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## The Society Law Perception of Precertification Property Land in Takalar District

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### 8 Abstract

*This study aimed to analyze the public's perception in the form of knowledge, understanding, and legal attitude towards land ownership certificates. This study uses primary data as the main source and secondary data as complementary, determining the purposive sampling technique. The research specifications used descriptive analysis with the type of juridical sociological research (non-doctrinal). The results of the study show that the legal perception of the community in the form of knowledge of the understanding and legal attitude of the community towards land certification is classified as a moderate category so that when administering land certificates, the community uses second parties (family, other people and BPN employees) rather than taking care of it directly from the community the land owner.*

### Keywords

legal perception; community; certification; land ownership rights



## I. Introduction

In essence, all land in the entire territory of the Republic of Indonesia is a gift from God Almighty to the Indonesian people who have united to become the Indonesian nation (Article 1 of the Basic Agrarian Law). The article above stipulates that land contains a religious communalistic conception, which underlies the national land law in Indonesia. According to Boedi Harsono (2010: 28) that, based on the right to control from the state, then in the UUPA, as mentioned in Article 4 juncto Article 16, it has been stated that several types of land rights can be given to and owned by other people are property rights. Right to cultivate, suitable to build, right to use, right to lease, and others. The 2005-2025 National Long-Term Development Plan (2005:107) states that “to implement an efficient, effective land management system, and to enforce the law on land rights by applying the principles of justice, transparency, and democracy. In addition, it is necessary to improve the control, ownership, use, and utilization of land through the formulation of various regulations for implementing land reform as well as the creation of tax incentives/disincentives that follow the area of location and use of land so that people from economically vulnerable groups can more easily get land rights. The economic condition of the population is a condition that describes human life that has economic score (Shah et al, 2020).

The critical thing to note from the National Long-Term Development Plan 2005-2025 is that land registration, issuance of land certificates, and land rights management need to be improved as optimally as possible. This shows that land tenure activities through certificates are carried out transparently and democratically. Since the Basic Agrarian Law (UUPA) in Indonesia in 1960, land owners must register their land at the Land Agency Office to obtain a land title certificate. This is because the rules regarding land rights prior to the enactment of the UUPA were still pluralistic or dualistic in land law, which caused many lands that had not been registered at the Land Agency Office until

now in the sense of having not yet received a certificate of ownership from the Indonesian government even though the land that they own has been controlled from generation to generation to several layers of descendants.

There is a widespread practice of land tenure in various areas, both personally and through the legal entities they own. Therefore, the widespread practice of land tenure is supported by the low or even lack of legal certainty for land ownership. The explanation of PP No. 24 of 1997 confirms that about 55 million parcels of land rights are eligible to be registered. However, only about 16.3 million have been registered (PP No. 24 of 1997: 24). Development reform is that land management has not provided a sense of security to the community, both in obtaining legal protection and obtaining their rights. Therefore, land management during the reform has not yet provided a sense of security to the community in terms of land law, and this is because land certificates have not been implemented thoroughly in the community. There are still many land cases whose rights overlap due to multiple certificates that sometimes appear in the community. According to Susilo Bambang Yudhoyono (2013: 3), it claimed that from 2005 to 2008 land area of 349,519 hectares was redistributed, while from 1961 to 2004, only 54,500 hectares of land were redistributed. The National Land Agency states that there are 85,000,000 plots of land in Indonesia, only about 30% of which are registered and granted land rights. Even then, it is not perfect because many lands have overlapping ownership.

Since the enactment of the Basic Agrarian Law in the 1960s, many people should register their land to obtain the status of their land rights, especially before the enactment of the Basic Agrarian Law in Indonesia, where the rules on land law are still pluralistic, or the dualism of land law causes many lands which have not been registered until now. So far, our society has the impression that obtaining a land title certificate is quite tricky, takes a long time, is quite expensive, and has quite a long bureaucracy. Especially for people who are in rural areas, whose education is relatively low and their economic conditions are mediocre because some people are farmers, family relationships leave more unwritten legal norms or unwritten regulations. Land ownership is hereditary primarily from their parents, so what happens is rarely a change of name, so that most of their land is in the name of their parents or grandmother. With the number of land cases in Indonesia that have not been registered with the Land Agency Office, it becomes a fruit of thought order to find a strategic format or program to increase public awareness of land ownership efforts that need to be explored to conduct sociological, legal research, so that property rights have clear evidence Strong.

## II. Review of Literature

### 2.1 Definition of Land Certification

Land certificates are the final product of land registration activities, often called places or containers for land certificates of property rights; some of these activities are held collectively, and some are usually done. Boedi Harsono (2010: 63) states that land registration is a series of activities carried out by the state/government continuously and regularly, in the form of collecting certain information or data regarding certain lands in certain areas, processing, storing, and presenting it for the benefit of the people to provide certainty law. The world series of activities is a series of activities in the context of land registration that are related to one another, sequentially into a unified series that is nuanced in the availability of the necessary data to provide legal certainty. The word continuously indicates the implementation of an activity that, once started, does not end. The data collected and available is always adjusted to changes that occur in the future so that it

remains at the last destination. The data collected consists of two juridical and physical data. Physical data means the location of the land, the boundaries of the land, buildings, and plants on it. Juridical data means to their rights, whether or not the right holder exists, and so on.

## 2.2 Definition of Owned Land

Articles that regulate property rights are Articles 20 - 27 of the Basic Agrarian Law (UUPA); in Article 20 of the UUPA, it is stated that:

- a. Ownership rights are the most substantial and most complete hereditary rights that people can have on land, keeping in mind the provisions of Article 6
- b. Ownership rights can be transferred and transferred to other parties

The strongest means that the land with the right of ownership has:

1. The term of ownership is not limited to the time
2. Rights registered at the Land Agency Office have proof of rights and rights

Fulfillment means that the right of ownership has:

1. Those with ownership rights give the most extensive authority compared to other land rights
2. Property rights are the parent of other land rights, for example, lease rights, use rights, and building use rights.
3. Ownership rights are not parented to other rights such as rental rights, use rights, building use rights, and so on

Characteristics of Freehold Land

1. Can be used as collateral in banking institutions or non-banking institutions (see Law No. 4 of 1996)
2. Land with ownership rights can be pawned at a pawnshop or individually pawned to certain parties (pawning land according to customary law)
3. Property rights can be transferred and transferred to other parties.
4. Property rights can be released voluntarily by the owner
5. Property rights can be donated to religious and social institutions (this is regulated in Law No. 41 of 2004 concerning Waqf)
6. Property rights can be used as land with building rights (Article 24 paragraph (1) PP Non. 40 of 1996)
7. Property rights can be used as land with usufructuary rights (Article 41 c PP No.40 of 1996).

## 2.3 Duties of the Land Certificate Agency

### a. Duties of the National Land Agency

Article 2 of the UUPA emphasizes that agrarian matters, according to their nature and principles, are the central government's duty. Therefore the delegation of authority to carry out state management rights over land is an assistance task. The government's system of administering agrarian affairs is closely related to the form of a unitary state with regional autonomy. Earth, water, and space as the container of the Republic of Indonesia must be able to show the form of the Republic of Indonesia as a unitary state. Considering that the agrarian task is the duty of the government, the granting of land rights is the task of the central government; it will be delegated to the regional government for the sake of smooth implementation of regional development and to improve public services to the community, the authority of the central government is the delegation of rights to the

regional government to facilitate the management of rights. On land in the Regency/City area.

With the issuance of Presidential Decree No. 26 of 1998, the duties of the Director General of Agrarian Affairs shifted to the duties of the National Land Agency. After the implementation of regional autonomy in January 2001, the provincial-level regions were implemented by the Provincial National Land Agency Office, and the Regency/City level regions were carried out by the Regency/Municipal Land Agency offices. The importance of improving the land institution, especially when considering the various obstacles that are currently symptomatic. Some of the obstacles that field implementers always face are customary law constraints which consider land to have a religious relationship so that people do not easily give up their rights. Such an attitude often creates difficulties in carrying out development because of the large number of land disputes that must be resolved legally.

#### **b. Duties of Land Deed Officials (PPAT)**

Land Deed Making Official (PPAT) is a general officer who is expressly authorized to make and sign a deed in terms of transferring land rights, granting new land rights, mortgaging land, borrowing money in banks with land rights as mortgage rights to those who want the existence of land titles. Deed as evidence and carried out its administration as found and justified by legislation. Article 39 of PP No. 24 of 1997 confirms that the PPAT deed is one of the data sources for the maintenance of land registration data. Therefore, it must be used as a solid basis for registration of the transfer and encumbrance of the rights concerned. Therefore, PPAT is responsible for examining the conditions for the validity of legal actions. From this formulation, at least the main task of the Land Deed Making Officer is to do a deed which includes, among others, the transfer of land rights, the granting of a new right to land, mortgaging land, and granting mortgage rights to land. PPAT can be entrusted to the District PPAT, namely PPAT, whose function is because of his position as sub-district head, and PPAT, appointed directly by the government as his position as PPAT.

Furthermore, Article 7 of PP No. 24 of 1997 confirms that the Land Deed Maker is appointed by the State Minister of Agrarian Affairs/Head of BPN. To make it easier for people in remote areas without PPAT to carry out legal actions regarding land, a temporary PPAT can be appointed. Those appointed as temporary PPTs are government officials who control the conditions of the area concerned, namely the Village Head. The PPAT deed is one of the primary sources of maintaining land registration data, so government regulations regulate the main tasks of PPAT and implementation. Therefore, the most important thing is whether PPAT is PPAT, mainly because his position (temporary PPAT) has been prepared technically and juridically to play the strong position. Because legal actions related to land always require prudence, thoroughness, accuracy, and vigilance. If this is neglected, it will result in the parties acting based on land rights and bring about multi-complex problems, especially regarding the judicial aspect. Thus, the PPAT position as a position of trust demands high moral integrity and intellectual honesty. In carrying out his duties, he examines the juridical evidence against the land and has to look for and examine the physical evidence. Because in a land certificate, if the basis for the rights is issued, the National Land Agency will examine the juridical and physical evidence in the field.

### III. Research Method

The research method used is sociological, legal research. This research was carried out in Takalar Regency with the consideration that in anticipating the implementation of regional autonomy, land management is an element that must be addressed as early as possible. The research population is all people in Takalar Regency who have registered their land rights at the Land Agency Office, as many as 2,250, with purposive sampling technique (purposive sampling) for the public service program, land certificates (larasita) in the form of mass certificates (SMS), this mass certificate is carried out in the form of projects funded by the World Bank through the Land Management and Policy Project (LMPDP). The selection of respondents was made at random by taking a sample of 75 respondents to fill out public questionnaires and direct interviews with officials from the Takalar Regency Land Agency Office. Sources of primary and secondary data, data collection techniques used questionnaires, documentation, and interviews, and data analysis techniques are qualitative and quantitative.

### IV. Results and Discussion

Public perception is the public's response in the form of knowledge, attitudes, and legal behavior to act, react or give a positive or negative assessment of the existing certification system. The community's legal knowledge and understanding of land ownership certificates are minimal, and this can be seen in the table below:

**Table 1.** Public Knowledge of Written Rules regarding Ownership Land Certificate

No.	Answer Category	Frequency	Percent
1	2	3	4
1	Very knowing	8	10.66
	Sometimes knowing	32	42.66
	Not knowing	22	29.33
	Do not know	13	17.33
	<b>Amount</b>	<b>75</b>	<b>100</b>

Source of data: processed from B1

From these data it shows that 8 (10, 66%) respondents stated that they were very aware of the written rules governing property rights land certificates, 32 (42.66%) respondents stated that they knew the written rules governing ownership rights land certificates, 22 (29,33 %) respondents who stated that they did not know the written rules governing the certificate of property rights 13 (17.33 %) of the respondents who stated that they did not know the written rules governing the certificate of property rights. Thus, the written rules regarding certificates of land rights, such as in Law Number 5 of 1960 (UUPA), PP Number 24 of 1997 concerning Land Registration, and PMA Number 3 of 1997, the public knows more than those who do not know, and this reflects more effective dissemination of information to the public about land title certificates. Even though the community is more aware of the written rules regarding land title certificates, there are still people who do not understand the procedure for land title certificates. Therefore, people who do not know the procedure for land title certificates, especially their understanding of land ownership certificates, can be seen in the table below.

**Table 2.** Public Understanding of the Certification Procedure Freehold Land

No	Answer Category	Frequency	Percent
1	2	3	4
1	Very knowing	5	6,66
2	Sometimes knowing	30	40
3	Not knowing	32	42,66
4	Do not know	8	10,66
<b>Amount</b>		<b>75</b>	<b>100</b>

Source of data: processed from B2

The data from the sources above show that 5 (6.66%) respondents stated very understood the procedure for land title certificates, 30 (40%) respondents sometimes understood the procedures for land title certificates, and 32 (42%) respondents did not understand the procedures for land certificates. Property rights, and 8 (10.66%) respondents who do not understand the procedure for land title certificates. Therefore, the public understands the procedure for land title certification more or less than those who already understand it. If the data is analyzed, it is clear that knowing ownership rights land certificates are more only about knowing the theory and the rules, but in practice in the field, they still do not understand it; it is a natural and acceptable thing that in practice the procedure for land certificates of property rights is still in the understanding of the community. Low. Public understanding in the management of property rights such as the deed of sale and purchase, deed of inheritance, deed of grant, deed of will, and so on through a notary, Land Deed Maker Official (PPAT) appointed by the Ministry of Law and Human Rights and District PPAT, Religious Courts are still relatively low, and this can be seen in the table below:

**Table 3.** Community Understanding of Procedures for Management of Ownership Land Rights at Notaries, PPAT and Religious Courts

No	Answer Category	Frequency	Percent
1	2	3	4
1	Very knowing	7	9,33
2	Sometimes knowing	27	36
3	Not knowing	34	45,33
4	Do not know	7	9,33
<b>Amount</b>		<b>75</b>	<b>100</b>

Source of data: processed from B3

The data shows that 7 (9.33%) respondents understand very well the procedure for the management of the right to obtain property rights, 27 (36%) respondents sometimes understand the procedures for the management of the property rights, 34 (45.33%) respondents do not understand the procedure for the management of the right to own land, and 7 (9.33%) respondents do not understand the procedure for the management of the right of ownership. Thus, the public understands the procedures for managing property rights, such as the issuance of the deed of sale and purchase from PPAT or PPAT Kecamatan, deed of inheritance, deed of grant, and deed of will through the authorities are still considered low. This is a natural thing and can be accepted logically if it is related to the understanding of the community in managing land title certificates at the National Land Agency (BPN) Office (see table 3). The management of the rights is in the form of a deed of sale and purchase through the PPAT or PPAT Sub-district, the management of a grant

deed, a will through a notary, the management of an inheritance deed through the Religious Courts for those who are Muslim. Therefore, there is almost a similarity; the people who have taken care of the certificate of the right of ownership at the time of the management of the basis of the land title of the right of ownership have a shared understanding. Even though the community still has a common understanding of the procedures for land rights and land title certificates, the public still knows a lot about the use of land title certificates, which can be seen in the table below.

**Table 4.** Public Knowledge of Use Ownership Land Certificate

No	Answer Category	Frequency	Percent
1	2	3	4
1	Very knowing	22	29,33
2	Sometimes knowing	30	40
3	Not knowing	17	22,66
4	Do not know	6	8
<b>Amount</b>		<b>75</b>	<b>100</b>

Source of data: processed from B4

From these data it shows that 22 (29.33%) respondents stated that they understand the usefulness of proprietary land certificates, 30 (40%) of respondents sometimes understand the use of proprietary land certificates, and 17 (22.66%) of respondents do not understand the usefulness of land rights certificates. Property, and 6 (8%) respondents who do not understand the usefulness of a land title certificate. Thus, the public's understanding of the usefulness of land ownership certificates knows more about their uses than does not know it. Therefore the community certifies their land with the primary purpose of seeking legal certainty on proprietary land as solid evidence.

## 2. Public Attitude towards Land Title Certificate

When people apply for land certificates of their rights at the Takalar Land Agency office, some directly take care of themselves, others through intermediaries from other people (second parties); this can be seen in the table below.

**Table 5.** Community Recognition of Management Ownership Land Certificate

No	Answer Category	Frequency	Percent
1	2	3	4
1	Take care of yourself	29	38,66
2	taken care of by family	19	25,33
3	Managed by someone else	13	17,33
4	Managed by BPN Employees	14	18,66
<b>Amount</b>		<b>75</b>	<b>100</b>

Source of data: processed from B5

The data shows that 29 (38.66 %0 respondents admitted that obtaining a land title certificate was managed by the owner himself at the National Land Agency Office, and 19 (25.66%) respondents admitted that obtaining a land title certificate was managed by their own family at the National Land Agency Office. National Land Agency, 13 (17.33%) respondents admitted that they obtained land certificates with ownership rights managed by other people at the National Land Agency Office, and 14 (18.66%) respondents admitted obtaining certificates of land ownership rights managed by employees of the Takalar National Land Agency Office. Thus, when taking care of the land title certificate, the community is more likely to take advantage of the second party, namely family, other



people, and employees of the Takalar National Land Agency Office, rather than the landowners themselves who take care of it. This proves that for the procedure for land ownership rights, the community does not fully know and understand how to manage it, so they take advantage of a second party. The existence of a certificate of ownership obtained by the community can reveal the benefits for them, namely getting legal certainty; it can also be used as collateral to make a loan at the bank to obtain the desired credit.

**Table 6.** Community Responses to the Benefits of Certificates Land of Ownership that Has Been Issued

No	Answer Category	Frequency	Percent
1	2	3	4
1	Very useful	25	33,34
2	Feel the benefits	40	53,33
3	Less benefit	10	13,33
4	No benefit	0	0
<b>Amount</b>		<b>75</b>	<b>100</b>

Source of data: processed from B6

From these data, it can be revealed that 25 (33.34%) respondents stated that the benefits were felt, 40 (53.33%) respondents stated that they felt the benefits, 10 (13.33%) respondents stated that the benefits were not felt, and respondents which states that there is no benefit. Thus, almost all those who stated that they felt the benefits were more beneficial than those who stated they were not valuable. Therefore, the benefits of land title certificates are for:

- a. Provide legal certainty for land owners
- b. Used as collateral in the bank when taking credit
- c. Make it easier for land owners if they want to buy and sell property rights
- d. Make it easier for land owners to pawn (pawn customary agriculture)
- e. Served as the basis for the issuance of building permits (IMB)
- f. The existence of land with certified ownership rights can be used as the status of the land to function as another status as rental rights or usufructuary rights (see Article 20 of the UUPA)
- g. If the certified land rights are subject to a development project for the public interest, the compensation value is higher than other land rights that have not been certified.
- h. The existence of a land title certificate can be used as a dowry to carry out a marriage with the term butta land (Makassar regional term) or sompah land (Bugis regional term), which is still part of the Bugis-Makassar community as a custom in the marriage contract.

The community even admits that those who have land certificates claim that the benefits they get from a land title certificate are that they feel safe from interference from other parties who want to claim their land rights; for this, you can see the community's recognition in the table below.

**Table 7.** Community Recognition of Feeling Safe from Disturbance Others on Certified Land Title

No	Answer Category	Frequency	Percent
1	2	3	4
1	Feel very safe	28	37,33
2	Feel safe	33	44

3	Less safe	9	12
4	Not safe	5	6,66
	<b>Amount</b>	<b>75</b>	<b>100</b>

Source of data: processed from B7

The data shows that 28 (37.33%) respondents stated that they felt very safe from interference from other people on their land rights, 33 (44%) respondents stated that they felt safe from other people's disturbances on their land rights, 9 (12%) respondents who stated that they were not safe from other people's disturbances on their lands and 5 (6.66%) respondents who stated that they were not safe from other people's disturbances of their lands. Thus, more respondents who gave their acknowledgment felt that the dispute would be secure if their land rights were certified, while those who stated that it was less secure were fewer in number. Therefore, respondents with a land title certificate are very useful in maintaining their land rights. Therefore the existence of a land title certificate is strong evidence. Based on data that has been processed in tabulation form, starting from table 6 to table 7, it can be recapitulated as follows with the weight or assessment of each option (answer category), namely:

1. Average choice (a) is weighted 3.01 - 4 (height)
2. Average choice (b) is weighted 2.01 - 3 (medium)
3. Average choice (c) is weighted 1.01 - 2 (low)
4. Average choice (d) is weighted 0 > 1 (nil)

This method will show the community's legal perception of land ownership rights certificates. The recapitulation table can be seen in the table below.

**Table 8.** Community's legal perception of land ownership rights certificates

No	Answer Category	Weight	Frequency	Fx Weight	Description
1	2	3	4	5	6
1	a	4	124	496	
2	b	3	211	633	
3	c	2	137	274	
4	d	1	53	53	
	<b>Total</b>	-	<b>525</b>	<b>1456</b>	

Source of data: processed from B1-B7

The data grouping above can be seen in the following description :

- a) The number of respondents who chose the first answer category was 124 frequencies with a weight of choice of 496
- b) The number of respondents who chose the second answer category was 211 frequencies with a weight of choice of 633
- c) The number of respondents who chose the third answer category was 137 frequencies with a total weight of choice of 274
- d) The number of respondents who chose the fourth answer category was 53 frequencies with a total weight of 53

To find out the strength of this opinion, the legal perception of the community towards land ownership certificates in Takalar Regency can be seen in the following distribution:  $1456/525 \times 100\% = 2.77$ . From the results of the division above, it can be concluded that the average value of 2.77 is in the second position, which is moderate.

Therefore, the community's legal perception of land ownership certificates in Takalar Regency is still in the moderate category, meaning that the community's knowledge, understanding, and legal attitudes are considered moderate by the respondents (community).

## V. Conclusion

The level of public perception in the form of knowledge, understanding, and legal attitudes towards land title certificates is still relatively moderate; therefore, with limited knowledge and understanding of the legal attitude of the community in managing property rights land certification at the Takalar Land Agency Office; as a result, people are more inclined to entrust to the second party for the management of the rights and certificates of his land rights. The cost of conventional land title certificates is quite expensive, according to community recognition. Therefore it is hoped that the authorities (government) can reduce the cost of land certificates, and mass certificates need to be increased in number so that people are motivated to certify their land.

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