



The Legal Position of Grondkaart as the Basis of Ownership Rights for Land Owned by PT. Indonesian Railways (Medan District Court Decision No. 822/Pdt.G/2020/PN. Mdn)

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ABSTRACT

This study aims to analyze the legal regulation of land rights based on grondkaart since the enactment of the UUPA, its legal force in Decision No. 822/Pdt.G/2020/PN.Mdn, and judges' considerations regarding land ownership by PT KAI. Normative legal research with descriptive analysis is the methodology employed, and primary, secondary, and tertiary data gathered from interviews and literature reviews are qualitatively assessed. The results of the study show that since the enactment of the UUPA, all land laws inherited from the Dutch East Indies are not valid and western land rights must be converted; land controlled by the Staatsspoorwegen (SS) through grondkaart is transferred to PT KAI after nationalization, but if it is not converted, it remains an unseparated state asset; and in Decision No. 822/Pdt.G/2020/PN.Mdn, the judge stated that the ownership of PT KAI was legal based on grondkaart without providing a juridical basis in accordance with the UUPA, while the lease of land by PT KAI on the basis of such rights was contrary to the provisions of the UUPA.

INTRODUCTION

Land as one of the needs in the maintenance of human life has a very vital role. Indonesian society with an agrarian lifestyle depends entirely on land. Land as the main object that must be owned in the implementation of agrarian life, both in the form of agricultural land acquisition and plantations. Because land is a basic human necessity and a place where people can dwell and gather resources to continue living, it is impossible to divorce land from human life.

Humans and the earth have a very intimate relationship since the land provides a place for people to live and carry on with their lives. Land has been essential to a nation's life, means of subsistence, and support, particularly in areas where an agrarian culture predominates. The maximum use of land is intended to promote the wealth of the populace in a nation where the people wish to establish a democracy with social fairness.

Most people live on land, which also serves as a source of income for those who depend on farming and plantations for their livelihood. However, land must also be protected and exploited as much as possible for the people's well-being in a just and equitable way.

In today's Indonesia, land has an important value for the Indonesian people because in addition to the needs as a place to live, land is also a supporting infrastructure for meeting the needs and activities of the community. Likewise, land can also be used as a future savings/investment, meaning that land can be used as a valuable asset/wealth for the Indonesian people who own land.

In accordance with Pancasila and the 1945 Constitution (henceforth referred to as the 1945 Constitution), the state of Indonesia is required to protect and uphold the land rights that are granted to each and every citizen. The Indonesian government also established Law No. 5 of 1960 concerning the Basic Regulation of Agrarian Principles, which was passed on September 24, 1960.

The provisions of Article 33 paragraph (3) of the 1945 Constitution, which states that the state controls the land, water, and natural resources found therein to be used for the maximum prosperity of the people, are implemented by Law No. 5 of 1960 concerning the Basic Regulation of Agrarian Principles (henceforth referred to as the UUPA). According to these rules, the state must control land ownership and direct its use in order to maximize the prosperity of all people, both individually and via collaboration, across all sovereign regions of the country.

The provisions of the UUPA do not find provisions that regulate *grondkaart* as proof of control over land. The provisions of the UUPA are clearly not and contain the phrase about *grondkaart* as evidence or the basis of land rights. Where, currently there are many cases of land disputes over land ownership owned by PT. Kereta Api Indonesia (Persero) uses *grondkaart* as a basis for land rights and as evidence for trial in court.

Based on the description above, PT. Indonesian Railways (Persero) in all regions of Indonesia that still have land with *grondkaart* rights should have registered their land with the office of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (hereinafter referred to as the Ministry

of ATR/BPN) and have proof of use rights or management rights as regulated by the UUPA.

Based on the background descriptions mentioned above, further research was conducted on the discussion of *grondkaart* as the basis for land ownership rights by PT. Indonesian Railway (Persero), by choosing the title: "THE LEGAL POSITION OF GRONDKAART AS THE BASIS FOR OWNERSHIP RIGHTS OVER LAND OWNED BY PT. INDONESIA RAILWAY (Medan District Court Decision No. 822/Pdt.G/2020/PN Mdn)."

THEORETICAL REVIEW

Theoretical Review

Three primary theoretical frameworks – the theory of justice, the theory of legal certainty, and the theory of the state of law – are the foundation of this study. The legal position of *grondkaart* as the foundation for land ownership rights from the standpoint of Indonesian land law, particularly in light of the application of Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA), is conceptually analyzed using these three theories.

The Theory of the State of Law

Since the time of the ancient Greek philosophers, the idea of the state of law has existed. Plato affirmed that good government is one governed by law, not by arbitrary will. This perspective was carried by Aristotle who claimed that a good state is a state that is controlled by the constitution and has the rule of law.

Immanuel Kant and Friedrich Julius Stahl developed the idea of *Rechtsstaat* in the Continental European tradition. It consists of four primary components: (1) the protection and acknowledgement of human rights; (2) the division of powers (*trias politica*); (3) a legal-based government (*wetmatigheid van bestuur*); and (4) the presence of administrative courts to hold the government accountable for its actions that are against the law (*onrechtmatigheid overheidsdaad*).

Meanwhile, the Anglo-Saxon tradition pioneered by A.V. Dicey formulated the rule of law in three main principles: the supremacy of the law, equality before the law, and the protection of human rights by law.

In the context of Indonesia, the 1945 Constitution's Article 1 Paragraph 3 makes it clear that Indonesia is a state of law. This implies that the relevant law must serve as the foundation for all government and citizen actions.. This principle has direct implications for the regulation of land rights, where all forms of land tenure are required to comply with the national legal framework as stipulated in the UUPA, including the provisions for the conversion of colonial heritage land rights into national land rights.

Legal Certainty Theory

Legal certainty, according to Soedikno Mertokusumo, is a guarantee that the law is carried out consistently, so that the public can know what is allowed and not allowed to be done. Gustav Radbruch placed legal certainty

(rechtmatigheid) as one of the three fundamental values of law, along with justice (gerechtigheid) and utility (zweckmäßigkeit).

Legal certainty has several elements, including: clear and accessible law, consistent application of the law by the government, citizens' obedience to the law, and real implementation of court decisions. In the field of land, legal certainty is reflected in the obligation of land registration (Article 19 of the UUPA) to provide proof of legal rights to the holder, as well as the prohibition of the use of proof of ownership that is not recognized by positive law, including *grondkaart* that has not been converted.

In this study, the theory of legal certainty is used to assess the strength of *grondkaart* proof in the era of the enactment of the UUPA, considering that all western rights are required to be converted into national rights. This is important to answer the question of whether unconverted *grondkaart* can be used as the basis for a land ownership claim.

Justice Theory

Justice, according to Aristotle in the *Ethics of Nichomachea*, is to give to each person what is his right. Aristotle distinguishes justice into general justice (good and truth for all) and special justice, which is further divided into distributive, corrective, and commutative justice.

Distributive justice regulates the proportional distribution of rights, obligations, and resources according to the position of each individual. Corrective justice focuses on redressing losses due to wrongdoing, while commutative justice requires equal treatment for all people regardless of contribution or position.

In the context of the case of Decision No. 822/Pdt.G/2020/PN.Mdn, the theory of justice is used to assess whether the judge's recognition of the ownership of PT Kereta Api Indonesia based on *grondkaart* meets the sense of justice, especially when the evidence is not explicitly regulated in the UUPA as a basis for legal ownership rights.

By integrating these three theories, this study places the problem of *grondkaart* in a complete constitutional and juridical framework, while testing its conformity with the principles of legality, legal certainty, and justice that are the pillars of the Indonesian legal state.

METHODOLOGY

The normative legal methodology used in this study is backed by field research. The goal of normative legal study is to investigate how rules or norms are applied in positive law, both laws as it is written in the book and laws decided by judges through court decisions.

The nature of this research is descriptive analytical, which is to describe in detail the research object based on the data obtained, then analyzed to obtain relevant conclusions.

Research Approach

The approaches used include:

1. The Laws and Regulations approach is to examine various regulations that are relevant to research problems, especially land law and provisions regarding *grondkaart*.
2. The Case Approach is to study the application of legal norms in practice through court decisions, especially the Medan District Court Decision No. 822/Pdt.G/2020/PN.Mdn.

Data Source

The data used consisted of:

1. Primary Legal Materials: including the 1945 Constitution, UUPA, Civil Code (KUHPercivil), various laws, government regulations, ministerial regulations, presidential decrees, and relevant court decisions.
2. Secondary Legal Materials: these include books, journals, scientific publications, literature, and the views of pertinent legal specialists.
3. Tertiary Legal Materials: includes legal dictionaries, encyclopedias, and other explanatory sources that support the understanding of primary and secondary legal materials.

Data Collection Techniques

Data collection is carried out through:

Literature Study to obtain secondary data from laws and regulations, literature, scientific papers, and court decisions.

Interviews with resource persons, namely:

1. Mr. Fachrizal Lubis (Legal Practitioner),
2. Mr. Abdul Malik (Land Dispute Staff, Ministry of ATR/BPN),
3. Mr. Anzar Abidin, ST, M.Si (Head of Survey, Measurement, and Mapping Section, Ministry of ATR/BPN).

Data Analysis Methods

Data analysis is carried out using a qualitative analysis method, which is to process data obtained through literature studies and interviews to then be analyzed descriptively. Legal materials are processed using a deductive approach, that is, drawing conclusions from general matters to special matters, so as to be able to answer the formulation of the problem that has been determined.

RESEARCH RESULTS AND DISCUSSION

Regulation of the Basis of Rights to Grondkaart Land Since the Enactment of Law No. 5 of 1960 concerning the Basic Regulations of Agrarian Principles Land Arrangement Agrarian Law Colonial Legacy of the Dutch East Indies

Some of the opinions expressed by experts regarding the meaning of agrarian law (land), namely:

1. Subekti defines agrarian law as the entirety of civil law, constitutional law, and state administrative law that governs the relationships that people,

including legal entities, have with the land, water, and space in every part of the state. It also governs the authorities that result from these relationships.

2. Land law, according to Boedi Harsono, is a collection of written and unwritten legal provisions that all have the same regulatory goal: the rights of control over land as legal institutions, as tangible legal relationships, and as public and civil aspects. These provisions can be gathered and examined methodically until they form a single system.

Historically, juridical agrarian law in Indonesia, there are several land regulations inherited from the Dutch East Indies in Indonesia that are mentioned in the UUPA in the provisions of the repealed regulations, including:

1. Agrarische Wet (Staatsblad 1870 No. 55), as contained in article 51 of the Wet op de Staatsinrichting van Nederlands Indie (Staatsblad 1925 No. 447) and the provisions of other paragraphs of that article.
2. The Domienverklaring is in article 1 of the Agrarisch Besluit (Staatsblad 1870 No. 118); The Algemene Domienverklaring is in Staatsblad 1875 No. 119A; Domienverklaring for Sumatra in article 1 of the Staatsblad 1874 No. 94f; The domeinverklaring for the Menado residency is mentioned in article 1 of the Staatsblad 1877 No. 55; The Domienverklaring for residentie Zuider en Oosterafdeling van Borneo is in article 1 of the Staatsblad 1888 No.58.
3. Koninklijk Besluit of 16 April 1872 No. 29 (Staatsblad 1872 No. 117) and its implementing regulations.
4. Book II of the Indonesian Civil Code as long as it concerns the land, water and natural resources contained therein, except for the provisions regarding mortgages that are still in force at the entry into force of this Law.

Before Indonesia's independence even before the arrival of the Dutch to Indonesia, the control and ownership of land in Indonesia had been enforced according to the customary laws applicable to indigenous peoples based on the provisions of customary law in each region. After the Dutch invaded the Indonesian nation, the Dutch brought the land law regulations that apply in their country to Indonesia, which were then applied to the Indonesian people.

During the colonial period, colonial land laws and policies were oriented towards the interests and profits of the Dutch East Indies government and foreign private companies, often at the expense of the rights of indigenous peoples. Western agrarian law based on the Civil Code and Agrarian Wet Stb. 1870 No. 55 applies side by side with customary agrarian law, creating legal dualism. Western rights (such as eigendom, erfpacht, and opstal) apply to Europeans, while customary rights (such as property rights, yasan, and andarbeni) apply to indigenous peoples. The colonial government also introduced the Agrarisch Eigendom and swapraja copyrights such as the sultan grant, the control grant, the Deli Maatschappij grant, and the plantation concession rights. In civil law, the European and Oriental groups of China are subject to western civil law, while the natives are subject to customary law. The Agrarische Wet 1870 was born at the insistence of foreign private entrepreneurs to acquire land with a long term and strong rights, which was then contained in

Article 51 of the Indische Staatsregeling (IS) of 1925 as a substitute for Article 62 of the Regering Reglement (RR) of 1854.

During the colonial period, western agrarian law and customary law coexisted, creating a dualism of land law. Western law, which was regulated in the Civil Code and the Agrarian Wet of 1870, recognized rights such as eigendom, erfpacht, and opstal, while customary law governed property, yasan, and andarbeni. The principle of intergentiele grondenregel stipulates that land is subject to western or customary law according to the type of right, although there are exceptions for customary land. The Agrarische Wet 1870 and the Agrarisch Besluit apply the principle of domein verklaring, i.e. land without proof of eigendom rights is considered to belong to the colonial state (landsdomein). This allowed the Dutch East Indies government to control customary lands that had no written evidence, granted western rights to private parties, and limited legal protection for indigenous peoples. Land registration under western law aims to provide legal certainty for colonial interests (rechts kadastr), while customary land registration is only for tax purposes (fiscaal kadastral).

After Indonesia's independence, the UUPA repealed all colonial land regulations and required the conversion of all western rights into national rights through PMA No. 9 of 1965. Including lands with grondkaart rights owned by PT Kereta Api Indonesia which must be converted into use rights or management rights and officially registered in accordance with the provisions of the UUPA.

Land Regulation According to Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles

After Indonesia's independence which was proclaimed on August 17, 1945, efforts were made to carry out a comprehensive overhaul of agrarian law or land law in accordance with the ideals of independence. However, because of the many problems faced by the effort to form a national land law that is not so easy to realize, so while waiting for the formation of a new land law, it is necessary to use the land law of the colonial heritage of the Dutch East Indies, but its implementation is based on policies that are in accordance with the principles of Pancasila and the goals affirmed in Article 33 of the 1945 Constitution.

On September 24, 1960, the Government of Indonesia officially passed the UUPA to replace the western agrarian law of the colonial heritage of the Dutch East Indies. The UUPA was passed by the Government of Indonesia because the land arrangement of western agrarian law from the colonial heritage of the Dutch East Indies is contrary to the ideals of independence caused by:

1. Because the current agrarian law is partially influenced by and based on the objectives and policies of the colonial government, to the extent that it goes against the interests of the state and the people in pursuing universal development in order to finish the current national revolution.
2. Due to the colonial government's political law, agricultural law is dualistic, meaning that it incorporates both Western law restrictions and customary law principles, which in addition to causing various problems between groups that are all difficult, is also not in accordance with the ideals of national unity.

3. Because colonial agricultural law does not provide legal certainty for indigenous people.

According to western law, as outlined in the Civil Code Book II, the UUPA's passage is no longer referred to as "land rights," including "eigendom rights," "postal rights," "erfpacht rights," and so forth. Rather, it's referred to as property rights, company use rights, building use rights, building leasing rights, and so forth. This is what automatically removes the dualistic politics of colonial agrarian law.

The UUPA revoked the principle of domein verklaring in the Agrarische Wet 1870 and Agrarische Besluit 1870 because it was contrary to the people's legal consciousness, while at the same time removing the dualism of agrarian law into a unifying system. All Indonesian citizens are subject to the same laws, with customary law-based UUPAs that have been adjusted. The purpose of the UUPA is to draft national agrarian laws for the prosperity of the people, create a unity of land law, and provide legal certainty for land rights. Customary law functions as a source and complement written agrarian law, including the recognition of customary rights as stipulated in Article 3 of the UUPA and Article 18B paragraph (2) of the 1945 Constitution.

Based on Article 2 of the UUPA, the state holds the right to control the earth, water, and space, not as an owner, but to regulate, manage, manage, and supervise their use for the prosperity of the people. The local government or communities governed by customary law may be granted this privilege. The state has the power to decide how land is designated and used, as well as to control the legal relationship between people and land. Tenure rights that grant holders the ability to use, preserve, and use land in conformity with national legal requirements are known as land rights.

The regulation of various land rights is regulated and determined according to Article 16 paragraph (1) of the UUPA, namely:

1. Proprietary

Specifically, Article 20 to Article 27 of the UUPA stipulates, property rights are hereditary, strongest and fullest rights that people can have over land.

2. Right to use the business

Specifically regulated by Article 28 to Article 34 of the UUPA, the right to use is the right to cultivate land directly controlled by the state, within the period as mentioned in article 29, for agricultural, fishery or livestock companies.

3. Building use rights

Specifically, it is regulated in Article 35 to Article 40 of the UUPA, the right to use buildings is the right to erect and own buildings on land that does not belong to them, with a maximum period of 30 years.

4. Right of use

Specifically regulated in Article 41 to Article 43 of the UUPA, the right to use and/or collect the proceeds of land directly controlled by the state or land owned by another person, which gives the authority and obligation specified in the decision to grant it by the official authorized to grant it or in an agreement with the owner of the land, which is not a lease-lease agreement

or land cultivation agreement, Everything as long as it does not conflict with the spirit and provisions of this law.

5. Rental rights

Specifically, it is regulated in Article 44 to Article 45 of the UUPA, a person or a legal entity has the right to lease land, if he has the right to use the land owned by another person for building purposes by paying the owner a certain amount of money as rent.

6. The right to clear land and collect forest products

Specifically, Article 46 of the UUPA stipulates that the right to clear land and collect forest products can only be owned by Indonesian citizens and is regulated by government regulations.

7. Other rights that are temporary, called Article 53 of the UUPA, include: pawn rights, profit-sharing business rights, passenger rights, agricultural land lease rights

Holders of land rights are regulated by Article 9 paragraph (2) of the UUPA for Indonesian citizens and Indonesian legal entities, while foreign citizens can only have the right of use (Article 42 of the UUPA) or the right of lease (Article 45 of the UUPA). These rights must be registered for legal certainty in accordance with Article 19 paragraph (1) of the UUPA through the Ministry of ATR/BPN. Land registration includes measurement, registration of rights and their transfer, as well as the issuance of proof of rights (Article 19 paragraph (2) of the UUPA), aimed at providing legal certainty, providing information, and ordering land administration (Article 3 of Government Regulation No. 24/1997).

The UUPA revokes the western agrarian rights of colonial heritage and orders their conversion into rights according to the UUPA (right to use buildings, right to use business, right to use) with a maximum period of 20 years since September 24, 1960. After September 24, 1980, the conversion could not be carried out and the land became state land in accordance with Presidential Decree No. 32/1979. State land is land without rights, not waqf, customs, or government assets, which can be given rights by the state to individuals or legal entities.

The control of state land was previously regulated by Government Regulation No. 8/1953 which gave the authority to the Minister of Home Affairs to hand over control to government agencies. After the UUPA comes into effect, state land must be converted into a right of use or management right in accordance with PMA No. 9/1965 and PMA No. 1/1966, with registration following PP No. 10/1961. This regulation was revoked through PerKBPN No. 10/2014 because the conversion period has ended.

In Decision No. 822/Pdt.G/2020/PN. Mdn, PT KAI Divre I North Sumatra claimed land ownership based on Grondkaart No. 2475 of 1985 from Deli Spoorweg Maatschappij. The judge acknowledged the grondkaart, although legally it is not regulated in the UUPA and does not apply as proof of rights. Land with the basis of former western rights that is not converted into rights according to the UUPA has the status of state land (Article 95 PP No. 18/2021).

Registration of land used for western rights can be done with written evidence or proof of physical possession for at least 20 years in good faith without dispute (Article 24 of Government Regulation No. 24/1997 jo. Government

Regulation No. 18/2021). Grondkaart owners such as PT KAI should from the beginning register their land for conversion into use or management rights. Now, state land can be applied for by Indonesian citizens or legal entities, including PT KAI, through the procedure for applying for new rights in accordance with Government Regulation No. 18/2021, with certain conditions and the approval of the Minister of Finance if it has been controlled for more than 20 years.

The Legal Strength of Grondkaart as Evidence of the Basis of Land Ownership Rights by Pt. Kereta Api Indonesia Regarding the Case of Decision No. 822/Pdt.G/2020/Pn. Mdn

Land Tenure by the Staats Spoorwegen (SS) Railway Company

Most of the land controlled by PT. Kereta Api Indonesia (Persero) is a heritage railway company during the colonial period of the Dutch East Indies with grondkaart rights. Grondkaart comes from the words grond (land) and kaart (map), which are land maps from cadastral measurements that contain locations, boundaries, scales, years of ratification, decrees, land acquisition lists, as well as geographical and administrative information. Based on Besluit No. 3 of 1890, the grondkaart contains the boundaries and area of the land, the names of the rights holders, and the minutes of the nature and status of the rights.

According to Besluit of 14 October 1895 No. 7, land allocated to the state was given grondkaart. The beginning of the railway was started in 1867 by the VS, then taken over by the Staats Spoorwegen (SS) in 1878. State land (domein) was handed over to the SS under the Ordonantie, in accordance with the Agrarische Wet 1870 and Agrarische Besluit 1870 which stated that land without proof of eigendom rights belonged to the state. The land handed over to the SS has the status of in beheer (possession) for the benefit of the railways, not the eigendom, erfpacht, or opstal rights.

The land in beheer is measured and mapped in grondkaart, approved by the head of the Cadastre and the local resident. The SS did not own land as its own asset, but rather a part of the state's wealth. Land is used according to the purpose of the handover and is not abandoned, so that grondkaart serves as administrative evidence of possession, not proof of ownership rights.

Land control by PT KAI existed before the UUPA and the independence of the Republic of Indonesia. Grondkaart is a product of western agrarian law that is not regulated in current land regulations. In Decision No. 822/Pdt.G/2020/PN. Mdn, the judge declared the validity of Grondkaart No. 2475 of 1985 as proof of PT KAI's ownership, but without juridical reasons that are in accordance with land law. This does not reflect legal certainty because grondkaart does not have legal force as a basis for land rights according to the UUPA.

The Juridical Facts of the Nationalization of PT. Indonesian Railways (Persero)

The history of railways in Indonesia began on June 17, 1864 when the first hoeing of the Semarang–Vorstenlanden line in Kemijen Village by Governor General L.A.J. Baron Sloet van de Beele, was built by NV. NISM. In 1867 the railways were managed by VS in the Netherlands, then in 1878 it was taken over by the colonial government of the Dutch East Indies through the Staats

Spoorwegen (SS). The SS built a state line since April 8, 1875 (Surabaya-Pasuruan-Malang). The success of NISM and SS encouraged the birth of many private train companies such as SJS, SCS, SDS, OJS, DSM, and others.

Development was also carried out in Aceh (1876), North Sumatra (1889), West Sumatra (1891), South Sumatra (1914), and Sulawesi (1922). Until 1928 the length of train and tram lines reached 7,464 km (4,089 km government-owned, 3,375 km private). In 1942 the Japanese took over and changed it to Rikuyu Sokyuku, prioritizing war interests, building the Saketi-Bayah and Muaro-Pekanbaru crossings, and dismantling 473 km of rail for Burma.

After independence on August 17, 1945, the takeover of train stations and offices from Japan was carried out, culminating on September 28, 1945 (Indonesian Railway Day) with the establishment of the Republic of Indonesia Railway Office (DKARI) based on the Proclamation of the Minister of Transportation No. 1/KA of 1946. In 1946 the Dutch re-established SS/VS, but after KMB December 1949 Dutch assets were taken over. Based on the Decree of the Minister of Transportation No. 2 of 1950, DKARI and SS/VS were merged into the Railway Department (DKA).

DKA became PNKA (PP No. 22 of 1963), then PJKA (PP No. 61 of 1971), then PERUMKA (PP No. 57 of 1990), and finally PT. Indonesian Railways (Persero) (Government Regulation No. 19 of 1998). The regulation of transportation implementation is regulated in Law No. 23 of 2007 which repealed Law No. 13 of 1992.

Since DKARI's establishment, all assets, including land in the *grondkaart* owned by SS, have turned into DKARI's assets. Law No. 86 of 1958 Article 1 stipulates that Dutch companies are nationalized to become fully state-owned. Article 2 regulates the provision of compensation determined by a committee appointed by the government.

Then, further regulations in Government Regulation No. 2 of 1959 concerning the Principles of the Implementation of the Law on the Nationalization of Dutch Companies, which states that:

1. A company that is wholly or partially owned by a Dutch citizen and domiciled in the territory of the Republic of Indonesia.
2. A company belongs to a legal entity whose entire or part of the company's capital or its founding capital comes from a Dutch citizen and the legal entity is domiciled in the territory of the Republic of Indonesia.
3. A company located within the territory of the Republic of Indonesia and wholly or partially owned by an individual citizen of Indonesia and for all or part of a Dutch citizen who is domiciled outside the territory of the Republic of Indonesia
4. A company that is located in the territory of the Republic of Indonesia and belongs to a legal entity domiciled in the territory of the kingdom. after compensation is made, the assets of Dutch private companies become state assets that must be subject to the provisions of state treasury law.

Based on the applicable legal provisions, all private and state-owned companies of the Dutch East Indies colonial government in the territory of the Republic of Indonesia must be nationalized to become the property of the

Indonesian government, including all its assets. Since the nationalization of Staatssporwegen (SS) into the Indonesian Railway Department (DKARI) in 1950, all SS land assets have been handed over to DKARI based on Law No. 86 of 1958 and Government Regulation No. 2 of 1959.

The nationalization of railway companies was further regulated in Government Regulation No. 40 of 1959 and Government Regulation No. 41 of 1959, which affirmed that all railway companies with colonial heritage in the territory of the Republic of Indonesia became the property of the Railway Department (DKA), now PT. KAI (Persero). With this policy, PT. KAI has the right to control the SS heritage land based on *grondkaart* rights.

After independence, the control of SS land was transferred to the Indonesian government and handed over to the DKA through Government Regulation No. 8 of 1953, which gave the right of control (*beheer*) as long as it was used according to its designation. If it is not used, the land is returned to the state.

Since the enactment of the UUPA, all state land tenure based on western agrarian law has not been enforced. PMA No. 9 of 1965 stipulates that state land used for the benefit of agencies is converted into right of use, while that which can also be given to other parties is converted into management rights.

The strength of grondkaart as an asset of PT. Indonesian Railways (Pesero)

There are many land disputes related to the policy of nationalizing state assets in the form of land with *grondkaart* rights which are proof of PT. Indonesian Railways (Persero). *Grondkaart* is a product of colonial law that contains land maps belonging to the Staats Spoorwegen (SS). Based on Law No. 86 of 1958, SS was nationalized into the Railway Department (DKA), now PT. KAI (Persero).

Even though the land assets have been nationalized, their rights must be converted into use rights or management rights in accordance with PMA No. 9 of 1965. Land that is not converted has the status of state land. Conversion registration is regulated in PMA No. 9 of 1965 and PMA No. 1 of 1966, which distinguish between the right of use (for the benefit of the agency) and the right of management (if it can be given to another party).

The land assets of PT. KAI includes state assets that are subject to Law No. 1 of 2004 concerning the State Treasury, Government Regulation No. 27 of 2014 jo. Government Regulation No. 28 of 2020, as well as related regulations. State land that is not used for the main duties of the agency must be handed over to the goods manager (Minister of Finance or local government).

Based on Article 49 of Law No. 1 of 2004, all state-owned land must be certified and must not be transferred to a third party without the permission of the Minister of Finance, whether it has been certified or not. PT. KAI as a state-owned enterprise does not own land directly, but uses land owned by government agencies (Department of Transportation cq. Directorate General of Railways) so that the transfer of rights to a third party still requires the permission of the Minister of Finance.

Based on the railway law, Law No. 23 of 2007 concerning Railways also states provisions regarding state assets in the form of land owned by PT. Indonesian Railways (Persero) in Indonesia must be certified according to the land law UUPA as stated in:

1. Article 46 states that land located in the space belonging to the railway line and the benefit space of the railway line is certified in accordance with the law.
2. Article 86 states that land that has been controlled by the government, local government or business entity in the context of railway infrastructure development is certified in accordance with the provisions of the law in the field of land.

The letter of the Director General of SOE Development/Minister of Finance Number S-11/MK.16/1994 emphasizes that land in grondkaart is state property that is separated as Perumka's fixed assets and must be established its status through registration into a right of use or management right according to the conversion of the UUPA. If PT KAI (Persero)'s land is still grondkaart and has not been converted or registered, the land remains a state asset that has not been separated, according to the definition of state land in Government Regulation No. 18 of 2021.

Land and state treasury regulations require PT KAI to inventory and convert grondkaart assets so that they are recorded as assets with legal certainty. In Decision No. 822/Pdt.G/2020/PN. Mdn, the judge stated that PT KAI's claim to the land based on Grondkaart No. 2475 Emplacement Medan of 1985 was valid according to the law. However, according to the UUPA and state treasury regulations, the grondkaart only shows the land as a state asset, it cannot be transferred without the permission of the Minister of Finance.

If from the beginning PT KAI registered the land in accordance with PMA No. 9 of 1965, then the status of the land in the case has been recorded as a state asset controlled by PT KAI with legal use or management rights.

Judge's Consideration and Decision Regarding Land Ownership by Pt. Kereta Based on the Grondkaart Rights Basis in the Case of Decision No. 822/Pdt.G/2020/Pn. Mdn

Analysis of the judge's consideration of the proof of grondkaart rights in the case of Decision 822/Pdt.G/2020/PN. Mdn

The judicial power is tasked with enforcing law and justice based on Pancasila and the 1945 Constitution. Judges must be free, impartial, and explore legal values and a sense of justice in society. In case No. 822/Pdt.G/2020/PN.Mdn, a land dispute covering an area of ±663 m² in Medan was claimed by PT KAI (Persero) based on Grondkaart No. 2475 Emplacement Medan Year 1985 left by Deli Spoorweg Maatschappij. The plaintiffs have held the land for more than 20 years without a certificate, but pay the UN annually.

The plaintiff argues that the land has been abandoned by PT KAI and used for family business, so it has the right to apply for land rights in accordance with the UUPA and Government Regulation No. 18 of 2021. The panel of judges rejected the lawsuit and recognized PT KAI's claim based on grondkaart.

Juridically, *grondkaart* is a product of colonial agrarian law that only functions as a map or proof of control in its time, not proof of ownership according to the UUPA. Based on the provisions of the conversion of the UUPA, PMA No. 9 of 1965, Government Regulation No. 24 of 1997, and Government Regulation No. 18 of 2021, land with *grondkaart* rights must be converted into use rights or management rights through registration at the Ministry of ATR/BPN. Otherwise, the land has the status of state land which is not an asset of PT KAI.

The judge's decision to equate *grondkaart* with evidence of modern land rights is considered wrong because it ignores the provisions of the current land law. Both PT KAI and other parties can apply for new rights to the country's land, provided that it receives the approval of the Minister of Finance and registration in accordance with the UUPA to obtain legal certainty.

Analysis of the Considerations of the Land Lease Judge of PT. Indonesian Railways (Persero) on the basis of Grondkaart Rights in the Case of Decision 822/Pdt.G/2020/PN. Mdn

In case No. 822/Pdt.G/2020/PN. Mdn, PT KAI (Persero) as Defendant I claimed the disputed land based on *Grondkaart* No. 2475 Emplacement Medan Year 1985 inherited by N.V. Deli Spoorweg Maatschappij (DSM) which was nationalized through Law No. 86/1958 and Government Regulation No. 41/1959. The land had been leased to the Plaintiff's parents since 1996, then extended by the Plaintiff until 2006. After 2007 there was no extension, but the Plaintiff still controlled the land. PT KAI considers the lease agreement valid because they are legal subjects who have the right to represent the state, while the Plaintiff considers the lease invalid because the object does not have clear land rights.

The plaintiff was reported several times by PT KAI for allegations of embezzlement and land rental without a permit. Some of the investigations were stopped through pre-trial, some were continued. Legal analysis shows that *grondkaart* is not proof of ownership according to the UUPA, and the land that has not been converted remains the status of state land. Based on the UUPA, Law No. 1/2004, Government Regulation No. 27/2014 jo. Government Regulation No. 28/2020, as well as provisions for the management of state-owned goods, state land can only be leased with the permission of the Minister of Finance.

Because PT KAI does not have property rights and does not have the approval of the Minister of Finance, the lease agreement is considered to be invalid (Article 1320 of the Civil Code) and has the potential to be a violation of the law and embezzlement of state assets.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

1. Since the enactment of the UUPA, all land laws inherited from the Dutch East Indies have been revoked. Land with western rights must be converted; Otherwise, its status becomes state land.
2. Land used to be assets of Staats Spoorwegen (SS) as evidenced by *grondkaart* must be converted into a right of use or management right in accordance with

PMA No. 9/1965. If it has not been converted, the land remains a state asset that has not been separated.

3. In Decision No. 822/Pdt.G/2020/PN.Mdn, the judge recognized *grondkaart* as proof of PT KAI's ownership without elaborating on the juridical basis in accordance with the UUPA. In fact, the UUPA prohibits the state or state-owned enterprises from leasing land, and land with *grondkaart* can only be transferred/leased with the permission of the Minister of Finance.

Recommendations

1. The government needs to establish a firm policy that *grondkaart* is not proof of land ownership according to the UUPA.
2. PT KAI must immediately certify all *grondkaart* land assets for legal certainty.
3. Law enforcement officials need to be honest and fair in handling *grondkaart* land disputes, especially to protect the weak in accordance with applicable legal provisions.

ADVANCED RESEARCH

Future advanced research should investigate the juridical implications of *grondkaart* within the framework of Indonesia's agrarian law by analyzing court decisions, government policies, and comparative legal perspectives from other post-colonial countries. Empirical studies are also needed to examine how unresolved *grondkaart* status affects communities, state-owned enterprises such as PT KAI, and the broader goals of land reform under the UUPA. Further research could integrate doctrinal legal analysis with socio-legal approaches, assessing both the legal validity of *grondkaart* and its socio-economic impact on land tenure security, dispute resolution, and the protection of marginalized groups. Such interdisciplinary inquiry would provide evidence-based recommendations for policymakers to harmonize historical land documentation with modern agrarian law, thereby strengthening legal certainty and social justice in land governance.

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