INTERNATIONAL JOURNAL OF SOCIAL, POLICY AND LAW (IJOSPL)
Vol. 02: No 01 FEB 2021 E-ISSN : 2774-2245

THE ESSENCE OF NOTARY LEGAL OFFERING IN WEST LAND RIGHTS DISPUTES (*EIGENDOM VERKLARING*)

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Abstract *- Law has a goal that is to encourage social change for the better through legal certainty. The land ownership system in Indonesia during the Dutch East Indies era was subject to the Agrarische Wet 1870 (Stbd 1870: 55). This type of research is Normative Empirical, with the starting point of research on Western land rights (Eigendom) which have been declared invalid but are still used as a legal basis for civil lawsuits in court, with primary data as supporting secondary data. From one of the inkrach cases, it showed the district court judge and cassation had wrongly applied the law, namely the plaintiff used old evidence in the form of Eigendom Number 9703 which was former Eigendom land owned by Raden Harsa Nata Sastra Nagara since December 27, 1907 and was not a valid evidence . It is important that the function of legal counseling for Notaries as in Article 15 paragraph (2) letter e of the UUJN. Legal education activities are one of the socializations to illustrate how justice is. National law cannot guarantee the realization of this justice. The function of legal counseling is also a preventive, corrective, presevative and developmental measure.*

Keywords : notary, legal counseling, western land rights

I. INTRODUCTION

In a national and state life, law has a function as a means of control and control in order to realize a safe, orderly and just community life. Law has a goal, that is to encourage social change for the better through legal certainty. On this basis, the implementation of legal system continues to be studied in order to achieve legal certainty, minimize any inconsistencies between legal products and maximize the harmony, balance and harmony of legal products, especially for land ownership, especially in Indonesia. The land ownership system in the Dutch East Indies was subject to the provisions of the Agrarische Wet 1870 (Stbd 1870: 55). In the land law, that *eigendom verponding* is a land right that comes from Western rights. However, in fact, *eigendom verponding* was published by the Dutch Colonial Government for the citizens of the Dutch East Indies. Literally this means that *eigendom* is permanent ownership of land and *verponding* is a tax bill of land or land and building in question. Currently the *verponding* is in the form of a Land and Building Tax Payable Tax Return (SPPT-PBB).

The imposition and receipt of tax payments by the government are interpreted by the people as recognition of ownership of land parcels. Because of this "one-sided" recognition, the people are then obliged to convert them into land rights as regulated in Law no. 5 of 1960 concerning the Basic Agrarian Law (UUPA).Land ownership in the colonial era, as we know, contained Indigenous lands, Chinese lands (*landerijenbezitsrech*), and lands with Western rights (*eigendom, erfpacht, postal, lease rights, use rights and borrowing rights*). Land rights derived from the conversion of old land rights by statutory regulations are given 20 (twenty) years to convert to new land rights, namely Ownership, Business Use Rights,

Building Use Rights, and Use Rights, since the enactment of the UUPA or not later than September 24, 1980.

When the time limit expires, the old land rights will be directly controlled by the State. Further regulations regarding the conversion of old land rights can be found in Presidential Decree No. 32 of 1979 concerning Policy Principles in the Context of Granting New Rights to the Land of Origin for the Conversion of Western Rights, and as a follow-up to the Presidential Decree (Kepres), the Minister of Home Affairs Regulation No. 3 of 1979 concerning Provisions Regarding Application and Granting of New Rights to the Land of Origin for the Conversion of Western Rights.The existence of a notary is very important in the midst of society. Notaries provide legal certainty to the public regarding the making of authentic deeds. Making authentic deeds containing formal truths really needs the assistance of a notary, so that the deed can be understood and accepted by all parties and has a guarantee of legal certainty in the midst of society. As a party that is in direct contact with interests of the community, notaries must be really able to provide good services to the community so that no society is harmed. Therefore, problems arise in this research, that are: How is the role of notary in carrying out legal counseling function in making transitional deeds of unregistered land or western land rights (*eigendom*) that have been declared invalid? and How is the legal protection for buyers who have good faith or citizens who have legal ownership rights to land according to UUPA over Western land rights (*eigendom*)?

II. LITERATURE REVIEW

2.1 Overview of Ownership Rightsand Transfer of Rights to Land

Several experts provide different definitions of soil, depending on the perspective of each of these experts. For example, according to Sitanala Arsyad, soil is defined as a heterogeneous natural object consisting of solid, liquid, gas components and has dynamic properties and behavior. Henry D. Foth, gave the definition of soil as unconsolidated mineral material on the soil surface that has been and will always be used for experiments and is influenced by genetic and environmental factors of the parent material, climate (including the influence of humidity and temperature), macro and micro-organisms and topography which all occur in a certain period and produce soil products that differ from the original material in many physical, chemical and biological properties and characteristics.

The legal meaning of land is contained in Article 1 paragraph (4) of Law no. 5 of 1960 concerning Agrarian Principles (UUPA), which reads as follows: "In the sense of the earth, apart from the surface of the earth, including the body of the earth underneath and under water". In the explanation of Article 1 paragraph (4) of the UUPA, it is stated that what is meant by land is the surface of the land is the surface of the earth.Land rights are regulated in Article 16 UUPA, among these rights, property rights are rights that are very specific in nature, which not only contain the authority to use a certain plot of land which is declared as ownership right, but also contains a psychological-emotional relationship between right holder and land concerned.In Article 20 paragraph (1) of the UUPA, it is stated, "Property rights are the strongest and fullest hereditary rights that can be owned by people over land, taking into account the provisions in Article 6". This means that it is hereditary, that property rights do not only last for the lifetime of person who owns them, but can continue and can be continued by the heirs (descendants) if the owner dies. The strongest characteristic means that the period is not limited and as a right that must be registered provides a legal basis (with proof of right / certificate) to be defended from other parties. The strongest character here

also means the strongest in the absolute sense, unlimited free, but property rights are limited to "social functions".

2.2 The Principle of land rights ownership certainty

Providing legal certainty in the land sector requires two things, that are: the availability of a complete and clear written legal instrument and consistent implementation and effective registration. According to Boedi Harsono, the implementation of PP 24/1997 is based on simple, safe, affordable, up-to-date and open principles. Meanwhile, according to Urip Santoso, there are 11 principles, one of which is the principle of legal certainty and legal protection.This principle is contained in Article 19 paragraph (1) of the UUPA, which reads: "To ensure legal certainty by the Government, land registration is held throughout the territory of the Republic of Indonesia according to provisions regulated by government regulations". Legal guarantee certainty is one of objectives enactment of the UUPA, which is to lay the foundations for providing legal certainty regarding land rights for the people as a whole. Especially for lands whose transition is based on *Eigendom* rights.

Thus, the principle of legal certainty in land ownership on the basis of land registered under western land rights (*eigendom*), requires land registration to obtain legal certainty and protection. As for the purpose of holding land registration, it is useful for the interests of parties concerned so that they can find out the status or position of the land they own, regarding location, area and boundaries, who owns it and whether there are burdens on it. The objectives of land registration are described in Article 3 of Government Regulation Number 24 of 1997, that are: 1) To provide legal certainty and legal protection to holders of rights over a plot of land, apartment units and other registered rights, so that the rights owner concerned can prove himself as the holder of land rights; 2) To provide information to interested parties, including the government, so that they can easily obtain the data required to carry out legal actions regarding registered land parcels and apartment units; and 3) To maintain an orderly land administration.

2.3 Notary Public Authority to provide Legal Education

Article 15 paragraph (2) Law no. 2 of 2014 concerning Amendments to Law NO. 30 of 2004 concerning the Position of Notary Public (UUJN), that Notary is also authorized, one of which, "provides legal education in connection with the making of deeds ...". Legal counseling by notaries related to deeds is very much needed. The aim of legal counseling by notaries is to provide a deeper understanding the making of authentic deeds. Currently there are still many misunderstandings in the community in making authentic deeds by the community.Legal education is part of the development of national laws, while the development of national laws is part of national development. Legal education activities are one of the socializations to illustrate how justice is. National law cannot guarantee the realization of justice.Laurensius Arliman, as quoted by Kelsey and Herane, argues that the philosophy of extension is to work with the community so that they can increase their dignity as human beings. From this opinion contains understanding. *First*, extension workers must work together with the community. The presence of extension agents is not a determinant or coercive agent, but they must be able to create a dialogical atmosphere with the community and be able to grow, mobilize and maintain community participation. *Second*, extension does not create dependency but must be able to encourage the creation of creativity and independence of the community so that they have ability to have self-help, self-financing and self-management initiatives for the implementation of activities in order to achieve the goals, hopes and desires of target community. *Third*, the

counseling that is carried out must always refer to the realization of economic welfare of the community and the enhancement of their dignity as human beings.

2.4 West Land Rights (*Eigendom*)

The definition of term *domain verklaring* is the state land statement. According to Article 1 *Agrarische Besluit* 1870 No. 118, which states that: "without prejudice to the validity of provisions in article 2 and article 3, the principle remains to be maintained that all land which other parties cannot prove to be *eigendom* rights is the dome (property) of the state". The declaration of the state *domein* regulated in Article 1 *Agrarisch Besluit* is parallel with those stipulated in Article 519 and Article 520 of the Civil Code, which stipulates that every plot of land always owns it. If it is not owned by individuals or legal entities, it will fall on the state.

In general, a principle is adopted, namely that all land whose ownership cannot be proven (*eigendom*) is state land (*domein vanden staat*). The state is the holder of property rights (*eigenaar*) or if it cannot be proven that someone's *eigendom* exists on it. Indonesian people who own land are only considered as tenants or cultivators by paying taxes on the land. On the other hand, Dutch people and legal entities controlled a very large area of land, that are:

1. Erfpacht rights for large plantation companies covering an area of more than 1 million hectares;
2. Concessie rights for large plantation companies covering an area of more than 1 million hectares;
3. *Eigendom* rights, *opstal* rights, *erfpacht* rights for housing approximately 200 thousand plots of land.

Currently, there are still many lands that have rights in the form of *eigendom verponding*. Judging from the term, *eigendom verponding*, apart from being defined as land rights derived from Western rights, also has another meaning, namely a tax bill on the land or land and building in question. Currently, the payment is made into Land and Building Tax Payable Tax Returns (SPPT-PBB).

The UUPA does not regulate the definition of western land rights conversion. however, AP. Parlindungan, giving the meaning of western land rights conversion, is how the regulation of land rights that existed before the enactment of the UUPA (in this case, the rights of *eigendom*) to enter the system of the UUPA, namely the activity of adjusting the rights of old land into rights new land known in the UUPA.

III.METHOD

The type of research used is normative - empirical, in which the author examines by using materials from the literature as a means for the author to analyze problems that the author will discuss in this journal and also observations have been made by conducting interviews so that the authors obtain information in order to help the authors of this study.

The type of data that the writer uses is secondary data and is corroborated by primary data. Secondary Data consists of Primary Legal Materials, Secondary Legal Materials, and Tertiary Legal Materials. Data collection techniques / methods that the authors use are literature studies and interviews.

Writing technique used is the literature study technique that the author uses in this journal. The technique of collecting data by using literature study is to obtain information from various sources, such as books, journals, articles, theses, and reading material related to the problems that the writer analyzes in this journal.

The type of approach taken is to use an approach to legal systematics, that is using legal materials related to the conversion of western land rights and disputes that arise over these western land rights, by analyzing the decision of the Jakarta State Administrative Court Number 03 / G / 2012 / PTUN. JKT dated 13 June 2012 Jo. High Court Decision No. 195 / B / 2012 / PT.TUN.Jkt Jo. Supreme Court Decision Number 217 K / TUN / 2013, dated June 25, 2013, Jo. Decision Number 62 PK / TUN / 2014.

IV. RESULT AND DISCUSSION

4.1 The Role of Notaries in Carrying Out Legal Counseling Functions in Making Transitional Deeds of Unregistered Land or West Land Rights (*Eigendom*) which have been declared invalid

The Ministry of Agrarian and Spatial Planning / State Land Agency (ATR / BPN) noted that until October 2020, conflict disputes and court cases regarding land were approximately 9000 cases. During the Commission II DPR RI Work Meeting with the Minister of ATR / BPN Sofyan A. Djalil when discussing the preliminary talks and discussion of the 2021 Budget Draft State Budget and the 2021 Government Work Plan, as well as the 2019 and 2020 Government performance evaluation on June 23, 2020, it was stated Approximately 9000 cases of land disputes, the Ministry of ATR / BPN has only been able to resolve 839 cases.

Of the many cases of land disputes that have occurred, one of which is related to land disputes using *eigendom verponding*. Several types of disputes in the land sector are as follows:

1. Disputes over plantation land. The parties are community (including indigenous peoples) vs. Legal entity (PTPN / private plantation) with demands for cancellation of HGU, return of land and compensation.
2. Disputes over land that includes forest areas. The parties are community (including indigenous peoples) vs. Forestry agencies with demands for land rights that are still registered as forest areas or demands to return indigenous peoples' lands.
3. Disputes over land that has been released by the developer for housing / offices / industrial areas, and others. The parties are society vs. developer with demands to cancel the Building Use Rights (HGB) on behalf of the developer.
4. Disputes over the land of *land reform* object. The parties are cultivators not recipients of redistribution vs. landreform object redistributed recipients or non-redistributed cultivators vs. legal entity.
5. Various disputes over land ex-private land ex Law no. 1 of 1958. The parties are the heirs of former private landowners vs. developers or heirs of former private landowners vs. communities with demands for the cancellation of the developer's HGB or land return.
6. Disputes over land that are formerly western rights. The parties are society vs. people with demands to cancel the right of origin to the conversion of western rights.
7. Disputes over land controlled by ABRI (TNI-AD, TNI-AL, TNI-AU). The parties are society vs. the TNI with demands to return land and grant rights to the community, if the TNI needs it to provide compensation to the community.
8. The dispute between the community and PT. KAI, PT. Pelindo, and others, with demands to grant land rights to the community.
9. Other disputes related to land registration originating from overlapping girik and eigendom, overlapping girik, and conflict arising from the implementation of a Court Decision.

The number of cases of land disputes, especially land disputes that use *eigendom verponding*, where the accuracy of deeds and documents related to land is needed, the existence of a notary is very important to provide legal certainty amid legal uncertainty in the land sector. Notaries provide legal certainty to the public regarding the making of authentic deeds.

The making of an authentic deed containing formal truth really requires the assistance of a notary, so that the deed can be understood and accepted by all parties and has a guarantee of legal certainty in the midst of society. As a party that is in direct contact with the interests of the community, notaries must be really able to provide good services to the community so that no society is harmed.Notary deeds have an important role in every legal relationship in public life, for example in business activities, activities in banking, social activities, and including settlement in the land sector. The role of authentic deeds is felt to be increasing in line with the development of demands for legal certainty in various economic and social relations amidst many land problems that lead to disputes to court. In simple terms, it can be said that in order to guarantee legal certainty, order and protection, authentic written evidence is needed regarding conditions, events, or legal acts carried out through certain positions so as to provide legal protection to parties with good faith.

An example of a case that the author examined relating to *Eigendom* land is the Supreme Court Decision, that is the Judicial Review Decision which has permanent legal force, Decision Number 62 PK / TUN / 2014. The object of dispute is the State Administration Decree issued and issued by the National Land Agency in the form of Building Use Right Certificate Number 2535 / Kelurahan Petojo Selatan, Gambir District, Central Jakarta, published date February 13, 2004, Measure Letter dated February 13, 2003 Number 00026 / 2003 covering an area of 22,305 m2, (twenty two thousand three hundred and five square meters), which is located at Jalan Abdul Muis, Number 68, Central Jakarta, on behalf of the State Oil and Gas Mining Company (Pertamina). The Plaintiff objected to the building rights certificate issued by the National Land Agency after questioning the return of the Plaintiff's land which had been leased by the State Oil and Gas Mining Company (Pertamina). The plaintiff believes that he has rights to the land, namely customary land with the basis of Eigendom adat recht van het jaar 1907 and eigendomsbewijs door het binnenlandsch bestuur nummer 9703.

The objections raised by the Plaintiff against the issuance of land certificates for disputes by the National Land Agency are due to the fact that disputed land certificates are contrary to the Regulation of the State Minister for Agrarian Affairs / Head of BPN Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration. Furthermore, it was conveyed that the Land Measurement and Registration Section of the National Land Agency did not carry out careful research in carrying out the collection and research of evidence in accordance with Article 82 of the Regulation of the State Minister for Agrarian Affairs / Head of BPN Number 3 of 1997, ignoring evidence and facts that rights holders in fact, the land being measured is the property of the Plaintiff.

Furthermore, it was explained that the committee from the National Land Agency was inaccurate and careless in examining juridical data on land and mistakenly conducted field checks to match the correctness of evidence submitted by the State Oil and Gas Mining Company (Pertamina) as a Petitioner in accordance with Article 83 of the Regulation of the State Minister. Agraria / Head of BPN Number 3 of 1997, so that what happened was the fault of the subject and object of land rights.

Furthermore, the Plaintiff stated that disputed land certificate contravened the provisions Article 24 of Government Regulation Number 24 of 1997 concerning Land Registration, that at the time of issuance of

this decision, the National Land Agency was not careful in collecting and assessing juridical data on the Plaintiff's land and therefore it was wrong in assessing the truth evidence submitted by the State Oil and Gas Mining Company (Pertamina) as a Petitioner, as expressly regulated in Article 24 of Government Regulation Number 24 of 1997.

The Defendants, National Land Agency and State Oil and Gas Mining Company (Pertamina), have made several objections to claim submitted by the Plaintiff, that the Plaintiff has no interest and does not have the capacity to file a state administrative lawsuit on the grounds that the Plaintiff is not is the owner of disputed land, due to the fact that the land, both physically and juridically, is based on the Building Use Right Certificate Number 2535 / Petojo Selatan (SHGB Number 2535 / Petojo Selatan) has been controlled by the State Oil and Gas Mining Company (Pertamina).Further explained by the National Land Agency as the defendant party, the documentary evidence submitted by the Plaintiff can no longer be used as proof of the Plaintiff's ownership of Disputed Land, because the ownership of the Plaintiff and / or the Plaintiff's Grandfather over the Disputed Land has expired and has expired since September 24, 1980 and the Land Disputed has become State Land.

Furthermore, it was conveyed that the expiration and ending of the Plaintiff's *eigendom* right was because the Grandfather of the Plaintiff and / or the Plaintiff had never implemented the provisions of Article 2 paragraph (1) of the Regulation of the Agrarian Minister Affairs ("PMA") Number 2/1960: "Indonesian citizens who at September 24, 1960, has a single nationality and owns land with eigendom rights within 6 (six) months from that date, he must come to the Head of the Land Registration Office (hereinafter referred to as KKPT) concerned to provide confirmation regarding his citizenship ". Then, Article 4 of the Regulation of the Agrarian Minister Affairs ("PMA") Number 2/1960: "The rights of eigendom which after a period of 6 (six) months mentioned in Article 2 have not come to the KKPT or whose owner cannot prove that he is a national single Indonesia, by KKPT recorded in the original act as converted into right to build with a period of 20 (twenty) years; Thus, starting from September 24, 1980, the right to build, which was a conversion of the Plaintiff's eigendom right, has been abolished (vide Article 40 of UUPA Number 5 of 1960) and the Plaintiff is no longer and is no longer the owner or party having an interest in the disputed land.

Interesting thing about this case is that in the ruling of the Jakarta State Administrative Court Decision Number 03 / G / 2012 / PTUN.JKT dated June 13, 2012, is to grant the Plaintiff's claim entirely and to declare the Building Use Right Certificate Number 2535 / Kelurahan Petojo Selatan February 2004, Measurement Letter Number 00026/2003, dated February 13, 2003 covering an area of 22,305 m2, located at Jalan Abdul Muis, Number 68, Central Jakarta, on behalf of the State Oil and Gas Mining Company (Pertamina) and required the Defendant to revoke the Right to Use Certificate Building Number 2535 / Kelurahan Petojo Selatan, dated February 13, 2004, Measurement Letter Number 00026/2003, dated February 13, 2003 covering an area of 22,305 m2, located at Jalan Abdul Muis, Number 68, Central Jakarta, on behalf of the State Oil and Gas Mining Company (Pertamina).Even the Decision of the Jakarta State Administrative Court was strengthened by the Decision of the Jakarta State Administrative Court Number 195 / B / 2012 / PT.TUN.JKT, dated 7 November 2012 which essentially strengthened the Jakarta State Administrative Court Decision Number 03 / G / 2012 /PTUN.JKT dated June 13, 2012, which the appeal applicant filed for appeal, namely the National Land Agency and Pertamina. Furthermore, at cassation level, the amar of the Supreme Court Decision Number 217 K / TUN / 2013, dated June 25, 2013,

which has been legally binding, also strengthens the decision of the Jakarta State Administrative Court Judge, namely rejecting appeal from the Cassation Petitioner.

From this case, it can be understood that from the first level to the cassation, the proof of land ownership in the form of *Eigendom* is apparently considered by the Judge to be stronger than the building rights certificate issued by the National Land Agency. Judges' verdicts from the first level to cassation can also be interpreted as saying that the Building Rights Certificate issued by the National Land Agency, which should serve as evidence of a strong right, is deemed by the Judge not to comply with the proper procedures. Therefore the Judge believed that the plaintiff's *Eigendom* rights should still be converted in accordance with Government Regulation Number 24 of 1997 concerning Land Registration concerning the provisions for registering old rights.

In its journey, after decision which has permanent legal force, the Decision of the Supreme Court Number 217 K / TUN / 2013 dated June 25, 2013, a written request for reconsideration is submitted at the Registrar's Office of the Jakarta State Administrative Court. As for the legal considerations conveyed by the judges are as follows: The reasons submitted by the Petitioner namely the National Agricultural Agency and the State Oil and Gas Mining Company (Pertamina) can be justified, because after examining the memory of reconsideration and the counter memory for reconsideration is linked to the Judex Juris Decision in the level of cassation and Judex Facti's decision in the case, it turned out that there was a Judge's mistake or real mistake in the Judex Juris decision with consideration that the problem in this case contained the issue of ownership of the land where the object of dispute was. The object of dispute cannot be assessed before the issue of its rights is resolved in the civil court.

For this reason, the Judge at the extraordinary legal effort level, namely Reconsideration, granted the request for reconsideration from the Reconsideration Petitioner, the Head of the Central Jakarta Administrative City Land Office and PT. PERTAMINA (PERSERO) as well as Canceling the Decision of the Supreme Court Number 217 K / TUN / 2013 dated June 25, 2013. To try again, stating that the Plaintiff's claim was unacceptable.

From the Judicial Review Verdict in the case above, the Judge at the level of extraordinary legal remedies, the review has put the land status, namely the building rights certificate, becomes more valid evidence than the *Eigendom* land title. However, in his consideration the judge at the review level only said that the problem in the case contained the issue of ownership over the land where the object of dispute was. The object of dispute cannot be assessed until the issue of its rights is resolved in the civil court. So that, from the verdict of the review, there is no in-depth legal analysis regarding the position of *Eigendom* land with land that already has a right base, that is the right to build.

From the judge's decision which has permanent legal force on the extraordinary legal filing, a review of the case conducted by the researcher, it can be understood that parties in good faith have ownership of land that is legal according to the Basic Agrarian Law, namely the certificate of right to build is given legal protection above rights to Western land (*eigendom*). However, this legal protection is obtained by a very long and tiring legal process starting from the first stage, appeal, cassation and only then obtaining justice in an extraordinary legal effort, that is re-administration. It can be imagined how the struggle of a buyer in good faith or a citizen who has legal ownership rights to land according to the Basic Agrarian Law when he is sued by another party who has the power of economic resources and power by only having a document in the form of a western land title (*eigendom*). Therefore, the role of notary as an

official who has the authority to make authentic deeds has a very significant role in providing legal education related to deeds relating to the land sector.

From the cases mentioned above, it can also be understood that authentic deeds are very crucial. In the petition submitted by the Petitioner for extraordinary legal remedies, namely the National Land Agency and the State Oil and Gas Mining Company (Pertamina), one of them is to question the strength of evidence of the letter submitted by the Plaintiff, the old evidence in the form of Eigendom Number 9703 which is land former Eigendom belonging to Raden Harsa Nata Sastra Nagara since December 27, 1907 which according to the Petitioner is not a valid evidence. Observing this case, the role of notary is very important in providing the function of legal counseling related to deeds because it is a perfect evidence.

Notarial Deed is an authentic deed, a writing that is deliberately made to prove a certain event or legal relationship. As an authentic deed, which is made in the form stipulated by law, it is drawn up in the presence of authorized officials (public employees) and at the place where the deed is drawn up. Therefore, the Notary deed provides complete and perfect evidentiary power for the parties making it. The perfection of a Notary deed as evidence, then the deed must be seen as it is, does not need to be assessed or interpreted other than what is written in the deed.Authorized over the deeds, that is those who are authorized to make authentic deeds regarding all the actions, agreements and decrees required by law or that are desired by the person concerned. As well as being authorized to its time and being authorized to its place, according to the place of domicile and office area of the notary and the notary guarantees the certainty of time for tappers listed in the deed.

In addition to meeting the requirements stipulated by law for a deed to be authentic, a Notary in carrying out his duties is obliged to carry out his duties with full discipline, professionalism and undoubted moral integrity. What is stated in the beginning and the end of deed which is the responsibility of notary is an expression that reflects the actual situation at the time of making the deed. If a deed is an authentic deed, then the deed will have 3 (three) functions for the parties making it, that are: a. as evidence that the parties concerned have entered into a certain agreement; b. as evidence for the parties that what is written in the agreement is the goal and desire of the parties; c. as evidence to the third party that on a certain date unless otherwise determined the parties have entered into an agreement and that the contents of the agreement are in accordance with the wishes of the parties. Based on these if a dispute occurs, then one of the parties submits an authentic deed as evidence in court. Therefore, the Court must respect and acknowledge the contents of authentic deed, unless the party who denies it can prove that certain parts of the deed have been changed or that it is not what the parties agree on. Thus, because one of the notary's jobs is to make authentic deeds, it can become the main legal foundation regarding the status of assets, rights and obligations of the parties involved.

In connection with the issue of *eigendom* land, which until now there are still many that have not been registered, Notaries with the possessed authority can provide correct information to land owners in order to register land in order to realize legal certainty and protection for everyone who has good faith in land documents with the pedestal of the *eigendom* rights. Referring to Article 24 of Government Regulation Number 24 of 1997 concerning Land Registration, a notary can be a place for the community to consult on *eigendom* land to be converted.In this case, the Notary is not only required to make the deed requested by the parties, but also is required to assess, examine and analyze whether the documents submitted to him are "vulnerable / potential" to cause conflict or not by carrying out the legal counseling function of the Notary Public.

Notary who provides legal counseling can be likened to providing legal advice because in providing legal counseling or legal advice, a notary in this case provides an indication or explanation in the area of law that is being faced or needed by the parties. The provision of legal counseling by a notary public can influence the parties in making choices to determine their legal action. Regarding the application of the principle of contract freedom, it is entirely up to the parties to make their choice, while the notary maintains the legal guidelines.

Legal counseling by a notary is provided in order to assist in making the deeds needed and this is an integral part that cannot be separated from one another. Advice that must be given by a notary public must be based on confidence in his / her field of expertise and within his limits. Legal expertise in the field must be in accordance with the prevailing laws and regulations. With the legal counseling provided by a notary public, it is hoped that the tappers who need their help will understand and know the best decision they will make and also before the notary makes the deed desired by his client, the notary must first provide an explanation of the actual legal situation to clients, their respective rights and obligations, so that these clients understand the real situation.In providing legal counseling, the notary has the role of always acting honestly and impartially, providing services in accordance with the applicable provisions in the law, and keeping all information and everything he gets from his tappers or clients confidential to other parties.

In carrying out his / her duties, a notary must have professional skills in the field of law and must be based on high responsibility and morals as well as the implementation of his / her job duties as well as values and ethics, so that he can carry out his duties in accordance with legal provisions and the interests of the community Notaries in carrying out their duties in a professional manner must be aware of their obligations, work independently, are honest, impartial and full of responsibility and provide legal services to people who need their best services for the public interest (public).Honesty and impartiality of notaries in providing legal counseling is very meaningful to provide legal certainty guarantees to clients / buyers who have good intentions to have legal rights to land according to the Basic Agrarian Law. Legal counseling by notaries will also help significantly in overcoming land dispute problems that occur in Indonesia.

4.2 Legal protection for buyers with good intentions or citizens who have legal ownership rights to land according to the UUPA over Western Land Rights (*Eigendom*)

The definition of good faith according to Article 1963 of the Civil Code is the goodwill or honesty of the person when he starts to control the goods where he thinks that conditions needed to obtain ownership rights over goods have been fulfilled. This kind of good faith is also protected by law and good faith as a condition for obtaining this property right is not dynamic, but static.

Likewise, the definition of good faith in Article 1977 paragraph (1) of the Civil Code, related to how a third party obtains an object (ownership) due to ignorance of the defect in ownership can be forgiven, but with certain conditions. In connection with the application of good faith according to Article 1977 paragraph (1) of the Civil Code, good faith is often interpreted as "not knowing and not necessarily knowing", meaning that the ignorance of third parties regarding this defect in ownership can be excused according to fit and properness.

It can be understood that a third party with good intentions is legally protected from ignorance of defects in ownership, let alone a party with good faith who controls a land title that has been issued a certificate by the competent official for that in accordance with the provisions in the Basic Agrarian Law. .

In the National Civil Law symposium organized by the National Law Development Agency (BPHN), good faith should be interpreted as follows:

1. honesty when making contracts.
2. at the manufacturing stage, it is emphasized that if the contract is made before an official, the parties are considered to be in good faith.
3. as appropriateness in the implementation stage, which is related to a good assessment of the behavior parties in carrying out what has been agreed in the contract with the sole purpose of preventing improper behavior in the implementation of the contract.

Good faith in Article 24 Paragraph (2) of Government Regulation Number 24 Year 1997 can objectively be interpreted that the implementation of an agreement must pay attention to the norms of decency and morality so that there is no impact of harm to either party. So of course the article can be implemented when all procedures are complete. Because registration of land rights means issuing land certificates as proof of rights attached to the land. This land registration is strong evidence. The purpose of land registration is further detailed in Article 3 of Government Regulation No. 24/1997, that are to ensure legal certainty and provide legal protection and information to interested parties.

In addition, it is also aimed at achieving orderly land administration. In order to achieve the objective of land registration, the person concerned is given a land title certificate. Where a land certificate contains physical data covering the boundary of land boundary, and the juridical data, namely each registration, assignment, transfer, and annulment of rights over the land parcel. This land registration is carried out by the National Land Agency. This means that all data contained in the land title certificate is a legal certainty that must be accounted for.*Second*, the certainty of rights after land registration should provide legal certainty and legal protection for every buyer who has good intentions because he is the legal owner of land based on the Basic Agrarian Law. Judging from the case on the verdict that the author examined, that are the Supreme Court Decision, the Judicial Review Decision which has permanent legal force, Decision Number 62 PK / TUN / 2014 although at the first level, the appeal and cassation of the judge decided that the owner of rights to western land (*eigendom*) as the owner of disputed land but from the Judicial Review Decision, the Judge has placed land status, namely the certificate of building rights, as more valid evidence compared to the *eigendom* land title. Therefore, the notary as a public official who makes an authentic deed is very much needed, because an authentic deed is a perfect evidence in court as long as the deed is made based on true evidence.

V. CONCLUSION

From what is stated above, there are two conclusions: *First*, problems related to *Eigendom* land which in practice still occur frequently in Indonesia resulting in many legal problems that occur in the land sector because they result in legal uncertainty. Therefore, the notary as an official who has the authority to make authentic deeds has a very significant role in providing legal education related to deeds relating to the land sector. Vulnerability for such a long period of time for owners of western land rights (*eigendom*) requires meticulousness and accuracy in tracing land documents.

Notary as stipulated in the provisions of Article 15 paragraph (2) letter e UUJN, that the notary is authorized to provide legal counseling and explanations to interested parties in connection with the making of authentic deeds that will be, are being and / or made until the deed is complete, contributes greatly to provide a good understanding to the community regarding the making of deeds of transfer to unregistered

land or rights to western land (*eigendom*) which have been declared invalid so that potential disputes in the land sector by conducting land registration can be minimized.

Having certainty on the basis of rights after land registration should provide legal certainty and legal protection for every buyer who has good intentions because he is the legal owner of land based on the Basic Agrarian Law. Article 1338 paragraph (3) of the Civil Code Jo. Article 24 paragraph (2) Government Regulation No. 24/1997 provides limits on land in good faith, namely: physical control without trickery, deception, carried out openly (known to the public / not in secret), without other parties and not only looking at personal interests alone, and being considered proper in the norms that develop in society. Jo. Article 1963 of the Civil Code, the existence of goodwill or honesty of that person when he starts to control property. This kind of good faith is also protected by law and good faith as a condition for obtaining this property right is not dynamic, but static. Therefore, a notary as a public official who makes an authentic deed is very much needed, because an authentic deed is a perfect evidence in court as long as the deed is made based on true evidence.

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