

## **The Authority of Sub-District Heads in Revoking Land Rights for Personal Interests: Between Legality and Justice**

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### **Abstract**

*After the enactment of Law Number 22 of 1999 concerning Regional Government, currently the authority of the sub-district head as a regional head has previously been attributive and is now delegative. the aim of this research is about how is the legality of the sub-district head's authority to release land rights for private interests. The research method used is normative juridical. The research results showed that the legality of the sub-district head's authority to release land rights for private interests is not fulfilled. This is because there is not a single clause that states that the sub-district head can sign documents releasing land rights after the enactment of Law Number 22 of 1999 concerning Regional Government, which currently has the authority of the sub-district head as a regional head from previously being attributive and now being delegative, so that the Letter of Relinquishment of Land Rights made and signed by the District Head regarding the location of the land in question, cannot be used as a formal requirement for registration of land rights at the Land Office. Based on the applicable legal provisions, the deed of releasing land rights for private purposes should be made by a Notary. An authentic deed provides more legal certainty so as to cause justice for the party who relinquishes its rights/ owner as well as for the next prospective applicant. Statement of Relinquishment of Land Rights signed by the Subdistrict of Cileungsi declared invalid / null and void.*

**Keywords: Revoking Land; Legality, Authority, Subdistrict Head, Personal Interests.**

### **1. INTRODUCTION**

Article 2 paragraph (3) of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles states:<sup>1</sup>

*“The authority which originates from the right to control from this State, is definitively limited by ethical obligations, namely to be used to achieve the greatest possible prosperity for the people, in the sense of nationality, prosperity and independence in society and the legal state of Indonesia which is independent, sovereign, just and prosperous.”*

<sup>1</sup> Putu Siwi Jayanti, 'Proceedings International Conference on Education of Suryakancana', *Law Enforcement in Smart Transportation Systems on Highway*, 20, No. 20 (2023): 494–504.

Article 6 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (Land Law) states “All rights to land have a social function.”<sup>2</sup> Based on its authority, the state grants land rights to individuals, legal entities or government agencies. After obtaining land rights, the land owner already has proof of title, so that he can utilize the plots of land without disturbing the rights or interests of other people as stated by Phan Trung Hien who states that land can be owned by the state, state bodies, organizations or individuals if each meets the legal requirements for land ownership.<sup>3</sup>

Land Rights are rights as intended in Article 16 of Law Number 5 of 1960 concerning Basic Agrarian Principles Regulations. The land rights referred to include, among others, ownership rights, business use rights, building use rights, use rights, rental rights, forest clearing rights, and forest produce rights.<sup>4</sup> Legal certainty of land rights can be guaranteed by requiring a process of registration of rights whose final product is a certificate of land rights.<sup>5</sup>

Land certificates are letters of evidence of land rights, management rights, waqf land, property rights to flat units and mortgage rights, each of which has been recorded in the relevant land book.<sup>6</sup> The physical land certificate is a crucial document for the community. This can cause problems, ranging from falsification of certificate data by the land mafia to the many cases of land disputes caused by multiple certificates. Dual certificates arise due to juridical and physical defects which in this case occur in certificates that are not properly mapped in the land registration map by the local Land Office.<sup>7</sup>

Problems arise when letters of release of land rights are found made by the sub-district head or by the village head or village head, whose function is to create written evidence of land whose rights are relinquished, where the sub-district head should not have the right to make or sign a letter of transfer of rights to land. land with compensation that has not been certified. This is confirmed in Article 5 paragraph (3) of Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Making Officials which, among other things, states that the Subdistrict Head in his position as Temporary the Official Land Deed Maker only has the right and authority to make and sign certain deeds.

2 Ni Ketut Suartining., & Benny Djaja, “Land Rights in the Land Law System in Indonesia According to the Basic Agrarian Law Number 5 of 1960”, *Journal of Social Research*, 2. No. 6 (2023): 1775–85 DOI: <https://doi.org/10.55324/josr.v2i6.903>.

3 S.C. Humphreys, ‘Public and Private Interests in Classical Athens’, *The Family, Women and Death*, May 2015, (2023): 22–32 DOI: <https://doi.org/10.4324/9781003454823-2>.

4 Putu Rosa Paramitha Dewi., & I Nyoman Budiana, “Regulation of Land Lease Rights Period for Foreign Citizens in Indonesia”, *Jurnal Hukum Prasada*, 8. No.1 (2021): 44–55 DOI: <https://doi.org/10.22225/jhp.8.1.2514.44-55>.

5 Andriyanto Adhi Nugroho, Ahmad Ali, and Gibran Putra, “International Journal of Multicultural and Multireligious Understanding Legal Protection for Cryptocurrency Users as a Commodity in Indonesia”, (2023): 469–76.

6 Suyanto, “Legal Problems of Regulation of Electronic Land Certificates In the Legislation System in Indonesia”, *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)*, 4. No. 4 (2021): 9648–54 DOI: <https://doi.org/10.33258/birci.v4i4.2987>.

7 Abdullah Galih Nanda Prasetya., & Bambang Tri Bawono, ‘The Juridical Analysis of the Use of Electronic Signatures on Electronic Land Certificates in the Conception of Legal Certainty’, *Sultan Agung Notary Law Review*, 4. No. 3 (2022): 771–785 DOI: <https://doi.org/10.30659/sanlar.4.3.771-785>.

the signing of the Letter of Relinquishment of Land Rights is based on the Circular Letter of the Minister of Home Affairs Number Ba.12/10812/75 in chapter before the Head of the Regency/Municipal Agrarian Sub-Directorate, the Subdistrict Head (District Head) or local Notary, and also based on Article 131 paragraph (3) letter a number 2) Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 which states “ a statement from the right holder stating that the right holder in question has waived that right, made in front of and witnessed by the Head of the sub-district where the land in question is located.”

Based on these provisions, it can be stated that the sub-district is a government administrative area, so that automatically the sub-district head is a regional head and the authority he has is quite large, namely attributive. However, changes in the authority of the sub-district head began to occur when Law Number 22 of 1999 concerning Regional Government came into effect, namely that the sub-district area was only a working environment for regional officials and the sub-district head was only a regional apparatus, as well as reduced authority, namely delegative from the regional head. These provisions did not change until the issuance of Law Number 23 of 2014 concerning Regional Government. The aim of this research is about how is the legality of the sub-district head's authority to release land rights for private interests.

The research method used is normative legal research. This research was executed through a literature review<sup>8</sup> to identify the philosophical framework for analysing thought processes, official standards, and structures that will subsequently govern specific issues.<sup>9</sup> The research method used in this research is normative juridical,<sup>10</sup> which is a scientific research procedure to find out the truth based on the logic of legal science from the normative side.<sup>11</sup> Normative legal research entails the examination of law as its primary subject, excluding any non-legal content from the research scope.<sup>12</sup> The primary attributes of normative legal research in legal studies are found in secondary data sources. It comprised main legal materials, secondary legal materials, and tertiary legal elements.<sup>13</sup> The data obtained will be analyzed using qualitative analysis.<sup>14</sup>

8 Rully Syahrul Mucharom, et al. “WTO Subsidies Agreement on Fisheries (2022-2024): Agreed Terms and Implications for Indonesia”. *Jurnal IUS Kajian Hukum dan Keadilan*, 12 No.2 (2024): 285–299. DOI <https://doi.org/10.29303/ius.v12i2.1394>.

9 Ridwan, Jaya, B. P. M., & Imani, S. R.. “The Implementation of General Principles of Convention on The Rights of The Child During Covid-19 Pandemic in The City of Serang”. *Law Reform*, 18 No.1, (2022) 16–27. DOI <https://doi.org/10.14710/lr.v18i1.44643>.

10 Danial, et al. “Standardization Of Work Agreement Between Indonesian Fisheries Crew And Foreign Companies”, *Transactions on Maritime Science. Split, Croatia*, 13 No.2 (2019): 1–26. DOI: <https://doi.org/10.7225/toms.v13.n02.w09>.

11 Siti Romlah, et al, “Implementation of Progressive Legal Theory in Law Enforcement in Indonesia”, *Journal La Sociale*, 1. No. 6 (2020): 24–30 DOI: <https://doi.org/10.37899/journal-la-sociale.v1i6.187>.

12 Jaya et al. “Southeast Asian Nations (ASEAN) in Protecting Migrant Fishers In Southeast Asia Against Modern Slavery”. *Malaysian Journal of Syariah and Law*, 13 No.1 (2025): 291-313. DOI <https://mjsl.usim.edu.my/index.php/jurnalmjst/article/view/776>.

13 Jaya, B. P. M., Prihartono, A., Fasyehhudin, M., & Solapari, N. “Republic of Indonesia Sovereign Right in North Natuna Sea according to United Nations Convention on the Law of the Sea 1982”. *Australian Journal of Maritime & Ocean Affairs*, 16 No.1. (2024): 127–140. DOI <https://doi.org/10.1080/18366503.2023.2206261>

14 Ian Dey, “*Qualitative Data Analysis: A User-Friendly Guide for Social Scientists, Qualitative Data Analysis: A User-Friendly Guide for Social Scientists*”, (2003): 1-300 DOI: < <https://doi.org/10.4324/9780203412497> > .

## 2. ANALYSIS AND DISCUSSION

Indonesia is a rule of law country.<sup>15</sup> Law is the basis for carrying out legal actions for government administrators,<sup>16</sup> including sub-district heads as Temporary the Official Land Deed Maker in carrying out services to the community, especially related to legal actions regarding ownership rights to their land, it is necessary to review what is the legal basis for Temporary the Official Land Deed Maker in making land deeds.<sup>17</sup> Basically, the regulations used by the sub-district head as a temporary the Official Land Deed Maker are the same as the regulations used by special the Official Land Deed Maker and notaries.<sup>18</sup> Thus, if there is a legal umbrella, then the role of the sub-district head as temporary the Official Land Deed Maker will not be in doubt regarding legal certainty, especially for people who will take legal action regarding land rights that belong to them.<sup>19</sup>

### 2.1. The Authority of Sub-District Heads in Revoking Land Rights for Personal Interests

The authority of the sub-district head in making deeds of transfer of land rights is based on Article 19 paragraph (1) Land Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles which states that “To ensure legal certainty, land registration is carried out by the Government throughout Indonesia according to the provisions regulated by Government Regulations.”<sup>20</sup> However, before the issuance of the regulation in question, through Article 1 paragraph (1) of the Minister of Home Affairs Regulation Number 6 of 1972 concerning Delegation of Authority to Grant Land Rights, the Head of the District (Camat) in his position and function as a representative of the government was given the authority to grant or disclose rights to land.

After the issuance of the regulations referred to in Article 19 paragraph (1) Land Law with Government Regulation Number 10 of 1961 concerning Land Registration, the sub-district head (civil service employee) was also given the authority to make a deed of transfer of land rights as an official as described in Article 19 of the Government Regulation Number 10 of 1961, namely “Every agreement that intends to transfer land rights, give new rights to land, pawn land or borrow money with land rights as collateral,

15 Hardi Warsono et al, “Indonesia Government Sets Back: The Rule Of Law, Collaborative Governance And Human Right Challenges During Covid-19”, *Law Reform: Jurnal Pembaharuan Hukum*, 19. No.2 (2023): 169–98 DOI: < <https://doi.org/10.14710/lr.v19i2.53734> > .the role of agencies other than the government, and the importance of human rights. Collaborative Governance

16 Iqbal Mustapa, Zamroni Abdussamad, & Mellisa Towadi, “Positive Fictional Authority Legislative Ratio in Government Administration Laws and Job Creation Laws”, *Damhil Law Journal*, 1. No. 1 (2022): 17-30 DOI: < <https://doi.org/10.56591/dlj.v1i1.1726> > .

17 Opiyah, Opy, & Chalim, M.A. “The Implementation of Making Land Deed Done by Subdistrict Head as The Temporary Land Deed Officials in Bulakamba Subdistrict, Brebes Regency”, *Jurnal Akta*, 5 No.3 (2018): 751-758 DOI: <https://doi.org/10.30659/akta.v5i3.3253>.

18 Tri Eka Saputra., & Rustan Rustan, “Supervision of Subdistrict Heads as Temporary Deed Making Officials in the Indonesian Positive Law Perspective”, *Golden Ratio of Law and Social Policy Review*, 3. No.1 (2023): 36–48 DOI: <https://doi.org/10.52970/grlspr.v3i1.287>.

19 Siswanti, “The Legal Protection for Land Deed Officials Regarding the Making of Deeds Based on Incorrect Information by the Parties”, *Tabellius, Journal of law*, 1. No.1 (2023): 113–121. <https://jurnal.unissula.ac.id/index.php/tabelius/article/view/29839>.

20 Hanafi Tanawijaya., & Michelle Velisia, ‘Legality of Transfer of Land Rights Through Selling Buy Under Hands According to Land Law (Case Study: Decision of the Tangerang District Court Number 376/PDT.G/2017/PN.TNG)’, *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655.Ticash 2021, (2022): 995–1003 DOI: <https://doi.org/10.2991/assehr.k.220404.157>.

must be proven by a deed made by and before an official appointed by Minister of Agrarian Affairs.<sup>21</sup>

In Article 3 paragraph (1) of the Minister of Agrarian Regulation Number 10 of 1961 concerning the Appointment of Officials as referred to in Article 19 PP No. 10 of 1961 concerning Land Registration and its Rights and Obligations, the official in question is:

1. Notary;<sup>22</sup>
2. Employees and former employees within the agrarian department;
3. Civil service employees who have carried out the duties of an official;
4. People who have passed the exam held by the Minister of Agrarian Affairs.<sup>23</sup>

Through Minister of Home Affairs Regulation no. 6 of 1972 concerning the Delegation of Authority to Grant Land Rights, the sub-district head is given special authority in the land sector to make decisions regarding permits to clear land, but in granting permits to clear land the sub-district heads pay less attention to aspects of environmental sustainability and land use and it is not uncommon to find permission to open land that overlaps with forest area land which could ultimately lead to things that result in disruption of the sustainability of land and water sources, the Minister of Home Affairs revoked the authority of the sub-district head with his letter No. 593/5707 dated 22 May 1984. The Minister of Home Affairs' letter was also followed up by the Governor of the Level I Region of North Sumatra with No. 593/15634 dated 27 June 1984. Likewise with PP No. 10 of 1961 concerning Land Registration, after being valid for 36 years GR No. 10 of 1961 was perfected by Government Regulation No. 24 of 1997 concerning Land Registration (GR No. 24 of 1997) with several new provisions.<sup>24</sup>

In Article 7 paragraph (2) of Government Regulation Number 24 of 1997 it is stated that for villages in remote areas the Minister can appoint Temporary the Official Land Deed Maker, while the the Official Land Deed Maker Position Regulations are as stated in Article 7 paragraph (3) of Government Regulation Number 24 of 1997, namely Government Regulation Number 37 of 1998 concerning Position Regulations for Officials Making Land Deeds. Through Article 5 paragraph (3) of Government Regulation Number 37 of 1998, the sub-district head has the authority to make authentic deeds regarding certain legal acts regarding land rights or ownership rights to apartment units in areas where there are not yet enough the Official Land Deed Maker as Temporary the Official Land Deed Maker.<sup>25</sup>

21 Muhammad Mamduh Muzakki, "Transfer of Rights on Land Because Sale and Purchase Which Have Not Been Certified and Its Rights Registration in The Land Office", *Jurnal Akta*, 6. No.1 (2019): 6–11. DOI: <http://dx.doi.org/10.30659/akta.v6i1.4229>.

22 A notary's work does not just involve the witnessing of a signature and identity verification. During the notarization of a signature, there are two principal official actions involved; taking an acknowledgement from the document signer and administering an oath. Rongxin Zeng, 'Review of American Notary System - New Developments, Challenges and Its Coping Strategy', *Journal of Politics and Law*, 6. No.4 (2013): 121–128 DOI: <https://doi.org/10.5539/jpl.v6n4p121>.

23 Sastri Hasnur Pratiwi, Azmi Fendri., & Beatrix Benni, "Authority and Position of Notary Deed in the Land Sector", *International Journal of Multicultural and Multireligious Understanding*, 6. No.5 (2019): 391-403 DOI: <https://doi.org/10.18415/ijmmu.v6i5.1111>.

24 Rofiq Laksamana et al, "Reconstruction Presumption Of Release Right On Land (Rechtsverwerking) In Land Registration In Indonesia", *International Journal of Business, Economics and Law*, 16. No.5 (2018): 198–205. DOI: <https://www.semanticscholar.org/paper/e306465a5955ba54c43c0f39a6093946d66f3985>.

25 Hirsan Batubara et al, "Legality Camat And Lurah In Publishing Land Administration In Medan City", *Legalpreneur Journal*, 2. No.2 (2024); 188–196 DOI: <https://doi.org/10.46576/lpj.v2i2.4292> .

The legal basis for the appointment of the sub-district head as temporary the Official Land Deed Maker can be seen in Article 5 paragraph (3) of Government Regulation Number 37 of 1998 concerning the Official Land Deed Maker Position Regulations, which states that “To serve the community in making the Official Land Deed Maker deeds in areas where there are not yet enough the Official Land Deed Maker, or to serve groups certain communities in making certain the Official Land Deed Maker deeds, The Minister can appoint the following officials as Temporary the Official Land Deed Maker or Special the Official Land Deed Maker, Subdistrict Heads or Village Heads to serve in making deeds in areas where there are not enough the Official Land Deed Maker as Temporary the Official Land Deed Maker. It is mean that if the areas that do not have enough PPAT or for special needs, the Minister can appoint Subdistrict Head or Village Head as Temporary PPAT, if there are not enough PPATs in the area.

Article 18 paragraph (1) of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 1 of 2006 concerning Provisions for Implementing Government Regulation Number 37 of 1998 concerning Position Regulations for Officials Making Land Deeds states that in certain cases the Head of the Agency can appoint the District Head and/or Village Head because his position as Temporary the Official Land Deed Maker.<sup>26</sup>

The sub-district head as the head of the sub-district and also as a temporary land deed official who is given the authority to carry out legal acts regarding the transfer of land rights must be able to create orderly land administration in the sub-district where he works. In order to create orderly land administration, we should realize the importance of land deeds as a means of proof and which will provide certainty or legal force for land rights. These land deeds are made by and in the presence of the sub-district head who has been appointed as the temporary land deed maker official. It is hoped that the sub-district head's performance in making land deeds can provide the best possible service to the community in making land deeds.

The preparation of a Deed of Transfer of Land Rights carried out by the parties before the District Head as the Temporary Land Deed Making Officer must be able to provide legal certainty. A deed of transfer of land rights made before the sub-district head as the Temporary Land Deed Making Officer can provide legal certainty to the parties if the deed made is in accordance with applicable legal procedures. If the preparation of the deed does not comply with the provisions of the applicable laws and regulations, it may result in legal defects and the application for registration of the transfer of land rights may be rejected by the Land Office.

## **2.2. Case Analysis of Revocation of Land Rights for Personal Interests In Cileungsi: Between Legality and Justice**

letters of release of land rights made by the sub-district head whose function is to create written evidence of the land they control, where the sub-district head should

26 Siti Rahmah, Husni Jalil., & M. Yakub Aiyub Kadir, “Legal Dilemma for Land Deed Officials in Transferring Land Title Within Agrarian Reform in Indonesia: A Study in Aceh, Indonesia”, *Samarah*, 8. No.1 (2024): 556–578 DOI: <https://doi.org/10.22373/sjhk.v8i1.16898>.

not have the right to make or sign a letter of transfer of land rights not yet certified with compensation, as confirmed in Article 5 paragraph (3) of Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Making Officials which states that the District Head in his position as Temporary the Official Land Deed Maker only has the right and authority to make and sign certain deeds.<sup>27</sup>

In fact, there is a Statement of Relinquishment of Land Rights Number 593/207/Cileungsi/2015 which was signed by the Head of Subdistrict H. Ade Yana Mulyana on December 23 2015. Apart from that, there is also a Statement of Relinquishment of Land Rights Number 593/018/Cileungsi/ 2016 which was signed by the Head of Subdistrict H. Ade Yana Mulyana on January 8 2016. These actions raises questions related to the legality and procedures that have been taken in advance and whether the landowner who relinquished his rights is entitled to his civil rights to obtain a justice.

The Statement of Relinquishment of Land Rights issued by the Head of SubDistrict H. Ade Yana Mulyana is based on the provisions in Law Number 5 of 1974 concerning the Principles of Government in the Regions, which is in Circular Letter Number Ba.12/10812/75 in Chapter XI Provisions The Land Rights Release Procedure states that the implementation of rights for private interests must be carried out by making a Deed of Release made before the Head of the Sub-Directorate of Agrarian Regency/ Municipality, the Subdistrict Head (District Head) or a local Notary, and is also based on Article 131 paragraph (3 ) letter a number 2) Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 which states “A statement from the right holder stating that the right holder in question is releasing said right, made in front of and witnessed by the District Head of the location of the land in question.”

Based on these provisions, it can be stated that the sub-district is a government administrative area, so that automatically the sub-district head is a regional head and the authority he has is quite large, namely attributive. However, the change in the authority of the sub-district head occurred in Law Number 22 of 1999 concerning Regional Government, namely that the sub-district area is only a work environment for regional officials and the sub-district head is only a regional apparatus, as well as reduced authority, namely delegative from the regional head. These provisions did not change until the issuance of Law Number 23 of 2014 concerning Regional Government which is regulated in Article 209 paragraph (2), Article 221, Article 224, Article 225, and Article 226.

Other provisions are contained in Article 2 of Presidential Decree Number 34 of 2003 concerning National Policy in the Land Sector. Likewise, it is regulated in Article 15 paragraph (2) of Government Regulation Number 19 of 2008 concerning Districts which states:

*“In addition to the duties as intended in paragraph (1), the sub-district head carries out*

<sup>27</sup> Agung, A M Afdal Batara, et al, “Legal Analysis Of The Official Issuing Land Deeds And Notary in A Different Position of Place”, *Unram Law Review*, 1. No.2 (2017): 195–211. <https://doi.org/10.29303/ulrev.v1i2.18>

*government authority delegated by the regent/mayor to handle some regional autonomy affairs, which includes aspects:*

- a. licensing;*
- b. recommendation;*
- c. coordination;*
- d. coaching;*
- e. supervision;*
- f. facilitation;*
- g. determination;*
- h. administration; And*
- i. other delegated authority.”*

Based on these provisions, it can be stated that the sub-district head receives delegation from his superior, namely the Regent,<sup>28</sup> the sub-district head is a regional head automatically and the authority he has from previously being attributive and now becoming delegative, which according to Philipus M Hadjon, the delegation contains a submission, that is, what was originally the authority of one party, which subsequently became the authority of the second party.<sup>29</sup>

The handover of authority from the Regent to the Subdistrict Head, apart from being regulated in Law Number 23 of 2014 concerning Regional Government and Government Regulation Number 19 of 2008 concerning Subdistricts, specifically for the Bogor Subdistrict Head, is also strengthened in Bogor Regency Regional Regulation Number 24 of 2008 concerning Organization and Governance Subdistrict Work, and Bogor Regent Regulation Number 48 of 2015 concerning Amendments to Bogor Regent Regulation Number 51 of 2013 concerning Delegation of Authority to Sign Administrative Documents for Licensing and Non-Licensing Services to the Subdistrict Head.

In Article 10 of Bogor Regency Regional Regulation Number 24 of 2008 concerning Organization and District Work Procedures, it is stated that:

*“The sub-district head has the task of assisting the Regent in administering government, development and society as well as carrying out some of the Regent’s authority based on delegation of authority.”*

In Article 2 of Bogor Regent’s Regulation Number 48 of 2015 concerning Amendments to Regent’s Regulation Number 51 of 2013 concerning Delegation of Authority to Sign Administrative Documents for Licensing and Non-Licensing Services to Subdistrict Heads, there is not a single clause that states that Subdistrict Heads can sign documents releasing land rights. Based on this positive law, the Statement of Relinquishment of Land Rights Number 593/207/Cileungsi/2015 and the Statement of Relinquishment of Land Rights Number 593/018/Cileungsi/2016 signed by the Subdistrict Head H. Ade

<sup>28</sup> Nany Suryawati, “Implementation of Population Administration Services in Tuban District”, *Linguistics and Culture Review*, 5. No.1 (2021): 693–709 DOI: <https://doi.org/10.21744/lingcure.v5ns1.1457>.

<sup>29</sup> Lucky Kartanto, Prasetijo Rijadi., & Sri Priyati, “Quo Vadis Ultimum Remedium in Tax Criminal Crimes In Indonesia”, *International Journal of Scientific and Research Publications (IJSRP)*, 10. No.3 (2020): 1-13 DOI: p9902 <https://doi.org/10.29322/ijsrp.10.03.2020.p9902>.



Yana Mulyana constitute an action outside his authority, because the letter he signed was not an authentic deed of transfer which resulted in the legal process of changing the title of ownership rights to the land not being able to be implemented/rejected by the local land office.

The refusal of the Head of the Land Office is in accordance with Article 45 of Government Regulation Number 24 of 1997 concerning Land Registration, namely that the Head of the Land Office refuses to register the transfer or assignment of rights if one of the conditions below is not met, namely:

1. The certificate or statement regarding the condition of land rights no longer matches the existing lists at the Land Office.<sup>30</sup>
2. Legal acts as intended in Article 37 paragraph (1) are not proven by the Official Land Deed Maker deeds or quotations from auction minutes as intended in Article 41, except in certain circumstances as intended in Article 37 paragraph (2).<sup>31</sup>
3. The documents required to register the transfer or assignment of the rights in question are incomplete.
4. Other requirements specified in the relevant laws and regulations are not met.
5. The land in question is the object of a dispute in court.<sup>32</sup>
6. Legal actions proven by the Official Land Deed Maker deed are void or annulled by a court decision that has permanent legal force.<sup>33</sup>
7. Legal actions as intended in Article 37 paragraph (1) are canceled by the parties before they are registered by the Land Office.<sup>34</sup>

The Head of the Land Office's rejection is made in writing by stating the reasons for the rejection, the rejection letter is sent to the interested party, accompanied by the return of the application file, with a copy to the the Official Land Deed Maker. Apart from that, the provisions contained in Article 131 paragraph (3) of the Minister of Agrarian Regulation Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration, conflict with the authority of the sub-district head as regulated in Law Number 23 2014 concerning Regional Government.

Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 was issued before regional autonomy or was still in a centralized government atmosphere, where the existence and function of the Subdistrict Head was as Regional Head or as a representative of the Central Government, he was appointed and dismissed by the Governor on behalf of the Minister Domestically based

30 Kusuma, Tiara, D., Ayu, I. G., Rachmi, K., & Karjoko, L. "Analysis Of Cancellation Of Land Rights Certificates In Certificate Overlapping Cases", *Journal of Educational Research & Amp; Social* 5, No 3 (2024): 513–521. Sciences, <https://doi.org/10.51601/ijersc.v5i3.840>.

31 Sulistiyowati, Ika, & Rijadi, P., "Problems of Authority of Land Deed Making", *DE RECHT, Journal of Police and Law Enforcement*, 2 No. 2 (2024), 40–52. DOI:10.55173/yurisdiksi.v19i1.184

32 Nadezhda Alekseeva et al "The Application of Classification of Land Disputes in Judicial Practice", 498, (2020): 228–232 DOI: <https://doi.org/10.2991/assehr.k.201205.040>.

33 Teguh Eko Saputro, Ira Alia Maerani., & Taufan Fajar Riyanto, "Implications of Falsifying Authentic Data in Deed of Sale & Purchase on Certificate of Building Use Rights (SHGB)", *Sultan Agung Notary Law Review*, 3. No.3 (2021): 892-931 DOI: <https://doi.org/10.30659/sanlar.3.3.893-931>.

34 Sundari, & Novi, T. "The Juridical Implications for Refusal of Transfer of Land Rights Based on The Deed of Purchase Agreement by The National Land Agency", *Journal of Legal Study*, 1 No. 3 (2022): 1354–1361. DOI: 10.55529/jls.41.1.6

on Law Number 5 of 1974 concerning the Principles of Government in the Regions. Furthermore, In accordance with the legal principle “lex superior derogat legi inferiori” which states that if there is a conflict between high and low levels of legislation, then the higher one must take precedence, the highest law is used as a reference for all levels of laws and regulations below it.<sup>35</sup> The authority of the sub-district that is enforced is the authority regulated in a higher regulation, namely Law Number 23 of 2014 concerning Regional Government, based on the provisions of this Law, the sub-district head as a Regency/City Regional Apparatus carries out his main duties, functions and authority based on delegation or delegation of authority from the Regent/Mayor.

Based on this situation, it can be stated that because the Statement of Relinquishment of Land Rights Number 593/207/Cileungsi/2015 and the Statement of Relinquishment of Land Rights Number 593/018/Cileungsi/2016 signed by the Subdistrict Head H. Ade Yana Mulyana constitutes an action outside of its authority, then a decision based on less than perfect authority means that the decision is not valid according to law. Statement of Relinquishment of Land Rights Number 593/207/Cileungsi/2015 and the Statement of Relinquishment of Land Rights Number 593/018/Cileungsi/2016 signed by the Subdistrict declared invalid / null and void.

Based on the applicable legal provisions, the deed of releasing land rights for private purposes should be made by a Notary as regulated in Article 15 paragraph (2) letter of Law Number 30 of 2004 concerning the Position of a Notary jo Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary.<sup>36</sup> An authentic deed provides more legal certainty so as to cause justice for the party who relinquishes its rights/owner as well as for the next prospective applicant.

### 3. CONCLUSION

The legality of the sub-district head’s authority to release land rights for private interests is not fulfilled. This is because there is not a single clause that states that the sub-district head can sign documents releasing land rights after the enactment of Law Number 22 of 1999 concerning Regional Government, which currently has the authority of the sub-district head as a regional head from previously being attributive and now being delegative, so that the Letter of Relinquishment of Land Rights made and signed by the District Head regarding the location of the land in question, cannot be used as a formal requirement for registration of land rights at the Land Office. Based on the applicable legal provisions, the deed of releasing land rights for private purposes should be made by a Notary. An authentic deed provides more legal certainty so as to cause justice for the party who relinquishes its rights/owner as well as for the next prospective applicant.

35 Sazili, S., Ju’im, J., Sri, I., & Riyanto, E., “ Turnover Intention Influenced by Work Environment and Job Satisfaction”, International Journal of Social Science Research and Review, 5 No.6 (2022): 102-108. <https://doi.org/10.47814/ijssrr.v5i6.291>

36 PPAT does not have the authority to make a deed of release of land rights because the deeds that fall under PPAT’s authority have been expressly stipulated in Article 2 paragraph (2) of Government Regulation Number 37 of 1998, namely legal acts regarding buying and selling, exchange, grants, income into the company (inbreng), distribution of joint rights, granting Building Use Rights/Use Rights over land, granting Mortgage Rights, and granting authority to impose Mortgage Rights.

Based on this situation, it can be stated that because the Statement of Relinquishment of Land Rights Number 593/207/Cileungsi/2015 and the Statement of Relinquishment of Land Rights Number 593/018/Cileungsi/2016 signed by the Subdistrict Head H. Ade Yana Mulyana constitutes an action outside of its authority, then a decision based on less than perfect authority means that the decision is not valid according to law. Statement of Relinquishment of Land Rights Number 593/207/Cileungsi/2015 and the Statement of Relinquishment of Land Rights Number 593/018/Cileungsi/2016 signed by the Subdistrict declared invalid / null and void.

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