

## ISSUANCE OF LAND LEGALITY BY THE BATAM CONCESSION AGENCY AGAINST COMPLETE SYSTEMATIC LAND REGISTRATION PROGRAM CERTIFICATES ISSUED IN BATAM

Eling<sup>1</sup>, Benny Djaja<sup>2\*</sup>

Faculty of Law, Universitas Tarumanagara, West Jakarta, Indonesia  
Email: Eling.217221047@stu.untar.ac.id<sup>1</sup>, bennyd@fh.untar.ac.id<sup>2\*</sup>

### ABSTRACT

Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration (PTSL) was made to ensure legal certainty and legal protection of land rights owned by the community fairly and equitably, but unfortunately, it contradicts with the Regulation of the Head of the Batam Free Trade Zone and Free Port Concession Agency Number 27 of 2017 concerning Implementation of Land Allocation. The purpose of this study is to analyze what regulations must be used by people who want to apply for land permits in Batam and how to obtain land permits in Batam. This study used normative legal research or doctrinal research which refers to positive legal norms governing the Issuance of Land Legality by the Batam Concession Agency Against Complete Systematic Land Registration Program Certificates Issued in Batam. The results of this study that the regulations used are still regulations issued by the Head of the Batam Free Trade Zone and Free Port Concession Agency Number 27 of 2017 concerning the Implementation of Land Allocation. Because Batam is one of the regions in Indonesia with regional autonomy rights.

**Keywords:** Land Legality; Batam Concession Board; Registration System

### Introduction

Geographically, Batam City has a land area of approximately 715 km<sup>2</sup> (seven hundred and fifteen square kilometers) (Triatmodjo et al., 2022), and it is one of the regions in Indonesia with regional autonomy rights. The existence of the word land is closely related to the term land. Land and Agrarian are inseparable because land as an Agrarian resource is the most utilized by humans. Legislation of land is the most discussed compared to regulations on other Agrarian resources. Batam City has a large amount of land as Agrarian resources that can be managed by the community, one of which is the investor. Therefore, the role of the Local Government and National Land Agency is needed to regulate the laws and regulations regarding land in Batam.

Based on Presidential Decree No. 41 of 1973 concerning the Batam Island Industrial Area, a vertical institution known as the Batam Authority for the Development of the Batam Island Industrial Area was established with various tasks and authorities, one of which is land management in Batam City (Nomor, 41 C.E.). The entire land area located in Batam City was handed over by the Central Government to the Chairman of the Batam Island Industrial Area Development Authority in the form of Management Rights. Before the birth of the Basic Agrarian Law, the term Management Rights was unusual in the national land law order, namely agrarian law. Management Rights, which were previously translated as Tenure Rights, originated from the Dutch language, namely "Beheersrecht". The history of Management Rights has existed since the Dutch East Indies

Government used the term "*in beheer*", which was later issued by the Indonesian Government Regulation Number 8 of 1953 concerning State Land Tenure. The philosophy of the colonizers towards the existence of Management Rights was to control the colonized land, while during the Indonesian Government, the existence of Management Rights was an answer to the development needs and objective conditions of the Indonesian nation and State (Syahrin, 2018). The authority of the Management Rights includes planning the allocation and use of land, using the land to carry out its duties, handing over parts of the land to third parties with Cultivation Rights, Building Rights, or Use Rights, and receiving income or compensation and annual mandatory money.

Management Rights have the following powers: (Yodiniya et al., 2020)

Authority of Public, namely granting authority to subjects holding Management Rights to regulate plans for land use and allotment, as well as provision of land for third parties, and this authority only belongs to the Government.

Privat obligations, namely entering into agreements with third parties to grant new rights to these third parties and collect income from third parties who acquire land rights above the Management Rights granted to them.

By granting land rights which are marked by granting land rights certificates to third parties, it is intended to: (Soerodjo, 2014)

create a concrete legal relationship between third parties as users of the Land Management Rights and the land;

Ensure that third parties are protected from arbitrary actions by holders of Management Rights.

On August 20, 2007, based on Government Regulation Number 46 of 2007 concerning the Free Trade Zone and Free Port of Batam, the assets and authority of the Batam Authority were transferred to the Batam Free Trade Zone and Free Port Concession Agency, referred to as Batam Concession Agency. So the Batam Concession Agency has the authority to issue permits, one of which is licensing for the allocation of land over Management Rights to third parties made in an agreement on special agreement referred to as rights granting agreement.

Third parties who are given land allocations by Batam Concession Agency, will be required to pay an Annual Mandatory Money. And as a form of commitment from Batam Concession Agency to third parties who have paid the Annual Mandatory Money, Batam Concession Agency will provide land permits in the form of Location Identification Maps, Land Utilization Agreement Letters, Land Allocation Decrees, and Recommendations for granting land rights over Batam Concession Agency Management Rights (Atmadjati, 2018).

But not all citizens in Batam City have permits for the land they own, they cannot even afford to pay the Annual Mandatory Money to Batam Concession Agency and do not have the cost to process land certificates. The land is owned or controlled in the sense of possession, the juridical meaning is that the land is physically owned, which means it is cultivated or occupied, but not certain that he owns or controls the land legally. (La'bi et al., n.d.)

To realize Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia and in the context of registering all land parcels in the territory of the Unitary State of the Republic of Indonesia, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency stipulates a Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head National Land Agency Number 35 of 2016 concerning the Acceleration of Complete Systematic Land Registration, this regulation has been amended by the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 1 of 2017 concerning Amendments to the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 35 of 2016 concerning the Acceleration of Complete Systematic Land Registration. To carry out these activities and improve the substance/material by adjusting to the provisions of laws and regulations governing land registration and other land provisions, Indonesian President Joko Widodo issued Presidential Instruction Number 2 of 2018 concerning the Acceleration of Complete Systematic Land Registration throughout the Territory of the Republic of Indonesia. (Cahyadi & Nawangsari, 2022) So that on March 22, 2018, the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency issued Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration (PTSL).

This is encouraging news for all Indonesian people, especially the citizens of Batam City. Many citizens think that the Complete Systematic Land Registration Program certificate issued by the Batam City Land Agency is free, it is true that there is no fee to make and process it because it is funded using village funds. But not with the payment of Land and Building Rights Acquisition Fees, if the public does not or has not been able to pay the said Land and Building Rights Acquisition Fees then the person concerned must make a statement letter of the land and building Rights Acquisition Fee owed and recorded on the certificate. Regarding the explanation regarding the payment of Land and Building Rights Acquisition Fees, it is clearly and explicitly stated in Article 33 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 6 of 2018. The requirement for PPh fees, Acquisition of Land and Building Rights fees, and making a deed is one of the main inhibiting factors in land registration (Mujiburohman, 2018)

Fees for Acquisition of Land and Building Rights are fees for acquiring land and or building rights. What is meant by the acquisition of land and/or building rights are legal acts or events resulting in the acquisition of land and/or building rights by private persons or entities. (Anggoro & Agusti, 2019) In addition to the payment of Land and Building Rights Acquisition Fees, for the people of Batam City who do not yet have land legality from Batam Concession Agency in the form of Annual Mandatory Money, Location Identification Maps, Land Utilization Agreement Letters, Land Allocation Decrees and Recommendations for granting land rights over BP Management Rights Batam but have already received a certificate of the Complete Systematic Land Registration Program are also required to pay an Annual Mandatory Fee to Batam Concession Agency. If you have not been able to pay it, then the certificate will record that the Annual Mandatory Money is owed. The Indonesian people, especially the Batam City citizens, think that after obtaining a certificate, there is no need for other legalities issued by Batam Concession Agency based on the Minister of Agrarian Regulation. Meanwhile, this is a contradiction to the Regulation of the Head of the Batam Free Trade Area and Free Port Concession Agency which requires processing Annual Mandatory Money, Location Identification Maps, Land Utilization Agreement Letters, Land Allocation Decrees, and Recommendations for the granting of land rights over Batam Concession Agency Management Rights at the Batam Concession Agency office.

Therefore, the author is interested in researching this phenomenon by raising the title of the research to " **Issuance of Land Legality By the Batam Concession Agency Against Complete Systematic Land Registration Program Certificates Issued in Batam** " .

### Research Method

The legal research method used in this research is normative legal research or doctrinal research which refers to positive legal norms governing the Issuance of Land Legality by the Batam Concession Agency Against Complete Systematic Land Registration Program Certificates Issued in Batam. This study uses a statutory regulatory approach. The source of this legal research only uses secondary data in the form of primary legal materials consisting of the 1945 Constitution of the Republic of Indonesia; Law Number 5 of 1960 concerning Basic Agrarian Regulations, Presidential Decree Number 41 of 1973 concerning Batam Island Industrial Area, Presidential Instruction Number 2 of 2018 concerning Acceleration of Complete Systematic Land Registration throughout the Republic of Indonesia, Government Regulation Number 8 of 2018 1953 Concerning State Land Tenure, Government Regulation Number 24 of 1997 concerning Land Registration, Government Regulation Number 46 of 2007 concerning Batam Free Trade Area and Free Port where there is a transfer of assets and authority of the Batam Authority to the Batam Free Trade Zone and Free Port Concession Agency, Ministerial Regulation Agrarian and Spatial Planning/Head of the National Land Agency Number 35 of 2016 concerning the Acceleration of Complete Systematic Land Registration, Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 1 of 2017 concerning Amendment to the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 35 of 2016 concerning the Acceleration of the Implementation of Complete Systematic Land Registration, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration, Regulation of the Head of the Batam Free Trade Zone and Free Port Concession Agency Number 27 of 2017 concerning Implementation Land Allocation. Secondary legal material, which consists of legal facts, and legal opinions of experts in books, legal journals, and websites. Tertiary legal materials, namely legal dictionaries and language dictionaries.

### Result And Discussion

#### **Legal Arrangements for the Issuance of Land Legality by Batam Concession Agency against the Complete Systematic Land Registration program certificate issued in Batam**

Regulation of the Head of the Batam Free Trade Area and Free Port Concession Agency which has undergone several amendments, and the latest is the Regulation of the Head of the Batam Free Trade Zone and Free Port Concession Agency Number 27 of 2017 concerning Implementation of Land Allocation governing land licensing in Batam where third parties who given the land allocation by Batam Concession Agency is required to pay an Annual Mandatory Money. And as a form of commitment from Batam Concession Agency to third parties who have paid the Annual Mandatory Money, Batam Concession Agency will provide land permits in the form of Location Identification Maps, Land Utilization Agreement Letters, Land Allocation Decrees, and Recommendations for granting land rights over Batam Concession Agency Management Rights (Bambang Supriadi & Roedjinandari, 2017). All of these land permits are regulated in Article 12 of the Regulation of the Head of the Batam Free Trade Area and Free Port Concession Agency Number 27 of 2017 concerning the Implementation of Land Allocation.

After all the permits for the land have been obtained by a third party, it can be continued to apply for granting land rights to the Batam City Land Agency for a certain right, namely the Cultivation Right, the Building Use Right, or the Right to Use. The granting of land rights itself has the meaning of a government stipulation that grants a state land right, including extending the term of rights and renewing rights as well as granting rights over management rights. (Arnowo, 2018)

Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia explains that: *"Earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people."*

Therefore, the Indonesian Government guarantees legal certainty and legal protection to land rights owned by the community fairly and equitably as mandated in Article 19 of Law Number 5 of 1960 concerning Basic Agrarian Regulations which explains: *"To ensure legal certainty by the Government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions stipulated by Government Regulations."*

So, a Complete Systematic Land Registration (PTSL) Program was created to provide legal certainty and legal protection for Land. The Complete Systematic Land Registration (PTSL) program is the first program for systematic land registration, which previously had the National Agrarian Program (PRONA) and had a different concept, namely the awareness that based on the juridical aspect not all land parcels could be issued certificates. (Labi et al., 2021) Although the land is located in Batam City it is managed and allocated to third parties by Batam Concession Agency as the holder of authority over Management Rights. The community only adheres to Article 25 paragraph (1) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 6 of 2018 which states that:

*"(1) Completion of PTSL activities consists of 4 (four) clusters, including:*

- a. Cluster 1, namely land parcels whose physical data and juridical data meet the requirements for the issuance of Land Rights Certificates;*
- b. Cluster 2, namely land parcels whose physical data and juridical data meet the requirements for the issuance of Land Rights Certificates but there are cases in court and/or disputes;*
- c. Cluster 3, namely land parcels whose physical data and juridical data cannot be recorded and issued a Certificate of Land Rights because the subject and/or object of the rights have not met certain requirements stipulated in this Ministerial Regulation; And*
- d. Cluster 4, i.e. land parcels whose object and subject have been registered and have been certified as Land Rights, both uncharted and mapped but not in accordance with field conditions or changes in physical data, must be mapped onto a Complete Systematic Land Registration Map."*

The clusters mentioned above are a contradiction to the Regulation of the Head of the Batam Free Trade Area and Free Port Concession Agency issued by the Head of Batam Concession Agency considering that Batam Concession Agency is the holder of authority over Management Rights in Batam City which is a regional autonomous region. The result is that there is no legal certainty regarding land ownership in Indonesia.

However, in practice, the regulations used are still regulations issued by the Head of the Batam Free Trade Zone and Free Port Concession Agency. The authority of Batam Concession Agency, as the author has mentioned above, makes Batam City an area that adheres to the legal principle of *Lex Specialis Derogat Legi Generalis*. (Agus Riyanto & Kn, 2018) Thus the agreement on the granting of rights by the holder of management

rights to a third party is the basis for granting rights over land and at the same time is the basis for the Head of the Land Office to issue a certificate over the land.

### **How to obtain land legality when the land already has a certificate issued through the Complete Systematic Land Registration Program (PTSL)**

After obtaining a certificate through Complete Systematic Land Registration. For the certificate to become active and legal action can be taken against it, first, the public is required to process Annual Mandatory Money according to the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration (PTSL) governing land licensing in Batam. The Location Identification Maps will be published after the Annual Mandatory Money has been paid by third parties. After obtaining Location Identification Maps, Batam Concession Agency will previously publish a decree of the head of Batam Concession Agency regarding the use of certain land areas from Batam Concession Agency rights of free trade areas and free ports but the Land Usage Agreement must be signed because in the Agreement there is an article that states that a decree can only be issued if a land management agreement has been signed (Syuhada, 2019).

Batam City citizens who do not yet have land legality from Batam Concession Agency in the form of Annual Mandatory Money, Location Identification Maps, Land Utilization Agreement Letters, Land Allocation Decrees, and Recommendations for granting land rights over Batam Concession Agency Rights Batam but have already received a certificate of the Complete Systematic Land Registration Program are also required to pay Land and Building Rights Acquisition Fees to the regional treasury which is managed by the regional revenue office, aside from paying Annual Mandatory Fee to Batam Concession Agency. And after paying the Land and Building Rights Acquisition Fees, it also needs to be validated by the Regional Office and then reported again to Indonesia National Land Agency to activate the certificate and to eliminate outstanding Land and Building Rights Acquisition Fees and Annual Mandatory Money.

### **Conclusion**

To ensure legal certainty, then the regulations used are still regulations issued by the Head of the Batam Free Trade Zone and Free Port Concession Agency Number 27 of 2017 concerning the Implementation of Land Allocation. The citizens must pay and process Annual Mandatory Money, process the Location Identification Maps, and a decree of the head of Batam Concession Agency regarding the use of certain land areas, and sign the Land Usage Agreement so that a decree can be issued even though already having the certificate. Because Batam City is an area that adheres to the legal principle of *Lex Specialis Derogat Legi Generalis* and it is one of the regions in Indonesia with regional autonomy rights.

### **Bibliography**

- Agus Riyanto, S. H., & Kn, M. (2018). *Hukum Bisnis Indonesia*. CV Batam Publisher.  
[Google Scholar](#)
- Anggoro, D. D., & Agusti, R. R. (2019). *Rekonstruksi Pajak Properti*. Universitas Brawijaya Press. [Google Scholar](#)
- Arnowo, W. (2018). *Pertanahan Agraria, dan Tata Ruang Jakarta*. Prenadamedia Group.  
[Google Scholar](#)
- Atmadjati, A. (2018). *Sinopsis Dunia Bisnis Penerbangan Indonesia 2013 S*. Deepublish.  
[Google Scholar](#)

- Bambang Supriadi, S. E., & Roedjinandari, N. (2017). *Perencanaan dan Pengembangan Destinasi Pariwisata*. Universitas Negeri Malang. [Google Scholar](#)
- Cahyadi, B. B. N., & Nawangsari, E. R. (2022). Efektivitas Program Ptsl Dalam Mewujudkan Kepastian Dan Perlindungan Hukum Hak Atas Tanah. *Jurnal Kebijakan Publik*, 13(4), 369–375. [Google Scholar](#)
- La'bi, A., Melvin, J., Nur, S. S., & Lahae, K. (n.d.). Pendaftaran Tanah Sistematis Lengkap (Ptsl) Terhadap Tanah Tongkonan. *SUPREMASI: Jurnal Pemikiran, Penelitian Ilmu-Ilmu Sosial, Hukum Dan Pengajarannya*, 16. [Google Scholar](#)
- Labi, J. M. A., Nur, S. S., & Lahae, K. (2021). Analisis Hukum Pendaftaran Tanah Sistematis Lengkap (PTSL) Terhadap Tanah Tongkonan. *Mulawarman Law Review*, 15–31. [Google Scholar](#)
- Mujiburohman, D. A. (2018). Potensi permasalahan pendaftaran tanah sistematis lengkap (PTSL). *BHUMI: Jurnal Agraria Dan Pertanahan*, 4(1), 88–101. [Google Scholar](#)
- Nomor, K. P. (41 C.E.). *Tahun 1996 tentang Kawasan Industri*. Bab I, Ketentuan Umum Pasal. [Google Scholar](#)
- Soerodjo, I. (2014). *Hukum pertanahan hak pengelolaan atas tanah (HPL): eksistensi, pengaturan, dan praktik*. Laksbang Mediatama. [Google Scholar](#)
- Syahrin, A. (2018). *Kekuatan Hukum Sertifikat Hak Milik dalam Penyelesaian Sengketa Tanah (Studi Putusan No. 482/Pdt. G/2016/PN. Mdn)*. [Google Scholar](#)
- Syuhada, T. (2019). Pelaksanaan Sita Jaminan Terhadap Objek Sengketa Yang Berada Di Tangan Pihak Ketiga Dalam Penanganan Perkara Perdata. *De Lega Lata: Jurnal Ilmu Hukum*, 4(1), 42–53. [Google Scholar](#)
- Triatmodjo, M., Merdekawati, A., Pratama, N. A., Rahma, N. A., Agung, I. G. P., & Asyah, A. M. (2022). *Pulau, Kepulauan, dan Negara Kepulauan*. UGM PRESS. [Google Scholar](#)
- Yodiniya, S., Pujiwati, Y., & Rubiati, B. (2020). Hak Milik Atas Satuan Rumah Susun Untuk Pertokoan Dengan Status Hak Guna Bangunan Di Atas Hak Pengelolaan Dikaitkan Dengan Undang-Undang Nomor 20 Tahun 2011 Tentang Rumah Susun. *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 3(2), 241–256. [Google Scholar](#)