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THE EXISTENCE OF CUSTOMARY LAND IN BALI AFTER THE APPOINTMENT OF CUSTOMARY VILLAGES AS SUBJECTS OF COMMUNAL PROPERTY RIGHTS OVER LAND

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Abstract

Customary land is land owned by indigenous peoples for generations since ancient times, in 2017 customary villages as a unit of indigenous peoples obtained property rights to land that provide legal certainty over customary land ownership but will also have an impact on the integrity of customary land in the future because property rights can be transferred and transferred to other parties. The purpose of this study is to be able to analyze strategies to maintain the Existence of Customary Land in Bali This writing is normative legal research, namely research that examines the applicable positive legal norms, which are in the form of laws and regulations related to the existence of customary land in Bali after the appointment of customary villages as subjects of communal property rights to land, which focuses on land rights that are most appropriately owned by Customary Villages together with indigenous peoples, by using a statutory approach and a conceptual approach. The Property Rights were granted to the Indigenous Village.

Keywords: customary villages; communal rights to land; indigenous lands

1. INTRODUCTION

Land is a very important thing in human life, whether it is used as a place to live, carry out business activities, or others. In Bali, there are lands known as customary lands, namely lands owned by indigenous peoples in certain territories for generations based on customary rights. Indigenous peoples have a unitary customary law community called the Customary Village which has its own rules called awig-awig. In 2017 the Minister of ATR/BPN issued decree Number 276/KEP-19.2/X/2017 concerning the Designation of Customary Villages in Bali Province as Subjects of Joint Ownership Rights (Communal) over

Land, this makes customary lands can be granted property rights to land that was previously controlled by Customary Villages only. This provides positive things with the existence of legal certainty over customary lands but can also have a negative impact because with the property rights of customary lands can be transferred and transferred to other parties who will be.

Traditional Village is a government structure that exists in every village in Bali that has articles of association, regulations, members, and leaders called Bendesa Adat. Customary Villages are authorized to take care of their households, including making regulations that apply to the residents of the

Customary Villages concerned in the state structure of the Republic of Indonesia, the existence of Customary Villages has received juridical recognition based on the constitution, namely through Article 18 B paragraph (2) of the 1945 Constitution. The traditional village government in Bali adheres to a system that does not separate the governed and the governing. This is because the highest power in the Traditional Village lies in the *paruman krama*. Meanwhile, *Bendesa* and other *prajuru* are only the executing officers who carry out all the decisions of the village lungs. In addition, the duties and obligations as *prajuru*, in general, have been contained in the *awig-awig* of their respective Traditional Villages.

The right to land owned by a Customary Village is a Customary Right, which is the highest right of control over land in customary law which includes all lands included in the territory of a certain customary law community, which is land owned by the people. Used and used by indigenous peoples for generations and has been recognized by the State. However, after the issuance of decree Number 276 / KEP-19.2 / X / 2017 concerning the Designation of Customary Villages in Bali Province as Subjects of Joint Ownership Rights (Communal) over Land by the Minister of ATR / BPN customary rights customary villages can grant property rights status on land that provides full legal certainty to customary lands in the customary village area. This deviates from the provisions of the Basic Agrarian Law in Article 21 on who can have Property Rights to land only Indonesian citizens and legal entities stipulated by the Government with its conditions. Customary Villages are not.

In this case, to provide legal certainty and maintain the existence of customary land intact, it is not given Property Rights but it is better to be given Management Rights because the basis of Management Rights by the provisions of Government Regulation Number 18 of 2021 is State Land and Customary Land. In addition, management rights cannot be used as col-

lateral for debts and cannot be transferred and transferred to other parties so that the integrity of the Customary Village land will be maintained. This research needs to be carried out because it can provide information about Land Rights that are more appropriately given by the Government to Customary Villages to provide legal certainty without neglecting the existence of Customary Lands. The purpose of this study is to analyze the rules issued by the government on the status of land rights for Customary Villages.

2. METHODS

The legal materials used in this study were collected through literature studies, namely by examining primary legal materials in the form of laws and regulations related to legal issues in this study, secondary legal materials in the form of journals and literature, and tertiary law in the form of a Large Dictionary of Indonesian. Direct interview techniques are also used to complement the analysis of this research. The analytical techniques used in this study are description techniques, interpretation techniques, and argumentation techniques. After all the materials are collected, then the legal materials are analyzed with the theory of Property Rights and the Theory of Expediency then conclusions are drawn to answer the problems in this study.

The research method used is normative legal research, which is research that examines the applicable positive legal norms, which are in the form of laws and regulations related to the Existence of Customary Land in Bali after the appointment of Customary Villages as subjects of Communal Property Rights to Land. The types of approaches used are the statutory approach, the case approach, and the conceptual approach which is also supported by a factual approach.

3. DISCUSSION

Term of Ownership of Land Rights for Legal Entities

A legal entity is a collection of people

who have a certain goal of the direction to be achieved, have property, and have rights and obligations. Based on this description, it can be stated that the elements of the legal entity include: 1) Have associations; 2) Have a specific purpose; 3) Have wealth; 4) Have rights and obligations; and 5) Have the right to sue and sue. As for the forms of a legal entity in Indonesia, there are several types, namely:

Association (*Vereniging*) is an association formed from the voluntary and deliberate of several people who have the aim of strengthening their position or economic ability, taking care of social issues, and maintaining cultures such as State Companies, Limited Companies (PT) and joint Venture.

The Communion of People (*Gemenschap van Mensen*) is a form of legal entity formed from societal and political factors in histories such as districts/cities, provinces, and countries.

Organizations are made under the Act but in addition to the above two types of legal entities.

Legal entities consist of several types of categories based on their status, namely :

Public Legal Entities

A public legal entity (*publiekrecht*) is a legal entity created according to public law or a legal entity that regulates the relationship between the state and or its apparatus with citizens related to the public or public interest. Such as criminal law, constitutional law, state administrative law, international law, and so on. Examples of public legal entities are the State, Regional Governments, and Bank Indonesia.

Public legal entities can be distinguished into two kinds, namely :

Legal entities that have territorial

legal entity must generally pay attention to or organize the interests of those who live within its area or territory. For example, the Republic of Indonesia has an area from Sabang to Merauke. West Java Province, The townships each have an ar-

ea, and there are also legal entities that only organize the interests of a few people, such as subak in Bali and Water shape in Klaten;

A legal entity that does not have a territory A legal entity formed by the authorities only for certain purposes, for example, Bank Indonesia is a legal entity formed that is authorities only for certain purposes, which in Dutch is called *publiekrechtelijke* does corporate and by Soenawar Soekawati is called a legal entity of interest. The legal entity is considered to have no territorial, or the territory is the same as the territorial state.

Private Legal Entities

A private legal entity (*privaatrecht*) is a legal entity created according to the basis of civil law or civil law or a set of people who make cooperation or form a business entity and are a single entity that meets the conditions prescribed by law. Private Legal Entities that have profit purposes.

To determine a legal entity including a public legal entity or a private legal entity, the Indonesian legal stelsel can be used criteria, namely :

Judging from the way it was founded, it means that the legal entity is held with public legal construction, namely established by the ruler (state) with an Act or other regulations, also includes the following criteria;

The working environment, namely whether in carrying out its duties the legal entity in general with the public / generally carries out civil law actions. It means acting in the same position as the public or not. If not, then the legal entity is a public legal entity, as well as the criteria;

Regarding its authority, that is, whether the legal entity established by the ruler (state) was authorized to make generally binding decisions, statutes, or regulations. If there is a public authority, then a is a public legal entity.

For an entity that can be said to be a legal entity in Indonesia, several conditions must be met to be legally recognized for

its existence and have rights and obligations as a legal entity. H.M.N Purwosutjipto put forward several conditions so that an entity can be categorized as a legal entity. The requirements for an entity to be said to have the status of a legal entity include the necessity of (1) Assets that are separate from the wealth of other legal subjects; (2) Certain elements of ideal purpose that do not conflict with laws and regulations; (3) Own interests in legal traffic; (4) The organization of its management of an orderly nature by applicable laws and regulations and its internal regulations; (5) Registered as a legal entity by applicable laws and regulations.

In more depth, legal entities have land rights that have been regulated in the provisions of the UUPA, there it is regulated that legal entities, in general, are only allowed to have Business Use Rights, Building Use Rights, and Use Rights, but in article 21 paragraph 2 of the UUPA which reads: "By the Government, legal entities are determined to have property rights and their terms". According to the provisions of the above article, there are exceptions to legal entities that can have property rights to land only if determined by the government. The following is an example of a legal entity and land rights that can be owned by laws and regulations:

Limited Company (PT)

Limited Company is a legal entity. The main characteristic of a legal entity is the separation between the assets of legal entities and the personal property of shareholders. Thus, the shareholders are not personally responsible for the engagement made on behalf of the legal entity and are also not liable for the loss of the legal entity over the value of the shares that have been included.

After the establishment of a Limited Liability Company to be a legal entity, it can have land rights in the form of :

Land Use Rights Business

Use Rights based on State Land granted for not more than thirty-five (35) years and can be extended for a period of not

more than twenty-five (25) years;

Land Use Rights that can be granted Building

Use Rights are State Land, Land Management Rights, and Land Property Rights. The Right to Use Buildings is granted for not more than thirty (30) years and can be extended for not more than twenty (20) years;

Land Use Rights of Use can come from State Land

Management Rights Land, and Property Rights Land. The Right of Use is granted for a period of not more than twenty-five (25) years and may be extended for not more than twenty (20) years or granted for an indeterminate period as long as the land is used for certain purposes.

State-Owned Enterprises (BUMN)

BUMN is a business entity whose entire or most of its capital is owned by the state through direct participation derived from segregated state assets. Persero is a state-owned enterprise in the form of a limited liability company whose capital is divided into shares, all of which are at least 51% (fifty-one percent) of which are owned by the State of the Republic of Indonesia whose main goal is to pursue profits.

The land rights that can be owned by SOEs are the same as Limited Liability Companies, namely Business Use Rights, Building Use Rights, and Use Rights. However, in the provisions of Government Regulation Number 38 of 1963 concerning the Appointment of Legal Entities that can have Property Rights to Land, it is explained that Banks established by the State that become SOEs such as Bank Rakyat Indonesia (BRI), Bank Mandiri, Bank Negara Indonesia (BNI) can be granted Property Rights to Land.

Social And Religious Legal Entities (Foundation)

Foundation is a legal entity consisting of segregated wealth intended to achieve certain goals in the social, religious, and humanitarian spheres, which has no members. In Indonesia, the foundation is an

institution whose main function acts as a form of social concern for the community, because its work programs and activities are at least engaged in the social and humanitarian fields. The Foundation as an institution is managed or established by individuals or groups of the general public as well as collegial communities, who have a common vision and mission and accumulate mutual care for others in a forum to carry out the mission of social care.

Foundation that are legal entities engaged in the community such as social and religious are granted Property Rights to the Land they own by the provisions of Government Regulation Number 38 of 1963 concerning the Appointment of Legal Entities that can have Property Rights over Land, in article 1 letter c and d it is said that Religious bodies and social bodies are granted Property Rights by the Minister of Agrarian Affairs after hearing proposals from the Minister of Social Affairs and the Minister of Religious Affairs.

Customary Villages

Customary Villages is a unitary customary law community in Bali. Based on the autonomy of the Customary Village, since the beginning of the birth or formation of the Customary Village, it has been authorized to take care of its household, including making regulations that apply to the residents of the Customary Village concerned in the state structure of the Republic of Indonesia. In Bali Provincial Bylaw Number 4 of 2019 concerning Customary Villages in Bali, it is stated that Customary Villages are the unity of indigenous peoples in Bali who have territories, positions, original arrangements, traditional rights, own property, traditions, manners of community life associations for generations in the bonds of holy places (*kahyangan Tiga* or *kahyangan desa*), duties and authorities as well as the right to regulate and take care of their households.

Customary Villages *de facto* or do meet the requirements as a legal entity, namely customary villages have a territory of power, leadership structure, the existence of

administrators and members, have their articles of association, their own rules called *awig-awig*, but *de jure* Customary Villages have not received recognition or endorsement from the Government, in this case, the Ministry of Law and Human Rights which is a requirement to become a Legal Entity.

After the Decree of the Minister of ATR/ Head of BPN NO 276/KEP-19.2/K/2017 concerning the Designation of Customary Villages as Subjects of Communal Rights to Land is issued, Customary Villages can obtain Property Rights to land for all their lands that were previously controlled by custom. This is also supported by the provisions of Article 5 of Bali Provincial Bylaw Number 4 of 2019 concerning Customary Villages in Bali which reads: "Customary Villages have the status of legal subjects in the Bali Provincial government system".

The concept of the Theory of Property Rights to Land is a right that gives authority and freedom to the holder to do everything to be the object of ownership as long as it does not interfere with the interests of others. Besides, property rights are downhill indefinitely. We need to know that one of the land rights that fall into the primary category is property rights. For property rights are the strongest, most perfect, and fulfilled rights of other primary rights. Property rights function socially that the absoluteness of property rights to land in civil law, can be seen from 5 (five) characteristics, namely the existence of the right to enjoy freely, the strongest rights, by the legislation, do not interfere with the rights of others, and the disenfranchisement of rights for the public interest accompanied by compensation.

The existence of the provisions for the conversion of property rights is expected to bring fresh air in ensuring legal certainty for the ownership of customary land by Customary Villages in Bali. However, in practice, these provisions are prone to cause conflicts over the ownership and control of customary lands. Customary land in Bali is a common land owned and controlled by traditional villages commu-

nally. If these customary lands are converted into full individual land (private property rights), it will be able to weaken and even eliminate the existence of the Druwe Village land in Bali. Over time the land will be able to be transferred to outsiders (not traditional villages) and will eliminate all obligations attached to the land.

The Most Appropriate Land Rights For Customary Villages with Indigenous Peoples

Definition of Land Rights

According to the Big Indonesian Dictionary, right is defined as the power to do something because it has been determined by law or the correct power over something or demanding something. The dictionary of legal terms states that the right or *Recht* is a certain authority granted to a person based on general regulations or certain requirements. The concept of rights of both terminologies is focused on power or authority. Power is defined as the ability, while authority is defined as the right and power that belongs to do something. The Great Dictionary of Indonesian defines land as the finite surface of the earth occupied by a nation ruled by a State or ss an area of the State. In the agrarian scope, the land is part of the earth called the surface of the earth, as mentioned in Article 4 paragraph (1) of the UUPA, namely: "Based on the right to control from the state as referred to in Article 2, it is determined that there are various rights to the surface of the earth, called land, which can be given to and owned by people either alone or together with other people and legal entities".

The intended land in this case is not regulating the land in all its aspects, but rather only regulating the land in one of its aspects, that is, the land in a juridical sense. The juridical definition of soil is the surface of the earth which is viewed in two dimensions with a measure of length and width, while from a three-dimensional point of view with a measure of length, width and height, soil means space. The

right of control over land is a series of powers, obligations, and or prohibitions for the holder of his right to do something with the land being judged. The right of control over land can also be interpreted as a legal institution if it has not been linked to certain lands and subjects. However, the right of ownership of land is a concrete legal relationship if it has been linked to land and certain subjects. In the National Land Law, there is a hierarchy of land tenure rights, namely :

Rights of the Indonesian Nation

The rights of the Indonesian nation are designations given by Land Law scientists to legal institutions and concrete relations with the Earth, Water, and Space of Indonesia, including the natural wealth contained therein. This right is the highest right of land tenure in the National Land Law. The right of the Indonesian nation to land has a communal nature, meaning that all land in the territory of the Indonesian state is land with the Indonesian people who have united with the Indonesian nation (Article 1 paragraph (1) UUPA) and at the same time the Indonesian people as the subject of the Rights of the Indonesian Nation.

The Right to Control of the State

This right is sourced from the Rights of the Indonesian Nation which is a delegation of the implementation of the duties of the nation's authority containing public elements. The content of the authority of the Right to Control from the State over land as contained in Article 2 paragraph (2) of the UUPA, namely regulating and organizing the allocation, use, supply, and maintenance of land; determining and regulating the legal relations of peoples with the land; and determine and regulate the legal relations between the people and the legal acts concerning the land. The subject of the Right to Control of the State is the Unitary State of the Republic of Indonesia as the organization of power of the entire Indonesian people. Lands judged in the Right to Control from the State include all lands within the territory of the Unitary

State of the Republic of Indonesia, both lands that are not or have not been judged with individual rights.

Customary Rights of Indigenous Peoples

Hak Ulayat is a term popularly used in Indonesian legal treasures to refer to the communal rights of indigenous peoples. The set of rights and obligations of indigenous peoples does not have a uniform name. The name used by each region is different and mostly refers to the land that is the environmental area of the indigenous people. Scholars of Customary Law refer to the rights of indigenous peoples in different terms, such as the right of law by Soepomo, the ancient right by Djodjodjogoeno, and in the UUPA known by the name of customary rights.

Arrangements For Land Rights

The legal basis for the provisions of land rights is regulated in Article 4 Paragraph (1) of the UUPA, namely: "Based on the right to control from the state as referred to in Article 2, it is determined that there are various rights to the surface of the earth, called land that can be given to and owned by people, either alone or together with other people and legal entities."

The authority in the right to land is contained in Article 4 Paragraph (2) of the Basic Agrarian Law namely: "The rights to the land referred to in paragraph (1) of this article authorize the use of the land concerned, as well as the body of the earth and water and the space thereon, is merely necessary for the purposes directly relating to the use of that land within the limits under this Act and other higher legal regulations." In this case, it implies that the authority in the right to land is to use the land for the purpose of erecting buildings or not buildings, using the body of the earth, for example, the use of the basement, the use of water sources, the use of above-ground space, for example on the ground a transmitter is erected. What is meant by land rights is a right that authorizes those who have the right to use or

benefit from the land they judge.

The land rights mentioned in Article 4 paragraph (1) of the Basic Agrarian Law are described in Article 16 paragraph (1) of the Basic Agrarian Law, namely: 1) Property Rights; 2) Business Use Rights; 3) Building Use Rights; 4) Right of Use; 5) Leasehold Rights for Buildings; 6) Land Clearing Rights 7) Rights to collect Forest Products; 8) Other rights that are not included in the aforementioned rights on land to be established by law, as well as rights of a temporary nature as mentioned in Article 53, Liens, Profit Sharing Business Rights, Hitchhiking Rights, Agricultural Land Lease Rights.

Customary Villages In The System Of Government

Indonesia is known as a country with a multicultural, multi-ethnic, religious, racial, and multi-group pattern. *Sesanti Bhineka Tunggal Ika de facto* reflects the plurality of the nation's culture under the auspices of the Unitary State of the Republic of Indonesia. The country's territory, which stretches widely from Sabang to Merauke, has abundant natural resources on the equator, as well as cultural resources of various shades. One of Indonesia's cultural treasures is the customary village as a social grouping system with its customary law (written/unwritten) as an instrument of social supervision in the life of indigenous peoples. The term traditional village in the area is known for various designations, such as villages/hamlets in Java, traditional villages / banjars in Bali, and Nagari in West Sumatra. This socio-cultural system in the form of customary villages and customary law is what empirically becomes the shield, guardian, preserver, and guardian of the existence and integrity of the customary law community in the area since time immemorial, from the time before independence, post-independence until now. Indonesia also has many Customary Villages that still prioritize customary laws that apply to their citizens or communities. Traditional villages in Indonesia are formed from a variety of cultures and traditions that vary from one region,

therefore each customary village has regulations that are different from each other.

Land Pekarangan Desa (PkD) and Land Ayahan Desa (AyDs)

Definition of Land PkD and Land AyDs

Land Pekarangan Desa (PKD) is land controlled by the village that is given to the villagers (krama desa) to establish housing that is usually with a certain size area that is almost the same for each family. The inherent obligation, better known as "ayahan", in the villages that occupy the land is the burden of energy and materials required by the traditional villages.

Land Ayahan Desa (AyDs) are lands controlled by villages whose cultivation is handed over to each village with the right to enjoy the obligation to provide "ayahan" in the form of energy and materials to the customary village.

Land Uses PkD and Land AyDs

Customary lands as customary lands in Bali are common lands that are controlled and owned by traditional villages communally. Part of this communal land is handed over to individually designated krama (residents) which is referred to as non-full property rights such as PkD, and AyDs. That private property is conceived to have the right to own and use privately. So there is a common property but it can be used for personal gain.

Land Pekarangan Desa, which is often abbreviated by the name PkD, is village-owned land that is given to the village krama for a place to establish housing that is usually of a certain size and almost the same for each family. AyDs are nutugs (tailing) in PkD, meaning that all the needs of upakara materials and religious ceremonies usually come from the land of AyDs which are called slashes or also as a source of necessities if the land of AyDs is in the form of paddy land. Even places of activities related to traditional activities can be carried out in teba (AyDs) as nista mandalas (teben) by the tri mandala concept, namely three stratifications of area functions consisting of the main mandala

(sacred area), Madya mandala as an area for his place of life and krama life of the village, and nista mandala as an unholy area, such as burial, ngaben which is usually located in the ilir (teben) of the village.

The yard land occupied by each member of the krama became the Village Yard Land (PkD) and the moorlands or rice fields that were produced were called village father lands (AyDs). Both PkD and AyDs lands are "beschikkings gebied" (fiefdoms) of Customary Villages. The basis for this control is "customary rights" (territorial rights), namely the rights of the Customary Village alliance over the land inhabited. As qualified by Swastawa Dharmayuda, customary land in Bali can be divided into several categories, namely Tanah Druwe Desa in the form of Market Land, Field Land, Graveyard Land / Setra, Tanah Laba Pura as village-owned land specifically used for temples (places of worship of Hindus), Village Yard Land (PkD) as land controlled by the village which is given to villagers (Krama Desa) for housing needs, and Village Ayahan Land (AyDs) as land controlled by the village whose cultivation is handed over to each villager with the right to be enjoyed and given the obligation to give fathers both in the form of energy and materials to the village. Thus the benefits of PkD Land and AyDs Land can be enjoyed and used as well as possible by indigenous peoples for their survival and welfare.

Rights And Obligations Of The People Occupying Land PkD and Land AyDs

For customary lands controlled by individuals (village krama) namely village yard land (PkD) and village father land (AyDs) together, it is often called "father's land" only. For this father's land, customary ties remain in the form of obligations for villagers or temples. This obligation is often referred to as "ayahan". It was this father who curbed or bound the father's land so that it became a constrained property right. The purpose of this restraint is essential to limit the freedom of business or freedom of movement of members of Customary Villages individually. This restraint

was carried out for the benefit of the indigenous village because this father's land was the *Beschikkingssgebied* (fiefdom) of the customary village.

Tanah Pekarangan Desa, which is often abbreviated by the name PkD, is village-owned land that is given to the village krama for a place to establish housing that is usually of a certain size and almost the same for each family. This understanding needs to be added with a sentence related to the obligation to *ngayah desa*. Krama (members) of the village community who control the village yard (PkD) are obliged to do village fathering. Krama of the village community who control the village yard (PkD) are obliged to do village fathering. Usually, villages that have PkD, (village yards) are *ngarep* fathers based on the number of village corals, meaning that every one PkD is only required to have one person. Krama *jangkep* or every other head of the family is domiciled as a *pengele* or *slingshot* enrichment which means that the residents occupy the PkD (village yard) but as krama which is numbered twice. Les dispositions relatives à cet arrangement sont réglementées dans les perruques des villages autochtones, tant écrites que celles qui n'ont pas été écrites. Village de *Ngayah* signifie exécuter toutes les obligations liées aux villages traditionnels, y compris en ce qui concerne l'exécution de toutes les obligations envers *Kahayanan Tiga* (*Kahayanan Desa*).

Legal Consequences of PkD Land Registration and AyDs Land Become Property Rights on behalf of Customary Villages against the Existence of Customary Villages in Bali

Customary lands or village customary lands in Bali, as mentioned above PkD and AyDs land, *Laba Pura Kahayanan Desa*, or other village lands called *druwe desa*, are lands belonging to customary law alliances called customary villages whose control is given to village krama (members of the village community) with the obligation to *ngayah desa* including all obligations to *Kahayanan Desa*, or customary village

land that is directly controlled by customary villages that are different from other customary law communities in Indonesia. The existence of property rights provisions granted by customary villages and individuals is expected to bring fresh air in ensuring legal certainty against the ownership of customary land by customary villages in Bali. However, in practice, these provisions are prone to cause conflicts over the ownership and control of customary lands. Customary land in Bali is a common land owned and controlled by traditional villages communally. Some of this communal land is handed over to members of the indigenous village community (*krama desa*) as non-full individual land, namely the Village Yard land (PkD) and the Village Father's land (AyDs). However, the concern of these Provisions is the existence of property rights to the Village Yard land (PkD) and the Village Father's land (AyDs) into full individual land.

The Complete Systematic Land Registration Program hereinafter referred to as PTSL which began in 2017 according to an order from the President of the Republic of Indonesia so that all land in Indonesia must be fully certified is also one of the drivers for granting property rights status to customary village lands, which previously these lands were only owned customary or customary so that the PTSL target could not be achieved because PkD land did not have proof of tax payment as one of the one of the requirements for registration for land certification, but with the existence of PTSL, it is also supported by Article 5 of Regional Regulation Number 4 of 2019 concerning Customary Villages in Bali which states that Customary Villages have the status of legal subjects in the Bali Provincial government system and the Decree of the Minister of ATR / Head of BPN NO 276 / KEP-19.2 / K / 2017 concerning the Designation of Customary Villages as Subjects of Communal Rights to Land issued so that Customary Villages can have Property Rights over their customary land.

Customary Villages to maintain their existence should not be given land rights

in the form of full property rights because they can switch to other parties, but it is better if they are given Management Rights to Customary Villages, in the provisions of Article 1 number 4 of Government Regulation Number 24 of 1997 concerning Land Registration it is determined that: "Management rights are the right of control from the State whose implementation authority is partly devolved to the holder". Further management rights are stated in Article 4 to Article 18 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration. Where Article 4 of the PP states that: "Management Rights can come from State Land and Customary Land". Thus it is very appropriate for Customary Villages to be granted Management Rights because the basis of customary lands is customary land by the provisions of the article above.

Management Rights also cannot be used as collateral for debts by being burdened with dependent rights and cannot be transferred and transferred to other parties so it is very relevant to be given to Customary Villages to keep the management and existence of Customary Land intact. Then in Article 8 paragraph 1, it is determined that: "Management Rights whose use and utilization of all or part of the land for their use or cooperation with other parties as referred to in Article 7 paragraph (1) point b can be granted Land Rights in the form of Business Use Rights, Building Use Rights and/or Use Rights above Management Rights in accordance with their nature and function: a. holder of Management Rights as long as it is regulated in a Government Regulation; or b. other parties, if the Land Management rights cooperate with the Land utilization agreement". This supports the rights that should be given to Customary Villages to provide mutual benefits to indigenous peoples. for PkD Land can be given a derivative of the right to become a Building Use Right to the community occupying each PkD and given Business Use Rights or Right of Use to indigenous peoples for

AyDs Land so that it cannot be permanently transferred to other parties.

4. CONCLUSION

Based on the results of the analysis above, it can be concluded that Customary Villages are granted Property Rights to Land based on the Decree of the Minister of ATR / Head of BPN NO 276 / KEP-19.2 / K / 2017 concerning the Designation of Customary Villages as Subjects of Communal Rights to Land, even though Customary Villages have not met the requirements as a Legal Entity because the requirement to become a Legal Entity is the recognition and determination from the government, in this case, the Ministry of Law and Human Rights. And the Property Rights granted to Customary Villages do provide legal certainty for the lands in their territory but also have a negative impact because it threatens the existence of the customary land itself If this customary land is converted into Proprietary land, it will be able to weaken and even eliminate the existence of customary land in Bali. Over time the land will be able to be transferred to outsiders (not traditional villages) and will eliminate all obligations attached to the land.

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