GIRIK POSITION AS EVIDENCE OF OWNERSHIP OF LAND IN THE ASSET DISPUTE OF THE GOVERNMENT OF THE SPECIAL CAPITAL REGION OF JAKARTA

(Case Study of the Srengseng Kebon Bibit Land Assets Dispute, Kembangan District, West Jakarta)

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Prepared and compiled by:

Yulia Paramita

19/452928/PHK/10919

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Approved by:

Supervisor

(DR. Rikardo Simarmata, S.H)

STATEMENT

I with this serve as the student's thesis supervisor:

Name	: Yulia Paramita
NIM	: 19/452928/PHK/10919
study programme	: Master of Law, Jakarta Campus (Concentration of Litigation Law)

Agree/ ~~disagree~~* on the research summary script (prospective **Postgraduate Research Periodic**) prepared by the person concerned is published with/without* including the supervisor's name as *co-author*, for this to be further noted.

Yogyakarta, June 20th, 2022

Supervisor,

(DR. Rikardo Simarmata, S.H)

***)** cross the unnecessary ones

A. BACKGROUND

The regulation regarding land in Indonesia is called the Land Law. In Land Law, there are 2 (two) significant periods that affect Land Law in Indonesia, namely the period before the enactment of Land Law no. 5 of 1960 concerning Basic Agrarian Regulations (UUPA) and the period after the enactment of the UUPA.

In the period before the enactment of the UUPA, namely the period of the Dutch East Indies up to 1960, a land registration system with a *fiscalcadaster* system was applied which was carried out by reading the detailed measurement results in the form of area data and the name of the joint owner at the rates per hectare. Tax collection with a fiscal cadastral system is used only for administrative activities. Along with the times, problems regarding land became more complex, a *rechtscadaster* was formed which aims to facilitate tax collection in the context of land registration activities and also aims to provide legal certainty of land rights.

Girik/Petok D/Ketitir/Pipil are tax cadastre products or *belasting cadastre/fiscalcadasterl*, which at the time of Raffles was known as Land Rent (land rent) and was intended as proof of payment of land tax. The possession of the *Girik/Petok D/Ketitir/Pipil* is a strong indication that the land has the status of the customary property and the owner is the person whose name is stated in the said Land Tax Assessment. the use of the data listed in *Girik/Petok D/Ketitir/Pipil* is considered as proof of ownership. This raises the potential for land ownership disputes.

Land ownership disputes that often occur between the community and the government not only stem from weak evidence of ownership of land owned by the community but also due to administrative weaknesses by Government agencies, including the administrative completeness of land acquisition for the Government of Special Capital Region of Jakarta. On the other hand, there are weaknesses in acquiring land which will later become provincial government assets. Land purchased from the community still has the status of *Girik* and until now there are still many that have not been certified.

Indonesian people in general and people in the Jakarta Capital City area in particular, including law enforcement, still many consider *Girik/Petok D/Ketitir/Pipil* as proof of land rights, so those who have the Girik letter and the Girik are recorded in Letter C Book at urban village office, then he is the one who has legal certainty from

the land rights he controls unless it can be proven otherwise.[1] Lawsuits or land disputes through the judiciary caused by the letter of *Girik* still contain quite several differences of opinion in the form of considerations made by the judge related to the position of proof of the letter of *Girik* even though it is clear that Girik/Pipil/Petok D/Kekitir or other tax documents cannot be used as proof of ownership of land rights.

The position of the *Girik* is a matter worthy of discussion by researchers who currently have the status of a Civil Servant of the Government of Special Capital Region of Jakarta whose duties include, among others, guarding the assets of the Government of Special Capital Region of Jakarta when there is a land lawsuit addressed to the Governor and the Device Work Unit. Areas within the Government of Special Capital Region of Jakarta. Based on data obtained by researchers, it was recorded that in 2016 there were 58 (fifty eight) lawsuits against land assets out of 122 (one hundred twenty two) total asset cases addressed to the Government of Special Capital Region of Jakarta. Based on this data, it is clearly illustrated that 48% or almost 50% of cases are directed at questions/cases on land assets of the Provincial Government.[2] The repeated pattern of land cases in the Government of Special Capital Region of Jakarta is none other than land that has not been certified, such as land that is still covered with a Girik letter.

Since the establishment of the Asset Management Agency in 2016 as a Provincial Government of the Special Capital Region of Jakarta's work unit that specifically manages explicitly and organizes the administration of Provincial Government of the Special Capital Region of Jakarta assets including land (assets), there have been substantial efforts by the Government of Special Capital Region of Jakarta to carry out administrative order by starting to make efforts to certify land assets of the regional government that are still based on *Girik*. Of the total 7,754 land parcels, 3,694 (53%) land parcels with regional government assets have not been

[1] Annisa Oktaviani P and Harjono, *Strength of Evidence Letter C in Examining of Land disputes in Court (Case Study of Supreme Court Decision Case Number 816 k/Pdt/2016),* Verstek: Journal of Procedural Law, Vol. 1, no. 3 (1 January-April 2019), p: 42.

[2] The data source is obtained from the Documents/data of the Legal Section of the Legal Bureau of the Secretariat Provincial Government of the Special Capital Region of Jakarta, update info as of August 2021.

certified and only 4,060 (47%) asset land parcels have been certified.[3] Legal facts show that the Government of the Special Capital Region of Jakarta has been defeated by other parties who claim that the disputed land is their land. Based on the recapitulation report of the Legal Bureau since 2016, the Provincial Government has lost 17 cases in land disputes and 29.3% of the asset cases addressed to the Government of Special Capital Region of Jakarta are recorded.[4]

There is one interesting case that has become common attention among DKI Jakarta Provincial Government officials, namely case No. 175/Pdt.G/2017/PN Jkt.Brt, which has been decided to commit to Supreme Court Decision Number 119K/PDT/2019 dated January 25th, 2019. In this case, the Government of the Special Capital Region of Jakarta is in a losing position up to the Cassation level. This is because the Girik purchased by the Government of the Special Capital Region of Jakarta are not recorded in the letter C book contained in the Urban village Office, on the other hand the opposing party also claims the expanse of land in the same location with proof of ownership and is also still based on *Girik*, but the *Girik* is recorded in the book. Letter C in the Urban village Office

Brief chronology, the Government of the Special Capital Region of Jakarta acquired land for the public interest based on the Decree of the Governor of Jakarta Capital City Number 884 of 1989 dated July 6th, 1989, concerning the Determination of Control of Planning/Allotment of Land Areas of 80,570 m2 for the Construction of Public Interest Buildings of the Government of Special Capital Region of Jakarta Forestry Service with 3 (three) stage of the liberation process. The land is used as a green open space designated as a Seed Garden located on Jalan Pos Pengumben Lama, Srengseng Village, Kembangan District, West Jakarta, Jakarta Capital City obtained the land through the purchase of residents' land. The land is still covered with a Girik Letter with details: Girik C 3016, 3102, 3159, 3016, 3260, 3419, and 3285 in the name of Tholib Suherliman and Girik C No. 3015, 3247 and 3125 on

[3] The data source is obtained from Documents/data of the Secretariat Asset Management Agency Provincial Government of the Special Capital Region of Jakarta, updated info as of June 2021.

[4] The data source is obtained from the Documents/data of the Secretariat Legal Bureau Provincial Government of the Special Capital Region of Jakarta, Update info as of October 2021

behalf of Bob Sugiarto. The release carried out by the Government of Special Capital Region of Jakarta is carried out with 9 (nine) Release Letters.

In this case, the Panel of Judges strongly rejects concrete evidence that the Government of the Special Capital Region of Jakarta has proof of legal ownership in the acquisition of the disputed land object, the Government has also controlled the physical land area of ± 80,750 m2 by using it as one of the Green Open Space Areas known as Kebon Bibit Srengseng which is managed by the Forestry Service of Government of the Special Capital Region of Jakarta (formerly the Parks and Cemetery Service), for more than 30 (thirty) years from 1989/1990 to the present through the acquisition mechanism (land acquisition through land purchase). Valid by the provisions in force at that time. On the other hand, the Panel of Judges considered the expert opinion presented by the Plaintiff who said that physical possession of a plot of land does not erase the ownership rights of the owner (taxpayer) as long as the *Girik* is still registered as the owner of the land. The Panel of Judges also considered the expert opinion presented by the Plaintiff which stated that the validity of a Girik letter was seen from the registration of the Girik in the Letter C Book of the Urban village Office. In addition, the Panel of Judges in the Kebon Bibit Srengseng case also considered Girik's letter as the only valid source of information as proof of ownership and did not consider other supporting written evidence in the form of juridical data and physical data. The panel of judges at the West Jakarta District Court granted almost all of the plaintiffs' claims which essentially stated:

- The Defendant has been proven to have committed a legal act that was detrimental to the Plaintiffs
- The Plaintiffs are the legal owners of the land in dispute following the land parcels owned according to the boundary instructions on the situation map set out in the lawsuit.
- To declare that according to the law, the land titles owned by Plaintiffs I to Plaintiffs X (the Plaintiffs) are in the form of the Land Producers' Padjak Stipulation Letter/ Girik C.
- Punish the Defendant and or anyone who builds the building on the land in question to demolish the structures they have made by themselves no later than

60 (sixty) days after the Decision is final and binding. If necessary, by force through the assistance of the police and other authorized officers.

The result of the West Jakarta District Court's decision placed the Government of the Special Capital Region of Jakarta as the losing party, therefore, the Provincial Government appealed to the Jakarta High Court. Then the Jakarta High Court has issued a Decision stating that it strengthens the Decision of the West Jakarta District Court Number 175/pdt.G/2017/PN JKT.BRT with considerations saying that the West Jakarta District Court judge was correct in applying the law by saying that the The Appellant/Plaintiffs are the legal owners of land in the aquo case and have been correct in applying the law that the Appellant/Defendant has committed an unlawful act by taking land belonging to the Appellant/Plaintiffs by strengthening the arguments and considerations of the West Jakarta District Court and the Court's Decision Agung Number 119 K/Pdt/2019 who also rejected the Cassation application submitted by the Government of Special Capital Region of Jakarta.

Concerning the above, the author sees legal uncertainty regarding the position of the *Girik* as evidence of land ownership. In the Jurisprudence of the Supreme Court No. 34/K/Sip/1960 dated February 10th, 1960, the Jurisprudence of the Supreme Court Number 663 K/Sip/1970 dated March 22nd, 1970 and the Jurisprudence of the Supreme Court No. 393 K/Sip/1973 dated July 11st, 1973 it is stated that *Girik* is not proof of ownership of land but only as evidence of guidance. Meanwhile, in the Court's Decision, girik is considered proof of ownership. The author will raise a land dispute with the Government of Special Capital Region of Jakarta assets in the form of Kebon Bibit, which is located in the Srengseng sub-district, Kembangan District, West Jakarta as the object of research with the formulation of the problem as follows:

1. What's the position of *Girik* as proof of land ownership according to national land law?
2. What are the legal considerations and the Judge's Decision in assessing the position of the *Girik* in the dispute over land assets of Kebon Bibit Srengseng, Kembangan sub-district, West Jakarta, Special Capital Region of Jakarta?

B. Literatura Review

Girik

Girik is an excerpt from Book C whose implementation is carried out by the Land Tax Office and is a Land Tax Assessment Letter for each taxpayer and submitted to the taxpayer by the Land Tax Office through the Village whose contents indicate in which area the object is, who is the name of the land tax payer, and the type of land. Rice fields/Land, the location of the plot of land in the parcel, the class of the village, the area of the land and the amount of land tax that must be paid. Girik is proof of payment of taxes during the colonial period, and the period when the UUPA comes into effect is used as a basis for proving the old rights, which consist of:[5]

a. Traditional Girik
b. Urban Girik (*Verponding Indonesia*)
c. Particleir Girik (*Landerijenbezitsrecht)*

The mention of the old rights, namely Girik/ Pipil/ Petok D/ Kekitir has different terms in each region. For example, in Jakarta it is called Girik. In West Java it is called Girik/Ketitir. In East Java it is called Petok/Klangsiran. In D.I. Yogyakarta is called Girik. Ketitir, Petuk, Anggaduh. In Bali it is called Pipil. Girik/ Pipil/Petok D/Kekitir are tax cadastre products or belasting cadastre/ fiskale cadastral ie cadastral held for the purpose of collecting land taxes. Girik/ Pipil/ Petok D/ Kekitir are intended as proof of payment of land tax. Formerly known as Land Rent (land rent) Raffles era. Subsequently, it was replaced with Land Product Tax, Law no. 14/1951 in conjunction with Law no. 11/1959 Customary Land Tax was later changed to IPEDA (Decree of the Minister of State Contribution No. PM.PPU 1-1-3 dated November 29, 1965 which took effect November 1, 1965 and became the Directorate General of Taxes with Presidential Decree No. 12/1976.[6]

Regarding the physical form of Petok D, actually, based on field observations, it is proof of the tax bill or kitir made based on the letter C book at the Urban village Office office, if the letter C book is in the Urban village then the Girik/Petok D/Kitir are with the land owner. Even in society, it is common today that the SPPT (Tax Notice Payable) for Land and Building Taxes is also called petok, pipil or ketitir.

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[5] *Ibid.*
[6] *Ibid.*

Hint proof

Supreme Court Decision No. 34K/Sip/60, land tax documents and Letter C are not recognized as evidence of legal land rights, but are only preliminary evidence to obtain legal evidence of land rights, namely certificates, as regulated in Article 13 jo. Article 17 Government Regulation Number 10 of 1961.[7]

Supreme Court Decision number 663 K/Sip/1970 dated March 22, 1970, the rule of law states that land ownership is not a proof of land ownership, but is only proof of land tax, and does not guarantee that the person whose name is listed in the land owner is also the owner. soil. In order to be declared the owner of the land, other evidence is needed.[8] The decision of the Supreme Court of the Republic of Indonesia Number 624 K/Sip/1970 dated March 24, 1971 which the rule of law states that the name of a person recorded in Letter C is not absolute evidence that he is the rightful person/owner of the land concerned. Letter C is only preliminary evidence (beginning) which still has to be added with other evidence.[9]

Furthermore, it is implicitly explained in Article 3 of the Regulation of the Minister of Agriculture and Agrarian Affairs Number 2 of 1962 concerning Confirmation of Conversion and Registration of Former Indonesian Rights to Land, stating that rights that are not described in the land title certificate, then the person concerned is obliged to apply for:

1. Proof of entitlement, namely proof of Indonesian agricultural/verponding tax certificate or proof of letter of granting rights by the competent authority (if any, a measurement letter is also included).
2. A letter from the Village Head confirmed by the assistant Wedana (subdistrict Head) confirming the letter or certificate of proof of the right, explaining whether the land is residential/agricultural land, explaining who has the right, if any, accompanied by a copy of the letters of sale and purchase of the land as well as a certificate. proof of valid citizenship of those who have rights.

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[7] A.P. Parlindungan, 1998 *Guidelines for the Implementation of the UUPA and PPAT Procedures PPAT,* Bandung: Mandar Maju, p. 31.

[8] Taken from the website *http://notarismichael.com/ppat/peran-ppt-terhadap-tanah-girik-petok-kikitir-dan-letter-c/*, accessed on October 16, 2021.

[9] *Ibid.*

From this provision, specifically for land that is subject to customary law but is not registered in the conversion provisions as land that can be converted to a land right according to the provisions of the UUPA, but the land is recognized as a customary right, then the effort to "affirmation of land rights" is taken. which is submitted to the Head of the local Land Registration Office followed by preliminary evidence such as tax evidence, a letter of sale and purchase made before the enactment of the UUPA and a letter confirming a person's rights and also explaining that the land is for housing or for agriculture and a statement of citizenship of the person concerned..[10] In short, this regulation stipulates that the nature of Letter C is only as preliminary evidence/ instructions to obtain legal evidence of land rights, namely certificates.[11]

C. Research methods

1. Types and Nature of Research

this type of normative-empirical legal research by combining the use of primary data and secondary data. Secondary data in the form of library materials or legal research literature. Primary data were obtained through interviews with informants as research subjects who experienced and/or had knowledge of the problems being studied.

2. Research materials

The primary legal material used in this paper is Court Decision No. 175/Pdt./2017/PN Jkt.Brt dated December 13, 2017 jo. No. 384/PDT/2018/PT.DKI dated 16 August 2018 junto Number 119/K/PDT/2019 dated 25 January 2019 jo. No. 179 PK/Pdt/2020 dated June 17, 2020 as well as laws and regulations related to research topics, including:

- Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles
- Regulation of the Minister of Agrarian Affairs Number 2 of 1960 concerning the Implementation of the Provisions of the Basic Agrarian Law

[10] Ridho Afrianed, "Legal Certainty for Indigenous Lands After Law No. 5 of 1960 concerning Basic Agrarian Regulations", https://www.pa- cilegon.go.id/artikel/251-kepastian-hukum-bagi-tanah-adat-setelah-adanya-undang-undang-nomor-5-tahun-1960-tentang-peraturan-dasar-pokok-pokok-agraria, principles accessed on 20 October 2021.

[11] Sumarno, "Legal consultation regarding Land and Building Tax Payable Tax Return is not in letter C", https://lsc.bphn.go.id/konsultasiView?id=1362, accessed on 20 October 2021.

- Regulation of the Minister of Agriculture and Agrarian Affairs Number 2 of 1962 concerning Confirmation of Conversion and Registration of Former Indonesian Rights to Land
- Decree of the Minister of Home Affairs Number SK 26/DDA/1970 concerning Confirmation of Conversion of Registration of Former Indonesian Rights to Land
- Government Regulation Number 24 of 2007 concerning Land Registration and Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration.

The secondary legal materials of this research come from books, working papers, papers, research reports, journals, dissertations, and theses.

3. The scope of research

The subject of this research is the resource person. Resource persons in this study: Experts in the field of land, especially those related to uncertified land, such as Girik, namely: Experts from the Ministry of Agrarian Affairs and Spatial Planning/ National Land Agency RI DR. Ing R. Sodikin Arifin, S.H., C.N., M.H., M.Kn., DR. Suparjo Sujadi, S.H., M.H. as a lecturer in Land Law at the University of Indonesia and Mr. Moko as PPAT. The object of this research is Kebon Bibit Srengseng which is located on Jalan Raya Pos Pengumben Raya Kel. Srengseng, Kec. West Jakarta Development.

4. Data Collection Techniques and Tools

The collection of data used by the authors in normative legal research, apart from browsing library materials, data was collected by conducting interviews with research subjects who have expertise in the field of land law, especially related to ex-customary property rights such as Girik. to assist the author in providing answers to the formulation of the problem in depth.

5. Data Analysis

In this study, the qualitative analysis above is supported by a process of drawing conclusions or methods of deductive thinking in order to answer the formulation of the existing research problems so that an overview can be produced to reveal the position of girik as proof of ownership and the data in the form of laws and regulations are analyzed qualitatively with The syllogism method is deductive.

D. Research results and discussion

D.1. Girik's Position as Proof of Ownership of Land Rights

1.1. Girik in Land Law Arrangements

a. <u>Various laws and regulations</u>

1. Article II paragraph (1) Provisions for Conversion of the LoGA
2. Article 1 point 1 of the Regulation of the Minister of Agrarian Affairs Number 2 of 1960 concerning the Implementation of the Provisions of the Basic Agrarian Law
3. Article 3 letter a and Article 6 of the Regulation of the Minister of Agriculture and Agrarian Affairs Number 2 of 1962 concerning Confirmation of Conversion and Registration of Former Indonesian Rights to Land.
4. First Dictum letter a number 1 Decree of the Minister of Home Affairs Number SK 26/DDA/1970 concerning Confirmation of Conversion of Registration of Former Indonesian Rights to Land.
5. Article 32 paragraph (1) Government Regulation Number 24 of 1997. This rule explains that a certificate is a recognized proof of land rights, whether it comes from the first registration originating from state land or from the conversion of proof of rights to prove old rights in the form of girik, kekitir, petok D, and the like.
6. Article 60 paragraph (2) letter f and Article 76 paragraph (1) letter f Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementation of Government Regulation Number 24 of 1997 concerning Land Registration.
7. Article 96 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units and Land Registration.

This regulation can be interpreted that:[12]

1. Written evidence of ex-customary land owned by individuals in the form of Land Tax Petuk/Landrente, girik, pipil, kekitir, Verponding Indonesia and other evidence of former customary property rights with other names or terms shall be declared unable to be used for purposes of proof of rights over land in a land dispute after 5 (five) years since the issuance of Government Regulation number 18 of 2021.
2. The implication of the statement as explained in point 1 (one) above, is that based on the Land Law, after 5 (five) years since the issuance of PP Number 18 of 2021, written evidence of land that was formerly owned by adat cannot be used as a means of proof of rights to land rights. Land in land disputes in court and has the nature of free evidence, where the decision is left to the conviction of the judge who assesses whether the disputed customary land documents can be used as written evidence or not. Ex-customary land is only considered as evidence of instructions in the context of the land registration process.

8. Regulation of the Minister of Agrarian Affairs and Spatial Planning/ Head of National Land Agency No. 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of State for Agrarian Affairs/Head of National Land Agency No. 3 of 1997 concerning Provisions for the Implementation of Government Regulation no. 24 of 1997 concerning Land Registration.

b. <u>Administrative Officer Decree</u>

1. Letter of the Minister of Finance of the Republic of Indonesia Number S-252/MK-04/1989, dated March 2, 1989 regarding: Status of

12 The results of the interview with Mr. Ing R Sodikin, in the Expert Room for Law and Litigation of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, on November 18th, 2021.

Girik/Ketitir/Petok D as a copy of Kohir Land Tax, explaining: *Girik/Kititir/Petok D* and Land History are only administrative evidence in in the field of taxation and is not proof of ownership of land

2. Circular Letter of the Director of Land and Building Tax Number SE-18/PJ.7/1989, dated March 10, 1989 regarding: Status of Girik/Ketitir/Petuk D as Copies of Land Taxes, confirms that Girik/Kititir/Petuk D and Land History are not proof of ownership of land rights
3. Letter of the Coordinating Agency for Assistance for the Stabilization of National Stability (Bakortanas) Number B/288/Stanas/IV/1989, dated April 25, 1989, regarding: Status of Girik/Kititir/Petuk D as Copies of Land Taxes, confirms that Girik/Kititir/Petuk D and Land history is not proof of ownership of land, so that if it is necessary to prove ownership of land rights, it does not become a tax officer's duty.

c. <u>Jurisprudence</u>

The following are some of the jurisprudence that determine the position of Girik as evidence of land ownership:

1. Supreme Court Decision No. 34 K/Sip/1960, 19 February 1960
2. Supreme Court Decision No. 767 K/Sip/1970 dated March 13, 1971.
3. Decision of the Supreme Court Number 393 K/Sip/1973 dated July 11, 1973.
4. Supreme Court Jurisprudence No. 84 K/SIP/1973 dated June 25, 1973

Based on the four jurisprudence above explains several things:

1. After the enactment of the UUPA, Girik/Petuk/land tax/Ketitir/Pipil and other similar names are no longer a sign of proof of rights as owner of land for the person whose name is listed in the petuk, but

only a sign of who has to pay tax.[13]

2. In terms of determining who has more or the most right to ownership of land in a land dispute, the parties to the dispute are not only sufficient to submit a Girik/Petok D/Ketitir/Pipil and the like without including other evidence, both written and oral.

Submission of Letter C as written evidence at trial is actually no longer relevant, but can be submitted as evidence if it is accompanied by other evidence such as physical data and other juridical data.

1.2. The position of Girik before and after the enactment of the UUPA

The position of the girik has changed, namely before and after the enactment of the UUPA. Prior to the enactment of the UUPA, Girik was not only used as a certificate of payment of Land Products Tax but also as proof of land rights. The tax payer (tax payer) is the person who holds, owns, and has his name listed on the girik. The affirmation that the Land Product Tax (Girik) prior to the enactment of the UUPA was as evidence of land rights can be seen in Article 3 letter a PMPA Number 2 of 1962 concerning Confirmation of Conversion and Registration of Former Indonesian Rights on Land jo. First Dictum letter a number 1 Decree of the Minister of Home Affairs Number SK 26/DDA/1970 concerning Confirmation of Conversion of Registration of Former Indonesian Rights to Land, then land that has been subject to tax and there is a letter of land tax (yield) or Indonesian verponding can be recognized as proof of rights/proof of ownership of land, but it is a fiscal cadastre product.

The enactment of the UUPA as a spearhead for changes to the unification of taxation. Article 16 paragraph (1) of the UUPA applies to all land in Indonesia, therefore starting on September 24, 1960 there will be no more European Verponding, Indonesian Verponding and Land Taxes. This provision was reaffirmed by Decree of the Presidium of the Cabinet Number 87/Kep/U/4/1967 dated February 10, 1967 which stated that the Land Product

13 Abdurahman, *Himpunan Yurisprudensi Hukum Agraria,* Seri Hukum Agraria VI, (Bandung: Alumni, 1980), 179.

Tax must be interpreted as meaning that all land in Indonesia is subject to Land Product Tax, including lands regulated in the Indonesian Verponding Ordinance. in 1923 and 1928. The period after the BAL came into effect also indicated that there had been a clear separation between the fiscal cadastre and the recht cadastral. Thus, during this period, Girik which is not converted into land rights as stipulated in PMPA No. 2 of 1962 into land rights as referred to in Article 16 paragraph (1) of the UUPA, remains valid as a cadastral fiscal product. land rights and a certificate is issued, then it applies as a product of recht cadastral.

Furthermore, after the enactment of the UUPA dated September 24, 1960, there was a change in the position of the girik, from what was previously a letter of payment of agricultural taxes and as proof of land rights to only as a letter of payment of agricultural taxes, no longer as proof of rights to land. Therefore, registration/conversion of rights is carried out as mandated in Article 19 of the UUPA paragraph (1), which states: To guarantee legal certainty by the Government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulations.

Based on the mandate of Article 19 paragraph (1) of the UUPA, Government Regulation (hereinafter referred to as "PP") Number 10 of 1961 concerning Land Registration is promulgated, so that the said girik can be registered and the conversion process refers to PMPA Number 2 of 1962 concerning Confirmation of Conversion and Registration Former Indonesian Rights to Land jo. Article 60 paragraph (2) letter f Regulation of the State Minister of Agrarian Affairs/ Head of the National Land Agency No. 3 of 1997 concerning Provisions for Implementation of Government Regulation Number 24 of 1997 concerning Land Registration. Girik which is registered and converted to become land rights as mentioned in Article 16 of the UUPA is a product of recht cadastral.

A certificate is a letter of proof of recognized land rights, while Girik is used only as an attachment to an application for land rights, because Girik is only recognized as proof of payment of agricultural taxes. Government Regulation No. 18 of 2021 jo. Regulation of the Minister of Agrarian Affairs and Spatial Planning/ Head of National Land Agency No. 16 of 2021 confirms that the girik can no longer be used as evidence of land ownership and is given another 5 (five) years for the original girik that still exists to register land rights.

Thus, based on the explanation above, it is clear that the agricultural product tax (girik) has changed its position, before the promulgation of the UUPA on September 24, 1960, apart from being a Land Product Tax Assessment, it was also a proof of right/proof of ownership of land rights, but after the enactment of the UUPA on 24 September 1960 only as a Land Product Tax Assessment, no longer as proof of rights/proof of ownership of land.

2.3. Mechanism of Listing and Issuance of Girik

Letter C book is a detailed map (fiscal cadastral) as a basic evidence as a record of tax collection. The original/master Letter C book is at the Land and Building Tax Service Office and a copy of Letter C is at the Urban village office. Ideally, the contents of letter C consist of: (1) Name of the owner (2) Serial number of the owner (3) Part Number of Persil (4) Class D (land) / class S (rice field) (5) List of land taxes: (a) land area, hectares (ha) and are (da) (b) tax, R (rupiah), and S (sen) and (6) Cause and terms of change (7) Village signature and stamp. The Letter C book is an evidence in the form of a note that is in the Village Office/Urban village Office and is actually only used as a basis as a record of tax collection. The quote or often called the Copy of Letter C is located at the Urban village Office which

is held by the Lurah, while the parent of the Quotation Letter C is located at the Land and Building Tax Service Office.[14]

Furthermore, the recording and issuance of Girik if there is a transfer of rights with one of the conditions occurring if there is a sale or inheritance, then the number of Girik also changes either due to the sale of part or all of it. The characteristics of girik for tax subjects/original owners in book C are recorded using black ink and for girik/letter C the result of mutations/fractions due to the transfer of land rights, in book C they are recorded using red ink. Furthermore, after verification/renewal of the tax, Girik/letter C, the origin and the result of the mutation/fraction, after being verified or subject to renewal, the data is re-booked with a new number and the data on the subject and object of the tax as a result of the renewal is declared as original data and everything is re-recorded in ink. black, while the old data is declared no longer used/no longer valid.

D.2. Legal Considerations and Judges' Decisions in Land Dispute on Assets of the Government of Special Capital Region of Jakarta at Kebon Bibit Srengseng, Kembangan District, West Jakarta

2.1 Ownership History

In 1989 and 1990 the Government of Special Capital Region of Jakarta purchased several parcels of land from individuals with a total area of 80,570 m2. The plots of land purchased have proof of ownership in the form of Girik C Numbers 3016, 3102, 3159, 3016, 3260, 3419, and 3285 in the name of Tholib Sucherliman and Girik C Numbers 3015, 3247, and 3125 in the name of Bob Sugiarto. The purchase of the land used the Regional Revenue and Expenditure Budget of the Provincial Government of the Special Capital Region of Jakarta in 1989 and 1990.

Land acquisition is carried out by means of land acquisition mechanism for the public interest because it will be used for planting

[14] Iing R Sodikin Arifin, Op.Cit, hal. 14. Lihat juga Urip Santoso, 2009, *Hukum Agraria dan Hak-Hak atas Tanah*: Jakarta: Prenada Media, hal: 54.

seedlings and its facilities located on Pos Pengumben Street, Srengseng Urban village Office, Kebon Jeruk District, West Jakarta. The land acquisition was based on the Decree of the Governoor of Special Capital Region of Jakarta Number 884 of 1989 dated July 6th 1989 concerning the Determination of Ownership of Planning/Allotment of a plot of land covering an area of 80,570 square meter for the Construction of Public Interest Buildings of the Forestry Service.

2.2 Problem History

Land Assets of the Government of Special Capital Region of Jakarta in the form of Kebon Bibit Srengseng, Kembangan District, West Jakarta became the object of a lawsuit at the West Jakarta District Court with the case register dated March 13, 2017 Number 175/Pdt.G/2017/PN Jkt.Brt, Acting as the plaintiff is H. Ali Effendi along with nine other people with the defendant the Government of Special Capital Region of Jakarta and the co-defendant is the Head of the Land Office of the West Jakarta Administration. H. Ali Effendi, et al claim to have rights to the land which is currently in the form of Kebon Bibit belonging to the Government of Special Capital Region of Jakarta with proof of rights, all of which are in the form of traditional Girik, which are obtained either from inheritance or buying and selling.

2.3 Case History

1. **West Jakarta District Court Decision No. 175/Pdt.G/2017/ PN.JKT.BRT**

   The Panel of Judges has rendered a decision in the Provisions, handed down an interim decision on October 18, 2017 which is as follows: Granting the Plaintiffs' provisional demands; ordered the Defendant to temporarily stop all development activities and not to carry out any activities on the object of the land in question until a court decision has permanent legal force in this case and suspends the decision on court costs until the final decision.

In the trial, the panel of judges considered all written evidence, factual witnesses and expert statements presented by the Plaintiffs. On the other hand, the Panel of Judges did not consider the written evidence as well as factual witnesses and expert statements presented by the Defendants. The points of the Panel of Judges considering the opinions of the Experts are essentially as follows:

- Drs KARMEN MANURUNG, MSc, TMV said that: The Tax Collection Data Quotation or better known as Book C in the Urban village Office is a re-recording of the data in the Tax Office. the purpose of the quotation given to the Lurah office is to facilitate tax collection, then the administration of the recording must be recorded in the 2 (two) books, both in the Urban village Office and at the Tax Office, the data must always be updated regularly through weekly report cards. Furthermore, at the question of the panel of judges, the expert said: if there is a change / transfer of control of a plot of land in its environment, the urban village office must report the change, if the change is only recorded at the IPEDA / L&B Tax office then the IPEDA / L&B Tax office will report the change to the Urban Village Office. If there is a girik that is not recorded in the urban village office, then the administration of the girik is flawed/wrong, in principle if it is in the same area and in the same urban village office, it is not possible for one person to have five different girik numbers.
- DR. BF, SIHOMBING, SH, MH is of the opinion that based on the explanation of Article 24 paragraph (1) letter k of PP No. 24/1997 jo. Ps. 60 paragraph (2) letter f Permen Agraria 1 Ka. SPN No. 3/1997, girik or customary land is legal as proof of ownership of the old rights to land, and as long as it is recorded in the Kelurahan C book, the girik is valid and can be requested to be upgraded to a certificate to the National Land Agency. as evidence of land rights.

  The expert is of the opinion that based on evidence of land tenure in the form of girik, while the girik used is not registered in the Kelurahan then, the liberation contains administrative defects, if the unregistered girik land in the Kelurahan has already been released, the consequence is that the registration of certificates for the land will be rejected by National Land Agency. In a further statement, Expert DR. SF. SIHOMBING, SH, MH also said that physical control over a plot of land does not abolish ownership rights to the owner (Taxpayer), as long as it is still registered at the local Kelurahan/Village Head, the

owner of the girik who is still registered is the owner of the land. must be distinguished from State Land, if State land is subject to change.

Based on the considerations above, the Panel of Judges is of the opinion that the letters of proof of land tenure (girik) submitted by the Plaintiffs are legal because the girik is registered at the agency where the land is located/ according to the address at the Srengseng urban village Office, Kembangan District, West Jakarta.

The Panel of Judges of the West Jakarta District Court decided:

1. To declare that according to law the land titles owned by Plaintiffs I to Plaintiffs X are the basis for the land rights in litigation;
2. To declare the status of the land in the case to be returned to the Plaintiff as the legal owner according to law;
3. Stating that the Plaintiff is a person who is entitled to a certificate of ownership on the land in dispute in accordance with the land parcels owned according to the boundary instructions on the situation map contained in this lawsuit;
4. Punish the Defendant or the person who has the right thereof to hand over the land in question to the Plaintiff in a vacant and good manner, if necessary with coercive efforts through the assistance of the Police and other authorized officers;
5. Punish the Defendant and or anyone who builds the building on the land of the case to demolish the building he/she built by himself no later than 60 (sixty days) after this court decision has permanent legal force if necessary with coercive efforts through the assistance of the Police and other officers who authorized;
6. Sentencing the Defendant to pay a fine (dwangsom) for his negligence in not implementing the contents of this decision voluntarily in the amount of Rp. 5,000,000.- (five million rupiah) for each day of negligence until the contents of the verdict are fully implemented;

7. Ordering the Co-Defendants to submit to and comply with this decision;
8. Reject the Plaintiff's claim other than and the rest;
9. Sentencing the Defendants to pay the costs incurred in this case which up to now amounted to Rp.1,716,000, - (one million seven hundred and sixteen thousand rupiah);

2. Appeal Decision No. 384/Pdt.G/2018/PT.DKI

The Defendant objected to the decision No. 175/Pdt.G/2017/ PN.JKT.BRT above. Therefore, the Defendant took legal action by filing an appeal to the Jakarta High Court. The appeal request was not accepted by the Jakarta High Court with its Decision No. 384/Pdt.G/2018/PT DKI, dated August 16, 2018, whose ruling stated that the appeal filed by the Appellant, who was originally the Defendant, could not be accepted because the appeal was filed. by the Appellant has passed the grace period determined by Law Number 20 of 1947 concerning the Repeat Court in Java and Madura, which is more than 14 (fourteen) days after the decision is notified to the Defendant.

3. Cassation Decision Number 119 K/Pdt/2019

The Government of Special Capital Region of Jakarta, as the Defendant and the Petitioner for the Appeal, objected to the decision on the Appeal No. 384/Pdt.G/2018/PT.DKI and filed a Cassation. In the decision of Cassation Number 119 K/Pdt/2019 dated January 25, 2019 against H. Ali Effendi et al as the Plaintiff and the Government of Special Capital Region of Jakarta as the Defendant.

The Panel of Judges of Cassation considers that the Judex Factie/ High Court of the Special Capital Region of Jakarta decision in this case does not conflict with the law and/or legislation, then the request for Cassation from the Governor of the Special Capital Region of Jakarta cq Head of the Parks and Cemetery Service, is rejected.

2.4. Discussion of Judges' Considerations and Decisions

Based on the considerations and Decision of the Court of First Instance No. 175/PDT.G/2017/PN.JKT.BRT dated December 13 2017, Appeals Decision No. 384/PDT/2018/PT.DKI dated August 16 2018 and Cassation Decision Number 119/K/PDT/2019 dated January 25, 2019 on June 17, 2020, Researchers found several important notes that can be analyzed, namely the statements presented by the Plaintiffs and considered by the Panel of Judges. The Panel of Judges in their legal considerations, especially legal considerations at the First Level Court, acknowledged the validity of the Girik owned by the Plaintiffs because their Giriks were registered at the Urban village Office. On the other hand, all the evidence presented by the Defendant was ruled out in court, this was because the Giriks purchased by the Provincial Government were not recorded in the Urban Village Office. Based on the above, the researcher will analyze the decision on the land case of Kebon Bibit by exploring 2 (two) important notes in the consideration of the Majalis, namely:

1. Recording and not registering Girik in the Letter C Book contained in the Urban village Office is important to determine the validity of the Girik.
2. Recorded and unrecorded Girik in Letter C Book contained in the Urban village Office determining Girik is recognized as one of the written evidence as referred to in Article 24 PP Number 24 of 1997 jo. Article 60 paragraph (2) letter f Regulation of the State Minister of Agrarian Affairs/Head of National Land Agency No. 3 of 1997 concerning Provisions for the Implementation of PP Number 24 of 1997, so that according to the Panel of Judges, if the girik land is not registered in the urban village office but has been released as a consequence, National Land Agency will refused to register the land.

To answer Number 1, the researcher understands that the administration of girik is different from the administration of certificates. The administrative procedures are carried out at the Tax and Building Service Office, while the certificate administration is at the Land Office.

On the other hand, the possibility of a Girik not being recorded in the Letter C Book located in the Urban village Office is very likely to occur because of the frequent occurrence of officers not recording or recording errors in the Letter C Quotation of the Urban village Office. In the administrative system when an error occurs in the mutation, a book is provided which is called the wrong book. The current existence of Girik and Certificates is independent of the administration of the Urban village Office, where it is stated that each administrative arrangement regarding Girik and Certificates is not directly located at the Urban village Office.

The management and administration of certificates is carried out directly by the National Land Agency. The Kelurahan is only involved if the National Land Agency requires a Certificate on behalf of the Girik holder applicant according to Book C taken from a copy of the Land and Building Tax Service Office.[15] So if there is a claim or land dispute based on the evidence of the Girik letter, then the steps that need to be taken are to cross-check the evidence and search for information related to the original land history, which is stored at the Land and Building Tax Service Office, not the one listed on the Land and Building Tax Service Office. Letter C book in the Urban village Office.

The book records of Letter C in the Kelurahan are only in the form of copies and as of April 1, 1993 there is a prohibition aimed at all Land and Building Tax Offices issuing Girik letters based on the Circular Letter of the Director General of Taxes to the Head of the United Nations Office Number 15/PJ.6/1993, dated March 27, 1993 and reaffirmed by Circular Letter of the Director General of Taxes Number SE-32/PJ.6/1993 dated June 10, 1993

[15] TB Djodi Atmawidjaja, 2017, *Loc.cit* ditambah hasil wawancara dengan Hasil wawancancara dengan Pak Iing R Sodikin, di ruang Tenaga Ahli Bidang Hukum dan Litigasi Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, tanggal 4 Agustus dan 18 November 2021.

which provides confirmation that in the event that people need services related to determining legal status/land rights, it is advisable to contact the Land Office local**.**[16] Based on the Circular of the Director General of Taxes above, the validity of the girik is no longer seen from the recorded or unrecorded side of the girik in book C in the Kelurahan. The letter C book contained in the Kelurahan office is only a copy of the original version found at the Tax Office. Therefore, what should be used as the original source is the Letter C book contained in the Tax Office. Thus, the consideration of the panel of judges regarding the registered and unregistered Girik in the Kelurahan to determine the validity of a Girik as proof of ownership of land rights is a matter that is contrary to the provisions.

To answer question number 2, it can be explained as follows:

Based on the Jurisprudence of the Supreme Court Decision

1. Supreme Court Decision No. 34/K/Sip/1960, dated February 19, 1960 which states that:

   > *The letter "Petuk Land Tax" is not an "absolute evidence", that the disputed rice fields belong to the person whose name is listed in the "Letter Petuk Tax Land", it is only a sign; who has to pay taxes from the land in question*

2. Supreme Court Decision No. 393 K/Sip/1973, date July 11, 1973, which states that: *Kikitir letters do not constitute evidence that corroborates the existence of property rights, but are only assessed as a sign of tax payment.*
3. Supreme Court Decision No. 84K/SIP/1973, dated June 25, 1973 which states that*: Notes from the village book or letter C cannot be used as evidence of property rights at trial if they are not accompanied by other evidence.*.

Based on the description above, several jurisprudences have emphasized that because girik is only domiciled as proof of payment of land and building taxes or documents that inform physical objects (land and/or buildings), its strength

[16] Hasil wawancara Hasil wawancancara dengan Pak Iing R Sodikin, di ruang Tenaga Ahli Bidang Hukum dan Litigasi Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, tanggal 18 November 2021.

must be complemented by other evidence. Therefore, the consideration of the judges of the West Jakarta District Court who considered the Letter C book as the only valid source of information regarding the girik without considering other supporting evidence of ownership, was not based on applicable regulations and jurisprudence.

E. CONCLUSION

1. The definition of *Girik* before to the enactment of the UUPA dated September 24th, 1960 was that apart from being a Land Product Tax Assessment, it also served as proof of rights/proof of ownership of land rights. The person whose name was listed in the *Girik* was considered a tax subject as well as a land owner. After the enactment of the UUPA, land law no longer makes *Girik* as proof of rights/proof of ownership of land rights, but only as a tax assessment for agricultural products and as a written indication that the land is former customary land. The presence of Government Regulations No. 18 of 2021 confirms that after 5 (five) years since the promulgation of the Government Regulation, Girik and other similar ex-ulayat land certificates can no longer be used as written evidence of ulayat land, in land disputes before the Court, but can only be used as instructions in the context of land registration.
2. Legal Considerations and Judge's Decisions in the dispute over land assets of Kebon Bibit Srengseng, Srengseng Urban village Office, Kembangan District, West Jakarta, Jakarta Capital City, which considers:
   a. The validity of the *Girik* can only be seen from the recorded or unrecorded girik in the letter C Book in the Urban village Office.

      based on the provisions of the Circular Letter of the Director General of Taxes to the Heads of the L&B Tax Office No. 15/PJ.6/1993, dated March 27th, 1993 which was reaffirmed by Circular Letter of the Director General of Taxes Number SE-32/PJ.6/1993 dated June 10th, 1993, the validity of the *Girik* is not seen from the recorded or unrecorded girik in book C, which It's at the Urban Village Office. The letter C book available at the Urban village Office

is only a copy of the original version available at the Tax Office. Therefore, the original source should be the Letter C book at the Tax Office.

b. Letter C book as the only valid source of information about *Girik* and does not consider other supporting evidence of ownership.

Based on the Supreme Court Decision No. 34/K/Sip/1960, dated February 19th, 1960, Supreme Court Decision Number 393 K/Sip/1973 dated July 11st, 1973, and Supreme Court Decision No. 84K/SIP/1973 dated June 25th, 1973. These three jurisprudences emphasize that the girik is only domiciled as proof of payment of land and building taxes or documents that inform physical objects (land and/or buildings), then their strength must be complemented by other evidence, both in the form of juridical data and physical data.

Thus, the consideration of the Panel of Judges regarding the registered and unregistered *Girik* in the Urban village Office as a determines of the validity of a *Girik* as proof of ownership of land rights and considers Letter C Book as the only valid source of information about *Girik* without regard to other evidence, either in the form of juridical data as well as physical data, is contrary to the provisions of the legislation and jurisprudence.

F. RECOMMENDATION

1. Concerning the presence of Government Regulation Number 18 of 2021, it is better if the Provincial Government of the Special Capital Region of Jakarta Asset Management Agency as an element of the Regional apparatus has one of the main tasks and functions of carrying out an inventory of the asset lands of the Government of the Special Capital Region of Jakarta will immediately coordinate with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency to carry out the process of certifying the land assets in question, which are still in the form of ex-customary land that is based on Girik rights.
2. It is suggested to the Jakarta Capital Special Region Government to immediately take concrete actions in coordination with the Ministry of Agrarian Affairs and Spatial Planning/ National Land Agency and then formulate regulations governing the prohibition of all elements of Lurah and Camat from making and signing “Letter of Statement of Land History” for

people who wish to apply. application for registration of land rights that are ex-ulayat ownership to elements of the Ministry of Agrarian Affairs and Spatial Planning/ National Land Agency. This aims to prevent the recurrence of land disputes with the assets of the DKI Jakarta Provincial Government which are still in the form of Girik and have not been registered at the Kelurahan Office.

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