

REGISTRATION OF SULTANATE AND DUCHY LAND IN YOGYAKARTA POST YOGYAKARTA SPECIAL REGION PRIVILEGES LAW

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Abstract: Law No. 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta, stipulates the Ngayogyakarta Sultanate and the Pakualaman Kadipaten as special legal entities and subject to ownership rights to the Sultan grond and Pakualaman grond which includes Keprabon grond and dede Keprabon grond. Describe the land registration of the Sultanate and Kadipaten in Yogyakarta after Law No. 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta and describe the legal certainty of ownership rights certificates on behalf of the Sultanate and Kadipaten based on the UUPA. The research method is normative juridical with data collection using documents and literature studies based on applicable laws and regulations. As a result, for the first time, ownership rights over the Sultanate were granted to the Sultan grond and on behalf of the Kadipaten for Kadipaten grond as a special legal entity that can own land by registering land with the National Land Agency. Legal certainty that certificates of ownership rights in the name of the Sultanate and Kadipaten based on the UUPA have the same legal force as the building rights of other parties issued by the UUPA.

Keywords: Kadipaten Grond; Land Registration; Law No. 13 of 2012; Sultan Grond; UUPA.

I. INTRODUCTION

Article 33, paragraph 3, of the 1945 Constitution of the Republic of Indonesia states that the land and water and the natural resources contained therein shall be controlled by the state and shall be used for the greatest prosperity of the people. This article of the State Constitution became one of the legal bases for the enactment of Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles (hereinafter UUPA).

In order to provide assurance of legal certainty regarding land rights, the government shall conduct land registration throughout the territory of the Republic of Indonesia in accordance with the provisions regulated by government regulation. The registration will be carried out keeping in mind the interests and circumstances of the country and society, the needs of socio-economic traffic, and the possibilities in the field of personnel and equipment. Therefore, it will gradually increase to a cadastre covering the entire territory of the country.

The implementation of land registration according to Government Regulation No. 24 of 1997 on Land Registration, Article 11, consists of land registration activities for the first time and the maintenance of land registration data. Land registration for the first time is carried out for land parcels that have not been attached to a type of land right, according to the UUPA. This activity is often also called opzet, or initial registration. As for land parcels that have registered a type of land right according to the UUPA, it is carried out with land registration data maintenance activities. This activity is carried out if there are changes in juridical data or changes in physical data due to legal actions or legal events or their recording.

The implementation of land registration is carried out by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, which covers all objects of land registration throughout the territory of the Unitary State of the Republic of Indonesia. Based on the data, the coverage of the first land registration, which has been carried out, reached 101.1 million parcels of land, or 80.25% nationally. 67.5% of them have been certified, or as many as 85 million fields; this is data until 2022. The Strategic Plan of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency for 2020-2024, in the Policy Direction and Strategy section, one of which is to accelerate the provision of complete Cadastral Field Maps throughout Indonesia by 2025. The goal is that all objects of land parcels in Indonesia have been completed land registration in accordance with the UUPA.

This unresolved land registration includes the Special Province of Yogyakarta (hereafter DIY). One of the issues relates to the existence of Sultan Grond and Kadipaten Grond. This is due to the dynamics of privilege in the land arrangements applicable in Yogyakarta, which relate to the still recognized institution of the Yogyakarta Palace in the ownership of Sultanate land and the Pakualaman Duchy, which owns Kadipaten land.

Formally, the full implementation of the UUPA in Yogyakarta occurred in 1983. With the enactment of Presidential Decree of the Republic of Indonesia No. 33 of 1984 concerning the full implementation of UUPA in the Province of Yogyakarta. Nevertheless, there are still obstacles that prevent the land registration of Sultan Grond and Kadipaten Grond from being fully completed.

The implementation of Law No. 13 of 2012 on the Privileges of the Special Region of Yogyakarta (hereinafter referred to as the DIY Privileges Law), one of which is the Special Region Regulation (Perdais) No. 1 of 2017 on the Management and Utilization of Sultanate and Duchy Land in Perdais DIY No. 1 of 2017 Article 6, the Sultanate and Duchy Land are

explained in accordance with the DIY Privileges Law, Article 32 paragraph (3). The object of land registration, which is the Sultanate and Duchy Land, includes Keprabon land and non-Prabon land (dede). The Yogyakarta Palace and Pakualaman Duchy administer their lands with Serat Kekancingan. In accordance with Perdais No. 1 of 2017 Article 1 Point 3, Serat Kekancingan is a decree on the granting of land rights from the Sultanate or Duchy to the community or institution that is given for a certain period of time and can be extended or renewed. Types of Serat Kekancingan include Hak Magersari, Hak Ngindung, Hak Anggaggo, and Hak Anggaduh.

The implementation of the Yogyakarta Specialty Law by the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency then stipulates the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the Land Agency No. 2 of 2022 on Land Registration of Sultanates and Duchies in the Special Region of Yogyakarta. This regulation covers, among other things, the first-time registration, encumbrance, and transfer of Sultanate and Duchy Land.

According to the DIY Privileges Law and the Ministerial Regulation, there is a special and specific nature to the implementation of land registration in Sultanate and Duchy Land. This is due to the specialty in land arrangements in DIY Province. Based on the UUPA, how is the legal certainty with the granting of the issuance of building rights on Sultanate land and Duchy land, given the nature of the privilege?

Based on the UUPA, in the elucidation section at number IV, it is explained that efforts towards legal certainty are contained in Article 23, which states that the transfer of building rights, the abolition of rights, and encumbrance with other rights must be registered. In addition, it is stated that registration is a strong means of proof regarding the abolition of building rights and the validity of the transfer and encumbrance of building rights, as stipulated in UUPA Article 38.

Government Regulation No. 24 of 1997 on Land Registration, Article 3, states that one of the objectives of land registration is to provide legal certainty and legal protection to holders of rights to a parcel of land, apartment units, and other registered rights so that they can easily prove themselves as holders of the rights concerned.

In connection with these descriptions, the author conducts research to find out how land registration of Sultanate and Duchy Lands in the Special Region of Yogyakarta Province changed after Law No. 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta and the legal certainty of building rights certificates on behalf of the Sultanate and Duchy based on the UUPA.

II. RESEARCH METHOD

The research method used in this study is normative-juridical. Therefore, this research aims to describe the land registration of Sultanate and Duchy land in Yogyakarta Special Region Province after the DIY Privileges Law and the legal certainty of building rights certificates on behalf of the Sultanate and Duchy based on the UUPA. Data collection techniques using document and literature studies of the type of data used through literature studies.

This research uses secondary data related to the problems studied and literature related to the problems studied. The type of legal material used in this research is based on secondary data from literature studies, which are data obtained from literature searches.

III. DISCUSSION

1. Land Registration with Legal Certainty

In UUPA Article 19 paragraph (a), it is stated that to ensure legal certainty, the government conducts land registration, including:¹

- a. Land measurement, mapping and bookkeeping;
- b. Registration of land rights and the transfer of such rights; and
- c. Provision of letters of evidence of rights, which serve as strong evidentiary instruments.

The affirmation of legal certainty in land registration, the Elucidation of the UUPA Part A number IV, elaborates among other things:²

- a. Land registration that is “*rechts-cadaster*” in nature, meaning that it aims to ensure legal certainty. So that what is carried out is not a fiscal cadaster, which is only for taxation and does not guarantee legal certainty;
- b. It will be organized keeping in mind the interests and conditions of the State and society, the needs of socio-economic traffic and the possibilities in the field of personnel and equipment. For this reason, it will be organized first in the cities, gradually increasing to a cadastre covering the entire territory of the State. This means that land registration will be carried out in stages based on the capacity of the Government, starting with the municipalities first and then covering the entire territory of the Unitary State of the Republic of Indonesia; and
- c. Land Registration is an obligation of the right holder concerned, in order to obtain certainty about their rights.

Government Regulation No. 24 of 1997 on Land Registration, in the dictum, emphasizes the existence of legal certainty in the land sector, as follows:³

- a. Whereas the enhancement of sustainable national development requires the support of legal certainty in the land sector; and
- b. That land registration, the implementation of which is assigned to the government by the UUPA, is a means of providing the intended legal certainty.

Furthermore, the implementation of land registration in all regions of Indonesia basically aims to, among others:⁴

- a. To provide legal certainty and legal protection to holders of rights to a parcel of land, a flat unit and other registered rights so that they can easily prove themselves as the holder of the rights concerned (note Article 19 of the UUPA);
- b. To provide information to interested parties, including the Government, so that they can easily obtain the necessary data in conducting legal actions regarding registered land parcels and units of flats; and
- c. In order to implement orderly land administration, the relevant land rights holder is given a land rights certificate (Article 4), while to carry out the information function, data relating to the physical and juridical aspects of the registered land parcels are open to the public. In terms of achieving the goal of orderly land administration,

¹ Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles, Article 19 paragraph (a).

² *Ibid.*, Part A number IV.

³ Government Regulation No. 24 of 1997 on Land Registration.

⁴ I. Ketut Oka Setiawan, *Hukum Pendaftaran Tanah dan Hak Tanggungan* (Jakarta: Sinar Grafika, 2019), hlm. 18.

every parcel or flat unit, including the transfer, encumbrance, and extinguishment of land rights and ownership rights over flat units, must be registered.

2. Principles of Land Registration

In accordance with Government Regulation No. 24 of 1997 on Land Registration, Article 2, it is stated that land registration is carried out based on the principles of being simple, safe, affordable, up-to-date, and open. The description is as follows:⁵

- a. The principle of simplicity in land registration is intended so that the main provisions and procedures can be easily understood by interested parties, especially holders of land rights;
- b. The principle of security is intended to show that land registration needs to be carried out thoroughly and carefully so that the results can provide a guarantee of legal certainty in accordance with the purpose of land registration itself;
- c. The principle of affordability is intended to be affordable for those who need it, especially by taking into account the needs and abilities of the economically weak. Services provided in the context of organizing land registration must be affordable to the parties in need; and
- d. The principle of being up-to-date means adequate completeness in implementation and continuity in data maintenance. The available data must show the current state of affairs. For this reason, it is necessary to follow the obligation to register and record changes that occur in the future. The up-to-date principle demands the maintenance of land registration data continuously and continuously, so that the data stored at the Land Office is always in accordance with the real situation in the field, and the public can obtain information about the correct data at any time. For this reason, the open principle is also applied.

3. Land Registration Organizer

In connection with the provisions of Article 19 paragraph (1) of the UUPA, which states that in order to ensure legal certainty, the government shall conduct land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by government regulations.⁶

Based on Article 5 of Government Regulation No. 24 of 1997, the government in question is the National Land Agency (BPN).⁷ The current nomenclature of BPN is the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, in accordance with Presidential Regulation No. 47 of 2020 on the Ministry of Agrarian Affairs and Spatial Planning and Presidential Regulation No. 48/2020 on the National Land Agency.

Furthermore, in accordance with Government Regulation No. 24 of 1997 concerning Land Registration, Article 6 states that land registration is organized by the National Land Agency. In the context of organizing land registration as intended, the task of implementing land registration is carried out by the Head of the Land Office, except for certain activities which are assigned to other officials by this Government Regulation or the relevant legislation.⁸ In carrying out land registration, the Head of the Land Office is assisted by PPAT and other Officials assigned to carry out certain activities according to this Government Regulation and the relevant laws and regulations.

⁵ Mutiarany Mutiarany dan Dea Perdana, "Program Pendaftaran Tanah Secara Sistematis dan Lengkap (PTSL) di Jakarta," *Begawan Abioso* 13, no. 1 (2022): hlm. 16, <https://doi.org/10.37893/abioso.v13i1.29>.

⁶ Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles, Article 19 paragraph (1).

⁷ I. Ketut Oka Setiawan, *Op.cit.*, hlm. 23.

⁸ Government Regulation No. 24 of 1997 on Land Registration, Article 6.

The definition of a Land Deed Official (PPAT) in accordance with Government Regulation No. 24 of 1997 concerning Land Registration, in Article 1 point 24, is a public official who is authorized to make certain land deeds. Meanwhile, based on Government Regulation No. 37 of 1998 concerning the Regulation of the Position of Land Deed Official, in Article 1 paragraph (1), the definition of Land Deed Official,⁹ PPAT, hereinafter referred to as PPAT, is a public official who is authorized to make authentic deeds regarding certain legal acts concerning Land Rights or Building rights Over Flat Units. According to Boedi Harsono, the essence of the position of PPAT is:¹⁰

- a. PPAT is a public official who is given special duties and authority to provide services to the public in the form of making deeds proving that legal actions have been carried out in front of him/her for the transfer of Land Rights, Building rights over Flat Housing Units or the granting of Mortgage Rights over land;
- b. The deed he makes is an authentic deed, which only he is entitled to make;
- c. PPAT is a State Administrative Official, because of its duties in the field of organizing land registration, which is an activity in the Executive/State Administration field;
- d. A PPAT deed is not a decree of a State Administrative Officer, because a deed is a *relaas*, namely a written report from the deed maker in the form of a statement regarding the performance by certain parties of a legal act in his presence at a time mentioned in the deed concerned; and
- e. A PPAT's decision as a State Administrative Officer is a decision to reject or grant the request of parties who come to him to make a deed regarding the legal actions they will carry out in front of him. Making a decision to reject or grant the application is an obligation of the PPAT. In the event that the conditions are met, he is obliged to grant the application. Conversely, in the event that a condition is not met, he is obliged to reject it.

That in order to realize land registration in all regions of the Republic of Indonesia, survey, measurement and mapping activities have been accelerated, involving private surveyors. The main provisions are regulated in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia No. 9 of 2021 concerning Licensed Surveyors. The definition of a Licensed Surveyor in accordance with Article 1 No. 3, is a person who has expertise and/or skills in the field of Surveying and Mapping who is appointed and dismissed by the minister.

4. Land Registration System and Publication System

There are basically two kinds of land registration systems, namely registration of deeds and registration of titles.¹¹

The land registration system used in accordance with Government Regulation No. 24 of 1997 concerning Land Registration is the registration of titles system, not the deed registration system. According to Ahmad Setiawan, a comparison of the negative and positive publication systems as presented in table 1 below:¹²

Table 1. Comparison of Negative and Positive Publication Systems

Difference	Negative Publication System	Positive Publication System
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⁹ Government Regulation No. 37 of 1998 on the Regulation of the Position of Land Deed Officials, Article 1 paragraph (1).

¹⁰ Boedi Harsono, *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya* (Jakarta: Universitas Trisakti, 2016), hlm. 485.

¹¹ *Ibid.*, hlm. 76.

¹² Ahmad Setiawan, *Hukum Pertanahan* (Yogyakarta: LaksBang Pressindo, 2019), hlm. 314.

Types of land registration systems	Deed registration	Registration of titles
Nature of land certificates and books	As strong evidence	As an absolute proof
State guarantee of physical and juridical data	The state does not guarantee that the physical data and juridical data in the certificate are correct, as long as it is not proven by correct evidence, changes can be made based on a court decision.	Against the data in the certificate, the state guarantees that the physical data and juridical data in the certificate are correct, inviolable, and provide absolute confidence in the land book.
Pros	Any party aggrieved by the issuance of a certificate may file an objection with the land registry to cancel the certificate.	1) Third parties who acquire land in good faith get absolute legal protection (<i>indefeasible</i>); and 2) Other parties who are aggrieved by the issuance of land certificates receive compensation from the state in other forms.

The publicity system used in registration is negative, but it is not a pure negative publicity. But the implementation is carried out carefully, so that it contains positive elements. This was explained by Boedi Harsono:¹³

- a. The publication system used remains as in land registration according to Government Regulation No. 10 of 1961. That is, a negative system that contains positive elements, because it will produce letters of evidence of rights that serve as strong evidentiary instruments, as stated in Article 19 paragraph (2) letter c, Article 23 paragraph (2), Article 32 paragraph (2) and Article 38 paragraph (2) of the UUPA. Not a pure negative publication system. A purely negative publication system would not use the rights registration system. There would also be no statement, as in the aforementioned articles of the UUPA, that certificates are strong evidence; and
- b. As we will see in the provisions governing the procedures for collecting and presenting the necessary physical and juridical data, as well as maintaining them and issuing the title certificates, although the publication system is negative, the activities concerned are carefully carried out so that the data presented can be accounted for as far as possible.

The use of negative but positive publication is in accordance with Government Regulation No. 24 of 1997 on Land Registration, in the explanation section of Article 32 paragraph (2), which explains that:¹⁴

- a. Land registration, the implementation of which is mandated by the UUPA, does not use a positive publication system, in which the correctness of the data presented is guaranteed by the state, but uses a negative publication system;
- b. In a negative publication system, the State does not guarantee the accuracy of the data presented. However, it is not intended to use a purely negative publication system. This is evident from the statement in Article 19 paragraph (2) letter c of the UUPA, that the issued certificate of right shall serve as strong evidence and in Articles 23,

¹³ Boedi Harsono, *Op.cit.*, hlm. 476.

¹⁴ Government Regulation No. 24 of 1997 on Land Registration, Article 32 paragraph (2).

32, and 38 of the UUPA that the registration of various legal events is a strong means of proof; and

- c. In addition, from the provisions concerning the procedures for collecting, processing, storing and presenting physical and juridical data and issuing certificates in this government regulation, it is clear that the effort is to obtain and present correct data as far as possible, because land registration is to ensure legal certainty.

According to I Gusti Nyoman Guntur regarding the system of using this publication system:¹⁵

- a. The UUPA did not choose a positive system because this system requires a lot of time, energy, and money to implement. UUPA also does not use a purely negative system, as this provides less assurance of legal certainty; and
- b. Indonesia currently uses a negative system with a positive tendency based on Government Regulation No. 24 of 1997, meaning that the weaknesses of the negative system are reduced in such a way that legal certainty can be achieved.

5. Conversion of Rights

UUPA mandates the disappearance of the dualistic nature of national agrarian law, by eliminating the distinction between customary law and western law in the field of agrarian law, which prevailed before UUPA. For this reason, all old rights derived from customary law, western law and swapraja were converted into one new right according to UUPA. This resulted in the simplification and unity of national agrarian law, which is part of the purpose of land registration under UUPA with legal certainty.

The definition of conversion of land rights is a change in land rights in connection with the enactment of the UUPA. Land rights that existed prior to the enactment of the UUPA are converted into land rights stipulated in the UUPA, Article 16.¹⁶

6. Land Registration of Sultanate and Duchy Lands after Law No. 13 of 2012

A comparison of land registration carried out before and after the DIY Privileges Law is presented in a brief analysis in tables 2 to 6 below.

Table 2. Comparison of Subjects of Land Rights Before and After the DIY Privileges Law

Before the DIY Privileges Act	Post DIY Privileges Law	Land Registration
Sultanates and Duchies are not subjects of land rights as in UUPA.	Sultanates and Duchies are subjects of land rights as special legal entities established by law and can have building rights over Sultanate and Duchy land (Article 32 paragraph (1), paragraph (2) and paragraph (3)).	Fulfills the provisions as the subject of building rights as a legal entity in accordance with UUPA Article 21 paragraph (2).

That based on the status of the subject, land registration is carried out using the provisions of the Sultanate and Duchy as the subject of building rights in the form of a legal entity in accordance with the UUPA.

¹⁵ I. Gusti Nyoman Guntur, *Pendaftaran Tanah; I-IX MKK-3/3 SKS* (Yogyakarta: Sekolah Tinggi Pertanahan Nasional, 2014), hlm. 45.

¹⁶ F. Sihombing, *Konversi Hak-Hak Atas Tanah Barat dan Hak-Hak Tanah Adat Menjadi Hak Atas Tanah Menurut Hukum Agraria Nasional (UUPA No. 5 Tahun 1960)* (Tangerang: Graha Bhakti Setia, 2015), hlm. 30.

Table 3. Comparison of Land Rights Objects Before and After the DIY Privileges Law

Before the DIY Privileges Act	Post DIY Privileges Law	Land Registration
Sultanate and Duchy lands are recognized by the community. However, the position and location of these lands have not been explicitly and clearly stated.	Sultanate and Duchy land includes Keprabon land and non-Prabon land located in all districts/cities in the DIY region (Article 32 paragraph (4)).	Land whose existence is clear is the object of land registration, which is carried out at the stages of measurement, mapping and land bookkeeping. (UUPA Article 19 paragraph (2) letter a).

Sultanate land that used to be the territory of the Kingdom of Yogyakarta (dating back to the Giyanti Agreement, 1755),¹⁷ The area is estimated to be 305,655 hectares. Based on the identification/inventory report conducted by the National Land Agency and the DIY Provincial Government, the Sultanate and Duchy land in DIY Province covers 19,442 hectares or only 6.4% of the original area.

Based on the DIY Privileges Law, the objects that are Sultanate and Duchy Land, Keprabon land, have been listed. The details are elaborated in the Special Regional Regulation No. 1 of 2017. Most of it is used for public and social facilities, such as squares, markets, monuments, cemeteries, mosques and the like. Some are used for government offices such as the DIY Governor's office complex, official residence and the like. A small portion is used for symbols of the Sultanate of Yogyakarta and the Pakualaman Duchy.

Table 4. Comparison of the Implementation of First Time Land Registration Before and After the DIY Privileges Law

Before the DIY Privileges Act	Post DIY Privileges Law	Land Registration
Sultanate and Duchy lands are constrained for land registration under the UUPA.	Building rights over Sultanate and Duchy lands are registered with a land institution in accordance with statutory provisions (Article 33 paragraphs (1) and (2)).	To ensure legal certainty, the Government shall conduct land registration throughout the territory of the Republic of Indonesia in accordance with the provisions regulated by Government Regulation (UUPA Article 19 paragraph (1)).

Land Registration of Sultanate and Duchy Land is carried out by conversion to building rights. The subject meets the requirements in accordance with the UUPA and the object of the land plot is clearly known to exist in the field, so it is continued with the stages of land registration following UUPA Article 19. The stages of implementation are in accordance with Government Regulation No. 24 of 1997 concerning Land Registration Article 12, namely collecting and processing physical data, proving rights and bookkeeping, issuing certificates, presenting physical data and juridical data and keeping public registers and documents.

¹⁷ Kus Sri Antoro, "Analisis Kritis Substansi dan Implementasi Undang-Undang Nomor 13 Tahun 2012 tentang Keistimewaan Daerah Istimewa Yogyakarta Dalam Bidang Pertanahan," *BHUMI: Jurnal Agraria dan Pertanahan* 1, no. 1 (2015): hlm. 18, <https://doi.org/10.31292/jb.v1i1.38>.

The end result is a certificate of ownership in the name of the Sultanate of Yogyakarta for Sultanate land and in the name of the Duchy of Pakualaman for Duchy land. The application to the National Land Agency was made by the Yogyakarta Provincial Spatial Planning Office and the one who received the certificate was also the Yogyakarta Provincial Spatial Planning Office, acting on behalf of the Sultanate and the Duchy.

Table 5. Comparison of the Implementation of Data Maintenance Land Registration Before and After the DIY Privileges Law

Before the DIY Privileges Act	Post DIY Privileges Law	Land Registration
Sultanate and Duchy lands are constrained to be registered under the UUPA. The Keprabon dede land was registered using <i>Serat Kekancingan</i> by granting <i>Hak Magersari, Hak Ngindung, Hak Anggaggo, and Hak Anggaduh</i>.	Registration of Sultanate and Duchy land carried out by other parties must obtain written approval from the Sultanate for Sultanate land and written approval from the Duchy for Duchy land (Article 33 paragraph (3)).	a. can be transferred and assigned to other parties (UUPA Article 20 paragraph (2)); b. A property rights, as well as any transfer, extinguishment and encumbering with other rights, must be registered (UUPA Article 23 paragraph (1)); c. Property rights can be used as collateral for debt by encumbering it with a mortgage rights (UUPA Article 25); and d. A property rights can be nullified if the land falls to the State or is destroyed (UUPA Article 27).

Table 6. Comparison of the Issuance of HP and HGB on HM Sultanate and Duchy Land Before and After the DIY Privileges Law

Before the DIY Privileges Act	Post DIY Privileges Law	Land Registration
Given that certificates have not yet been issued in the name of the Sultanate or Duchy, the issuance of HP on Sultanate and Duchy land is recorded on State land. The issuance of HGB on Sultanate and Duchy land is recorded on generally on Yogyakarta Special Region Government land or on State land, some of which have <i>Serat Kekancingan</i> and some of which have not yet obtained <i>Serat Kekancingan</i> from the Sultanate or Duchy.	a. Registration of Sultanate and Duchy land carried out by other parties must obtain written approval from the Sultanate for Sultanate land and written approval from the Duchy for Duchy land (Article 33(3)); and b. The management and utilization of Sultanate and Duchy Land by other parties must obtain a Sultanate approval permit for Sultanate land and a Duchy approval permit for Duchy land (Article	a. Right of use on land belonging to another party, its use can be done through an agreement with the landowner; b. The right to use may be granted free of charge, with payment or the provision of services in any form and may not be accompanied by conditions containing elements of extortion (UUPA Article 41); c. Building rights is the right to construct and own buildings on land that is not one's own for a maximum period of 30 years (UUPA Article 35 paragraph (1)); d. Building rights can be transferred and assigned to other parties (UUPA Article

33 paragraph (4)).

- 35 paragraph (3));
- e. HGB subjects are Indonesian citizens (individuals) or legal entities established under Indonesian law. (UUPA Article 36 paragraph (1));
 - f. HGB on a property rights due to an agreement in an authentic form between the owner of the land concerned and the party who will obtain the HGB (UUPA Article 37 letter b);
 - g. HGB can be transferred and encumbered (UUPA Article 38 and Article 39); and
 - h. HGB can be nullified (UUPA Article 40).
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That specifically for Keprabon land that has been issued a property rights, there is no clear statement in the DIY Privileges Law as to what the arrangements are for the transfer, elimination and encumbrance of rights. Based on the UUPA, the rights and authorities are the same as those of other parties. However, for Keprabon land, it can be based on the DIY Privileges Law, Article 32 paragraph (5).

It is emphasized that the Sultanate and Duchy are authorized to manage and utilize Sultanate and Duchy Land for the maximum development of culture, social interests, and public welfare. If no clear and detailed arrangements are made, then this has the potential to become a problem in the future, for example if it will be used for commercial purposes or has economic value.

Based on this, it can be seen that prior to land registration with the Land Agency, the Sultanate and Duchy must conduct inventory, identification and verification. The goal is to ensure the existence of the land object, for example, to mark the stakes or designate the boundaries. This is a provision of land registration at the stage of physical data collection in accordance with Government Regulation No. 24 of 1997 concerning Land Registration.

In addition, in reality, the Sultanate and Duchy do not have complete files, as required by the requirements to register land with the National Land Agency. This is because the existence of Sultanate and Duchy land, especially the *dede* Keprabon, is based on the recognition of the people who use and utilize it. This phenomenon shows that the institutional legitimacy of the Sultanate and Duchy is strong. This is what makes the Special Region of Yogyakarta have a special authority that is not owned by former royal institutions. For example, in Surakarta, Deli, Cirebon, Pontianak and so on. In addition to the institution fading, and the land is also recognized by the community. So the land registration is done through the conversion of *swapraja* land.

For those who already have *Serat Kekancingan*, they will be able to speed up the completion of their files to be registered with the National Land Agency. But the number is also limited, given that there are no strict sanctions from the Sultanate and Duchy. On the other hand, it also takes a long time to complete the *Serat Kekancingan*. This is based on the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency No. 2 of 2020, while *Serat Palilah* is used, a kind of temporary letter. But the provision of *Serat Palilah* has not yet been regulated and explained in the *Perdais*, *Perda* or

Pergub in DIY Province. This *Serat Palilah* arrangement is in accordance with the principle of Land Registration in Government Regulation No. 24 of 1997 concerning Land Registration, namely the principle of simplicity. Where the community in carrying out land registration activities is carried out in such a way as not to complicate and strive to be as simple as possible.

Departing from this simple principle, in the future a more integrated arrangement is needed. For those who want to maintain data, the community must take care of *Serat Kekancingan* to the Kraton or Kadipaten, then to the PPAT Office to make a deed and then to the Land Office. This should be made possible by creating an integrated service or using an application. In addition, to obtain *Serat Kekancingan*, the process is tiered from the recommendation of the Village Government, continued to the Regency/City Government and finally from the Spatial Planning and Land Office of Yogyakarta Province. On the one hand, it is seen that the Sultanate and Duchy are far from feudalism, by not necessarily regulating their land ownership. By delegating the implementation of inventory, identification and verification to the Government. But on the other hand, the process became quite long and time-consuming. Finally, it is not in accordance with the principle of simple land registration. Therefore, a better solution is needed.

Another issue is the imposition of the Transfer of Land and Building Rights Tax (BPHATB). Given that the granting of rights over rights is the object of BPHATB. It is necessary to regulate the relief or exemption of BPHATB, at least for the first time, which is conditional according to the applicant and situational by looking at the existence of the land. This is in accordance with the principle of land registration, namely affordable. Where the community in conducting land registration has the affordability of the costs that must be incurred for the State. Financing for the issuance of building rights to Sultanate and Duchy land in accordance with the DIY Privileges Law is borne by the State, which is part of the Yogyakarta Special Fund. Financing to the National Land Agency uses the same Non-Tax State Revenue (PNBP) pattern as other applicants. This is for fields completed by sporadic land registration. But there are some locations that are determined to be systematic land registration activities, so the implementation of physical data collection is carried out with systematic land registration financing. Although this incident is not, likely to be in Gunung Kidul District.

Land rights certificates in Indonesia are regulated by the National Land Agency, which considers spatial aspects and resolves land issues in accordance with provisions from other parties. Dispute handling can be done through mediation or court proceedings if a case arises. However, there is no regulation for Sultanate and Duchy Land, such as *wedi kengser*, *oro-oro*, and *gisik pasir*, which may be considered restricted areas and prevent the issue of land title certificates.

The DIY Privileges Law strengthens the legitimacy of Sultanate and Duchy land, encouraging faster land registration throughout Indonesia. Pre-land registration involves inventory, identification, and verification, followed by conversion. The recording process for Sultanate land or Duchy land that has been issued a right of use on behalf of another party is different from other parties, as it records the grant of rights on the Sultanate's or Duchy's land.

For Building Rights Titles granted on the land of the Yogyakarta Special Region Government, adjustments are made to state that the right is granted on the building rights of Sultanate land or Duchy land. This is part of the land privileges of the Special Region of Yogyakarta.

There is currently no regulation for land registration for Keprabon land, which includes the transfer of rights and encumbrance of rights. In contrast, other parties have provisions governing building rights. Future arrangements may need to be made in response to

developments, such as the conflict over the Surakarta Palace complex. If one party recognizes the Sultanate as legitimate and wants a transfer of rights, while others have the right to inherit the Sultanate, a firm regulation may be needed.

7. Legal Certainty of Sultanate and Duchy Land in Accordance with UUPA

During the feudal Sultanate and Kadipaten era, all land belonged to the king, with only limited rights for use (*lungguh*) and taxation. The tax system was managed by palace relatives, who imposed tribute on landowners to generate revenue for the kingdom. This led to suffering for the people, making it impossible to own land. The legal certainty was feudalism, according to the ruler. From 1918 to 1925, the Sultanate and Duchy issued *Rijksblad*, a land reform in the Sultanate of Yogyakarta and Duchy, allowing those subject to Western law to own land with Western rights, such as *eigendom*, *erpacht*, and *opstal*. This period was also known as “*obedience*” and “*kebekelan*.”¹⁸

Unlike other regions, the western rights in Yogyakarta were obtained based on agreements or bonds with the Sultanate and Duchy. This has recently led to a debate on the termination of western rights. Whether they were settled as state land or returned to the Sultanate and Duchy, given the existence of these institutions.

In this period in the Kotapraja (Yogyakarta) by the Sultanate there were already given *andarbe* rights, this is a kind of property right that is only given to indigenous people and generally still royal relatives or people who are meritorious and have a connection with the Sultanate and Duchy environment. The existing legal certainty is of course according to the provisions of the Sultanate and Duchy. After the enactment of UUPA, this right was converted into building rights like UUPA. So that after the DIY Privileges Law, the legal certainty of this land has not changed.

This period also saw the abolition of the “*obedience*” and “*kebekelan*” systems, with the establishment of village organizations. The Sultanate and Duchy then authorized the regulation and registration of land in their village areas, known as *Hak Anggaduh*. This was followed by the hereditary *Hak Anggado*, which could be inherited and could not be taken back by the Sultanate and Duchy, except by compensation. In the period of the 1954 Regional Regulation, with the autonomous authority of the Special Regional Government, this right was granted building rights and given ownership marks. The form of ownership was still simple, such as a list or table. Thus, people who previously only had the right of use, changed to the right of ownership of land. After the issuance of Presidential Decree of the Republic of Indonesia No. 33 of 1984 concerning the Full Implementation of UUPA in the Province of Yogyakarta, this right was converted into a property right like UUPA. So that after the DIY Privileges Law, the legal certainty of this land has not changed.

The regulation of *Hak Anggaduh*, which governs the existence of village land in Yogyakarta, is a continuation of the regulations issued during the Sultanate and Duchy *Rijksblad* period. These provisions can be maintained for a long time, especially considering their historical relevance to the current democratic era. Legal certainty for village land follows the user, with *Serat Kekancingan* providing institutional provisions.

According to Governor Regulation No. 38 of 2019, villages must register Sultanate or Duchy land as village land, based on building rights and land rights. Before the DIY Privileges Law, legal certainty for existing land followed *Serat Kekancingan* provisions. However, older people often feel apprehension towards the Sultan due to this.

¹⁸ Dian Agung Wicaksono, Ananda Prima Yurista, dan Almonika Cindy Fatika Sari, “Kompatibilitas Pengaturan Pendaftaran Tanah Terhadap Kompleksitas Keadaan Hukum Tanah Kasultanan dan Tanah Kadipaten,” *BHUMI: Jurnal Agraria dan Pertanahan* 6, no. 2 (2020): hlm. 176, <https://doi.org/10.31292/bhumi.v6i2.411>.

There is also a difference in views among young people or migrants who are unaware of Sultanate land or Kadipaten land. If a problem arises, it is part of a land issue whose object is Sultanate land or Duchy land. The resolution of these problems involves the inventory, identification, and verification team, which matches the existing map of the Sultanate or Duchy and verifies the administration in the Village Government.

Currently, the handling of Sultanate and Duchy archives is done in cooperation with the National Archives Agency, while the administration carried out by the Village Government is relatively well done using the ledger system. Legal certainty depends on the team's settlement with the community that has the problem. If a land title certificate is issued, the settlement involves the National Land Agency, and other landowners with land titles have land problems. When dealing with land issues, the Sultanate or Duchy is facilitated by the Yogyakarta Special Region Government, represented by the Yogyakarta Special Region Government Legal Bureau.

The Sultanate and Duchy require recognition and legal certainty of building rights over their land, which is regulated through regulations by the Central Government, Provincial Government, City District Government, and Village Government. This legal certainty has changed over time, from the period of "*kebekelan*" to the enactment of the Presidential Decree on the full implementation of the Universal Property Law (UUPA) in DIY Province.

The granting of building rights to Sultanate and Duchy Land follows the provisions of the UUPA, and the same applies to other building rights. For those issued with Building Rights Title, the legal certainty is the same as that given to other parties. However, the settlement was quite long, with the Sultan of Yogyakarta playing a major role in the preparation of the UUPA.

The next Sultan, Sultan Hamengkubuwono IX, had the ability to include arrangements for Sultanate and Duchy Lands, which were considered more favorable by maintaining the territory of his former kingdom. However, this did not appear to be done for the Sultanate and Duchy Lands until the enactment of the DIY Privileges Law by Sultan Hamengkubuwono X.

The issuance of the Presidential Decree on the Full Implementation of the UUPA in the Province of Yogyakarta seems to be a top-down policy, but it all started with Yogyakarta. In reality, the UUPA has not yet been fully implemented in Yogyakarta, and there are no exceptions to the implementation included in the law.

The legal certainty of the Sultanate's and Duchy's land in the Special Region Province was not yet complete until the DIY Privileges Law was enacted. It emphasized the subject of building rights as a special legal entity, and the long and time-consuming settlement seems to be in accordance with the Javanese culture that still prevails in DIY Province.

There are still other things that must be regulated more fully, such as establishing land regulations for legal certainty, especially on the *dede* Keprabon land. Building rights in the name of the Sultanate and Duchy land belong to the institutional legal entity of the Sultanate or Duchy, not the personal property of the incumbent Sultan or the incumbent Pakualaman.

IV. CONCLUSION

Land registration of Sultanate and Duchy Land in DIY Province after the DIY Privileges Law, for the first time given the Sultanate's Building rights for Sultanate Land and on behalf of the Duchy for Duchy Land as a special legal entity that can own land. Prior to land registration with the National Land Agency, an inventory of identification verification must be carried out by the Sultanate and Duchy covering Keprabon and deeding Keprabon land. Land registration for data maintenance on Sultanate and Duchy land is granted with the right of use or building rights according to the application, which is recorded as granting it on Sultanate land or Duchy land. For those that have been granted right to use or right to build

prior to the issuance of building rights Kesultanan or Kadipaten, data adjustments are made by recording in the land book.

The legal certainty of certificates of building rights in the name of the Sultanate and Duchy, based on UUPA, has the same legal force as other parties' building rights issued in accordance with UUPA. The issuance of right to use or right to build on the Sultanate's or Duchy's building rights can be transferred and encumbered according to the type of right and has the same legal force as right to use or right to build of other parties. For Keprabon land, further arrangements are needed for legal certainty in terms of transfer of rights, encumbrance, and elimination of building rights.

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