relationship keagrariaan (Nia Kurniati etc, were Inaugurated, 2012:21).The term State land comes from the Netherlands East Indies colonies Government archeologist who consider the land that cannot be demonstrated ownership of the letter into the land belongs to the Government of the Netherlands, so that at that time all lands become State land (Supriadi, 2010:20). At that time the State land is defined as the owner in the sense of belonging to the ground, where Indonesia including colony and was part of the Kingdom of the Netherlands. Coming from a background of system's attempt to shape the absolute monarchy/by (feudalism), land in the territory is

land belonging to the King/Queen as the owner and the people who are in the region is the tenants or tenant of land. A logical consequence of the model of the relationship between the King and the people as owners as tenants, known as the system of land ownership which is referred to as the doctrine of *land tenure*. In the political order is law of the land at the time was State land is State owned (King/Queen) and arranged in *Agrarisch Besluit* (s. 1870118)(Boedi Jatmiko, 2008, [http://sertifikattanah.blogspot.co.id](http://sertifikattanah.blogspot.co.id;)); 2). State land could have a different meaning and understanding. State land could mean the assets of the State, where the asset was the sense such as wealth or possessions. Another misguided notion is State owned land. From the national land law review is often said that shouldn't be said State owned land for a term customarily are ground even at the highest level as mandated by the Constitution of the State and used for the most of people's prosperity (Djoko Walijatun, 2009:68). Clarification about the sense of State land is becoming increasingly important given the impact that may arise when there is no commonality of perceptions on this subject (Maria S.W. Sumardjono: 59). State land as well as other land (e.g. land property rights and so on) shows a status of a specific relationship between the object and the subject in the context of this more towards a relationship of ownership or possession between the subject and the object in question. So in that sense, if we mention the State land means land as an object and as the subject where the country as a subject has a specific legal relationship with its object, namely the ground. As for this legal relationship can be a relationship of ownership, power or possession (Boedi Djatmiko: 2). State land included in the land that hasn't been clung rights, where in the land registry administration although State land may not be certified but State land on the list. State land is land which is directly controlled by the State. Directly controlled means that there is no other party above the land, the land was also called the land of the free State. According to Boedi Harsono, the lands controlled by the State are not lands a right, not a land endowment, not the land rights management, rather than the customary rights to the land, not the lands of the clan and not the land – land of forested areas, but the remainder of the lands which is land that actually directly controlled by the State. Land ownership is carried out by the national land Agency (2003:275). In terms of Regulation No. 8 in 1953 about mastery of State lands (PP Mastery Lands State), article 1 subparagraph (a) States, State land is the land of yan was conquered by the State. Furthermore, according to article 2 of the said land ownership, unless the country with legislation or other regulations at the time of the enactment of government regulation is submitted to a Ministry, Department, or Autonomous Regions, then mastery of State land exists on the Secretary of the Interior (Bachtiar Abna and Dt

Rajo Sulaiman., 2007:2). Furthermore, the State land according to the regulations of the national land Agency Head No. 2 of 2013 about delegation Authorizes the granting of land rights and land registry Activities, the land directly controlled by the State is the land that does not belong to with something land rights. State land can be distinguished into two types, namely the free State land and State land that is not free. Free State land is State land that is directly under the Dominion of the State, on the ground that none of the rights of the parties other than the State. Land of the free is able directly petitioned by us to the State/Government through suaru procedure that is shorter than the procedures of State land that is not free. While the free State land is a topped country tenah already had a right have others, for example:

1. State land on which there are rights management owned by Perum Perumnas: Pertamina, Bulog, the Special Authority as the Agency's Authority, Batam (island of Batam), etc.
2. State land on which there is a right like the HGU belongs to state owned enterprises (like PTP and the Forestry Department) as well as a private business entity engaged in the business fields: agriculture, forestry, fisheries).
3. State land on which there is a usage rights belongs to the people (WNI) or PMA or PMDN or PMA and PMDN joint venture, and representatives of foreign countries or international.
4. State land upon which there has been other rights, such as the DEFINITION of.

Against the new land is not free can we ask for the inheritance rights if it has obtained a license and/or free up existing rights the land of the holder (Herman Hermit:111112). In the juridical order, there are two categories of State land that is visible from the origin, i.e.:

1. State land that comes from land that is truly unprecedented land rights are attracted onto of that land or referred to as the land of the free State.
2. State land that came from lands that were previously there was right, because the something thing or the existence of specific legal deeds became State land. Former West, land rights with certain land rights has expired, land expired, a land stripped of its rights, soil released voluntarily by the owners (Boedi Jatmiko: 4).

According to BF Sihombing, State land can be distinguished into (1996/1997:2):

1. State land, i.e. land directly controlled by the State in order to master the rights of States to govern the Earth, water and space as well as the natural resources contained therein on a highest degree controlled by the State as the Organization of the powers of all the people who have the authority to:
 - a) manages and organization the allocation, use, supply, and maintenance of Earth, water and space.
 - b) defines and regulate the legal relations between the people of Earth, water and space
 - c) Determine and regulate the legal relationships between the people and the deeds of the law regarding the Earth, water, and space.
2. State land, the lands owned by the Government, namely the lands obtained Central Government or local Governments upon nationalization, the granting of voluntary surrender, or through land acquisition, and deed of ownership rights.
3. State land is land that has no or controlled by the communities, private agencies and religious legal entity or social bodies as well as the lands owned by representatives of foreign countries.

In the practice of developing mastery over land rights in the form of country work on arable land that is known for. Arable land is not regulated and is not known in the construction of the law of the land. Boedi Harsono emphatically said that the national land law does

not recognize the land arable. Even BAL themselves do not set up the plots of arable land because land is not a requirement of the rights (Boedi Harsono: 272). Of arable land; often termed soil; is occupied, worked on and/or master piece of land or have plants or building on it is not questioned that building dergan used alone or not (BF Sihombing: 2). The land plots were originally defined by concessions of State land or processing by individuals or groups illegally. So can refers also to the illegitimate occupation (Rikardo Simamarta: 3). The notion of arable land in the legislation is the use of the land without the permission of the owner of the land occupation power and asauare not valid (*onwettige occupatie*). Arable land types can be grouped into three, namely:

- 1) of arable land above the ground which is directly controlled by the State; arable land
- 2) above ground agencies or Government owned legal entity; arable land 3) above individual country or body land private law (11: Supriadi).

Arable land is a piece of land which already or not yet clung with a level of rights or exploited by others even with the consent of or without the consent of reserves the right with or without a specific time period. The understanding is based on the reason:

1. Cultivation can be done either on the ground or above the ground state rights;
2. Cultivation can be done with permission or without permission
3. implementation of the can with or without period (Rikardo Simamarta: 3).

Although the sound of the legislation says the ground work on is the use of land without permission, but in the practice of developing understanding, that pipeline instead of regarded as unauthorized occupation of land plots, however, equated with property rights because tenants may indicate letters which can prove that it has a pedestal right orevidence of entitlement to the land. So the above assumption, the implementation has the right to cultivate and use, the right to transfer (sell, bequeath and giving benefaction), the right to rent, and get redress or compensation (Rikardo Simamarta: 34).

2.1.2. Authority Granting Rights Over State Land

The rights of the master of the country is a term given by BAL to concrete legal institutions between the State and the land of Indonesia whose purpose is as mentioned in article 2 paragraph (2) and (3) BAL (Boedi Harsono: 271), namely:(2) the rights of the master of the country gives the authority to:

- a. arranges and organize designation, use, supply, and maintenance of Earth, water and space;
 - b. defines and regulate the legal relations between the people of Earth, water, and space;
 - c. Determine and regulate the legal relationships between the people and the deeds of the law regarding the Earth, water and space.
- (3) the authority which is sourced on the rights of the master of that State in paragraph(2) of this article, used to achieve the most of people's prosperity of the people, in the sense of nationality, wellbeing and independence in their communities and the State law of Indonesia which independent, sovereign, just and prosperous. The authority of the State in the field of land devolution is a task left to the nation State, where the authority is the authority to manage a country that merely be public eye with different legal relationship is between State and ownership of land based on the *Domein Verklaring* in administrative law of the land prior to the enactment of BAL (Boedi Harsono: 271272).The rights of the master of the country is nontransferable to other parties. However, State land can be given with a land rights to another party. But that does not mean granting the country waive country over the land. The land remained in the mastery of the country it's just against the land in question, the rights of the country becomes limited, until the limits of authority which is the content of the rights granted. In granting this right, the State also restricted with customary indigenous law societies (BoediHarsono: 276277).Because the State has the right to master the land, then the State has the authority for granting rights over State land. The granting of land rights state is granting land rights controlled directly to someone or some people together or a legal entity. Who can have land rights according to article 9 paragraph (2) BAL is every citizen of Indonesia, both men as well as women have equal opportunities to obtain a land rights for the benefit and the result, either for themselves or their families. As for foreign citizens and foreign legal entities which have a representative in Indonesia is very limited, only limited rights of rental and usage rights. Is the grant of rights according to the provisions of article 1 point (6) of the regulation of the Minister of Agrarian No. 3 of 1999 regarding the Granting Authority devolution and cancellation Decisions Granting land rights to the State, is the determination of the Governments that provide an entitlement to State land, including the extension of the period of entitlement and renewal rights? Whereas according to article 1paragraph (8) of the decision of The Head of the National Land Regulation No. 9 of1999 on the Procedures for Granting and Cancellation of Rights on State Land and Management Rights regarding the procedures for the granting and cancellation of the country's land rights and Rights Management, understanding extended rights, namely the determination of the Government to give an entitlement to State land, the extension of the period of entitlement, the renewal of the rights, including rights over rights management. Furthermore, according to The Head of National Land Regulation No. 2 of2013 regarding the delegation of authority land titling and land registration activities, the granting of land rights is a Government assignment which give a right to the land of the country, including the extension of the period of entitlement and renewal rights as well as rights over Rights Management. Based on such understanding, then the State land that has not been clung earlier, rights can be obtained or granted rights based on the determination of the Government based on the provisions of the applicable law. Granting those rights according to the provisions of the Ordinance of Agrarian Ministerial Regulation No 3 of 1999 regarding the delegation of authority granting and cancellation of decision to grant rights to state land can be distinguished into three kinds, namely:
- i. Granting Rights on an individual basis, that is, of granting rights to a plot of land to a person or a business entity or a few people or legal entities together as recipient rights together, made with one assignment rights.
 - ii. Granting rights collectively, i.e. the granting of rights to several plots of land each to anor a legal entity or to some person or legal entity as beneficiary rights together, made with one assignment rights.

- iii. Granting rights in General, that is the granting of rights to plots of land that meets certain criteria to the right recipients meet certain criteria that are done with one assignment rights (Urip Santoso: 212213).

It is said that the rights of the master of the country cannot be transferred to another party. However, its implementation can be delegated to local governments and communities customary law throughout it required and not contrary to the national interest as an assistant task, not autonomy.

The authority of granting land rights according to The Head of National Land Regulation No. 2 of 2013 regarding the delegation of authority land titling and land registration activities carried out by the national land Agency which assigned to the Head Office of land, provided that:

- 1) Granting property rights to individual people over agricultural land is no more than 50000 m² (fifty thousand square meters).
- 2) The grant of property rights to individual people's non-farm land is not more than 3000m² (three thousand square meters).
- 3) Granting property rights to religious and social legal entity that has been set based on the Government Regulation Number 38 in 1963 about the appointment of the agencies of law can have property rights over land, non-farm land is no more than 50000 m² (fifty thousand square meters).
- 4) The granting of property rights on land within the framework of implementation of the programme: resettlement, land consolidation, land redistribution, a Program financed by the state budget and/or budgets; and the land registry that is strategic and bulk.
- 5) the awarding of Building use rights to individual people over land is not more than 3000 m² (three thousand square meters) ;
- 6) the granting of Building use rights to legal entities on the ground is no more than 20000m² (twenty thousand square meters) ; and
- 7) the granting of Building use rights over land Rights Management.
- 8) granting of usage rights to individual people over agricultural land is no more than 50000 m² (fifty thousand square meters) ;
- 9) granting of usage rights to individual people's non-farm land is not more than 3000 m² (three thousand square meters) ;
- 10) granting of usage rights to a legal entity of private, state owned enterprises/local non-farm land is no more than 20000 m² (twenty thousand square meters) ;
- 11) granting of usage rights over land Rights Management; granting of usage rights and assets of the Central Government and local governments. Subsequently became head of the authority of the head of regional Office of BPN with regard to the decision of granting land rights:

1. Granting property rights to individual people over farmland that the extent of more than 50000 m² (fifty thousand square meters) wide and no more than the maximum limit of ownership of individual farms.

2. Granting property rights to individual persons on the ground of nonagricultural extent of more than 3000 m² (three thousand square meters) and a maximum of 10000 m² (ten thousand square meters).

3. granting property rights to religious and social legal entity that has been set based on the Government Regulation Number 38 in 1963 about the appointment of the agencies of law can have ownership rights over the land, the land of the nonagricultural extent of more than 50000 m² (fifty thousand square meters) and not more than 150,000 m² (one hundred and fifty thousand square meters).

4. The head of the Regional Office of BPN gives decision regarding the grant of Rights to the extent of the Effort on the ground no more than 2,000,000 Sqm (two million square meters).

5. The granting of Building use rights to individual people on the ground that the extent of more than 3000 M² (three thousand square meters) and a maximum of 10000 m² (ten thousand square meters) ;

6. The granting of Building use rights to legal entities on the ground that the extent of more than 20000 M² (twenty thousand square meters) and not more than 150,000 M₂ (one hundred fifty thousand square meters).

7. The giving of decisions regarding assignment of land to be State land reform object.

The head of the national land Agency of the Republic of Indonesia gave the decision on granting the land rights not delegated those powers to the head of the regional Offices or head of BPN Land and establishes the granting of rights to the land ceded in General.

2.2. *Physical Domination for More Than 20 Years Continuously as the Basis for the Acquisition of Entitlement to State Land*

In developing a community interpretation, that the physical mastery over State land for more than 20 years has legal consequences that people who master it automatically is the owner. The interpretation is not at all correct or incorrect in solely based on mastery, in the provisions regarding the possibility of mastery over the past 20 years is only addressed to the owner of the land and not to the person ruled the land of others. In practice an awful lot of land ownership. There are known with the right work on which is the mastery of a particular land. Work on the right appears on the land plots is a land that has not been tied up a rights and carried out or taken the benefits by other parties. Tenants work on and take advantage of the land based on the letter of the plots provided by the party reserves the right, in this case usually are usually entitled to is

country. So it could be said of arable land is State land taken its benefits by the tenants based on mail returned. Basically a mastery over the soil can occur in the sense of mastery in the sense of physically and legally as well as private and public aspects. Mastery in the sense of mastery that juridical enshrined rights that are protected by law for control of the land physically owned. For example, the owner uses or benefit from land owned and not handed over to another party. There is juridical mastery, although it authorizes to take land owned by physically, but in fact his physical domination performed by another party, such as someone who has not used the land itself, but was leased to another party. In this case in juridical land owned land owners but is physically controlled by the tenant (Urip Santoso: 23).

According to the provisions of article 23 of the letter (a) PP land registry, landownership in particular proving ground state is based on:

1. the determination of the rights of official entitles the authorities concerned according to the provisions in force when the rights came from State land or land rights management;
2. the original deed of PPAT that contains those rights by the holder of the proprietary rights to the recipient in question when regarding the building use rights and usage rights over the land ownership rights;

Physical mastery for 20 years that allow a person to be the owner was by way offiling the petition rights with qualified as provisions of article 23, which is not the mastery of mastery over land belonging to other people. Physical mastery for 20 years continuously mentioned is the physical mastery as a condition of registration, as the provisions of article 24 PP land registry governing the rights of old, that is proof of the old rights from someone who wanted to register their rights, which in full reads as follows:

1. for the purposes of the registration of the rights, land rights are derived from the conversion of the old rights evidenced by the instruments of evidence about the existence of those rights in the form of written evidence of witnesses and or statements concerned that the levels of the truth by the Committee Adjudication in the land register systematically or by the head of the Office of the Land in the land register are sporadic, is considered sufficient to register the rights, the holder of the rights and privileges of others bog it down.

2. in case of not or no longer available the full tools of proof referred to in paragraph (1),the rights can be exercised based on bookkeeping fact mastery of physical parcels of land in question for 20 (twenty) years or more in a row by an applicant for registration and the introduction of its predecessor, provided:

- a. mastering was done in good faith and openly by those concerned as being entitled to the land, as well as strengthened by the testimony of a person who can be trusted;
- b. the mastery of both before and during the announcement as referred to in article 26is not in question by the general customary law or the concerned villages or others. Based on these provisions, then it is the mastery in versus continuously for 20 years is related to the proof of "old right", where if the mastery over the land of the country there is no more complete tools of proof as the basis for registration of land rights, then the authentication can be done based on the fact of physical mastery of the land in question for 20 (twenty) years or more in a row by an applicant for registration and its predecessors with the terms:
 - a. such mastery done in good faith openly by those concerned as the party that has the right to land;
 - b. strengthened by the testimony of a person who can be trusted;
 - c. such mastery does not question the general customary law or the concerned villages or other parties.

State land controlled by the person authorized with the right work on can be requested to the State debt corresponding to those powers can be requested on the local land Office meets the requirements and procedures specified as conditions of the decision of The Head of the National Land Regulation No. 9 of 1999 on the Procedures for Granting and Cancellation of Rights on State Land and Management Rights. Specifically, for ground work on top of State land rights can apply to the State with land allocation plan fit in that location are commonly referred to by *counsel and Planning*, which in *Spatial planning advice* look allotment location, whether for residential, Office, vertical, residential education, government offices, the refinement of the Green Garden (PHT), a means of exercise, the cemetery, industry and were housing, agricultural land or plantations. Rights that can be assigned to land the State appealed his due as the provisions of article 2 of the decision of The Head of the National Land Regulation No. 9 of 1999 on the Procedures for Granting and Cancellation of Rights on State Land and Management Rights is property rights, use rights, use rights, Buildings usage rights over State land and Rights Management. The granting of such rights may be exercised by a decision granting rights individually or collectively or in General. According to the provisions of article 4 of the decision of the Minister of the Agrarian, before applying for rights, an applicant must master the land requested is evidenced by the juridical data and physical data in accordance with the provisions of the applicable legislation. In terms of land Management Land Rights is requested, the applicant must first obtain the agreement in the form of land use designation of the holder of Rights Management. Whereas in terms of land requested land is forest area, must be first removed from his status as forest area in accordance with the provisions of the applicable legislation. Whereas certain lands necessary for the conservation of which is specified by the Minister cannot be invoked with something land rights. The requirements that must be met for the filing of a petition for State land rights are:

1) Solicitation Rights filed in writing, which contains:

a. Description of the applicant:

1. if the individual: name, age, nationality, place of residence and his work as well as a description of the wife/husband and son who is still in his charge;
2. When legal entities: name, seat, act or its regulations, the date and number of the decision letter of endorsement by the competent authority about his appointment as legal entities can have property rights based on the provisions of the applicable legislation.

b. description of the soil which covers the juridical data and physical data:

1. Basic mastery or pedestal right can be a certificate, letter, girik, letters evidence of waiver and payment of land and House and or land that had been purchased from the Government, the ruling of the Court, deed of PPAT, deed of waiver, and letters evidence of acquisition of land;
2. the location, extent and boundaries (if any Measure or Picture Mail Situation mentioned date and number) ;
3. soil type (agricultural/nonagricultural)
4. land use Plans;

5. the Status of land (land rights or State land) ;
6. other: information on the number of fields, and the status of the lands owned by the applicant, including plots of land that are requested;
7. other information as deemed necessary.

The petition presented to State Minister of Agrarian land tenure through the head of the local Office of the lay of the land for further processing based on PP land registry and then head of the Office of land registration:

1. check the investigate data completeness and juridical and physical data;
2. Noted in forms;
3. Give a receipt file appropriate application forms;
4. inform the applicant to pay the costs required to complete the application with details in accordance with the PP land registry.
5. Once the requirements are met and complete and have been processed accordingly PPLand registry, it will be published Decree

Granting land rights who petitioned his due.

So based on that, they are physically controlled a parcels of land for 20 (twenty)years or more in a row, is not absolute, but the owner can apply rights and can only bedone with a number of requirements with proof that such mastery done in good faith and open as well as supported by witnesses. Proof of entitlement with the physical mastery is includes the following requirements:

1. the applicant has significantly controlled the land in question for 20 years or more in arow, or has acquired a mastery of it from Parties or other parties who have the hang of it, until the time of the applicant's mastery and the predecessor amounted to 20 years or more;

2. land ownership had been conducted in good faith;

3. the mastery of it never contested and are therefore considered to be recognized and allowed community customary law or the villages in question;

4. the land was now not in dispute;

5. If the statement contains terms which do not correspond to reality, the signatory is willing to be sued in the face of the judge in criminal or civil liability for giving false information (Agus Prayitno. <http://kioshukumonline.blogspot.co.id> .,: 1)Based on these requirements, the physical mastery of not, but the sheer mastery of mastery that meet the requirements, where proof of physical ruler for 20years in a row by the applicant or by his parents/family or a new parent is used if there isno written evidence and/or witnesses. So with reference to the decisions of the Agrarian Minister/head of BPN No. 9 in 1999, such mastery should be supported evidence of ownership of mastery. So not solely ruled the land for 20 years then automatically becomes the owner. Therefore, for the parties who controlled the land even in a period of more than 20 and it turns out that the land rights of others even though the terms will not be fulfilled in good faith may obtain rights as owner.

3. Covering

3.1. Conclusions

Investigation and analysis of the above discussion, it can be drawn in a conclusion, as follows:

1. the authority of granting land rights of the State is the authority of the State based on privileges ruled the country over land as a mandate the provision of article 33 paragraph (3) of the Constitution which implementation carried out by the national land Agency in accordance with the provisions of the decision of the Minister of Agraria/head of BPNNo. 2 by 2013, the authority delegated to the Office of lands and Land Office Area.

2. physical mastery over That State land for 20 years' continuous years does not make the person who controlled automatically as an owner because of rights must apply in writing to the BPN and can only be done with a number of requirements, as follows:

- a. the applicant has significantly controlled the land in question for 20 years or more in arow, or has acquired a mastery of it from Parties or other parties who have the hang of it, until the time of the applicant's mastery and the predecessor amounted to 20 years or more;

- b. such mastery done in good faith openly by those concerned as the party that has the right to land;

- c. strengthened by the testimony of a person who can be trusted;

- d. Mastery it never contested and are therefore considered to be recognized and allowed community customary law or the villages in question;

- e. the land was now not in dispute;

- f. If the statement contains terms which do not correspond to reality, the signatory is willing to be sued in the face of the judge in criminal or civil liability for giving false information

- g. mastery is not in question by the general customary law or the concerned villages or other parties.

- h. To State land with the right returned accompanied by *Advice Planning Space*.

3.2. Suggestions

Advice that can be given are related to these problems are:

1. To BPN in order not easily are immediately granted the petition of rights only with the physical mastery without clarification properly against the existence of the evidence base rights.

2. To the Government, need to do settings in detail the physical mastery criteria for 20 years continuously so that there is legal certainty in the granting of rights on the basis of mastery over State land.

4. References

- i. Indonesia. The Basic Law 1945.
- ii. _____. Law on Basic Provisions of the Principal Subject of Agrarian. Act No. 5 of 1960, LN. No. 104 in 1960. TLN. No. 321.
- iii. _____. Government Regulation about land registration. P.P. No. 24 in 1997. LN. No. 57 of 1997. TLN No. 3696.
- iv. _____. Government Regulation about mastery of State lands. PP No. 8 in 1953.
- v. _____. Agrarian Ministerial Regulation No 3 of 1999 regarding the delegation of authority granting and cancellation of decision to grant rights to state land.
- vi. _____. The Head of the National Land Regulation No. 9 of 1999 on the Procedures for Granting and Cancellation of Rights on State Land and Management Rights.
- vii. _____. The Head of National Land Regulation No. 2 of 2013 regarding the delegation of authority land titling and land registration activities.
- viii. Boedi Harsono. Agrarian Law of Indonesia: the history of the Law of agrarian subject matter, content and its implementation volume 1, ed. Rev. Cet. 9, Jakarta: ^, 2003
- ix. Bachtiar Abna and Dt. Rajo Sulaiman. The management of Customary Land and State land.
- x. The Institution of Customary Natural Density Minangkabau (LKAAM). West Sumatra, 2007.
- xi. B. F Sihombing. The implementation of Law No. 5 of 1960 concerning the prohibition of the use of land without permission or Authority entitled in the region of Jawa. Graduate Master's Degree of Law Science University Taruma State. Jakarta, 1996/1997.
- xii. Djoko Walijatun. Management of State Land. Renvoi No. 7, 79.
- xiii. Henry Campbell Black, B lack's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern, St. Paul: West Publishing Co., 1979.
- xiv. Herman's Hermits. H ow to obtain a certificate of Land ownership rights, State land and land of local government: theory and practice of Registration of land in Indonesia. CET. 1.
- xv. Bandung: Advanced Rail Publisher, 2004.
- xvi. Maria S.W. Sumardjono. The policy of land Between regulation and Implementation. Jakarta, Kompas Book, 2009.
- xvii. Nia Kurniati, Final Report of the Assessment Team of the Law On the Management of State Land for The People's Welfare. Jakarta: Center for research and development of the Agency's National legal system construction of the national law of the Ministry of law and human rights REPUBLIC of INDONESIA, 2012.
- xviii. Supriadi. Law Agrarian. Cet. Fourth Ray Jakarta: Grafika, 2010.
- xix. Urip Santoso. Registration and the transition of the rights over the land., ed. 1, Cet. 2, Singapore: Kencana, 2011.
- xx. Agus Prayitno. L and ownership 20 years More. h ttp://kioshukumonline. blogspot.co.id. retrieved Friday, November 13, 2015.
- xxi. Anwar Barohima, 20 years ruled the Land Automatically Becomes the owner of the. <http://hukumperdataunhas.files.wordpress.com> . Accessed date Friday, November 13, 2015:29 BST.
- xxii. Boedi Jatmiko. 2 008 . State land and authority Granting the right. <http://sertifikattanah.blogspot.co.id> , accessed November 13, Friday: 12 December 2015 BST.
- xxiii. Rikardo Simarmata, Symptoms of arable Land on the Informality. <http://ejournal.undip.ac.id/URindex.php/lawreform/article/viewFile/697/564>. Accessed date Thursday, November 12, 2015:23.00 pm.