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## LEGALITY OF HOUSE BUILDING OWNERSHIP ABOVE THE SEA (Case Study of Kampung Baru Above Water, West Balikpapan District)

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### ABSTRACT

The phenomenon of building construction on water will certainly have an impact on the irregular housing environment and infrastructure, such as clean water sources used for daily needs, household waste disposal channels, and garbage disposal, which becomes unclear. The occurrence of constructing edifices upon aquatic surfaces thus emerges as a collective endeavor of the community to serve as a residence. In addition to the neighborhood using it as a place to live, several parties have built buildings on water, which are then used as lodging resorts. Usually, buildings on water are built on the coast up to several meters towards the sea, but some islands are offshore. The inquiry about the strategy utilized in this study is the observational or socio-legal legal investigation strategy (socio-legal investigation), utilizing the statute, case, and conceptual approach. As per the data provided by Balikpapan City, residences on water that possess a certificate in ownership rights will have the corresponding certificate made for an extended period, specifically before 2008, before the issuance of regulations governing the rights to houses located on water. the right to use granted by the Balikpapan City BPN is a right granted to the land or sand located under the house building. so, if the BPN wants to measure the land, they wait until the sea water recedes. The Balikpapan City National Land Agency measures the building when the sea water recedes. So what is measured on the building is the land, not the building. This can be interpreted that the right to use granted by the authority of governance entails the prerogative to exercise power over land, not buildings.

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**KEYWORDS** Legal Ownership; House Building; Overwater Property

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### INTRODUCTION

The geographical situation in this country distinguishes it from other Southeast Asian countries. The territory of Indonesia, which consists of many islands from the west to the east end, is referred to as a Maritime State (DJPB, 2020;

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Kementerian Kelautan dan Perikanan Indonesia, 2018; Kementerian Koordinator Bidang Kemaritiman RI, 2017; Roza, 2017; Supriyanto, 2019). However, because many of its population depends on agricultural products, Indonesia is also referred to as an Agrarian State. Indonesia has great potential for marine and fisheries due to its vast territory.

The demand for land in Indonesia will increase so that it cannot be equated with the limited state of the land due to the increasing need for development. The phenomenon of development on water will certainly affect living conditions and infrastructure that is not systematic, such as an essential source of life for daily life and channels for RT waste disposal (Fulazzaky, 2014; Khatiwada et al., 2021; Latue & Rakuasa, 2023; Pratama et al., 2019; Wijayanti & Priyanto, 2022).

This nation also needs to pay attention to the border of buildings on water so as not to cross the state's boundaries. Many residents find it difficult to get land in flat or inland areas, making them build houses on water. This can also be a special concern so that residents who have settled can get legal protection and protection in terms of safety.

This phenomenon of development on water then transformed into one of the community's initiatives in utilizing water for housing. In addition to using it as a residence, some groups built buildings on the water and used them as accommodation. Structures are generally erected on the shore, rising a few meters above sea level, but can also be found offshore.

Regarding the building on the water, it is necessary to know if there are rules that regulate buildings on water, because for the building itself, there is a regulation that regulates it, namely Law No. 28 of 2002 concerning Buildings (Languju, 2021; Peraturan Pemerintah No 16 tahun 2021, 2021; Presiden Republik Indonesia, 2021).

As conveyed by Mr. Satjipto Raharjo, the existence of a state of law implies that all development activities must comply with applicable legal regulations. This includes the construction of floating buildings subject to specific legal provisions. There are three key legal requirements for building construction: First, the condition of the land is essential; any building must be erected on land with a clear and legal status. Second, the owner's rights must be proven through a valid ownership certificate issued by the local government. Third, there must be a Building Construction Permit (IMB), which the Regency/City Government grants to authorize construction activities, including the development of new buildings, renovations, expansions, demolitions, or maintenance, in accordance with building regulations (Maula & Prasojito, 2021; Nasution et al., 2022; Nubatonis et al., 2021; Yantini et al., 2021). Therefore, the IMB is a mandatory requirement for any construction effort. In legal terms, Article 1(1) defines a "building" as any physical construction work, in whole or in part, situated on a specific site.

Given these three legal requirements, it is evident that constructing a building on water does not fulfill the first requirement regarding land status. The status of land rights must be guided by the Basic Agrarian Law (UUPA) Number 5 of 1960, particularly Article 16, which outlines the following types of land rights: (1) Ownership rights, (2) Right to cultivate, (3) Right to build, (4) Right to use, (5) Lease rights, (6) Rights related to land clearing, and (7) Rights to collect forest products. Additionally, the definition of "building" in Article 1(1) further

emphasizes that a building is a physical construction, either wholly or partially, situated above and/or within a designated site. This legal understanding reinforces the necessity for any structure, including those on water, to adhere to existing land-use laws and regulations.

If we pay attention to the content of the provisions regarding land rights, then this development can't enjoy the benefits of legal standing as regulated by Article 16. This status cannot be used mainly because of the difference in the area used. The UUPA regulates the state of state rights, but the law is that there is water. The land that is used is seawater. Therefore, water is a right situation.

The first requirement to obtain a building permit is proof of land ownership. Therefore, if you build on water, a problem arises because there is no evidence to show that you own land on the coast. Water cannot have the same legal basis as land, in accordance with Article 16 of the UUPA. Article 11 of the Government Regulation concerning Buildings, paragraph (1), refers to the first requirement regarding land ownership status.

This verse states that buildings are built on land whose status is clear. This verse also states that buildings must have a clear ownership status, whether they belong to individuals or third parties. For administrative legal reasons, the ownership status should be clear. Therefore, it is important to consider the ownership status of the water body used as the location of the building.

According to Article 20 paragraph (1) letter b of the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 23/Permen-KP/2016 concerning Planning for the Management of Coastal Areas and Small Islands (hereinafter known as Permen KP Number 23/Permen-KP/2016), residential areas are included in the public use area.

However, this provision is still unclear about the legal status of approvals for floating housing developments. This is because the government has the authority to designate areas that are considered disaster-prone as uninhabited areas according to Article 32 paragraph (1) of the Disaster Management Law (Law No. 24 of 2007, also known as the Disaster Management Law). since it is included in This place is one of the most vulnerable places to disasters, especially tsunamis, since it is on the coast or coastal waters.

Providing decent housing and healthy surroundings is part of national development. A house is a building with a function for decent housing, a place to build a family, and an asset for the owner. Housing conditions and environments are essential for a decent family life. Housing is one of the basic human needs, reflecting individuals' existence and interaction with the natural environment. Residences function as shelters and resources that meet basic needs and provide the necessary facilities to support people's sustainability and self-development. As a result, they lack understanding of the functions of the house and its environment.

The condition of housing and settlements in Indonesia still does not meet many technical and health requirements, both in cities, villages, and on the coast. This is due to most Indonesians' low income, knowledge, and education level. As a result, they lack understanding of the functions of the house and its environment.

Since the Housing and Habitat Act does not regulate buildings on water, the Housing and Habitat Regulations only limit the provisions to buildings on land. It

is usually found in places of water, with many structures above the water level or even floating residential structures. These floating house structures are generally located in aquatic environments such as lakes, rivers, swamps, and coastal areas. The floating house has been around since the time of our ancestors. Some of them are built permanently, while others are placed everywhere. Floating houses on the beach eventually developed into floating house settlements.

The owners of the above-water house building who live in the area only know that they have been living there for many years. They don't know about proof of ownership because they rely only on local laws. Therefore, customary rights do not refer to possession, but only possession. According to Article 2 of the UUPA, customary rights are the basis for interaction between the state and the elements of the earth, water, space, and natural resources.

East Kalimantan Province is located in the eastern part of the island of Kalimantan and has 3 cities and 7 districts. It is one of the 38 provinces in Indonesia. This research will focus on West Balikpapan District, which has a water area of 37.49 km<sup>2</sup> and a land area of 179.952 km<sup>2</sup>. West Balikpapan District consists of 6 districts: Baru Ulu, Baru Ilir, Baru Tengah, Margo Mulyo, Marga Sari, and Kariangau.

The Kampung Baru area is the oldest residential area in Balikpapan, with an age of approximately 121 years. The location of the Kampung Baru settlement is included in the West Balikpapan District, Balikpapan City. Most of the settlements of Kampung Baru are located around the coast of Balikpapan Bay, and most buildings are above the water level. Administratively, Kampung Baru consists of several sub-districts, including Baru Ilir Village with an area of  $\pm 0.5890$  km<sup>2</sup> consisting of 62 RTs, Central Baru Village with an area of  $\pm 0.5704$  km<sup>2</sup> with 43 RTs, and Baru Ulu Village with an area of  $\pm 0.5890$  km<sup>2</sup> consisting of 40 RTs.

Regulation of the Minister of Agrarian Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 17 of 2016 concerning Land Arrangement in Coastal Areas and Small Islands was previously issued by the Ministry of Agrarian Spatial Planning/Head of the National Land Agency. As explained in Article 1, Paragraph 13, a building is a construction product with a physical form and is integrated with its location. These structures can be located in whole or in part, both above and below the surface of the soil or water. Its functions are diverse, covering human needs in various aspects of life, such as settlements, commercial activities, social interactions, and cultural preservation.

The number of settlements built on water is the focus of researchers regarding home ownership status. It is known that the community in the Kampung Baru settlement has participated in the free certificate program, namely the Fully Systematic Land Registration (PTSL) in 2021. Balikpapan received an allocation of 10,000 fields to participate in the PTSL program. Judging from the Sentouch Tanahku application owned by ATR/BPN, buildings built on water in settlements located in the West Balikpapan District, 80% of buildings have been certified with the status of Right of Use. Meanwhile, 20% of the building, which is also located on water, has the status of Property Rights. Therefore, there was a conflict between the building owner and the Balikpapan City Land Office.

Before the main discussion, the researchers will explain several prior studies related to this issue. The formulation of the problem in this study includes: (1) What is the legality of building ownership constructed on water in the Kampung Baru settlement, West Balikpapan District? and (2) What is the role of the National Land Agency of Balikpapan City regarding the difference in status between Property Rights and Use Rights granted to the Kampung Boven Kampung Baru water community? In line with this, the research objectives are: (1) To explore and analyze the legality of house ownership built on water in the Kampung Baru settlement, West Balikpapan District, and (2) To understand and analyze the role of the National Land Agency of Balikpapan City in determining the differences in ownership status given to the Kampung Baru community.

The benefits of this research are divided into two categories: theoretical and practical. Theoretically, this study aims to contribute to the knowledge base and assist communities residing in water-based settlements in Kampung Baru, West Balikpapan District, who seek legal clarity and formal ownership of their homes. Practically, the findings are expected to provide solutions and guidance for residents who remain uncertain about the different statuses of house ownership granted by the National Land Agency of Balikpapan City.

## **RESEARCH METHOD**

Applying the empirical or socio-legal research method (socio-legal research) is a model of alternative approaches in analyzing law as an object of study, especially in the context of the district election system. In this approach, law is understood not only as a normative and applicative discipline, but also as an empirical phenomenon reflecting existing social realities. The application of this empirical law is inseparable from the interaction with other fields of science, because the focus is to understand how the law is carried out and implemented in society in real life.

### **Research Approach**

Essentially, research is a process that aims to re-explain the truth that exists and hopes to provide answers to various statements concerning the object being investigated.

Soerjono Soekanto explains that research is a scientific activity that examines specific methods, phylogenetic relationships, and one or more specific legal phenomena through in-depth analysis. It also involves careful examination of relevant legal facts, with the aim of formulating solutions to problems that arise in the context of these legal phenomena.

The author uses research methods such as:

#### **1. Legislation Approach (Statute Approach)**

The statute approach refers to a research method that focuses on the analysis of legal sources in the form of legal provisions that are used as the main basis for research. This approach is often used to investigate regulations that still contain deficiencies in their norms or even have the potential to encourage deviant practices, both in terms of technical and implementation in the field. Within this framework, the researcher will review all the laws and regulations related to the legal question. For example, this approach can be used to check

the compatibility between the basic law and the law of origin. Applicable Laws, or analyze the relationship between various existing Laws.

## 2. Conceptual Approach

The conceptual approach in legal research is an analysis method that explores the legal concepts underlying a law or regulation. This approach examines legal norms textually and highlights the values contained in the process of standardizing a regulation to assess the harmony between the resulting norms and the legal concepts that are the foundation. Epistemologically, the conceptual approach is based on the ideas and legal doctrines that develop in the study of law.

Its existence is essential in building a strong legal argument because a deep understanding of legal doctrine allows researchers to formulate more substantial justifications for answering various legal problems. Thus, this approach clarifies the structure of legal thought by elaborating legal definitions, concepts, and principles related to the issues being analyzed.

## 3. Case Approach

The case approach is one of the methods in normative legal research oriented towards argumentative analysis of concrete cases in legal practice. This approach focuses on legal events relevant to the problem being studied, with the main goal of uncovering the value of truth and finding the best solution based on the principle of justice. In its implementation, this approach involves an in-depth study of cases that have received a court decision with final legal force. The analysis of the decision is based on the legal considerations used by the judge when formulating the decision, so that it can be used as a basis for discussion about the response to the legal question under review. Thus, the case approach allows for the formulation of legal arguments that are more contextual and based on jurisprudential precedents.

## Data Source

The types of legal materials and data sources needed and used in this study are as follows:

In empirical judicial research, the data source is also one of the aspects of this study. Data sources can be divided into two primary and secondary data sources.

### 1. Primary Data Sources

The primary data source the author uses is field observation to see firsthand the location and condition of settlements on water in Baru Ulu and Baru Ilir Villages. Interviewing with the National Land Agency of Balikpapan City to find out how the ownership status of house buildings located on the water in the settlements of Baru Ulu and Baru Ilir villages and how the role of the National Land Agency of Balikpapan City is to the difference in ownership status, namely property rights and use rights.

### 2. Secondary Data Sources

Secondary data sources are obtained through literature case studies by examining the literature, laws, and regulations closely related to the research object.

### **Data Collection Techniques**

To collect primary and secondary data used as the basis for research, namely:

1. Observethus

According to Morris, observation can be interpreted as a systematic process of documenting a phenomenon by utilizing various instruments to collect data for scientific and other purposes. Furthermore, observation is seen as the accumulation of perception of the surrounding environment obtained through the optimal use of all human senses in capturing information.

The author's observation research involves visiting several villages of water settlements in West Balikpapan. The author will examine the condition of the buildings on the water to determine whether they are permanent.

2. Interview

According to Berger, an interview can be defined as a form of verbal interaction that involves a researcher, the party who seeks to obtain data or insights, with an informant, an individual who is considered to have relevant knowledge or understanding of a certain phenomenon. In this study, the author conducted interviews with the National Land Institute of Balikpapan City and several residents who own buildings on water in the West Balikpapan District.

3. Documentation

This document is an important data source for research, including written texts, films, images, and monumental works, which serve as an information medium for scientific testing. In the context of empirical research, most of the data comes from HR through observation and interview methods that allow for direct information. In this study, the author used documents as photographic structures at the study location. The national land agency of the city of Balikpapan has a Touch Tanahku application published at BPN.

### **Data Analysis Techniques**

Processing the data that the author has obtained in the field and analyzing legal materials relevant to the case that occurred, we analyze using qualitative descriptive methods and present descriptively, with explanations of the problems and solutions closely related to this thesis.

### **Research Place**

The location chosen for this study was at the Balikpapan City land office and the overwater settlement of Kampung Baru, West Balikpapan. The location was selected because the Balikpapan City land office issued a certificate to the owner of the Building on Water at the village on the water of Kampung Baru, West Balikpapan.



## RESULT AND DISCUSSION

### **Legality of Ownership of Buildings Built on Water in Kampung Baru Settlement, West Balikpapan District**

Indonesia is an archipelago consisting of about 17,500 islands with a coastline that covers 81,000 km. Based on data from the Ministry of Maritime Affairs and Fisheries (KKP), more than 60% of Indonesia's territory is dominated by water, with land reaching around 1.91 million Km<sup>2</sup> and water level reaching 6.32 km<sup>2</sup>. This significant proportion makes coastal areas a living space for about 22% of the national population. Therefore, the phenomenon of settlements spread along the coastal area is a logical consequence of Indonesia's geographical condition as a maritime country.

Baru Ulu Village is the starting point for residential development in Balikpapan City. This waterfront settlement has historical value and durability in the development of Balikpapan City. Baru Ulu Village is divided into 2: Baru Ulu Atas and Baru Ulu Tengah. In this study, the authors collected data on Baru Ulu Tengah, a settlement above the water surface. From the data obtained by the author, 161 houses have been certified. 36 are SHM certified, and 125 houses are Hak Pakai certified.

The foundation of the water house has not been carried out recently, as this settlement has existed for generations. So, the people who built houses in the water in the area were only motivated by the customary laws of the temple and continued to build residential areas for water, but there were no licenses to build buildings that were legalized under the law. From the perspective of the additive law, the principle of the social function of land rights confirms that the land ownership of customary communities is not purely individual, but is a collective right that all members of the indigenous communities concerned jointly own. This concept reflects a balance between individual and collective interests, where land use is carried out in a gotong royong manner under the supervision and direction of indigenous leaders. As part of the mechanism to meet the community's needs, each individual is allowed to open, control, own, and manage certain parts of customary land per the norms and provisions that apply in the community (Ulayat).

According to information from the Balikpapan City BPN, the house is located above the water level and is equipped with a Certificate stating Property Rights, so the certificate has been made for a long time, namely above 2008, before the issuance of regulations governing the right to houses located on water. The right of use given by the Balikpapan City BPN is the right given to the land or sand located under the building of the house. So that if the BPN wants to measure the land, they will wait until the sea level recedes.

The right of use granted by the Balikpapan City BPN has a term of 10 years. If the validity period expires, the public cannot register independently for an extension. The management of certificates for building houses on water must go through a government-set program, which charges 0 rupiah or is free.

The Complete Systematic Land Registration Program (PTSL) is a transformative initiative that significantly accelerates the process of legalizing land ownership in Indonesia. To date, the program's implementation has succeeded in



recording as many as 107.5 million land plots, of which 88.3 million have obtained official certificates as proof of legal ownership.

Before the extension is carried out, the BPN will check in the field whether the house is still safe to occupy. The community is also urged regarding the issue of relocation, which the government can carry out at any time. Considering the risk of abrasion that can threaten the building of their respective houses, they can be placed in a place the government has prepared. In addition, the fire factor is also very risky because the settlements on the water are very dense.

Looking at the provisions of Ministerial Regulation No.23/Permen-KP/2016, we can certainly say that the settlement of the Mizukami family is a legal agreement, because it is allowed by the minister. Meanwhile, Article 32 contains the Civil Management Law. It explains how governments can build disaster areas when implementing disaster management that can be prohibited for settlement. Under Article 32 of the Disaster Management Act, Coastal waters are 12 miles inland, so houses floating in Coastal waters can be interpreted as being identified as disaster areas. The sea is measured by the Beach, the sea, and the Beach.

Due to the territorial conditions located in the seaport, which are very likely to cause natural tsunami disasters, when implementing disaster management, settlements in coastal waters can be decided as prohibited areas, that is, as prohibited areas that do not allow colonies to exist. Looking at the two formulations of Article 21 (2) of the Ministerial Regulation No. 23 for 2016, concerning the planning of coastal areas and small islands, one of the general use zones of residential areas in non-fishing areas, and one of the articles of 32 of disaster management and coastal water rescue.

Administratively, the overall area of Balikpapan City covers land and water areas with a total area of 81,495 hectares. Of these, 50,330.57 hectares are land, while 31,164.03 hectares are water. Geographically, Balikpapan is located in the Longitude coordinates from 116.5° to 117.0° East Longitude and is in the range of 1.0° to 1.5° South Latitude. In demographics, Balikpapan is ranked third as the city with the largest population. Topographically, Balikpapan is dominated by a hilly landscape with a limited area of plains generally found along rivers and coastal areas.

Among the existing sub-districts, West Balikpapan is the sub-district with the largest area, covering 19,288.02 hectares. On the other hand, Balikpapan Kota District has the smallest area, which is 1,109.82 hectares. Despite this, Balikpapan Kota District has a high population density because it is the center of the city government. In the restricted areas of the settlement zone, it can be said that the two agreements have not clarified the legal status or legality of residential plantations floating in coastal waters. In this case, the author uses legal interpretation to solve research problems, namely grammatical and systematic interpretation.

These administrative requirements will not be met in the first condition if they are associated with the erection of the building on top of the building. This is because when discussing the Status of Land Rights, it is important to refer to Law Number 5 of 1960 concerning Agrarian Subjects (hereinafter referred to as the UUPA), where Article 16 mentions various land rights, including:

1. Ownership rights;
2. Right to effort;

3. The right to erect a building;
4. Rights of use;
5. Rental rights;
6. Land processing rights;
7. Forest product collection rights;
8. Additional rights not included in the rights mentioned above, as well as short-term rights.

As a result of the author's interview with the Balikpapan City National Land Badan Staff, the legality given by the government to the community that owns buildings on the water is the Right to Use. The right is given for the land, not for the building. So, even though the building is built on water, the community will get legality for the land where the building is built, not the house built.

Pemerintah telah memberikan program PTSL untuk memudahkan Masyarakat yang ingin melegalisasi sertifikat kepemilikannya. Masyarakat juga tidak bisa mengurus sendiri dikarenakan pemukiman ini diberi perhatian khusus oleh pemerintah jadi apa yang tidak diinginkan adalah anda tidak suka pakaian dan bencana alam lainnya. Sehingga, pemerintah akan mengkaji ulang terkait sertifikat yang diberikan dengan jangka waktu 10 tahun apakah masih bisa diperpanjang atau harus di relokasi ke tempat yang lebih aman.

### **The Role of the National Land Agency of Balikpapan City on the Difference in Status Between Property Rights and Use Rights Given to Village Communities Above Kampung Baru Water**

Many people who live in Kampung Atas Air, Kampung Baru, expect the legality of the building they have to be clear soon. Some people also mentioned that the existence of this government program, PTSL, greatly helped them both administratively and financially. The community only complained about the length of the certificate issuance process.

Some communities also expect an increase in the right to use so that they do not have to wait for the PTSL program to return if the period of their right to use certificate has expired. However, the Balikpapan city government, especially the Balikpapan City National Land Agency, could not grant the community's request. Because many things are considered to make a building certificate on water, a certificate of ownership is required. One of the main things is that the building is reviewed first for safety, and after 10 years of the certificate period, it is determined whether the building is still suitable for occupancy.

#### **1. Right to Use**

The right to use is a right that gives authority to a person or legal institution to utilize and obtain the proceeds of land that is under the direct control of the state or owned by other parties. This right is granted based on the provisions in the restricted areas of the settlement zone; it can be said that both agreements have not clarified the legal status or legality of the floating residential plantations in the coastal waters area. In this case, the author uses legal interpretation to solve the research problem, namely grammatical and systematic interpretation. In its implementation, the right to use must always

align with the principles and provisions stipulated in the Basic Agrarian Law (UUPA).

- a. The right to use granted for a certain period is reserved for:
  - 1) "Indonesian citizen;
  - 2) Legal Entities formed under Indonesian Law and domiciled in Indonesia;
  - 3) Foreign Legal Entities that have representatives in Indonesia;
  - 4) Religious and Social Bodies; and
  - 5) Foreigners."
- b. The right of use granted during the period of use applies to:
  - 1) "Central Government Agencies;
  - 2) Regional Governments;
  - 3) Village Government; And
  - 4) Representative of Foreign Countries
  - 5) Representatives of International Bodies."

The right to use land has a time limit and can be given to three types: state land, land with property rights, and land under certain management. However, using rights in practice only applies to state land and land under the management of certain parties. In the context of land under the direct control of the state, the transfer of the right of use to another party can only be done with the approval of an official. Meanwhile, the right to land in property status can only be obtained if the terms are provided in an agreed contract.

Under Law No. 5 of 1960 with respect to agricultural bases, the right to use under Article 43, Article 41 is used in connection with the right to use within the country under Article 58. Article 41 contains the rights and obligations specified in the contract with the landowner, unless it is an approved decree or a land management contract, not a land management contract, but a land management contract unless it is inconsistent with the spirit and provisions of this law."

Land Use Rights are established as state land determined by a Decree by the Minister or competent civil servants. Meanwhile, the right to land under administrative law derives from the same decree but is based on the submission of the responsible administrative owner.

The right to use the land from the property rights is made through a mechanism that grants rights by the land owner, which must be outlined in a document prepared by the land development officer. The assignment of use rights must be recorded in the country books maintained by the regional office. It was decided that this was enforced as part of efforts to implement the principle of legality in land administration to prevent potential abuse in transferring rights.

Based on the author's research results, Kampung Baru or Baru Ulu village residents with houses on the water have a Right to Use certificate. The valid term is for 10 years. When the period has expired, the community must wait for the government's program to extend their certificate because the government must review the safety of buildings and lines built by the community. If anything does not meet the renewal requirements, it will be moved or relocated to a safer Location.

The Balikpapan city BPN measured the building when the sea water receded. So what is measured on the building is the land, not the building. This can be interpreted as the right to use the government, not the right to use the land for buildings.

Most people who live in Kampung Baru have had land for a long time, some of which they inherited from their ancestors. The new village is the oldest settlement in Balikpapan, so some still hold a State Land Ownership Statement as proof of land ownership.

#### **b. Property Rights**

Guaranteeing legal security regarding land rights is a fundamental aspect of agrarian law. This certainty includes two main dimensions: certainty of the object and subject of land rights. Object certainty refers to the clarity of the location of the land parcel that already has georeference coordinates in the land registration map, while subject certainty refers to the identity of the right holder recorded in the land registration book at the land institution. The official legal proof of this registration is the Land Certificate, which contains a copy of the map and the land registration book.

Regulations related to the legal security of land rights have been regulated for the first time since 1961 by Government Regulation 10. Regulations related to land registration. As the time and dynamics of the law have been updated, the provisions have undergone updates through government regulations related to land registration since 1997. This latest regulation aims to simplify the requirements and procedures in the implementation of land registration to improve administrative efficiency. The implementation of this regulation not only guarantees land ownership rights but also provides stronger legal protection for the community to minimize the potential for land disputes that can disrupt social and economic stability.

A Property Certificate is a legal document about land or buildings with the highest status per Indonesian regulations. Therefore, the community wants a letter stating the legality of their land ownership. The goal is none other than a strong legal position. However, separate provisions make the community unable to get SHM for the legality of their land ownership for submerged or coastal land used as a settlement. The government has made regulations that discuss coastal land ownership in the Minister of Agrarian Regulation Number 17 of 2016 concerning Land Arrangement in Coastal Areas and Small Islands.

Before the issuance of a new regulation regulating Property Rights and Usage Certificates, the village community on the water of Baru Ulu Village was given a Certificate of Ownership. After the regulation is issued, all certificates to be issued by BPN will be replaced with Right of Use Certificates. The residential area on water in Baru Ulu Village is not land that can be used for settlement. However, because it has become an ancestral heritage, it makes the place a land for settlement. Therefore, when the government plans to take over the land, the community must be prepared for possible relocation at any time.

For houses that have SHM or a Certificate of Ownership, the house has been built for a long time. In the past, the house was not under seawater as it is now. The house is still on a land foundation, which is one of the reasons why

some houses get Certificates of Ownership, other than because of the changed regulations.

Some houses with wooden stakes will be given a Right to Use Certificate. The National Land Agency provides this certificate for its plots of land, not for its buildings. The purpose of this certification is not actually for commercial purposes. Considering that the land is not suitable for residential areas, but because many communities have already built on it, BPN provides the Right of Use to legalize the ownership of the house.

To ensure legal protection for local water settlements, you must ensure that you have the right to renew later from the state receipt. So far, people have been lying in the sea, making it difficult to receive certificates. The four aspects are legal, political, sociocultural, and economic:

**c. *Legal Aspects***

First, Article 4 of the Law of the Sea states that different rights on the earth's surface, bodies of water, and space are determined based on the state's right to control. As a rule, community settlements can receive closed and open rights nationally. This means that land rights can be determined, especially if there is a legal relationship between the community and the state's settlement, even by the pile's intermediary.

Furthermore, after the license is granted by the Ministry of Maritime and Fisheries, Law No. 11 relating to water rights is possible. The license in question is based on the suitability of activities for the use of the KKPRM marine area. This means that the granting of land rights to community settlements is allowed on water.

Second, there is often a misunderstanding about the Constitutional Court Decision No. 3/PUU-VIII/2010, which interferes with the concept of coastal waters (HP-3). Something is wrong when the Decision is interpreted as a prohibition on giving a kata to indigenous peoples, traditional and local water settlements. This is because the constitutional court's decision does not mention a small prohibition on granting land rights. Constitutional courts grant agricultural concessions or concessions in the coastal waters to entrepreneurs that can lead to privatization, exclusion of traditional fishing rights, and indigenous peoples' livelihoods. This means that the constitutional court decision wants to protect the settlers against water that has existed for tens or hundreds of years. Therefore, when deciding on constitutional courts, the text must be examined in part, not just by reviewing it.

**d. *Political Aspects***

Politically, the president always summarizes the concept of building the periphery. During this time, settlers lived on this water, near the extreme of the front island, far from the center of the government. There were many natural challenges, limited facilities, difficulties of access, and poverty, so the program often ignored government development, government support, and attention.

Settlers on the water, such as the settlement on the water of Kampung Baru, have been living there since Balikpapan was first formed. In the past, this settlement was where the people of the Banjar and Bugis tribes settled because some had a livelihood as fishermen. Thus, it makes it easier for them to mobilize

their catch. This causes most people living on water to be Banjar and Bugis tribes.

**e. *Economic Aspects***

Land rights certificates are a guarantee of settlers' economic rights to water. With this legitimate proof of civilization, local governments can freely include as capital instruments for their banking business. In addition, access is greater than assistance. These are usually limited/small and not all. Capital can be used to improve the standard of living for people on the Coast. The Coastal Region has been the center of poor pockets so far.

When granting land rights, the 3R principles must be applied, that is, the law of boundaries, obligations, in addition to rights, citizens also have responsibilities and these limits that need to be applied that in the context of water settler certificates, cities are required to enshrine ecological fountains and maintain them both that do not collect access to the sea as public property. These rights may be taken away if the 3R principles are not implemented. So, the aspect of conflict is very important. Synergy and cooperation with ATR/BON, maritime fisheries and fisheries, local governments and communities are key to ensure that these residents will be maintained and the ecological aspect can be good.

In addition to granting land rights to urban settlements concerning water, residential communities must have easy access to water. CIPTA's work excludes permitting procedures and increases the amount of space the settlement community uses. In addition, support for the development of the population's rights, the right to education, and infrastructure, such as health and hygiene, must be observed. This obligation is a concrete manifestation of the state's existence, in the man apemukim above the water, which is part of the earth.

Rights are rights, strong, strong, and perfect with people on the ground who can change their attitudes toward others.

Building Use Rights (HGB) on state or managed land gives the right holder authority to erect and own buildings on land that does not belong to them. This right is valid for a maximum of 30 years and can be extended for another 20 years if the right holder applies for an extension.

Meanwhile, the Right to use on state land is the basis that authorizes the owner to utilize and take the proceeds of land directly controlled by the state. This right is complemented by the authority and obligations stipulated in the Decree granting rights by the authorized authority or through negotiations with the landowner. It should be noted that the agreement should not be considered as a form of lease or land cultivation. All aspects of the implementation of this right must remain in line with the principles and provisions stipulated in the Basic Agrarian Law (UUPA).

## **CONCLUSION**

The settlement, which is located on the water in Baru Ulu Village, is a settlement that has been built for a long time and has expanded in size. The settlement is the oldest in Balikpapan City. With the existence of these settlements, the Balikpapan City Government continues to maintain this situation by providing legal but long-term legality for the settlement. The legality given is the Right to use,

which has a term of 10 years. The government can revoke the right to use at any time as agreed with the community; when the right is revoked, they will be ready to be relocated to another place. The creation of certificates for water settlements must go through government programs such as PTKL or PTSL.

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