

LAND REGISTRATION AND CERTIFICATE ISSUANCE IN A FREE TRADE ZONE PERSPECTIVE (FTZ)

SOERYO RESPATIONO¹ & IDHAM²

^{1,2} Faculty of Law, Universitas Batam, Riau Island, Indonesia.

²Corresponding Email : idhamnotppat@yahoo.com

Abstract. This article aims to know Land Registration and Issuance of Certificate in the perspective of Free Trade Zone (FTZ) in Kampung Tua, Kecamatan Nongsa, Batam City, Indonesia. Type of research using the types of normative legal writing, which is supported by legal research that is sociological/empirical. Results of this article writing, the author provides some suggestions and recommendations to all parties, to solve the problems that hamper the implementation of land registration in the region, it is recommended that all parties use the grand theory approach by Jeremy Bentham, middle theory by W. Friedmann and the application theory by Friedrich Karl.

Keywords: Land Registration, Free Trade Zone, Right of Management, Certificates.

1. INTRODUCTION

Various problems in the field of land law and / or in the field of legal law which often appear in the field, it is highly suspected that most of the problems and/or legal disputes, one of the causal factors that has not been implemented one of agrarian law politics, especially related to the implementation and land registration activities in Indonesia (Parlindungan, 1994). With regard to the matter concerned, especially from the positive legal approach that the implementation of land registration in Indonesia, especially in Kampung Tua, Batu Besar Village, Nongsa Sub-district, Batam City, is implemented by the Government based on the mandate and mandate of legislation which has been established in various products of legislation that has been affirmed in the Law of the Republic of Indonesia Number 5 of 1960 on the Basic Regulations of Agrarian Principles, which are commonly abbreviated and referred to as UUPA (Soedjendro, 2001).

In approaching the system to implement the politics in agrarian, mainly in the perspective to gain as well as to give some strong evidence like certificates (Idham, 2005), as a right of ownership of the land to all the people, which important and dominant, either the analysis from aspect of law or economy (Parera & Koekerits, 1999) which axiological land title certificate mention above will give some protection and legal certainty for the owners as a proof of rights (Sebayang, 1996). So, the situation can become one of the dominant foundation in the perspective of capital strengthening to implement the trading and business activities, especially, in the perspective of implementing the policies (Solihin, 2002) regional autonomy (Asshiddiqie, 2010) and positive legal approach, this is one of the basic foundations (Rajagukguk, 1999) to realize the principle of people's sovereignty.

The construction of legal norms which has been confirmed in Article 19 basic of agrarian law Number 5 of 1960, particularly, about land registration in Indonesia, which actually has enough and clear meaning (Badudu, 2001). The significance of meaning which paradigmatically mentioned, and as a mandate which was ordered as stated in the basic of agrarian law, mainly about land registration (Ruchiyat, 1983) in order to confirm understanding the positivism (Huijbers, 1982) that is to concretely implement in the field about sovereignty of the people (Soetiknjo, 1994) stated, as well as become the foundation in a constitutional paradigmatic approach (Danusaputro, 1985) and this is to confirm its implementation at the principle of popular sovereignty (Gautama, 1990) as it should be, especially in rural and urban areas where the implementation of land registration has not been conducted yet and this can give some legal certainty (Soejendro, 2001) for those either as the owner and / or the right holder.

2. LITERATURE REVIEW

2.1. The Policy of Regional Autonomy

Hereinafter, especially in a more practical level of operation (Soejendro, 2001; Erwiningsih, 2000), that concerning the implementation of land registration activities in Indonesia, namely by derivation the order and mandate of Article 19 of the Agrarian Basic Law Number 5 of 1960 as intended, namely in accordance with the development and increasing demands for the acceleration and expansion of land registration activities in Indonesia (Hamzah, Suandra, & Manalu, 2000) and in its implementation to undertake a program of land registration activities in Indonesia still found some constraints (Burns, 1999) that are highly conditional and structural and heavily influenced by various factors of political development and governance system (Sumaryono, 2002).

Whereas the existence of the Law on Regional Autonomy policy is now familiar with public autonomy as the Autonomy Region and abbreviated as *Otda* (Mahendra, 1996) and one of the factors causing the slow registration of land is due to the unfinished establishment of the Regional Regulation on Spatial/which has been mandated in Law Number 26 Year 2007 on Spatial Planning (Ruchiyat, 1983) other problems that arise in the field, namely the contribution of problems that come from the issue of arrangement and protection of protected forest areas (Elfindri & Rumengan, 2009) The above problems often appear in the field, which is still not the complete mapping of harmonious map in terms of the utilization and stewardship of the rights to certain land areas (Parlindungan, 1994).

These problems could not be solved due to the matching of mapping (Judiantoro & Widodo, 1983) process is not clearly set up. These can obstacle land registration process in Indonesia, to register the land one needed document as the reference is that the regional government's rules about the spatial planning in the regions/cities, which comprehensively relevant to the people's life and the housing management and the function of environmental capability (Arifin, 2012) in the field. Still another problem appears dealing with land registration is that the poor coordination (Sidharta, 2002).

2.2. Regional Tax and Retribution

Several matters also often appear dealing with the implementation of land registration (Prakoso & Purwanto, 1985) (Huntington, 2002)., for example, there is no integrative coordination in implementing the rule No 28 the year 2009, that is about regional tax and retribution. Tax and retribution must be conducted fully by the regional government (Hanum et al., 2019, Wahyudi et al., 2020 and Tharifah et al., 2021).Tax regulation, especially, the process of implementing land registration, applicants (Abdurrahman, 1984) must order to have the right toward the land.

2.3. Economic Growth

Economic growth becomes important in one country because it can see whether the country has succeeded in advancing various aspects of life or not (Jin et al., 2017, Muda et al., 2018 and Xu et al., 2019). Economic growth can indicate the success of economic development in people's lives, so it is important to calculate economic growth. One way to calculate it is to calculate the value of money. The value of money will be reflected in gross domestic product (GDP). To calculate this GDP, the government needs to record all types of production by businesses in the country to be sold. There is a lot of certainty after registering all types of production, the calculation of all the country's economic output is carried out. This output includes all goods and services produced by the businesses that have been recorded. Calculation or measurement of economic growth cannot be done at any time because the collection of GDP data is very difficult. So that generally the calculation is done every three months and annually.

2.4. The Policies for Free Trade Zone (FTZ)

In legal political approach and public policies, paradigmatically and philosophically, particularly from the perspective of axiological, actually the application of the rules on *Free Trade Zone* (FTZ) and the application of Batam Indonesia Free Zone Authority (BIFZA), has some fundamental and strategic functions (Nihin, 1999) by considering that the province of Riau Islands mainly Batam City has some geographic and demographics functions as neighboring countries with Singapore and Malaysia, then it is expected that the international trading can happen to accelerate the realization of improving people's welfare (Sunindhia & Widiyanti, 1988).

Based on the process of verification of land registration in the field is significantly worrying (Sumbayak, 1985) and the process of land registration, especially, in Batam City is slow down. It is assumed that many problems of legal appear in context of land registration at Kampung Tua, Batam City. One of the un-settled (Mahadi, 1991) mattthe regional government system of regional government system (Parlindungan, 1991) of Batam City dealing with the spatial mapping which must be agreed by the Ministry of Forestry and Batam Indonesia Free Zone Authority (BIFZA).

From the government system, as stated in rules No. 26 the year 2007 about spatial planning (Sunindhia & Widiyanti, 1988) which later on the constructions of the matters are as follows: (1) What is the legal arrangement for land registration and issuance of the certificates in the perspective of *Free Trade Zone* (FTZ) at Kampung Tua, Kelurahan Batu Besar, Kecamatan Nongsa, Batam City?; (2) How is the implementation of land registration for the issuance of the certificate in the perspective of *Free Trade Zone* (FTZ) at Kampung Tua, Kelurahan Batu Besar, Kecamatan Nongsa, Batam City?; (3) What factors are the constraints as well as land registration solutions for the issuance of certificates in the perspective of *Free Trade Zone* (FTZ) at Kampung Tua, Kelurahan Batu Besar, Kecamatan Nongsa, Batam City?

3. METHODS

The researcher, in this part, applies the theoretical framework and methodology to analyze the problems mention above (Suriasumantri, 1999) and it is necessary to clarify from the beginning about theoretical frameworks use of theoretical frameworks and concepts as a knife analysis (Sidharta, 2000). The important postulate of thought in a paradigmatic perspective, is to refer to the grand theory of the opinion expressed by Jeremy Bentham (Kountur, 2003), in order to obtain a happiness for his society (utilitarianism), in order to gain a sense of tranquility and happiness in an axiological perspective (Rasjidi, 1991). This is in line with the opinion of Jeremy Bentham (Rasjidi & Rasjidi, 2001) of which Indonesia is still an agrarian, earth, water and space type, as a gift of God Almighty has a function and is essential to build a justice and prosperous society (Yamin & Lubis, 2004) to build a justice society and prosperous, indeed in the approach and implementation of scientific philosophy (Brannen, 2002).

The legal analysis of the construction of UUPA No. 5 of 1960 conceived in paradigmatic perspective and associated with grand theory construction (Soemitro, 1990) namely: (1) The sentence with the composition to build a just and prosperous society, in fact, reflects the grand theories that Bentham, have been proposed by Jeremy Bentham who asserted that a product of legislation is established is to provide assurance to the community to obtain a sense and a happy state; (2) The order of sentences that affirms that the completion of the national revolution (Syahrani, 1999) is to realize a sense of happiness for all society (utilitarianism) (Kusumaatmadja, 2002), and the function and ability and sustainability of all resources and potential within the environment in Indonesia (Arifin, 2012).

Furthermore, it will also be used in the middle theory, and related to the use of knives analysis (Parlindungan, 1989) to discuss the issues laid down in this article, so as the middle theory to be used as a foothold analysis is based on the opinion expressed by W. Friedmann, used as a central theory in carrying out the analysis of the issues laid out in this paper in the opinion of the author is highly relevant, which affirms that in order to accelerate the realization of a sense of happiness and prosperity (Parlindungan, 2001) for the public the enforcement of a product of statutory legislation is no exception to all forms of legislation in the field of land registration.

In W. Friedmann's theoretical approach referred primarily in law enforcement of all existing legislation, it must be fulfilled with three important pillars/anchors, e.g: (1) The construction of the substance of the principle, and the legal norms (Sidharta, 2000) stipulated in the legislation must be in accordance with the identity of society and nation and in accordance with the national ideals of a nation; (2) Institutional structures must be prepared in a professional, qualified, moral, honest, responsible and transparent manner and should also be prepared for all working infrastructure and working equipment with sufficient budget and/or financial support, as well as support and guarantees welfare for apparatus; (3) There must be synergistic support from all levels of society for the realization of a legal culture that is good and civilized in accordance with the soul and personality and national identity (Kusumaatmadja, 1975) must be in accordance with the things that have been mandated in Pancasila (philosophy of paradigm), and the Constitution of the State of the Republic of Indonesia Year 1945 (constitutional of paradigm) (Lubis, 1989) and in this context the community must be concerned (Muhadjir, 1998) and be able to contribute to the acceleration to realize a sense of happiness for society (Hustiati, 1990).

For the next will be used applicative theory (applied theory) by Von Savigny theory. The view of von Savigny says (Hustiati, 1990) that in this world there are various nations in which each nation has a *volkgeist* the soul of the people, and in carrying out the registration of the land should heed and refer to the soul of the people (Rasjidi & Rasjidi, 2001) in the Kampung Tua. With the approach and use of the theory and opinion of Friedrich Karl von Savigny as the basis of the theory that is applicative, then in the opinion of the author the use of the theory is correct, true to meet the principles of scientific journal writing method (Ruchiyat, 1983).

Then it can be explained, what is meant by the right of land is the right as mentioned in Article 16 of Law Number 5 of 1960, concerning with the Basic Regulation of Agrarian Principles, hereinafter referred to as UUPA (Idham, 2005), which meant, by definition of Adjudication is activity carried out in the framework of land registration process for the first time, encompasses the collection and determination of the truth of physical data and juridical data concerning one or more objects of registration of land for registration purposes (Thalib, 1985). In the meantime, hereinafter described as land title is a document in the form of a list containing juridical data and physical data an object of land registration that already has rights (Parlindungan, 1990).

The location of this research is in the area of Kampung Tua, Batu Besar Village, Nongsa Sub-district, Batam City, and the writing of this paper, is normative law (Hartono, 1988), and supported by empirical writing. Normative legal journal writing essentially includes: journal writing on legal principles, comparative law and legal history. Three important components of normative legal journal writing in the analytical section will be integrated (Muhadjir, 2000), with some of the problems described above to find solutions and solutions. In the implementation of article writing as mentioned above basically focuses on literature study (Kadafi & Idham, 2016; Rumengan & Idham, 2015) to support the accuracy of data obtained, regarding the location of this article is also carried out in Batam Indonesia Free Zone Authority (BIFZA), with the consideration that the title of this article has a correlation with the implementation of the Free Trade Zone (FTZ) which is structurally the main task, function and authority of Batam Indonesia Free Zone Authority (BIFZA) (Kadafi & Idham, 2015).

For the determination of the sample to be respondents in writing this article is a structural official who handles land registration activities in the Land Office of Batam City and structural officials who handle the registration of land in Batam Indonesia Free Zone Authority (BIFZA) and also conducted in-depth interviews representing respondents one of the Chairman of the Rukun Warga, is the Rukun Warga 01 Official in Kampung Tua area Batu Besar Urban Village, Nongsa Sub-district, Batam City (Sitorus & Nomadyawati, 1995).

Sources of data used are: Primary law materials, secondary legal materials and tertiary legal materials (Syahrani, 1999) which are relevant to the issues to be analyzed in this article, and in practical operational approaches, especially in implementing article writing methods, that work related to data analysis (Syahrin, 2003), based on the substance problem to be analyzed in the writing of this article (Dwivedi, 2003; Syahrin, 2003).

4. RESULTS AND DISCUSSION

4.1. *Arrangement of Land Registry Law*

With regard to the legal arrangements concerning with the land registration, the authorization of the government bureaucracy exercises has always been running centrally and excessively. The situation as mentioned above will make the bureaucracy has no accountability to the people and society, especially to the community in Kampung Tua, Batam City in the case of land registration in order to issue the certificate. Another phenomenon still occurs and is very prominent that there is still behavior of strengthening the obligation to perform responsibilities against officials in the above hierarchy. In this case bureaucratic officials are generally appointed by officials in power at the highest hierarchy in a particular order and scope of institutions.

On the other hand, it can be explained, especially regarding the implementation of budget politics, if the potential sources of financing originating from the Batam City Government Budget (APBD) are insufficient to finance the implementation and registration of the land in the Kampung Tua area, Batam City Government must actively involve the role of the Batam Indonesia Free Zone Authority (BIFZA) to obtain funding sources from the State Budget (APBN) from the Ministry of State-Owned Enterprises (BUMN) and from the Ministry of Agrarian Spatial/Head of the National Land Agency Indonesia in Jakarta.

Relevant to the matter referred to, in the opinion of the author for the realization of acceleration of land registration in Kampung Tua, Batu Besar Village, Nongsa Sub-district, Batam City, should be immediately by the Batam City Government by actively participating the Batam Indonesia Free Zone Authority (BIFZA) the implementation of the policy of Free Trade Zone (FTZ) law in which the Batam Indonesia Free Zone Authority (BIFZA) in this case as the holder of the Land Management Rights in the area of Batam City including Kampung Tua area, and also actively involved the Land Office of Batam City as a single agency has the authority to issue a certificate (proof of rights), which carries out land registration.

In the meantime, furthermore, the positive legal basis for the implementation of land registration can also be considered as mandated in Article 1 paragraph (3) which concrete has formulated a firm legal norm namely Indonesia is a state law. This legal norm is certainly very closely related in the paradigmatic approach of constitutionality (constitutional of paradigm) to the implementation of land registration itself (Warinangin, 1982).

It can be further explained that the aspect of legal certainty has actually provided an atmosphere of peace and happiness to the community as the holder of the land rights. If this is indeed the case of the grand theory as Jeremy Bentham points out, that the application of a product of the regulation of legislation should be able to guarantee a sense of happiness for the society (utilitarianism) (Parlindungan, 1981) which, in this case, certainly for the people who live and exist in Kampung Tua who has been living for generations that have lasted long enough, namely, since 1938 (Yusri, 2016).

On the other hand it can also be explained that which is an important part regarding the law regulation especially regarding the registration of the land in Kampung Tua area, Nongsa Sub-district, Batu Besar Urban Village, Batam City, the government and others should synergistically observe several mandates and orders, of the 1945 Constitution of the State of the Republic of Indonesia as defined in Article 1 paragraph (2) in particular regarding with the affirmation of the people's sovereignty and Article 18B concerning the affirmation and recognition of indigenous peoples in particular with respect to indigenous peoples 'recognition of indigenous peoples' land rights and legislation other laws which are substantially related to the implementation of land registration, which in particular must be integrated with Law Number 27 Year 2007 on the Management of Coastal Areas and Small Islands and Law Number 28 Year 2009 on Regional Taxes and Levies Regions and Government Regulation No. 24/1997 on Land Registration (Mertokusumo & Pitlo, 1993) and Tarmizi et al (2017).

The order and mandate of this law is in principle in the context of land registration that the Batam City Government should immediately issue a Regional Regulation on Spatial Planning, as mandated in Law No. 26 Year 2007 on Spatial Planning. The principle that should be put forward in establishing

the substance of legal norms, in the Spatial Regulation (Wright & Wright, 1985) to obtain protection from the state from the aspect of the sustainability of the capability of environmental functions (Koestoer, 1977), and in the spatial arrangement there must be a map of plot of united land, which in the opinion of the author a map of such harmonious plots of land, in order to obtain legitimacy by law shall be stipulated in the form of the Batam City Regional Regulation (Prakoso & Purwanto, 1985).

4.2. Implementation of Land Registration

The construction of policies to carry out land registration activities in the framework of issuance of certificates (proof of rights) to units of communal land belonging to the community in Kampung Tua area, Batu Besar, Nongsa Sub-district of Batam City should be by Batam City Government, Batam Indonesia Free Zone Authority (BIFZA) the Land Office of Batam City, especially in the case of carrying out land registration activities in the Kampung Tua area must be able to formulate mutual agreement in the form of Standard Operating Procedures (SOP) agreed upon, which for the next SOP referred to as the basis and / or guidelines in the implementation. In the SOP should be formulated concrete legal norms by referring to all laws and regulations applicable in the field of land registration.

Concrete legal arrangements as defined in the Standard Operating Procedures (SOP), in order to carry out the whole series of land rights registration process in Kampung Tua area is smooth and successful, according to the writer's opinion must be agreed first about the tips and strategies. One of the tips and strategies offered by the author for the implementation and implementation of registration of land rights in the Kampung Tua area is by applying Romli Atmasasmita's opinion is Integrative Law Theory (Atmasasmita, 2012), in the opinion of the author of Integrative Law Theory is very appropriate to be implemented, whose existence is expected to be the weaver and/or connective tool of Jeremy Bentham's theory which is positioned by the author as a grand theory, W. Friedmann's theory as the middle theory and the theory of Friedrich Karl von Savigny, and this theory actually begins with the view of "sociological jurisprudence" with reference to the Pound's view of the concept of law and the function of the law, though directed against the need for reform of the judicial system in the United States, it appears that Mochtar appropriately uses the approach within the context of legal development in Indonesia. The result of Pound thinking engineering by Mochtar was then named "the theory of legal development as a means of community renewal".

Moving to the theory of law, in this case Romli Atmasasmita asserted that the bureaucracy and community engineering based on the system of norms, behavior systems and value systems that originate in Pancasila as the foundation of the Ideology of the Indonesian nation, that is named by Romli Atamasasmita as "Integrative Law Theory ". In this section Romli Atmasasmita mentions that the performance of BSE with the above three characters can be explained that every step of government in the formation of law and law enforcement is a policy based on norms and logic system in the form of principles and rules, and the normative strength of the law must be realized in behavioral changes society and bureaucracy toward the ideals of building a democratic constitutional state. A democratic state of law can be formed if it is consistently filled by three pillars: rule of law, enforcement of human rights, and access to justice.

Based on the mentioned matter, in the opinion of the writer, in order to implement all the products of regulation law in the field of land registration, to the state apparatus as the holder of power in the realm of bureaucracy must still guide the construction of grand theory of Jeremy Bentham, middle theory W. Friedmann, and Karl Friedrich von Savigny as applied theory at the same time by merging and/or integration with the three theories of Mochtar Kusumaatmadja with his theory of Developmental Law Theory, by Satjipto Rahardjo's theory with his theory of Progressive Law Theory, and with the theory of Romli Atmasasmita with Integrative Law Theory.

In terms of the specific nature of the Batam City Government, especially in the context of implementing the principles of system and government management in the era of regional autonomy, where for the city of Batam is also defined as the Free Trade Zone (FTZ) in addition to Karimun and Bintan regencies, Batam Indonesia Free Zone Authority (BIFZA) is granted authority by the Central

Government as the sole holder of the Right of Management (HP) for land rights in Batam City Region, again the author asserts that the performance and behavior of all bureaucratic apparatus, of course in this case is the City Government Batam, and the Batam Land Administration Agency in carrying out land registration activities in the Kampung Tua area, Batu Besar Sub district, Nongsa Sub-district, Batam City as meant to conduct mental revolution, moral movement to carry out the main tasks, function and its authority in performing public services with good will be massive to perform a good performance, honest, clean and sincere.

In line with the point referred to in more von Savigny said that the important task in the field of law is not busy making these rules and rules. Instead, what needs to be remembered is to dig a pearl of legal value in the womb of the people's life. Likewise, the main issue in the management of the law, rather than forming the principle or doctrine artificially. But find the principles and doctrines in living legal values. We must recognize, discover, and understand the values of the true law in the life of the nation of its own.

Relevant to the format and construction of the woven legal theories both that have been conveyed by von Savigny, Parsons, and by Bredemeier above, then in carrying out to the whole series of processes and phasing the implementation of land registration activities in Kampung Tua area there is no other word that can be but all of the legal theory construction constructs should be implemented by the Batam City Government and other parties involved in order to accelerate the issuance of certificates (proof of rights) on units of land belonging to and belonging to indigenous peoples in the area of Kampung Tua. In the practical, operational and empirical approach in the field that in the context of the implementation of land registration activities referred to some basic things that should be immediately implemented by Batam City Government.

In this section can be explained also about the existence of Batam Indonesia Free Zone Authority (BIFZA) as an institution granted authority by law to implement public policy, especially related to the implementation of Free Trade Zone (FTZ) on the establishment of Batam as one of the FTZ areas outside the District Bintan and Karimun. Based on the authority given by the law in the context of implementing the FTZ policy, the existence of Batam Indonesia Free Zone Authority (BIFZA) has been mandated by the state that is the sole holder of the Right of Management (HP) to the unit of land in Batam City area is no exception of the Kampung Tua area, Nongsa Sub-district, Batam City (Hutagalung, 1985).

In this regard, the writer once again affirms that the rights to land which have been controlled by the community in the Kampung Tua region must be guaranteed and protected by the state, this is in line with the mandate and mandate of Article 18B of the Constitution of the Republic of Indonesia Year 1945, which affirms that the state recognizes and respects the unity of indigenous and tribal peoples and their traditional rights as long as they are alive and in accordance with the development of the community and the principles of the Unitary State of the Republic of Indonesia and in a Regional Regulation of Spatial Regulation shall be stipulated in detail concerning the allocation of land use , whether for residential / residential areas, industrial estates, trade and services areas, tourism areas and other area designation (Podgorecki & Whelan, 1987).

4.3. Structural Constraints In Political Perspective

One of the structural constraints in the political aspect, should be assumed that the people's representatives have not worked optimally in the field of legislation. As it is known, that the position of the representatives of the people in relation to carry out one of its functions to carry out the main tasks in the field of legislation, then in the opinion of the authors of the representatives of the people as legislators should erase the behavior associated with antipathy (Kartasaputra, 1986), attitudes (Bentham, 2006).

In the other spectrum, the obstacles that slow down the implementation of land registration in Kampung Tua, Batu Besar, Nongsa, Batam, one of them is due to the poor implementation of government administration system that has not been implemented openly and responsibly and ignores the principle that checks and balances of this principle must actually be implemented by the State

apparatuses as public servants who are mandated by the community to implement all forms and systems of government management in the realm of government bureaucracy as mandated in the legal norm that is in Article 1 paragraph (2) the year 1945 Constitution of the State of the Republic of Indonesia which asserts that sovereignty in the hands of the people is fully implemented in accordance with the Constitution. With a philosophy of paradigm that this article contains one of the basic principles that to the state and governmental organizers in this case the executive, legislative and judiciary are obliged to fulfill the principle of mutual supervision and checks and balances.

In this case it is also important to conduct a "grounded" approach aimed specifically at the community in the Kampung Tua area that is to approach in a familiar ways by carrying out the principle of kinship and mutual cooperation, especially in conducting coaching while providing certainty and protection towards the existence of indigenous system of indigenous peoples in the Kampung Tua area and with due regard to the legal feelings of indigenous peoples based on the people's soul (*volkgeist*) through customs and customs that have become living law in the Kampung Tua community.

Furthermore, in this case will be explained also the obstacles that affect the implementation of land registration activities in Indonesia including the implementation of land registration in the Kampung Tua area, Batu Besar Village, Nongsa Sub-district, Batam City, which will be explained in two important aspects, namely " implementation of the right to control the state", and the legal politics concerning with the implementation and actualization" on customary law community lands ". In the theoretical and conceptual approach that the format and construction of political law of agrarian and special land pertaining to the granting of the Right to Control the Country by the Indonesian nation is, in fact, in the axiological approach of having good and essential intent and purpose. It is intended through the Right to Control the State for the subsequent State has an obligation to carry out matters relating to the functions of the right to it, especially those relating to the policy of ownership, ownership, use and utilization of land shall be obliged to provide and at the same time bring prosperity to all Indonesian people.

In this section it can be further explained that the cases and / or conflicts over land disputes that have emerged so far have been largely dominated by unfair and unbalanced land tenure and there are even indications of marginalizing the basic rights of the people that the state is obliged to give protection to its special community with respect to the right of ownership over units of land which have been handed down from generation to generation. There are many examples of land disputes and conflicts that can be presented, one such as the case of land that occurred in Mesuji Lampung, land cases that occurred in Riau Province, Papua, and in various other areas. In fact that from these land cases empirically in the field has triggered a long-running horizontal conflict (Tanya, Simanjuntak, & Hage, 2010).

In this case it can be further explained that the author is actually actively involved in the Special Committee (Pansus) to discuss, formulate and simultaneously in the Plenary Session of the House of Representatives of Indonesia (DPR-RI) Period 2004-2009 in the context of the birth of Law No. 27 of 2007 on the Management of Coastal Zone and Small Islands. At that time the author acted as a member of the House of Representatives of the Republic of Indonesia (DPR-RI) in Commission IV, one of the partners of Commission IV of the House of Representatives is the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia. In the context of the discussion of the Bill, the writer has been fighting for the realization of a "legal norm" that the state must be present to provide protection for the existence of land rights in the islands of small islands, which is in fact a resident and resident society in the area of small islands are generally customary law communities and units of land has not been registered land and do not have a certificate (proof of rights).

In line with this, it can be explained, actually at the level of political will (political will) primarily at the level of government at the center has had a concrete legal policy and politics in the context of providing protection and guarantee of customary law community land as mandated in the Act of Area Management Coasts and Small Islands as intended.

With these conditions as hard as any problem, should the Batam City Government immediately makes a concrete policy and focus to make coordination of integrated with the Batam Indonesia Free

Zone Authority (BIFZA) Batam. On the concrete results of the coordination, one of the outputs of the decisions that must be generated is to establish a special joint regulation on the division of basic tasks, functions and authorities as well as to regulate the determination of which zones and / or areas that enter into the area of Rights Management (HP) by Batam Indonesia Free Zone Authority (BIFZA), and determination of any territory that entered and is the government area of Batam City. However, in this case the authors remind, especially in the area in Kampung Tua control over the unit of land in the community should not be submitted to the Batam Indonesia Free Zone Authority (BIFZA), but must be submitted to the Government of Batam in an effort to provide a happy state and atmosphere, provide legal certainty (Soetiknjo, 1994), and simultaneously in order to realize the improvement of the economic welfare of society in the area of Kampung Tua intended.

4.4. Internal Constraints

In this connection Lawrence M. Friedman affirms that the law which has been legitimated and has been enacted, in fact, must be run by the public with the priority of the public interest and also to realize the sense of justice (Friedman, 2009), for the whole society. The construction of thought which has been confronted in the above section is a brilliant opinion, which has been presented by Lawrence M. Friedman, and in the opinion of the author the format of thought and construction of such opinions is very relevant to the content discussed in this paper, and the authors add in particular those addressed to all state apparatus that have the main duty, function and authority in terms of providing public services to the community and in this case to carry out land registration activities in Kampung Tua, must immediately conduct land registration activities on customary law community units in Kampung Tua area within order of issuance of certificate (proof of rights), in accordance with budget politics which is sourced from people's sweat money (Nurmadjito, 2000).

Another internal constraint is with regard to the lack of guidance to the Kampung Tua community. The Community Empowerment Institution (*LPM*) (Nurmadjito, 2000; Lubis, 1989), at the level of the Main Office of the Kelurahan Office in Batu Besar Village immediately formed a Working Group (*Satker*) which focuses more on guiding all components of the community in Kampung Tua, in the axiological approach that the unit of land of Kampung Tua Old in the intention should the State provide complete protection especially in an effort to affirm the mandate of Article 18B of the 1945 Constitution of the State of the Republic of Indonesia, and for this reason the government together with the people's representatives of the Republic of Indonesia (*DPR-RI*) immediately endorse the process of formulating the law against the Draft The Law on the Recognition and Protection of Indigenous Peoples (*RUUPMA*) which has been included in the National Legislation Program (*Prolegnas*) of DPR-RI period 2009-2014 (Dian, 2016).

4.5. External Constraints

External constraint of the factors that one of them is not yet implemented concretely, and integratedly coordinated between the Government of Batam on one side, with the Batam Indonesia Free Zone Authority (BIFZA) on the other side. The authors of the policy and legal action as intended, it is imperative that they be resolved, if they are not done, it will be a very dominant inhibiting factor that could affect the slowdown to carry out land registration in the Kampung Tua territory for and to obtain a certificate of land rights). In the meantime, legal action is technically operational is very necessary for the Land Office of Batam City in measuring the rights to land cadastral in order to register the land in Kampung Tua. It can also be explained with respect to the external constraint factor that is still the lack of professional measuring staff from the Land Office of Batam City.

The shortcomings of the measuring personnel in the opinion of the writer must be addressed immediately by the Central Government, because from the side of the budgetary policy to recruit the personnel of the interpreter is the authority of the Ministry of Agrarian and Spatial / Head of the Land Agency of the Republic of Indonesia in Jakarta based on the latest developments the President of the Republic of Indonesia Joko Widodo has responded to the shortage of the land meter that has planned

to recruit a new interpreter of ten thousand people with the target of land registration to issue certificates (certificate of rights) as many as five million certified land plots national in Indonesia. In order to overcome this situation, the Central Government of the Republic of Indonesia should be able to cooperate with other universities and universities in the main areas to recruit from the graduates of the Technical Study Program, which in particular has been mastering the ins and outs of cadastral land measurement work related to land registration activities. And in line with this, the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia shall conduct special policies that are crash program, specifically aimed at the National High School of Land (*STPN*) in Yogyakarta to open a special class of vocational education for land level measuring officers Diploma 3 (*D3*) and / or Grade 1 (*SI*) level by increasing the volume and capacity of students to be educated and of course to this activity must be supported by adequate funding sources by taking the step of budgetary political revolution that can be fought and sourced from the Revenue Budget and State Expenditure (*APBN*) in the near future.

Based on the results of verification in the field by the authors that until now a special Government Regulation concerning with the division of working relationship between the Government of Batam with Batam Indonesia Free Zone Authority (*BIFZA*) has not been completed by the Central Government in this case the President of the Republic of Indonesia. In line with this, its peak in early May 2016, a member of the House of Representatives of the Republic of Indonesia (*DPR-RI*) from Commission VI, one of its partners, Ministry of State-Owned Enterprises, made a working visit with the Governor of Kepulauan Riau Province and its staff, at the time was present Chairman of the Regional People's Representative Council (*DPRD*) Batam City proposed an interruption to the members of the House of Representatives of the Republic of Indonesia (*DPR-RI*) Commission VI to remind the President of the Republic of Indonesia to immediately issue a special Government Regulation governing the working relationship between the City Government Batam and Batam Indonesia Free Zone Authority (*BIFZA*) as already ordered and at the same time stipulated in Article 21 paragraph (3) of Law Number 53 Year 1999.

With regard to other external constraints, especially to register the land rights of Kampung Tua community is related to the applicant's obligation to pay the Annual Obligation of the Authority (*UWTO*). In the implementation of the Annual Mandatory Obligation of the Authority is very burdensome for the applicant community for the issuance of the land title certificate, because the applicant community in this context shall also pay a regular tax on the Earth and the Building, and the Land and Building Ownership Rights (*BPHTB*) on the right to the land to which the certificate is to be requested (Tarmizi et al., 2017). In the opinion of the authors of the imposition and/or imposition of the Annual Obligation of the Authority, the enactment shall be localized on which the basis of consideration shall be adjusted to the level of the economic capacity of the applicant community.

At its peak on 27 October 2016 twenty-eight major and influential businessmen in Batam City held a meeting to set up an agenda with a determination to reject a new policy by Batam Indonesia Free Zone Authority (*BIFZA*) that raised the Annual Obligation of Authority (*UWTO*). In the agenda they will carry out the installation of pamphlets in every home and place of business which in essence they refuse the *UWTO* payment. The rejection movement will be conducted on a large scale aimed at the Batam Indonesia Free Zone Authority (*BIFZA*) on October 31, 2016 simultaneously in Batam City. In the meantime, the agenda of this rejection movement will be followed by the closing of all business places in Batam simultaneously from 7-9 November 2016, in protest against the new tariff increase of *UWTO*. On the agenda of the next protest action will be a large-scale demonstration aimed at the Batam Indonesia Free Zone Authority (*BIFZA*).

In order to resolve those matters in the opinion of the author of the Batam Indonesia Free Zone Authority (*BIFZA*) through the Central Government to immediately take practical political policy steps to find out the forms of a constructive and comprehensive settlement by prioritizing the command and mandate as has been affirmed in the Constitution of the State namely the Law The 1945 Statute of the State of the Republic of Indonesia of the 1945 mandate and mandate as defined in the Constitution of the State of the Republic of Indonesia of 1945 and by prioritizing the concrete workings of Jeremy Bentham's theory, the theory of W. Friedmann (middle theory) and the theory of

Friedrich Karl von Savigny (applied theory) whose main objective is to realize the National Ideals of the Nation and the State of Indonesia as mandated in the fourth paragraph of the preamble of the 1945 Constitution of the State of the Republic of Indonesia, essentially to realize a welfare State).

5 CONCLUSIONS

Legal arrangements for land registration in perspectives of FTZ in Kampung Tua, Batu Besar Village, Nongsa Sub-district, Batam City, have not been implemented properly, since some of the land rights in those areas are still managed and registered on behalf of the Batam Indonesia Free Zone Authority (BIFZA). On the other hand, land registration has not been implemented based on Law Number 5 of 1960 on the Basic Agrarian Law abbreviated as *UUPA*, and other related laws and regulations, as well as obstacles to the implementation of the policy of regional autonomy and FTZ policy in Batam and lack of budget political support. On the results of this article writing, the author provides some suggestions and recommendations to all parties, to solve the problems that hamper the implementation of land registration in the region, it is recommended that all parties use the grand theory approach by Jeremy Bentham, middle theory by W. Friedman, and the application theory (applied theory) by Friedrich Karl von Savigny as described in this article.

REFERENCES

- Abdurrahman. (1984). *About and around UUPA*. Bandung: Alumi.
- Arifin, S. (2012). *Law of environmental protection and management in Indonesia*. Medan: Sofmedia.
- Asshiddiqie, J. (2010). *Constitution & constitutionalism of Indonesia*. Jakarta: Sinar Grafika.
- Atmasasmita, R. (2012). *Integrative law theory: Reconstruction on theory of development law and progressive law theory*. Yogyakarta: Genta Publishing.
- Badudu, J. (2001). *Indonesian general dictionary*. Jakarta: Pustaka Sinar Harapan.
- Bentham, J. (2006). *Theory of inviting legislation: Principles of legislation, civil law and criminal law*. Bandung: Nuansa.
- Brannen, J. (2002). *Pair writing methods of qualitative and quantitative journals*. Yogyakarta: Pustaka Pelajar.
- Burns, P. J. (1999). *The Leiden legacy: Concepts of law in Indonesia*. Jakarta: Pradnya Paramita.
- Danusaputro, M. (1985). *Environmental law: Book II*. Jakarta: Bina Cipta.
- Dian. (2016, October 26). The legislative body of the house of representatives. (Idham, Interviewer)
- Dwivedi, A. (2003). *Participatory training methodology*. Bantul: Amanah.
- Elfindri, & Rumengan, J. (2009). *Management of islands development*. Yogyakarta: Baduose Media.
- Erwiningsih, W. (2000). Actualization of agrarian law to support regional autonomy. *Jurnal Hukum Ius Quia Iustum*, 7(13), 78-89.
- Friedman, L. M. (2009). *Legal system: Social science perspective*. Bandung: Nusa Media.
- Gautama, S. (1990). *The interpretation of the basic agrarian law*. Bandung: Citra Aditya Bakti.
- Hamzah, A., Suandra, I. W., & Manalu, B. A. (2000). *Legal basics of housing*. Jakarta: Rineka Cipta.
- Hanum, Z., Hasibuan, J. S. (2019). The Effect of Perception and Motivation of Students to Interest in Choosing Tax Concentration. *Proceedings of the 1st International Conference on Economics, Management, Accounting and Business, ICEMAB 2018, 8-9 October 2018, Medan, North Sumatra, Indonesia*. Publisher EAI. <http://dx.doi.org/10.4108/eai.8-10-2018.2288747>
- Hartono, C. S. (1988). *Economic development law of Indonesia*. Jakarta: Bina Cipta.
- Huijbers, T. (1982). *Philosophy of law in the historical trajectory*. Yogyakarta: Kanisius.
- Huntington, S. P. (2002). *Intercultural bond and the future of world politics*. Yogyakarta: Qalam.
- Hustiati. (1990). *Agrarian reform in the philippines and comparison with landreform in Indonesia*. Bandung: Mandar Maju.
- Hutagalung, A. S. (1985). *Land redistribution program in Indonesia: A means to solve problem of land and land ownership utilization*. Jakarta: Rajawali.
- Idham. (2005). *Anti wong cilik land law policy: Analysis of Presidential Regulation No. 36/2005*. Yogyakarta: Indonesia Land Policy Partners.

- Idham. (2005). *Paradigm forming laws*. Yogyakarta: Indonesia Land Policy Partners.
- Jin, G., Chen, K., Wang, P., Guo, B., Dong, Y., & Yang, J. (2019). Trade-offs in land-use competition and sustainable land development in the North China Plain. *Technological Forecasting and Social Change*, 141, 36-46.
- Judiantoro, & Widodo, H. (1983). *Seeking the law: A thought*. Bandung: Alumni.
- Kadafi, M., & Idham. (2015). *Ethics of citizenship in the national perspective of building nations character*. Medan: Prime Publishing.
- Kadafi, M., & Idham. (2016). *Legal research methodology*. Medan: Prime Publishing.
- Kartasaputra, R. G. (1986). *Masalah pertanahan di Indonesia*. Jakarta: Bina Aksara.
- Koestoer, R. H. (1977). *Village environmental perspective – city: Theory and case*. Jakarta: UI Press.
- Kountur, R. (2003). *Research methods for thesis writing and thesis*. Jakarta: PPM.
- Kusumaatmadja, M. (1975). *Functions and legal development in national development*. Bandung: Binacipta.
- Kusumaatmadja, M. (2002). *Legal concepts in development*. Bandung: Alumni.
- Lubis, M. S. (1989). *Political and legal variety*. Bandung: Mandar Maju.
- Mahadi. (1991). *Brief description about customary law, since RR year 1854*. Bandung: Alumni.
- Mahendra, A. A. (1996). *Revealing legal, democracy and land affairs*. Jakarta: Pustaka Sinar Harapan.
- Mertokusumo, S., & Pitlo, A. (1993). *Chapters on law discovery*. Bandung: Citra Aditya Bakti.
- Muda, I., Siregar, H. S., Sembiring, S. A., Manurung, H., & Zein, Z. (2018). Economic Value of Palm Plantation in North Sumatera and Contribution to Product Domestic Regional Bruto. In IOP Conference Series: Materials Science and Engineering (Vol. 288, No. 1, p. 012080). IOP Publishing. <https://iopscience.iop.org/article/10.1088/1757-899X/288/1/012080/pdf>
doi:10.1088/1757-899X/288/1/012080
- Muhadjir, H. N. (1998). *Philosophy of science: Comparative functional systematic review, Issue I*. Yogyakarta: Rake Sarasin.
- Muhadjir, H. N. (2000). *Qualitative research methodology*. Yogyakarta: Rake Sarasin.
- Nihin, H. A. (1999). *The new paradigm of the local government towards the third millennium*. Jakarta: Mardi Mulyo.
- Nurmadjito. (2000). *Reflection on bureaucracy law*. Bandung: Mandar Maju.
- Parera, F. M., & Koekerits, T. J. (1999). *Public debate series about reform: Community opinion-from crisis to reform, democratization and autonomy, preventing disintegration of nations*. Jakarta: Kompas.
- Parlindungan, A. P. (1981). *Kapita selekta agrarian law*. Bandung: Alumni.
- Parlindungan, A. P. (1989). *Right of management according U.U.P.A system (basic agrarian law)*. Bandung: Mandar Maju.
- Parlindungan, A. P. (1990). *Landreform in Indonesia: Strategy and target*. Bandung: Alumni.
- Parlindungan, A. P. (1991). *Guidelines for implementation of basic agrarian law and procedures of officials of deed of land*. Bandung: Mandar Maju.
- Parlindungan, A. P. (1994). *All-laws of agrarian law*. Bandung: Alumni.
- Parlindungan, A. P. (2001). *Ending of land rights according to the basic agrarian law (UUPA)*. Bandung: Mandar Maju.
- Podgorecki, A., & Whelan, C. J. (1987). *Sociological approach to law*. Jakarta: Bina Aksara.
- Prakoso, D., & Purwanto, B. A. (1985). *Existence of prona as the implementation of mechanism of agrarian function*. Jakarta: Ghalia Indonesia.
- Rajagukguk, H. (1999). *Role of laws in economic development*. Jakarta: University of Indonesia.
- Rasjidi, H. L. (1991). *Interdisciplinary research management*. Bandung: Rosdakarya.
- Rasjidi, H. L., & Rasjidi, I. (2001). *Fundamentals of philosophy and legal theory*. Bandung: Citra Aditya Bakti.
- Ruchiyat, E. (1983). *Landreform implementation and purchase land, under the 1960 act (prp)*. Armico: Bandung.

- Rumengan, J., & Idham. (2015). *Qualitative and quantitative research methods*. Bandung: Cipta Pustaka Media.
- Sebayang, O. S. (1996). *Urban land consolidation: A legal review*. Yogyakarta: Indonesia Land Policy Partners.
- Sidharta, B. A. (2000). *Reflection about the structure of legal science a journal writing about the fund of philosophy and the nature of scientific law as the platform for the development of Indonesian national law science*. Bandung: Mandar Maju.
- Sidharta, B. A. (2002). *Law and logic*. Bandung: Alumni.
- Sitorus, O., & Nomadyawati. (1995). *Land and condominium rights*. Jakarta: Dasamedia Utama.
- Soedjendro, J. K. (2001). *Tafsir social laws PPAT-Notary when handling convertible agreements on conflict potential land rights: Agreement on conversion of conflict potential land rights*. Yogyakarta: Kanisius.
- Soejendro, J. K. (2001). *Conflict agreement on convertible land rights*. Yogyakarta: Kanisius.
- Soemitro, R. H. (1990). *Legal research methodology and jurimetry*. Jakarta: Ghalia Indonesia.
- Soetiknjo, I. (1994). *National agrarian politics*. Yogyakarta: Gadjah Mada University Press.
- Solihin, D. (2002). *Dictionary of the terms of regional autonomy*. Jakarta: Institute for SME Empowerment.
- Sumaryono, E. (2002). *Law ethics: Relevance of the natural law theory of Thomas Aquinas*. Yogyakarta: Kanisius.
- Sumbayak, R. F. (1985). *Some thought of law enforcement stewardship*. Jakarta: Ind-Hill, Co '85.
- Sunindhia, Y., & Widiyanti, N. (1988). *Renewal of agrarian law: Some thoughts*. Jakarta: Bina Aksara.
- Suriasumantri, J. S. (1999). *Science in perspective, a collection of essays on the nature of science*. Jakarta: Yayasan Obor Indonesia.
- Syahrani, R. (1999). *Summary of the essence of law*. Bandung: Citra Aditya Bakti.
- Syahrin, A. (2003). *Law and policy regulation on sustainable housing and settlement development*. Medan: Pustaka Bangsa Press.
- Tanya, B. L., Simanjuntak, Y. N., & Hage, M. Y. (2010). *Legal theory: Human orderly strategies across space and generation*. Yogyakarta: Genta Publishing.
- Tharifah, N.T, Salim, L, & Muda, I (2021). Alternative Analysis of Asset Valuation & Revenue Determination Model: Accounting Theory Perspective. *Turkish Journal of Physiotherapy and Rehabilitation*. 32(3). 39752 – 39757. <https://turkjphysiotherrehabil.org/pub/pdf/321/32-1-4259.pdf>
- Tarmizi, HB., Daulay, M., (2017). Impact of The Economic Growth and Acquisition of Land to The Construction Cost Index in North Sumatera. *IOP Conference Series : Materials Science and Engineering*. 180. <https://doi.org/10.1088/1757-899X/180/1/012004>.
- Thalib, S. (1985). *Traditional land relations with agrarian law in Minangkabau*. Jakarta: Bina Aksara.
- Wahyudi, R, Kaban, A.K, Muda, I (2020). Liability Accounting (State Debt Management Analysis: Government Debt Management and Its Problems). *Turkish Online Journal of Qualitative Inquiry*. 11(4). 1108-1117. <https://tojqi.net/index.php/journal/article/view/8230>
- Warinangin, E. (1982). *Agrarian law practice, securing land rights*. Jakarta: Esa Study Club.
- Wright, R. R., & Wright, S. W. (1985). *Land use*. St. Paul-Minnesota: West Publishing Company.
- Yamin, M., & Lubis, A. R. (2004). *Some of the actual problems of agrarian law*. Medan: Pustaka Bangsa Press.
- Yusri, M. S. (2016, October 16). Interview intended writers held in Batu Besar Village, District Nongsa. (Idham, Interviewer)
- Xu, S. C., Miao, Y. M., Gao, C., Long, R. Y., Chen, H., Zhao, B., & Wang, S. X. (2019). Regional differences in impacts of economic growth and urbanization on air pollutants in China based on provincial panel estimation. *Journal of Cleaner Production*, 208, 340-352.