

Progressive legal perspective on legal certainty over land ownership in Genteng Village

Jaka Mahisya Ramadani, Universitas Swadaya Gunung Jati, Indonesia

Wildan Abyan Firdaus, Universitas Swadaya Gunung Jati, Indonesia

Mia Milyanti, Universitas Swadaya Gunung Jati, Cirebon, Indonesia

Irma Maulida*, Universitas Swadaya Gunung Jati, Indonesia

Gusti Yosi Andri, Universitas Swadaya Gunung Jati, Indonesia

*Email for Correspondence: irma.maulida@ugj.ac.id

ABSTRACT

Keywords:

progressive law

legal certainty

land rights

selling

behavioral economics

The purpose of this study is to explore legal certainty and effectiveness from the perspective of progressive law in dealing with social, economic, and cultural dynamics that exist in rural communities related to the use of receipts as proof of land ownership. The case study approach was carried out on the people of Genteng Village who mostly carried out land purchase and sale transactions, both certified and uncertified, only proven by a receipt without any AJB, let alone a name change. The qualitative analysis process is carried out qualitatively in three main stages. The results of the research show that the law should be seen as a means to protect and promote human rights as well as social welfare. The existence of informal evidence such as sale receipts creates significant legal uncertainty for the people in Genteng village. For stakeholders, namely village officials, and the government should be more aggressive in providing counseling and assistance to make the PTSL program a success. Further research could also focus on developing innovative legal and procedural frameworks that simplify land registration while addressing cultural and socioeconomic barriers to formalizing land ownership, which could provide valuable insights for policymakers aiming to strengthen land rights and reduce legal uncertainties in informal transactions.

This is an open access article under the [CC BY-SA](#) license.

INTRODUCTION

Buying and selling activities carried out by the community reflect economic dynamics at the micro level. Every individual involved in the buying and selling process, both as a seller and a buyer, becomes an activity of distributing goods and services from producers to consumers (Lubis, 2020). The high frequency of buying and selling transactions indicates that there is active demand and supply, which in turn reflects the economic health of the community. On a broader scale, buying and selling activities are an important indicator for the government and policy makers in supporting national economic growth (Joni, 2016).

Habits and traditions in buying and selling in society are very diverse and influenced by cultural, geographical, and social factors. In some regions, for example, there is still a strong bargaining practice, while in other areas, transactions are carried out in a more formal and structured manner. These differences reflect the richness of culture and traditions that exist within the society as well as show how local values influence trade patterns (Shovit & Indrayani. Luh, 2021). The nature of buying and selling based on tradition or habits often shows high flexibility and adaptability to the local context. In many indigenous peoples in Indonesia, buying and selling transactions are not only seen as an exchange of goods and services, but also as a social process that involves various local values and norms. Buying and selling under customary law often involves certain processions, witnesses from the community, and consent from customary leaders, all of which aim to maintain social harmony and balance within the community (Stai et al., 2019).

The legal consequences of buying and selling are closely related to the transfer of ownership rights. Every sale and purchase transaction must be carried out in accordance with the applicable legal rules in order to be legal and have legal force. The transfer of ownership rights due to buying and selling has a significant difference between movable and immovable objects (Polontalo et al., 2023). This is important to ensure legal

certainty for the parties involved, prevent disputes, and protect the rights of new and old owners. In movable objects, the transfer of ownership rights is generally simpler and faster, because it is enough to physically hand over the goods and fulfill certain conditions (Usman, 2021). Meanwhile, in the case of immovable objects, the transfer of rights requires a more complex process, including official registration with the relevant government agencies and the fulfillment of various strict legal requirements. This is done to ensure transparency, accuracy, and legal certainty in the ownership of immovable objects (Kilapong et al., n.d.).

Conflicts between customary or customary law and national law are often a source of legal uncertainty, especially in the case of buying and selling land which is an immovable object. National law requires official registration and the fulfillment of certain legal requirements to ensure the validity and certainty of ownership rights. Meanwhile, in customary law practice, land purchase and sale transactions can be legally recognized by the community without official registration. These conflicts can give rise to complicated disputes, especially when there is an overlap of ownership of land or dual certificates (Rengganis et al., 2023). The existence of these two legal systems requires an effective harmonization and reconciliation mechanism to ensure legal certainty and protection of rights for all parties involved.

The habits of the people of Genteng Village in buying and selling land are often only limited to payments as evidenced by a receipt. This practice is quite common among rural communities, where trust and simplicity are the main cornerstones in buying and selling transactions. The receipt is considered sufficient as proof of the transaction and is considered valid by the parties involved. Buying and selling is carried out orally or under the hand without continuing to make a sale and purchase agreement and there is even no official registration in the relevant government institution. In fact, the sale and purchase agreement made legally by the authorized official is evidence of the existence of a legal act of buying and selling land (Puspita Dewi et al., 2020). This reflects high trust between members of the community, but also carries the risk of legal uncertainty in the future.

Reluctance to take care of and change the name is often a problem faced in land purchase and sale transactions in Genteng Village. The long and complicated administrative process, the cost is not small, and the lack of knowledge about the importance of official registration are some of the main reasons why people are reluctant to change their names. In addition, there is an assumption that as long as both parties have agreed and the transaction runs smoothly, official registration is not so important. In fact, without a legal name change process, the new owner of the land does not have strong legal protection (Hendra et al., 2023), which can lead to various problems later on, including land disputes and unclear ownership claims.

This is coupled with the fact that there is still a lot of land that has not been certified in Genteng Village. This situation shows that many lands whose ownership status is only based on the recognition of the local community and are not officially recorded in the land institution. These lands are inherited from generation to generation without any certification process, making it difficult to ensure the legality and legal certainty of the ownership of the land. The absence of these certificates can cause problems, especially when there is a need to use land as collateral for loans or when there are development projects that require legal certainty over land ownership.

The reluctance to take care of land certification in Genteng Village is influenced by several factors. The certification process, which is considered complicated and requires a lot of time and money, is the main reason. In addition, the lack of socialization and understanding of the importance of land certification also contributes to the low interest of the community in taking care of certification. Many people feel that as long as the land is recognized by neighbors and community leaders, certification is not so urgent. In fact, without a certificate, land ownership is not legally recognized, making it vulnerable to conflicts and double claims. Jurisprudence stipulates that if there are two valid certificates on the same land, the certificate issued earlier has stronger evidentiary strength. Land certification not only provides legal certainty but also provides protection and added value for the landowners themselves. (Decision Number: 976/K/PDT/2015, 2015)

Arisa (2022) examined the position of the proof of land sale and purchase in the conception of legal certainty where the results of the research stated that even though buying and selling under a legal hand according to the sale and purchase agreement, However, it has not caused a transfer of ownership rights because the name is not changed through a sale and purchase deed made by an authorized official. In the research conducted by the author, it emphasizes the view from the progressive legal stream on legal certainty over the habit of buying and selling land carried out by the people of Genteng Village, it is only enough to have a payment receipt.

Irfan & Pakpahan (2024) further examined the judge's decision regarding cases involving the sale and purchase of land that has not been certified only using receipts as proof of payment where in the consideration of buying and selling such land meets the nature of cash light because there are witnesses accompanying the process of buying and selling the land. In the research conducted by the author, it is more focused on the habits of the people of Genteng Village, which until the research was carried out, there has been no legal dispute related to the sale and purchase of land with only proof of payment receipts.

It is important to conduct research in these conditions in order to provide an in-depth understanding of how local customs affect land purchase and sale transactions which have an impact on legal certainty and legal protection. Legal and registered land ownership is proof of legal certainty which will be able to increase legal protection for landowners while opening access to various economic benefits, such as the use of land as collateral for loans (Sudibyanung et al., 2020).

The purpose of this study is focused on exploring legal certainty and effectiveness from the perspective of progressive law in dealing with social, economic, and cultural dynamics that exist in rural communities related to the use of receipts as proof of land ownership. By adopting this perspective, it is hoped that innovative and inclusive legal solutions can be found, which not only accommodate the needs of local communities but also integrate social justice values. It is hoped that this research can make a significant contribution to educating the public about the importance of legal certainty in land ownership and related rights and obligations as well as encouraging institutional strengthening at the village or city level to facilitate the certification process and the making of legal deeds through the Complete Systematic Land Registration (PTSL).

METHOD

Empirical juridical research is used to determine the effectiveness of land registration as a means of legal certainty due to the transfer of land rights through buying and selling carried out by the community in Genteng Village. The case study approach was carried out on the people of Genteng Village who mostly carried out land purchase and sale transactions, both certified and uncertified, only proven by a receipt without any AJB, let alone a name change.

Primary data was collected through a structured interview technique to people who were selected as respondents which was carried out by purposive sampling. Meanwhile, secondary data is collected through literature studies by looking for legal materials that are in accordance with the problem being studied.

After the data were collected, the analysis process is carried out qualitatively in three main stages. The first stage is data reduction, where the raw data that has been collected is simplified or organized to make it easier to understand and process. The second stage is data presentation, where the reduced data is presented in a systematic and structured way. The last stage is drawing conclusions, where the results of data analysis are used to make conclusions or generalizations about the phenomenon being studied.

RESULTS AND DISCUSSION

Community Habits in Genteng Village in Land Sale and Purchase Transactions

Civil Law distinguishes objects into movable objects and immovable objects as regulated in Article 504 of the Civil Code (Siwi et al., 2017). Especially in the transition through buying and selling, where Article 584 of the Civil Code stipulates that to obtain the ownership status of an object can only be through recognition, inheritance, attachment, expiration, and delivery. The article does not mention buying and selling as one of the ways to transfer ownership rights of an object (Marlina et al., 2023). Buying and selling is only a legal basis in the process of transferring rights. The new ownership rights will be transferred by handing over or leveraging as referred to in Article 1459 of the Civil Code.

Real assignment and juridical assignment are two important concepts in the transfer of ownership rights, both for movable and immovable objects. Although both aim to transfer ownership rights from one party to another, they are done in different ways and have different legal implications. Physical delivery, or physical delivery, is the process by which an object is handed over directly from the seller to the buyer. For moving objects, this apparent surrender means that the object is physically moved (Jewel, 2013). The handover is a juridical handover which indicates that the ownership rights to the object have been transferred. As for immovable objects, the real surrender is symbolically marked such as handing over a key or opening a fence. However, it has not indicated the transfer of ownership rights as long as the juridical handover has not been carried out, namely the creation of AJB and the change of name.

Immovable objects, such as soil and buildings, have permanent properties and cannot be moved without changing shape or damaging them. The transfer of rights to immovable objects requires a more formal and structured procedure because it does not allow handover. Therefore, the actual submission must be followed by a juridical submission in the form of making an AJB by the Land Deed Making Officer (PPAT) and followed by the registration of the name change at the National Land Agency (BPN). This procedure provides legal certainty and reduces the risk of disputes by officially recording who the rightful owner of the land or building is.

On the other hand, movable objects have the property of being easily moved and usually have a lower economic value compared to immovable objects. The process of transferring rights to movable objects is generally simpler and does not require complex formal procedures. An actual surrender, or physical surrender of the object, is often sufficient to indicate a transfer of rights (Papendang, 2013). In other words, the real surrender is also a juridical surrender.

Land, as an immovable object, proof of ownership is in the form of a land certificate issued by BPN. This certificate records complete information about the owner, location, area, and legal status of the land. The process of transferring land rights must be followed by a name change on the land certificate through the name change procedure. With a land certificate, a person has the power and legal certainty of ownership of land.

The habits of the people in Genteng Village in buying and selling land are quite interesting to pay attention to. Based on the results of the research, the stages of land rights transition through buying and selling can be described:

1. The seller and buyer must reach an agreement on the price and goods as well as other conditions such as the method of payment and delivery.
2. Buying and selling transactions are usually not included in the AJB made by PPAT. Most of the respondents made transactions under their hands as evidenced by a payment receipt that was considered sufficient proof of ownership of the land.
3. Not all of them carry out the name change process, namely changing the name of the landowner on the land certificate from the seller's name to the buyer's name. Because most of the land purchased still does not have a certificate.

Seeing this habit, legally, the process of transferring land rights through buying and selling is still not perfect. Physically, it can be considered that the buyer has controlled and utilized the land. However, juridically it is still not considered the actual owner, so it can cause legal uncertainty regarding ownership status. The impact of this uncertainty is that it will be difficult to obtain legal protection. Therefore, land certification and the name change process are very important because it will provide certainty and legal protection for all parties involved in land purchase and sale transactions (Masriani, 2020).

The habit of most people in Genteng Village in terms of buying and selling land only uses receipts without making a sale and purchase deed (AJB) and witnessed by the village leaders. However, the people in Genteng Village have a strong trust in each other, so they are not afraid that their land will be invaded by others. They consider that the existence of a receipt is enough to prove to other parties that the land controlled, used, and utilized is their land. For land that has been certified, the process of changing the name is not immediately carried out by the buyer because the process is complicated, long, and expensive. Especially for land that has not been certified, the sale and purchase is carried out in a customary and/or cash manner and is attended by witnesses and equipped with a payment receipt (Winandra & Tanawijaya, 2020). Most respondents said that the process of changing the name or making a land certificate is not important, because they have legally become the owner of the land plot. They believe that if the land certificate is used only to obtain loans from banks, and the National Land Agency (BPN) has never filed a protest regarding the lack of ownership of land certificates in Genteng Village.

The assumption of land ownership for village communities who carry out land purchase and sale transactions only with receipts without being followed by AJB and the name change process can be seen as a manifestation of economic decisions based on local preferences and specific market conditions. The community chooses not to involve a more formal name change process due to considerations of cost, time, or associated administrative complexity. In behavioral economics theory, consumer decisions are often influenced by factors such as psychological, social, economic, as well as education and knowledge (Utomo et al., 2021). Such an option may be considered a cheaper and easier way to record land transactions without having to involve complicated bureaucracy.

One of the figures who put forward the theory of behavioral economics was Richard H. Thaler, who combined the principles of psychology with economics to explain why people make certain economic decisions. Thaler observed this phenomenon by considering the existence of cognitive bias in economic decision-making (Max Witynski, 2024). Thaler put forward several concepts related to behavioral economics, the first of which is bounded rationality, in which a person's ability to process information and make optimal decisions is limited by their cognitive limitations. Second, nudge or encouragement, which indicates a policy and habit can positively influence people's choices without forcing them (Pilat & Krastev, 2024). Third, mental accounting, where people tend to separate their money to be used differently and treat money in each interest differently. Fourth, loss aversion, where a person tends to be reluctant to take risks due to the fear of losing something they already have, compared to the potential gains that may be obtained (Earl, 2018).

In behavioral economics theory, there are several psychological, social, and economic factors, as well as education and knowledge that can influence people's choices regarding the use of receipts as proof of land ownership, namely (Kenton, 2024):

- 1) Psychological Factors: The tendency of individuals to do practical things (heuristic) in decision-making, such as relying on receipts as proof of land ownership without continuing the formal process. This may be due to their perception of the complexity or costs associated with a formal legal process. Such economic decisions can be influenced by emotions such as anxiety or optimism related to a complicated financial situation or administrative process.

- 2) Social Factors: Norms in society can influence individual behavior. If the use of receipts as proof of land ownership has become a common practice in certain environments, individuals are likely to follow those norms without considering the need for greater legal certainty. Individual decisions are often influenced by their social group. If many in those environments use receipts, individuals may feel more comfortable and safe to follow the same practices.
- 3) Economic Factors: Unstable economic conditions or high poverty rates can lead to a higher priority on daily needs than long-term legal certainty regarding land tenure. The decision to use a receipt as proof of land ownership can be influenced by cost and benefit considerations. If the formal land registration process is considered expensive or does not provide significant benefits in the short term, people tend to look for cheaper or simpler alternatives.
- 4) Education and Knowledge Factors: Individuals with lower levels of education may have a more limited understanding of the importance of legal certainty in land ownership, and tend to rely on simpler practices such as the use of receipts. Additionally, limited access to legal information or services, such as legal consultants or land registration agencies far from where they live, can influence an individual's decision to rely on receipts as proof of land ownership.

The use of receipts by village communities as evidence of a change of ownership of land due to experience from previous sales and purchases or limited information about the benefits of the name change process, Thaler sees it as an irrational and inconsistent action of individuals. Thus, when village communities only rely on land sales receipts as proof of ownership without continuing the process of changing the name or formal land registration, this reflects a low level of legal awareness in terms of land ownership. Village communities may not have adequate access to adequate information or legal knowledge to understand the importance of land registration and formal name change processes. Limited access to complicated and expensive legal or bureaucratic services to carry out the land name change process can make people tend to look for simpler or cheaper solutions such as sales and purchase receipts.

Some village communities still follow the habit of handling land ownership, which of course is not in accordance with the provisions of laws or government regulations. Sometimes, village communities can have distrust of the authorities or the prevailing legal system, which can hinder their participation in formal legal proceedings. Economic and social factors such as poverty, political instability, or economic uncertainty can also affect people's ability to access legal services and comply with formal legal procedures. In fact, the impact of land transactions that are not supported by the formal name change process can be a source of land disputes, affecting land market liquidity, access to credit, and investment in infrastructure development.

According to behavioral economic theory, it can be nudged in a more formal direction, for example by providing incentives or simplifying procedures. One of the simplifications of the procedure is the complete systematic land registration (PTSL). This is especially true for land ownership that is still not certified. The main objective of PTSL is to provide a systematic and complete land registration system, ensuring that land ownership is clearly recorded and meets applicable legal standards. It aims to increase legal certainty, support economic development, and reduce land disputes. The implementation of PTSL is often carried out through cooperation between the government, international financial institutions, and the private sector, with the aim of improving administrative efficiency and certainty of land laws.

Government Regulation Number 24 of 1997 concerning Land Registration which has been revised with Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats, and Land Registration states that documents such as land certificates, compensation certificates, certificates from villages, and the like issued by the village head or sub-district head can only be used as instructions in the Land Registration process. Even if a person has written evidence of ownership of land that was previously owned customarily, if the land is not registered within five years since Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration was announced, the evidence will only serve as a clue.

Legal Certainty of Land Ownership according to the Perspective of Progressive Law

One of the figures in the progressive legal school in Indonesia is Satjipto Rahardjo (2006b). The progressive law that he promotes departs from the view that the law should not only be understood as a set of rigid rules that must be obeyed, but must be seen as a tool to achieve justice and community welfare. Progressive law emphasizes the importance of legal responsiveness to social dynamics and the evolving needs of society, and should not be trapped in rigid formalities. The law must be able to adapt to social, economic, and cultural changes in society.

Rahardjo (2006a) argued that law is not the final goal, but a means to achieve social justice and humanity. In simpler terms, Satjipto Rahardjo said that progressive law is a law that liberates people, both in the way of thinking and acting in the law, so that it is able to let the law flow to complete its duty to serve humanity and humanity. So there is no engineering or partiality in enforcing the law. Because according to him, the law aims to create justice for all people. This means that the law should be seen as a means to protect

and promote human rights as well as social welfare. The law must be human-oriented and not the other way around (Rahardjo, 2006a). This also implies that law enforcement, including judges, prosecutors, and police, must have social and humanitarian sensitivity in carrying out their duties. Therefore, progressive law emphasizes the importance of active participation of all levels of society in the legal process. Laws must be formed and enforced by involving the community, so that the law truly reflects the values and needs of the community.

The community involved will shape the resulting law to be more relevant and in accordance with local social and cultural conditions. This process ensures that the law not only functions as a tool of control, but also as a reflection of the will and interests of society. Such conditions will create a more harmonious relationship between the country and its citizens, because the existing laws are truly accepted and respected by the community. The legal system will be created in a fairer and more responsive manner to changes and social dynamics, because the law can quickly adapt to the needs and conditions of society due to community participation in the legal process. Such participation creates a sense of belonging and attachment so that it will make the law more humane and adaptive, reduce the distance between policymakers and the society they regulate, and ensure that the law truly functions for the common good.

Satjipto Rahardjo also emphasized the importance of morality and ethics in law. According to him, the law should not only focus on technical rules, but must also reflect the moral and ethical values that live in society. Laws based on morality and ethics will be more effective in creating social order and justice. This is because people will be more accepting and respectful of laws that are considered fair and rooted in the moral values they adhere to and believe in. Thus, good law not only maintains order, but must also be able to provide justice and benefits for all parties in community life. Progressive law emphasizes that the law must be flexible, adaptive, and oriented towards social justice (Nuryadi, 2016). The law must be able to be an effective means to achieve welfare and justice for all levels of society.

Progressive law views justice as the main foothold in every legal policy. The justice in question does not only refer to formal justice in the application of the rule of law, but also to substantive justice that considers the social, economic, and cultural conditions of the community. Therefore, although legal certainty is important to create order and certainty in the law, and benefits are needed to provide real benefits to society, progressive law views that in situations where there is a clash between legal certainty, justice, and utility, the principle of justice will take precedence.

Legal certainty in the view of progressive law is not only as the certainty of written rules, but also as the certainty of justice and humanity (Nafis & Rahmad, 2020). Legal certainty in the view of progressive law must be able to answer the needs and dynamics of society that continue to change. Legal certainty should not only focus on formal aspects or rigid rules, but must include broader substantive aspects. Legal certainty means that the law must be able to provide clarity and predictability, but must not sacrifice justice and humanity. The law must be relied upon by the community to provide protection and resolve disputes, but it must also be flexible and responsive to the social context and changes that occur.

Progressive law emphasizes that legal certainty must be humanistic. This means that the law must consider the impact of its application on humans and society. Legal certainty that only focuses on the certainty of written rules can result in injustice if it does not consider the concrete conditions and situations faced by individuals or groups in society. Satjipto Rahardjo emphasized the importance of looking at legal certainty from two different aspects, namely the formal aspect and the substantive aspect (Supriyono, 2016). The formal aspect is related to the existence of clear and firm rules. In this context, legal certainty means the existence of legal norms that are written and regulated explicitly so that they can be followed by the public. These rules must be clearly drafted so as not to cause doubts or different interpretations among law enforcement and the public. Legal certainty from the formal aspect provides stability and order in community life because everyone knows the rules that must be followed and the consequences of violating those rules.

On the other hand, the substantive aspect of legal certainty emphasizes more on justice and the benefits of applying the rule of law in people's lives. Satjipto Rahardjo argued that the law must not only be clear and firm in writing, but also fair and beneficial when applied. This means that the law must take into account the context and social conditions, as well as the real impact of its application on society. Laws that focus only on formal certainty without considering substantive aspects can result in decisions that are technically correct but unfair or incompatible with human values and social justice.

The ideal legal certainty, according to Satjipto Rahardjo, is a combination of these two aspects. The law must have clear and reliable rules (formal aspect), as well as be able to provide justice and benefits to society (substantive aspect). Only by integrating these two aspects can the law function effectively and provide true protection and justice for all members of society.

In the case of land ownership that is only based on a sale and purchase receipt without being followed by a name change, based on Satjipto Rahardjo's view above, land ownership legally must formally comply with the procedures regulated in laws and regulations. This means that land purchase and sale transactions must

be followed by a name change process at the land office to ensure that ownership rights are officially recorded and recognized by the state. Formal legal certainty ensures that there is valid and legally recognized evidence of ownership of the land, which minimizes potential disputes and provides legal protection for the owners.

Paying attention to the substantive aspect of legal certainty, namely justice and the real benefits of the application of law in people's lives. In this context, Satjipto Rahardjo sees that the receipt of the sale and purchase of land shows that there is a socially valid transaction between the seller and the buyer. Although it does not meet the formal aspect, this evidence reflects the social reality that the buyer has spent money and owns the rights to the land. If the law only looks at the formal aspect and ignores the substantive aspect, this can result in injustice for buyers who have been in good faith and transacted legally socially.

The progressive view of Satjipto Rahardjo means that in such a situation, the law must consider both aspects. The legal system must seek a balance between maintaining certainty and formal order, as well as ensuring substantive justice for the individuals involved. Ideally, the law should provide a way for the buyer to complete the administration of the name change by considering the evidence of the transaction that has occurred, so that both formal and substantive certainty can be met. Thus, land ownership that is only based on sales and purchase receipts without carrying out the name change process does not fully reflect legal certainty for the owner. Ideal legal certainty must include two aspects, namely formal aspects and substantive aspects.

When the object of sale and purchase in the form of land is still not certified, legal certainty becomes more complex because land that has not been certified does not have proof of official ownership recognized by the state. In this situation, the formal aspect of legal certainty is very limited because there are no official documents showing legal ownership. Uncertified land usually only has proof of traditional or customary ownership (Atikah, 2022), such as a certificate from the village head or a sale and purchase receipt that may not be formally recognized by the national legal system.

Forms of formal aspects of land ownership that have not been certified include a land certificate from the village head or village head, although not yet official, but can provide initial legality that is administratively recognized. Usually, the transfer of ownership that is delayed or reported to the village officials is recorded in the village land book which is used as a reference in making land history. Although there are no official certificates, traditional proof of ownership and sales receipts reflect a social recognition of the ownership of the land. The form of substantive aspects, including recognition by the surrounding community and local customary authorities, is proof of substantive ownership, even though it has not met the formal aspect. Sustainable and undisputed use, utilization, and tenure of land also demonstrate that the owner has substantial legal rights to the land. In addition, testimony from neighbors, community leaders, or previous owners regarding land sale or purchase transactions is also substantive evidence.

This results in the two aspects still having to work synergistically to achieve comprehensive legal certainty. The formal aspect can obviously provide legality recognized by the state, while the substantive aspect ensures justice and social recognition that is in line with the reality on the ground. The sale and purchase of land that is carried out only using payment receipts without being followed by the creation of AJB and the process of changing the name, from the perspective of progressive law, is an incomplete process of transfer of rights. This means that the receipt only functions as an indication of payment for a purchase and sale transaction.

CONCLUSION

The people of Genteng Village face significant legal uncertainty due to informal evidence like land purchase and sale receipts. Progressive law views these conditions as imperfect legal certainty over formal land ownership, which has not been maintained through juridical data certification. Behavioral economic theory suggests that these habits are temporary and inconsistent, and can be addressed through simpler procedures like PTSL (Complete Systematic Land Registration). Village officials and the government should provide counseling and assistance to foster legal awareness about the importance of correct land buying and selling processes. Future research should explore the effectiveness of government programs like PTSL in improving legal certainty and reducing reliance on informal evidence. Additionally, studies could examine behavioral factors influencing community resistance or acceptance of formal land registration processes, particularly in rural areas like Genteng Village. Developing innovative legal and procedural frameworks that simplify land registration while addressing cultural and socioeconomic barriers could also be beneficial. Analyzing the long-term impact of legal counseling and education programs on community legal awareness and compliance could provide valuable insights for policymakers aiming to strengthen land rights and reduce legal uncertainties in informal transactions.

REFERENCES

- Arisa, B. (2022). The position receipt As a Proof of Land Sale and Purchase in the Conception of Legal Certainty. *Jurnal Konstatering*, 1(3), 1192–1201.

- Atikah, N. (2022). Kedudukan Surat Keterangan Tanah sebagai Bukti Kepemilikan Hak Atas Tanah dalam Sistem Hukum Pertanahan Indonesia. *Notary Law Journal*, 1(3), 263–289. <https://notarylaw.journal.ulm.ac.id/index.php/nolaj>
- Earl, P. E. (2018). Richard H. Thaler: A Nobel Prize for Behavioural Economics. *Review of Political Economy*, 30(2), 107–125. <https://doi.org/10.1080/09538259.2018.1513236>
- Hendra, K. M., Setianto, M. J., & Dantes, K. F. (2023). Perlindungan Hukum Dalam Jual Beli Tanah Di Bawah Tangan Berdasarkan Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria. *Jurnal Ilmu Hukum Sui Generis*, 3(4).
- Irfan, & Pakpahan, S. F. (2024). Tinjauan Yuridis Jual Beli Tanah Dengan Bukti Kwitansi (Studi Kasus Putusan Nomor 412/Pdt. G/2021/PN Mks). *Jurnal Rectum*, 6(2), 266–275.
- Jewel, S. N. (2013). Peralihan Hak Atas Rumah KPR melalui Jual Beli di Bawah Tangan. *Unnes Law Journal*, 2(2), 106–122. <http://journal.unnes.ac.id/sju/index.php/ulj>
- Joni, H. (2016). Tanah Sebagai Aset Sosial Dalam Perspektif Hukum Agraria Nasional. *Jurnal Cakrawala Hukum*, 7(1), 123–134.
- Kenton, W. (2024). *What Is Behavioral Economics? Theories, Goals, and Applications*. <https://www.investopedia.com/terms/b/behavioraleconomics.asp>, Diakses Tanggal 29 Juni 2024, Pukul 06.30 WIB.
- Kilapong, J., Pondaag, H., & Yanni Gosal, V. (n.d.). *Tinjauan Terhadap Proses Peralihan Hak Milik Atas Tanah (Juridische Levering) Karena Adanya Perjanjian Jual Beli*.
- Lubis, A. T. (2020). Distribusi Pendapatan Dalam Perspektif Islam. *Journal Islamic Banking and Finance*, 1(1), 53–67.
- Marlina, T., Djuariah, Maulida, I., Andri, G. Y., & Hadiriono, R. (2023). *Buku Ajar Hukum Agraria*. Deepublish.
- Masriani, Y. T. (2020). Pentingnya Kepemilikan Sertifikat Tanah Melalui Pendaftaran Tanah Sebagai Bukti Hak. *Jurnal USM Law Review*, 5(2), 539–552. <https://doi.org/10.33476/ajl.v7i1.331>
- Max Witynski. (2024). *What is behavioral economics?* <https://news.uchicago.edu/explainer/what-is-behavioral-economics>, Diakses Tanggal 28 Juni 2024, Pukul 10.30 WIB.
- Nafis, W., & Rahmad, N. (2020). Hukum Progresif dan Relevansinya pada Penalaran Hukum di Indonesia. *El Ahli: Jurnal Hukum Keluarga Islam*, 1(2), 1–15. <http://pasca.unhas.ac.id/ojs/index.php/halrev/article/view/38>.
- Nuryadi, H. D. (2016). Teori Hukum Progresif Dan Penerapannya Di Indonesia. *Jurnal Ilmiah Hukum De Jure*, 1(2), 394–408.
- Papendang, C. E. (2013). Penyerahan Hak Milik Pada Transaksi Jual Beli Kendaraan Bermotor Dalam Praktik. *Lex Privatum*, 1(2), 145–155.
- Pilat, D., & Krastev, S. (2024). *Bringing economics into the real world of human decision-making*. <https://thedecisionlab.com/thinkers/economics/richard-thaler>, Diakses Tanggal 28 Juni 2024, Pukul 10.36 WIB.
- Polontalo, E. M. R., Kasim, N. M., & Thalib, M. C. (2023). Kedudukan Hukum Serta Akibatnya Antara Peralihan Hak Atas Tanah Melalui Kwitansi Jual Beli Dengan Hibah Wasiat. *Jurnal Kewarganegaraan*, 7(1), 751–760.
- Puspita Dewi, Y., Marlina, T., Maulida, I., Kunci, K., Beli, J., Jual Beli, A., & Hak Milik, S. (2020). Kekuatan Akta Jual Beli (AJB) Atas Tanah dalam Proses Menjadi Sertifikat Hak Milik (SHM). *Hukum Responsif*, 11(2), 86–92. <http://jurnal.ugj.ac.id/index.php/Responsif>
- Putusan Nomor: 976/K/PDT/2015, 27 November 2015 (2015).
- Rahardjo, S. (2006a). *Hukum dalam jagat ketertiban*. UKI Press.
- Rahardjo, S. (2006b). *Membedah Hukum Progresif*. Penerbit Buku Kompas.
- Rengganis, W. L., Marlina, T., Maulida, I., & Sutrisno, E. (2023). Legal Review of Land Rights Related to the Complete Systematic Land Registration (PTSL) Program Based on Legal Certainty Values. *Hermeneutika*, 7(2), 281–287. <https://doi.org/10.33603/hermeneutika.v3i2>
- Shovit, R., & Indrayani. Luh. (2021). Kearifan Penjual dan Pembeli Produk Barang dan Jasa Berbahan Dasar Kapuk dalam Melakukan Transaksi Jual Beli di Desa Tegallinggah. *Jurnal Ilmiah Akuntansi Dan Humanika*, 11(3), 436–443.
- Siwi, C. T., Katolik, U., & Karya, W. (2017). Aspek Hukum Benda Tidak Bergerak Sebagai Obyek Jaminan Fidusia. *Jurnal Notariil*, 1(2), 13–22. <https://doi.org/10.22225/jn.2.1.150.13-22>
- Stai, A. U., Ulama, N., & Lampung, K. (2019). Integrasi Sosial Dalam Membangun Keharmonisan Masyarakat. *Integrasi Sosial Dalam Membangun Keharmonisan Masyarakat JAWI*, 2(1), 65–86. <https://doi.org/10.24042/jw.v2i1.2841>

- Sudibyanung, A. K., Supriyanti, T., Tinggi, S., & Nasional, P. (2020). Pemanfaatan Sertipikat Tanah Hasil Pendaftaran Tanah Sistematis Lengkap Untuk Peningkatan Modal Usaha Di Kabupaten Madiun. *Jurnal Tunas Agraria*, 3(3), 94–118.
- Supriyono. (2016). Terciptanya Rasa Keadilan, Kepastian Dan Kemanfaatan Dalam Kehidupan Masyarakat. *Jurnal Ilmiah FENOMENA*, XIV(2), 1567–1582.
- Usman, R. (2021). Makna Pengalihan Hak Kepemilikan Benda Objek Jaminan Fidusia Atas Dasar Kepercayaan. *Jurnal Hukum Ius Quia Iustum*, 28(1). <https://doi.org/10.20885/iustum.vol28.iss1.art7>
- Utomo, Y. T., Doktorol, M., Syariah, E., Sunan, U., Yogyakarta, K., Stei, D., & Yogyakarta, H. (2021). Perilaku Ekonomi Mbah Waginem. In *Youth & Islamic Economic Journal* (Vol. 02).
- Winandra, D., & Tanawijaya, H. (2020). Penerapan Asas Terang Dan Tunai Dalam Jual Beli Tanah Yang Merupakan Harta Bersama Dalam Perkawinan. *Jurnal Hukum Adigama*, 3(2), 1–24.