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TRANSITION OWNERSHIP RIGHTS LAND OF AGRICULTURAL LAND WITH ABSENTEE USING E-KTP IN BANGLI DISTRICT

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Abstract

One of the objectives of land reform is to hold a fair and equitable distribution of the livelihoods of the peasants in the form of land so that with this distribution a fair and equitable distribution of results can be achieved. The purpose of this land reform is realized through the determination of the minimum area and maximum area of agricultural land ownership with certain rights by one family or legal entity. Prohibition of agricultural land ownership in absentee is a prohibition on ownership of agricultural land located outside the area where the owner lives. One of the efforts to prevent absentee land ownership is the existence of an Electronic Identity Card. However, the implementation of the transfer of rights based on the sale and purchase of agricultural land, with the implementation of the E-KTP, was not carried out perfectly. This research aims to examine the implementation of the absentee sale and purchase of agricultural land rights using E-KTP in Bangli Regency. The research method used is empirical legal research and the research locations were held in Bangli Regency, PPAT and the Bangli Regency Land Office. The results of this research showed that the implementation of an E-KTP nationally, still cannot overcome the ownership of agricultural land in Bangli Regency by people who have addresses outside the Bangli Regency sub-district and still carry out the process of changing addresses so as not to cause absentees.

Keywords: absentee; agriculture; e-ktp; transition ownership rights land

1. INTRODUCTION

Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that: "Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." This article contains the meaning of granting power to the state to regulate natural resources contained in the territory of the Unitary State of the Republic of Indonesia in the context of the welfare of all Indonesian people. To realize the contents of this article, Law Number 5 of 1960

concerning Basic Regulations on Agrarian Principles herein referred to as UUPA, regulates land law in accordance with the spirit of the people of Indonesia. The regulation of use and designation according to the UUPA is known as a populist land policy because the arrangement for the allocation and use of land upholds the rights and virtues of the small people over land as regulated in the UUPA and its implementing regulations. To realize the objectives of the UUPA, various laws and regulations have been issued, one of which is Law Number 56 Prp of 1960 concerning the Determination of

Agricultural Land Areas, hereinafter referred to as the Land Reform Act, which aims to increase the income and standard of living of land cultivators, as the basis or prerequisite for carrying out economic development towards a just and prosperous society based on Pancasila. Land reform includes changes in land ownership and control as well as legal relations related to land exploitation. Article 7 of the UUPA stipulates that: "In order not to harm the public interest, ownership and control of land that exceeds the limit is not allowed."

Based on Article 7 of the UUPA, the land reform program was born in order to build a just and prosperous society by limiting ownership of agricultural land. One of the objectives of land reform is to hold a fair and equitable distribution of the livelihoods of the peasants in the form of land so that with this distribution a fair and equitable distribution of results can be achieved. The purpose of this land reform is realized through the determination of the minimum area and maximum area of agricultural land ownership with certain rights by one family or legal entity. Lands in excess of the maximum limit will be taken by the government with compensation and henceforth will be distributed to people in need, in this case, farmers who do not own their own agricultural land or farmers who own land below the minimum limit. The land that is distributed is not only limited to land that is in excess of the maximum limit but also lands which because the owner resides outside the region, autonomous lands and former autonomous regions that have been transferred to the state and other lands controlled by the government by the state. Prohibition of agricultural land ownership in absentee is a prohibition on ownership of agricultural land located outside the area where the owner lives. Article 10 paragraph (1) of the UUPA expressly prohibits absentee ownership of land, as it is stated that: Every person and legal entity who has a right to agricultural land is in principle obliged to work or actively cultivate it by himself, by preventing extortion; Based on the above provisions, the UUPA provides legal certainty for every citizen, regardless of

whether they are rich or poor, to have rights to agricultural land. The UUPA also provides legal protection in the form of preventing extortion by rich landowners against poor people, such as sharecroppers or farm laborers in unfair profit-sharing agreements and benefits the rich landowners, by requiring landowners to work or cultivate the land themselves. The government does not merely make regulations on the prohibition of absentee ownership of agricultural land. The purpose of the prohibition on absentee land, among others:

So that the results obtained from the exploitation of the land can be mostly enjoyed by the rural community where the land is concerned because the land owner will reside in the producing area.

There are social interests and land protection because there are concerns from the government that if absentee land is left it will become abandoned and less productive land because the owner's residence is far away. For this reason, the government will immediately take rescue steps, namely by prohibiting absentee land ownership.

Cultivated land becomes inefficient, including monitoring it and transporting the produce. This situation can lead to the exploitation of urban people against the village, either with a rental system or profit sharing. Thus, the sweat and energy of the farmers are also enjoyed by the owners who are not in the area.

For civil servants and military officials and their equivalents, who are carrying out State duties, the exemption in this paragraph is limited to the ownership of agricultural land up to 2/5 of the maximum area determined for the area concerned under the Law Number 56 Prp Year 1960. Many frauds that arise in the implementation of provisions on the prohibition of ownership of agricultural land in absentee as a result of the ambiguity of norms in the article. The development of population data collection in Indonesia gave birth to a new program, namely the Electronic Resident Identification Card (hereinafter referred to as E-KTP). According to Article 1 number 14 of Law Number 24 of 2013 on

Amendments to Law Number 23 of 2006 on Population Administration to state that: the official identity of the resident as proof of self-issued by the Implementing Agency. E-KTP is a government program to record population that aims to ensure the authenticity of a person's population data and facilitate population data collection in Indonesia. With the E-KTP can prevent the existence of land ownership in absentee. Kintamani is one of the subdistricts of Bangli Regency located in the middle of Bali Island. Kintamani is a natural scenic tourist area that has an attraction in the eyes of tourists.

Kintamani consists of 48 villages. Wetland agricultural area in Bangli Regency is an area allocated for wetland food crops (paddy fields) that are cultivated intensively with subak irrigation system so it needs to be protected, especially the protection of its water sources. The development of wetland agriculture is 2,734.76 Ha or 5.25% of the area of Bangli Regency is still directed at the existing location, namely in Susut, Bangli and Tembuku Districts. This directive is based on considerations of land productivity, availability of irrigation infrastructure, production accumulation, and ongoing use conditions.

One of the villages in Kintamani District is Desa Buah. Fruit Village is a village that has been established since the year 916 or 994 AD. Buah Village consists of 4 hamlets, namely Buah Hamlet, Binyan Hamlet, Munduk Waru Hamlet and Tabih Hamlet. This Fruit Village is bounded by several villages, namely on the north is bounded by Batur Village, on the south is bounded by Pengotan Village, on the east is bounded by Abang Batu Dinding Village and on the west is bounded by Kedisan Village. The Fruit Village which is located on the shores of Lake Batur with all its natural beauty is still partly agricultural land and its purpose has not been changed. Many investors from outside the Kintamani area also invest by buying land in the area. However, the implementation of the transfer of rights based on the sale

and purchase of agricultural land, with the implementation of the E-KTP, was not carried out perfectly. As experienced by Mr. INS, a resident of Denpasar City who bought a plot of agricultural land in Buah Village, Kintamani District, Bangli Regency. During the process of transferring rights to buying and selling related to the absentee law, Mr. INS must have an E-KTP with the address according to the location of the land. This is enough to make Mr. INS confused because he is faced with the procedure for transferring E-KTP, in order to fulfill the requirements for the transfer of rights. Mr. I Wayan Sukarja, the Head of Subsidy for Land Rights Registration at the Bangli Regency Land Office, also said the same thing, that the transfer of agricultural land rights must be accompanied by an ID card according to the location of the land, to avoid absentee land ownership. This means that Mr. INS as an applicant must obtain an ID card with his address at Buah Village, Kintamani District, Bangli Regency. Meanwhile, Mr. INS already has a nationally valid E-KTP having his address in Denpasar City. This caused Mr. INS to carry out the procedure for moving population data from Denpasar City to Bangli Regency. There is a gap between *das sollen* and *das sein* in this matter.

A similar study was conducted previously by Ramadan (2020) that revealed strict monitoring of the transfer of agricultural land through cooperation between the relevant agencies, namely the Village Head, District and PPAT/Notary. In addition, Ngazis et al. (2023) in their study revealed that owners of agricultural land residing outside the sub-district must transfer their land rights to a local resident within 6 months; otherwise, the land becomes district assets. A government regulation, specifically Article 3d of Government Regulation Number 41 of 1964, states that land in the sub-district must not be owned by non-residents, and transfers are prohibited for any reason.

Based on the background and the previous studies above, this research aims

to examine the implementation of the absentee sale and purchase of agricultural land rights using E-KTP in Bangli Regency.

2. METHOD

The research method used in empirical legal research. Empirical legal research is used to examine the main problems related to aspects of the values that live in society. In this case, Legal research is used to generate arguments, theories or new concepts as prescriptions for solving problems at hand. Because in descriptive science the expected answer is true or false. While the expected answers in legal research are right, appropriate, inappropriate or wrong. Thus, it can be said that the results that can be obtained in legal research already contain value. The research locations were held in Bangli Regency, PPAT and the Bangli Regency Land Office.

3. DISCUSSION

Implementation of the Absentee Sale and Purchase of Agricultural Land Rights Using E-KTP in Bangli Regency

Agricultural land is very much attracting investors and Balinese residents themselves to have productive agricultural land in Bangli Regency. Besides that, large agricultural land can of course be used to support tourism facilities in this district. However, the transfer of agricultural land rights to buyers who are outside the sub-district area will result in absentee land ownership. To overcome this, the government has now issued an E-KTP program with national implementation.

The implementation of the E-KTP will facilitate the process of buying and selling agricultural land so that the Bangli Regency area can develop by determining the function of the land as agricultural land. Furthermore, the E-KTP program will be discussed in relation to the transfer of rights to agricultural land. In analyzing problems regarding the absentee implementation of the sale and purchase of agricultural land rights using E-KTP in

Bangli Regency, the Legal Certainty Theory approach is used. Using the theory of legal certainty will also provide legal protection to people who transfer rights to agricultural land using E-KTP.

In line with the opinion of Dominikus Rato where legal certainty is realized by law by its nature which only makes a general rule of law. So, the law is only limited to providing certainty without considering other legal aspects. Thus, the theory of expediency is also used, in which the flow of Utilitarianism or Utilism is a school that puts benefit as the main goal of law. The purpose of the law according to the adherents of this school will be to provide the greatest benefit of happiness for the community. Furthermore, it will be discussed one by one regarding the variables related to the subject matter above.

Provisions on the transfer and transfer of ownership of agricultural land are contained in Article 9 paragraph 1 of Law No. 56/prp/1960 namely: "The transfer of rights to agricultural land, except the division of inheritance, is prohibited if the transfer of rights results in the emergence or duration of ownership of land with an area of less than two hectares. The ban does not apply if the seller only has a plot of land with an area of less than two hectares and the land is sold at once". So, when having agricultural land on two (2) hectares, the transfer of rights (sale-purchase) and release of rights can only be allowed, by not giving rise to ownership under or less than two (2) hectares. If a person has land below two (2) hectares or less should not be transferred for part, because thus, parts less than 2 hectares. It is possible if he releases or sells them all at once so as not to cause a breakdown in some cases regarding the transfer of rights to agricultural land in Bangli Regency, according to Mr. I Wayan Sukarja, Head of the Transition Section of Land Rights of the Land Office of Bangli Regency, all transfer of rights must meet the requirements determined by Law.

The provisions and conditions that must

be completed by the applicant as a legal basis are Law No. 56/prp/1960 and Government Regulation Number 24 of 1997 on Land registration. Related to the implementation of E-KTP that has been implemented nationally, it cannot be fully used to register agricultural land. E-KTP is true nationally, but the changes in Law No. 56/Prp/1960, until now also do not exist, where there is still a ban on the ownership of agricultural land by parties living outside the subdistrict of the location of the land. In the interest of the transfer of rights to agricultural land by using E-KTP, the applicant is expected to comply with the legislation, where the applicant must reside or have an address in accordance with the location of the Land.

Related to E-KTP Applicants are advised to coordinate with the local Civil Registry Office. In line with what was explained by Mr. I Wayan Sukarja, according to Mr. I Made Yoga Gautama, Notary and PPAT in Bangli Regency, the transfer of rights to agricultural land in Bangli Regency can be addressed with various things that can be explained:

Submit a request for the aspect of changing the management of agricultural land into residential land that supports Tourism Areas. Before submitting an aspect request, first check the Bangli Regency Public Service Office regarding the zones contained in the land object. In checking the location map, it will be clearly recorded that the zone of the land location is in the wetland agricultural area, dryland agricultural area, residential area and supporting tourist destination areas.

If the land object is located in a wetland agricultural area, so that the land use cannot be changed, the applicant must have an E-KTP in accordance with the sub-district where the land is located. If the applicant's address is outside the land location, the applicant can apply for a change of address, through the local Civil Registry Office. And if the process of transferring land rights has been completed, then the applicant can move back to his original address.

The change of residential address to match the location of the land is actually an old problem that always arises every time there is a transfer of rights to agricultural land. This is quite inconvenient and time-consuming for the applicant to complete. However, because they feel very interested, most of the people have understood it, so they continue to go through the process. On the other hand, there are also many plans for buying and selling transactions in Bangli Regency, especially in the Kintamani District, which were eventually cancelled by several investors.

This is because it is impossible to carry out an address change action on the E-KTP, which must also go through the process of revocation of files at the Civil Registry office of the original address. Moreover, potential investors are shareholders in Limited Liability Companies. This transfer is unlikely to be carried out considering that the E-KTP is used at any time in carrying out legal actions related to the Company. Checking E-KTP and ensuring that a statement is made is a procedure for transferring land rights. This procedure is mandatory.

The informant stated that PPAT is not only obliged to ensure that a statement is made but PPAT is also obliged to explain the content and purpose of making the statement to the parties. In general, the function of the E-KTP is to make it easier for the government to provide public services to the community. E-KTP was created to make it easier for the government to find out the truth of a person's population data and prevent crimes in the criminal, civil and administrative fields. The link between E-KTP and the prohibition of absentee ownership of agricultural land is inseparable from the duties of a Notary/PPAT and the duties of the Government.

For a Notary/PPAT, the existence of an E-KTP will facilitate the task of a Notary in ensuring the correctness of the identity of the parties facing the sale and purchase, especially in the case of buying and selling

agricultural land. Notary/PPAT in carrying out their positions, Notaries are required to act trustworthy, honest, thorough, independent, impartial, and safeguard the interests of the parties involved in legal actions. Notaries/ PPATs are required to carefully ensure whether the parties who appear before them can indeed carry out the process of buying and selling agricultural land. With the E-KTP, the Notary/PPAT will not hesitate to carry out the process of buying and selling agricultural land, when the domicile is in accordance with what is requested by the UUPA in Article 10, Article 3 paragraph 1 PP Number 224 of 1961 and Article 3 PP Number 224 of 1961.

The existence of a single NIK in the E-KTP also helps the government to replace the KTP in the requirements for buying and selling agricultural land. In addition, it is easy for a resident to have more than one KTP, which also becomes an obstacle for the government in implementing the program to prohibit absentee ownership of agricultural land. The e-KTP includes an image of the Garuda Pancasila symbol and a map of the territory of the Republic of Indonesia, containing information on NIK, name, place of birth, male or female, religion, marital status, blood type, address, citizenship occupation, passport photo, validity period, place and date of issuance of the E-KTP, signature of the E-KTP holder. In addition to personal data, in the E-KTP equipped with the chip, fingerprints and irises are also recorded.

Individual data will be recorded nationally, making it difficult for someone to duplicate or falsify their identity. The existence of a single NIK in the E-KTP also helps the government so that it is impossible for a resident to have more than one E-KTP. With a single identity and clear domicile of a resident, it is not possible that a person who does not meet the criteria in accordance with Article 10 of the LoGA, Article 3 Paragraph (1), Government Regulation No. 224 of 1996 and Article 3 of Government Regulation No. 224 of 1961 can own farmland. There

are several ways that can be taken in dealing with absentee/guntai land ownership, this can be done, by involving the role of a Notary/PPAT. PPAT needs to pay attention to Article 39 paragraph (1) letter g of PP Number 24 of 1997 concerning Land Registration, which states: "PPAT refuses to make a deed if other conditions are not met or the prohibition specified in the relevant legislation is violated". Sanctions if the PPAT ignores the provisions referred to are contained in Article 62 of PP Number 24 of 1997.

While in the UUJN it is not explicitly specified as in PP Number 24 of 1997. Even in Article 17 of the UUJN regarding the prohibition, there is no such provision. However, implicitly, the provision is contained in Article 16 paragraph (1) letter d, namely: "In carrying out his office, the notary is obliged to provide services in accordance with the provisions of this law, unless there is a reason to refuse". While in the explanation it is said: "What is meant by the reason for rejecting it is the reason that causes the notary to be impartial, such as a blood relationship or semenda with the notary himself or with his husband/wife, one party does not have the ability to act, or other things which are not allowed by law".

What is meant by other things that are not allowed by law is certainly not limited to the UUJN, but its meaning is broad, including the prohibition on absentee ownership of land as described above. Otherwise, the notary in question violates the provisions of the legislation. So, it cannot be allowed when there is a sale and purchase agreement whose object is agricultural land (ricefield) but the buyer is absentee. The sale and purchase agreement are an initial agreement, but in reality, it is a sale and purchase.

There is not a single article in the legislation that excludes the possibility of making a sale and purchase agreement on the ownership of absentee land. Made a sale and purchase agreement because there are some conditions that have not

been met, but does not mean that the conditions have not been met (such as the status of the object is still rice fields) then made an agreement that violates the provisions of legislation (prohibition of absentee land ownership). This will be a problem in the future if the buyer wants to follow up with the making of a sale and purchase deed. In accordance with the mandate of Article 15 paragraph (2) letter e of the UUJN, the notary should explain (provide legal extension) to the parties about the ban. even a sale and purchase is an initial agreement, but in reality, it is a sale-purchase.

There is not a single article in the legislation that excludes the possibility of making a sale and purchase agreement against absentee land ownership. A sale and purchase agreement was made because there were several conditions that could not be fulfilled, but that did not mean that the conditions had not been fulfilled (for example, the status of the object was still in the form of rice fields) so an agreement was made whose contents actually violated the provisions of the legislation (prohibition of absentee land ownership). This will be a problem in the future if the buyer wants to follow up with the making of a deed of sale and purchase. In accordance with the mandate of Article 15 paragraph (2) letter e of the UUJN, a notary should explain (provide legal counselling) to the parties about the prohibition. There are two ways to solve the problem of absentee land ownership for potential buyers, namely: a) The applicant (prospective right beneficiary) resides in the sub-district where the object is located. b) The status of the rice field (agricultural) land was changed to residential land.

In general, agricultural lands are located in villages, while those who own land absentee/guntai generally live in cities. People who live in cities own agricultural land in the village, of course, it is not in line with the principle of agricultural land for farmers. People who live in the city are clearly not included in

the category of farmers. The purpose of prohibiting absentee/guntai ownership of agricultural land is so that the results obtained from the exploitation of agricultural land can mostly be enjoyed by farming communities living in rural areas, not enjoyed by urban people who do not live in villages. Based on this, it is known that the factors that cause absentee/guntai agricultural land are:

The first factor is the community factor, namely the lack of legal awareness from the community. In society, order is certainly an indispensable thing, especially to create peace in the association of human life, that peace means that there is order (outwardly) and tranquillity (inward). Indicators contained in legal awareness. In this case, although the government has tried to prevent absentee/guntai ownership of agricultural land, this cannot be separated from the participation of the community to comply with existing regulations. This is inseparable from the intention of someone who already knows about the regulations regarding the prohibition of absentee/guntai ownership of agricultural land, they deliberately violate these regulations for their own economic benefit. Absentee/guntai agricultural land that occurs due to buying and selling under the hands, generally by the owner is produced by local residents as sharecroppers. This kind of legal relationship is generally accepted and for the local population, especially the sharecroppers, it is considered quite beneficial both in terms of economy and social/family relations.

The second factor is the cultural factor. In relation to the factors that cause absentee/guntai land from the cultural aspect, namely because of inheritance. This inheritance is a form of patterned behavior from humans themselves. Inheritance is actually a legal event that is commonplace in every family, but this legal event is important to note in connection with the prohibition of absentee/guntai ownership of agricultural land, especially if the heirs are far outside

the sub-district where the agricultural land is owned. Absentee/guntai agricultural land can actually be avoided if the heirs move to the sub-district where the inherited land is located, or the inherited land is transferred to the people who live in that sub-district. Therefore, the juridical alternatives offered in order to avoid the absentee/guntai land provisions are difficult to fulfill. However, even if this happens, village heads or village officials generally protect the interests of the heirs.

The considerations that are used as the basis for doing so are partly because they know both the heir and his heirs. The heirs generally state that they want to keep the inheritance land as a support for life in old age. The desire to migrate for them is to improve their lives, and when they are old they want to spend the rest of their lives in their native area. For this reason, village officials have never reported the occurrence of absentee/guntai land due to inheritance. Even if there is an inheritance, the heirs who are overseas are always considered to be residents of the village. Thus, absentee/guntai lands which materially do exist and occur because of inheritance, the data has never been formally known, thus escaping the possibility of being determined by the government as objects of land reform. Furthermore, the third factor is that the provisions on the prohibition of absentee/guntai land ownership include coercive legal provisions, in other words, the provisions in Article 10 of the LoGA include regulations that cannot be ruled out. This law from a legal point of view, it is clear that formally the whole regulation is. The legislation that regulates it is valid because it was formed by authorized officials/agencies and in its formation, it has gone through the process as determined. However, from a material point of view, all regulations governing the prohibition of absentee/guntai ownership/control of agricultural land are products of the 1960s. So that the thoughts at that time, it turns out that in reality it is no longer in accordance with the conditions and needs

of today's society. Thus, it is clearly evident that the current provisions for the prohibition of absentee/guntai ownership/control of agricultural land still need to be reviewed to be adapted to current developments and community needs. The fourth factor is facilities and infrastructure. So far, the Land Office does not have accurate data about the absence of agricultural land ownership, namely the absence of reports that are helpful in overcoming the occurrence of absentee/guntai land ownership/control from officials at the local level. ward/village and sub-district. This lack of coordination and cooperation has actually led to an even greater violation of the prohibition of absentee/guntai ownership of agricultural land.

For the fifth factor, it is known that land has a very important value because it has economic value. The attention of the people of big cities whose economic conditions are quite good and who have strong capital to buy and make the land as an investment in their old age, because they have the hope that the price of the land will always increase. As described above, for a farmer, agricultural land is a source of life, a symbol of status in an agrarian society. Therefore, it is impossible for a farmer to leave his farm, letting his land become absentee/guntai land. In addition, data 39 shows that those who own agricultural land absentee/guntai, are not farmers, but City people who buy agricultural land. The land was bought not to be processed as the land was intended for but was bought as an investment facility and resold after the price was high. In order for the public to understand the prohibition of absentee land ownership, other than what is permitted by law to own it, the Bangli Regency Land Office takes actions such as:

Create a strategic program on understanding absentee land in in society.

In collaboration with PPAT, where PPAT as an extension of the Land Office continues to provide explanations regarding absentee land to people who

come to the office Local Notary/PPAT.

Directly face-to-face between the Bangli Regency National Land Agency and the community.

Basically, those who may own agricultural land in absentee are farmers, sharecroppers, farm laborers, small fishermen, traditional fishermen, labor fishermen, small fish cultivators, cultivators of cultivated land, small salt farmers, teachers, civil servants, police/TNI. Initially in Indonesia, both movable and immovable property, in principle, was the Civil Code and the legislation in the Dutch East Indies period applied to land law, which mainly came from Agrarische Wet (S.1870-55), other than that it comes from customary law. But then, with the enactment of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, or more popularly as the UUPA (Law on Basic Agrarian Affairs), both the provisions of Agrarische Wet and the provisions of the second book of the Civil Code as far as land is concerned, both are declared null and void in Indonesia. Although it is still stated that the basis of the LoGA is customary law.

Absentee/guntai ownership of agricultural land is strictly prohibited by the LoGA. This prohibition relates to the main provisions of Land reform as regulated in Articles 7 and 10 of the LoGA. Article 7 of the UUPA which reads: "In order not to harm the public interest, ownership and control of land that exceeds the limit is not allowed". The prohibition of absentee land ownership has a purpose. This was stated by Boedi Harsono, who said, "The purpose of this prohibition is to provide the majority of the results from agricultural land that can be enjoyed by the rural community where the agricultural land is located because with the land owner residing in the area of the land, the results from the agricultural land are maximum. In Article 2 paragraph (1) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2016 concerning Control of Agricultural Land

Tenure also states the intent and purpose of the prohibition of absentee ownership of agricultural land, namely "to reduce social inequality, to equalize the welfare of the people and ensure food security." However, because the agricultural zone is larger than the residential area, in Bangli Regency it is difficult to make changes to the status of the land because the status of the land has become the determination of the local government. If the land status cannot be changed to housing status, but the local government gives permission for the land as a supporting area for tourism facilities, then the transfer of agricultural land rights does not become an absentee. In addition, another effort is to involve the land office as much as possible to carry out administrative orders, especially in terms of making land certificates, which previously will be seen first regarding the domicile of the land owner whether it is in the same sub-district with the land in question. If it is proven that the location of the land is outside the sub-district or with a distance of more than 5 Km in the event that the location of the land borders between sub-districts, then the certificate will not be processed. But what then happened was that the rejected people would come back with ID cards from the area where the land was located, so the land office did not refuse to process the files, because formally all the conditions had been met. With the enactment of the E-KTP, it has not been fully able to overcome absentee ownership of agricultural land in Bangli district. In order that in practice there is no violation of the prohibition on absentee land ownership, anticipatory steps can be taken by involving the role of the Land Deed Making Officer (PPAT) who can expressly refuse to carry out the management/making of deeds related to land rights, if this violates This is in line with the provisions of Article 39 paragraph (1) letter g, Government Regulation Number 24 of 1997 concerning Land Registration which explains as follows: PPAT refuses to make a deed, if: other conditions are not met or the prohibition is violated determined in the

relevant legislation In other words, PPAT cannot always carry out the transfer of rights to agricultural land if the applicant has not fulfilled the requirements in accordance with laws and government regulations. Initially in Indonesia, both movable and immovable property, in principle, was the Civil Code and the legislation in the Dutch East Indies period applied to land law, which mainly came from Agrarische Wet (S.1870- 55), other than that it comes from customary law. But then, with the enactment of the UUPA (Law on Basic Agrarian Affairs), both the provisions of Agrarische Wet and the provisions of the second book of the Civil Code as far as land is concerned, are both declared no longer valid in Indonesia. Although it is still stated that the basis of the UUPA is customary law.

In general, agricultural lands are located in villages, while those who own land absentee/guntai generally live in cities. People who live in cities own agricultural land in the village, of course, it is not in line with the principle of agricultural land for farmers. People who live in the city are clearly not included in the category of farmers. The purpose of prohibiting absentee/guntai ownership of agricultural land is so that the results obtained from the exploitation of agricultural land can mostly be enjoyed by farming communities living in rural areas, not enjoyed by urban people who do not live in villages.

Specifically for land acquired through inheritance, within one (1) year after the heir dies, he is required to transfer his land rights to another person who is domiciled in the sub-district where the land is located or to move to the sub-district where the land is located (Article 3c PP No. 41 of 1964). When a land owner does not carry out the above provisions, the agricultural land owned will be taken by the government and given compensation and the land will be distributed/redistributed, based on Article 3 paragraphs 5 and 6 of PP no. 224 of 1961, it is stated that: a) If the obligations

referred to in paragraphs 1 and 3 are not fulfilled, the land in question is taken by the government, and then distributed according to the provisions of this regulation (article 3 paragraph (5) b) The former land owners as referred to in paragraph 5 of this article are compensated according to the provisions of this regulation (article 3 paragraph (6)).

There is no record of absentee land ownership at the Bangli Regency Land Office. However, to find out whether someone owns absentee land or not, that is by checking the data in the Bangli Regency Land Office, whether there is a difference between the land owner's residence and the location of the land he owns. If it is different, the Bangli Regency Land Office will notify/urge that the land rights must be transferred to the community around the absentee land or the land owner is obliged to change his domicile to where the land is located. This was addressed by making a statement letter with sufficient stamp duty from the absentee agricultural land owner that he was willing to move to the location of the land for at least 1 year.

If the land owner does not do this, the absentee land will be taken by the government and compensation will be given to the land owner and the land will be retribution/distributed to other communities in accordance with applicable laws and regulations. The Land Office may refuse an application for transfer of rights to agricultural land on the grounds that the buyer is not domiciled in the same sub-district as the location of the transfer object (agricultural land).

4. CONCLUSION

In Bangli Regency there is no absentee transfer of agricultural land rights. Some of the things that caused this were that prior to the transfer of rights, the purchaser of agricultural land had consulted with related parties to fulfill the requirements for the transfer of rights to agricultural land so as not to result in absenteeism. The transfer of rights to agricultural land

in Bangli Regency, if the prospective buyer is located outside the sub-district where the land is located, can submit an application for the aspect of changing the management of agricultural land into residential land that supports the Tourism Area. If the land object is located in a wetland agricultural area, so that the land use cannot be changed, the applicant must have an E-KTP according to the sub-district where the land is located. Thus, the implementation of an E-KTP nationally, still cannot overcome the ownership of agricultural land in Bangli Regency by people who have addresses outside the Bangli Regency sub-district and still carry out the process of changing addresses so as not to cause absentees. The legal consequences that arise if there has been a process of transfer of rights in absentee using the E-KTP, the Bangli Regency Land Office will notify/urge that the land rights are required to be transferred to the community around the absentee land or the land owner is obliged to move domicile where the land is located. This was addressed by making a statement letter with sufficient stamp duty from the absentee agricultural land owner that he was willing to move to the location of the land for at least 1 year. If the land owner does not do this, the absentee land will be taken by the government and compensation will be given to the land owner and the land will be retribution/distributed to other communities in accordance with applicable laws and regulations. The Land Office may reject an application for transfer of rights to agricultural land on the grounds that the buyer is not domiciled in the same sub-district as the location of the object of the auction (agricultural land).

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