****

**DOI:** <https://doi.org/10.31933/unesrev.v6i4>

**Received:** 5 Juni 2024, **Revised:** 9 Juni 2024, **Publish:** 16 Agustus 2024

<https://creativecommons.org/licenses/by/4.0>

**Juridical Analysis Of Legal Certainty Of Property Rights To Management Rights In Batam City (Research Study At Batam City Land Office)**

# Dita Kurnia Wati1, Erniyanti2

1Faculty of Law, University of Batam, Batam City, Indonesia

2Faculty of Law, University of Batam, Batam City, Indonesia

Corresponding Author: [dita.kurniawati1984@gmail.com1](mailto:ombungrace@gmail.com1)

**Abstract:** This study aims to determine the Implementation and implementation of Legal Certainty on Property Rights on Management Rights in Batam City (Research study at the Batam City Land Office) and to find out what factors are the obstacles / constraints and solutions to Legal Certainty on Property Rights on Management Rights in Batam City (Research study at the Batam City Land Office). The results of the study explain that the legal arrangements for the issuance of several certificates of property rights in the city of Batam due to errors in interpretation to the application of legislation carried out at that time by the Batam Authority in issuing Decree (SK) Number 734/UM-KPTS/XII/1998 signed by the Chairman of the Batam Authority (OB) at that time. The legal arrangements for the implementation of land ownership rights affirmation of the old kampong community in Batam Island are based on Presidential Instruction No. 2 of 2018 on the Acceleration of Complete Systematic Land Registration in All Regions of the Republic of Indonesia and Regulation of the Minister of Agrarian Spatial Planning/National Land Agency No. 6 of 2018 on Complete Systematic Land Registration. BP Batam in cooperation with the City Government provides land rights status in the form of Property Rights by not recommending the Old Village to be part of BP's Management Rights so that the old village area on Batam Island is under the management of the Batam City Government. The existence of the issued Hak Milik is valid, recognized and applicable in Batam City. Property Rights on land in the area with the status of Management Rights in Batam City have absolutely been released from the supervisory authority of the BP Batam land authority.

**Keywords**: Juridical Legal Certainty, Land Management Rights.

# INTRODUCTION

In accordance with Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Flat Housing Units and Land Registration. Management Rights are control rights from the State whose implementation authority is partially delegated to the holders of Management Rights. Meanwhile, the definition of property rights is hereditary, strongest and fullest rights that people can have over land in accordance with the provisions of Article 20 paragraph (1) of the UUPA. Based on these provisions, the characteristics of property rights distinguish them from other rights. Juridically, based on Article 19 paragraph (2) letter c of the UUPA, the definition of a certificate is as follows: A certificate is a certificate of proof of title which serves as a strong instrument of proof. The issuance of a certificate is intended to enable the right holder to easily prove his right. Therefore, the certificate is a strong means of proof, as stated in Article 19 paragraph (2) letter c of the UUPA (Harsono, 2008: 502).

One of the land issues that occurs in Batam City is regarding the holder of a certificate of property rights granted over the management right either due to changes in allotment or because the property right is granted over the former customary land. Batam City is part of Riau Islands as a province within the boundaries of the Unitary State of the Republic of Indonesia which is a division area of the Riau region dated September 24, 2002 and became the 32nd province based on Law Number 25 of 2002 concerning the Establishment of Riau Islands Province.

Development has the main objective, namely to achieve prosperity for the community in the nation and state, in the development process must be based on legal certainty, one of the fields in development is the land sector, the government's efforts in the development of the land sector are organizing land registration throughout the territory of the unitary state of the Republic of Indonesia. Land registration is organized to ensure legal certainty, land registration is organized to meet the needs of the community and government, land registration is expected to bring legal certainty to the community and government, legal protection is provided to provide security for the community in the life of the nation and state.

Based on Government Regulation No. 46/2007 on Free Trade Zone and Free Port of Batam, it is stated that the Management Rights on land under the authority of the Batam Island Industrial Area Development Authority and the Management Rights on land under the authority of Batam City Government located in the Free Trade Zone and Free Port of Batam shall be transferred to the Batam Free Trade Zone and Free Port Agency in accordance with the laws and regulations. As an explanation, the Batam Free Trade Zone and Free Port Agency as the holder of the management right on Batam Island has the right to manage and collect annual mandatory fees from the public or legal entities that apply for land on Batam Island in exchange for rent on land that is part of the management right, the period given is for thirty years and when the period has expired it can be extended for twenty years.

Legal protection for the owners of certificates of community property rights located on Batam Island must be considered, this is in view of Presidential Decree No. 41 of 1973 which stipulates that the entire area of Batam Island is the industrial environment of Batam Island, in which case the authority to develop the industrial area of Batam Island is given to the Batam Island Industrial Area Development Authority which has now changed to the Batam Free Trade Zone and Free Port Agency or Batam Concession Agency.

# METHOD

Research is an investigation or investigation that is managed, systematic based on data, critical, objective, and scientific towards a specific problem aimed at finding alternative solutions to related problems. Methods are used in a research which is basically a stage to find back a truth. So that it will answer questions that arise about an object of research[[1]](#footnote-1). The specifications of this research conduct analysis only to the level of detesis, namely analyzing and presenting facts in a systematic way. until finally it can be easier to understand and conclude.

The specification and/or type of this research is normative legal research as well as combining with sociological (empirical) legal research using primary data obtained directly from as the first source through field research through interviews and secondary data as a source / material of information in the form of primary legal materials, secondary legal materials and tertiary legal materials.

The method of approach in this research is a combination of methods between normative approaches “legal research” with empirical approach methods “Juridical sociologies”. The presentation of the empirical facts presented is carried out with a qualitative approach, namely a method that reveals facts in depth based on the scientific characteristics of individuals or groups. to understand or reveal something behind the phenomenon[[2]](#footnote-2).

The population in this study is a group of people, events something that likes certain characteristics. The population is all employees and leaders in the Batam City Land Office. The sample used by the researcher is a random technique which is useful to know exactly related to the research to be studied.

This type of research is included in the class of research combined between normative legal research (library research) with observational research, while seen from its nature is analytical, where the author makes efforts to explore data that is verbal sourced from literature that the author gets fiber library with data that the author can get in the field then analyzed in order to obtain conclusions deductively.[[3]](#footnote-3)

# RESULT AND DISCUSSION

**Legality of Land Ownership Status within the Land Management Rights Area (BP Batam) and outside the Management Rights Area (Batam City Government)**

In order to obtain legalization of land ownership, the land must be registered through a land registration mechanism, this is regulated in Government Regulation No. 24 of 1997 concerning Land Registration, as the implementation of Law No. 5 of 1960 concerning Basic Agrarian Principles mandated in Article 19 paragraph 1. To answer the legality of property rights on land issued in Batam City, in terms of the transfer of parts of land management rights, it is necessary to review the authority in managing the land area by BP Batam. Such authority is referred to in Presidential Decree No.41 of 1973 concerning the Batam Island Industrial Area, followed by Ministerial Decree No.43 of 1977 concerning the Management and Use of Land in the Batam Island Industrial Area. that referring to the existing authority of BP Batam as well as the legal basis mentioned above, it is not supposed to issue land ownership rights in Batam City. This is because all land in Batam City has been designated as Land Management Rights. Thus, by referring to the authority of BP Batam which is only given special or specific authority as evident in Presidential Decree No.41 of 1973, namely Article 6 paragraph 2 sub (b) number 3 (three) and Kepmendagri No.43 of 1977, namely Article 7.

**Legal Basis for Affirmation of Community Land Ownership Rights (Hak Milik) in Batam City**

In discussing the formulation of the first problem, namely how the legal regulation of the affirmation of Property Rights on Management Rights in Batam City in the perspective of legal certainty. As the basis of law in the field of land in Indonesia is currently regulated in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles or also called the Basic Agrarian Law, the law replaces several previous regulations which are products of the Dutch East Indies government, the previous Dutch East Indies government product regulations are more likely to harm the Indonesian people and are no longer in accordance with Pancasila and the 1945 Constitution contained in article 33 paragraph 3. In general, Basic Agrarian Law No. 5/1960 does not recognize land ownership as known in the Civil Code.

**Objectives and Benefits of Affirmation of Community Land Ownership Rights in Batam City**

The purpose of affirmation of community land ownership rights in Batam City is generally the same as the purpose of implementing land registration, namely:

1. To provide legal certainty and protection to holders of rights to a parcel of land, apartment units and other rights registered in order to easily be able to prove himself as the holder of the rights concerned. I.e.57 to provide legal certainty and protection to the right holders concerned, land rights are granted.
2. To provide information to interested parties, including the Government, so that they can easily obtain the necessary data in conducting legal actions regarding land plots and apartment units that have been registered.
3. For the implementation of orderly land administration. Namely, to achieve orderly land administration, every plot of land and unit of land and unit of flat including the transfer, encumbrance, and extinguishment of rights to land and property rights to flat units must be registered.

The benefits of the implementation of affirmation of land ownership rights of the old kampong community in Batam Island include for land rights holders:

1. The procedure is easy, i.e. land rights holders do not need to come to the Land Office to register their land, but the adjudication officer/committee comes to the location of land registration,
2. Provides a sense of security, which is not easy to cause disputes between parties related to physical data and juridical data on land that has been registered (certified), namely land rights that have been registered (certified land prices become more expensive), the price is more expensive when compared to land that has not been registered (berseripikat),
3. As for the benefits for the government, namely: the realization of orderly land administration, namely through systematic land registration, the land in the entire old village area becomes registered so that the realization of orderly land administration as one of the chess program orderly land.
4. Can facilitate government activities related to land for development, namely if the government needs land for the purposes of development projects, then the parties who obtain compensation are clear and certain in accordance with the physical data and juridical data listed in the certificate.

**Subject and Object of Affirmation of Community Land Ownership Rights in Batam City**

The subject of confirmation of community land ownership rights in Batam City is an individual Indonesian citizen who lives and resides in the location of the Batam Island area. As a form of providing legal certainty and protection to holders of rights to a parcel of land in the old village on Batam Island is given evidence of land rights, land rights are given in the form of certificates of property rights, building use rights and use rights, Property Rights (HM) according to Article 20 of the Basic Agrarian Law, what is meant by property rights is hereditary, strongest and fullest rights that can be owned on land with regard to social functions, which can be transferred and transferred to other parties, property rights are the strongest and fullest rights that people can have on land.

The object of affirmation of community land ownership rights in Batam City is land located in the old kampung area in Batam Island, which is determined based on the Decree of the Mayor of Batam No. KPTS.105/HK-III/2004 and which is in accordance with the Local Regulation of Batam City No. 2/2004 on the Spatial Plan of Batam City 2004-2014, i.e., whose allocation is in accordance with the spatial plan stipulated in the Spatial Plan of Batam City and the land has not been issued a certificate of management rights granted to the Batam Free Trade Zone and Free Ports Concession Agency and the land has not been allocated to other parties by the Batam Free Trade Zone and Free Ports Concession Agency.

**Eksistensi Hak Milik yang terbit dengan berlakunya Keppres No.41 Tahun 1973 Juncto Surat Keputusan (SK) Nomor 734/UM- KPTS/XII/1998 dan SK Walikota Batam Nomor: KPPTS.105/HK/III/2004**

The management right in Batam Island is given to the Batam Island Industrial Area Development Authority which is now the Batam Free Trade Zone and Free Port Enterprise Agency, this is regulated in the Presidential Decree of the Republic of Indonesia number 41 of 1973 concerning the Batam Island industrial area which stipulates that the entire Batam Island area is the working environment of the Batam Island Industrial Area and strengthened by Government Regulation Number 46 of 2007. In some parts of Batam Island, some of the areas are old villages, which are determined by the decision of the Mayor of Batam number KPTS.105/HK/III/2004 dated March 23, 2004 on the Determination of Old Village Areas in Batam City, in the decision letter on the determination of old village areas in Batam City includes old village areas located on Batam Island and old village areas located outside Batam Island.

The determination of the old village area in Batam Island is regulated in the Decree of the Mayor of Batam Number: KPTS.105/HK/III/2004 Dated March 23, 2004 on the Determination of the Old Village,70 the location of the old village area is not centralized in one area but consists of several old village locations that are scattered separately from each other, there are 37 old village locations stipulated in the decree of the Mayor of Batam, as a sign that the location is an old village location, the Batam City Government erects buildings in the form of old village monuments, old village gates and old village gates, with signs in the form of these buildings the public can know that the area is the location of the old village area.

# CONCLUSION and SUGGESTIONS

**Conclusions**

Based on the research conducted by researchers both using existing legal materials, namely laws and regulations and conducting direct observations by conducting interviews, the researchers submit conclusions on the research results of the problem formulation as follows:

1. Legal arrangements for the issuance of several certificates of property rights in the city of Batam due to errors in interpretation to the application of legislation carried out at that time by the Batam Authority in issuing Decree (SK) Number 734/UM-KPTS/XII/1998 signed by the Chairman of the Batam Authority (OB) at that time.
2. The legal arrangement for the implementation of land ownership rights affirmation of the old kampung community in Batam Island is based on Presidential Instruction No. 2 of 2018 on the Acceleration of Complete Systematic Land Registration in All Regions of the Republic of Indonesia and Regulation of the Minister of Agrarian Spatial Planning/National Land Agency No. 6 of 2018 on Complete Systematic Land Registration. In determining the location of the old kampung area where rights affirmation can be carried out, there must be a recommendation for the issuance of property rights certificates from the Batam Concession Agency. However, for the old kampung area in Batam Island, land registration is not carried out through the granting of rights on Management Rights but is carried out by granting rights on state land whose management is under the coordination of the Batam City Government.
3. BP Batam in cooperation with the City Government grants land rights status in the form of Property Rights by not recommending the Old Village to be part of BP's Management Rights so that the old village area in Batam Island is under the management of Batam City Government.
4. The existence of the issued Hak Milik is valid, recognized and applicable in Batam City. Ownership Rights on land in the area with the status of Management Rights in Batam City are absolutely free from the supervisory authority of BP Batam's land authority.

**Suggestions**

Based on the above conclusions, some suggestions are given as follows:

1. It is expected that there will be good coordination between BP Batam, Batam City Government and Land Office of Batam City, so that the public will not be harmed and the legal certainty of land rights is guaranteed.
2. BP Batam and Batam City Government should be able to divide which is the authority of BP Batam and Batam City Government, so that there is no overlapping authority in granting recommendations on land rights.
3. It is expected that there will be good coordination between the Batam Island Industrial Development Authority (Otorita Batam) and the Batam City Land Office, so that the public will not be disadvantaged and the legal certainty of land rights is guaranteed. 2. It is necessary to improve the performance and information system covering all aspects contained in the Batam Island Industrial Area Development Authority (Otorita Batam) so as to foster investment for investors in conducting industry in Batam City as well as supervision of the implementation of land rights arising from or on land management rights in all areas of Batam City.

**REFERENCES**

A.P.Parlindungan, *Pendaftaran Tanah di Indonesia,* Cet 2, Bandung, Mandar Maju, 1994.

Bambang Sugono, *Metode Penelitian Hukum,* Jakarta, Raja Grafindo Persada, 2001.

Bernard Arief Sidharta, *Refleksi Tentang Struktur Ilmu Hukum,* Bandung*,*Mandar Madju, cetakan ke tiga, 2009.

Bernard Arief Sidharta, *Reformasi Peradilan dan Tanggung Jawab Negara, Bunga Rampai Komisi Yudisial, Putusan Hakim : Antara Keadilan, Kepastian Hukum, dan Kemanfaatan,* (Jakarta : Komisi Yudisial Republik Indonesia, 2010).

Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan Undang- Undang Pokok Agraria Isi Dan Pelaksanaanya ,* Jakarta*,* Edisi Revisi, Djambatan, 2005.

Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan Undang- Undang Pokok Agraria Isi Dan Pelaksanaanya ,* Jakarta*,* Edisi Revisi, Djambatan, 2008.

Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan Undang- Undang Pokok Agraria Isi Dan Pelaksanaanya, Jilid I Hukum Tanah Nasional ,* Edisi 2020, Jakarta, Universitas Trisakti, 2020.

Erwiningsih Winahyu, *Hak Menguasai Negara Atas Tanah*, Total Media, cet.1, Jakarta, 2009

Harsono, Boedi, *Hukum Agraria Indonesia*,Djambatan,Jakarta,1999.

, *Hukum Agraria Indonesia Sejarah Pembentukan Undang – Undang Pokok Agraria, Isi, Dan Pelaksanaanya*,Djambatan,Jakarta,2003.

Idham, *Paradigma Politik Hukum Pembentukan Undang-Undang Guna Meneguhkan Prinsip Kedaulatan Rakyat Dan Indonesia Sebagai Negara Hukum*, Bandung, PT. Alumni, 2010.

-------, *Konsolidasi Tanah Perkotaan Dalam Perspektif Otonomi Daerah Untuk Mewujudkan Kemampuan Fungsi Lingkungan Hidup,* Edisi Kedua, Bandung, PT. Alumni, 2011.

-------, *Implementasi Politik Hukum Agraria-Pertanahan Pelaksanaan Sertipikasi Tanah Perdesaan*, Bandung, PT. Alumni, 2013.

- , *Analisis Kritis Pendaftaran Tanah Hak Ulayat Milik Masyarakat Adat Untuk Meneguhkan Kepastian Hukum Dan Peningkatan Ekonomi Kerakyatan*, Bandung, PT. Alumni, 2014.

--------, *Konsolidasi tanah Perkotaan Guna Meneguhkan Kedaulatan Rakyat,* Bandung, PT. Alumni, 2014.

--------, *Konsolidasi Tanah Perkotaan Dalam Persfektif Otonomi Daerah Guna Meneguhkan Kedaulatan Rakyat Dan Negara Berkesejahteraan*, Alumni, Bandung, 2014.

Soedjono Dirdjosisworo, *Pengantar Ilmu Hukum*, Cetakan ke 17, Jakarta, PT. Rajagrafindo Persada, 2014.

Soerya Respationo, *Politik Hukum*, Cetakan kedua, Medan, Perdana Mulya Sarana ,2021.

Soerjono Soekanto, *Pengantar Penelitian Hukum*, Jakarta, UI Press, 1996.

Soerjono Soekanto dan R. Otje Salman, *Disiplin Hukum dan Disiplin Sosial*, Jakarta, Rajawali Pers, 1987.

Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat,* Jakarta, PT. Raja Grafindo Persada, 1995.

Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat,* Cetakan Ketujuh *,* Jakarta, PT Raja Grafindo Persada, 2003.

Sugiyono, *Metode Penelitian Pendidikan: Pendekatan Kuantitatif, Kualitatif dan R&D,* Bandung: Alfabeta, 2012.

Sugiyono, *Metode Penelitian Kombinasi,* Bandung, Alfabeta, 2016.

Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan Praktik*. Jakarta, PT. Rineka Cipta, 2010.

Surayin, *Kamus Umum Bahasa Indonesia, Analisis*, Bandung, Yrama Widya, 2001.

Syamsul Arifin, *Metode Penulisan Karya Ilmiah dan Penelitian Hukum,*Medan*,* Medan Area University Pers, 2012.

1. Fadlan, Panduan Penulisan Proposal dan Tesis, Uniba-Batam, 2024, Hlm 25 [↑](#footnote-ref-1)
2. Mukti Fajar Nur Dewata dan Yulianto Achmad, Dualisme penelitian hukum Normatif & Empiris, Pustaka Pelajar, Yogyakarta, 2009, Hlm. 53. [↑](#footnote-ref-2)
3. Noeng Muhajir, Metodologi Penelitian Kualitatif, Roke Sarasin, Jakarta: 1990, Hlm. 92. [↑](#footnote-ref-3)