

Due to The Law of Property Ownership Certificate (Shm) Site of More Than 5 Plots

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ABSTRACT

Purpose of this paper is to determine the existence and understand the limitations of property ownership of more than 5 (five) parcel of land plots relating to the site. State regulating land ownership with the status Certificate of Land Ownership (SHM), where people can only have a maximum of five (5) areas, or the total area of the SHM ownership of no more than 5000 m² (Five thousand square meters) and That restrictions on land ownership as mandated by Article 7, Article 17 in this case regarding non-agricultural property till now there is no restriction, or no regulation concerning the maximum limit of non-agricultural land property rights. The setting of this case as stated in the Decree of the State Minister of Agrarian Affairs / Head of National Land Agency Number 6 of 1998 on the Granting of Property Rights to Land for House Live. Basic implementation is the treatise consideration plots tread head of BPN RI regulation no. 1 In 2010, dated January 25, 2010. The results of this paper are In order to achieve what is set forth in article 33, paragraph 3 of the Constitution in 1945 the BPN in this case must issue rules concerning restrictions on non-agricultural land property rights more comprehensive and complete in order to prevent and take action if there are groups or parties that accumulate land property rights of non-agricultural, should establish regulations governing the restriction of property rights of non-agricultural formulated-rumusanyang together with the provisions of the restrictions on the land, for example, divide the category of land property rights of non agriculture based strategic area or is not strategic and so that individuals and entities the national land (BPN) to each of limitations of ownership by a person to land his property, so can the implementation of *landreform* and enacting Law No. 5 of 1960 on Basic Regulation of Agrarian (Basic Agrarian Law) ditelah expected, in relation to the utilization of city planning, site plans is one means of controlling and regulating the use of urban space, and as a driver of regional development optimally, due to site plan contains basic guidelines for area planning, construction planning, area managers, building owners, users or occupant as well as the others associated with the region in preparing and managing a regional part of an operational nature and binding. to resolve this matter roads that can be taken by the owner / individual if you want to file a certificate solution in accordance with his wishes (although more than 5 fields) is to submit a certificate as well as propose the process of solving the tread plots to the National Land Agency (BPN).

Keywords: land reform, the minimum and maximum land holdings, treads plots.

1. INTRODUCTION

BAL is a legal product in the era of the Old Order that calls for change and renewal in the field of agrarian and land as well as the desire to realize development that is based on Pancasila and the 1945 Constitution of government policy at the time was more effort to



realize the prosperity and welfare of the people as outlined in Article 33 paragraph (3) UUD 1945, *that the earth, water and natural resources contained in it are controlled by the state and used for the greatest prosperity of the people.* The birth of this Act has long aspired to the government is to overhaul the entire system and Agrarian philosophy in Indonesia.

The enactment of Law No. 5 of 1960 on Basic Regulation of Agrarian hereinafter referred to as the Basic Agrarian Law (BAL) is the executor of Article 33 paragraph (3) of the 1945 Constitution. One important legal aspects that can regulate and organize the layout of a city / area with the promulgation of the BAL is with or through the program *land reform* and *land redistribusi* in Indonesia.

Article 7 BAL contains a principle that is important is that the ownership and control of land beyond the limit are not allowed, because of such things that are detrimental to the public interest, Article Dubbed chapters anti-landlord, namely the prohibition of land ownership to exceed the limits (*groot grondbezit*).

Understanding Tread plots are breaking ground plane can be whatever. In fact the land ownership of more than 5 (five) field or area of no more than 5000 m² is common, especially for people who have a history of *land lord* (landlord) of a previous family that owns the land in large quantities.

2. WRITING METHOD

Research conducted is a normative legal research (*Normative Legal Research*), the research done by reviewing the legislation in force or applied to a specific problem. Normative research is often called a doctrinal study, the research object of study is to document the legislation and library materials. The theories and concepts used in this research is the theory of justice, authority theory, theory of occupation.

1. The theory of justice

in the land development in Indonesia, the term "justice" would not be separated from the concept of justice. To give the answer to this, child birth John Rowls kedilan principle, which is often referred to by Are Some experts namely: Freedom of the same principle (*equalliberty of principle*), Principle differences (*differences principle*), principle of equality of opportunity (*equal opportunity principle*).

With the conclusion of justice is:



"Equality for all people, whether in social equality and equity in the form of utilization of natural resources ("*social goods*"). The limitations in this case can only be allowed when there is the possibility of greater profits "Everyone has equal rights and freedoms of the most widespread and is compatible with similar liberties for others. "Everyone has the same basic freedoms.

2. Theory authority

The term powers and authority are often found in the literature of Political Science, Law, and Science of Government. The authority is often equated with power and authority are often used interchangeably with the term of authority, and vice versa. Usually in the form of power relations in the sense that there is one party that the other party govern and the governed (*the rule and the ruled*).

Elaboration of the concept of authority, can be traced through the source of authority and the concept of justification of action gained power in government. Source of authority itself includes attribution, delegation and mandate.

In connection with the source of authority, Indroharto argued: "the authority obtained attribution, namely the provision of a new governmental authority by a provision in the legislation and capabilities provided by legislation to give rise to legal consequences".

So, here are born / created a new government authority. In the delegation there was a delegation of authority existing by the Agency or Job TUN who has obtained an attributive government authority to the Agency or other TUN position. Thus, a delegation is always preceded by the presence of something attribution authority. On the mandate, there has not been a new authorization and delegation of authority from the Board or TUN Position one to the other ".

3. DISCUSSION

In daily life - today all human beings on this earth is always in touch with the ground. Land on which they stand, reap the rewards of crops planted and also take in the wealth contained in the soil. Land is a term that raises some opinions, some even refer to as the agrarian, whereas between land and agrarian term is something different. There are several opinions regarding the definition of land and agrarian.



The term comes from the word Agrarian *Akker* (Dutch), *Agros* (Greek) means farmland, *Angger* (Latin) meaning the land, *Agrarius* (Latin) means fields, rice paddies, *Agrarian* (English) meaning the land for agriculture.

Urip Santoso expressed the opinion that the definition of Agrarian also often associated with a pattern of life of a community or nation, for example Indonesia as an agricultural country, which is a nation that a large part of the population living from farming (farming) or the lives of its people rely on agriculture.

Agriculture as an adjective used to distinguish shades of life of rural people rely on agriculture with the urban community life style that relies on non-agricultural sector (trade, industry, bureaucracy).

In Indonesia, among scholars and law enforcement officials generally less aware of differences in the philosophical concept that creates confusion and how to defend the land rights with agrarian rights (Herman Soesangobeng).

A concrete example of the confusion that is the experience of centuries - in Indonesia during the colonial era England and the Netherlands, where the rights *eigendom* as absolute property rights over land, only owned by the state and Eastern Europe as well as foreign residents. As the Earth's population son, only to have the authority to process agrarian rights as tenants in the form of state-owned land (*staatsdomein*), as well as the legal union of indigenous peoples did not have land rights. Therefore, trying to explain the philosophical meaning of land and agrarian indispensable.

In civil law as summarized in Dutch law codification into *Burgelijk Wetboek* (BW), differences in land rights and agrarian rights even then known, where agrarian relations governed by contract law. Book of the Law - Law BW was based on the principle concordance, also applies to the Dutch East Indies by the name-Indonesian Penal Code. But it only applies to the segment of the population of Europe as well as Foreign Orientals, and then also to the people of Earth Men who have legal status equivalent (*gelijgesteld*) with the Dutch.

In-Indonesian Penal Code, this philosophy prioritizes protection of the rights *eigendom* as absolute property rights over land, which can be controlled by a legal subject (*rechtssubjecten*) in the form of the State, communities, and individuals. While the

agrarian rights and obligations to act under the authority of the subject of law in managing the land.

According Soebekti and R.Tjitrosoedibio, agrarian law (*AgrarischRecht*), is the entirety of the provisions - provisions of the law, both the Civil Code, as well as Constitutional Law (*Staatsrecht*) and also State Administrative Law (*Administratifrecht*) which governs the relationship - the relationship between people, including legal entities with water earth and space in all regions of the country and also governs the authority - authority that originates in the relationship - the relationship.

3.1. Definition of land and its

agrarian Within the scope of essence, is part of the Earth's land, the land is meant here is not set the ground in all its aspects, namely the land in terms of juridical called rights. Land as part of Article 4, paragraph (1) of the BAL, namely "On the basis of the rights of control of the State as referred performance Article 2 determined the kind of - kind of right on the Earth's surface, called the soil, which is given to and owned by people - people, alone or in combination - together with other - the people and entities - legal entities".

Object law of the land is land tenure rights. The meaning of land tenure is a right which contains a series of powers, obligations, or restrictions for the rights holder to do something about the land di hak. Something that may be, required or forbidden, to done, which is the content of tenure that is the criterion or benchmark for distinguishing between right - the right of tenure stipulated in the law of the land. Land Law is the entirety of the provisions - provisions of the law, written or unwritten, that all have the object the same setting that is right - the right of tenure as an institution - the judiciary and as a legal relationship that is concrete, public and private, that can be prepared and studied systematically, until the whole as one that represents the system.

With the use of the term in the sense that such agrarian breadth of it in terms of the Agrarian Law BAL is not just a device field of law. According to Prof. Boedi Harsono Agrarian law is a group of various areas of law, that each - each set right - the right of control over resources - particular natural resource which includes the definition of agrarian. The group consists of:

Land Law, which regulates the rights - the right of tenure, in the sense of the earth's surface;

Water Law, which regulates the rights - the right of control over the water;

Mining law governing the right - the right to mastery of materials - minerals that are intended by the Basic Law of Mines;

Fisheries law governing the right - the right of control over the natural resources contained in the water;

Legal Control Over Power and Elements - Elements In Space (instead of "*SpaceLaw*"), regulates the rights - the right to mastery of energy and elements - elements in the space intended by Article 48 of the BAL.

In Indonesia, there are several definitions and terms - terms of land that is known, the term exist and apply in Indonesia, the land is divided into two (2) parts:

- (a) the land directly controlled by the State,
- (b) land that does not include the letters a, belongs to a right by an individual or legal entity.

In Act No. 51 PRP / 1960 are entitled to land directly controlled by the state Agricultural Minister or official appointed and entitled to land in letter b is the person or legal entity who is entitled to the land.

Soil together is a piece of land that is used on the basis of collective rights are not separated flats which stands above and set limits with building permit requirements.

Communal Land, are the indigenous people's land does not contain elements of individual ownership. Customary rights are rights that belong to indigenous peoples to control and open land that lies within the indigenous and tribal peoples. The government's attitude to the customary rights of indigenous peoples, the government recognizes the existence of this customary rights in indigenous communities, even guaranteed its implementation in the Law - Basic Agrarian Law, specifically set out in Article 3 and Article 5. The implementation of customary rights in accordance with national and state interests, which is based unity of the nation and must not conflict with the law - laws and regulations are higher, they acknowledged its existence and observance.

State land is land owned by the State because there is no owner. State land management is fully located in the State.

Industrial land (rural) is the land area used for economic activities such as material processing finished / semi-finished and semi-finished or finished goods. Industrial land

(urban) is a field - the field of land used for an economic activity in the form of material processing finished / semi-finished and or field - a field that is used for storage of goods.

Land services are land areas - areas of land used for a social service and cultural activities for the city conducted by the agency and or community organizations, public or private that focuses on activities aimed at non-commercial service.

Crooked land is land that is an incentive that is given to the village head or also the salaries of the form of land. During his time as they may enjoy the fruits of the land and after his term expires the land be returned and may not be traded.

Kengser wedi soil is soil which is under the control of the State which are along the river flow, and utilization can change - change according to the situation and condition of natural changes.

Pertikelir soil is soil - soil eigendom having a pattern - a special pattern, because the private land companies. According to the **BF Sihombing** after independence nation, land - private land that is mostly owned by the agency - foreign legal entities, namely:

Right Erpacht for companies large garden of more than 1 million hectares;

Concession rights for the company's large garden of more than 1 million hectares;

Eigendom rights, the right to housing erpacht on approximately 200,000 field.

In 1958 by the Minister of Agrarian **Soenarjo** issued Act - Act No. 1 Th. 1958 on the abolition of land - private land to the land and their rights - the right to delete and soil - soil into the ground - the ground state. At the time of the Dutch East Indies, land - private land purchased by the government according to Gazette 1913 No. Jo 702 Gazette 1976 No. Then 421:

Land - land owned businesses - indigenous Indonesian people become proprietary. Which is owned by the people - the Foreign Orientals (Chinese and Arabic) because the law into soil with so-called *Altijddurende Erpacht* and since 1926 to *Landerijnbezitrech*.

The provisions contained in the Agrarian Law No. 5 of 1960 on Basic Regulation of Agrarian Principles, which was enacted on September 24, 1960 in the State Gazette No. 104 of 1960. This underlying the establishment of BAL is Pancasila and Article 33 paragraph 3 of the 1945 Constitution Process BAL formation starting from the submission of the draft law, which was discussed in a joint meeting of the commissions with the government represented by the Ministry of Agricultural, Mr. Sadjarwo on September 1.

After a process that lasted RUUPA discussion for some time, **Mr. Sadjarwo** as Minister of Agrarian then his introduction speech. He said clearly that: "... the struggle of the national agrarian law overhaul walk closely with the history of the Indonesian struggle to escape from the grip, the influence and the remnants of colonialism; especially peasant struggle to free themselves from the fetters of the feudal system of land and the exploitation of foreign capital ... ".

Basic regulated formation and formulation of the Basic Agrarian Law contained in Article 33 of the 1945 Constitution in the formulation of Article 33 of the 1945 Constitution reads, "*The earth and water and natural resources contained in it are controlled by the State and used for the greatest prosperity of the people*".

Two main points of the article above is that since the beginning of the country has been accepted to intervene in the management of natural resources as a means of production and arrangements are in order for the greatest prosperity of the people. Linking the two are intertwined so that the application that one can not ignore the others. In memory of explanation on the draft BAL mentioned that the main objective **Gains** were: Laying the foundations for the preparation of the national agrarian law which would constitute a means to bring prosperity, happiness and justice for the state and the farmer in the framework of a just and prosperous society.

3.2. Basic Agrarian Law and Rights of control over land

enactment of the Basic Agrarian Law (BAL) on 24 September 1960 is an important event in the field of agrarian and land in Indonesia. With the enactment of Law No. 5 of 1960 on the BAL land policies in the era of Dutch colonial rule began to be abandoned. The birth of this Act has long aspired to the government is to overhaul the entire system and Agrarian philosophy in Indonesia.

In the Basic Agrarian Law (BAL) is set and the set order or hierarchy levels of tenure rights to land in the National Land Law, namely:

1. Right Indonesian nation referred to in Article 1, as a right of tenure highest civil beraspek and the public.
2. Right to Control of the States referred to in Article 2, public.
3. Land Rights of Indigenous People referred to in Article 3, civil and public.
4. The rights of individuals / individual, all civil consists of:

- a) The rights to land as individual rights, all of which are directly or indirectly derived on the Rights of the Nation, referred to in Article 16 and 53.
- b) Endowments , namely Proprietary already in Article 49.
- c) rights Guarantees of land called "Mortgage" in Article 25, 33, 39, and 51.

the provisions of the land law governing the rights of tenure as a legal institution

1. Naming tenure is concerned;
2. Assign contents, which regulate what is allowed, mandatory and prohibited done by the right holder and the period of its control;
3. Set the matters concerning the subject, who may be the right holder and the terms of its control;
4. Regulate matters concerning land.

The provisions of the Land Law governing the rights of tenure as a concrete legal relationship are:

1. Regulating the issues regarding the creation into a legal relationship that is concrete.
2. Set up matters regarding the assignment with the rights of others.
3. Set the matters concerning his transfer to another party.
4. Regulate matters concerning abolishment.
5. Set the matters concerning evidence.

Discussion on the Importance of BAL To Indonesia Birth Agrarian Law in Indonesia itself is marked with the enactment of the Basic Agrarian Law on September 24, 1948, as well as a manifestation of the reform of the nation Indonesia related to setting up the rights to the land, which used to be pluralistic and greatly benefit the nation colonial. in addition to the emergence of the Basic Agrarian Law is also a manifestation victory Indonesian people, especially farmers.

To create a national agrarian law to ensure legal certainty for defense, we conducted the unification of legal defenses by forming the Act no. 5, 1960 regarding the Basic Regulation Agrarian, or better known with the Law on September 24, 1960.

The reasons for the birth of Law 5 th 1960 (BAL), namely:

- a. because the agrarian law applies mostly composed based on the objectives and the joints of the colonial government (the Netherlands), to conflict with the interests of the state.

- b. as a result of political-legal occupation, so the agrarian laws that have the nature of duality, namely entry into force of the rules of customary law in addition to the legal regulations west, SHG cause various problems between groups are very difficult, it is also not in accordance with the ideals of national unity ,
- c. colonial agrarian law did not guarantee legal certainty for indigenous people.

Agrarian law as intended by BAL, is a group of various laws, which regulate the rights-sumbe control over natural resources. In a broad sense, the scope of the agrarian law include: the land law, water law, forest law, the law of the mining / minerals, fisheries law and space law (law governing the control of certain elements of space).

The objective of the establishment of the BAL contained in the General Explanation of the BAL, namely: a) laying the foundations for the preparation of the national agrarian law, which would constitute a means to bring prosperity, happiness and justice for the state and the people, especially the farmer, in the framework of a fair society and prosper; b) laying the foundations to hold unity and simplicity in land law; c) laying the foundations to provide legal certainty regarding the rights to the land for the people entirely. Laws of the land is the overall legal rules governing the rights of tenure, which is the legal institutions and legal relations of concrete to the ground. Similar restrictions can be held also in other fields of law which are elements of the group over the agrarian law, such as water law, forest law, the law of the mining / minerals, fisheries law and space law.

Conclusions from the description above discussion can be concluded as follows:

- 1. Act Shrimp Agrarian important for Indonesian society agrarian to update and improve regulation of agrarian colonial which do not benefit the people:
 - a. because the agrarian law applies mostly composed based on objective and joints of government colony (the Netherlands), to conflict with the state kpentingan;
 - b. as a result of political-legal occupation, so the agrarian laws that have the nature of duality, namely entry into force of the rules of customary law in addition to the legal regulations west, causing various problems between groups are very difficult, it is also not in accordance with the ideals of national unity ;
 - c. colonial agrarian law did not guarantee legal certainty for indigenous people, the law agraia born improve it so that the Earth's land and property settings Indonesia aimed at the prosperity of the people of Indonesia.

2. In addition, the purpose of the establishment of the BAL contained in the General Explanation of the BAL, namely:

a. laying the foundations for the preparation of the national agrarian law, which would constitute a means to bring prosperity, happiness and justice for the state and the people, especially the farmer, in the framework of a fair society and prosperous; b. meletakkan basics to hold unity and simplicity in land law; c. meletakkan basics to provide legal certainty regarding the rights to the land for the people entirely.

b. program of *land reform* and *redistribution of* in Indonesia

1. programs *land reform*

All rights to land with social functions, as described in Article 6 of Law No. 5 of 1960 on Basic Regulation of Agrarian Principles (Basic Agrarian Law). Land use must be adapted to the circumstances and nature rather than their rights, benefits both to the welfare and happiness which have one or useful for the society and the state. That is, if any land rights that exist in a person, it can not be justified solely used for personal benefit, especially if it causes damage to the community. the term *Land reform* in the narrow sense of by Boedi Harsono includes an overhaul of the ownership and control of land and legal relations concerned with land tenure.

Program of *land reform*, are:

- a) limitations on the maximum area of land tenure,
- b) Prohibition of land ownership in the so-called "absentee" or "guntai"
- c) The redistribution of the lands that the remainder of the maximum limits, as well as the lands affected by the ban *absentee*, the lands of the former autonomous region and state land;
- d) setting about returns and redemption farms mortgaged;
- e) Setting back-revenue-sharing agreements for agricultural land;
- f) Determination of a minimum area of agricultural land ownership, along with the prohibition to perform acts that resulted in splitting the ownership of agricultural lands into parts that are too small.

Setting the ownership and control of land into program *the land reform* set out in Article 7, Article 10, Article 17, the BAL. Article 7 reads:

"In order to not harm the public interest, the ownership and control of land that is beyond the limit are not allowed".

Article 7 BAL contains a principle that is important is that the ownership and control of land beyond the limit are not allowed, because of such things that are detrimental to the public interest, Article Dubbed chapters anti-landlord, namely the prohibition of land ownership to exceed the limits (*groot grondbezit*).

In Article 10 BAL implicitly imposed restrictionsland *Absentee*ownership, which is referred to as ownership of agricultural land *absentee* is ownership of agricultural land which lies outside the sub-district land owner's residence, thus all forms of transfer of property rights on agricultural land through sale, tukar- swap, or grants which resulted in a new ownership of agricultural land by absentee prohibited.

Article 17 BAL comprehensive set maximum and minimum allowed or owned by one family either with property or other rights. Referring to the provisions of Article 17 of the BAL, the Government enacted Law No. 56 Prp of 1960 on Agricultural Land Area Determination, and this Act is the parent implementation *of land reform* in Indonesia.

Law Number 26 Year 2007 on Spatial Planning mengamanat-kan their regulatory provisions governing the zone is a space utilization requirements and the provision of control and arranged for each block / zone designation determination of the zones in the detailed spatial plan for efforts to use space. Based on Government Regulation No. 38 of 2007, permits the utilization of this space has been the authority of the City as the spearhead of the implementation of spatial planning in the area. While referring to Government Regulation No. 15 of 2010, there were five (5) permits the use of space, namely the principle permits, location permits, permits the use of land utilization (IPPT), building permits (IMB), and other land use permit.

2. program *redistribution*

To ensure kesesuai-an between land-use planning by the individuals or legal entities with spatial plan required the city is also important in neutralizing

the legal aspects of a division and the ownership of a plot, that is the presence program. *Landredistribusi*

Landredistribusi is the division of the lands controlled by the state and has been affirmed become the object of *reform* given to tenant farmers who have qualified as stipulated in Government Regulation No. 224 of 1961 which aims to improve the socio-economic condition of the people especially the farmers by organizing division of land fair and equitable on the livelihoods of the farmer in the form of land. So that the division can be achieved by sharing fair and equitable. If the lands that have been granted the right by the State, for example in the form of Properties, leasehold, Broking, Hak Pakai, and Rights Management, or the basis of tenure but apparently not cultivated, not used, or not used in accordance with the the circumstances or the nature and purpose of the basic rights or mastery, then it is classified as wastelands (Roesli, Heri, & Rahayu, 2017).

Land abandoned by the holder of the rights (Hak, leasehold, Broking, Hak Pakai, and Rights Management, or basic land tenure others), according to the legislation, the National Land Agency to remove the legal relationship of the rightsholder with the land by setting it as a wasteland.

Determination of an area as wastelands and distribute them to the right (land redistribution) are then delete the relationship with the land rights holder, is mandated by the Basic Agrarian Law and Government Regulation No. 11 Year 2010 on the Establishment and Utilization of Abandoned Land. As mentioned in Article 15 of Government Regulation No. 11 of 2010, that designation control, ownership, use, and utilization of former state land abandoned land utilized for the benefit of society and the state through agrarian reform and the country's strategic program and to spare other countries.

c. Limits Minimum and Maximum Land Ownership Agriculture and Non-Agricultural

1) the Minimum

defined as the minimum limit is the minimum limit land ownership either agricultural land or land nonagricultural by or people in their livelihood is one family together either his own or belongs to someone else and collectively

belongs to someone else. The setting of the minimum limit land ownership under Article 17 paragraph (1) BAL which specifies that by the provisions of Article 7, to achieve the objectives set forth in Article 2 paragraph (3) shall be the maximum area and / or a minimum of land that may be owned by something that right under Article 16 by a single family or a legal entity. Which is prohibited by Article 7, is not *of* to exceed the limitsland ownership, but also penguasaanya. Further arrangement 56Prp stipulated in Law No. 1960 on the Establishment of Land Pertanaian. The minimum limit of 2 hectares of land ownership (two hectares) set forth in item (8) General Explanation of Law No. 56 Prp 1960.

2. Limit

Referred to the maximum limit is the maximum limit land kepemilikan both farmland and non-agricultural land by a person or persons in a livelihood is a family together either his own or belonged to other people or together belongs to someone else.

In Article 7 BAL determined that not merugikan public interest then the ownership and control of land which is not allowed to exceed the limits. Under these provisions the ownership and control of land by a person restricted. The need for restrictions on ownership or control over these lands in order to avoid social inequality and does not arise wastelands.

Thus, in order not arise wastelands then land owners are required to work or cultivate land itself actively, by preventing violent means as set out in Article 10 of the Basic Agrarian Law which stipulates that every person and legal entities that have rights over agricultural land in principle required or are actively working on their own, by preventing violent means. To implement the provisions of Article 7 and Article 10 should be a maximum of delimitation of land ownership by a person or family. Basic provisions concerning the establishment of a maximum limit of land ownership under Article 17 paragraph (1) and (2) the BAL. Article 17 paragraph (1) BAL determine that the provisions of article 7 so to achieve the objectives set forth in Article 2 paragraph (3) shall be the maximum area and / or a minimum of land that may be possessed by something such rights under Article 16 by one or bodies law. While article 17 paragraph (2) BAL determines that the determination of the

maximum limit in paragraph (1) of this article shall be done by legislation in a short time.

Implementation of Article 17 paragraph (2) BAL 56Prp stipulated in Law No. 1960 on the Establishment of Agricultural Land. 56Prp in Law No. 1960, establishing a maximum limit of land ownership set out in Article 1 (2) which determines that the determination of the maximum limit of land ownership into account the number of population, area and other factors.

56Prp in Law No. 1960, establishing a maximum limit of land ownership set out in Article 1 (2) which determines that the determination of the maximum limit of land ownership into account the number of population, area and other factors as set out as follows:

Table. 1. Determination of the maximum limit of land ownership

in areas that	Rice (Hectares)	Dry Land (Hectares)
NoSolid	15	20
Solid		
LessSolid	10	12
Pretty Solid	7.5	9
Very Solid	5	6

4. CONCLUSION

Whereas restrictions on land ownership as mandated by article 7, article 17 of the BAL and KBPN Decree 6 of 1998 and regulations of BPN RI head no. 1 In 2010, dated January 25, 2010 in this case regarding property rights of non-agricultural until now there is no restriction, or no regulation concerning the maximum limit of land property rights of non-agricultural, in the sense of not yet implemented the provisions of article 7 and article 17 that restrictions should be done in the form of legislation in a short time.

It is very worrying because birth and entry into force of the BAL until this time should be no longer an excuse that the exclusion or not the restriction of land property rights of non-agricultural, then the restriction of land should be done or carried out in order to

prevent the buildup of soil on one class or often called landlords resulted in a monopoly in the field of land and restrictions on land ownership is one solution. KBPN Decree 6 of 1998 and regulations of BPN RI head no. 1 In 2010, dated January 25, 2010 in this case is not a limitation as a whole but rather only limitation on the application for an increase in the rights of building rights into property rights and restrictions on the rights application on State lands designated for residential as well as the only restriction solving field land by individuals alone.

In terms of the regulations on the parcel of land footprint, the national land agency (BPN). considers these regulations are not of relevance to the development of time at this point so the zoning regulation is merely a policy / authority / a discretion only in accordance with its purpose as regulated in Law Number 30 Year 2014 on Government Administration (Law 30/2014).

Discretion is intended to create orderly organization of public administration, creating legal certainty as a result of a vacancy or ambiguity rule of law, abuses of authority, ensure accountability of the agency and / or government officials, provide legal protection to citizens and government personnel, implementing rules and regulations legislation and applying the general principles of good governance (AUPB), and provide the best possible service to citizens.

That effort BPN restriction of non-agricultural land property rights until recently was not done under the pretext of the absence of legal framework governing it., And is also constrained by administrative systems that are not integrated in BPN. Regarding sanctions against transgressors ownership actually existed, as has been stipulated in article 11 of the law no.56 of 1960 Prp are sanctions for a person who violates or exceeded the maximum ownership of non-agricultural land property rights which in Article 12 states that the maximum and a vast amount of land for housing and other construction, which the penalty is for violations of the rules of criminal threat by-lamunya imprisonment for 3 months and / or fines of up to Rp 10.000, -. But the surprise is where sanctions have been there but the rules can lead to sanctions proficiency level until now does not exist or has not been set. In the event that an overhaul of the land is mostly found many problems in practice, such as common problems in terms of application for transfer of rights (sale and purchase, grant, inheritance, etc.), this will be an obstacle because the rules only allow one has the Certificate

of Land Ownership (SHM) is not more than five (5) fields. To resolve this problem, the road that can be taken by the owner if you want to submit a certificate by an individual solution according to his wishes (although more than 5 fields) is to submit a certificate as well as propose the process of solving the tread plots to the National Land Agency (BPN).

In terms of the regulations on the parcel of land footprint, the national land agency (BPN). considers these regulations are not of relevance to the development of time at this point so the zoning regulation is merely a policy / authority / a discretion only. KBPN Decree 6 of 1998 and regulations of BPN RI head no. 1 In 2010, dated January 25, 2010 in this case is not a limitation as a whole but rather only limitation on the application for an increase in the rights of building rights into property rights and restrictions on the rights application on State lands designated for residential as well as the only restriction solving field land by individuals alone.

Discretion is a decision and / or action is determined and / or carried out by government officials to address the issue of the concrete facing in governance in terms of legislation that gives the option, not regulate, incomplete or unclear, and / or stagnation of government , However, they should be by the competent authority and in accordance with its purpose.

Terms of discretion can be found in Act No. 30 of 2014 on Government Administration ("Law 30/2014)". Bahwasannya discretion is intended to create orderly organization of public administration, creating legal certainty as a result of a vacancy or ambiguity rule of law, abuses of authority, ensure accountability of the agency and / or government officials, provide legal protection to citizens and government personnel, implementing rules and regulations legislation and applying the general principles of good governance (AUPB), and provide the best possible service to citizens. In this case the individual as well as national land agency (BPN) to each of limitations of ownership by a person to land his property, so can the implementation of *landreform* and enacting Law No. 5 of 1960 on Basic Regulation of Agrarian (Basic Agrarian Law) which expected, in relation to the utilization of urban spatial structure, site plan is one means of controlling and regulating the use of urban space, and as a driver of regional development optimal for society.

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