

The Church as a Legal Entity Owning Property Rights

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ABSTRACT

The Church with its legal competency as a legal entity based on the regulation that has been existed since the days of the Netherlands East Indies Government which is affirmed by the Decree of the Ministry of Home Affairs based on the recommendation from the Ministry of Religious Affairs then legal entities that carry out social or religious activities are allowed to have property rights. This is reinforced by the provisions of Article 21 paragraph 1 and Article 49 paragraph 1 of Law Number 5 of 1960 concerning Basic Agrarian Principles, then the Church has the right to have property rights of the land. In these matters, as mentioned in Article 49 paragraph 1 of Law Number 5 of 1960 concerning Basic Agrarian Principles states that the land on the property of the Church will be protected by the laws and regulations.

Keywords: *legal subject, legal entity, agrarian, Church, property rights*

1. PREFACE

Indonesia is a country rich in culture, language and ethnicity as well as other diversity so that this diversity does not make Indonesia become divided but Indonesia is able to live side by side in harmony with this diversity. The behavior of the Indonesian people illustrates that this nation is very respectful and upholds social values in the field of religion [1]. In connection with the diversity as mentioned above, there are many religious associations or institutions in Indonesia, one of which is the Church. The church is an association for people who are Christians, Protestants and/or Catholics, the association is made up of people who believe in God. However, many parties or people did not know that the Church is actually a legal subject in the form of a legal entity that is strictly and explicitly protected by law based on the applicable laws and regulations. Often each party or individual assumes that the Church is just an ordinary association that is not regulated by legal regulations, especially in the Republic of Indonesia, and many even misinterpretations the Church and the legal competency of the Church itself, also many of them did not know that the Church is an association formed because it is expressly stated by the applicable laws so that the Church is considered as an association so that the Church is considered a legal entity. The concept of public policy has been debated for decades. As explained by Prof. Karl-Heinz Bockstiefel in his article, that the concept of public policy depends on the judgment of each legal community. To see in one country what is considered part of public policy may not be seen as public policy in another country with different religious, social, economic, political, and legal systems. The concept of public policy is also influenced by time to time factors. Community values and standards are not stable, they change and develop, so are public policies because they are derived from these values and standards. Due to these factors, public policy has been interpreted differently in each country by its regulator or jurisdiction [2]. However, due to the legal competency of the Church, which is considered a legal entity, many parties often think that the Church cannot have the property rights or own the property rights because one of the articles in the Basic Agrarian Principles which states that property rights can only be owned by Indonesian Citizen, because of that, there are many people who did not know about the certainty that the Church is allowed to own the property rights or not, even though in practice the Church owns land that will be used for the benefit of the Church

itself. Thus, due to the foregoing, in this study, the author will discuss how the Church as a legal entity owned the property rights.

2. RESEARCH METHOD

This research will use a doctrinal legal approach or black letter law itself is defined as a research methodology that focuses on efforts to provide very detailed and highly technical comments, and systematic exposition of the contents of legal doctrine [3]. The research method that will be used in this study is a normative juridical research method that focuses on reviewing the application of Law Number 5 of 1960 concerning Basic Agrarian Principles as well as regulations in the Dutch East Indies era, especially in Staatsblad 1927 Number 156. This method is used to answer the problems that arise in this study that cannot be separated from the need for data that can be met by searching for material in the form of books or other writings. Normative juridical is research that refers to legal norms contained in the laws and regulations of the court and the norms that apply to society [4]. The type of secondary data is data that is not obtained directly from the field but is obtained from literature studies [5], the secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The primary legal materials are legal materials that have binding authority such as statutory regulations, then the secondary legal materials include textbooks written by legal experts and the opinions of legal scholars. The data collection technique used in this research is a literature study in the form of searching for data and information through books, laws and regulations, judges' decisions, and reports on previous research results (if any). The approach used is the legislative approach, which is the approach taken by studying various laws and regulations related to legal issues being handled and the case approach being carried out by studying cases related to the legal issues being examined. According to Mahmud, 2017, quoted by Djaja, 2019, the data analysis technique used in this study is qualitative data analysis, the data collected is not in the form of numbers but words [6].

3. FINDINGS AND DISCUSSIONS

As we know, currently in Indonesia, there are various kinds of laws and regulations, both those which were enacted by the Government of the Republic of Indonesia itself since the Proclamation of Independence of Indonesia, as well as those held by the Government during the colonial era of the Dutch East Indies Government and the Japanese Military Government. Since the end of the power with monopoly and octroi rights from the Vereenigde Oostindische Compagnie (hereinafter referred to as "VOC") on December 31, 1799, and the start of the Dutch East Indies Government on January 1, 1800, until the entry of the Japanese Military Government in Indonesia on March 9, 1942, so that not few laws and regulations that have been issued by the Dutch East Indies Government.

Laws and Regulations of the Dutch East Indies Government and After Independence of 17 August 1945

The main rules of the Dutch East Indies Government were [7]: (1) Algemene Bepalingen van Weggeving voor Indonesia (hereinafter referred to as "A.B.") (General Provisions on Legislation for Indonesia). This A.B. was issued on April 30, 1847, contained in Staatsblad 1847 No. 23 (hereinafter referred to as "Stb. 1847 No. 23"). Several important provisions in A.B. such as for the example contained in Article 15 and Article 22. (2) Regerings Reglement (hereinafter referred to as "R.R.") issued on September 2, 1854 contained in Staatsblad 1854 No. 2 (hereinafter referred to as "Stb. 1854 No. 2"). Important provisions in this R.R., such as for the example are regulated in Article 75. (3) Indische Staatsregeling (hereinafter referred to as "I.S.") or Indonesian Constitutional Regulations. On June 23, 1925 the Regerings Reglement was changed to I.S., contained in Staatsblad 1925 No. 415 (hereinafter referred to as "Stb. 1925 No.

415”) which entered into force on January 1, 1926. R.R. and I.S., these are the main regulations that can be said to be the "basic constitution of the Dutch East Indies" and are the source of organic regulations at that time. The various organic regulations as mentioned above, such as Ordonnantie, Regerings Verordening, Locale Verordening and others are regulated in Article 95 of I.S. The only main regulation that was enforced by the Japanese Military Administration in Indonesia was Law No. 1 of 1942 which stated that all Dutch East Indies Government statutory regulations were not in conflict with the power of the Japanese Military Government. Whereas the Dutch East Indies Government had issued various kinds of regulations which were not small in addition to other regulations during the Japanese Military Government, it is conceivable how many laws and regulations were in force in Indonesia when added to the laws and regulations that were enacted after the independence of the Republic Indonesia. Thus, the question arises whether the regulations during the Dutch East Indies Government and the Japanese Military Government still apply in Indonesia. The legal situation in Indonesia at the time after the proclamation of independence of Indonesia on August 17, 1945 was basically the same as the situation when the Japanese Military Government troops landed in Indonesia. The Japanese Military Government occupation government was only credited with abolishing judicial agencies for Europeans, namely the Raad van Justitie and Hooggerechtshof. So in order to prevent a legal vacuum by the 1945 Constitution (hereinafter referred to as the "**1945 Constitution**") [8], therefore to answer this, it is necessary to look at the 1945 Constitution in Article II of the Transitional Rules by stating that "all existing state agencies and regulations are still in effect immediately, as long as new ones have not been made according to this Constitution." So that it can be concluded based on the provisions in Article II of the 1945 Constitution above that all laws and regulations that existed at the time of independence, namely all laws and regulations made during the Dutch East Indies Government and the Japanese Military Government remained in effect or were declared valid as laws and regulations in Indonesia.

Legal Subject in Indonesia

Furthermore, based on the previous explanation, then the legal science that applies in Indonesia still uses positive law from the Dutch East Indies Government era, so that one of the most important elements of positive law is the legal subject. The legal subject is one of the basic understandings and forms in a legal theory that exists in society because the understanding of the legal subject itself is still related to the positive legal theory, in order to explain the meaning of the legal subject itself is interconnected or not with positive law, namely by making analysis and description of the facts that exist in society by making patterns regarding activities carried out daily by legal subjects. In Article 6 of the Universal Declaration of Human Rights, it is formulated that: everyone has the right to recognition as a person before the law, wherever he is (everyone has the right to recognition everywhere as a person before the law). This formulation is a universal statement, but in essence, it is a limitation on a legal subject [9]. However, legal theory and economic theory also recognize that legal subject itself are not only human (naturlijk person/natural person) but the legal entity (rechtspersoon/persona moralis/legal persons) is also considered as a legal subject. In essence, what has considered a legal subject is of course a human being or an individual because of the nature given by God naturally, but due to the times, there are other legal subjects besides humans, namely legal entity (ies). Human is considered as a legal subject because they have perfect common sense, can think, can feel well while the legal entity is considered as a legal subject created by humans with other humans for their interests or for the interests of other humans.

Legal Entity as One of the Legal Subject

A legal entity is an abstract understanding, which consists of humans but more than one person. A legal entity is an entity that exists or exists because of the law, as a supporter of certain obligations and rights. It is necessary for a legal entity to exist so that it can be considered a legal entity. The meaning of *legal entity* itself according to Black's Law Dictionary is "legal existence, an entity other than a natural person, who has sufficient existence in legal contemplation that it can function legally, be sued or sue and make decisions through agents as in the case of corporations." [10]. In the library of Common Law, a legal entity is also known by another term, namely artificial person/juristic person. A juristic person according to the Black's Law Dictionary is defined as something created and designed by law that can be used for government and/or society as distinguished from human or individual. However, human or individual as a legal subject with legal entity as legal entity, of course, there are differences, namely as follows: first, in human law, a legal entity cannot become a legal subject because a legal entity is not born like a human. secondly, in family law, a legal entity also cannot become a legal subject because a legal entity cannot enter into a marriage unless they can be appointed as guardians by the court. third, in property law, legal entity as legal subjects almost have similarities with human. fourth, in the law of inheritance, a legal entity also cannot become a legal subject because a legal entity cannot die, while the absolute requirement for inheritance is that someone must die unless appointed in a will to receive an inheritance [11]. A legal entity is also considered as a person in law or artificial legal human, meaning that they can be legally held accountable in carrying out legal actions. According to R. Soebekti, a legal entity is an association and/or entity that can have rights and can carry out activities or actions like humans or individuals and can own their wealth or can even be sued or sued in court [12]. Legal entity as the legal subject should be regulated in Book I of the Civil Code (hereinafter referred to as the "**Civil Code**") but the Civil Code only regulates this legal entity in Book III Title IX, which places legal entity as part of contract law. (the engagement), although title IX itself does not directly mention or regulate the legal entity, what is meant by title IX can be ascertained about legal entity because there is a discussion on "rechtspersoonlijkheid" namely the rights and obligations of the legal entity itself. Legal entities have their characteristics, namely being able to separate wealth from the assets of the founders or administrators themselves. The obligations and/or rights of the legal entity itself are the separation between the rights and obligations of its administrators so that there is no mixing between the rights and obligations of the legal entity itself and the rights and obligations of its administrators. The characteristics of the legal entity are considered as an advantage of the legal entity as the legal subject itself, another advantage of the legal entity is that the legal entity can guarantee the continuity or continuity of the rights and obligations of an association, even though the management of the association changes but the rights and obligations themselves remain attached to the legal entity itself. Furthermore, there are other advantages when compared to a human, legal entity as the legal subject have many characteristics attached to itself, so that legal entity cannot receive all rights or carry out all obligations that exist on them, and cannot carry out all legal actions as done by human. However, the ability of a legal entity is in the legal field of its assets that show similarities like a humans in general, so that changes to the management of the legal entity cannot change and/or eliminate the rights and obligations of the legal entity itself. In accordance with the legal entity are not only capable in their rights but also capable of acting to do something. There are three translations in Book III Title IX on the term of "van Zedelijke Lichamen" as follows: first, a moral legal entity or an ethical association. second, legal entity. third, the association [13]. Based on the division of legal entity according to the type, there are two types of a legal entity, namely as follows [14]: (1) Original legal entity (pure, original) such as a state, for example, the Republic of Indonesia which became independent on August 17, 1945. (2) Legal entities that are not original (impure, not original) are legal entities that are tangible as an association as regulated in the provisions of Article 1653 of the Civil

Code. (3) Furthermore, there are legal entities that are allowed to carry out a certain purpose, such as associations (vereniging), limited liability companies, insurance companies, foundations, cooperatives. Furthermore, in Article 1653 of the Civil Code states that "furthermore, true company (eigenlijke naatschap) are recognized by law as associations of people as associations, whether the association is held or recognized as a public authority, or as an association accepted as permitted, or has been established for a certain purpose that does not conflict with laws and regulations or moral norms that are good and right." In Article 1653 of the Civil Code explains about *zadelijk lichaam* or moral association which is not explicitly stated or declared as a legal entity. Although it is not explicitly stated or stated in Article 1653 of the Civil Code as mentioned above, but in Article 1654 of the Civil Code it can be concluded that *zadelijk lichaam* also has the position of a legal entity because in Article 1654 of the Civil Code also states that an association has the authority to carry out an act. So that a valid of *zadelijk lichaam* is the same as an individual or human being to carry out civil acts, so it can be concluded that a *zadelijk lichaam* is a legal entity, so that everyone can interpret that a *zadelijk lichaam* is a legal entity. One of the reasons for the formation of an understanding of legal entity is because humans in private legal relationships do not only have a relationship with fellow humans but also with an association or a partnership. If the property rights and/or other rights belonging to a legal entity are recognized the same as humans or other individuals, the property rights and/or rights indicate to the law that there are other legal subjects, namely legal subject, so that in law, a legal entity has their own interests and protected by law as well as a legal subject. The continuity of the legal entity itself does not need to be doubted, because the legal entity as a supporter of the rights and obligations will always exist or remain while the administrators are considered as representatives of continuity so that it can change or change, so because of this, the existence of a legal entity itself is unquestionable and does not necessarily depend on the administrators or even on the founders, but depends on the law that governs it or the law that determines the continuity of the legal entity itself. Based on the above, the provisions in Staatsblad 1870 Number 64 (hereinafter referred to as "**Stb. 1870 No. 40**") states "*rechtspersoonlijkheid van verenigingen*" in other words that in Stb. 1870 No. 40 implies that a legal entity is an entity that is capable and has the right and authority to carry out civil actions, because of this, basically, the existence or continuity of a legal entity is permanent, in other words, a legal entity cannot be dissolved just because of the wishes of its administrators or other stakeholders. its founder. There are several types of legal entities (*zadelijk lichaam*) as referred to in Article 1653 of the Civil Code, as follows [15]: (1) Legal entity established or established under general authority (*zadelijk lichaam op openbaar gezag ingesteld*) such as provinces, banks established by the state. (2) Legal entity recognized by the public power (*zadelijk lichaam op openbaar gezag erkend*) such as company (*venootschap*), churches (before being regulated separately in 1927). (3) Legal entity that are permitted or permitted because they are permitted (*zadelijk lichaam als geoorloofd toegelsten*). (4) and a legal entity established for a specific purpose or purpose (*zadelijk lichaam op een bepaald oogmerk ingesteld*). One type of legal entity as mentioned above in the intent in the Articles of the Civil Code is a legal entity recognized by public authorities such as the Church, in this case, the Church's legal competency is considered a legal entity.

Church

The church emerged during the Roman Empire. Etymologically the church comes from the Portuguese language, namely Igreja and the word Igreja is a translation of the Latin, namely Ecclesia which means to call out. According to the *Kamus Besar Bahasa Indonesia*, the definition of a church is "a building (house) where prayer and religious ceremonies are performed" or "an organization (organization) of Christians with the same beliefs, teachings and

procedures." [16]. Furthermore, according to the *Kamus Besar Bahasa Indonesia*, the church is "(port) house of worship for Christians" or "*mazhab* or Christians: fellowship" or "organization of Christians with the same sect, teachings and procedures (eg Catholic, Protestant, and other)." [17]. Based on the two definitions above, it can be concluded that the Church is a house or place of worship or fellowship or a place of prayer and a place to perform ceremonies that are similar to the beliefs, teachings and procedures between Christians, Protestants and Catholics. The church is the common life of a group of people so that it can be considered or viewed as an organization or even an association. In terms of the organization or association itself which is commonly known as a fellowship or association of believers [18], so that as an organization, the Church is also included in the category of associations or religious institutions. The church as a religious institution also has a very important role and a very big responsibility, because many people who believe in the church will follow and consider the church as a religious institution that provides motivation, inspiration, and facilitator in providing faith maintenance. In relation to the Protestant Church in the eastern part of Indonesia, these believers became Church congregations, therefore during the Dutch East Indies Government, they recognized that the Church was a legal entity that was formed because it was recognized by the general authority.

Legal Competency of the Church

At the beginning of the regulations related to the legal competency of the Church (*regeling van de rechtspositie der kerkgenootschappen*) which were regulated during the Dutch East Indies Government along before the independence of the Republic of Indonesia were based on the State Gazette of the Government of the Dutch East Indies *Staatsblad* 1927 Number 156 which was Religious. Church Association. The legal entities referred to in Article 21 paragraph 2 of UUPA No. 5/1960, namely legal entities as stipulated in Article 1 of Government Regulation No. 38/1963 concerning the Appointment of Legal Entities (hereinafter referred to as "PP No. 38/1963"), legal entities referred to in PP No.38/1963 these are religious and social associations [19]. The Legal Entity of the King's Decree Number 80 of 1925 (hereinafter referred to as "**Stb. 1927 No. 156**") regulates the legal competency of the Church associations explicitly stating, as follows [20]: (1) The church or associations of churches that are independent by themselves are legal entities in accordance with the law. (2) In order to be considered as a Church or an association of Church or as an independent part thereof, a certificate from the Governor-General is required (which is now considered a Government). The statement can be rejected by a reasoned decision after consultation with the Dutch East Indies. This information is very necessary in order to be able to provide evidence that the Church or Church associations and/or parts thereof are subject to a civil law other than the law intended for the Church or Church associations or an independent division in granting the certificate. (3) According to the Church or Church associations belonging to or associated with the Church or Church associations which are legally recognized by the government in the Dutch East Indies, the Governor-General will issue the declaration referred to in Article 2, as soon as the rules and regulations concerning them and their management have been notified to them in writing. The statement as referred to in Article 2 is not required for institutions that, prior to the enactment of this Decree, had been established by Decree of the Governor General as a church or a church association or as an independent part.

The Provision of Property Rights Based on Law of Number 5 of 1960 Concerning Basic Agrarian Principles

Law of Number 5 of 1960 concerning Basic Agrarian Principles (hereinafter referred to as the "**UUPA No. 5/1960**") which has been in force since September 24th, 1960 concerning Basic Agrarian Principles. This regulation is an example of the most unique law, because it establishes the relationship between special statutory provisions regarding land issues and customary law, so

that it needs special attention when compared to other regulations. In Paragraph I of the General Elucidation of the UUPA No. 5/1960 it is stated that the purpose of the new national agrarian law is to replace the existing law until then, the new agrarian law which is no longer dualistic, simple, and guarantees legal certainty for all Indonesian people. The new agrarian law must be in accordance with the interests of the people and the state and fulfil their needs according to the demands of the times in all agrarian matters. National agrarian law must embody the spiritual principles and ideals of the nation, namely Pancasila, in particular, must be the implementation of the provisions in Article 33 of the 1945 Constitution and the Outlines of the State Policy of the Republic of Indonesia. The main purpose of the promulgation of UUPA No. 5/1960 to give the foundations for the drafters of national agrarian law which will become a tool to bring prosperity, happiness, and justice to the state and the peoples, especially the peasants in the framework of a just and prosperous society in UUPA No. 5/1960, namely the subject of rights who have a full relationship with the earth, water, space and natural resources contained therein are Indonesian citizens without distinguishing original and non-original [21]. Furthermore, there are other purposes why the enactment of UUPA No. 5/1960 as follows: (1) The first objective of the promulgation of UUPA No. 5/1960 is the opposite of the characteristics of agrarian law which was arranged based on its own goals and objectives at the time of the Dutch East Indies Government which was aimed at the interests, profits, welfare and prosperity of the Dutch East Indies Government, the Dutch people and other Europeans. (2) The second objective of the promulgation of UUPA No. 5/1960 is the opposite of the characteristic of agrarian law in the Dutch East Indies Government which has the nature of legal dualism, which means that at the same time two different agrarian laws apply. On the other side, Western agrarian law applies as regulated in the Civil Code and Agrarische WetStaatsblad 1870 No. 55 and on the other side, customary agrarian law is regulated in the customary law of each area. (3) and The third objective of the promulgation of UUPA No. 5/1960 because the agrarian law of the Dutch East Indies Government did not guarantee legal certainty to the rights of the Indonesian people to the land, because at that time only land rights were subject to Western agrarian law which was registered by the Dutch East Indies Government with the aim of providing legal certainty for land registration or rehtskadaster.

Property Rights

Basically, rights are born from natural law and positive legal authority, therefore rights and authorities are valid, if carried out according to law. Rights are consequences that arise in the validity of the law and every law determines the rights contained therein. All the laws expect the existence of applicable laws [22]. In fact, these two concepts cannot be separated from one another because denying the existence of rights means denying the existence of law. Rights cannot exist if there are parties who will respect them and the binding means is law. Property rights are the strongest of the many types of land rights. Property rights are rights that can be passed down from generation to generation and continuously without the need for an application for rights in the event of a transfer of property rights. Property rights as a material right regulated in the Civil Code which has originated from the era of the Dutch East Indies Government, is considered an absolute right and is a parental right and is a source of ownership, although in its development it only becomes property rights [23]. Property rights come from Arabic, namely al haqq and al milk. Etymologically al haqq means property, determination and certainty. Al milk is defined as mastery of something, something that is owned (wealth) [24]. The definition of property rights according to the Article 570 of the Civil Code states that "*Property rights are the right to enjoy the use of an object freely, and to act freely on the object with full sovereignty, as long as it is not guilty of a law or general regulation stipulated by an authorized power. determine it, and do not interfere with the rights of others, all of which are in the public interest,*

based on the provisions of the law with the payment of compensation." Property rights as referred to in Article 570 of the Civil Code in Dutch terms are referred to as eigendom, interpreted as a right to objects to enjoy freely (henot) and control or use them indefinitely (beschikking) as long as they are not used contrary to the laws and regulations or general regulation held by a power that has the right to stipulate it and it is possible to revoke it in the public interest on the condition that it pays appropriate compensation based on the applicable provisions. Eigendom rights are rights to objects. Civil rights distinguish between material rights and individual rights or rights against people (persoonlijkrecht). The eigendom right to the land, for example, is a legal relationship between the owner and the land [25]. Based on Article 570 of the Civil Code, it can be concluded that property rights are the most important rights, when compared to other material rights, because the owner has the freedom to enjoy, control and use the objects its owns freely. Mastery in the sense of property rights means that the owner of the right can take legal action against its property. The legal actions referred to are such as maintaining, burdening with material rights, transferring and changing their form. The control and enjoyment of property rights should not be in conflict with the law and in the sense of property rights include freedom of control and enjoyment which cannot be contested by anyone as long as it fulfils the needs of the owner fairly [26]. In the affirmation of UUPA No. 5/1960 states that the control and utilization of land, water and air must be carried out based on the principles of justice and prosperity for the development of a just and prosperous society. This is in line with the purpose of Article 33 paragraph 3 of the 1945 Constitution which states that "Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". In UUPA No. 5/1960 itself has regulated the obligations for holders of property rights, holders of land use rights, and holders of building rights to register their land rights. The obligation for holders of land rights to register their land has been very clearly regulated in Article 23 UUPA No. 5/1960 [27].

Provision of the Church Owned Property Rights

The property rights to the land cannot be owned by foreigners and transferring the property rights to foreigners will result in null and void. Likewise, a legal entity in principle cannot have the property rights of the land because legal entities are considered as legal entity considerations, they do not require such property rights but are sufficient to have other rights such as building use rights, cultivation rights or use rights and other rights. This will prevent legal smuggling attempts to circumvent the provisions regarding the maximum limit of land owned by property rights as reinforced by Article 9 of UUPA No. 5/1960 juncto Article 21 paragraph 1 of UUPA No. 5/1960 [28]. This is reinforced by the provisions of Article 9 paragraph 1 of UUPA No. 5/1960 which states that: "only Indonesian citizen can have a full relationship with the earth, water and space, within the limits of the provisions of Articles 1 and 2." and Article 21 paragraph 1 of UUPA No. 5/1960 which states that: "only Indonesian citizens can have property rights." The principle of legal entity does not have a full relationship with the earth, water, space, and the natural resources contained therein. Of course, because one of the articles in UUPA No. 5/1960 caused many cons regarding the provisions in Article 9 of UUPA No. 5/1960 because it is considered coercive and there is no tolerance for this even though in reality many property rights are registered in the name of a person or individual with the status of an Indonesian citizen but are in the fact used or exploited in the meaning of right to use and right of disposal by another party with an agreement, either verbally or in writing or with a special power of attorney that is in the hands of a person or party who is not an Indonesian citizen and is considered to also violate the principle of land rights with social functions, because the function of the land is itself is intended to be used in accordance with the circumstances and nature of its rights so that it is beneficial for both the welfare and happiness of those in control as well as society and the state. UUPA No. 5/1960 also pays attention to the interests between the community and individuals

who must balance each other so that prosperity, justice and happiness are achieved for the people as a whole. In fact, it is true that it is stated that a legal entity cannot own the land with property rights unless specifically stipulated by law or other regulations as stated in Government Regulation No. 38/1973 (hereinafter referred to as “**PP No. 38/1973**”) namely [29]: (1) Banks established by the Government. (2) Agricultural Cooperative Associations established based on Law Number 79 of 1958. (3) Religious associations appointed by the Ministry of Agriculture/Agrarian after the recommendation from the Ministry of Religion. (4) and Religious associations appointed by the Ministry of Agriculture/Agrarian after the recommendation from the Ministry of Social Affairs. Based on the provisions above, there are many parties who misinterpret or even do not know that there is an exception for the Church in the form of a legal entity to have the property rights over the land on Article 9 of UUPA No. 5/1960 and Article 21 paragraph 1 of UUPA No. 5/1960 above without regard to the provisions of Article 21 paragraph 2 of UUPA No. 5/1960 which states that: "the Government shall establish a legal entity that can own property rights and the conditions.", so based on the provisions of Article 21 paragraph 2 of UUPA No. 5/1960 above, there is an exception for the Church considering that the Church as a legal entity that is engaged in social and religious fields can have property rights to land as long as the land is cultivated for social and religious fields. Then the Church itself fulfilled one of the provisions on PP No. 38/1973. If it does not meet one of the provisions in PP No. 38/1973 or is related to this field, then the legal entity is considered as an ordinary legal entity. The religious associations that have the right to own property, which in this research discusses the Church, will be determined by a decision letter from the Ministry of Home Affairs by obtaining a recommendation from the Ministry of Religion. Furthermore, in Article 49 of UUPA No. 5/1960 stated that:

“1. The property rights of the land of religious and social associations as long as they are used for business in the religious and social fields are recognized and protected. These agencies are also guaranteed to obtain sufficient land for buildings and businesses in the religious and social fields.

2. For the purpose of worship and other sacred purposes as referred to in Article 14, land which is directly controlled by the state and rights of use may be granted.

3. Endowment of the owned land is protected and regulated by Government regulations.”

With respect to Article 49 of UUPA No. 5/1960, of course, emphasizes that matters relating to worship and other sacred needs in the new agrarian law will receive proper attention. In accordance with the Decree of the Ministry of Home Affairs Number 348 of 1984, the granting of certificates of the land intended for a religious legal entity, social legal entity and educational institutions that are the object of the National Agrarian Operations Project (hereinafter referred to as "**Prona**"), so that the certificate of its Prona can be made with property rights, then must first obtain a letter of recommendation from the Ministry of Religion and for social enterprises from the Ministry of Social Affairs. This matter is in accordance with the Circular Letter of the Ministry of Agrarian Affairs Number KA/9/3/30 dated March 11, 1961, based on the interpretation of Article 49 paragraph 1 of UUPA No. 5/1960 that religious and social associations will be protected so as to strengthen the provisions on a legal entity to have the property rights as stated in Article 21 paragraph 2 of UUPA No. 5/1960. This research based on a study case on Gereja Sidang Jemaat Allah which is legally designated as a religious association that can own land with property rights based on the Decree of the Minister of Home Affairs No. Sk. 202/DJA/1973 (hereinafter referred to as “**Decree of Ministry of Home Affairs No. Sk. 202/DJA/1973**”) regarding the Appointment of Gereja Sidang-Sidang Jemaat Allah Di Indonesia as a Religious Association That Can Own Land with Property Rights, which in this case Gereja Sidang-Sidang Jemaat Allah (hereinafter referred to as “**GSJA**”) does not yet fully understand

that religious association in this case have legal competency as a legal entity that can have property rights even though GSJA itself already has the Decree of Ministry of Home Affairs No. Sk. 202/DJA/1973 which states this. Furthermore, due to ignorance or not having sufficient knowledge, it is often found that the management of certificates or other documents related to property rights for religious associations is difficult to obtain, even though the laws and regulations regarding the provisions of these property rights have been regulated from the Dutch East Indies Government and strengthened by the provisions of several articles in UUPA No. 5/1960.

4. CONCLUSIONS AND RECOMMENDATIONS

Conclusion

The conclusions of this research are, as follows:

1. The Church is a legal subject in the form of a legal entity, in which the legal position of this Church has existed since the time of the Dutch East Indies Government and until now even though Indonesia has become independent, the provisions regarding the Church as a legal entity are still recognized by the Government. Furthermore, based on the regulations that existed at the time of the Dutch East Indies Government and which are still in effect until today and have not been revoked by Indonesian laws and regulations (post-independence August 17th, 1945) it is regulated in Stb. 1927 No. 156 which expressly states that the Church is a legal entity appointed by the Government and the validity of Stb. 1927 No. 156 strengthened by the Decree of the Ministry of Home Affairs with a recommendation from the Ministry of Religion.
2. Based on the provisions of Article 21 paragraph 2 of UUPA No. 5/1960 and strengthened by the existence of Article 49 paragraph 1 of UUPA No. 5/1960, the Church as a legal entity that has a purpose for social and/or religious activities has the right to have property rights over the land and such ownership rights will be protected under the applicable laws and regulations.

Suggestions

The suggestions that can be given through this research are, as follows:

1. In this matter, the Government should be able to provide legal counseling to the public, especially to churches or other places of worship in order to know their legal status as legal entities of religious institutions or places of worship, so that in the future there will be no mistakes or ignorance regarding their legal competency and furthermore, religious institutions or places of worship know the rights they have as religious institutions or places of worship to have property rights.
2. Furthermore, so that the Government can provide counseling or socialization to religious institutions or places of worship, especially the Church based on this research so that the Church does not change its legal competency which was previously as a legal entity to become an association because it considers that ownership with the status of own property rights cannot be carried out by legal entity, which in fact the legal status as a legal entity is different from an association.
3. The government may urge other government agencies, especially in fields related to land or agrarian matters, to assist religious institutions or places of worship in managing documents related to the management of property rights because this is very clearly regulated in the laws and regulations.

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