

**MANAGEMENT OF LAND AFFAIRS ISSUE
ASSESSMENT AND SETTLEMENT
(Regulation of the Head of the National Land Affairs Agency
of the Republic of Indonesia Number 3 Year 2011
dated February 4, 2011)**

BY GRACE OF GOD THE ALMIGHTY
THE HEAD OF THE NATIONAL LAND AFFAIRS
AGENCY OF THE REPUBLIC OF INDONESIA

Agrarian Principles (Statute Book of the Republic of Indonesia Year 1960 Number 104, Supplement to Statute Book of the Republic of Indonesia Number 2043);

Considering:

- a. than managing land dispute assessment and settlement constitutes any of the functions of the National Land Affairs Agency of the Republic of Indonesia in the framework of mitigating land disputes, conflicts and cases in a bid to realize a land affairs policy for the justice and welfare of the people;
- b. that management of land case assessment and settlement constitutes an instrument to settle land disputes, conflicts and cases and minimize potentials of land affairs issues;
- c. that having regards to letters a and b, it is necessary to stipulate a regulation of the Head of the National Land Affairs Agency of the Republic of Indonesia on Management of Land Affairs Issue Assessment and Settlement;

2. Government Regulation Number 24 Year 1997 on Land Registration (Statute Book of the Republic of Indonesia Year 1997 Number 59, Supplement to Statute Book of the Republic of Indonesia Number 3696);
3. Presidential Regulation Number 10 Year 2006 on the National Land Affairs Agency;
4. Regulation of the State Minister for Agrarian Affairs/Head of the National Land Affairs Agency Number 3 Year 1997 on Technical Provision of Government Regulation Number 24 Year 1997 regarding Land Registration;
5. Regulation of the State Minister for Agrarian Affairs/Head of the National Land Affairs Agency Number 9 Year 1999 on Procedures for Granting and Nullifying Right to State Land and Management Right;
6. Regulation of the State Minister for Agrarian Affairs/Head of the National Land Affairs Agency Number 3 Year 2006 on Organization and Working Mechanism of the National Land Affairs

In view of:

1. Law Number 5 Year 1960 on Basic Regulation of

GOVERNMENT REGULATIONS

Agency of the Republic of Indonesia;

7. Regulation of the State Minister for Agrarian Affairs/Head of the National Land Affairs Agency Number 4 Year 2006 on Organization and Working Mechanism of Regional Offices of the National Land Affairs Agency and Land Affairs Offices;

DECIDES :

To stipulate:

THE REGULATION OF THE HEAD OF THE NATIONAL LAND AFFAIRS AGENCY ON MANAGEMENT OF LAND AFFAIRS ISSUE ASSESSMENT AND SETTLEMENT

CHAPTER I

GENERAL PROVISION

Article 1

Referred to in this regulation as:

1. Land Affairs Issue shall be land affairs dispute, conflict or case submitted to the National Land Affairs Agency of the Republic of Indonesia to obtain the settlement in accordance with the provision of legislation and/or national land affairs policy.
2. Land Affairs Dispute hereinafter abbreviated to Dispute shall be land affairs dispute between individual persons, legal entities and institutions that has no broad impact socio politically.
3. Land Affairs Conflict hereinafter abbreviated to Conflict shall be land affairs dispute between individual persons, groups, groups of classes, organizations, legal entities or institutions that tends to have or has had broad impact socio politically.
4. Land Affairs Case hereinafter called Case shall be a land affairs dispute settled by judicial institution or decision of judicial institution having settlement thereof still requested in the National Land Affairs Agency of the Republic of Indonesia.
5. Land Affairs Issue Presentation hereinafter called the Presentation of Issue shall be an institutional mechanism of the National Land Affairs Agency of the Republic of Indonesia to handle and/or settle land affairs issue. The presentation of land affairs issue handling and/or settlement shall include:
 - a. Internal Case Presentation shall be a presentation with the participants resulting from the Head Office of the National Land Affairs Agency, Regional Offices of the National Land Affairs Agency and/or Land Affairs Office.
 - b. External Case Presentation shall be a presentation with the participants resulting from the Head Office of the National Land Affairs Agency, Regional Offices of the National Land Affairs Agency and/or Land Affairs Office, which is attended by participants from other components/institutions.
 - c. Mediation Presentation shall be a presentation featuring parties in dispute to facilitate the settlement of land affairs case through deliberation.
 - d. Extraordinary Presentation shall be a presentation executed by a land affairs case settlement team

GOVERNMENT REGULATIONS

- established by the Head of the National Land Affairs Agency or Deputy for Assessment and Settlement of Land Affairs Dispute and Conflict.
6. Asset Land shall be land belonging to state property or regional property as meant in Law Number 1 Year 2004 on State Treasury.
 7. Title Land shall be land wherein certificate of land title as meant in Article 1 point 20 of Government Regulation Number 24 Year 1997 on Land Registration has been issued.
 8. State land shall be land controlled directly by the state as meant in Article 2 Law Number 5 Year 1960 on Basic Regulation of Agrarian Principles.
 9. National Land Affairs Agency of the Republic of Indonesia hereinafter abbreviated to BPN RI shall be a non-ministerial government institution subordinate and responsible to the President that performs public administration tasks in the land affairs field, nationally, regionally and sectorally as meant in Presidential Regulation Number 10 Year 2006 on the National Land Affairs Agency.
 10. Head of the National Land Affairs Agency of the Republic of Indonesia hereinafter abbreviated to Head of BPN RI shall be the top leader leading the National Land Affairs Agency of the Republic of Indonesia.
 11. Deputy for the Assessment and Settlement of Land Affairs Dispute and Conflict hereinafter abbreviated to Deputy shall be a unit executing part of the tasks and functions of the National Land Affairs Agency of the Republic of Indonesia in the field of the assessment and settlement of land affairs case, which is subordinate and responsible to the the Head of the National Land Affairs Agency of the Republic of Indonesia.
 12. Head of Regional Office of the National Land Affairs Agency hereinafter abbreviated to Kakanwil shall an executive element performing tasks and functions of the National Land Affairs Agency of the Republic of Indonesia in a province.
 13. Head of Land Affairs Office hereinafter abbreviated to Kakan shall an executive element performing tasks and functions of the National Land Affairs Agency of the Republic of Indonesia in a regency/city.
 14. Head of the Land Affairs Dispute and Conflict Assessment and Settlement hereinafter abbreviated to Kabid shall be an official in Regional Office of the National Land Affairs Agenct, who is assigned to help Kakanwil assess and settle land affairs issues.
 15. Head of the Dispute, Conflict and Case Section hereinafter abbreviated to Kasi shall be an official in Land Affairs Office, who is assigned to assess and settle land affairs cases.

CHAPTER II

GOAL AND OBJECTIVE

Article 2

- (1) Management of land affairs issue assessment and settlement shall aim at:

- a. ascertaining the root, history and typology of land affairs issues in the framework of formulating strategic policies on the settlement of land affairs issue in Indonesia;
- b. settling land affairs cases submitted to the Head of BPN RI so that the land can be controlled, owned, used, and utilized by the owner as well as providing legal certainty and protection.

(2) Management of Land Affairs Issue Assessment and Settlement shall be intended to provide legal certainty about the control, ownership, use and utilization of land in Indonesia.

CHAPTER III

SCOPE

Article 3

Management of Land Affairs Issue Assessment and Settlement shall include:

- a. Land Affairs Issue Reporting and Information Service;
- b. Land Affairs Issue Assessment;
- c. Land Affairs Issue Handling;
- d. Land Affairs Issue Settlement; and
- e. Legal Aid and Legal Protection.

CHAPTER IV

LAND AFFAIRS ISSUE REPORTING AND INFORMATION SERVICE

Part One

General

Article 4

- (1) The Deputy shall provide and coordinate land affairs issue reporting and information service in BPN RI.
- (2) Land Affairs Issue Reporting and Information Service in Regional Office of the National Land Affairs Agency shall be executed by Kabid and coordinated by Kakanwil.
- (3) Land Affairs Issue Reporting and Information Service in Land Affairs Office shall be executed by Kas and coordinated by Kakan.

Part Two

Land Affairs Issue Reporting Service

Article 5

- (1) Every complaint about land affairs issue shall be submitted to the Head of BPN RI, Kakanwil and/or Kakan.
- (2) The complaint as meant in paragraph (1) may be submitted verbally or in writing and addressed directly to Land Affairs Office, Regional Office of the National Land Affairs Agency, Office of BPN RI or through www.bpn.go.id.
- (3) The complaint submitted verbally or through www.bpn.go.id shall be followed up by formulating application in writing.

Article 6

- (1) The letter of complaint about land affairs issue shall contain at least identity of complainant, complained object, position of case (legal

standing) and goal of complaint.

- (2) The letter of complaint about land affairs issue shall be accompanied by copy of identity of the complainant and supporting data related to the complaint.

Article 7

- (1) The letter of complaint received through reporting booth shall be recorded in registration book of receipt of complaint and receipt form of complaint shall be granted to the complainant.
- (2) The letter of complaint as meant in paragraph (1) shall be passed onto organization unit having the task and function to handle land affairs dispute, conflict and case.
- (3) The letter of complaint received and recorded in the registration book of receipt of complaint shall be submitted promptly to official authorized to issue disposition.
- (4) The letter of complaint already securing disposition shall be recorded in the registration book of land affairs issues and distributed to executor and/or processing team.
- (5) Every progress in the handling of land affairs issue shall be recorded in the registration book of land affairs issue.

Part Three

Land Affairs Case Information Service

Article 8

- (1) In the framework of handling land affairs issue,

BPN RI shall organize land affairs issue information service.

- (2) Information about land affairs issue may be granted to the interesting party by regarding classification of information and in accordance with the provision of legislation.

Article 9

- (1) Information about land affairs issues shall be classified into:
 - a. confidential information;
 - b. restricted information; and
 - c. publicly open information.
- (2) The confidential information as meant in paragraph (1) letter a shall be among others:
 - a. information categorized as state secret;
 - b. information categorized as confidential information on the basis of legislation;
 - c. land affairs document or paper;
 - d. other information stipulated as confidential information by the Head of BPN RI.
- (3) The restricted information as meant in paragraph (1) letter b shall be, among others:
 - a. information about progress of the settlement of land affairs complaints;
 - b. information about progress of settlement of land affairs issues;
 - c. information about result of the settlement of land affairs case settlement;
 - d. other information stipulated by the authorized official.

- (4) The publicly open information as meant in paragraph (1) letter c shall be, among others:
- a. data about the quantity, kind and tipology of land affairs cases;
 - b. data about developments of land affairs cases;
 - c. procedures for complaining and settling land affairs cases;
 - d. land affairs regulation;
 - e. other information excluding from confidential and restricted information.

Article 10

- (1) Confidential information may only be granted to certain public institutions in the framework of executing their trasks after securing prior license from the Head of BPN RI or the appointed official.
- (2) Restricted information may only be granted to certain parties fulfilling the requirements and/or other parties after securing prior license from the Head of BPN RI or the appointed official.
- (3) Publicly open information may be granted to the needy.

Article 11

- (1) Information about the progress of settlement of land affairs cases, based on request from other institutions in the framework of executing their tasks, may be granted after securing prior license from:
 - a. Deputy in BPN RI;

- b. Kakanwil in the provincial level; and
 - c. Kakan in regency/municipal level.
- (2) The institutions as meant in paragraph (1) shall be among others government institutions related to land affairs case, the House of Representative of the Republic of Indonesia, Provincial/Regency/Municipal Legislative Council, Regional Representative Council, Ombudsman of the Republic of Indonesia and the National Human Rights Commission.

Article 12

- (1) Applicants/complainants and the complained may inquire information about progress of the settlement of land affairs cases to Offices of BPN RI handling the cases.
- (2) Information about progress of the settlement of land affairs cases provided in writing shall be delivered in the form of letter of information about the progress of settlement of land affairs cases, containing basic explanation about the subject of the issue, position of cases and action already executed.

Article 13

- (1) Letter of information about the progress of settlement of land affairs cases shall be granted in no later than 30 (thirty) days as from the date of receipt of the request.
- (2) Information about land affairs cases requested by government institutions or related institutions au

thoried to request information about land affairs cases shall be granted by BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office in no later than 14 (fourteen) days as from the date of receipt of the request.

- (3) The granted information about land affairs cases as meant in paragraph (1) and paragraph (2) shall constitute answer related to the subject of case and issue or full explanation according to data in BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office and result of the settlement thereof.
- (4) If necessary, officials of the institutionsn requesting explanation about land affairs cases may be invited to attend case presentation in order to obtain clearer information.
- (5) Information about progress of land affairs cases shall be granted by Kakan, Kakanwil, or Deputy in accordance with legislation.

CHAPTER V

ASSESSMENT OF LAND AFFAIRS CASE

Part One

General

Article 14

- (1) Kakan, Kakanwil and/or Deputy collectively or individually shall study the root and history of land affairs cases systematically.
- (2) Result of the study as meant in paragraph (1) shall be written down into a map of land affairs cases, which becomes a basis for the formulation

of general policies and/or technical policies on the settlement of land affairs cases.

- (3) The general policies and/or technical policies on the settlement of land affairs cases as meant in paragraph (2) shall be a reference to the settlement of land affairs cases which are vulnerable, strategic or have broad impact.

Article 15

Kakan, Kakanwil and/or Deputy, collectively or individually, shall study letters of complaints along with data submitted to BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Offices.

Article 16

The map of land affairs cases as meant in Article 14 paragraph (2) already becoming basis for the formulation of general and technical policies on the settlement of land affairs cases shall constitute database or reference to the settlement of land affairs cases systematically, in a sustainable manner and structurally.

Part Two

Data Administration

Article 17

- (1) Data shall be administered through recording, processing and presentation of data, which are executed by information system in the Land Affairs Assessment and Settlement Division.

- (2) The information system as meant in paragraph (1) shall be built integratedly between BPN RI, Regional Office of the National Land Affairs Agency and Land Affairs Office.
- (3) The information system in the Land Affairs Case Assessment and Settlement shall constitute a sub-system of the Land Affairs Data and Information Center of BPN RI.

Article 18

- (1) Data about cases shall be recorded and presented in accordance with format of completing list of the management of land affairs dispute, conflict and case settlement.
- (2) The completing list as meant in paragraph (1) shall be classified and encoded:
 - a. Format of the settlement of land affairs cases (Code DI.500-DI.509), covering format of letters and completing list of report/complaint; data processing up to the settlement of land affairs cases and format of decision on nullification/issuance of land title;
 - b. Format of proceeding activity (Code DI.510-DI.519), covering format of control over activities at the court, operational activity and format of legal attorney;
 - c. Format of land affairs cases mapping (Code DI.520-DI.529), covering format of data about typology, subject, object, distribution, vulnerability map and settlement of cases; and

- d. Format of the fostering (Code DI.530-DI.533), covering format of data about personnel, facilities, budget, reporting system and analysis of activity evaluation.

- (3) The completing list as meant in paragraph (2) shall be contained in the attachment to this regulation, which constitutes an integral part of this regulation.

Part Three

Presentation of Data

Article 19

Presentation of data about land affairs cases

shall be in the form of:

- a. electronic database;
- b. data panel in the controlling room;
- c. report on position of land affairs cases; and
- d. report to leader in organizational unit.

Article 20

- (1) Data about land affairs cases shall be prepared and presented periodically or in accordance with the need.
- (2) The preparation and presentation of data periodically or in accordance with the need as meant in paragraph (1) shall be among others:
 - a. data about the mapping of issues of land affairs cases;
 - b. recapitulation of data about the settlement of land affairs cases;

- c. report on performance of the settlement of land affairs cases; and
- d. analysis and evaluation of the settlement of land affairs cases.

Part Four

Assessment of Dispute

Article 21

- (1) The root and history of disputes shall be assessed to ascertain the causing factor and potential of the settlement of disputes.
- (2) The assessment as meant in paragraph (1) shall be done by means of examining and analyzing data about the occurring disputes.
- (3) The data as meant in paragraph (2) may come from complainants, organizational units within BPN RI or related institutions/agencies.
- (4) Results of the study and analysis of data as meant in paragraph (2) shall result points of disputes and potential of the settlement of disputes.

Article 22

- (1) The points of land affairs issues as meant in Article 21 shall be examined legally on the basis of judicial data, physical data and/or other supporting data.
- (2) Legal application study shall be applied to the results of examination as meant in paragraph (1), which later results in recommendation about the settlement of land affairs disputes.

Part Five

Assessment of Conflict

Article 23

- (1) The root and history of conflicts shall be assessed to ascertain the causing factor and potential of impact of the conflicts.
- (2) The assessment as meant in paragraph (1) shall be done by means of examining and analyzing data about the occurring conflict.
- (3) The data as meant in paragraph (2) may come from complainants, organizational units within BPN RI or related institutions/agencies.
- (4) Results of the assessment and analysis of data as meant in paragraph (2) shall be used to determine and formulate points of the conflicts.

Article 24

- (1) The points of the conflicts as meant in Article 23 shall be examined legally on the basis of judicial data, physical data and/or other supporting data.
- (2) Results of the examination as meant in paragraph (1) shall be studied on the basis of legal application, which later results in recommendation about the settlement of conflicts.

Part Six

Assessment of Case

Article 25

- (1) Cases shall be assessed to ascertain the point of cases related to lawsuit of complainants against:
 - a. BPN RI in civil cases; or

b. official of BPN RI in state administration cases.

(2) The assessment as meant in paragraph (1) shall be done by means of examining and analyzing the basis of lawsuit and point of lawsuit for the cases submitted by complainants.

(3) Result of the assessment as meant in paragraph (2) shall result in recommendation about the application of legal proceeding law and strategy.

CHAPTER VI

SETTLEMENT OF LAND AFFAIRS CASE

Part One

General

Article 26

(1) The settlement of land affairs cases shall be intended to provide legal certainty about land control, ownership, utilization and exploitation.

(2) The settlement of land affairs cases as meant in paragraph (1) shall be intended to ascertain the absence of overlapping utilization, control and ownership of land.

(3) The settlement of land affairs cases shall aim at ensuring the utilization, control, exploitation and ownership of land in accordance with the provisions of legislation as well as single land ownership evidence for every land plot, which is in dispute.

Part Two

Settlement of Dispute

Article 27

(1) Based on the recommendation about the settlement of land affairs disputes as meant in Article 22 paragraph (2), the following measures shall be taken subsequently:

- a. examination/processing of complaint data;
- b. field examination;
- c. case presentation;
- d. formulation of minutes of data processing;
- e. preparation of account/letter/decision; and/or
- f. monitoring and evaluation of result of dispute settlement.

(2) In relations to certain disputes as meant in Article 14 paragraph (3) and/or deemed important by the Head of BPN RI, a team may be established in the settlement thereof.

Article 28

(1) Any dispute shall be settled in no later than 3 (three) months as from the date of receipt of complaint or dispute information.

(2) In order to settle the dispute as meant in Article 27 paragraph (2), the deadline of the settlement may be extended by approval of Kakan, Kakanwil or Deputy.

(3) Kakan, Kakanwil, and Director within the Land Affairs Dispute and Conflict Assessment and Settlement Deputy shall supervise and control the settlement of disputes by virtue of their authority.

Article 29

- (1) The examination/processing of data about the complaint as meant in Article 27 paragraph (1) letter a shall include:
- a. examination of the completeness and legitimacy of data submitted by complainants;
 - b. analysis of data submitted by complainants;
 - c. validation of judicial data and physical data and other supporting data;
 - d. study on chronology of dispute; and
 - e. analysis of judicial, physical and administrative aspects.
- (2) In order to perfect data needed in the settlement of disputes, data may be sought from complainants, archive in BPN RI, Regional Office of the National Land Affairs Agency, Land Affairs Office, related institutions or other sources.
- (3) Field examination may be executed to complete judicial data, physical data or other data.
- (2) The field examination as meant in paragraph (1) shall be executed on the basis of letter of assignment from:
- a. Deputy or Director within the Land Affairs Dispute and Conflict Assessment and Settlement Deputy, in the level of BPN RI, with a copy made available to:
 - 1) the Head of BPN RI, in the case of the letter of assignment being issued by Deputy;
 - 2) Deputy in the case of the letter of assignment being issued by Director.
 - b. Kakanwil or Kabid, in the level of Regional Office of the National Land Affairs Agency with a copy made available to:
 - 1) Deputy in the case of the letter of assignment being issued by Kakanwil;
 - 2) Kakanwil in the case of the letter of assignment being issued by Kabid.
 - c. Kakan or Kasi, in the level of Land Affairs Office with a copy made available to:
 - 1) Kakanwil in the case of letter of assignment being issued by Kakan;
 - 2) Kakan in the case of letter of assignment being issued by Kasi.
- (3) The letter of assignment as meant in paragraph (2) shall contain at least name of officer, position and location of the examined land.

Article 30

- (1) The field examination as meant in Article 27 paragraph (1) letter b shall be, among others:
- a. examination of legitimacy or conformance of data to the source;
 - b. seeking related information from witnesses;
 - c. physical inspection of land becoming object of dispute;
 - d. examination of land border, situational map, field map or measuring letter; and
 - e. other activities which are needed.

Article 31

If necessary, the field examination of the disputed object shall be:

GOVERNMENT REGULATIONS

- a. furnished with letter of assignment;
- b. notified to party controlling land, owner and people around the location and/or official of local environment/town/village/sub-district;
- c. witnessed by at least two persons, consisting of party controlling land object, owner, people around location and/or official of local environment/town/village/sub-district; and
- d. written down into account signed by officer and witnesses.

Article 32

- (1) In the case of witness being not ready to sign account, the officer shall put a note in the signature column that the witness is not ready to sign account along with the reason.
- (2) Result of the field examination shall be written down into account of field examination as data supporting the formulation of minutes of data processing.
- (3) Account of field examination shall constitute a document enclosed to and inseparable from dossiers of land affairs dispute settlement.

Article 33

- (1) The presentation of case as meant in Article 27 paragraph (1) letter c may be done through persuasion, facilitation and mediation between parties in the framework of the settlement of dispute.

- (2) If necessary, the presentation of case as meant in paragraph (1) may involve related institutions and/or community elements, such as academicians, community/traditional/religious leaders or agrarian observers/activists.

Article 34

- (1) The presentation of case shall be executed on the basis of order of Deputy, Kakanwil, or Kakan.
- (2) Every order to organize the presentation of case shall be made available to the Head of BPN RI.
- (3) The organization structure of the presentation of case shall consist of leader, secretary, presenter and participants.
- (4) The leader of the presentation of case shall be:
 - a. Deputy or Director within the Land Affairs Dispute and Conflict Assessment and Settlement Deputy in the level of BPN RI;
 - b. Kakanwil or Kabid, in the level of Regional Office of the National Land Affairs Agency; or
 - c. Kakan or Kasi, in the level of Land Affairs Office.
- (5) The executive element of the case presentation shall be:
 - a. Secretary, appointed by the leader of case presentation;
 - b. Presenter, direct superior of processor/chairman of team; and
 - c. Participants, according to invitation.
- (6) The sequence of case presentation shall include:
 - a. opening;

- b. presentation of land affairs case;
- c. response and discussion; and
- d. conclusion and closing.

(7) Result of case presentation led by:

- a. Deputy shall be submitted to the Head of BPN RI;
- b. Direktur shall be submitted to Deputy;
- c. Kakanwil shall be submitted to Deputy;
- d. Kabid shall be submitted to Kakanwil;
- e. Kakan shall be submitted to Kakanwil;
- f. Kasi shall be submitted to Kakan.

Article 35

- (1) The implementation of case presentation shall be recorded in minutes of case presentation and the result shall be written down into account of case presentation.
- (2) Minutes of case presentation shall be signed by leader and secretary and saved in document of land affairs case settlement.
- (3) Account of case presentation shall be signed by all participants and constitute document which shall be enclosed to dossiers of case settlement.
- (4) The account of case presentation as meant in paragraph (3) may be granted to participants to assure objectiveness and transparency in the settlement of land affair cases, except the internal case presentation as meant in Article 36 letter a.

Article 36

Kind of case presentation in the framework of

land affairs case settlement shall be:

- a. Internal presentation;
- b. External presentation;
- c. Mediatory presentation; and
- d. Extraordinary presentation.

Article 37

- (1) The internal presentation shall aim at:
 - a. collecting inputs and opinions from officers/officials;
 - b. identifying disputes and conflicts;
 - c. planning the settlement.
- (2) Participants of the internal presentation shall be:
 - a. members of the processing team; and
 - b. employees/officials of BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office.
- (3) Substances of the result of internal presentation shall be:
 - a. basic formula of point of object, subject and point of dispute and conflict;
 - b. chronology of land affairs case;
 - c. analysis of land affairs case; and
 - d. alternative for the settlement.

Article 38

- (1) The external presentation shall aim at:
 - a. completing information and opinion from internal and external sides of the office of BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office so

that the deliberation is more comprehensive;

- b. sharpening analysis of land affairs cases; and
- c. seeking alternative for the settlement.

(2) Participants of the external presentation shall be:

- a. Processing Team;
- b. complainant with or without the complained;
- c. officer/official of the Office of BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office;
- d. officers/officials of related institutions;
- e. specialists, experts or specialist witness; and
- f. other elements needing to invite.

(3) Substances of results of the external presentation shall be:

- a. description of cases;
- b. full chronology of land affairs cases;
- c. analysis of aspects of land affairs cases; and
- d. alternative and selection of priority to the settlement of land affairs cases.

Article 39

(1) The mediation presentation shall aim at:

- a. collecting information/opinion from all parties in dispute, and opinions of other elements needed to be considered;
- b. explaining legal position of parties, be it weakness/strength;
- c. facilitating the settlement of land affairs cases through deliberation; and
- d. selecting the settling of land affairs cases.

(2) Participants of the mediation presentation shall be:

- a. processing team;
- b. complainant, complained and other related parties;
- c. officials of office of BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office and related institutions/agencies;
- d. experts and/or specialist witness related to land affairs cases;
- e. mediator team of the Office of BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office or external side of BPN RI; and
- f. other required elements.

(3) Substances of result of the mediation presentation shall be:

- a. chronology of land affairs cases;
- b. analysis and alternative for the settlement of land affairs cases;
- c. conclusion of results of deliberation about land affairs cases; and
- d. recommendation and follow up to decision of case presentation.

(4) Every official of the Office of BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office handling land affairs cases shall organize mediation presentation before making decision on the settlement of land affairs cases.

GOVERNMENT REGULATIONS

- (5) Mediation presentation shall be executed to:
 - a. assure transparency and sharpness of analysis;
 - b. assure collective and objective decision making; and
 - c. minimize complaint about result of case settlement.
- (6) In the case of mediation presentation being not attended by any of the parties in dispute, the presentation may be delayed so that all parties in dispute may be present.
- (7) In the case of the parties in dispute remaining absent from the mediation presentation after being invited three times properly, the mediation shall continue to be executed.

Article 40

- (1) The extraordinary presentation shall aim:
 - a. settling extremely complicated land affairs cases;
 - b. settling divergent decisions on the settlement of land affairs cases between officials of BPN RI or officials of other institutions;
 - c. correcting ailing decision of official of BPN RI; and
 - d. stipulating the legal action as meant in Article 50 paragraph (6).
- (2) Participants of the extraordinary presentation shall be:
 - a. First-echelon officials of BPN RI;
 - b. Senior advisors of the Head of BPN RI;
 - c. Complainants, complained and other related

parties;

- d. Officials of the Office of BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office and related institutions/agencies;
 - e. specialist and/or specialist witness related to land affairs cases; and
 - f. the other required elements.
- (3) Substances of result of the extraordinary presentation shall be:
 - a. point of the issue;
 - b. analysis of the issue;
 - c. decision on the settlement of the issue; and
 - d. recommendation to the Head of BPN RI.

Article 41

- (1) Decision on the extraordinary presentation shall constitute the final decision of BPN RI in the settlement of land affairs cases or settlement of divergent opinions between officials of BPN RI.
- (2) Decision on the extraordinary presentation already legalized by the Head of BPN RI shall be implemented by the said official.
- (3) The implementation of the decision as meant in paragraph (2), which is not executed promptly by the said official, after exceeding 30 (thirty) days as from the date of the decision, may be taken over by the hierarchically higher official as follows:
 - a. Kakanwil may take action to implement the decision not executed by Kakan;

- b. Deputy may take action to implement the decision not executed by Kakanwil or Kakan;
 - c. the Head of BPN RI may take action to implement decision not executed by Deputy.
- (4) The official not executing the decision as meant in paragraph (2) shall be subject to administrative sanction in accordance with the provision of legislation.

Article 42

- (1) The data processing minutes as meant in Article 27 paragraph (1) letter d shall constitute official document of BPN RI, which becomes an integral part of document of land affairs management and settlement.
- (2) The data processing minutes as meant in paragraph (1) shall constitute summary of result of the land affairs case settlement as meant in Article 28 sampai dengan Article 41.
- (3) The data processing minutes shall be formulated by processor/team on the basis of commitment to truth, honesty and procedure so as to be accountable legally.
- (4) The data processing minutes shall be approved and signed by deputy officials hierarchically.
- (5) Composition and substance of the data processing minutes shall be adjusted to the data processing minutes regulated in Regulation of the Head of BPN RI ruling document management, which contains among others:
- a. point of land affairs cases, covering typology,

- object, subject and position of case;
- b. supporting data from parties and other sources;
- c. description of land affairs case, covering chronology, and settlement of land affairs cases;
- d. analysis of land affairs cases, among others, legal basis, and judicial, physical and social analysis;
- e. conclusion in the form of resume, legal opinion and recommendation; and
- f. legal statement.

Article 43

The data processing minutes already legalized by the authorized official shall constitute a basis of consideration for leaders in the issuance of decision on land affairs case settlement becoming responsibility of BPN RI.

Article 44

- (1) Monitoring and evaluation of land affairs case settlement in the Office of BPN RI and regions shall be coordinated by Deputy.
- (2) Deputy in monitoring and evaluating the implementation may appoint a director by a decision.
- (3) Control over the assessment and settlement of land affairs cases in Regional Office of the National Land Affairs Agency shall be coordinated by Kakanwil and executed by Kabid.

(4) Control over the assessment and settlement of land affairs cases in Land Affairs Office shall be coordinated by Kakan and executed by Kasi.

Article 45

(1) The executive element of control over the assessment and settlement of land affairs cases in BPN RI shall be executed by a land affairs case assessment and settlement team consisting of administrative and operational sections.

(2) The administrative section shall be assigned to:

- a. record, process and present data about land affairs cases;
- b. record activities of case settlement and operation;
- c. prepare the implementation and report on case presentation/mediation;
- d. manage monthly/annual report and semester/year-end analysis.

(3) The operational section shall be assigned to:

- a. supervise and control the settlement of land affairs cases;
- b. monitor and evaluate the settlement of land affairs cases;
- c. submit information about the position of case and result of the settlement of cases drawing attention; and
- d. conduct periodic data analysis and evaluation.

Article 46

(1) The executive element of control over the assess-

ment and settlement of land affairs cases in the level of Regional Office of the National Land Affairs Agency shall be Kabid.

(2) The executive element of control over the assessment and settlement of land affairs cases in the level of land affairs office shall be Kasi.

Part Three

Settlement of Conflict

Article 47

The provision ruling the settlement of dispute shall apply mutatis mutandis to the settlement of conflict.

Article 48

(1) Land affairs conflicts shall be settled comprehensively by assessing the root of the issue, preventing impact of the conflict and settling the conflict.

(2) Land affairs conflicts which are simple and easy to settle may be settled by referring to procedure for the settlement of land affairs cases.

(3) Conflicts having broad impacts shall be settled by planning and deadline adjusted to the encountering situation as well as developments during the settlement of conflicts.

Article 49

(1) The root of the conflicts shall be assessed by the method as meant in Article 21.

(2) Efforts to prevent land affairs conflict shall be among others:

- a. disciplining of land affairs administration related to source of conflict;
 - b. proactive action to prevent and handle conflict potentials;
 - c. legal counseling and/or socialization of land affairs program;
 - d. fostering of public participation and community empowerment;
 - e. other preventive measures.
- (3) The preventive measures as meant in paragraph (2) shall aim at minimizing conflicts and prevent a bigger loss.
- (4) The activities preventing the conflicts from expanding as meant in paragraph (3) shall be executed directly by apparatuses of BPN RI or in cooperation with law enforcement institutions.

Part Four

Handling of Case

Article 50

- (1) The handling of land affairs case shall cover legal proceedings in civil or state administration process involving BPN RI as party and follow up to court decision on land affairs case.
- (2) The handling of case shall include activities to handle follow up or implement legally final court decision.
- (3) The handling of land affairs case in judicial process shall include:
- a. receiving summon to hearing;
 - b. preparing letter of assignment and power of

- attorney;
- c. preparing reply;
- d. preparing rebuttal;
- e. preparing evidences;
- f. preparing witness;
- g. local examination;
- h. conclusion;
- i. legal action:
 - 1) appeal;
 - 2) cassation;
 - 3) judicial review;
 - 4) rejoinder against court decision.

- (4) Legal action shall be taken against court decision in land affair cases wherein BPN RI is defeated.
- (5) The legal action as meant in paragraph (4) may be discontinued if BPN RI according to the existing data believes that legal action is not needed indeed, except the issue related to state/regional property.
- (6) In order to ascertain the discontinuation of the legal action as meant in paragraph (5), BPN RI may convene extraordinary presentation.
- (7) The extraordinary presentation as meant in paragraph (6) shall be done by BPN RI on the basis of a written request from Kakan/Kakanwil or decision of Deputy.

Article 51

- (1) In the case of parties agreeing to settle case already registered in the case administration/roll of the court by a peaceful way, the parties may lift

the case on the basis of act of reconciliation.

- (2) In the case of the parties agreeing to settle the ongoing case process by peaceful way, it shall be necessary to demand a reconciliation decision.
- (3) If BPN RI acts as party, the reconciliation may be executed in the event that:
 - a. it is not related to state/regional property;
 - b. it does not affect interest of BPN RI;
 - c. it is approved by parties in dispute;
 - d. it does not contain other issue or case related to the same subject or object;
 - e. it secures written license from official issuing the decision becoming object of lawsuit by virtue of authority.
- (4) In the case of BPN RI acting as the complained in state administration case wherein land title becomes object and if there is reconciliation involving BPN RI as the complained in relations to the status of legitimacy of decision of state administration official, approval of title holder shall be needed.

Article 52

- (1) Legal proceedings involving apparatuses of land affair offices shall be coordinated by Kakan and implemented by Kasi.
- (2) Legal proceedings involving apparatuses of Land Affairs Offices and/or Regional Offices of the National Land Affairs Agency shall be coordinated by Kakanwil and implemented by Kabid.
- (3) Legal proceedings involving apparatuses of Land

Affairs Office, Regional Office of the National Land Affairs Office and/or BPN RI shall be coordinated by Deputy and implemented by the Director of Land Affairs Cases.

Article 53

- (1) If a case in the court does not involve BPN RI as party but the case is related to interest of BPN RI, the interesting parties may demand information from witness or special witness from BPN RI.
- (2) Any application for assistance of apparatuses of BPN RI to provide information of the witness or specialist witness as meant in paragraph (1), shall be submitted to Kakan, Kakanwil, or the Head of BPN RI.
- (3) Kakan, Kakanwil, or Deputy on behalf of the Head of BPN RI shall issue a letter of assignment to staff or official to provide information of witness or specialist witness.
- (4) Kakan in certain cases may submit application for information of witness or specialist witness to Kakanwil.
- (5) Kakanwil in certain cases may submit application for information of witness or specialist witness to the Head of BPN RI.

CHAPTER VII

SETTLEMENT OF LAND AFFAIRS CASE

Part One

Settlement of Land Affairs Case to Execute Court Decision

Execution of Court Decision

Article 54

- (1) BPN RI shall be obliged to execute legally fixed court decision unless otherwise there is legitimate reason to not execute the decision.
- (2) The legitimate reasons as meant in paragraph (1) shall be among others:
 - a. other contravening decision on the object of decision;
 - b. guarantee confiscation is being placed in the object of the decision;
 - c. the object of the decision is becoming object of complaint in other case;
 - d. other reasons regulated by legislation.

Article 55

- (1) The action to execute the legally fixed court decision may be in the form of:
 - a. the implementation of the decision content wholly;
 - b. the implementation of the decision content party; and/or
 - c. only implementing order written firmly in the decision content.
- (2) The content of the legally fixed court decision in relations to the issuance, transfer and/or nullification of land title shall be among others:
 - a. order to nullify land title;
 - b. declaring land title null/illegitimate/not having legal power;
 - c. declaring evidence invalid/not having legal power;
 - d. order to record or cross in land affairs book;
 - e. order to issue land title; and
 - f. point potential to cause legal consequence of the issuance, transfer or nullification of land title.

Article 56

- (1) The legal action of land affairs shall be in the form of the issuance, transfer and/or nullification of land title to execute the court decision shall be executed by a decision of the authorized official.
- (2) The processing of data in the framework of the issuance of the decision as meant in paragraph (1) shall be executed following the receipt of court decision by BPN RI in the form of:
 - a. official copy of the court decision legalized by the authorized official;
 - b. certificate from the authorized official within the court, which certifies that the decision has secured legally fixed power (inkracht van gewijsde); and
 - c. account of the implementation of execution for decision on the case needing execution.

Paragraph 2

Legal Action of the Execution of Court Verdict

Article 57

- (1) The legally fixed court decision as meant in Article 54, Article 55 and Article 56 related to the issuance, transfer and/or nullification of land title shall be executed by officials/employees of BPN RI in no later than 2 (two) months following the receipt of copy of the court decision by official authorized to nullify.
- (2) In the case of the legally fixed court decision existing and the execution being predicted to cause broader land affairs cases or related to the interest of the government, external presentation or extraordinary presentation featuring related parties and/or institutions shall be organized before the court decision is executed.

Article 58

- (1) The Head of BPN RI shall issue decision on the transfer and/or nullification of land title to execute the legally fixed court decision.
- (2) The issuance of the decision as meant in paragraph (1) may be delegated to Deputy or Kakanwil.

Article 59

- (1) The issuance, transfer and/or nullification of land title to execute the legally fixed court decision shall be based on complaint/application of the interesting party.
- (2) Any application for the issuance, transfer and/or nullification of land title to execute the legally fixed court decision shall be submitted to Kakanwil or Kakanwil or the Head of BPN RI.
- (3) The application as meant in paragraph (1) shall be enclosed by:
 - a. court decision deciding the land affairs case;
 - b. account of execution in the case of decision on case needing execution;
 - c. other documents related to application for the nullification.
- (4) Account of execution to control/empty/give up land shall not be needed in application in the case of:
 - a. the execution of decision of state administration court;
 - b. the land being already controlled by the applicant, proven by statement of the said person, acknowledged by Chairman of Local RT/RW/ Head of Sub-District/Head of Village or account of field examination from local land affairs office.

Article 60

- (1) The handling of application for the issuance, transfer and/or nullification of land title certificate to execute the court decision shall be executed in accordance with phases of the handling of land affairs cases, namely:
 - a. examination of documents of application/recommendation about nullification;
 - b. analysis and processing of court decision data;
 - c. field inspection if necessary;
 - d. internal/external and mediation presentation;
 - e. extraordinary presentation in the badly needed case;
 - f. formulation of minutes of data processing; and
 - g. making decision on the settlement of case.
- (2) Officials already taking land affairs legal action in the framework of executing court decision shall be obliged to report promptly to the Head of BPN RI, and notify the action to the applicant and related party t.
- (3) Officials of BPN RI may reject complaint/application not complying with the requirements by notifying it to the applicant along with reason and consideration thereof.

Article 60

to be continued

(R)

MANAGEMENT OF LAND AFFAIRS ISSUE ASSESSMENT AND SETTLEMENT

(Regulation of the Head of the National Land Affairs Agency of
the Republic of Indonesia Number 3 Year 2011
dated February 4, 2011)

[Continued from Business News No. 8146 pages 28-48]

Part Two

Out-of-Court Settlement of Land Affairs Case

Paragraph 1

Legal Action of Land Affairs Against Decision/Letter

Containing Administration Law Mistake

Article 61

The out-of-court settlement of land affairs may be in the form of administrative legal action of land affairs, covering:

- a. nullification of land title because of mistake in administration law;
- b. recording in land certificate and/or book as well as other general lists; and

- c. issuance of other land affairs administrative letter or decision because of mistake in administration law in the issuance.

Article 62

- (1) Land title certificate containing legal mistake administratively shall be nullified or secure order to record change in the maintenance of land registration data in accordance with legislation.
- (2) The administratively legal mistake as meant in paragraph (1) shall be among others:
 - a. procedural mistake in the stipulation and/or registration of land title;

GOVERNMENT REGULATIONS

- b. procedural mistake in the registration of transfer of right and/or alternate certificate;
- c. procedural mistake in the registration of affirmation and/or recognition of right to ex-communal land;
- d. procedural mistake in the measuring, mapping and/or calculation of size;
- e. overlapping right or land title certificate;
- f. mistake in subject and/or object of right; and
- g. other mistake in the application of legislation.

Article 63

The administrative legal action of land affairs against land title certificate containing legal mistake administratively shall be executed by:

- a. issuing decision on nullification; and/or
- b. recording the maintenance of land registration data.

Paragraf 2

Administrative Legal Action of Land Affairs Against Decision/Letter Containing Legal Mistake Administratively

Article 64

- (1) Application/recommendation about administrative legal action of land affairs against land title certificate containing legal mistake administratively may be submitted by the interesting party/applicant or their proxy.
- (2) The application/recommendation as meant in paragraph (1) shall be submitted to Head of Land

Affairs Office or Regional Office of the National Land Affairs Agency or BPN RI.

- (3) The application/recommendation as meant in paragraph (1) shall be enclosed by supporting data, among others:
 - a. land title certificate containing legal mistake administratively;
 - b. result of data processing proving the administrative legal mistake;
 - c. copy of court decision or judge consideration in imposing the decision substantially declaring the document used in the issuance of land title certificate invalid and/or fake;
 - d. other documents supporting reasons for the nullification application.

Article 65

The interesting party as meant in Article 64 paragraph (1) shall be:

- a. apparatuses of BPN RI ascertaining that the illegitimate data and/or documents of the issuance of land title related to substance and/or issuance thereof;
- b. apparatuses of BPN RI having proof of administrative procedural mistake in the issuance of land title certificate; and
- c. parties affected by the issuance of legally invalid land title certificate.

Article 66

- (1) Administrative legal action of land affairs against

GOVERNMENT REGULATIONS

land title certificate containing legal mistake administratively shall be executed by the authorized official in no later 6 (six) months after the administrative legal mistake is ascertained, unless otherwise there is legitimate reason for suspending the implementation.

(2) The legitimate reason for suspending or rejecting the execution of the administrative legal action of land affairs as meant in paragraph (1) shall be among others:

- a. the would be nullified letter is being blocked, confiscated by the authorized official (conservatoir beslag-CB);
- b. the land to which administrative legal action is requested constitutes land becoming object of case in the court;
- c. nullification is predicted to trigger social unrest/mass conflict.

(3) The object of case in the court as meant in paragraph (2) letter b shall be as follows:

- a. there are mutually contravening court decisions related to the status of land and/or ownership status of the land;
- b. certain parties raise objection to legal action of land affairs to be taken against the land and for the purpose, ownership or legitimacy of land title certificate becoming the case has been complained in the court and a decision approving the objection has been issued;
- c. there is other court decision on parties not raising objection and not related to applicant

of legal action of land affairs but the court decision is related to status of land and/or ownership status of land to which administrative legal action is sto be filed.

(4) The suspension or rejection of legal action of land affairs because of administratively legal mistake shall be reported by Kakan or Kakanwil to the Head of BPN RI in no later than 3 (three) months after the administrative legal mistake is ascertained, accompanied by explanation about reason for inability to execute the nullification because of administrative legal mistake.

Article 67

(1) The handling of application for legal action of land affairs against land title certificate containing legal mistake administratively shall pass the handling phases as meant in Article 27.

(2) The certificate of land title containing administrative legal mistake and having the title not yet transferred shall be handled through the following processes:

- a. examination by Local BPN Office as meant in Article 27 up to the phase of formulation of data processing minutes in no later than 3 (three) months after the application is received;
- b. in the case of data processing minutes concluding that there is administrative legal mistake potential to nullify land title certificate, Kakan submits recommendation about the

nullification of land title certificate to the authorized official as meant in Article 73.

c. the authorized official as meant in letter b handles the case through the phases as meant in Article 27 up to the formulation of data processing minutes in no later than 3 (three) months after receiving the recommendation as meant in letter b to stipulate legal action of land affairs in the form of:

- 1) nullification of land title certificate containing legal mistake administratively;
- 2) stipulation of the recording in land affairs book and other general list;
- 3) rejection of recommendation about the nullification.

d. in the case of the authorized official as meant in Article 73 being unable to make a decision, it's suggested to organize extraordinary presentation to determine whether the certificate containing legal mistake administratively is revocable or not;

e. subsequently action is taken in accordance with decision of extraordinary presentation;

f. in the case of lawsuit being filed to the court with the court decision fortifying the administrative legal mistake, BPN RI does not submit appeal or cassation and executes directly the court decision.

(3) Land title certificate containing legal mistake administratively, which has been transferred to other party, shall be settled as follows:

a. recording in land affairs book and other general list that the certificate contains legal mistake administratively in accordance with result of data processing minutes;

b. recording in land affairs book that certificate containing legal mistake administratively may not be transferred anymore as long as the found administrative legal mistake has not been rectified;

c. extraordinary presentation is organized to determine whether the certificate containing legal mistake administratively may be revocable by decision on:

- 1) nullification of certificate without waiting for court decision;
- 2) nullification of certificate after securing legally fixed court decision.

d. In the case of any lawsuit being filed to the court with the court decision fortifying the administrative legal mistake, BPN RI does not submit appeal or cassation and executes directly the court decision in the form of the nullification of certificate containing legal mistake administratively.

Article 68

(1) Legal action of land affairs against land title certificate issued by Kakan, which contains legal mistake administratively shall be handled through the following procedures:

a. examination by local land affairs office through

- the phases as meant in Article 27 up to the phase of formulation of data processing minutes;
- b. processing of application documents by local land affairs office through the phases as meant in Article 27 up to the formulatyion of data processing minutes;
 - c. sending recommendation about legal action of land affairs from Kakan to Kakanwil, accompanied by document of the handling of cases and data processing minutes in no later than 3 (three) months following the receipt of application for nullification from applicant;
 - d. processing document of recommendation and data processing minutes in Kanwil to decide whether legal action of land affairs may be executed in no later than 3 (three) months following the receipt of recommendation from Kakan through the phases as meant in Article 27.
 - e. issuing decision of Kakanwil in the form of:
 - 1) decision on the nullification of spoiled land title;
 - 2) order to land affair office to record it in land affairs book and other general lists;
 - 3) notification to land affairs office that the application/recommendation may not be approved.
 - f. in the case of Kakanwil being not yet able to decide because something, consideration may be sought from deputy, by enclosing documents of handling of case and data processing minutes in no later than 3 (three) months following th receipt of recommendation from Kakan;
 - g. Deputy processes case handling document and data processing minutes from regional office of the National Land Affairs Agency and grants answer in the form of:
 - 1) affirmation that nullification or recording is executed promptly;
 - 2) notification to head of regional office of the National Land Affairs Agency and Land Affairs Office that the application/recommendation may not be approved;
 - 3) acquisition of the nullification of land title certificate and/or recording by the appointed official.
- (2) Kakanwil or Deputy shall report result of the legal action of land affairs as meant in paragraph (1) to the Head of BPN RI.

Article 69

The handling of application for the nullification/rectification of land title certificate issued by the Head of BPN RI or Kakanwil that contains administrative legal mistake shall be done through the following procedures:

- a. examination by Regional Office of the National Land Affairs Agency through the phases as meant in Article 27 up to the phase of formulation of data processing minutes;

GOVERNMENT REGULATIONS

- b. sending recommendation about the legal action of land affairs from Kakanwil to BPN RI by enclosing case handling documents and data processing minutes in no later than 3 (three) months following the receipt of the application for nullification from applicant;
- c. processing recommendation documents and data processing minutes in BPN RI to determine whether the legal action of land affairs may be taken or not in no later than 3 (three) months following the receipt of recommendation from Kakanwil through the phases as meant in Article 27;
- d. issuing decision in the form of:
 - 1) decision on the nullification of spoiled land title;
 - 2) order to land affairs office to record it land affairs book and other general lists; or
 - 3) notification to regional office of the National Land Affairs Agency that the application/recommendation may not be approved.
- e. before issuing the decision as meant in letter d, Deputy may seek directive from the Head of BPN RI by submitting minutes of data processing in no later than 3 (three) months following the receipt of recommendation from Kakanwil.

Article 70

The handling of application for taking legal action of land affairs against land title certificate issued by the State Minister of Agrarian Affairs/Head of the

National Land Affairs Agency or the Minister of Home Affairs, Head of BPN RI or official of BPN, containing administrative legal mistake shall be done through the following procedures:

- a. sending recommendation about legal action of land affairs from Kakan or Kakanwil to the Head of BPN RI by enclosing case handling documents and data processing minutes in no later than 3 (three) months following the receipt of application for the nullification from applicant;
- b. processing documents of recommendation and data processing minutes in Deputy to decide whether legal action of land affairs may be taken or not in no later than 3 (three) months following the receipt of recommendation from Kakanwil.
- c. submitting recommendation from Deputy to the head of BPN RI in the form of:
 - 1) recommendation about nullification of land title certificate containing administrative legal mistake;
 - 2) recommendation about the recording in land affairs book and other general lists; or
 - 3) notification to Regional Office of the National Land Affairs Agency and land affairs office that the application/recommendation may not be approved.
- d. issuing decision by the Head of BPN RI on legal action of land affairs against the administrative legal mistake or letter of rejection that the application may not be approved.

Paragraph 3

Principle of Legal Action of
Land Affairs against Decision/Letter
Containing Administrative Legal Mistake
Article 71

- (1) In the case of one land plot having several overlapping land title certificates, BPN RI shall take legal action of land affairs in the form of the nullification and/or issuance of land title certificate so that the land plot has only one legitimate land title certificate.
- (2) The administrative legal mistake potential to make a land title certificate illegitimate shall be fortified by evidence in the form of:
 - a. legally fixed court decision; and/or
 - b. result of examination proving administrative legal mistake; and/or
 - c. information from investigator about document or information falsification crime in the issuance, transfer or nullification of land title certificate; and/or
 - d. other letters showing administrative mistake.

Paragraph 4

Criteria and Model of Settlement
Article 72

Land affairs cases handled by BPN shall be declared settled with the settlement criteria as follows:

- a. Criteria One (K 1) in the form of the issuance of notification about the settlement of land affairs cases and notification to all parties in dispute;

- b. Criteria Two (K 2) in the form of the issuance of decision about the granting of land title, nullification of land title certificate, recording in land affairs book, or other legal actions in accordance with notification about the settlement of land affairs case;
- c. Criteria Three (K 3) in the form of notification about the settlement of land affairs cases, which is followed up by mediation by BPN up to reconciliation agreement or other agreement approved by the parties;
- d. Criteria Four (K 4) in the form of notification about the settlement of land affairs cases principally certifying that the settlement of land affairs case would pass legal proceedings in the court, because of the absence of agreement to reconcile;
- e. Criteria Five (K 5) in the form of notification about the settlement of land affairs cases certifying that the settlement of land affairs cases already handled is not authority of BPN and opening opportunity for the settlement of the cases through other institutions.

CHAPTER VIII..
to be continued

(R)

MANAGEMENT OF LAND AFFAIRS ISSUE ASSESSMENT AND SETTLEMENT

(Regulation of the Head of the National Land Affairs Agency of
the Republic of Indonesia Number 3 Year 2011
dated February 4, 2011)

[Continued from Business News No. 8149 pages 42-48]

CHAPTER VIII

AUTHORITY TO NULLIFY LAND TITLE AND REGISTRATION OF LAND TITLE RESULTING FROM CONVERSION

Part One

General

Article 73

- (1) The termination of legal relations or nullification of land title or nullification of land registration data shall be executed by the Head of BPN RI.
- (2) The execution of the task as meant in paragraph (1) may be delegated to Deputy and Kakanwil.
- (3) Procedure and mechanism of the delegation of au-

thority of the Head of BPN RI to deputy shall be stipulated by a decision of the Head of BPN RI.

- (4) Procedure for delegating authority of the Head of BPN RI to Kakanwil shall be in accordance with the provision as meant in Article 74.

Part Two

Authority of Kakanwil

Article 74

Kakanwil shall be authorized to nullify:

- a. decision on the granting of land title issued by Kakanwil, which contains legal mistake administratively

- in the issuance thereof;
- b. decision on the granting of land title with the authority to issue being delegated to Kakan and Kakanwil, to execute legally fixed court decision;
 - c. strata title of unit of flat to execute legally fixed court decision;
 - d. registration of land title resulting from the affirmation/recognition of right containing legal mistake administratively in the issuance and/or executing legally fixed court decision; and
 - e. recording of judicial/physical data in the maintenance of land registration data as the continuation of the settlement of land affairs cases.

Article 75

Kakanwil shall act on behalf of the Head of BPN RI in the issuance of decision on nullification as meant in Article 74.

Article 76

Kakanwil shall report the delegation of authority as meant in Article 74 to the Head of BPN RI at the end of every month.

CHAPTER IX

LEGAL AID AND PROTECTION

Part One

Legal Aid

Article 77

(1) Legal aid shall be provided in the interest of BPN RI or active or retired apparatuses of BPN RI, Regional Office of Land Affairs Agency and/or Land Affairs Office encountering legal issues.

(2) The legal aid shall include:

- a. legal advocacy in legal proceedings against criminal, civil or state administration cases for the big family of BPN covering employees of BPN, retired employees/officials of BPN and families of employees of BPN encountering legal issues;
- b. legal assessment related to interest of BPN;
- c. legal assessment of consequence of actions taken by officials or employees of BPN.

Article 78

Legal advocacy for the big family of BPN shall include:

- a. legal aid in legal proceedings against criminal case, among others:
 - 1) assistance in preparing legal opinion;
 - 2) advocacy in interrogation in the examination level;
 - 3) advocacy in interrogation in the investigation level;
 - 4) advocacy during court hearing.
- b. legal aid in legal proceedings against civil/state administration cases, among others:
 - 1) assistance in preparing power of attorney;
 - 2) assistance in preparing litigation;
 - 3) assistance in preparing legal opinion;

4) advocacy during court hearing.

Article 79

- (1) Legal aid shall be provided by a legal aid team consisting of employees/officials of BPN from working units of deputies, Legal and Public Relations Affairs Center of BPN RI, Regional Office of the National Land Affairs Agency and/or Land Affairs Office.
- (2) The execution of legal aid task shall be completed by letter of assignment from the authorized official.

Part Two

Legal Protection

Article 80

- (1) Making decision to take legal action of land affairs in the form of the issuance, transfer and nullification of land title certificate, recording/crossing in land affairs book and/or other general lists as well as other legal actions to execute legally fixed court decision shall constitute legal action which shall be executed by the authorized official of BPN.
- (2) Making decision to take legal action of land affairs in the form of the issuance, transfer and nullification of land title certificate, recording/crossing in land affairs book and/or other general lists as well as other legal actions in the framework of handling land affairs cases in accordance with the

provision shall constitute task and obligation of employees or officials of BPN.

- (3) Any mistake in the handling of land affairs case attributed to negligence of employee or official of BPN shall constitute administrative violation liable to administrative sanction.

Article 81

- (1) All consequences attributed to legal actions of employees or officials of BPN in the framework of handling land affairs dispute, conflict and cases governed in this regulation, which have been executed in accordance with the effective procedure that trigger problems, such as civil, state administration lawsuit, or report on crime against employees or officials of BPN shall become responsibility of BPN.
- (2) Employees or officials of BPN already executing tasks in accordance with the effective procedures in this regulation and encountering legal issues shall secure legal aid and protection from BPN.

Article 82

The costs needed to execute tasks and activities as well as provide legal aid regulated in this regulation shall be charged with the Completing List of Budget Realization (DIPA) of the said working unit.

CHAPTER X

TRANSITIONAL PROVISION

GOVERNMENT REGULATIONS

Article 83

With the enforcement of this regulation, land affairs which remain in the course of handling and settlement shall be handled and settled further on the basis of this regulation.

CHAPTER XI
CONCLUSION

Article 84

With the enforcement of this regulation:

1. Regulation of the State Minister for Agrarian Affairs/Head of the National Land Affairs Agency Number 3 Year 1999 on Delegation of Authority to Issue and Nullify Right to State Land;
2. The provisions of Regulation of the State Minister for Agrarian Affairs/Head of the National Land Affairs Agency Number 9 Year 1999 on Procedures for Granting and Nullifying Right to State Land and Management Right, in so far as regulating procedures for nullifying right to state land contravening this regulation;
3. Decree of the Head of the National Land Affairs Agency of the Republic of Indonesia Number 34

Year 2007 on Technical Directives for Handling and Settling Land Affairs Issues; and

4. Other provisions contravening this regulation shall be revoked and declared null and void.

Article 85

The regulation shall come into force as from the date of stipulation.

Stipulated in Jakarta

On February 4, 2011

THE HEAD OF THE NATIONAL LAND AFFAIRS
AGENCY OF THE REPUBLIC OF INDONESIA

sgd.

JOYO WINOTO, Ph.D.

Editor's note:

Due to technical reason, the attachment is not published.

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