



## The Role Of The Land Office In Addressing "Absentee/Guntai" Land Ownership in Buru District

Sofyan Malik<sup>1\*</sup>, Zubair<sup>2</sup>.

<sup>1</sup>Faculty of Law, Iqra Buru University, Indonesia

<sup>2</sup> Faculty of Law, Muhammadiyah University of Buton, Indonesia

\*Korespondensi: [sofyanmalikuniqbu@gmail.com](mailto:sofyanmalikuniqbu@gmail.com)

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### Abstrak

*This study aims to seek the factors that cause absentee/guntai land ownership in Buru District and the role of the Buru District Land Office in overcoming or resolving the problem of absentee/guntai lands. The types and sources of data used by the author in assisting the research to be carried out are primary data and secondary data. To collect field research data the author uses the following methods: Interviews, namely data collection carried out in the form of questions and answers directly to the relevant respondents. The results of the study show that the prohibition of absentee/guntai land ownership in Buru District has not been implemented effectively. This is evidenced by the existence of absentee/guntai land ownership in Waeapo District and Lolong Guba District. The phenomenon of absentee/guntai land prohibition has actually occurred, but no strict sanctions have been imposed.*

## 1. Introduction

Land should be used for cultivation or to meet actual demands because it is one of the key sources for the nation's existence and subsistence in reaching the greatest prosperity of the people that is distributed fairly and equally (Pasomba et al. 2022). In this regard, it is necessary to regulate its stipulation, allotment, command, utilize, and upkeep in order to ensure certainty in its control and utilization and to simultaneously offer the general public, particularly the farmer group, protection under the law while maintaining their ability to support

sustainable development activities (Pujiningsih 2016). Land is a valuable resource for the community as well, serving as a venue for different activities as well as a medium for plant development. For the survival of people and the advancement of a country, land is another important aspect in production.

As more growth occurs in the areas of agriculture, modern industry, housing, environmental sustainability, protection of natural resources, social welfare, and other areas, land becomes more and more important (Ata 2016). This becomes more challenging when population growth necessitates a larger area, thus reducing or depleting the available land. Indonesia already has special provisions governing land, namely in Law no. 5 of 1960 concerning Basic Agrarian Regulations, commonly called the Basic Agrarian Law (UUPA), which came into effect on September 24, 1960 in (Ramdani 2019).

The application of the years limits on land ownership is still not going as planned (Wiguna 2018). This is demonstrated by absentee/guntai land ownership (those who reside outside the district or region where the land is located), which is frequently an issue that is known but challenging to establish for a number of reasons. Although the BAL officially forbids it, absentee/guntai ownership of agricultural land is nonetheless legal. This restriction relates to the key elements of land reform covered by BAL Articles 7, 10, and 17 in (Wiguna 2018). The ban on absentee/guntai land ownership is meant to encourage farmers to work actively and productively on their farms, boosting production and preventing a small number of landlords from controlling the collection of land (Rasyidi 2021). As the implementation of Article 7 and Article 17 UUPA, Law no. 56 Prp of 1960 concerning Determination of Agricultural Land Areas. To carry out the redistribution of land as mandated by Article 17 (3) of the UUPA juncto Law No. 56 Prp of 1960, Government Regulation No. 224 of 1961 concerning Implementation of Land Distribution and Provision of Compensation has been stipulated (Wibowo and Mariyam 2021).

This Government Regulation (PP) has been amended and supplemented with PP No. 41 of 1964 concerning Amendments and Supplements to Government Regulation No. 224 of 1961 concerning Implementation of Land Distribution and Provision of Compensation (Devita 2021). With in setting of legal certainty in the land sector by the government, land can be used for the maximum possible welfare of the people, so that supervision and ownership of assets that surpasses the limit and absentee/guntai land is not permitted (Triningsih and Aditya 2019).

In this regard, it is required that the holder of farmland who lives outside the sub-district in which the property is located, within a duration of six months, either distribute his farmland towards another person in the sub-district where the site is located or proceed to the sub-district where the property is located, except if the sub-district is relatively close to between the owner and the land, so that it is still feasible to work the land proficiently (Putu Diva Sukmawati 2022).

The efficiency of the laws and rules controlling the land reform program, which forbids absentee/guntai property ownership as one of its tenets, is where this issue rests. Therefore, it may be claimed that Landreform failed because it was unable to adequately execute the restriction on absentee/guntai land ownership based on the maximum allowable amount of agricultural land (Arifianti 2018). Throughout this context, the role of law enforcement, in this scenario the National

Land Agency as that of the authorised person of regulations in the district region, is highly anticipated in distributing the current rules concerning the ban of absentee/guntai land ownership to the a whole community to assist the execution of the Landreform scheme in Indonesia. According to the description of the research background above, the problems can be broken down as follows: (a) What are the factors that cause absentee/guntai land ownership in Buru Regency and (b) What is the role of the Buru District Land Office in overcoming or resolving the problem of absentee/guntai lands.

## **2. Methods**

This research was conducted in Waeapo District, Buru Regency. Taking into account that the area has the most abundant and fertile farm production and the most of the people are farmers, both farmers who work their landowners and individuals who manage other people's private property. The author employed the following categories and resources of data to aid in the study that was to be done:

1. Primary data, namely data obtained directly from sources in the field originating from respondents related to this research (Ramdani 2019).
2. Secondary data, namely data obtained from a literature review in the form of literature, scientific papers, laws and regulations, documentation from agencies related to written materials related to this research.

The author employs both primary and secondary data when gathering information for this study, with the following techniques: Research with this technique is carried out by examining appropriate library materials and related issues raised in legal scientific work. The library materials are in the form of literature, legal scientific papers, laws and regulations, and documentation from agencies related to this research (Ramdani 2019).

To collect field research data the author uses the following methods: Interviews, namely data collection carried out in the form of questions and answers directly to the relevant respondents. The data analysis approach used in this research is a qualitative analytical technique, which involves interpreting and compiling data that has been carefully collected to get a broad picture of the issue or circumstance under consideration in (Syahri 2014). After the data is analyzed, conclusions will then be drawn using inductive thinking methods, namely a pattern of thinking that is based on things that are specific, then a generalization or general conclusion is drawn.

## **3. Findings and Discussions**

### **3.1 Findings**

#### **Factors Causing Absentee/Guntai Land Ownership in Buru District**

The most significant issue facing agriculture, particularly in developing nations like Indonesia, is the ownership of agricultural land in the interaction between landlords and cultivators. Attributable to the impact of the establishment of the of landownership and shareholding during the Dutch East Indies era, where the liberal concept of individualism as well as the ideas of capitalism and feudalism still influenced landowners' behavior in possession and management of the land. In addition, there is a growing belief among the people that land is considered the safest and most profitable bank for saving money. Such a view is a natural thing in

a developing country, but as a result there is a big tendency to collect land among money owners as landlords.

This act is not a problem if it is not carried out excessively at the expense of the common people which can lead to a deep enough gap between the owners of money who wish to own as much land as possible and the people/small farmers who are generally unable to afford so they are forced to surrender part or all of their land. land to the owner of the money.

Farmers who do own land may require cash in an emergency and anticipate selling their land for that money. The wealthy individuals who purchase farmland in the villages are typically city dwellers with stable employment not as farmers and a fixed address. This is just one of the factors that contribute to absentee/guntai holding of farmland. The clearly forbids absentee/guntai ownership of agricultural land. This restriction relates to the primary aspects of land reform, which are governed by UUPA Articles 7, 10, and 17. UUPA's Article 7 states:

*“To not harm the public interest, the ownership and land tenure that exceeds the limit is not permitted”.*

This is an endeavor to stop the emergence of personal liberty that go beyond what is appropriate. Article 10 UUPA reads:

*“Every individual and legal entity that has a right to agricultural land is required to actively work on it by avoiding extortion”.*

The restrictions in Article 10 are intended to prevent the emergence of owners who reside in urban areas and who are only interested in the outcomes of the lands that people who are subject to their commands and authority are cultivating. Article 17 UUPA states:

1. Bearing in mind the utmost and/or lowest amount of property allowed to be owned by one family or legal organization with a right in Article 16 is limited in order to hinder the objective mentioned in Article 2 paragraph (3).
2. Statutory regulations quickly and accurately determine the highest limit mentioned in paragraph (1) of this article.
3. The government will take land that exceeds the maximum limit mentioned in paragraph (2) of this article and compensate the owner before distributing it to those who need it in accordance with the rules outlined in government regulations.
4. The accomplishment of the upper limit mentioned in this article's paragraph (1), which will be governed by law, shall be carried out progressively.

Article 7 can be continued by the rules in Article 17 relating the maximum land area restrictions. The inclusion of this upper restriction will prevent land accumulation in particular groups. Law No. 56 Prp of 1960 regarding Designation of Agricultural Land Areas has been adopted as an execution of Articles 7 and 17 of the UUPA. PP No. 224 of 1961 was prescribed to carry out the redistribution of land required by Article 17 (3) UUPA in connection with Law No. 56 Prp of 1960, and it was later updated by PP No. 41 of 1964.

Article 3 of the PP No. 224 of 1961 and Articles 3a to 3e of the PP No. 41 of 1964 contain regulations regarding the banning of absentee/guntai land on

agricultural land. According to the provisions of Article 3 PP No. 224 of 1961, it is stated that:

1. Paragraph (1): In order to maintain their ownership of the land, farming landowners who reside beyond the subdistrict where their property is situated have six months to either move into the subdistrict where their land is located or transfer their land rights to someone else there.
2. Paragraph (2): Landholders who dwell in subdistricts adjacent to the subdistrict where the land is located are exempt from the requirement in paragraph (1) if the space between their home and the land still enables them to operate the property effectively.
3. Paragraph (3): Without limiting the terms of this article's paragraph (2), a landlord is required to transfer title of his property to other district residents if he relocates or vacates his home for two years in a row outside the district where the land is located.
4. Paragraph (4): People who perform official government functions, fulfill religious responsibilities, or have other extraordinary circumstances that the Minister of Agrarian Affairs can accept are exempt from the provisions of paragraphs (1) and (3). The exemption mentioned in this paragraph is restricted to the ownership of agricultural land up to 2/5 of the maximum area set for the area concerned according to Law No. 56 of 1960 for civil personnel and military officials who perform state functions.
5. Paragraph (5): The government may seize the property in question if the responsibilities in paragraphs (1) and (3) are not met.

It turns out, nonetheless, that these regulations remain to be finalized, specifically under PP No. 41 of 1964, which contains tougher rules, specifically through Articles 3a, 3c, 3d, and Article 3e, including:

“Article 3a paragraph (1): The possessor of farming fields who, within a year after reporting to the regional authorized official, changes his address or vacates the subdistrict where the land is located for 2 (two) consecutive years He must give someone who lives in the neighborhood where the land is located possession rights to the land as of the end of the two (two) year period indicated above”.

“Article 3a paragraph (2): If the owner of the property mentioned in subsection (1) of this article shifts or tends to leave his domicile outside the subdistrict where the property is situated without informing the local authorized official, he is required to sell possession of his territory to another person who resides in the area where the site is located within two years of leaving his home”.

“Article 3c paragraph (1): If someone possesses rights to farmland beyond the area where they live that they inherited, they are required to either transfer those rights to someone who resides in the district where the property is situated or migrate there within 1 (one) year after the heir's passing”.

“Article 3d: It is against the law to carry out any type of new rights transfer to agricultural land that would give the landowner concerned ownership of pieces of land outside the region wherein he lives”.

“Article 3e : The land and the owner of the land in question are both subject to the provisions in Article 3 paragraphs (5) and (6) PP No 224 1961 if the provisions in Articles 3a, 3b, 3c, and 3d are not followed”.

The government's transfer of farmland might or might not have something to do with the execution of the prohibition on absentee/guntai land ownership. The government should first keep the land that surpasses the maximum limit and land owned by absentee/guntai owners by making payment established by the Level II Landreform Committee before engaging in agrarian reform (now the Regional and Municipal Governments).

In spite of the fact that absentee/guntai ownership of agricultural land is illegal, as previously stated, absentee/guntai ownership of farmland is nevertheless prevalent today, particularly in Waeapo District and Lolong District, in accordance with findings of the author's field research. This can be shown in the evidence that the owner's residence/domicile is outside the sub-district but in fact owns agricultural land in the sub-district. Based on the data the author obtained from Savanah Village, Waeapo District and Kubalahin Village, Lolong Guba District, data on absentee/guntai land ownership can be obtained as follows:

**Table 1.** Table of Absentee/guntai Land Ownership in Waeapo and Lolong Guba Districts

Districts	Village	Land Owner Tanah	Land Area
Waeapo	Savanah	20 people	14 hectare
Lolong Guba	Kubalahin	10 people	9 hectare
Total		30 people	23 hectare

Data Source: Office of the National Land Agency

As a result, it is possible to pinpoint the elements that contribute to absentee/guntai agricultural land in Buru Regency based on the findings of the author's field research: This is inextricably linked to the willful violation of the law by someone who is aware of the rule against absentee/guntai ownership of agricultural land for their personal financial gain.

Agricultural land that is absentee/guntai due to private buying and selling is typically given by the owner to sharecroppers in the area. These legal relationships are widely accepted, and the local populace, particularly sharecroppers, perceives them as being highly advantageous from an economic and social/family relationship perspective.

### **The Role of the Land Office in Addressing the Occurrence of Absentee/guntai Land Ownership in Buru District**

Each Regency/Land City's Office is a vertical division of the National Land Agency (BPN), overseen by a Head who answers directly to the head of the provincial BPN regional office. These are the office's three primary responsibilities:

1. Arrange actions in the areas of controlling land ownership, land usage, managing land rights, and measuring and registering land.
2. Perform service-related tasks in the areas of managing land rights, regulating land tenure, measuring land, and registering land.
3. Execute administrative and domestic tasks. The four work units at the Land Office are operationally responsible for the three primary responsibilities, namely:

### **Administrative Subdivision (TU)**

The primary duties of this work unit are as follows:

1. Conducting financial affairs within the Land Office
2. Conducting correspondence, staffing, equipment and household affairs of the Land Office.

### **Land Tenure Arrangement Section (PPT)**

The main responsibilities of this work unit are as follows:

1. Plan and execute initiatives in the areas of land tenure regulation, transfer, communal use of site, and urban and rural land aggregation.
2. Arrange and execute tasks to gather data on absentee/guntai and private land, settlement of maximum excess remuneration for land, issuing of transfer licenses, and problem-solving.

### **Land Use Stewardship Section (PGT)**

The principal activities of this work unit are as follows:

1. Obtain, analyze, and display data on the custodianship of property use.
2. Plan for the creation of land use management plans, offer local stakeholders advice on land use, and get ready to manage land use changes.

### **Land Rights Section (HAT)**

These would be this work unit's order to start:

1. Create and execute inspection procedures, as well as issue fatwas for the awarding, continuation, suspension, and revocation of land rights.
2. Organize for and conduct on acquiring land tasks for government entities.
3. Develop and carry out land dispute resolution

### **Land Measurement and Registration Section (P2T)**

These are the major activities of this work unit:

1. Investigation, measurements, modelling, and title registration preparation for the transition of land ownership.
2. Organizing the documentation of land ownership depending on the licensing and acknowledgment of claims, gathering data and details for the creation of a management system for the creation of a land information, and keeping publicly records and archives in the area of land survey and registration.
3. Develop the equipment and resources for filling up lists in the field of assessment and land enrollment, as well as the resolution of the conveyance of land claims, attachment of land rights, and documents for assistance of land deed officials (PPAT).

## **3.2 Discussions**

In keeping with the rising demand for property, it is crucial to have precise and severe legislation regulating limits on land ownership. According to Article 7 of the UUPA, excessive land ownership and control are prohibited in order to protect the public interest. This principle is applicable to the control of agricultural land. So,

the relationship between people and land, as well as the authority that results from it, is governed by Article 11 paragraph 1 of the UUPA.

This is also done to prevent control over the lives and work of others that exceeds the limit. Then paragraph (2) of the same article also pays attention to differences in circumstances and legal needs of various groups of people as long as they do not conflict with national interests. The emphasis of this rule is to guarantee protection for the interests of economically weak groups.

In Articles 12 and 13 of the UUPA, the government emphasizes efforts to prevent private monopolies. Meanwhile, the government's business in the agrarian sector which is monopoly in nature can only be carried out by law. The issue of tenure over agricultural land, the basic principles have been outlined in Article 7 and Article 10 (the principle of working on or seeking active agricultural land rights yourself) as well as Article 17 which implies the need for regulations regarding the maximum limit of agricultural land area that can be owned by one family or entity law. Although the prohibition on absentee/guntai ownership of agricultural land regulated in PP No. 224 of 1961 in conjunction with PP No. 41 of 1964 is still valid today, it turns out that in Buru Regency, especially in Waeapo and Lolong Guba Districts, there are still many absentee/guntai lands. and so far the Land Office has indeed not done anything concrete to support the effectiveness of the ban on absentee/guntai land ownership.

This is evident from the existence of absentee/guntai lands which have escaped the monitoring of the Land Office. According to Hendrik Tuankota, one of the staff from the Land Office actually has done as much as possible in orderly administration, especially in the matter of making land certificates, which will first look at the domicile of the land owner whether it is in the same sub-district as the land in question. And if it is proven that the location of the land is outside the sub-district or with a distance of more than 5 km in the case that the location of the land borders between sub-districts, then the certificate will not be processed. But what then happened was, the people who were rejected would come back with KTPs for the area where the land was located so the Land Office did not dare to refuse to process the documents, because formally all the conditions had been met. And here the Land Office does not have too much authority in examining whether the KTP is genuine or not.

In line with the objectives to be achieved through the Land Order Chess Program, especially orderly land law and orderly use of land, the Buru District Land Office has made efforts to enforce the law by holding directed and widely held legal counseling. As the sub-district is the focal point for the transfer of rights, counseling is conducted by visiting the field to gather or monitor the state of inventory in the regions, specifically tracking as in the sub-districts, to prevent land sales and purchases from being made in an absentee/guntai manner. With this counseling, legal discipline can be developed, namely that officials related to land issues comply with and apply the applicable land law, and people with knowledge of land law will obey it, so if there is a deviation from the applicable regulations it can be straightened out properly. It's just that the government here has not been able to strictly apply sanctions as stipulated in PP no. 224 of 1961 in Article 19 regarding criminal sanctions for landowners who acquire or deliberately obstruct the Government's taking of land and its distribution, namely:

Paragraph (1): Landowners who refuse or intentionally obstruct the taking of land by the Government and its distribution, as described in Article 2 paragraph (2), shall be dealt with a maximum term of 3 months' imprisonment and/or a maximum fee of Rp. 10,000,- while the land was confiscated by the government without payment.

Paragraph (2): Anyone who knowingly hinders the implementation of this government regulation faces a possible 3-month sentence in jail and/or a fine of up to Rp. 10.000.,-

Paragraph (3): The crime referred to in paragraphs (1) and (2) of this article is a violation. Based on the results of research in the field, the Buru Land Office has never applied such criminal sanctions. This shows that law enforcement against the ban on absentee/guntai land is not firm.

In addition, there is also a fine of Rp. 10,000, -, for the current situation it is no longer relevant because it is too light so it will be easily violated, because it was made in 1961 and until now there has been no change.

#### 4. Conclusion

The Buru District's prohibition on absentee/guntai land ownership has not been successfully enforced. This is evidenced by the existence of absentee/guntai land ownership in Waeapo District and Lolong Guba District. The factors that lead to absentee/guntai agricultural land ownership are (a) The society's lack of legal understanding is reflected in the fact that many land sales and purchases continue to be made illegally, and the transfers are not recorded at the land office. As a result, many lands are owned in absentee/guntai ownership, evading the Land Office's oversight; (b) cultural factors, namely due to inheritance; (c) Facility and infrastructure factors, namely the Land Office does not have accurate data regarding the absentee/guntai ownership of agricultural land; (d) Factors of the apparatus or law enforcers, namely the ease provided by officials at the kelurahan and sub-district levels in making KTPs which resulted in many double KTPs being used in land ownership transactions in rural areas; (e) Economic factors, because land has economic value and people think that land can be used as a guarantee of life in their old age, resulting in a shift in allotment of agricultural land to housing, industry and tourism areas; (f) The phenomenon of absentee/guntai land prohibition has actually occurred, but no strict sanctions have been imposed.

The Land Office's responsibility in combating absentee/guntai land ownership is by: (a) Administrative control, specifically by enforcing tight monitoring of the transmission of farmland ownership through collaboration amongst pertinent organizations, specifically the Village Head, District Head, and PPAT/Notary; (b) Law enforcement, particularly through continually and publicly disseminated legal advice to the public and officials/apparatuses with land concerns

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