

Arrangement for Issuance of Certificate of Substitute of Land Rights

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ABSTRACT

The certificate is used as a valid and strong proof if there is a problem in the future. Problems are not just about land disputes, but problems such as certificates that have been issued are damaged due to not being cared for properly, the paper is damaged due to obsolescence, then natural disasters occur that sweep away or burn the certificate, and disappear due to theft or self-negligence. For that reason, the people whose certificates have been lost, damaged and so on are obliged to come to the office of the National Land Agency (BPN) to be given a certificate to replace the lost and damaged land rights. This research was conducted using empirical juridical methods that see a statutory regulation as a benchmark and see the facts and phenomena that occur in the field, especially in Merauke. Data is obtained later and processed with primary, secondary and tertiary legal materials. From the results of the research conducted it can be said that the arrangement of the issuance of replacement certificates is clear and well structured. Starting from the highest regulation to the lowest regulation.

ARTICEL INFO

Keywords:

Settings; Substitute
Certificate; Land
Rights.

How to cite:

Ardila, Y., Kalalo, J. J. J.
(2019). Arrangement for
Issuance of Certificate of
Substitute of Land Rights..
Musamus Law Review, 2
(1), 36-49

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1. INTRODUCTION

The Unitary State of the Republic of Indonesia is a law-based country and not based on power only.¹ Article 33 of the 1945 Constitution of the Republic of Indonesia provides an explanation that all kinds of natural wealth, including water, space and earth as well as all types stored therein, are gifts from the One God given to all the people of

¹ Andi Bau Inggit AR, A Pangerang Moenta, MARwati Riza, Hamzah Halim. (2017). Local Regulation Review in Realizes Legal Order of the Local Governance. *Journal of Law, Policy and Globalization*. Vol. 59: 214-219.

Indonesia, therefore all these natural resources must be used for none other than the interests of the Indonesian people.

When referring to the word earth as stated in the Article, it can be defined as land on the face of the earth which is used as a means to meet all human needs in order to carry out his life. Of course, because the earth is vast, it can be interpreted explicitly that the earth in question is the land of Indonesia.²

There is a word controlled by the State in the article, it can be explained that the State is not necessarily the owner but the State is the party that regulates and controls the use of land carried out by the owner of the land rights in the State of Indonesia whether it has been running as appropriate for the interests and prosperity its people. So that the owner of the land right does not commit an act that will later be detrimental, for example exploiting the land, damaging his land, and abandoning his land. As well as not being used as a tool to achieve unnatural profits from others. If each of the rights holders do the things mentioned above, then the ownership of the land can be revoked even if it is the right of ownership.³ The unitary state is divided into two forms: (1) a unitary state with a centralized system; (2) Unitary State with a decentralized system.⁴

Land is a source of human survival, and land can be used as land for livelihoods as a means of meeting basic human needs, it is based on that the benefits of land for humans are enormous. Humans and land can not be separated, because all kinds of human activities are carried out on the ground, therefore the two are closely related.⁵

Land is something that has a very important role in people's lives, because land is related to community survival. Not only as a place to live, but also can be a place for profit. Land has two functions, the first is that land is useful for media which can be used as a means of binding a social unity in all classes of the Indonesian people in life. This is the function of land as a social asset. Both lands also play a role as capital to build a business activity. This is the function of land as capital assets.⁶

For this reason, the government issued a regulation to accommodate this. It culminates in the 1945 Constitution Article 33 which then gives birth to a LoGA that regulates how to effectively land the land in Indonesia. Then PP 24 of 1997 concerning Land Registration was issued. Then came PMNA Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning

² Florianus SP. Sangsun. (2007). *Tata Cara Mengurus Sertipikat Tanah*. Jakarta: Visimedi. hal. 2

³ Kartasapoetra, G. (1991). *Hukum Tanah Jaminan UUPA bagi Keberhasilan Pendayagunaan Tanah*, cet. 2. Jakarta: PT.Rineka Cipta. pp. 9

⁴ Andi Bau Inggit AR. (2017). *Hakikat Pengujian Peraturan Daerah Dalam Mewujudkan Tertib Hukum Penyelenggaraan Pemerintahan Daerah*. Makassar: Disertasi Universitas Hasanuddin.

⁵ Sihan, M.P. (2003). *Bea Perolehan Hak Atas Tanah dan Bangunan Teori dan Praktek*, Jakarta : Raja Grafindo Persada. pp. 1

⁶ Julianto Jover Jotam Kalalo, 2013, *Jual Beli Atas Tanah Negara Yang dikuasi Pemerintah*, Makassar: Tesis Universitas Hasanuddin. pp. 6

Land and Civil Registration Number 1 of 2010 concerning Service Standards and Land Management.

Merauke Regency is one of the areas located in the eastern tip of Indonesia, the Papua province is one of the national food barns, where the commodity needed is rice in addition to paddy provided by the community such as meat, fish, and sago.⁷

With the issuance of the certificate, it can be used as a valid and strong evidence if a problem occurs in the future. Problems are not just about land disputes, but problems such as certificates that have been issued are damaged due to not being cared for properly, the paper is damaged due to obsolescence, then natural disasters occur that sweep away or burn the certificate, and disappear due to theft or self-negligence. For that reason, the people whose certificates have been lost, damaged and so on are obliged to come to the office of the National Land Agency (BPN) to be given a certificate to replace the lost and damaged land rights. Modern society is a society that has undergone a transformation of science and technology.⁸

However, to be able to apply for the issuance of a replacement certificate due to loss there are several conditions that must be met, including a letter of loss, a photocopy of an identity card, family card, a photocopy of the certificate and carrying a power of attorney if authorized and the applicant is required to fill out the application registration form.⁹

Meanwhile, to submit the issuance of a replacement certificate because it is damaged there are several conditions that must be met. Such as photocopies of identity cards, family cards, original certificates and carrying a power of attorney if authorized and the applicant is required to fill out the application registration form.¹⁰ Then for the management of the certificate to be renewed, it must meet the requirements such as a photocopy of identity card, family card, original certificate and bring a power of attorney if authorized and the applicant is required to fill out the application registration form.¹¹

⁷ Yuldiana Zesa Azis, Nasri Wijaya. (2019). Analysis of Socio-Juridical Participation of Sota Village Government in Increasing Income of Marind Kanum Indigenous People in Sota Merauke Village. *Musamus Law Review*, 1 (2), 115-126

⁸ Emi Handayani. (2019). Social Change of Traditional Communities in the Direction of Modernization in the Anthropological Approach to Law. *Musamus Law Review*, 1 (2), 95-104.

⁹Peraturan Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 1 Tahun 2010 Tentang Standar Pelayanan Dan Pengaturan Pertanahan

¹⁰*Ibid*

¹¹*Ibid*

Table 1 About the Substitute Certificate Data

YEAR	LOST	BROKEN	UPDATED	AMOUNT
2016	58	23	84	165
2017	45	16	12	73
2018	25	13	2	50
2019	6	1	0	7

Source: Processed Personal Data, February 20 2019

From the data available every year, there must be a proposal to issue a replacement certificate at the Merauke BPN, although in an uncertain amount. From this it appears that the community is still less aware of the importance of a replacement certificate. The holder of a replacement certificate issued by BPN must be given protection and certainty so that the public understands and does not dispute the validity of the replacement certificate. Even though it has only happened once at the Merauke BPN, therefore, to prevent and anticipate this from happening again, there needs to be a form of legal protection for the holder of a replacement certificate.

There is one case where a mother of eight children has a piece of land with a certificate in her own name. After a few years, the certificate is unknown where it is. Then the first child took the initiative to ask the Merauke BPN to issue a replacement certificate. When the announcement was made, it turned out that the eighth child objected to this. The eighth child reasoned that the certificate had been given a grant from his mother to him a few years ago. This is in accordance with the obligation to protect its citizens. The state requires citizens to act from the elements of society who force the will to grab or force the release of someone on land that has legal certainty.¹²

2. METHOD

This research was conducted using empirical juridical methods that see a statutory regulation as a benchmark and see the facts and phenomena that occur in the field, especially in Merauke. The approach used in this study is the statute approach, which is research that focuses on the study of legislation related to the legal issues in this study. The source of legal research material consists of primary, secondary, and tertiary legal materials, to support the legal material data, there is also a process to collect the data from the interviewees. This research has the descriptive nature of analysis, which provides a description of the problems discussed in this study and analyzes the relevant legal regulations and is linked to the results of interviews conducted on the research object to provide answers to the problems formulated.

¹² Julianto Jover Jotam Kalalo. (2018). Politik Hukum Perlindungan Hak Ulayat Masyarakat Hukum Adat Di Daerah Perbatasan. Makassar: Disertasi Universitas Hasanuddin.

3. RESULTS AND DISCUSSION

3.1 Arrangement for Issuance of Substitute Certificates in Laws and Regulations

The law was created not only to regulate, but more than that to create prosperity and justice in society.¹³ To provide certainty and security regarding the issuance of certificates, the government has issued regulations that relate directly to the issuance of certificates. Starting from the 1945 Constitution of the Republic of Indonesia 33rd Article which explicitly states that all forms of natural wealth are controlled by the government which is used as well as possible for the prosperity of the people of Indonesia. Natural resources such as water, oil, including land that is a place to live and meet the needs of everyday human life.

In this Article it is very clear that land in Indonesia is controlled by the government but must be used as well as possible for the prosperity of the people of Indonesia. For this reason, the government then began to realize this meaning in the form of Law Number 5 of 1960 concerning Basic Arrangements of Agrarian Principles which clearly stipulates the issuance of land certificates and the issuance of replacement certificates. The function of law as a social control tool is to establish the behavior that is consistent to be from the rule of law.¹⁴

The aim is to provide certainty and guarantee to the community regarding matters that include land. Another objective is the LoGA to become the main basis or a strong foundation for drafting national agrarian law which is an embodiment of article 33 of the 1945 Constitution which states that natural resources are a tool for the government to prosper the Indonesian people. The government uses natural resources as well as possible so that the people can fulfill their living needs. As well as providing clear legal certainty for the community of their respective land rights.

In the case of land, the government guarantees protection for land ownership. Land is given to the community to be used either as a business land, residence or residence and so on. Then in order to avoid problems related to land ownership, the government in the LoGA provides certainty in the form of land certificates. So that every land that has been given, a certificate of land is made to avoid conflicts over land ownership. So, the existing land must be registered first so that a certificate is issued which is evidence of legal ownership of a piece of land.

This can be clearly seen in Law Number 5 of 1960 concerning Basic Arrangements of Agrarian Principles Article 19 concerning the purpose of land registration which provides legal certainty. In Article 1 above it is mentioned related to Government

¹³ Julianto Jover Jotam kalalo, et. All. (2018). Political Dichotomy of Indonesian Legislation Regulations with Local Law Customary Politics in the Border Area. *Advances in Social Science, Education and Humanities Research, volume 226*. 1st International Conference on Social Sciences (ICSS 2018): Atlantis Pers. pp. 1377-1383

¹⁴ Fitri Pratiwi Rasyid, Audina Mayasari Muin. (2019). Adjustment of the Foundation's Articles of Association Judging from the Law Enforcement Perspective. *Musamus Law Review, 1* (2), 73-86

Regulation Number 24 of 1997 Concerning Land Registration. Implementation of land registration that results in the issuance of certificates is further regulated in this Government Regulation. Article 3 states that land registration aims to provide legal certainty and legal protection to the holders of rights over an area of land. Legal certainty is then born and published certificates.

During life, humans sometimes cannot predict what will happen in the future. Disasters, disasters and unwanted things can happen to anyone and at any time. When these things occur losing valuable items will be unavoidable. Marriage certificates, birth certificates, securities including land certificates. The government has anticipated this by issuing a regulation on the issuance of replacement certificates in PP 24 of 1997 and Regulation of the Minister of Agrarian National Number 3 of 1997.

It can be seen in PP 24 Article 57 and PMNA Article 137 which contains clearly about the issuance of a replacement certificate, who is allowed to submit the issuance of a replacement certificate and others. Article 57 of Government Regulation Number 24 of 1997 reads as follows:

1. At the request of the right-holder, a new certificate is issued in lieu of a certificate that is damaged, lost, still uses a blank certificate that is no longer in use, or that has not been submitted to the auction buyer in an execution auction.
2. An application for a replacement certificate as referred to in paragraph (1) may only be submitted by the party whose name is listed as the right holder in the relevant land book or other party who is the recipient of the right based on the PPAT deed or quote minutes of auction as referred to in Article 37 and Article 41 , or deed as referred to Article 43 paragraph (1), or letter as referred to Article 53, or their proxies.
3. In the event that the right-holder or recipient of the rights as referred to in paragraph (2) has passed away, the application for a replacement certificate can be submitted by his heirs by submitting evidence as heir.
4. Replacement of certificates as referred to in paragraph (1) shall be recorded in the relevant land book.

Then in PMNA Number 3 of 1997 on Article 137 which regulates the procedure for issuing replacement certificates which are damaged, lost or renewed. From these rules, it is explained that in order to submit the issuance of a replacement certificate, he must come directly to the local Land Agency office. Article 137 reads as follows:

1. Application for the issuance of a replacement certificate because it is damaged or because it still uses the old certificate can be submitted by the parties concerned by attaching the certificate or the remaining certificate concerned
2. The certificate is considered damaged if there are parts that are not read or there is a page that is torn or detached, but there are still enough pieces of certificate to identify the certificate.
3. Issuance of certificates because they still use old blank certificates also includes the replacement of certificates of land rights in the context of renewal or amendment of rights using old certificates by crossing out the characteristics of

the old rights and replacing them with the characteristics of the new rights as referred to in Article 132 paragraph (3) .

This means that the issuance of a replacement certificate has a strong and clear legal basis. People who feel they have lost their certificates because of an accident, negligence, or even still have an old version of the certificate need not fear anymore to get a replacement certificate as a new certificate to replace damaged, lost or renewed ones.

When the legal basis is clear, the next problem is the task of the Merauke National Land Agency to inform the public about the procedures and process for the issuance of replacement certificates so that the public knows and understands what needs to be done to obtain a replacement certificate because until now there are still many people who are do not fully understand and understand the issuance of a replacement certificate.

According to the author, with the rules governing the requirements for the issuance of substitute certificates, it is clear that this is one of the protections provided by the government in this case BPN. The purpose of legal protection, as described by Setiono, says that legal protection is useful in protecting the public from those in power who do what they want. So, the community can take care and submit a request for the issuance of a replacement certificate provided that it has the required conditions. Therefore, if BPN unilaterally refuses to help the community to take care of and issue the surrogate certificate, this is an action that is not in accordance with the law.

3.2 Arrangements for the Issuance of Replacement Certificates based on the Republic of Indonesia's National Land Agency in Merauke Regency.

The regulation on the issuance of replacement certificates does not only reach PMNA, the National Land Agency also has more specific arrangements regarding the issue of issuance of replacement certificates. In 2010, the National Land Agency issued its own law, namely Regulation of the Head of the National Land Agency Number 1 of 2010 concerning Service Standards and Regulation of Land Affairs. The partnership is expected to be able to accommodate and respond to community needs related to the issuance of replacement certificates. If PP and PMNA talk about the issuance of a replacement certificate, then the civil servant will discuss and explain more about the procedures and procedures for the issuance of a replacement certificate. About the conditions that must be met when wanting to issue a replacement certificate. As stated, the issuance of a replacement certificate is based on 3 factors, namely damage, loss and renewal.

Arrangements issued by the National Land Agency contain more details and are clear about the issuance of a replacement certificate because it is damaged, lost and renewed and contains the requirements and procedures for applying for the issuance of a replacement certificate. In the Merauke National Land Agency, from the data entered as of the beginning of 2016 to the end of 2018, there have been 288 times the issuance of replacement certificates. With details 138 issuance of replacement certificates due to

loss, 52 issuance of replacement certificates due to damaged certificates and 98 issuance of replacement certificates on the grounds of renewal by the National Land Agency.¹⁵

Of the three types of issuance, the replacement certificates all have different requirements, time periods and procedures. For the issuance of a replacement certificate because it is lost takes up to 40 days. As for the issuance of a replacement certificate because it is damaged, it takes up to 19 days. Then for the issuance of a replacement certificate because it is renewed it usually takes some time. It takes 19 days related to the registration fee either for the issuance of a replacement certificate because it is damaged, lost or for renewal, which costs vary. The requirements can be clearly seen in the table below:

Table 2 Regarding Requirements for Issuing Certificates for Substitute Due to Lost

NO	REQUIREMENTS	TIME	COST
1	Fill in the Application Form	40 days	Rp.350.000,-
2	Power of Attorney (if authorized)		
3	Photocopy of KTP, KK & Power of Attorney (if authorized)		
4	Photocopy of Deed of Establishment and Ratification of a Legal Entity (if a Legal Entity)		
5	Copy of certificate (if any)		
6	Declaration Under Oath by the Holder of the Right / Eliminating		
7	Letter of Loss from the Local Police		

Source: Perkaban No. 1 of 2010 concerning Service Standards and Land Management.

Table 3 Regarding the Issuance of Replacement Certificates Due to Damage

NO	REQUIREMENTS	TIME	COST
1	The application form that has been filled out and signed by the applicant or his attorney on stamp duty is sufficient	19 days	Rp.150.000,-
2	Power of Attorney (if authorized)		
3	Copy of applicant's identity (KTP, KK) and power of attorney if authorized, which has been matched to the original by the ticket window clerk		
4	Copy of Deed of Establishment and Ratification of a Legal Entity that has been matched with the original by the ticket window clerk, for a legal entity		
5	Original certificate		

¹⁵Kkp.atrbpn.go.id (On-Line) accessed on 19 April 2019, 10.17 WIT

Source: Perkabab No. 1 of 2010 concerning Service Standards and Land Management

Table 4 Concerning the Issuance of Substitute Certificates for Renewal

NO	REQUIREMENTS	TIME	COST
1	The application form that has been filled out and signed by the applicant or his attorney on stamp duty is sufficient	19 days	Rp.150.000,-
2	Power of Attorney (if authorized)		
3	Copy of applicant's identity (KTP, KK) and power of attorney if authorized, which has been matched to the original by the ticket window clerk		
4	Copy of Deed of Establishment and Ratification of a Legal Entity that has been matched with the original by the ticket window clerk, for a legal entity		
5	Original certificate		

Source: Perkabab No. 1 of 2010 concerning Service Standards and Land Management

Of the three types of requirements for the issuance of a replacement certificate, it is recognized by the people who have made a request for the issuance of a replacement certificate that the application for the issuance of a replacement certificate due to loss is the most complicated and takes a long time. People often complain because meeting the requirements only takes a long time, plus the convoluted process of having to move counters and the announcement time of up to 40 days.

This was confirmed by the results of the interview stated by the applicant for the issuance of a replacement certificate because it was lost. A Mr. Bernama Suryadi with the location of the land in the Semangga District area talked about the complexity of the process from beginning to end. The first thing to do to make a request for the issuance of a replacement certificate is to come to the registration window to request the required documents that must be completed by the applicant. Then the applicant must pay the registration fee in accordance with the amount specified at the payment counter.¹⁶

After completing payment, the applicant must come back to the window to register his name and then enter the data entry made by the ticket window clerk. Applicants must wait for data entry for the issuance of Land Registration Certificate (SKPT). After the SKPT comes out, the next step is that the applicant must submit all the documents (except the lost letter) at the counter. At the same time filling in the registration form. At the counter, in addition to the submission of files, the BPN will provide a cover letter which will later be used and taken to the police station to make the minutes of

¹⁶Suryadi, Interview of the Substitute Certificate Holder, 11 April 2019, in Semangga

the loss. Then the applicant came back to BPN with the minutes of the loss that had been issued by the police. Then the BPN will issue an oath or promise with a stamp duty of 6,000 thousand rupiah. Then the applicant again fills in the registration certificate form as a replacement certificate because it is lost and submits it back with the requested documents then is put in a folder and then returned to the counter for reentry. Then the applicant returns to the payment counter.¹⁷

Shortly after making payment, the applicant must wait until the announcement letter is issued. The announcement letter given by BPN depends on the location of the land. If the location of the land owner is located in a rural area or village, then the announcement letter will be brought and given to the village head to be announced whether there will be an objection or not. As for applicants who live in urban areas, the announcement letter will be given to the newspaper to be announced in the newspapers. And given through radio media to be announced to the public so that if there are people who feel objectionable, they can submit objections. Regarding the cost of announcements in print or electronic media, the costs incurred are different from the registration fee for the issuance of a replacement certificate or in other words, the costs are borne by the applicant and the related media themselves. For example for announcements through newspapers, in Merauke the announcement costs around Rp.750.00. Whereas announcements through electronic media such as radio (RRI), in Merauke cost around Rp. 350,000 to Rp. 500,000. Different in other cities things in the village. If the announcement in the city requires a fee, then if the announcement is made in the head office with no charge.¹⁸

Now, if there is an objection, those who feel the objection can submit an objection to the BPN office so that the process of issuing the replacement certificate is stopped. if it is then to prove the truth about who has the certificate, then it will be determined by the authorized local District Court. After the applicant waits with a predetermined time limit of at least 30 days after the announcement, the next is the issuance of the minutes of the loss from the BPN stating that after the certificate was announced for 30 days apparently there was no objection. After the minutes of the loss were signed by the Head of Sub-Division of Administration as the first witness and as the second witness signed by the head of the Land Legal Relations Section (H2P) and by the head of the BPN office. After signing, the BPN certificate can be issued with a substitute certificate.¹⁹

However, usually before the issuance is re-checked, physical and juridical data is checked by the measurement team to take their coordinate points because the certificate is not plotting the land first. In Merauke BPN which represents the districts of Merauke, Mappi, Asmat and Boven, there will usually be obstacles if the applicant is

¹⁷Suryadi, Interview of the Substitute Certificate Holder, 11 April 2019, in Semangga

¹⁸Suryadi, Interview of the Substitute Certificate Holder, 11 April 2019, in Semangga

¹⁹Suryadi, Interview of the Substitute Certificate Holder, 11 April 2019, in Semangga

located far from the Merauke BPN. especially officers whose measurement is limited by human resources. This can take longer than expected.

The author also successfully interviewed the community who made a request for the issuance of a replacement certificate because it was damaged, namely Mr Kamiruddin with the location of the land in the Samkai area, Merauke District. In contrast to being lost, because it is damaged is not too complicated and takes not too long because in the conditions issued by the civilization it only takes a maximum of 19 days. However, what then becomes a problem as told by the petition is if the certificate is completely damaged so that it does not have the original certificate, while the requirements are clearly stated in the required certificate.²⁰

The process is not much different from the issuance of a replacement certificate because it is lost, it's just not necessary to take care of the letter of loss unless the damage to the certificate is so severe that it cannot be seen at all. The first thing an applicant must do is come to the counter at the BPN to ask for the requirements that must be brought and fill out the form provided at the BPN counter. Then the applicant is required to complete the entire file which is a requirement for registering a replacement certificate because it is damaged. After the applicant has completed the files, the applicant comes to pay the registration fee at the payment counter then returns to the registration counter to bring the file that has been entered into a folder to be submitted back to the counter for data entry by the system. After the data entry has been completed, a SKPT is published.²¹

After the issuance of the SKPT, the applicant is allowed to fill in the registration form, a replacement certificate because it is damaged. After completing the form, the applicant waits for the issuance of an announcement letter to announce that a replacement certificate will be issued. If the applicant is in the village area, an announcement letter will be given to the village head. However, if in urban areas, an announcement letter is given to the mass media to be announced as well as to the radio to be announced via broadcast.²²

If there are objections, it is expected to report and write to BPN so that the publishing process is stopped. if no one submits an objection within the allotted time, the process of issuing a replacement certificate is resumed. Usually after the party who feels the objection corresponds to the BPN, the BPN will reply to help the parties to settle in mediation.

Then after no one has raised an objection, it will be followed by taking a coordinate point at the location of the land, the issuance of a replacement certificate issued by BPN. However, usually before the issuance is re-checked, physical and juridical data is

²⁰Kamiruddin, Interview of the Holder of the Substitute Certificate, 18 April 2019, in Samkai

²¹Kamiruddin, Interview of the Holder of the Substitute Certificate, 18 April 2019, in Samkai

²²Kamiruddin, Interview of the Holder of the Substitute Certificate, 18 April 2019, in Samkai

checked by the measurement team to take their coordinate points because the certificate is not plotting the land first. The same obstacle occurs because the Merauke BPN still lacks manpower while the Merauke BPN coverage area covers 4 areas at once namely Merauke, Asmat, Boven Digoel and Mappi.²³

However, the next problem is if the applicant does not have the original certificate to be brought and completed as one of the requirements for the issuance of a replacement certificate due to damage, then the request for issuance of a replacement certificate due to damage will then be transferred as a request for the issuance of a replacement certificate due to loss. Finally, the process that was not too complicated and time-consuming turned into a time-consuming and complicated process.

Then for the issuance of a replacement certificate with the reason for renewal is not as complicated and does not take a long time with the issuance of a replacement certificate because it is lost. Table 4.3 clearly states the requirements and time determined by BPN. Even when compared to issuing replacement certificates because they are damaged, issuing replacement certificates for renewal takes time and goes through a faster process. This was well recognized by the applicant for the issuance of a replacement certificate for renewal. The process of issuing replacement certificates for renewal is not long and can be said to be fast. Not too much to move from one window to another. Even just a matter of days is ready. Not until it takes 19 days as stated in the requirements.

According to the Head of BPN, Mr. Juprianus Pala'biran, he acknowledged that the process of issuing replacement certificates because they were lost, damaged and renewed had their own level of complexity. But he said again that it was in accordance with the procedures set out by the rules issued by the government in this case Decree No. 1 of 2010. That is, the level of complexity to get a replacement certificate is in accordance with the value of the certificate itself is very valuable. For that it needs to be maintained and cared for properly. Moreover, the process of issuing a replacement certificate because it is lost, a loss letter must be attached to prove that it is true that the applicant has the certificate. as well as to prevent and anticipate things that are not desirable which constitute a crime and can harm others.²⁴

The author understands the public's complaints about the process of issuing a substitute certificate. However, the author agrees what was revealed by the Head of the Merauke BPN, Mr. Juprianus Pala'biran. That the legal basis is made as a protection to the people provided by the government. With so many requirements to the complexity of the process of issuing a replacement certificate runs so it is to prevent unscrupulous persons or parties who want to use certificates that are not their personal property. The law or the rule of law aims to provide certainty, fairness and expediency.

²³Aminah, Kasi BPN Merauke Interview, 9 April 2019, At the Merauke BPN Office

²⁴Juprianus Pala'biran, Kasi BPN Merauke Interview, 9 April 2019, At the Merauke BPN Office

With a clear and firm legal basis, it fulfills one of the objectives of the law itself, which is to provide benefits to the community.

4. CONCLUSION

The arrangement for the issuance of certificates to replace land rights used until now is in accordance with the laws and regulations of the National Land Agency. The arrangements are in accordance with the order of the laws and regulations starting from the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Regulations, Government Regulation Number 24 of 1997, Regulation of the Minister of National Agrarian Number 3 Year 1997, until Perkaban No. 1 of 2010. However, specifically for Papua province in particular the Merauke Regency there are additional rules related to additional requirements in issuing replacement certificates, namely the use of certificates of release of customary land from customary institutions in the regions.

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