

## The Juridical Analysis of the Implementation of Transfer of Land Rights Based on Certificates of Building Use Rights that have Expired Ownership

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**Abstract.** *The role of the government is urgently needed to set regulations in terms of tenure, ownership and use of land for legal certainty in the land sector. Land rights are regulated in Article 16 paragraph (1) of the Basic Agrarian Law (UUPA) (UUPA), one of which is the right to use a building. Right to Build is the right to construct and own a building on land that is not your own for a maximum period of 30 years. Limited information to the public regarding the time period for building use rights makes the land rights in the certificate return to state land. This research is analytical descriptive in nature to obtain a comprehensive and systematic picture of the issues raised in this research by means of a sociological juridical approach carried out through field research. The conclusion that is also the aim of this study is to find out the process of implementing the transfer of rights and legal certainty to the giver and recipient of their rights to land based on certificates of building use rights that have expired at the Cirebon District Land Office. The granting of priority rights to former holders of building use rights whose ownership period has expired is used as the basis for making the Deed of Relinquishment of Priority Rights in the process of transferring their rights made by a Notary.*

*Keywords: Building; Deed; Priority; Release.*

### 1. Introduction

Soil is a natural resource that is a primary need in human life. Indonesia is known as an agricultural country, where most of the population has a livelihood and source of income from utilizing good land as agricultural land. The definition of "soil" includes the surface of the earth that is on land and the surface of the earth that is below the surface of the water, including sea water.<sup>1</sup> As stated in

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<sup>1</sup>Prof. Boedi Harsono, 2008, Indonesian Agrarian Law, History of the Establishment of the Basic Agrarian Law, Contents and Implementation Volume 1 of National Land Law, Djbatan Publishers, Jakarta, p. 6-7

national law in Article 33 paragraph 3 of the 1945 Constitution of the Republic of Indonesia "Earth, water and the natural resources contained therein are controlled by the State, and used as much as possible for the prosperity of the people".<sup>2</sup>

In the Qur'an as the main source of Islamic law, there are also many verses related to the earth or land that Allah SWT created for human life. As contained in:

QS. AL Baqoroh (2) verse 22:

*"It is He (Allah SWT) who made the earth a stretch for you and the sky as a roof, and it is He (Allah SWT) who sends down water (rain) from the sky, then He produces with that rain fruits as sustenance for you. Therefore, do not set up equals for Allah, even though you know. "*

QS. Jonah (10) verse 3:

*"Surely your Lord is Allah who created the heavens and the earth in six days and then he resided on the Throne (throne) to rule over all affairs. No one can intercede except after His permission. That is Allah, your Lord, so worship Him. Don't you take lessons? "*

QS. AL Mulk (67) verse 15 :

*"He is the one who made the Earth for you easy to explore, so explore in all directions and eat some of His sustenance. And only to Him you (return after) being resurrected."*

Indonesia is also a country with a large population, this is very influential in the development sector, especially the use of land as a residence. The more difficult it is to provide land for development needs in Indonesia as the population grows in Indonesia, which causes an increase in the need to get decent housing. However, the amount of land does not increase or stays the same, causing less productive land and unable to meet the increasing demand for land because all parties, both individuals and communities, need land, as well as countries that need land to build public facilities.<sup>3</sup>The role of the government is urgently

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<sup>2</sup>People's Consultative Assembly of the Republic of Indonesia, 2012, 1945 Constitution of the Republic of Indonesia, Secretariat of the People's Consultative Assembly of the Republic of Indonesia, Jakarta, p.167

<sup>3</sup>Mohammad Hatta, 2005, National Land Law in the Perspective of the Unitary State, Eternal Media, Yogyakarta p.15

needed to set regulations in terms of tenure, ownership and use of land for legal certainty in the land sector.

Provisions regarding land in Indonesia are generally regulated in Act No. 5 of 1960 concerning Basic Agrarian Regulations, also known as the Basic Agrarian Law (UUPA) (UUPA). In the Basic Agrarian Law (UUPA) Article 2 Paragraph (2) stipulating that the right to control is from State Rights including paragraph (1) in this article, the Basic Agrarian Law (UUPA) (UUPA) authorizes the State to:

1. Regulate and administer the allotment, use, supply and maintenance of the earth, water and space.
2. Determine and regulate legal relations between people and earth, water and space.
3. Determine and regulate legal relations between people and legal actions regarding earth, water and space.<sup>4</sup>

At the beginning of the enactment of the Basic Agrarian Law (UUPA) (UUPA) all forms of regulations on land including Government Regulations were still issued by the President and Junior Minister of Justice, the policy was adopted by the government because at that time Indonesia was still experiencing a transition period.<sup>5</sup>In 1963, the Ministry of Agriculture and Agrarian Affairs was formed, until in 1965 the agrarian division was separated and made an institution separate from the auspices of the Minister of Agriculture, becoming the Ministry of Agrarian Affairs.

In 1968 institutionally it underwent a change, at that time it was included in the Department of Home Affairs under the name Directorate General of Agrarian Affairs.<sup>6</sup>In 1988, the Directorate General of Agrarian Affairs was changed again to become a non-departmental institution under the name National Land Agency (BPN). In 2002, the National Land Agency (BPN) became an institution parallel to the ministry, and in 2014 until now, a new ministry has been created called the Ministry of Agrarian Affairs and Spatial Planning, the National Land Agency (BPN) is under the auspices of the Minister of Agrarian Affairs and Spatial.

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<sup>4</sup>Yustisia Library Editorial Team, 2005, Compilation of Agrarian Law Legislation Compilation Series, Yustisia Library, Yogyakarta, p.9

<sup>5</sup>Wikipedia, National Land Agency, from webpage: [https://id.wikipedia.org/wiki/National\\_Land\\_Agency](https://id.wikipedia.org/wiki/National_Land_Agency), accessed on November 10, 2020, at 09.45 West Indonesia Time.

<sup>6</sup>ibid.

The National Land Agency (BPN) has governmental duties in the land sector with statutory provisions. In carrying out its duties, the National Land Agency (BPN) carries out the following functions:<sup>7</sup>

1. Formulation and determination of policies in the land sector;
2. Formulation and implementation of policies in the fields of surveys, measurements and mapping;
3. Formulation and implementation of policies in the field of determination of land rights, land registration and community empowerment;
4. Formulation and implementation of policies in the field of regulation, management and control of land policies;
5. Formulation and implementation of policies in the field of land acquisition;
6. Formulation and implementation of policies in the field of controlling and handling land disputes and cases;
7. Supervision of the implementation of tasks within the National Land Agency (BPN);
8. Implementation of task coordination, coaching and providing administrative support to all organizational units within the National Land Agency (BPN).
9. Implementation of management of information data on sustainable food agricultural land and information in the land sector;
10. Implementation of research and development in the land sector; and
11. Implementation of human resource development in the land sector

It is in the policy implementation function related to the determination of land rights and defense that the National Defense Agency (BPN) issues a product called a Land Certificate, as a document proof of ownership and rights of a person or legal entity over land. A certificate is a letter of proof of title as referred to in Article 19 paragraph (2) letter c of the Basic Agrarian Law (UUPA) (UUPA) for land rights, management rights, waqf land, ownership rights to flat units and mortgage rights, each of which -each has been recorded in the land

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<sup>7</sup>ibid

book<sup>8</sup> concerned<sup>9</sup>. This Land Certificate, based on Government Regulation Number 24 of 1997 concerning Land Registration, aims to provide legal certainty and legal protection for holders of land rights, provide information to related parties including the government, and carry out orderly land administration.

Land rights are regulated in Article 16 paragraph (1) of the Basic Agrarian Law (UUPA) (UUPA), consisting of:

1. Right of ownership
2. Cultivation Rights
3. Building rights
4. usufructuary rights
5. Lease rights
6. Land clearing rights
7. The right to collect forest products
8. Other rights that are not included in the rights mentioned above are stipulated by law and temporary rights as stated in article 53.<sup>10</sup>

The definition of building use rights is specifically regulated in article 35 paragraph (1) of the Basic Agrarian Law (UUPA) (UUPA) which states that building use rights are the right to construct and own buildings on land that is not their own for a maximum period of time. 30 years. Furthermore, paragraph (2) stipulates that at the request of the right holder and taking into account the needs and conditions of the buildings, the period mentioned above can be extended for a maximum period of 20 years.<sup>11</sup>Other regulations related to Building Use Rights are contained in Government Regulation Number 40 of 1996

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<sup>8</sup>A land book is a document in the form of a register which contains juridical data and physical data of an object of land registration for which there is a right. (Regulation of the Government of the Republic of Indonesia Number 24 of 1997 concerning Land Registration. CHAPTER I General Provisions Article 1 paragraph (19))

<sup>9</sup>Ibid. CHAPTER I General Provisions Article 1 paragraph (20)

<sup>10</sup>Temporary rights as referred to in Article 16 paragraph (1) letter h, namely lien rights, production sharing rights, rental rights and agricultural land lease rights are regulated to limit the characteristics that are contrary to this Law and rights It is endeavored to erase these rights in a short time. (Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Regulations, Article 53 paragraph (1))

<sup>11</sup>Sudargo Gautama, Ellyda T. Soetijarto, 1997, Interpretation of UUPA (1960) and its Implementing Regulations, PT. Citra Aditya Bakti, Bandung, p.51

concerning Business Use Rights, Building Use Rights and Land Rights and updated in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration.

The right to build is a land right that has a certain period of time, if it is extended by the right holder before the specified period, the right to use the building can be extended based on the provisions stipulated by the Office of the National Land Agency (BPN). And the right to the land can be deleted, if the right to use the building is not extended until it expires.

Limited knowledge and information in the community related to the status of Building Use Rights as well as negligence in not extending the status of Building Use Rights by the holders of Building Use Rights results in the erasure specified in the land certificate. However, in this case the Government has made concessions to the former owner of the Right to Build whose rights have expired to be able to apply for an extension or increase in rights, with the conditions listed in Article 37 paragraphs (3) and (4) of Government Regulation Number 18 of 2021 concerning Management Right, Land Right, Flat Unit, and Land Registration which reads as follows:

*(3) "After the period for granting, extending and renewing as referred to in paragraph (1) ends, the Land of Building Use Rights returns to become Land directly controlled by the State or Management Rights.*

*(4) "Land that is directly controlled by the State as referred to in paragraph (3), re-arrangement of use, utilization and ownership becomes the authority of the Minister and priority can be given to former right-holders by taking into account:*

*a. The land is still being cultivated and put to good use in accordance with the circumstances, nature and purpose of granting the rights.*

*b. the conditions for granting the right are fulfilled by the right holder.*

*c, The right holder still fulfills the requirements as a right holder*

*d. The land is still in accordance with the spatial plan.*

*e. Not used and/or planned for the public interest.*

*f. Natural resources and environment and*

*g. The condition of the land and the surrounding community.*

However, this is especially for former holders of Building Utilization Rights whose building designation is a Residential House, facilitated by the Decree of the Minister of Agrarian Affairs/Head of the National Land Agency Number 6 of 1998 concerning the Granting of Land Ownership Rights for Residential Homes.

Pursuant to Article 37 paragraphs (3) and (4) of the Decree of the Minister of Agrarian Affairs/Head of the National Land Agency Number 6 of 1998, former Right-holders are entitled to submit an application to be granted a Property Right over the land of a former residential building which has expired. The former holder of the Building Use Right is known as the Priority Right holder, meaning that even though the Building Use Right has expired, so that it becomes land controlled by the state, in civil terms it still belongs to the former Building Use Right holder, so that his right is prioritized to apply for a Building Use Right. Owned the land of the former Building Use Rights to the Office of the National Land Agency (BPN).

Meanwhile, the holder of priority rights wishes to transfer the former Building Use Rights which have expired, no longer taking legal action in transferring them by way of sale and purchase, because the ownership of the land object under their control has been transferred to state control, so that legal actions can be used as a basis for the transfer the right to the land object of the former Building Use Rights is by way of relinquishing priority rights. Based on the Regulation of the President of the Republic of Indonesia Number 36 of 2005 concerning Land Acquisition for the Implementation of Development for the Public Interest, the release or transfer of land rights is an activity to release the legal relationship between the holders of rights over the land they control by providing compensation on the basis of deliberation. The deed that forms the basis for releasing priority rights is a notary deed,

There are two examples of cases at the Land Agency Office in Cirebon Regency, related to the implementation of the transfer of land rights based on building use rights certificates that have expired with the issuance of the Decree of the Head of the Cirebon Regency Land Office Number; 26/HM/BPN-32.09/2020 concerning the Granting of Freehold Rights to a Land Area of 66 m<sup>2</sup>, on behalf of Surono located in Jadimulya Village, Gunungjati District, Cirebon Regency, West Java Province and 26) Decree of the Head of the National Land Agency Number 00087/SKHM/BPN-32.09/2021 concerning the Granting of Freehold Rights to Land with an area of 106 m<sup>2</sup>, in the name of IMAN SURACHMAN located in Purwawinangun Village, Suranenggala District, Cirebon Regency.

From the explanation above, the author is interested in analyzing how the process of transferring land rights based on a certificate of building use rights has expired based on the Decree of the Head of the Cirebon Regency National Land Agency Office, so that a certificate with ownership rights is issued. And what

about legal certainty for the giver and recipient of rights in carrying out the transfer of land rights based on certificates of building use rights whose ownership has expired.

## **2. Research Methods**

The research method is a process, principles and procedures for solving problems encountered in conducting research, which is an attempt to find, develop and test the truth of a knowledge, which is done by using scientific methods.<sup>12</sup> Research carried out to obtain data that has been tested for scientific validity, is carried out by thinking rationally and empirically so that it can provide a logical frame of mind and can provide a framework of evidence or testing to ensure a truth.<sup>13</sup>

## **3. Result and Discussion**

### **3.1. Implementation of the Transfer of Land Rights Based on Certificates of Building Use Rights whose Ownership Expired**

Land rights are a legal relationship between legal subjects and land, in which there is legal protection in that relationship. Land rights aim to provide legal certainty for these legal relations, so that rights holders can exercise their rights to manage and make good use of their land. The state, through the Land Office, regulates the legal relationship between the right-holder subjects and their land. In this study will discuss the implementation of the transfer of land rights based on certificates of building use rights that have expired ownership period.

In the case of a certificate of Building Use Rights whose ownership period has expired, the relationship between the subject right holder and the land ends and the building use rights land becomes land controlled by the State or land with management rights, in accordance with the provisions of Article 37 paragraph 3 of Government Regulation Number 18 of 2021, however, former holders of building use rights are granted priority rights by taking into account the following matters:

1. The land is still being cultivated and utilized properly according to the circumstances, nature and purpose of granting the rights;
2. The conditions for granting the rights are fulfilled properly by the right holders;

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<sup>12</sup>Sutrisno Hadi, 2000, *Research Methodology Volume I*, Andi, Yogyakarta. p. 4

<sup>13</sup>Soerjono Soekanto, *Op. cit*, p. 72.



3. The right holder still fulfills the requirements as a right holder;
4. The land is still in accordance with the spatial plan;
5. Not used and/or planned for public interest;
6. Natural resources and environment; and
7. The condition of the land and the surrounding community.

The Priority Right in question is the right to receive top priority (priority/priority) from the sequence of recipients of land rights. In addition, the relationship between the subject of the former holder of mortgage rights and ownership and control of land, the expiration of the right does not necessarily fall to the state, but the former right-holder has civil rights over the land, which is attached to civil rights is everything that is on the former building use rights in this study is a residential house.

In the case of the transfer of rights to a land object whose building use rights period has expired based on the Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Canceling State Land Rights and Management Rights, the former holder of building use rights can transfer object of civil rights, but not on the basis of a sale and purchase deed made by the Land Deed Making Officer (PPAT) but through a Relinquishment of Rights. The event of relinquishment of rights must be carried out with a statement or deed of relinquishment of rights, the relinquishment of rights is carried out by former holders of land rights voluntarily or with compensation. Deed of relinquishment of rights is one of the authentic deeds made by a Notary and is a partij deed.

Priority rights owned by former holders of building use rights and civil rights to objects located and embedded on the land of the former building use rights can be used as a basis for the former right holders to transfer their rights to new right owners or subsequent right holders. It is from this basis of Priority Rights that the product of the deed for the implementation of Relinquishment of Rights made by a Notary is entitled the deed "Deed of Relinquishment of Priority Rights".

With the Relinquishment of Priority Rights, the land object is state land so that the Recipient of the Rights in the Relinquishment Deed can apply for new land rights to the local Land Office in accordance with the provisions of the law and in accordance with the designation of the land on the basis of the Deed of Relinquishment of Priority Rights as the basis of the rights. So that the Recipient

of the Right gets the right to the land according to the provisions of the law and according to the designation of the land.

The implementation of the relinquishment of priority rights is essentially a form of land registration activity in the case of land with building use rights whose ownership period has expired so that new rights can be applied for with the aim of creating legal certainty for the recipient of the rights to be able to obtain new rights to the land object he receives.

The basis for the transfer of rights is Act No. 5 of 1960 (Basic Agrarian Law), Government Regulation No. 18 of 2021 concerning management rights, land rights, apartment units and land registration, Head of BPN Regulation No. 6 of 1998 concerning the granting of property rights to residential land. Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency No. 9 of 1999 concerning Procedures for Granting Rights and Cancellation of State Land Rights and Management Rights, and others. In this study the authors took 2 examples of cases in the implementation of the transfer of rights based on certificates of building use rights whose ownership had expired with the following data:

Case 1 :

- Base of Rights: Deed of Relinquishment of Priority Rights Number 04 dated 27 April 2019 made before ATIYAH DJAHARI, SH, Notary in Cirebon Regency
- Decree of the Head of the Cirebon District Land Office Number; 26/HM/BPN-32.09/2020 concerning the Granting of Freehold Rights to a Land Area of 66 m<sup>2</sup>, in the name of Surono located in Jadimulya Village, Gunungjati District, Cirebon Regency, West Java Province.

Case 2 :

- Deed of Relinquishment of Priority Rights Number 02 dated 05 June 2020 made before IDA NUR'AIDA SURACHIM, SHMKn, Notary in Cirebon Regency
- Decree of the Head of the National Land Agency Number 00087/SKHM/BPN-32.09/2021 concerning the Granting of Freehold Rights to Land with an area of 106 m<sup>2</sup>, in the name of IMAN SURACHMAN located in Purwawinangun Village, Suranenggala District, Cirebon Regency.

Both are with the same case circumstances and process flow, so that the author describes in general the process of implementing the release of priority rights based on a certificate of building use rights whose ownership has expired with

the condition and function of the land as a residence. By dividing the stages of the process into 4 stages, namely the Making of Deeds, Measurement, Registration of Decrees from the Head of the Cirebon Regency Land Office and Issuance of Land Certificates at the Cirebon Regency Land Office:

### 1. Making Deed of Relinquishment of Priority Right

Before the Deed of Relinquishment of Priority Rights is drawn up, the parties (the party releasing and the party receiving the rights) appear before the Notary Public bringing the following documents: a. Physical Building Use Right Certificate to be processed, b. Identity Card (KTP) and Family Card (KK) of the Parties, c. Land and Building Tax Payable Tax Notification Letter,

Furthermore, the Notary checks the Certificate that will be processed, after the results of checking the certificate are complete and the results are clean, make a Deed of Release of Priority Rights and it is signed by the Parties after the cost of compensation has been submitted from the receiving party to the releasing party. After the deed is signed, given the number and date of the deed, Final Income Tax (PPH) is paid, then legally the object of relinquishment has been controlled by the Recipient of the Rights.

### 2. Measurement

Priority Right Relinquishment Deed document that has been made at the Notary, prepared for measurement registration by preparing, Application form, Photocopy of certificate to be processed, Photocopy of Priority Right Relinquishment Deed, Photocopy of Identity Card (KTP) and Family Card (KK) of the Parties, and Photocopy of Land and Building Tax Payable Tax Return.

Once registered, the applicant will receive a deposit order to be paid and a document receipt. The measurement process will be carried out after the measuring officer gets an assignment letter, and after the measurement is complete a Land Sector Map will be issued based on the results of the measurements that have been carried out.

### 3. Registration of Decree of the Head of Land Office of Cirebon Regency

Land plot maps that have been collected at collection counters are then prepared to be registered for the Process of Issuing a Decree of the Head of the Cirebon District Land Office, by preparing the following documents Application form, Land Sector Map, Physical certificate to be processed, Certificate Check Results to be processed process, Physical Deed of Relinquishment of Priority Rights, Photocopy of Identity Card (KTP) and Family Card (KK) of the Parties, and Photocopy of Notification of Taxes Payable Land and Building Tax, Photocopy of

Proof of Final Income Tax Deposit. Once registered, the applicant will receive a deposit order to be paid and a document receipt. Files that have been registered will be checked for completeness of juridical data and physical data

Furthermore, the Head of Office orders to:

- a. Head of the Sub-Section for Determination of Rights and Empowerment of Community Land Rights to examine requests for physical and juridical data rights to then be included in the Minutes of Land Inspection.
- b. Land research team to examine requests for land rights that have not been registered as outlined in the minutes,
- c. Head of Management and Empowerment Sub-Section to examine the Land Use Plan/Technical
- d. Examination Committee A, to examine the application as a whole and complete.

If all stages have been fulfilled and are considered for approval, a Decree of the Head of the Land Office is made with a period of 6 (six) months to be re-registered after the Land and Building Rights Acquisition Fee Tax has been paid and validated at the local Regional Revenue Service Office and if all have been fulfilled then it will proceed with the process of Issuing Certificates of Property Rights.

The certificate as proof of rights is a copy of the land book and measurement letter sewn together with one cover paper whose shape has been adjusted. The issuance of this Land Title Certificate produces a Land Book and certificate with new rights and title numbers. The person authorized to sign the Certificate and Land Book is the Head of the Land Office or an appointed official.

### **3.2. Legal Certainty on the Release and Beneficiary of Rights in the Transfer of Land Rights Based on Certificates of Building Use Rights that Have Expired Their Ownership at the Land Office of Cirebon Regency**

The deed of relinquishment of priority rights used as the basis for the right to apply for changes and transfer of building use rights whose term has expired at the Cirebon district land office is generally in accordance with the requirements of existing regulations, in this case Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency No. 9 of 1999 concerning Procedures for Granting Rights and Cancellation of State Land Rights and Management Rights.

The deed of relinquishment of priority rights in this case is not only an authentic deed that has been agreed upon by the parties (both those who waived the rights and those who received the rights), but also provides legal certainty, that is, the one who released the rights uses the granting of priority rights from the State as a former holder of usufructuary rights. buildings whose ownership period has expired, land objects that become state land are transferred over control of the civil rights of the buildings on the land to recipients of new rights so that they can apply for new rights to the Cirebon District Land Office, the new rights referred to in this case are property rights.

The beneficiary of the right in the Priority Deed of Relinquishment in this case must meet the requirements determined by the government, as stated in Government Regulation no. 18 of 2021 concerning management rights, land rights, apartment units and land registration. Mainly must be a citizen of Indonesia.

If the land has the status of freehold, then the applicant or the community has definite legal certainty over the land they own. Where property rights are hereditary, strongest and fullest rights that people can have over land. Besides that, the deed of releasing priority rights can provide justice in society, namely as Indonesian citizens we can own land with the status of freehold land.

If the land requested for has become private property, the purpose of issuing the Basic Agrarian Law is implemented, namely it is expected to provide legal certainty to the community in the field of land. Where it is stated that the main objectives of the Basic Agrarian Law are:

1. Laying the foundations for drafting the National Agrarian Law which is a tool to bring prosperity, happiness and justice to the State and the peasant people in the framework of a just and prosperous society;
2. Laying the foundations for establishing unity and simplicity in land law; ]
3. Laying the foundations for establishing legal certainty regarding land rights for the people as a whole.

Besides that, the implementation of the deed of waiver as the basis for the right to submit an application for the transfer and change of building use rights whose time period ends must pay attention to the legal requirements of an agreement as stated in article 1320 of the Civil Code, namely:

1. Their agreement that binds him;

The point is that the parties involved in the agreement must agree or agree on the main points of the agreement. Article 1321 of the Civil Code stipulates that an agreement is invalid if it is given due to an oversight or obtained by force or fraud.

2. The ability to make an engagement;

Article 1330 of the Civil Code stipulates that every person is capable of entering into an agreement, unless the law determines that he or she is incapable. Regarding people who are incompetent to make agreements can be found in article 1330 of the Civil Code, namely:

- a. immature persons;
- b. Those who are placed under guardianship;
- c. Married women.

This provision was deleted with the enactment of Act No. 1 of 1974 concerning Marriage because Article 31 stipulates that the rights and position of husband and wife are equal and each has the right to take legal action.

3. A certain thing;

Article 1332 of the Civil Code stipulates that the agreement must have as the subject of an item of at least a specified type.

4. A valid reason.

The point is that the contents of the agreement are not prohibited by law or not contrary to decency or public order (Article 1337 of the Civil Code).

Apart from that, Article 1335 of the Civil Code also stipulates that an agreement made without cause or made for a reason that is fake or prohibited does not have legal force.

With the conditions mentioned above, if they have been fulfilled, the deed of release of Priority rights made can be implemented. However, notaries sometimes do not pay attention to the certificate that will be applied for, they must go through the plotting process as a requirement in terms of area mapping, then proceed with the process of checking the certificate and registering a Certificate of Land Registration (SKPT) at the local land office. The process of checking the certificate is meant to see the condition of the certificate in the land book of the Land Office, whether there is a blockade, auction or something else

that causes the certificate to not be subject to the process of transferring and changing rights.

If the certificate during the plotting process, validating the certificate and checking the certificate in the land book there is an auction or blockade, it cannot proceed with making the deed of relinquishment of priority rights. Therefore the Priority Right Relinquishment Deed as the basis for the right to submit an application for the transfer and change of building use rights whose term has ended is made after the process of plotting and validating certificates, checking certificates and processing the application for Checking Certificates first.

#### **4. Conclusion**

Implementation of Transfer of Rights based on building use rights whose ownership period has expired, former holders of building use rights whose ownership period has expired are given priority rights to be able to apply for new rights or transfer them to new right owners through a transfer of rights. It is from this basis of Priority Rights that the product of the deed for the implementation of Relinquishment of Rights made by a Notary is entitled the deed "Deed of Relinquishment of Priority Rights". The implementation of the transfer of rights begins with the preparation of the deed of release of priority rights, then continues with the making of the deed until the process of applying for new rights at the Cirebon District Land Office requires time, thoroughness, thoroughness and completeness of documents to issue a decision letter from the Head of the Land Office to serve as the basis for issuing a certificate with rights and numbers. The deed of relinquishment of priority rights in this case is not only an authentic deed that has been agreed upon by the parties (both those who waived the rights and those who received the rights), but also provides legal certainty, that is, the one who released the rights uses the granting of priority rights from the State as a former holder of usufructuary rights. buildings whose ownership period has expired, land objects that become state land are transferred over control of the civil rights of the buildings on the land to recipients of new rights so that they can apply for new rights to the Cirebon District Land Office, the new rights referred to in this case are property rights. The beneficiary of the right in the Priority Deed of Relinquishment in this case must meet the requirements determined by the government, as stated in Government Regulation no. 18 of 2021 concerning management rights, land rights, apartment units and land registration. Mainly must be a citizen of Indonesia.

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