



## Juridical Review on the Granting of Land Rights to Transmigration Citizens in Labuan Kuris Village, Lape District, Sumbawa District, Indonesia

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### **Abstract**

This study aims to determine and analyze the implementation of granting land rights to transmigrants in Labuan Kuris Village, Lape District, Sumbawa Regency, as well as the obstacles in the process of granting rights and how the government tries to grant rights to transmigrated citizens. The research method used qualitative methods with descriptive qualitative analysis. This type of research used in this research is empirical research. The results showed that the implementation of granting land rights to transmigrant residents in Labuan Kuris Village, Lape District, Sumbawa Regency, was carried out in several stages, starting from the first through the compensation process provided by the Nusa Tenggara I River Basin to transmigrant residents, which was then carried out Cadastral measurement and soil inspection by committee A Sumbawa Regency Land Office. After the decree was issued, the applicant (transmigrant resident) brought the decree to pay the BPHTB and after all the processes were completed, a certificate would be made and handed over to the transmigrant residents. The obstacles experienced in the process of granting rights were juridical and non-juridical obstacles. The first juridical obstacle is the length of time to obtain data and compensation provided by the Nusa Tenggara I River Basin, and the second is the transmigrant area which is quite far from the Land Office of Sumbawa Regency. Meanwhile, non-juridical constraints are the occurrence of problems in which residents of Labuan Kuris Village control land that does not belong to them so that the measurement and data collection process takes a long time, and the last obstacle is that the community / transmigrant residents do not have money / funds in the process of applying for land rights.

**Keywords:** *Judicial Review; Land Rights; Transmigration Citizens*

### **Introduction**

Land is one of the important natural resources for the survival of mankind, the relationship between humans and land is not just a place to live, but more than that land provides resources for the survival of mankind (Sutedi, 2008).

The land issue is a problem that concerns the most basic rights of the people. Aside from having economic value, land also functions socially, therefore private interests in the land are sacrificed for the sake of public interest. This is done by relinquishing the right to land with compensation that is not in the form of money alone, but also in the form of land or other facilities. Land is not always in a strategic area for development to be carried out. To get land that is in the desired place cannot be realized by buying and selling between parties. There are several processes including land exchange.

The West Nusa Tenggara Provincial River Basin Center (BWS) is holding a project to build a pengga dam in Darek Village, Praya Barat District, Central Lombok Regency. Assets belonging to residents include all the wealth they own but that which is given compensation, namely development, land and plants on it.

The people living in the vicinity of the dam are affected, both positively and negatively, there are those who are directly and indirectly affected. Those who are directly affected are those inside and outside the project site whose assets are used for development purposes. Meanwhile, residents who are indirectly affected are those who live outside the project area, namely agricultural laborers who depend on their livelihoods in the project site area. So that the Government who participated in the project relocated settlements to Labuhan Kuris Village, Lape District, Sumbawa Regency. The number of people affected by the pengga dam construction project is 96 people who have to move. Of the 96 people, the River Basin Organization (BWS) bought the land in Darek Village, Praya Barat District, Central Lombok Regency.

From the data obtained in the field, in Plambik Village there are 32 heads of families, in Darek Village 27 heads of families, in Kabul Village 20 heads of families, in Desa Setanggor 17 heads of families. The displacement of the transmigration population who occupied Labuhan Kuris Village as many as: Ketangga Hamlet 28 Family Heads, in Untir Penebis Hamlet 46 Family Heads, on padak land located in Labuhan Kuris Village (agricultural-fishery land) 22 Family Heads. The total number of people who have not received paddy fields and homestead land is 96 people, of which there are 72 people who have not received their remaining shares. One family head gets a share of 55 are (paddy land) and 20 are (yard or house land), the distance traveled from the yard or house to the paddy field is about two kilometers.

The River Basin Hall handed over the certificate in 2002 at the Lape sub-district office, represented by or received by the Chairman of a transmigration member named Awaludin and who handed over from one of the employees of the West Nusa Tenggara Province River Basin, Mr. Sugiono Ali. At that time the certificate was not distributed in its entirety because the River Basin Agency had not yet made a certificate settlement according to the area that was compensated. The certificate that had not been received at that time was still handled by the West Nusa Tenggara Provincial River Basin, because the budgetary costs for administering and controlling the certificate were borne by the West Nusa Tenggara Provincial River Basin Office.

For 10 years the transmigration population never asked again about the continuation of the certificate that had not been received from the River Basin Agency, but the River Basin Hall could not provide certainty because the statement from the River Basin Hall had submitted the complete documents to the Sumbawa BPN Office. One of the heads of transmigration members went to the Sumbawa National Land Agency to ask whether the certificate was kept at the BPN office, but received no results. After that the Chairman of the member went to the Labuhan Kuris Village Office to ask if there were any Sumbawa people living besides the transmigration population. As proof that the land belonged to the transmigration population, the Labuhan Kuris Village Office asked for proof of ownership certificate issued by the River Basin Office. After that, the River Basin Hall provided a photocopy of the Official Report of Land Acquisition in Labuhan Kuris Village. There are two data on the Minutes obtained, namely: Number BA.593.82.05 / 04/1991 dated December 5, 1991, Labuhan Kuris Village, Lape District, the cost of Rp.

283,920,040, -, area 752,755 m<sup>2</sup> for resettlement D.I MAMAK and Number BA.593.82.05 / 11/1992 Date 24 March 1992, Labuhan Kuris Village, Lape District, Area 84,840 m<sup>2</sup>, Cost Rp. 37,162,000, - For the DI MAMAK resettlement on Land Acquisition in Labuhan Kuris Village, Lape District, Sumbawa District, for the purposes of the Mamak Irrigation Area resettlement.

In this case acting as the committee for land acquisition in the Sumbawa Level II District, namely the Regent of the Head of the Sumbawa Region as the chairman and member, the Head of the Sumbawa Level II Regional National Land Agency Office as Deputy Chair and concurrent Member, Head of the Regional District Land and Building Tax Service Level II Sumbawa as a Member, Head of the MAMAK Irrigation Project Section as a Member, Head of the Sumbawa Regency Level II Regional Food Agriculture Service as a Member, Head of the LapeSumbawa Subdistrict as a Member, Head of Labuhan Kuris Village as Member, Head of the Section of Land Rights of the Land Agency Office District of Sumbawa Level II as Secretary. Based on PMDN No. 15/1975 yo Decree of the Governor of West Nusa Tenggara on 18 August 1990 No.438 of 1990 in accordance with the request of the Head of the Lombok Selatan Sumbawa Irrigation Project dated May 1, 1986 No. TN. 1301/55 / PILSS / 86 which was forwarded by the Regent of the Sumbawa Regency Head with a Letter dated 28 June 1986 No. 593.82 / 1452, whose purpose is to implement and complete and provide assistance to carry out the release and assessment of compensation for land and objects on the land required for the interests of the Agency Project mentioned above which are required for the Resletment of Mamak Irrigation Area.

Based on the above, the Head of Labuhan Kuris Village finally invited the transmigration population to directly occupy or cultivate the land so that no other party would occupy or sell the land. Along the way, there were several transmigrant communities who did not get a certificate of ownership (SHM) over the replacement land. The transmigrant community has registered by attaching physical evidence and juridical evidence regarding the land, but the National Land Agency (BPN) does not want to issue a certificate of ownership rights to the land.

Based on the background of the problem as stated in the description above, the focus of the problems that will be discussed is how the implementation of granting land rights to transmigrants in Labuan Kuris Village, Lape District, Sumbawa Regency and obstacles in the process of granting rights and how the government tries to provide rights of transmigrated citizens?

### ***Research Methodology***

The research method used qualitative methods with descriptive qualitative analysis. This type of research used in this research is empirical research. Empirical research is research that is a source of library material as secondary data to be used as initial data, which is then continued with primary or field data (Amirudin and Asikin, 2013).

To examine the problems in this study, the following approach techniques were used: The statutory approach (Statue Approach); Conceptual Approach (Conceptual Approach) and Sociological Approach (Sociological Approach) (Salim and Nurbani, 2013).

Data collection techniques, the steps to collect legal materials that will be used as a source in writing this thesis are library materials obtained by documentation study techniques carried out to identify primary, secondary and tertiary legal materials which are analyzed. From the legal materials that were collected then classified to produce a systematic subject matter. As well as field data in this study were collected by means or structured interview techniques using a question guide that had been prepared and carried out directly to several notaries in Mataram. And literature study is the collection of legal material clearly reading legislation, official doctrines, journals, articles from the internet and literature that are

closely related to the issues discussed based on legal materials. From the legal material is then analyzed and formulated as supporting legal material in writing.

## ***Discussion***

### **Implementation of Granting Land Rights to Transmigrant Residents in Labuan Kuris Village, Lape District, Sumbawa Regency**

The granting of rights to land is a government determination that grants rights to State land, extension of the period of rights, renewal of rights and change of rights. Collective granting of rights is the granting of rights to a parcel of land to a certain person or legal entity or to several persons or legal entities collectively which is carried out with one stipulation (Article 6 paragraph (1) Permenag / KBPN Number 9 of 1999). While the granting of land rights individually is the granting of rights to several plots of land each to a person or a legal entity or to several persons or legal entities as rights recipients carried out by one stipulation (Article 6 paragraph (2) Permenag / KBPN Number 9 of 1999).

In general, land is divided into 2, namely State land and private land. If the rights of a certain party are removed, the land in question will become land directly controlled by the state. Apart from state land there are also private lands. Private land is land that is owned by an individual or legal entity with a right to land in accordance with applicable regulations. So on the land there is one of the rights to the land as stipulated in the UUPA.

Based on Article 1 number 5 Regulation of the State Minister for Agrarian Affairs / Head of the National Land Agency No. 3 of 1999 concerning the delegation of authority to grant and cancel decisions on granting rights to state land, granting land rights is a government stipulation that grants a right to state land including an extension of the period of rights and renewal of rights.

The authority to grant land rights is exercised by the State Minister for Agrarian Affairs / Head of BPN in accordance with the provisions of Article 13 of the Regulation of the State Minister for Agrarian Affairs / Head of BPN number 3 of 1999.

The nature of property rights contained in Article 29 of Government Regulation Number 3 of 2013 concerning Implementation of Law Number 15 of 1997 concerning Transmigration as amended by Law Number 29 of 2009 concerning Transmigration, explains that transmigrants are given land parcels in the form of land for living and business land with the status of land ownership rights and obtaining a certificate of ownership over the land which will be issued no later than 5 (five) years after placement.

However, then, the nature of property rights contained in Article 31 of Government Regulation Number 3 of 2013 concerning Implementation of Law Number 15 of 1997 concerning Transmigration as amended by Law Number 29 of 2009 concerning Transmigration, it is explained that transmigrants cannot carry out transfers. or transferring the land parcels unless the transmigrants have owned the land parcels for at least 15 (fifteen) years since placement. If the transmigrants transfer the land parcels, the status of the ownership rights over the land will be deleted, then it will be followed up with the revocation of land rights in accordance with the provisions of the laws and regulations.

If, adjusted to the nature of the general property rights contained in the UUPA, KUHPperdata, and UURI No. 39 of 1999 concerning Human Rights, then a holder of property rights (transmigrants) has the strongest or highest authority over the land they own, so that holders of property rights (transmigrants) should be able to use their land freely or be able to transfer or transfer their ownership rights over land freely because the title to the land does not have a time limit on the control of the land which means that the holder of the free title can at any time transfer or transfer his / her rights.

Based on the theory of the birth of property, the granting of ownership rights to land in a positivism view becomes the owner of property, namely the State in this case the land office of the Sumbawa district. In the view of naturalism, government does not create property but only protects and enforces property. Even if the government makes a law that contains property, that law does not give birth to ownership but merely recognizes ownership that already exists naturally. If there is a law containing ownership rights over land, then such rights do not arise because of the law but the law only recognizes it. Without any law even though the property rights still exist.

### **Grant of Land Rights to Transmigrant Residents in Labuan Kuris Village, Lape District, Sumbawa Regency**

Based on Government Regulation Number 3 of 2013 concerning Implementation of Law Number 15 of 1997 concerning Transmigration as amended by Law Number 29 of 2009 concerning Transmigration, the implementation of the transmigration program is no longer focused on solving the problem of population distribution, but shifts to economic development and regional development. Organizing transmigration aims to improve the welfare of transmigrants and the surrounding community.

This research was conducted in Labuan Kuris Village, Lape District, Sumbawa Regency at the end of October 2020. The results of this study were obtained from documentation observations and interviews with the people of Labuan Kuris Village, the government in this case BPN Sumbawa Regency and BWS West Nusa Tenggara Province, as well as several transmigration communities. from the island of Lombok to get information about the transmigration process.

In the provisions of the State Policy Guidelines, hereinafter referred to as GBHN, namely in the 1983 GBHN, it is stated that transmigration is aimed at increasing the spread of the population and workforce as well as opening and developing new production areas, especially agricultural areas, in the framework of regional development, in particular those that can guarantee an increase in living standards the transmigrants and the surrounding community. The implementation of transmigration is at the same time an attempt to restructure the use, control and ownership of land, both in the area of origin and destination (AP, 2008).

The UUPA contains land tenure rights, in which it is explained, the powers that can be exercised, the obligations that must be carried out, and the prohibitions that are not allowed by the rights holder. (Harsono, 2003) states that the UUPA contains the hierarchy of land tenure rights, namely the right of the Indonesian nation to land; The right to control the State over land; Ulayat rights of customary law communities; Individual rights to land, which include land, mortgage, waqf land, property rights for flat units.

The implementation of this Transmigration Land Certification Activity refers to the applicable laws and regulations, because in its implementation there are no technical instructions or other instructions. As with other land certification activities included in the Land Asset Legalization Program, each stage refers to the Terms of Reference for Activities (TOR) or Term Of Reference (TOR) that has been determined.

From the results of the author's research, it is known that the stages of implementing the Transmigration Land Certificate are as follows:

#### **1. Determination of Location**

The determination of this location was carried out on the basis of a joint agreement between the NTB Provincial River Basin and the Village Government of Labuan Kuris and the Regional Office of the Sumbawa Regency National Land Agency which was then stipulated in a Decree of the Head of the

Regional Office of the Sumbawa Regency National Land Agency concerning the Determination of the Location of Transmigration Land Certificate in Labuan Kuris, Lape District. Regency of Sumbawapada in the relevant year.

## 2. Counseling

After the location is determined in a Decree of the Head of the Regional Office of the Land Agency, the next stage is to carry out the Extension stage. This extension phase is held to provide understanding, understanding, and explanation of the program to be implemented, the objectives and benefits, the requirements for the rights application that must be prepared, the rights and obligations of participants in accordance with applicable regulations.

This counseling aims to notify the Office in charge of Regency / City transmigration and Participants or land owners or their proxies or other interested parties that at the location of the Village / Kelurahan / Transmigration Settlement Unit (UPT) there will be a Land Transmigration Certificate. Thus it is hoped that it can increase the participation, enthusiasm and concern of transmigration residents to participate as participants in the program, and get the attention of the Village / Sub-District / Transmigration Settlement Unit (UPT) apparatus and / or the local Regency / City Government.

The role of the Regency / City Regional Government here is very large in the implementation of the Transmigration Land Certificate. This is because the determination of replacement transmigrant residents must be determined by a Regent / Mayor Decree. The authority to determine the transmigrants is fully delegated to the Head of the Regency / Kotal area of the land to the transmigration location whose guidance has been handed over to the Regency / City Government where the land is located.

## 3. Juridical data collection (evidence / basis of rights)

This juridical data collection is carried out by officers who have been stipulated in the Decree of the Head of the Regional Office of the Nasinoal Land Agency of NTB Province which aims to obtain juridical data on subjects and objects of rights that can be used as evidence / basis of rights that can be legally accounted for and processing the data presented in recapitulation that explains various information about the subject and object of rights. From this data, which is the result of an inventory and identification of potential activity participants, data processing is then carried out, namely by entering data in the Land Office Computerization (KKP) application for the State Revenue and Expenditure Budget (APBN) for the Transmigration Land Certification Activity.

## 4. Measurement and Mapping

The measurement and mapping process is the process of ensuring that an object of title meets technical requirements to be determined as the owner of the subject of land rights. Measuring officers in carrying out the measurement and mapping of this Transmigration Land Certification are the measuring officers of the Regency / City Land Office and the measuring officer of the Regional Office of the NTB Province National Land Agency (if the volume of work of the measuring officer at the Regency / City Land Office is large).

## 5. Soil Inspection

Land inspection is carried out by the Land Inspection Committee A which has been determined by the Head of the Regency / City Land Office with the membership composition and duties guided by the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 7 of 2007 and Articles 83 and 84 of Government Regulation Number 24 of 1997. Land inspection of

**Transmigration Land Certification Activities** This is done collectively because the object of rights is located in one stretch within a Village / Kelurahan / Transmigration Settlement Unit (UPT).

In the event that the juridical data and physical data are incomplete, the Head of the Land Office notifies the applicant to complete them. The decision to grant land rights or the decision to reject it is conveyed to the applicant by registered mail or by other means that guarantee the delivery of the decision to the entitled.

If all the necessary information is complete and there are no objections from other parties, then in the case of the decision to grant rights over land to the state, the authority has been delegated to the Head of the Land Office. After considering the opinion of the head of the Land Rights Section or the appointed official or the Land Research Team or the Land Inspection Committee A, the Head of the Land Office issues a decree granting rights to state land which is requested with certain obligations.

The process of granting ownership rights to land to transmigrant residents in Labuan Kuris Village, Lape District, Sumbawa Regency, was carried out through a compensation process with BA documents and the making of *seporadik* (applications for granting rights) originating from former State land which was freed through BA. After going through the process, cadastral measurements were taken, after going through the measurement process and then carrying out a treatise, committee A carried out a soil inspection by going directly to the field.

After committee A checks in the field then the data obtained from the field is collected and processed with a Data Processing Treatise (RPD) conducted by HHP (Land Legal Relations) for 14 (fourteen) days which is then given a field identification number (NIB), then the land office issued a decree granting ownership rights which was signed by the head of the land office in Sumbawa Regency.

If the SK granting ownership rights has been signed by the head of the land office, a photocopy of the SK will be given to the applicant to be attached to the BPHTB payment at the Dispenda office. The applicant's obligation to fulfill is to pay the Acquisition Fee for Land and Building Rights (BPHTB) for the issuance of certificates on the State land for which the certificate is applied.

The background of the Fees for Acquisition of Rights to Land and Building, namely land and buildings are a means to fulfill the basic needs of housing, business land and profitable investment tools. The legal basis regarding BPHTB is regulated in Law Number 21 of 1997 concerning Fees for Acquisition of Rights to Land and Buildings as amended by Law Number 20 of 2000.

After the applicants pay the BPHTB, the applicant must return to the land office of Sumbawa Regency and submit proof of BPHTB payment sheet 3 to be reprocessed and wait for 14 days. After that, the land office of Sumbawa Regency will type the certificate, in which the certificate will be initialized by the land infrastructure head and signed by the head of the land office of Sumbawa Regency. If all of the above mechanisms have been implemented, the certificate will be recorded and registered, which will then be put back at the counter by the Sumbawa Regency Land Office officer.

In carrying out the certification of state land into private land, the community usually comes to the local notary / PPAT. This was done by the community because the community felt they did not really understand how to carry out a certification on the land of the State. Notary / PPAT will take care of everything until the certificate is issued on the state land.

The notary will assist in all matters in obtaining the land certificate after the land owner completes the necessary conditions for carrying out the certificate of the state land.

The implementation of granting rights to transmigration land through the Transmigration Land Certificate Program in Labuan Kuris Village, Lape District, Sumbawa Regency is based on data obtained from the Regional Office of the NTB Province National Land Agency which began in 2002 and until now there are still many land parcels that must be granted ownership rights to land for legal certainty.

In the implementation of granting land rights to transmigrate residents, the one who has the authority in this case is the National Land Agency. The authority of the National Land Agency in providing services and carrying out government duties in the land sector includes authority by means of attribution. Attribution authority is usually outlined or derived from the distribution of power by statutory regulations. In the exercise of this attribution authority, the implementation is carried out by the official or agency stated in the basic regulations.

It is said to be attributable authority because the authority of the National Land Agency is given by direct law, namely Article 1 paragraph (22) Government Regulation Number 24 of 1997 concerning Land Registration, the National Land Agency is a non-departmental government agency whose duties include the land sector, Regulation of the Head of the National Land Agency of the Republic of Indonesia. Number 1 of 2010 concerning Service Standards and Land Regulations and also the Circular of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 13 / SE / VIII / 2015 concerning Services.

### **Legal Consequences of Granting Land Rights to Transmigrant Residents in Labuan Kuris Village, Lape District, Sumbawa Regency**

As a material right, land rights can be transferred and transferred. A right to land will transfer if its ownership is transferred to another person without going through a legal act, but it is transferred as a result of a certain legal event, for example because of someone's death or death, the inheritance is transferred to his heirs A right to land can be transferred if through a legal action carried out by the owner of the land rights, the transfer of land rights can occur because of buying and selling, grants, exchanges, or other actions that transfer land (Hartanto, 2013).

Legal actions aimed at transferring land rights can be in the form of sale and purchase, exchange, grants, participation in company capital (inbreng), wills, and auction. In the process of transfer or transfer of rights, the party transferring or transferring rights must have the right and authority to transfer the rights, while the other party who obtains the rights must meet the requirements as the holder of the new land rights. Land rights to transmigrant residents in Labuan Kuris Village, Lape Subdistrict, Sumbawa Regency can be transferred due to the pengga dam construction project in the Central Lombok Regency area.

The process of transferring land rights is seen from the point of view of the concept of ownership, so parties legally owning land rights, whether registered or not registered, can transfer their rights to the land they own. Transferring rights to land that is owned to another party, with the transfer referred to, the rights will transfer. The right that is meant, is the inherent legal relationship as the competent or authorized party to carry out legal actions. In legal terminology the words "Right" are defined as legal rights or the basis for taking action legally (Ranuhandoko, 2000).

In doing a legal action, it will cause legal consequences. Legal effect is a result caused by law on an act committed by a legal subject. Legal consequences are a result of actions taken, to obtain the consequences expected by legal actors. The intended effect is the result regulated by law, while the action taken is a legal action, namely an action that is in accordance with the applicable law.

Legal effect is an event that is caused by a cause, namely actions committed by legal subjects, whether actions that are in accordance with the law or actions that are not in accordance with the law.



Satjipto Rahardjo said that law is present in society to integrate and coordinate the interests of interests that can collide with one another. The coordination of these interests is carried out by limiting and protecting these interests, (Rahardjo, 2000) To protect the interests of the transmigrant community in Labuan Kuris Village, Lape District, Sumbawa Regency, it is necessary to have a legal protection for transmigrant communities who are in a weak position. both economically and weakly from a juridical aspect.

The law protects a person's interests by giving him the power to act in fulfilling those interests. Granting of power, or what is often referred to as this right, is carried out in a measured, broad and deep manner.

Legal protection for every citizen of Indonesia without exception can be found in the 1945 Constitution of the Republic of Indonesia (UUDNRI 1945), for that every product produced by the legislature must always be able to guarantee legal protection for all people, even it must be able to capture aspirations of law and justice that develop in society. This can be seen from the provisions governing the equality of legal position for every citizen.

Legal protection can also be interpreted as an action or effort to protect society from arbitrary actions by the authorities who are not in accordance with the rule of law, to create order and order so that it allows humans to enjoy their dignity as human beings (Setiono, 2004).

The act of granting land rights to transmigrant residents in Labuan Kuris Village, Lape District, Sumbawa Regency had a legal consequence. According to the author's analysis, the legal consequence that occurred was a change in a legal condition, where at first the land belonged to the State and then with the transmigration program, with the granting of land rights to transmigrant residents the land became the property of the transmigrants. and transmigrant residents residing in Labuan Kuris Village, Lape Subdistrict, Sumbawa Regency, are entitled to the land certificate. If the land certificate has been granted to transmigrants, legally the principle of the theory of legal protection has been implemented that legal protection is an absolute right for every citizen and is an obligation. which must be done by the government, considering that Indonesia is known as a rule of law.

### ***Constraints in the Process of Granting Rights and the Government's Efforts to Provide Rights to Transmigration Citizens***

#### **1. Juridical Constraints on Granting Rights to Transmigration Citizens**

Land that was once viewed from a social point of view, which was included in the scope of customary law, customary rights and social functions, is now starting to be seen from an economic point of view, so it is appropriate for the United Nations to indicate that currently land issues are no longer related to social issues but have developed into economic issues (Yamin and Lubis, 2004).

The land use policy in Indonesia is stated in Article 2 Paragraph (3) of Law Number 5 Year 1960, that the land must be used for the greatest prosperity of the people according to Article 14 and there is an obligation to maintain and increase the fertility of the land used.

Article 4 paragraph (1) UUPA explains that on the basis of the right to control from the State as meant in Article 2, it is determined that there are various rights to the surface of the earth, which are called land, which can be given to and owned by people either individually or collectively. the same as other people as well as legal entities. This article authorizes the use of the land in question as well as the body of the earth and water and the space thereon, only necessary for interests directly related to the use of the land within the boundaries according to this law and other higher legal regulations.

Land rights originating from the right to control from the state over land can be given to individuals, both Indonesian citizens and foreigners, a group of people together, and legal entities, both private and public legal entities. Land is given to and owned by people with the rights provided by the LoGA to be used and utilized. According to Wantjik Saleh, by granting land rights, a legal relationship has been established between the person or legal entity, where legal actions can be carried out by those who have rights to the land to other parties.

Article 22 paragraph (2), Article 31 and Article 37 of the UUPA stipulate that the existence of land rights is one of which is through the determination of the Government. The Government stipulation is not only made on land objects whose proof of rights are old rights (both former Western and former customary rights), it is also carried out on land objects whose status comes from land directly controlled by the State. The content of the said Government determination is the granting or stipulation of land rights to the subject of rights, both individuals and legal entities with objects of a certain land parcel.

Based on the provisions of Article 23 of Government Regulation No. 24/1997, granting of land rights is included in the category of proving new rights. Proof of the new rights is preceded by a stipulation on the granting of rights over land from the official authorized to grant said rights according to the provisions of the prevailing laws and regulations. The land objects that can be treated by the process of granting rights referred to are generally land originating from land directly controlled by the State.

According to Article 1 number 5 Regulation of the State Minister for Agrarian Affairs / Head of BPN Number 3 of 1999 in conjunction with Article 1 number 8 of the Regulation of the Minister of State for Agrarian Affairs / Head of BPN Number 9 of 1999 it is emphasized that what is meant by granting rights to land is a Government stipulation that gives a right to State land, extension of rights period, renewal of rights, change of rights, including granting rights over Management Rights.

In the process of determining the Government, which takes the form of granting / stipulating the rights to the land, some are given direct rights solely for the benefit of the Government without first being based on evidence of control over the land, there is also a determination of rights which must first be proven that there is a legal relationship between people with the land which is evidence of control over the land (civil rights), whether issued by the competent official or a statement made by the person controlling the land if from the start he was the first to work on the land parcel concerned.

Control of land can be the initiation of the existence or granting of rights over land, in other words, physical control of land is one of the main factors in the granting of rights to the land. The basis for this juridical right is usually stated in a written form with a decree, statement letter, statement letter, acknowledgment letter, authentic certificate or under-hand letter, and others.

In civil terms, the existence of a relationship between the owner of the land and the land as evidenced by actual physical control in the field or the existence of rights in the form of juridical data means that it is based on a civil right, the land is already under control or has become his property. always contains the authority given by law to physically control the land. Therefore, juridical control provides a basis for the right to have a legal relationship regarding the land concerned.

If the land has been physically controlled and there is a basis for the rights, then the problem is only to follow up on the basis of the right which underlies the relationship, which is the right to land which is determined and recognized by the State so that the relationship is legally protected. The process of alashak becoming formalized land rights through a government stipulation is called land registration, the product of which is a land certificate.

Requirements for granting Property Rights include submitting a written application to the Head of the National Land Agency of the Republic of Indonesia through the Head of Regency / City Land Office, containing information regarding the identity of the applicant, information regarding his land which includes juridical data and physical data. In granting land rights to transmigrant residents in Labuan Kuris Village, Lape District, Sumbawa Regency, they experienced several obstacles and obstacles.

It is necessary to note that the implementation of transmigration is directed at structuring the distribution of the population which is harmonious and balanced with the natural carrying capacity and environmental capacity, and improving the quality of human resources, as well as the realization of community integration. The importance of land issues in human life so that the government together with its people is obliged to discipline, utilize and manage it in order to achieve a prosperous, just and prosperous society. One of the government programs in utilizing land for the achievement of a prosperous society is carrying out a transmigration program in which it provides land rights as property rights. Since land is an important factor and influences the course of development in an area, there is an imbalance in the distribution of the population in a place, which is concentrated in urban areas, this will cause problems.

For the sake of the smooth running of the transmigration program, efforts have been made for good integration and coordination between government agencies responsible for implementing the program, which has always been the key to the success of the program. As has been done by the NT 1 River Basin of West Nusa Tenggara Province with the Regency / City Government in coordination with the ranks of the National Land Agency in land acquisition in accordance with applicable regulations, it will lead to an accelerated land registration program for transmigrants by providing a decree granting rights to land and the issuance of land title certificates for transmigrants in Labuan Kuris Village, Lape District, Sumbawa Regency.

It has been mentioned in the explanation above that the Labuan Kuris Village area, Lape District, Sumbawa Regency is located in the highlands and is the largest area in the Lape District so that access to the Village is very far from the Sumbawa urban area. The area of Labuan Kuris Village is a plateau where at this time there are still a lot of lands that have not been used by the surrounding community or other parties such as legal entities or government agencies.

In order to make optimal use of the land, the government needs to carry out transmigration to the area. This is in line with the principles of public benefit, balance and sustainability used in land land resources. According to the Government Regulation of the Republic of Indonesia Number 16 of 2004 concerning Land Use Article 1 point 4 that land use is an activity to obtain added value without changing the physical form of land use.

It is hoped that with the government program, namely transmigration, the community can use the land for the common interest and strengthen the economic situation of the local community and village. With the existence of transmigration, it is hoped that the transmigrant community can optimally improve the function of the land and can think in the future what to use the land for.

Based on the results of the compilers' interviews with the head of the transmigrants there, it was found that the land rights application that was requested by the government should not run smoothly. The results of the author's research state that there are several obstacles in the application for land rights, namely in the form of juridical and non-juridical constraints.

To find out, among the factors that become obstacles in the process of granting rights to transmigration residents, it can be explained, among others, juridical obstacles originating through officers from the National Land Agency (BPN) office. Officers from the BPN Office are the spearhead

for the successful implementation of the program for granting land rights to residents / transmigrant communities. Based on the results of the author's research, in the field, from the perspective of the officer, there are several obstacles and obstacles that he feels, namely:

- a. These constraints can be seen from the measurement point of view. In terms of measurement, a concern is the issue of boundary disputes and the need for the presence of residents as witnesses.
- b. The transmigrant area is quite far from the land office of the Sumbawa Regency, so the trip to the village takes a long time.
- c. Lack of human resources owned by the Land Office of Sumbawa Regency, so the land office officials have difficulty taking measurements to the area considering the area of the area is very large.
- d. The land office staff are not meticulous enough in filling in data or entering data in handling application documents.

### **Non-juridical Constraints in the Process of Granting Rights to Transmigration Citizens**

Transmigration has two kinds of implementation models, namely general transmigration and self-initiated transmigration. General transmigration is transmigration which all costs are borne by the government starting from registration, selection, to the transmigrants' residence. When they arrived at the transmigration site, the transmigrants would be given a plot of land, a simple house and other tools to support life in their new residence. Meanwhile, swakarsa transmigration is literally transmigration carried out at the instigation of the transmigrants themselves, at their own willing and at their own expense, moving from their place of origin and settling in the transmigration area. In self-initiated transmigration, it is hoped that the transmigrating population can experience prosperity. Welfare is not only in the economic aspect, but also in the socio-cultural aspect. The creation of a safe and secure atmosphere, the more solid community vigilance in overcoming every threat is a measure of development success (Warsito, 2008).

The objectives of the transmigration implementation can be seen from two aspects. First, the aspect of population distribution, the purpose of transmigration is to achieve a more balanced and more even distribution of the population throughout Indonesia. This view has the consequence that densely populated areas such as Java Island in general have to be moved to other islands where the population is still sparse. Second, the aspect of labor demand, transmigration is the transfer of workers to carry out the construction of various projects in areas with labor shortages. Thus, the main objective of transmigration is not to achieve a more balanced and even distribution of the population, but to carry out development projects deemed necessary to increase national production. support the agrarian reform program which essentially aims to improve community access to land.

Land acquisition for the development of transmigration areas was carried out after going through the identification process of potential natural resources, population and land. Then carry out land reserves by the destination regional government in accordance with the provisions of statutory regulations. The reserved land is stipulated by a Governor's Decree, wherein the reserved land is used as the basis for the preparation and realization of the Transmigration Area Plan.

In the process of granting ownership rights to land to transmigrant residents, there are not only juridical obstacles as described above, but also non-juridical obstacles. Non-juridical obstacles stem from the transmigrant community as the applicant. The community as the applicant has a very big role in

helping the success of the government program, namely transmigration. The obstacles that come from the community include:

- a. When the measuring officer comes to the location of the land to be measured, the applicant is not at the measurement location so that the officer experiences difficulty in providing an explanation to the applicant for land rights that will be measured with certainty and also the difficulty of getting to the location at the time of measurement because the area is quite far and requires a lot of time. long enough.
- b. Lack of completeness of data from the applicant, both physical data and land juridical data. This is because the data documents provided by BWS to residents are incomplete, and not all applicants are compensated by BWS on their previous land.
- c. Not yet finalized the fees charged for revenue from the state treasury.
- d. There is an assumption that the cost of registering land is expensive and takes a long time. This has caused the community to be reluctant to process land rights applications to the Land Office.
- e. There is an assumption that a certificate has the same status as other evidence, such as a tax receipt or SPPT, sale-purchase receipt or other evidence.
- f. There is a dispute over the land requested, in which residents of Labuan Kuris Village control land that does not belong to him.

The next non-juridical factor, one of which is related to funds / money, in which he states that when applying for land rights, not all costs are borne by the government, he even said that the costs of applying for land rights issues are borne by transmigrants.

### ***The Government's Efforts in Providing the Rights to Transmigration Citizens***

Efforts made by the government to overcome obstacles arising from granting land rights to transmigrant communities in ensuring legal certainty in Labuan Kuris Village, Lape District, Sumbawa Regency, include:

1. Provide socialization / counseling to all communities in Labuan Kuris Village and then instruct the Village Head to provide counseling to the local community in order to increase community awareness of the importance of land registration.
2. Education is regularly held on procedures, registration requirements, registration fees, etc. related to land registration, especially for people who lack information about land registration.
3. The local government, in this case the Land Office of Sumbawa Regency, instructed the Village Head to discuss the importance and purpose of land registration at every meeting after the meeting.

In addition, the community as the applicant and the land office as the implementer of the state land certificate must overcome the solution before the obstacles or obstacles that occur during the process of certifying state land to land rights in Labuan Kuris Village, Lape District, Sumbawa Regency, namely:

## 1. The community as the applicant

- a. Before the measuring officer arrives at the location of the land to be measured, it is expected that the state land applicant has provided the boundaries of the land to be measured so that the measurement process is not hampered and runs smoothly.
- b. In the absence of complete data from the applicant both physical and juridical data. For this case, the Head of the Office after receiving the file from the applicant should:
  - 1) Check and examine the completeness of juridical data and physical data.
  - 2) Take notes in the form.
  - 3) Provide receipt of application documents.
  - 4) Provide the applicant with complete juridical or physical data through a notification letter.

If the applicant has completed the required data, then the application can be continued, on the other hand, if the applicant has not completed it, the application can be detained and may not be continued, this is to prevent unwanted problems from occurring.

- c. If the fees charged for the revenue of the State treasury have not been completed The applicant is obliged to complete it immediately so that his application can be processed, because the fees charged will be submitted to the state treasury. The local Land Office will submit a budget plan to the state, if the funds have been disbursed, the application is processed so that it can be issued with a certificate.
- d. It is assumed that the cost of registering land is expensive and takes a long time. Therefore, the Land Agency should review existing procedures by simplifying procedures and providing convenience to the community as a charm so that the community gets better services. This encourages public awareness to get a certificate.
- e. If there is a dispute over the land being requested, in case of disputes relating to the land being requested, it can be resolved by way of deliberation, in this case the Land Office can act as a mediator and recommend that the dispute be resolved. A dispute occurs when a party disagrees with a land boundary that does not match what was requested. If the dispute can be resolved, the application is processed and then the certificate is issued.

### Officer from the Land Office

- a. In terms of measurement, a concern is the problem of boundary disputes and the need for community presence, so that the measurement officer from the land office does not make mistakes in measuring the boundaries of the land that will be requested and that there will be no re-measurement.
- b. Procrastinating a job that he is handling, in this case is usually done by employees who are lazy or lacking discipline. This relates to the habits of employees who like to underestimate their duties and responsibilities in serving society. The way to overcome this is by giving sanctions in the form of reprimands both verbally and in writing, temporarily suspended or suspended and can also be suspended or fired forever because they can no longer be maintained. This sanction is given so that they are active and have the enthusiasm to be able to move forward by eliminating these bad habits.

The obstacle that occurs in granting land rights to transmigrant residents in Labuan Kuris Village is in general the lack of data collection obtained from the West Nusa Tenggara Provincial River Basin, besides that local villagers have controlled land that does not belong to them.

The people who control state land generally do not have a certificate on the land, this is because they occupy the land because of the inheritance of their parents who are not returned to the state but are convinced that the land is inherited land.

To overcome the obstacles faced in granting land rights to the transmigrant community in Labuan Kuris Village, Lape District, Sumbawa Regency, therefore an effective way of solving it is by conducting deliberations regarding the measurement and issuance of certificates of land to these transmigrant residents.

Deliberation refers to the formation of a common will in matters concerning the interests of living together, in the community concerned as a whole, and consensus refers to the formation of a common will between two or more people, each of which originates from calculations to protect the interests of each originating from calculations to protect their respective interests. the farthest possible.

In preventing conflicts over land cases in the transmigration area of Labuan Kuris Village, consensus between communities and the Regional Government has been conducted, which resulted in the following agreements:

1. In resolving problems related to granting land rights to transmigrant residents, a solution will be sought through deliberations.
2. The Nusa Tenggara I River Basin is willing to pay compensation to the transmigrant community.
3. The Land Office of Sumbawa Regency will conduct a field survey and rearrange transmigrant areas by re-measuring the boundaries of the transmigration lands so as not to harm each other.

In addition to conducting deliberations, the party from the Nusa Tenggara I River Basin Agency has issued a letter of request addressed to the Land Office of the Sumbawa Regency so that the issuance of certificates for transmigrant residents can be realized quickly. The government, in this case the Nusa Tenggara I River Basin Office, has also paid compensation to transmigrant communities affected by the Pengga dam construction project in Darek Village, Praya Barat District, Central Lombok Regency.

It is hoped that with the efforts made by the government so that later the control of the certificates of the transmigrant community in Labuan Kuris Village, Lape District, Sumbawa Regency will soon be realized, which later the transmigrant community will have legal power when inhabiting the area, considering that the certificate is an authentic evidence. strong before the law.

## **Conclusion**

Based on the description that the author has described above, a conclusion can be drawn as follows:

1. The implementation of granting land rights to transmigrant residents in Labuan Kuris Village, Lape District, Sumbawa Regency, was carried out in several stages, starting from the first through the compensation process given by the Nusa Tenggara I River Basin to transmigrant residents, which was then carried out by cadastral measurements. and land inspection by committee A Sumbawa Regency Land Office. After the measurement and inspection were carried out, the Sumbawa Regency Land Office processed the data in the HHP for 14 days, then the Land Office issued a decree granting

ownership rights which was signed by the head of the Sumbawa Regency Land Office. After the decree was issued, the applicant (transmigrant resident) brought the decree to pay the BPHTB and after all the process was completed a certificate would be made and handed over to the transmigrant residents who were in Labuan Kuris Village, Lape District, Sumbawa Regency.

2. Constraints experienced in the process of granting rights are juridical and non-juridical. The first juridical obstacle is the length of time to obtain data and compensation provided by the Nusa Tenggara I River Basin, and the second is the transmigrant area which is quite far from the Land Office of Sumbawa Regency, so the journey to the village takes a long time. Meanwhile, non-juridical constraints are the occurrence of problems in which residents of Labuan Kuris Village control land that does not belong to them so that the measurement and data collection process takes a long time, and the last obstacle is that the community / transmigrant residents do not have money / funds in the process of applying for land rights. Based on these constraints, the government's efforts to grant rights to transmigrated citizens, namely the government, in this case the Nusa Tenggara I River Basin Office, have paid compensation to transmigrant residents / communities and the Nusa Tenggara I River Basin office submitted a letter to the Regency Land Office. Sumbawa to issue certificates for transmigrants as soon as possible so that legal certainty can be created.

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