
IMPLEMENTATION EFFECTIVENESS LAW NUMBER 4 OF 1996 CONCERNING RIGHTS OF DEPENDENTS Case Study : Registration Of Rights Of Dependents In Pangkep Regency

Amiruddin Amiruddin

Fakultas Hukum, Universitas Islam Makassar, Indonesia

Email: amiruddin.dpk@uim-makassar.ac.id

ABSTRACT

This study is intended to analyze the implementation of registration of dependent rights in Pangkep Regency, for this reason, several variables have been determined as factors causing the effectiveness of the implementation of registration of dependent rights. This research is a research of Normative Law (Normative Juridical) and sociological (empirical) legal research. Empirical research was conducted on 50 respondents consisting of dependent rights holders or creditors in Pangkep Regency and also taken from the population which is the source in the implementation of registration of dependent rights, namely the Head of the Pangkep Regency Defense Office and PPAT Notaries who entered the research area. The empirical data is analyzed using frequency distribution. In addition to respondents as a source of data as mentioned above, the author also obtained data from the land map office of Pangkep Regency. The results showed that the implementation of registration of dependent rights has not been carried out in accordance with applicable regulations. It can be proven that there are still dependent rights that are submitted for more than 7 (seven) working days, and there are even credits that are not tied to dependent rights. In the implementation of registration of dependent rights in the future, it is recommended to improve the quality and quantity of human resources with training and mental education to be honest, fair and devoted to God Almighty.

KEYWORDS

Effectiveness, Implementation of Dependent Rights Law No: 4 of 1996 concerning Dependent Rights



This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International

How to cite:

E-ISSN:

Published by:

A Amiruddin Amiruddin. (2024). Implementation Effectiveness Law Number 4 Of 1996 Concerning Rights Of De-pendents Case Study : Registration Of Rights Of Dependents In Pangkep Regency. *Journal Eduvest*. 4 (5): 4375-4381

2775-3727

<https://greenpublisher.id/>

INTRODUCTION

The institution of dependent rights regulated by Law Number: 4 of 1996 concerning Dependent Rights is intended as a substitute for Hypotheek, hereinafter referred to as "Mortgage" as stipulated in the Indonesian Civil Law as far as land and Credietverband are regulated in Staatblad 1908-542 As amended by Staatblad 11937-190 which based on Article 57 of the Basic Agrarian Law (UUPA) is still temporarily enforced until the establishment of the Law on Dependent Rights (Saraswati, 2015).

Right of liability is a term for a guarantee institution related to debt guarantee institutions with land as collateral for any agreement that intends to transfer land rights (Marziah et al., 2019). Grant a new right to land or borrow money with collateral The right of liability must be proven by a deed made by and before an official appointed by the Ministry of Agrarian and Spatial Planning who is the Head of the Indonesian National Land Agency (Harsono, 2015);(Harsono, 2003);(Joni, 2016). The existence of an obligation to register Dependent Rights is intended to ensure legal certainty to the grantor and recipient of Dependent Rights and to provide legal protection when one party commits actions that harm others (Wulansari, 2020);(Samsul, 2004).

For example, when the grantor of the dependent can not refuse to pay off the debt he borrowed from the holder of the dependent right. So with the registration of the right of dependent, the holder of the right of dependant has strong legal power to get payment for his receivables by executing the land encumbered by the right of dependent. The right of dependency on freehold land which today shows that the certificate of title of dependents that meets the rule of law (normative) has not guaranteed the obtaining of legal certainty so that this situation is the main problem for the effectiveness of the implementation of the enactment of Law Number 4 of 1996 on the implementation of the registration of Dependent Rights on freehold land in force at the National Land Agency, Provinces, Districts / Municipalities in the territory of the Republic Indonesia (Achmad & Mukti Fajar, 2015);(Soekanto, 2007).

Starting from various thoughts in the background above and so that legal certainty regarding the Right of Liability on freehold land that still raises doubts for certificate holders needs assessment and analysis, especially in relation to social reality and legal awareness of community members. Factually there are still very significant differences in the field (dassein), so that it is unable to provide legal certainty guarantees for the application of Dependent Rights on property rights regulated in Law Number 4 of 1996 concerning Dependent Rights, which is a situation that really occurs in the community in Pangkep Regency.

Based on the background of the problem, the following problems can be formulated: 1. How effective is the implementation of registration of Dependent Rights in Pangkep Regency according to Law Number 4 of 1996 concerning Dependent Rights? 2. How is the impact of registration of dependent rights according to Law Number 4 of 1996 concerning Dependent Rights in Pangkep Regency?

RESEARCH METHOD

To determine the effectiveness of Law Number 4 of 1996 concerning Dependent Rights on the implementation of registration of dependent rights in Pangkep Regency, two research methods were used, namely normative legal research (juridical) and empirical legal research (sociological). Therefore, research conducted in addition to reviewing and analyzing library materials and laws and regulations is also carried out research on the implementation of legal rules in the field.

This research was carried out in Pangkep Regency because there are quite a lot of land parcels that are certified and that can be used as collateral for their rights. The population in this study are the parties to the agreement on the title of property in Pangkep Regency, namely the recipients and holders of the right to cover for the last 5 years in 2021.

Sampling was carried out using purposive sampling techniques by considering dependent rights holders (creditors) in Pangkep Regency, including the Head of the Pangkep Regency Land Office and Notaries (PPAT) at the research site. The data analysis used is Normative Juridical analysis using two Research Methods, namely qualitative analysis and quantitative analysis, with a Quantitative Formula $P = \frac{F}{N} \times 100\%$, where:

P = Percentage

F = frequency

N = equal to the respondent 100% number of research results

RESULT AND DISCUSSION

Effectiveness of the Implementation of Registration of Dependent Rights in Pangkep Regency according to Law Number: 4 of 1996 concerning Dependent Rights

Registration of Dependent Rights is carried out at the request of interested parties and all costs arising therefrom are charged to the applicant. In general, those who request are creditors of banks as prospective holders of Dependent Rights authorized by the Notary PPAT to take care of it at the Land Office of Pangkep Regency, by bringing a certificate of proof of Land Rights and the Deed of Granting Dependent Rights (APHT) made by the Notary PPAT or Sub-District PPAT along with other completeness.

The implementation of registration of Dependent Rights according to Law No. 4 of 1996 concerning Dependent Rights, considering that the certificate of Dependent Rights is issued after 7 (seven) working days since it was registered in the 301 fill list. For this reason, the counter officer does not register an application for Right to Dependent, if it does not meet the requirements in accordance with the Regulation of the Head of the National Land Agency Number 1 of 2010 concerning Service Standards and Land Regulation.

Based on the provisions of Law Number 4 of 1996 concerning Rights of Dependents. Registration of Dependent Rights is carried out at the request of

interested parties and all costs arising therefrom are charged to the applicant. In general, those who request are creditors of banks as prospective holders of dependent rights who are authorized to the Notary PPAT to take care of it at the Land Office of Pangkep Regency by bringing a Certificate of Proof of Land Rights (SBHAT) and Deed of Granting Rights of Dependents (APHT) made by the Notary PPAT/PPAT Sub-district along with other completeness (Adjie, 2008);(Rachmayani & Suwandono, 2017);(Rosadi, 2020). To provide an overview of the implementation of registration of Rights of Dependents, the number of Certificates of Rights of Dependents at the research location can be seen in Table 1, below.

Table 1. Number of Certificates of Rights of Liability

No	Year	Certificate of Dependent Rights		%
		Applicant	Implementation	
1	2018	998	998	100
2	2019	1183	1183	100
3	2020	1296	1296	100
4	2021	1363	1363	100
5	2022	1394	1394	100
Jumlah		6.234	6.234	100

Data Source : Land Office of Pangkep Regency, 2022

Based on the data above, it shows that the registration of Dependent Rights for the last 5 years (2018 – 2022) shows maximum results =100%, meaning that all citizens whose registration of Dependent Rights is fulfilled. With regard to the data as in the table above is a State Document and must be stored in the storage of a general register of documents related to land are state documents and must be stored neatly, securely and open to the public.

Indeed, other parties in need, as much as possible they come to the Land Office to research or see these data. of course it is excluded such as wanting to see or prove in Court / in front of the Judge who examines the data, then the document can be taken out of the Office, as Article 36 Paragraph (1) and Paragraph (4) of Government Regulation Number 24 of 1997. The following are some of the results of the author's analysis of matters related to the effectiveness of registration of Dependent Rights in Pangkep Regency based on the provisions of Law Number 4 of 1996 concerning Dependent Rights, both regarding the results of the analysis: Implementation of the granting of dependent rights that have not been certified, Analysis of the impact of registration of dependent rights according to the UUHT and also analysis of the suitability of provisions for the implementation of registration of dependent rights in Pangkep Regency, which affects the effectiveness of the implementation of registration of dependent rights. Here are some of the results of the analysis:

Implementation of the Granting of Uncertified Dependent Rights

Granting of uncertified dependents in Pangkep Regency whose objects have not been registered with their rights. The PPAT that makes the Deed of Granting Rights of Dependents (APHT) must be no later than within 7 working days after

the signing of the deed submitted to the Head of the Land Office the files as intended (Setiadewi & Wijaya, 2020). Kantor Pertanahan harus melaksanakan Pendaftaran Hak Atas Tanah tersebut terlebih dahulu baik melalui pengakuan hak maupun melalui pemberian hak atas nama pemberi Hak Tanggungan dan Hak Tanggungan tersebut dapat dilakukan melalui Surat Kuasa Membebaskan Hak Tanggungan (SKMHT), dan dapat juga langsung melakukan dengan penandatanganan Akta Pemberian Hak Tanggungan (APHT) (Effendi, 1994);(Permata, 2023).

The granting of Dependent Rights which takes place using this Deed of Granting Dependent Rights provides more legal certainty to creditors because the basis of the object of the Dependent Rights has a bond with the Deed of Granting Dependent Rights (APHT). Although the registration of the Dependent Rights in the Dependent Land Rights Book cannot be done because it is still waiting for the completion of the relevant Land Rights Registration. If it is only bound by a Power of Attorney to Impose Dependent Rights (SKMHT), it does not even provide legal certainty for creditors because the bond that exists between the grantor of Dependent Rights and the Bank as a Creditor, is only limited to the power to impose Dependent Rights has not reached the stage of Granting Dependent Rights.

Impact of Registration of Dependent Rights According to UUHT

Positive Impact on Creditors Registered as Dependents A Right of Liability is a guarantee of land for the repayment of certain debts that gives priority to certain creditors over other creditors (Ridduan, 2022). In the sense that if the debtor defaults, the Creditor holding the Right to Cover has the right to sell the land used as collateral through a public auction according to the provisions of the applicable laws and regulations, with the right to precede other creditors. This prioritization certainly does not reduce the preference of State receivables according to applicable legal provisions.

According to Law Number 4 of 1996. For debtors with guaranteed land rights registered as Right of Dependent, the following positive impacts are: a) Orderly land law. b) Orderly land administration point c) Orderly use of land. d) Reduce disputes. e) Improve the standard of living of the people. Certificate is a sign of proof of land rights, the certificate owner can obtain capital with a certificate of land title by pledging it to the Bank as a sign that the certificate is guaranteed, then the rights of dependents are put in order and capital must be managed properly, otherwise it can be fatal. Certificates encumbered with liability will be auctioned.

Negative Impact on Creditors Registered as Liens. Since the enactment of the Law on Dependent Rights Number 4 of 1996, the author obtained data that this concerning situation becomes worse if the debtor is a Litigation lawyer who philosophizes life: right or wrong is our client", all substantive legal loopholes that exist will be used as much as possible by him.

The author argues that with the implementation of the registration of Dependent Rights which has legal certainty according to Article 19 of the UUPA, debtors who guarantee their land rights are not bound/registered as Dependent Rights, if they are stuck and handed over to the State Accounts Receivable and Auction Service Office (KPPLN), it is not certain that they can be sold as soon as possible, because it does not appear on the land title certificate of the record, that

the land becomes collateral for one of the debtors (there is no legal certainty). If this happens continuously it can have negative consequences because: a) For creditors will run out of funds because there are more receivables than returns. b) Indonesia will lose its legal competitiveness in the international arena. This all further gives rise to the impression that the existing substantive law on collateral is becoming dysfunctional.

Recently, bad loans have been used as one of the reasons for the lack of funds at the Bank. In simple terms, easily and shortcuts, lack of funds rationalizes the Bank's inability to continue to carry out its functions, especially the function of financing investment projects. Some recommend that you just confiscate the collateral given, don't be afraid, especially if the credit is 100% bad. As a variant of the exposure exemplified by this matan, there are also those who recommend that new seizures can be made due to mismanagement, if it is not a management error, the bank even has to add more credit so that the company can continue to operate.

Considerations that can be used for granting credit need to be examined to determine the credit given based on legal considerations or credit given based on non-legal considerations. This non-legal balance can be exemplified if credit is given based on the recommendation of certain government officials/agencies or the basis of *kettebektje*. Bad loans are given without careful feasibility studies from consultants, or given because of mere speculation, or with the intention of helping companies in a group, or because of trust solely.

It must be recognized that the business world needs leeway to be able to carry out the necessary maneuvers, so that non-legal considerations within certain limits can still be justified, if these considerations are followed by sufficient collateral. Because collateral is one of the main conditions required by substantive law in the field of lending. In other words, non-legal considerations can still be justified if followed by legal considerations. The ideal, of course, is that in the end, it is the legal considerations that will decide. However, if the current credit is due to the previous credit in question was given based on non-legal considerations alone, without being followed by legal considerations, then to resolve it is based on legal considerations.

CONCLUSION

Based on the description that has been explained in the previous discussion, the author presents the following conclusions: 1) The effectiveness of the implementation of registration of Dependent Rights according to Law Number 6 of 1996 in Pangkep Regency is in accordance with the provisions of the applicable laws and regulations. 2) There are 2 (two) impacts of registration of dependent rights according to Law Number 4 of 1996 concerning Dependent Rights in Pangkep Regency, namely positive impacts and negative impacts.

REFERENCES

- Achmad, Y., & Mukti Fajar, N. D. (2015). *Dualisme Penelitian Hukum Normatif & Empiris*. Yogyakarta, Pustaka Pelajar.
- Adjie, H. (2008). *Hukum Notaris Indonesia: Tafsir Tematik Terhadap UU No. 30*

- Tahun 2004 Tentang Jabatan Notaris. Refika Aditama.
- Effendi, P. (1994). *Praktek Jual Beli Tanah*. Raja Grafindo Persada, Jakarta.
- Harsono, B. (2003). *Hukum Agraria Indonesia, Sejarah Pembentukan UUPA, Isi dan Pelaksanaannya*. Djambatan, Jakarta.
- Harsono, B. (2015). *Hukum Agraria Indonesia*. Buku Dosen-2014.
- Joni, H. (2016). Tanah Sebagai Aset Sosial Dalam Perspektif Hukum Agraria Nasional. *Jurnal Cakrawala Hukum*, 7(1), 123–134.
- Marziah, A., Rahayu, S. W., & Jauhari, I. (2019). Pembuktian Risalah Lelang Bagi Pemenang Eksekusi Hak Tanggungan. *Jurnal IUS Kajian Hukum Dan Keadilan*, 7(2), 225–236.
- Permata, R. D. (2023). Tanggung Jawab Notaris dalam Akta Perjanjian Jual Beli Lunas Tanah dan Bangunan yang Dibuat di Hadapan Notaris (Studi Putusan Nomor 179/Pdt/2018/PT. BTN). *Multiverse: Open Multidisciplinary Journal*, 2(1), 39–48.
- Rachmayani, D., & Suwandono, A. (2017). Covernote Notaris dalam Perjanjian Kredit dalam Perspektif Hukum Jaminan. *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 1(1), 73–86.
- Ridduan, M. (2022). ANALISIS YURIDIS ATAS KEDUDUKAN KREDITUR PEMEGANG HAK JAMINAN KEBENDAAN DALAM PROSES KEPAILITAN. *Lex LATA*, 3(3).
- Rosadi, A. G. (2020). Tanggung Jawab Notaris Dalam Sengketa Para Pihak Terkait Akta Perjanjian Pengikatan Jual Beli (Ppjb) Yang Dibuatnya. *JCH (Jurnal Cendekia Hukum)*, 5(2), 243–259.
- Samsul, I. (2004). *Perlindungan konsumen: kemungkinan penerapan tanggung jawab mutlak*. Universitas Indonesia, Fakultas Hukum, Pascasarjana.
- Saraswati, A. F. A. (2015). *Dilematis Eksekusi Hak Tanggungan Melalui Parate executie Dan Eksekusi Melalui Grosse Akta*. Sebelas Maret University.
- Setiadewi, K., & Wijaya, I. M. H. (2020). Legalitas Akta Notaris Berbasis Cyber Notary Sebagai Akta Otentik. *Jurnal Komunikasi Hukum (JKH)*, 6(1), 126–134.
- Soekanto, S. (2007). *Penelitian hukum normatif: Suatu tinjauan singkat*.
- Wulansari, E. M. (2020). Konsep Perlindungan Data Pribadi sebagai Aspek Fundamental Norm dalam Perlindungan terhadap Hak atas Privasi Seseorang di Indonesia. *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan*, 7, 265–289.