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Legal Certainty and Justice for Owners of Building Rights on Industrial Land Management Rights

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Abstract
Industrial land management in Indonesia is generally carried out through a Land Management Rights (HPL) scheme granted to public legal entities, such as local governments or state-owned enterprises. However, in practice, the legal position of HGB holders above HPL often raises issues related to legal certainty and justice. This study aims to determine the legal certainty and justice for building use right holders above industrial land management rights. This study uses a normative juridical approach that emphasizes literature research. Because the approach is supported by normative juridical principles, it can be conducted through field studies to obtain primary data through interviews or questionnaires. The results of the literature and field data are then discussed in the research object section. The analysis is presented in a separate section on analysis and discussion. The data analysis is conducted using a normative qualitative analysis of the " " (the law as it is). The results of the study show that Building Use Rights over Industrial Land Management Rights are a manifestation of the implementation of State Control Rights, which aim to guarantee legal certainty and justice. However, in practice, there are problems due to the shift in the function of Management Rights towards civil relations, which creates an imbalance in the position of HGB holders. The dependence of HGB extensions on the approval of HPL holders, weak state supervision, and the dominance of unilateral policies have the potential to create legal uncertainty and disregard the principle of justice as mandated by the 1945 Constitution. Therefore, it is necessary to clarify the limits of the authority of Management Rights holders and strengthen the role of the state in supervision to protect the rights of HGB holders and realize the prosperity of the people.
Keywords: *Certainty, Legal Justice, Building Use Rights, Land Management Rights, Industry*

INTRODUCTION

One of the goals of Indonesian independence is to create prosperity for all Indonesian people and all Indonesian blood, as stated in the Preamble to the 1945 Constitution. In general, the public tends to think that Indonesia has achieved some of its independence goals, and a small number even think it has achieved them all. Meanwhile, others believe that Indonesia has not yet fully achieved the goals of independence. After independence, the government began to organize the life of the nation and state, including by organizing the existing land laws in Indonesia, namely by enacting Law Number 5 of 1960 concerning Basic Principles of Land Law(UUPA) because previously, land rights were subject to customary law, while Indonesia, which consists of diverse ethnic groups, cultures, and languages, certainly has different customary laws. To regulate the differences in customary land laws explicitly, Article 33 paragraph (3) of the 1945 Constitution (UUD 45) in the provisions of Article 33 paragraph 3 states that: *"The land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people."*

This forms the basis of the state's right to control land for the greatest prosperity of the people. However, prosperity (including legal certainty, justice, and legal protection) has not yet been fully achieved. In this regard, in accordance with the principle of human rights, what is the right of every person is the obligation of the state to fulfill. The relationship between the state and the people is an equal one, whereby the state obtains the right of control in its position as the representative of the people to manage the available natural resources and wealth, but in return, all these efforts should be returned to the people in the form of prosperity (Jayanti, 2020).

The right of control is a form of legal relationship over the actual control of an object to be used or utilized for one's own interests. One of the principles of the Right of Control is the power to defend one's rights against parties who attempt to interfere with them. Referring to the provisions of Article 33, paragraph (3) of the 1945 Constitution, it means that the state is the holder of the highest right of sovereignty over land. The definition of controlled by the state does not mean owned, but rather the right that gives the state the

authority to regulate the allocation and use of land and water and the wealth contained therein (Soerodjo, 2014).

The principle of state control is sometimes misinterpreted in practice by officials, including land managers, where industrial factories are built by companies with proof of land ownership in the form of building use rights certificates with a maximum term of 30 years as stated in the provisions of Article 35 paragraph (1) of LawLaw Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA).

In order for the Government to immediately realize the goals of independence, the Government made every effort and took all measures, including empowering all sectors and creating or even updating regulations, such as the regulation on land, namely Law Number 5 of 1960 concerning Agrarian Principles (UUPA), which is a law covering land, water, and airspace. The UUPA, as the unification of land law in Indonesia, which has unified Western land law and customary land law in the provisions of Article 16 paragraph (1), states that there are rights to land, including the following: ownership rights; land use rights; building use rights; right of use; lease rights; land clearing rights; and forest product collection rights. Considering land management rights, especially industrial land management rights, which are one of the efforts made by the Government to increase investment in Indonesia, it turns out that these rights were not previously recognized in the UUPA.

The term "land management rights" was first mentioned in Articles 2 and 5 of Minister of Agrarian Affairs Regulation No. 9 of 1965: "Control rights over state land are converted into management rights if the land is not only used for the interests of the agency or office itself but also with the intention of granting certain rights to third parties." Thus, since the enactment of this Ministerial Regulation, the term "management rights" has become recognized in national land law. Therefore, Minister of Agrarian Affairs Regulation No. 9 of 1965 is the "forerunner" or embryo of the term "management rights." Maria S.W. Sumardjono states that in practice, there are various types of management rights, namely port management rights, authority management rights, housing management rights, local government management rights, transmigration management rights, government agency management rights, and industrial/agricultural/tourism/railway management rights (2007).

The latest regulation governing the definition of Management Rights is Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration (PP 18/2021) in the provisions of Article 1 paragraph (3), which states that Land Management Rights are the controlling rights of the state, the authority to implement which is partially delegated to the holder of Management Rights.

Land management rights can be obtained in two ways, namely conversion and granting of state land rights. According to A.P. Parlindungan, conversion refers to the adjustment of land rights that were previously subject to the old legal system, namely land rights under the Burgerlijk Wetboek (BW) and lands subject to customary law, to fall under the land rights system in accordance with the provisions of the UUPA. The regulation governing the implementation of the conversion of management rights originating from state land rights held by Ministries, Directorates, or Autonomous Regions is Minister of Agrarian Affairs Regulation No. 9 of 1965.

Management rights arise due to a government decree. If any of the above legal entities wish to obtain management rights, they must submit an application stating the intended use and fulfilling all requirements and procedures to the government through the National Land Agency (BPN). If approved, a management rights certificate will be issued to the holder of the management rights. This certificate serves as proof of the management rights held, and subsequently, part of the land under these management rights may be transferred to other third parties in the form of Building Use Rights (HGB), Business Use Rights (HGU), and Usage Rights (HP), as stipulated in Articles 19 to 63 of Government Regulation No. 18 of 2021.

The transfer of land management rights to a third party must also be accompanied by the signing of a land use agreement between the holder of the management rights and the third party, which is the first step in transferring part of the management rights to the third party before applying for land rights as stipulated in Article 4 paragraph (2) of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999, which states: "If the land being applied for is Management Rights land, the applicant must obtain an appointment in the form of a land use agreement from the Management Rights holder.

As we know, one of the authorities of the holder of land management rights is to transfer parts of the land management rights to third parties and/or cooperate with third parties. Based on the transfer of parts of the land management rights to third parties, the rights to the land obtained by third parties from the land management rights are building rights, usage rights, or ownership rights.

Although management rights are regulated by the Minister of Agrarian Affairs Regulation, management rights are binding, both for management rights holders and other parties who use parts of the land under management rights (Santoso, 2008). In the practice of carrying out tasks as mandated by Article 6 of the Minister of Agrarian Affairs Regulation Number 9 of 1965 concerning the Implementation of Conversion of Control Rights over State Land and the provisions-provisions on further policies, it turns out that the manager has transferred parts of the land to third parties and has even allowed third parties to register the land in question with the local National Land Agency (BPN) office, resulting in the BPN issuing proof of land ownership in the form of a certificate. This is in line with the provisions of Minister of Agrarian Affairs Regulation No. 1 of 1966 concerning the Registration of Usage Rights and Management Rights, whereby the holder of management rights is obliged to register the land under management rights with the Land Registration Office. In its development, based on the provisions of Article 9 of Government Regulation No. 24 of 1997 concerning Land Registration, it is stipulated that management rights are one of the objects of land registration. Logically, because it is registered with the National Land Agency, the National Land Agency issues a certificate.

In practice, the implementation of the provisions contained in PP 18/2021 is far from what is written, especially with regard to annual fees and when performing legal actions on the intended HGB, such as pledging, transferring, or leasing. In fact, PP 18/2021 stipulates that the formula for determining the rates and/or annual fees imposed by the management rights holder shall be determined by the minister. What has happened is that these rates and fees have been determined independently by the management rights holder at a very significant value, thereby creating legal uncertainty and injustice, especially among investors as owners of HGBs, due to the imposition of unreasonable rates.

In fact, the presence of investors who invest primarily in industrial land managed by land management rights holders is very beneficial to the Indonesian economy because industry is one of the sectors that plays an important role in economic development, including regional development. Almost all countries view industrialization as a necessity because it ensures the continuity of long-term economic development with high and sustainable economic growth rates that result in an increase in per capita income every year. Economic development in a country over the long term will bring fundamental changes to the country's economic structure, namely from a traditional economy focused on the agricultural sector to a modern economy dominated by the industrial sector.

The lack of uniformity in determining these rates is certainly a big question mark for investors as HGB owners and highlights the weakness of government supervision in managing industrial land. As explained above, the manager is an extension of the government in managing the land as intended. Therefore, the relevant minister must issue a regulation determining the types and rates of fees that must be paid by investors as HGB owners when conducting legal actions related to the land and buildings they own, such as extending HGBs, pledging HGBs to banking or finance institutions, or transferring or selling land. If there is no legal certainty and the current pattern continues to be applied, it will certainly hamper investment in Indonesia. Hampered investment will also have a negative impact on economic growth because we all know that the rampant production activities carried out by companies in industrial areas will certainly increase employment opportunities for the Indonesian people.

Investors or capital owners, whether domestic or foreign, are greatly needed in a region in Indonesia to invest in order to boost economic growth in that region. Foreign investors who come to Indonesia invest their capital by establishing *joint venture* companies with local companies engaged in various industrial fields. Thus, they need land for the construction of factories, offices, or warehouses. This opportunity must be seized by the government because it can create jobs for the Indonesian people.

Therefore, the government must provide industrial land managed by companies that have been appointed for this purpose. The provision of industrial land must be able to accommodate the needs of investors. As stated by property consultant Colliers International, the issue of investment should not only focus on the amount of investment coming in, but also on the availability of industrial land in anticipation of this. "No

matter how large the investment coming into Indonesia is, the most important thing is the availability of land," said Rivan Munansa, Director of Industrial & Logistics Services at Colliers International Indonesia, in a written statement on).

If we examine further, the importance of industrial land has begun to be felt after seeing rapid economic growth from the First Five-Year Development Plan (Repelita I) to the Third Five-Year Development Plan (Repelita III). During Repelita I to Repelita III, the manufacturing sector grew at an average rate of 12.6 percent per year. Between 1969 and 1983, the contribution of the manufacturing sector to GDP increased from 9.2 percent (1969) to 13.2 percent (1983) (Sewacotama, 2010). To meet the demand for industrial land, the government began developing industrial estates, including the Pulogadung industrial estate. This industrial estate was established based on Governor's Decree Number 1 B.3/2/35/69 dated May 20, 1969. At the beginning of the establishment of industrial estates, there were no laws and regulations that specifically regulated industrial estates.

However, investors as owners of building use rights as referred to above have not received a letter of approval (recommendation) from the manager, and some of their building use rights have even expired. Then, on February 3, 2015, the land manager issued Decree Number: 020 of 2015 concerning the Utilization of Land Management Rights with Building Use Rights/Extensions in the Pulogadung Industrial Area, one of which stipulates that the cost of land use on Land Management Rights (HPL) requires investors who apply to pay fees in accordance with the appraisal value of the land conducted by the Property Appraisal Service Office (KJPP) appointed by the management.

Of course, this caused concern among investors because they felt they had been treated unfairly. According to them, the building use rights certificate was proof of their ownership of the land and buildings they had constructed. They do not understand the concept of land management rights, that their building use rights exist above land management rights. This is because the Land Administration Law clearly stipulates that the only rights of ownership over land are freehold rights, building use rights, right of use, and right of business use. Finally, the investors who had submitted applications for approval (recommendation) filed a lawsuit with the State Administrative Court, which eventually issued Decision Number: 100/G/2015/PTUN-JKT on November 3, 2015. In the aforementioned decision, the Panel of Judges ruled, among other things:

1. Declaring null and void the Board of Directors' Decree Number: 020 of 2015 dated February 3, 2015, concerning the Utilization of Land Management Rights in the Pulogadung Industrial Estate
2. Ordering the Defendant to revoke the Board of Directors' Decision of PT Jakarta Industrial Estate Pulogadung No. 020 of 2015 dated February 3, 2015, regarding the Utilization of Land Management Rights in the Pulogadung Industrial Area
3. Ordering the Defendant to process the applications for permits/recommendations for the extension/renewal of Building Use Rights on behalf of the Plaintiffs and the Second Plaintiffs in Intervention in accordance with their requests.

The same issue also arose regarding the extension of the HGB, which was followed by the Industrial Estate in Cilegon managed by PT Krakatau Industrial Estate Cilegon. The dispute was resolved through a legal process involving mediation by the Cilegon District Attorney's Office. As stated by the President Director of PT. KIEC, Priyo Budianto, after the signing of the peace agreement: "For KIEC, regarding the use of land with one of the investors concerning the extended HGB that has expired. We requested its resolution and submitted the mediation to the District Attorney's Office, resulting in a civil agreement. Therefore, the investor can now continue their operations in the industrial estate."(Banten Daily, 2020) .

Meanwhile, Mr. Asep Mulyana, who was also present in his capacity as Head of the Banten High Prosecutor's Office, symbolically signed the agreement mediated by the Cilegon District Attorney's Office, saying that his presence was a form of support and commitment from the Banten High Prosecutor's Office to work together in the development of the region. "We are not only involved in handling cases, but we also assist in overseeing the regional government in carrying out its development tasks," he said. "In this case, we are trying to restore what is the right of the state, so it must be restored and we will continue to encourage synergy," he said.

From the cases described above, it can be seen that there is legal uncertainty for investors in industrial areas regarding land ownership rights. In fact, investors and managers have already signed deeds of sale and purchase and industrial land use agreements (PPTI) for the acquisition of land in industrial areas, thereby obtaining building use rights (hak guna). This has naturally caused investors to feel that they are being treated

unfairly. Therefore, the resolution always ends up in court. The government must immediately follow up on matters such as this in order to restore investor confidence in investing in Indonesia. In practice, obtaining a letter of approval in advance is not only required when extending the HGB, but is also required by the National Land Agency Office if the HGB is to be encumbered with a mortgage.

RESEARCH METHOD

This study uses a normative legal approach that emphasizes library research. It conducts research in the field of legislation and takes a conceptual and historical approach through court decisions. Research using the normative legal method involves using *a statutory approach*, doctrinal legal research that refers to legal norms. It is descriptive and analytical in nature, using secondary data. Conclusions are then drawn using deductive reasoning.

The data sources used in this study are normative, with the most important being secondary data from the literature, consisting of primary legal materials in the form of existing laws and regulations relevant to the research object, secondary legal materials in the form of books and literature related to the object being studied, and tertiary legal materials in the form of dictionaries or encyclopedias. The legal materials for this research will, of course, be collected by grouping the literature according to the subject matter of the research. Because the approach is supported by normative jurisprudence, it can be done through field studies to obtain primary data through interviews or questionnaires. Then, the results of the data, both from the literature and the field, are discussed in the section on the research subject. Meanwhile, the analysis is presented in a separate section on analysis and discussion. The analysis of the data is carried out using a normative qualitative analysis , namely , by describing the conditions and facts about the research subject. 's legal facts are analyzed using various laws, theories, doctrines, or expert opinions aimed at finding answers to the issues that will be discussed further. The approach is more abstract-theoretical , meaning that all data is compiled and then analyzed based on the categorization of issues or findings using contextual thinking patterns.

RESULT AND DISCUSSION

In agrarian law, the concept of State Control Rights (HMN) was first seen in the provisions of Article 33 paragraph (3) of the 1945 Constitution, which states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Then, in the explanation of the article in question in the 1945 Constitution, it is stated that the earth, water, and natural resources contained therein are the foundations of the people's prosperity. Therefore, they must be controlled by the state and used for the greatest prosperity of the people. Here we can see that the state actually works for its people.

It was only on September 24, 1960, with the enactment of Law No. 5 of 1960 concerning Basic Agrarian Principles, better known as the Basic Agrarian Law, that the concept of state control was elaborated and expanded (Maria et al., 1997). As explained in the general explanation regarding the state's authority to grant land to be managed in accordance with its intended use, the state's authority over land that someone with certain rights already owns is limited by the content of those rights, meaning that the extent to which the state grants authority to the rights holder to exercise their rights is the limit of the state's authority (Parlindungan, 1991). Based on the authority granted by the state, land managers should manage the land in accordance with the purpose and objectives of obtaining management rights. However, has this been done? This can be seen in the case that occurred in the Nusantara Bonded Zone industrial area in Tanjung Priok.

HGB owners whose HGBs are about to expire or have already expired submit an application for a letter of approval (recommendation), which is one of the requirements for HGB renewal as stipulated in Government Regulation No. 18 of 2021 concerning Land Management Rights, Land Rights, Apartment Units, and Land Registration, Article 40(2), which states: "The right to use buildings on Management Rights Land as referred to in Article 38 paragraph (2) can be extended or renewed upon the request of the holder of the right to use the building if they meet the requirements as referred to in paragraph (1) and obtain approval from the holder of the Management Rights (Soeorodjo, 2013).

In the existing laws and regulations in Indonesia regarding the imposition of Building Use Rights as collateral for debt with encumbrances, there is no explicit explanation of which building use rights can be encumbered,

because there are three types of building use rights, namely building use rights on state land, building use rights on management rights, and building use rights on ownership rights, both in theMortgage Law Number 4 of 1996 (UUHT) or in Government Regulation Number 40 of 1996, only the transfer is regulated. Therefore, based on Article 33, Article 34 paragraphs (1), (2) and (7) of Government Regulation Number 40 of 1996 above and taking into account the Letter of the Minister of Agrarian Affairs, Head of the National Land Agency, No. 630.1-3433 dated September 17, 1998, regarding Collateral Certificates on Management Rights land, and now based on Government Regulation No. 18 of 2021, amendments have been made to Government Regulation No. 40 of 1996, HGB on HPL or building use rights on freehold rights can be used as collateral for debt by installing mortgage rights. This signifies that our land policy is becoming more advanced by providing convenience and legal certainty for investors in Indonesia (Muzzaki & Machmud, 2023).

Land management rights under the land law regime, the concept of State Control Rights over land is based on Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which is then elaborated in the UUPA that at the highest level, natural resources, including land, are controlled by the state for the welfare of the people. This State Control Right authorizes the state to (Gulo, 2023): a. regulate and organize the allocation, use, supply, and maintenance of the earth, water, and space; b. determine and regulate legal relationships between people and the earth, water, and airspace, determine and regulate legal relationships between people and legal actions concerning the earth, water, and airspace Furthermore, the Constitutional Court's decision on the judicial review petition of Law No. 20 of 2003 concerning Electricity Number 001-021-022/PUU-I/2003, Law No. 22 of 2001 concerning Oil and Natural Gas Number 002/PUU-I/2003, and the decision on the judicial review of Law No. 7 of 2004 concerning Water Resources Number 058-059-060-063/PUU-II/2004, describes State Control Rights in five areas of understanding, namely the state: formulating policy (beleid); regulating (regelen daad); administering (bestuurdaad); managing (beheer daad); and supervising (toezicht houden daad); for the purpose of maximum prosperity for the people (Farhani, 2022). In accordance with the provisions of Article 2 paragraph (4) of the UUPA, the implementation of State Control Rights can be delegated to autonomous regions and customary law communities, as long as it is necessary and does not conflict with national interests, according to the provisions of Government Regulations. This provision is the basis for the Government in granting Management Rights, even though the UUPA does not mention Management Rights as land rights. According to Article 67 paragraph (1) of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 9 of 1999, the subjects of Management Rights are government agencies, including local governments; state-owned enterprises; regional-owned enterprises; limited liability companies; authorities; and other government legal entities appointed by the government. Furthermore, paragraph (2) of the Minister of Agrarian Affairs Regulation No. 9 of 1999 states that: "The legal entities referred to in paragraph (1) may be granted Management Rights as long as they are in accordance with their main duties and functions related to land management. The content and nature of Management Rights are more directed towards public authority, such as State Control Rights (Franciska. 2022). Regarding public Management Rights, Boedi Harsono said that Management Rights are not essentially rights to land but rather an "extension" of State Control Rights. The use of the term "gempilan" is based on the provisions of Article 1 of Government Regulation No. 40 of 1996 concerning Land Use Rights, Building Use Rights, and Land Use Rights, which defines Management Rights as State Control Rights, some of whose powers are delegated to the holder. Management Rights are granted with the aim of providing land for use by other parties who need it. In providing and granting land, holders of Management Rights are given the authority to carry out activities that are part of the state's authority as regulated in Article 2 of the Basic Agrarian Law (Santoso, 2023).

In its development, Management Rights originating from State Control Rights, which are Public Rights, have shifted to become civil rights (Arsad, 2023). As a legal act or act that has legal consequences, an agreement can give rise to rights and obligations. However, the rights and obligations that arise can only be enforced if the agreement or consent is made legally. Based on Article 1320 of the Civil Code, the validity of an agreement must meet subjective and objective requirements. Subjective requirements include agreement to be bound and the capacity to make an agreement. Meanwhile, the objective requirements that must be met in an agreement are a specific matter and the existence of a lawful cause.

Thus, the validity period of HGB can be extended according to the wishes of the rights holder, taking into account all aspects and conditions of the building. HGB can be extended for up to 20 years, as stipulated in Article 37 Paragraph (1) of PP 18/2021, which explains: "The Right to Build on State Land and Land Management Rights is granted for a maximum period of 30 years, which can be extended for a maximum period of 20 years, and renewed for a maximum period of 30 years. Letter of approval (certificate extension, guarantee, transfer).

Looking at the definition of management rights, it can be seen that management rights originate from the state's right of control over land. The state's right of control over land is the source of land rights and determines the various types of land rights for owners. Article 1 paragraph (3) of the 1945 Constitution states that: "The Indonesian state is a state based on the rule of law." What is a state based on the rule of law? Etymologically, the term "state based on the rule of law" comes from the Dutch word *rechtsstaat* or, in English, "*the state according to law,*" which can be interpreted to mean that a state based on the rule of law is a state that must carry out its functions according to the law. Jimly Asshiddiqie defines a state based on the rule of law as a unique form of state because all decisions are based on the law. Soepomo, in his book entitled "The Provisional Constitution of the Republic of Indonesia," states that the term "state based on the rule of law" guarantees legal order in society, which means providing legal protection to the community: there is a reciprocal relationship between the law and power (Thahir, 2022).

Article 33 paragraph 3 of the 1945 Constitution states that: "The land, water, and natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people," which means that the state controls the land but will use it for the benefit of the people. The right to control itself is determined by the state as stipulated in the provisions of Article 33.

A state governed by the rule of law is a state that upholds the supremacy of law to enforce truth and justice, and where no power is unaccountable. Land rights can be owned or even granted by individuals or legal entities to other individuals or legal entities. These are referred to as subjects holding land rights. The subject or holder of land rights is a person or legal entity that controls or has rights to land, which may be an Indonesian citizen (WNI) as an individual or a legal entity established under Indonesian law, a foreign citizen (WNA) residing in Indonesia or a foreign legal entity, or a representative in Indonesia (Irasana et al., 2023).

However, the existence and term of land management rights in Indonesia has developed rapidly, especially for industrial areas. The regulation of state land management rights has undergone significant developments, particularly in terms of the authority of management rights holders to transfer part of the land to third parties. This is an interesting topic for research, considering that management rights holders, which can be government agencies, local governments, state-owned enterprises, and regional-owned enterprises, are given civil rights to transfer the management rights granted by the state to third parties through an agreement. Using a statute approach supported by field data, the results of this study show that the utilization of management rights land by third parties is based on the provisions of Minister of Agrarian Affairs Regulation No. 9 of 1965 concerning the Implementation of Conversion of State Land Control Rights and Subsequent Policies and their amendments. The use of management rights land through building rights and usage rights is based on a land use agreement made between the agency holding the land rights and the third party that will use the land (Isnaini & Lubis, 2022). The agreement is made on the basis of an agreement between the parties while still referring to the provisions of laws and regulations governing land management rights. The lack of supervision means that the implementation of the agreed agreement has the potential for fraud. Regulations on land in Indonesia are governed by Law Number 5 of 1960 concerning Basic Agrarian Principles, also known as the Basic Agrarian Law (UUPA), which primarily regulates land tenure rights in Indonesia.

Boedi Harsono states that land ownership rights contain a series of authorities, obligations, and/or prohibitions for rights holders to do something regarding the land that is their right. What is permissible, obligatory, or prohibited to do, which constitutes the content of the right of ownership, is the criterion or benchmark that distinguishes between the rights of ownership over land as regulated in the Land Law (Harsono, 2007). Management rights are not land rights as referred to in the provisions of Article 16 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) which regulates land rights:

a) Ownership Rights;

b) Right of Use;
c) Building Use Rights;
d) Right of Use;
e) Leasehold Rights for Buildings;
f) Right to Clear Land;
g) Forest Product Collection Rights;
h) Rights to Land to be determined by law
Meanwhile, Article 53 paragraph (1) of the Basic Agrarian Law stipulates various types of temporary rights to land, namely:
a) Pledge Rights;
b) Profit-sharing rights;
c) Right of Tenancy;
d) Agricultural Land Lease Rights.
Article 33 paragraph 3 of the 1945 Constitution states that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. This is certainly in line with the objectives of Indonesia's independence as stated in the fourth paragraph of the preamble to the 1945 Constitution, namely: "Furthermore, to form a Government of the State of Indonesia that protects the entire Indonesian nation and all of Indonesia's bloodshed, and to promote general welfare, educate the nation, and participate in establishing world order based on freedom, eternal peace, and social justice, the independence and nationality of Indonesia are formulated in a constitution of the Indonesian state, which is structured as the Republic of Indonesia, a sovereign state based on belief in the One Supreme God, just and civilized humanity, Indonesian Unity, and Democracy Led by the Wisdom of Deliberation/Representation, as well as by Realizing Social Justice for All Indonesian People." (Elvis et al., 2023).
Thus, the issue of Building Use Rights above Industrial Land Management Rights is not only related to legal norms, but also to the implementation of state authority and HPL holders. Therefore, this study specifically examines legal certainty and justice for HGB holders on industrial land HPL, to ensure that the implementation of State Control Rights is truly directed towards the greatest prosperity of the people, rather than creating legal uncertainty and injustice.

CONCLUSION

Building Use Rights over Industrial Land Management Rights are a manifestation of the implementation of State Control Rights, which should guarantee legal certainty and justice for rights holders. However, in practice, there are still various problems due to the shift in the function of Management Rights from public authority to civil relations, which tends to place HGB holders in an unbalanced position. The dependence of HGB extensions on the approval of Management Right holders, weak state supervision, and the dominance of unilateral policies by HPL holders have the potential to create legal uncertainty and disregard the principle of justice, even though the constitutional state based on the 1945 Constitution requires that every use of authority over state land be accountable for the greatest prosperity of the people. Therefore, it is necessary to clarify the limits of the authority of Management Rights holders and strengthen the role of the state in supervision so that the rights of HGB holders prevail over Management Rights.

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