

Protective Use of Buildings Law of the Lanting House



Muhammad Aji Samudra¹ Tulus Sartono²

^{1,2}Master of Law, Universitas Diponegoro Semarang

ABSTRACT: Existence of Lanting Houses for traditional Kalimantan people, especially Banjarmasin people, is a primary need because it their place to live. The life of the Lanting House is now, in the beginning, to be abandoned because the local government is trying to relocate the Lanting House, and there is no legal status of the Lanting House so that many heirs sell the Lanting House only with receipts. Seeing the object of the Lanting House that was built on the water was not able to get ownership rights like on the land, this caused the weak legal force against the object of this Lanting House if it had transitioned rights because an object that was built floats on the water according to the Agrarian Law does not can get land rights. The purpose of this study was to determine the protection obtained by the Lanting House. This study used a normative juridical approach by reviewing and analyzing the laws and regulations and library materials relating to the Lanting House, and the rules used as the basis for the status of the Lanting House. This study used secondary data covering primary legal material in the form of legislation, and secondary licensed content in the form of theories and literature related to the issues discussed. Research showed that the Lanting House could be protected under Law No. 5 of 1960 concerning Basic Rules of Agrarian Principles and Government Regulation No. 40 of 1996 concerning Land Use Rights, Building Use Rights, and Land Use Rights. Where the Lanting House can be given the right to use the building that has been approved by the minister of agrarian and spatial planning so that the Lanting House is recognized as a building that can be given legal certainty.

KEYWORD: Agrarian; Building rights; Housing; Lanting House.

INTRODUCTION

It has become a part of history that the ancestors of this nation were reliable explorers, the geographical conditions were very supportive, and as a maritime country, it was not uncommon for people's lives at that time to move from one place to another. Humans know a place to live or a house whether they live in nomadic or permanent places where they are, Home for them has many functions, including as a place of refuge from the weather or surrounding natural conditions or wild animals (Mardiana Lestari, Emi Tipuk, 2016), from here, the creation of various types of houses and cultures, one of the types of houses is the Lanting House or sliding house. The Lanting house is a floating house that has become a living culture for the Banjar people (Bambang Daryanto, 2016). Lanting house is one of the cultures, namely the traditional house in Banjarmasin, South Kalimantan (Wafirul Aqli, 2011). The condition of the area in Kalimantan as a whole which is dominated by wide and long rivers causes the people to use the river in their daily life, especially before the existence of land transportation routes so that the river becomes a vital part of the people of Banjarmasin, starting from their residence to economic places such as floating markets. This geographic factor led to the birth of the Lanting House, which is proof that humans adapt to their environmental conditions.

In Indonesia, there are many houses, such as the typical Lanting House in South Kalimantan. Still, the Lanting House which is built outside the island of Kalimantan is usually intended for fishing communities who work in coastal areas who have fish cage businesses. They make Lanting Houses for them to stay near their fish cages. The. The function of the Lanting House is no different from the house installed on the ground. The Lanting House is also widely used as a grocery store, food stalls or fuel stalls. Until the 1980s, in the riverside area, various residents of Lanting Houses with various activities such as fishing, trading, cooking to bathing or greeting with neighbours (M. Aulia Ur Rahman, 2014), and therefore it is possible that the Lanting House can be traded.

The unique architecture of the Lanting House is the main attraction for visiting tourists and local people to see and even learn about the Lanting House. The cultural diversity contained in the intrinsic history of Rumah Lanting and its relationship with river life in Banjarmasin and its surroundings is one of its treasures to review more deeply the cultural history and track record of the development of this wet swamp-based city (Juprianto Bua, 2014). However, the Banjarmasin City government policy regarding the relocation and rehabilitation of Lanting Houses did not go as expected. It seemed to erase the existence of Lanting Houses on

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the banks of the rivers in Banjarmasin. The eviction of Lanting Houses that occurred in various riverbank areas such as those in the Sungai area. Only in 2015 until the rehabilitation of the residents of Rumah Lanting in several areas from 2016 to mid-2017 indicates that the city government is trying to relocate Banjar customs and culture (Tinta Digital, 2020).

Like houses in general, of course, there are buying and selling transactions between homeowners and buyers, including the Lanting House, buying and selling that occurs at Lanting Houses usually only uses a familial method, namely using receipts or handing over keys without any certificate of ownership rights. This does not rule out the emergence of various kinds of legal problems in the future due to the absence of clear regulations on the Lanting House building so that there is no legal protection for the Lanting House.

RESEARCH PROBLEM

This research will examine the legal protection of the Lanting House by granting Building Use Rights (HGB) so that the formulation of the research problem is how the juridical basis for granting HGB for the Lanting House.

RESEARCH METHOD

This research uses a normative juridical approach by reviewing and analyzing statutory regulations (Kornelius Benuf, Muhamad Azhar, 2020) and library materials related to Rumah Lanting, as well as regulations that form the basis of the HGB status for Rumah Lanting. This study uses secondary data, including primary legal materials in the form of statutory regulations, and secondary legal materials in the form of theories and literature related to the issues discussed. Then the legal materials are analyzed using the Statue Approach, which is an approach by examining laws and regulations related to the legal issues discussed, as well as the Conceptual Approach, which is a problem approach using the opinions of undergraduate experts found in the literature, related to the legal issues discussed (Ronny Hanitijo S, 1990).

DISCUSSION

The Legal Status of Ownership and Legal Protection of Lanting Houses in Indonesia

The legal status of ownership of a building in Indonesia is an important matter; it aims to provide legal protection to the owner against any attempts made by other parties to seize ownership rights to the building (Muhammad Yamin Lubis, Abd. Rahim Lubis, 2013). This means that the legal status of building ownership is closely related to legal protection. For the Indonesian people, legal protection is a national ideal stated in the preamble to the state constitution, which reads protect the entire Indonesian nation and all the blood of Indonesia (Elwin Tobing, 2018). Protection of individuals and communities is both a nature and a goal of the law (Kornelius Benuf, Siti Mahmudah, and Ery Agus Priyono, 2019). Indonesia, as a rule of law country, has juridical consequences, that all actions and state policies to protect its people must be regulated by statutory regulation (Moh. Kusnadi, 1987).

Legal protection when viewed from its application in the context of ownership of Lanting Houses in Indonesia, where up to now there are no Lanting Houses or similar floating houses in Indonesia that explicitly regulate Lanting Houses or similar floating houses. Lanting houses are generally the same as other houses; the only difference is in the area of the house, which is above water or river (M S Lubis, T Y Harjoko, D Susanto, 2018). Article 1 point 1 of Law No.1 of 2011 on housing and residential areas defines a house, namely: A building that functions as a place to live that is suitable for habitation, a means of fostering a family, a reflection of the dignity of its residents, as well as an asset for its owner. "The house that is occupied or inhabited is expected to be not just a house, but a house that is suitable for habitation in a healthy, safe, harmonious and orderly environment".

Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA) provides the basis for regulating the granting of land rights in all land spaces, including those on small islands or those in coastal areas. The UUPA explicitly provides the basis for regulation in terms of controlling various agrarian scopes, namely the regulation of the earth's surface, which is called land with natural water resources, both glasses of water and sea (Hamler, 2018). This LoGA is used as the basis for all owners of land and all that is on it and contained inland in Indonesia (BoediHarsono, 2003).

The Lanting house which is right above the Banjarmasin river is a national asset; this is by the UUPA Article 1 paragraph (2) which regulates that,

"The entire earth, water and space, including the natural resources contained therein in the territory of the Republic of Indonesia as a gift from God Almighty, are the earth, water and space of the Indonesian nation and constitute a national wealth".

Reading the quo Article it is known that the water where the Lanting House is built is a national asset, so the statement that the Lanting House is above national wealth is agreed by the quo Article. Furthermore, the provisions of Article 2 paragraph (1) stipulate that,

"Based on the provisions in Article 33 paragraph (3) of the Basic Law and matters as referred to in Article 1" Earth, water and space, including the natural resources contained therein are at the highest level controlled by the state, as an organization. power of all the people. "

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The provisions of the quo Article strengthen the statement that the state controls control over water as the place for the Lanting House to be built. Article 33 of the 1945 Constitution of the Republic of Indonesia states that; "The land and water and the natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people". This article mandates that state control over water must be aimed at the greatest possible prosperity for the Indonesian people. The meaning of prosperity of the people means the prosperity of the community at large, not the prosperity of the individual (Elli Ruslina, 2019). So that if the concept is brought in the context of the existence of the Lanting House which stands on the water which is controlled by the state, it must be aimed at the prosperity of the owner of the Lanting House, which is owned by the people of Banjarmasin. The state, in this case, the Government, must guarantee community ownership rights to the Lanting House.

Article 4 paragraph (1) states;

"Based on the State's right to control as meant in Article 2, it is determined that there are various rights over the surface of the earth, which are called land, which can be given to and owned by persons, either alone or jointly with other people and bodies. legal entity."

Article 4 of the UUPA explains that various types of land rights can be granted to individuals and legal entities (the subject of rights). The rights over the land give the authority to use the land concerned only as needed for the purposes directly related to the use of the land and within the boundaries according to the provisions of the laws and regulations (RintoManulung, 2011), in other words, it is allocating power over land rights by the state to persons or legal entities in a measured manner so that it can be used for the survival of everyone collectively (Ali Ahmad Chomzah, 2002). Therefore conceptually, the entire surface of the earth (land) in the entire territory of Indonesia can be owned and given land rights to every Indonesian citizen by the provisions of the applicable laws and regulations, including the Lanting House located in over water or rivers.

Article 14 of the UUPA further discusses the granting of power rights over the use of both land and water in the context of socialism; the government provides as long as it is related to several things, namely; for state needs; For worship and other sacred purposes, by the basis of the Supreme Lordship; For the needs of the community, social, cultural and other welfare centres of life; to develop agricultural, livestock and fishery production and by that; and to develop industry, transmigration and mining. Furthermore, regarding property rights, it is regulated in article 16 paragraph (1) letter (a) of the UUPA which reads: The rights to land as referred to in article 4 paragraphs (1) and (2) are: a) Property rights, b) Rights For business purposes, c) Right to build, d) Right to use, e) Right to lease, f) Right to open land, g) Right to collect forest products. Rights which are not included in these rights will be stipulated by law as well as temporary rights as mentioned in Article 53.

The Lanting House, which is landless and only floats on the river, makes the Lanting House no property rights. Conceptually, as in Article 4 of the UUPA, Lanting Houses can be given Building Use Rights because of their movable provisions. As quoted on kompas.com, the Minister of Agrarian Affairs and Spatial Planning (ATR) / Head of the National Land Agency (BPN), SofyanDjalil said that; The people of Batam City who live in old villages and build houses on the sea, are not given a certificate of ownership rights by the state. People who live on land and enter the area of the old village will be given a certificate of ownership rights (SHM). The people who live in the old village get ownership rights to the land they occupy, while the houses of the sea residents of the old village only get the right to build (HGB), while the land they live in still belongs to the state (Kompas.com, 2019).

The provision of HGB by the government to the people of Batam City implements the provisions of Article 14 of the UUPA as such giving in the context of the welfare of the community. It can be concluded that if a building is above the water level, the right that can be given to the building is the HGB because the state controls everything that exists. Government Regulation No. 40 of 1996 further explains the HGB, explaining that the land that can be granted with the HGB is; a) State Land; b) Land Management Rights; d) Freehold Land. Based on the explanation above regarding the legal status of ownership and legal protection of Lanting Houses in Indonesia, it is known that Lanting Houses do not yet have legal ownership status, so that there is no legal protection for Lanting Houses, by conducting a normative analysis that it is possible to grant HGB to ownership of Lanting Houses in Indonesia, which aims to protect the rights of citizens to ownership of Lanting Houses in Indonesia, especially in Banjarmasin.

Grant of Building Use Rights in the Context of Providing Protection of Community Rights for Lanting Houses

Building Use Rights, from now on referred to as HGB, is one of the land rights regulated in the UUPA, HGB holders are entitled to establish and own buildings on their land within 30 years and can be extended for 20 years (Nur Adhim, Siti Mahmudah, Kornelius Benuf, 2020), As the definition of HGB is regulated in Article 35, paragraph 1 of the UUPA. Article 36 paragraph 1 of the UUPA regulates subjects who can obtain HGB, "that HGB can be owned by Indonesian citizens, a legal entity established under Indonesian law and domiciled in Indonesia". If it is applied to the ownership of Lanting Houses in Indonesia, where Indonesian citizens own the lanting houses (Amar RizqiAfdholy, 2017), then this can be done. This means that the requirements regarding the subject of HGB ownership for the Lanting House are fulfilled.

Regarding the application for obtaining HGB, it is further regulated in Article 22 paragraph 1 PP No. 40 of 1996 concerning Business Use Rights, Building Use Rights and Land Use Rights, Building use rights over state land are granted with a decision to grant rights by the minister or appointed official and will register in the land book of the land office. So, in this case, the people

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who own the Lanting House can submit a request to the local government to then proceed to the minister of rural and spatial planning in deciding whether the Lanting House is worthy of being granted HGB seeing the Lanting House which is full of historical values and the amount of opportunity to make the Lanting House tourism can be an added value offered by the local government in providing recommendations.

Giving HGB to citizens who own the Lanting House makes the status of the Lanting House stronger in the eyes of the law because it has been recognized as a house (Urip Santoso, 2015). This also makes the Lanting House in Article 34 paragraph (1) and (2) where HGB can be transferred and transferred to another party. Due; Buying and selling; Exchanging; participation in the capital; Grants; and Inheritance. So that if there is a legal action, then HGB as an authentic deed can be used as evidence and provide legal certainty to the owners of the Lanting House. Rumah Lanting can submit a request to the local government to then proceed to the minister of rural and spatial planning in deciding whether the Lanting House is worthy of being granted Building Use Rights. Full of historical values and the amount of opportunity to make Rumah Lanting as tourism can be an added value offered by the local government in providing recommendations.

CLOSING

CONCLUSION

The conclusion of this research is that the LoGA provides the basis for regulating the granting of land rights in all land spaces including those on small islands or those in coastal areas. The UUPA explicitly provides the basis for regulation in controlling various agrarian scopes, namely the regulation of the earth's surface which is called land with natural water resources, both waters and sea. There are various kinds of land rights that can be granted to individuals and legal entities (subject of rights).

RECOMMENDATION

Based on the analysis of the requirements for obtaining HGB in Indonesia, it can be concluded that Rumah Lanting meets the requirements to be granted HGB. Giving HGB to citizens who own the Lanting House will provide protection for the rights of these citizens to the Lanting House they own.

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