

Urgency of Regulating the Registration of Land Rights For Former Foreign/Chinese Assets

Lucy Erdika

lucyerdika24@gmail.com

Brawijaya University, Indonesia

Patricia Audrey Ruslijanto

Brawijaya University, Indonesia

Supriyadi

Brawijaya University, Indonesia

ABSTRACT

The issue of legal certainty of land rights can be traced back to the history of the birth of the Indonesian nation, which is known to have had several periods of population settlement in its development. One of these issues is the Assets of Chinese Foreigners. It is known that the government has determined that Former Foreign/Chinese Assets has existed since 1957 and is a reaction to the emergency situation at that time. Normatively, the regulation of Former Foreign/Chinese Assets settlement refers to the Regulation of the Minister of Finance Number 62/PMK.06/2020 concerning the Settlement of Former Foreign/Chinese Assets. In this legal principle, there are four methods of settling Former Foreign/Chinese Assets, including being determined as assets of government agencies, being released with payment of compensation to the state, being returned to the legitimate party, and being declared completed under certain circumstances. In fact, the continuation of Former Foreign/Chinese Assets to this day is still a polemic in society. Moreover, it is known that in the settlement of Former Foreign/Chinese Assets assets there is a phenomenon of lawsuits between the state and its people. Of course, this is something strange, especially since the object of the lawsuit is a land title certificate which is in fact the result of a legal product from the state itself. So it requires further study regarding the obstacles and obstacles to completing Former Foreign/Chinese Assets.

KEYWORDS: Legal Certainty, Land Rights, Former Foreign/Chinese, Assets.



Copyright © 2025 by Author(s)

This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License. All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.

HOW TO CITE:

Erdika, Lucy, et. al. 'Urgency of Regulating the Registration of Land Rights For Former Foreign/Chinese Assets' (2025) 6:1 Jurnal Ilmu Kenotariatan 77-90. DOI: <<https://doi.org/10.19184/jik.v6i1.53686>>

I. INTRODUCTION

Historical events certainly influenced the birth and development of Land Law in Indonesia. History records several times that land law in Indonesia experienced changes that occurred

due to historical events. In the colonial era, various land rights were in effect with different laws, namely: ¹

1. Land rights subject to western agrarian law in the Civil Code, such as Eigendom Rights, Opstal Rights, Erfpact Rights, and so on;
2. Land rights subject to the customary agrarian law of each region, referred to as customary land, namely yasan land, bengkok land, village treasury land, grazing land, and so on;
3. Land rights created by the Swapraja government, such as grant sultan (customary ownership rights granted by the Swapraja government specifically for Swapraja communities registered at the Swapraja Office). All Swapraja agrarian law rules are based on regulations on Swapraja regional land, such as Aceh and Yogyakarta, which are regulations for land in the relevant region.²
4. Land rights are the creation of the Dutch East Indies government, such as *Agrarische Eigendom* (land owned by customary law but subject to western); *lander-injen bezitrecht* (land whose legal subject is limited to the Chinese).

Nowadays, the government in the field of development is quite rapid, this can be seen from all forms of policies from various sectors becoming one of the national priority work plan programs of each ministry and institution, including the land sector.³ As a sector that controls the livelihoods of many people, in fact it cannot be separated from issues that still occur and have not been resolved completely.⁴ The land aspect has strategic issues, including aspects of spatial planning, legal certainty of land rights, electronic services, control and law enforcement.⁵ Some of these issues have arisen over time, but there are also those that are historical legacies and have developed as this country has aged.⁶

The colonial era ended along with the beginning of the independence era, and continued with the reform era until now, land issues seem inseparable from historical legacies.⁷ One of these legal phenomena is the Assets of Foreign-Owned Chinese (hereinafter referred to as Former Foreign/Chinese Assets). In the Provisions of Article 2 of the Regulation of the Minister of Finance Number 62/PMK.06/2020 concerning the Settlement of Former Foreign/Chinese-Owned Assets, it is explained regarding the scope of Former Foreign/Chinese Assets which includes land and/or buildings formerly owned by:

¹ Sigit Sapto Nugroho, *Hukum Agraria Indonesia*, (Solo: Pustaka Iltiizam, 2017), p.36.

² *Ibid*, p. 16.

³ Elzha Putri Widya Yurisa, "Pendaftaran Tanah Sistematis Lengkap (PTSL) Terhadap Tanah Registrasi Desa (Letter C) Di Desa Mangli Wetan, Kecamatan Tapen, Kabupaten Bondowoso," *Jurnal Ilmu Kenotariatan* 3, no. 2 (2022): 66–75.

⁴ Natasya Aulia Putri et al., "Bridging the Gap by Exploring Inequalities in Access to Land and Disparities in Agrarian Law in Indonesia," *Jurnal Ilmu Kenotariatan* 5, no. 1 (2024): 1–16.

⁵ Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 27 of 2020 concerning the Strategic Plan of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency for 2020-2024.

⁶ Hilbertus Sumplisius M. Wau and T. Keizerina Devi Azwar, "Intercept the Land Mafia: An Analysis of the Role of PPAT as a Shield in Illegal Property Transactions," *Jurnal Ilmu Kenotariatan* 4, no. 2 (2023): 88–101.

⁷ Restu Adi Putra, Dominikus Rato, and Dyah Octorina Susanti, "Kepastian Hukum Pengaturan Publisitas Pada Program Pendaftaran Tanah Sistematis Lengkap (PTSL)," *Jurnal Ilmu Kenotariatan* 2, no. 2 (2021): 1–13.

1. Chinese associations that are declared prohibited and disbanded by the Central Warlord Regulation;
2. Foreign religious movements that are contrary to the characteristics of the Indonesian nation and have been declared illegal and then disbanded;
3. Groups that were the target of mass action in 1965 to 1966, due to the involvement of the People's Republic of China (PRC) in the G30SPKI incident which was regulated by the Regional Dwikora Executive Authority;
4. Bodies formed by Chinese people, migrants (Hoa Kiauw) who are not Foreign Citizens who have diplomatic relations with the Republic of Indonesia and/or have received recognition from the Republic of Indonesia, including their branches and members.

Furthermore, it can be seen that based on the provisions of Article 10 Paragraph (1) of the Minister of Finance Regulation Number 129 of 2020 concerning the Second Amendment to the Minister of Finance Regulation Number 62/PMK.06/2020 concerning the Settlement of Formerly Foreign/Chinese-Owned Assets, it states that the Settlement of Former Foreign/Chinese Assets is carried out in the following manner⁸:

1. its legal status is confirmed as State/Regional/Village Property;
2. its control is released from the State to a Third Party or Other Party by way of payment of compensation to the Government;
3. returned to a legitimate Third Party; and/or
4. declared complete due to certain circumstances;

In fact, the sustainability of Former Foreign/Chinese Assets until now is still a polemic in society. Moreover, it is known that in the settlement of Former Foreign/Chinese Assets assets there is a phenomenon of lawsuits between the state and its people.⁹ Of course, this is something strange, especially since the object of the lawsuit is a land title certificate which is in fact the result of a legal product from the state itself.¹⁰ This problem is especially related to the obligation to settle Former Foreign/Chinese Assets through payment of compensation to the state even though the land has been certified.¹¹

One example of a case that occurred is the Decision of the Central Jakarta District Court Number. 272 / Pdt.G / 2017 / PN.Jkt.Pst Juncto. Number: 517 / PDT / 2018 / PT.DKI Juncto 1935 / K / Pdt / 2019. which is known to be a dispute between Zheng Zhi Yu as the Plaintiff against the Government of the Republic of Indonesia, the Ministry of Finance of the Republic of Indonesia with the case being an objection from the Plaintiff to the Letter from the Defendant

⁸ Regulation of the Minister of Finance of the Republic of Indonesia Number 129 of 2024 concerning the Second Amendment to the Regulation of the Minister of Finance Number 62/PMK.06/2020 concerning the Settlement of Former Foreign/Chinese Assets

⁹ Dony Sasmita et al., "Optimalisasi Penyelesaian Aset: Tinjauan Kritis Kebijakan Penyelesaian Aset Bekas Milik Asing/Tionghoa," *Amanan Gappa* 33, no. 1 (January 17, 2025): 18–42.

¹⁰ Holla, Rafi Salhi, and Clarissa Oktaviriya Prakoso, "Legal Certainty Regarding the Conversion of Land Certificates To An Electronic System Based On Security Principles," *Jurnal Ilmu Kenotariatan* 5, no. 2 (2024): 88–101.

¹¹ Bayu Praditya Herusantoso, "The Antinomy of Agrarian Reform Regulations After the Establishment of the Land Bank Authority," *Jurnal Ilmu Kenotariatan* 5, no. 1 (2024): 17–27.

which in essence stated that the land and buildings were assets originating from Former Foreign/Chinese Assets and requested compensation payments to the state. The existence of the facts of the case in the court institution is certainly a legal issue that requires further study.

Based on this background, the author requires further study of the Obstacles and Constraints in Settlement of Former Foreign/Chinese Assets Based on the Provisions of Article 10 Paragraph (1) of the Regulation of the Minister of Finance Number 129 of 2020 concerning the Second Amendment to the Regulation of the Minister of Finance Number 62/PMK.06/2020 concerning Settlement of Formerly Foreign/Chinese-Owned Assets.

II. METHODOLOGY

This study uses a normative-empirical legal research. According to Abdulkadir Muhammad, applied law research is a study that uses normative-empirical legal case studies in the form of legal behavior products.¹² Normative-empirical legal research begins with written positive legal provisions that apply to in concreto legal events in society, so that in its research there is always a combination of two stages of study, namely:

1. The first stage is a study of applicable normative law;
2. The second stage is the application to in concreto events in order to achieve the established legal objectives. This application can be realized through real actions and legal documents. The results of the application will create an understanding of the realization of the implementation of the normative legal provisions that are studied have been carried out properly or not.

The problem approach according to Peter Mahmud Marzuki can be divided into several parts, including Case Approach, Statute Approach, Historical Approach, and Conceptual Approach.¹³ The sources of legal materials for this research include primary legal materials, secondary legal materials, and tertiary legal materials. To complete the primary, secondary, and tertiary legal materials, it is also equipped with other legal materials through discussions and interviews between several parties who have roles in the settlement of former foreign/chinese assets. This research was conducted by emphasizing the analysis of existing legal materials.¹⁴

III. FACTORS CAUSING LEGAL PROBLEMS IN THE SETTLEMENT OF FORMERLY FOREIGN/CHINESE-OWNED ASSETS

To analyze the causes of the Legal Problems of Former Foreign/Chinese Assets Object Settlement, the author conducted an analysis through several case positions, legal considerations, and court decisions. Before determining the case to be used as analysis material, the author conducted a search related to the number of cases in the Court that had been registered and had court decisions online through the official website page of the Supreme Court Decision Directory and the Case Tracking Information System with the following results:

¹² Abdul Kadir Muhammad, *Hukum dan Penelitian Hukum*, (Bandung: Citra Aditya Bakti, 2004), p.20.

¹³ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana, 2011), p.93.

¹⁴ Johnny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif*, (Malang: Bayumedia Publishing, 2005), p.46.

Table 1.1
Number of Decisions Related to Former Foreign/Chinese Assets

Number	Year	Number of Verdicts	Classification of Decisions
1	2015	3 Decision	2 Civil Case Decision, 1 Administrative Court Case Decision
2	2016	2 Decision	1 Administrative Court Case Decision, 1 Civil Case Decision
3	2017	3 Decision	2 Administrative matters, 1 Civil Cases
4	2018	3 Decision	3 Civil Cases
5	2019	4 Decision	1 Special Criminal Cases, 2 Civil Cases, 1 Administrative matters
6	2020	1 Decision	1 Civil Cases
7	2021- to date	3 Decision	2 Civil Cases, 1 Administrative matters
Total		19 Decisions	

Source: Supreme Court Decisions Directory, accessed 2025

Based on the following data grouping, the author can describe that when this research was conducted, there were 19 court decisions related to Former Foreign/Chinese Assets. Of the 19 decisions, the author can describe that there are 12 decisions classified as Civil cases, 6 decisions classified as State Administrative cases, and 1 decision classified as a Special Criminal case.¹⁵ Based on the legal facts above, the author can analyze that the existence of unresolved Former Foreign/Chinese Assets has caused legal problems in society.¹⁶ Of course, based on several types of decision classifications above, the author took several examples of decisions with the classification of State Administrative and Civil cases that have characteristics that are in accordance with the formulation of the existing problem. These considerations are based on analyzing the causes of legal ambiguity through case positions, legal considerations, and court decisions.

Based on the following data grouping, the author can describe that when this research was conducted, there were 19 court decisions related to Former Foreign/Chinese Assets. Of the 19 decisions, the author can describe that there are 12 decisions classified as Civil cases, 6 decisions classified as State Administrative cases, and 1 decision classified as a Special Criminal case. Based on the legal facts above, the author can analyze that the existence of unresolved Former Foreign/Chinese Assets has caused legal problems in society. Of course, based on several types of decision classifications above, the author took several examples of decisions with the classification of State Administrative and Civil cases that have characteristics that are in accordance with the formulation of the existing problem. These considerations are based on analyzing the causes of legal ambiguity through case positions, legal considerations, and court decisions.

¹⁵ Dimas Yudha Permana, Moh. Sigit Gunawan, and Sutyono Suwondo, "Tinjauan Yuridis Status Hukum Keberadaan 'Aset Bekas Milik Asing/Tionghoa' Terkait Dengan 'Peraturan Menteri Keuangan Nomor 31/PMK.06/2015' (Studi Kasus Di Kantor Pelayanan Kekayaan Negara Dan Lelang Cirebon)," *Hukum Responsif* 11, no. 2 (2020): 93–100.

¹⁶ Sasmita et al., "Optimalisasi Penyelesaian Aset: Tinjauan Kritis Kebijakan Penyelesaian Aset Bekas Milik Asing/Tionghoa."

Table 1.2
The Parties in the Former Foreign/Chinese Assets Case

No	Case Number	Plaintiff	Defendant
1.	272/Pdt.G/2017/PN.Jkt.Pst <i>Juncto</i> 517/PDT/2018/PT.DKI <i>Juncto</i> 1935/K/Pdt/2019 <i>juncto</i> 3008/K/PDT/2022 <i>Juncto</i> 867 PK/Pdt/2023	Zheng Zhi Yu, Indonesian citizens	<ul style="list-style-type: none"> Ministry of Finance of the Republic of Indonesia cq. Directorate General of State Assets cq. Regional Office of DJKN DKI Jakarta (Defendant) Central Jakarta City Land Office (Co-Defendant)
2	104/Pdt.G/2019/N.Smr <i>juncto</i> 32/PDT/2021/PT.SMR <i>Juncto</i> 3008/K/PDT/2022	PT.Sakalo, domiciled in samarinda	<ul style="list-style-type: none"> Ministry of Finance of the Republic of Indonesia cq. Directorate General of State Assets Head of the National Land Agency Office of Samarinda City
3	107/G/2016/PTUN.SBY <i>Juncto</i> 44/B/2017/PT.TUN.SBY <i>Juncto</i> 429 K/TUN/2017	Hokiman Tjahajo, Indonesian citizens	<ul style="list-style-type: none"> Head of the Regional Office of the Directorate General of State Assets of East Java

Source: Supreme Court Decisions Directory, accessed 2025

Based on the summary of the table above, the author can explain that the three cases as a whole were filed by legal subjects, Indonesian citizens or legal entities domiciled in Indonesia, to the Indonesian government represented by the Ministry of Finance or organizations under it. The author can analyze this phenomenon as a legal demand from the people to their country regarding existing legal problems.

Based on the results of the summary of the case, the author can explain several points that cause Former Foreign/Chinese Assets cases to arise in judicial institutions, as follows:

1. The object of the Former Foreign/Chinese Assets case is a plot of land that has been certified but is designated as Former Foreign/Chinese Assets

As the summary of the case, it can be seen that the object of the case that is the problem is a land area that has been certified. The issuance of the certificate has certainly gone through the stages of land administration law.¹⁷ In addition to the issuance of a land title certificate, the land area that is the subject of the problem has also been controlled by the relevant rights holder and has even been transferred to another party.¹⁸

Through this fact, the author can explain that the Former Foreign/Chinese Assets problem recorded in the Court occurred because the Former Foreign/Chinese Assets had not been resolved as per the settlement guidelines before the land area recorded as Former Foreign/Chinese Assets was issued a certificate of rights. So that when the state

¹⁷ Rita Martini, Dayat Limbong, and Isnaini, "Kedudukan Hukum Aset Bekas Milik Asing/ Tionghoa Menurut Peraturan Menteri Keuangan Nomor: 62/PMK.06/2020 Di Kementerian Keuangan Cq. Direktorat Jenderal Kekayaan Negara Cq. Kantor Wilayah Direktorat Jenderal Kekayaan Negara Sumatera Utara," *Journal of Education, Humaniora and Social Sciences (JEHSS)* 5, no. 3 (2023): 2029–43.

¹⁸ Permana, Gunawan, and Suwondo, "Tinjauan Yuridis Status Hukum Keberadaan 'Aset Bekas Milik Asing/Tionghoa' Terkait Dengan 'Peraturan Menteri Keuangan Nomor 31/PMK.06/2015' (Studi Kasus Di Kantor Pelayanan Kekayaan Negara Dan Lelang Cirebon)."

wants to implement the Former Foreign/Chinese Assets settlement rules, it will tend to cause a conflict of interest, especially if the land rights holder already feels that he has a certificate. This is also supported by several considerations from the panel of judges in their decision which stated that issued by the Samarinda City Office, the panel of judges is of the opinion that the certificate is strong evidence that is fulfilled and perfect as long as it is not proven otherwise.¹⁹

So it can be clearly considered that the judge's attitude in dealing with Former Foreign/Chinese Assets cases will adhere to the principles of land law as regulated in the provisions of Article 32 of Government Regulation Number 24 of 1997 concerning Land Registration which states,

*"In the event that a land plot has been legally issued a certificate in the name of a person or legal entity that obtained the land in good faith and actually controls it, then other parties who feel they have rights to the land can no longer demand the implementation of these rights if within a period of 5 (five) years since the issuance of the certificate they do not submit a written objection to the certificate holder and the Head of the Land Office concerned or do not file a lawsuit with the Court regarding control of the land or the issuance of the certificate."*²⁰

Thus, the author can describe that the cause of the legal problems in this writing is the failure to implement the Former Foreign/Chinese Assets settlement until the issuance of a land rights certificate as strong evidence of ownership and the existence of a conflict of interest between the state and the land rights holder.

2. Lack of Former Foreign/Chinese Assets Information in General

Quoting from the case summary, it can be seen that the Former Foreign/Chinese Assets issue also occurred due to the lack of information regarding the existence of Former Foreign/Chinese Assets. This can be seen from the three case summaries that as a whole, the plaintiffs or parties who have certificates of rights do not know that the land they own or control is an Former Foreign/Chinese Assets object. This can be seen from the position of the case as 272/Pdt.G/2017/PN.Jkt.Pst Juncto 517/PDT/2018/PT.DKI Juncto 1935/K/Pdt/2019 where Mr. Zheng Zhi Yu bought a plot of land from the Foundation for Advancing Science and Culture with Building Use Rights Certificate Number 480/Senen, covering an area of 1,086 M² based on Deed of Sale and Purchase Number 100/2011, Dated 13-10-2011 made before Tintin Surtini, S.H. and just received a letter notification from the Directorate General of State Assets cq. DJKN DKI Jakarta Regional Office with Number: S-235/WKN.07/2017 stating that the land owned is an Former Foreign/Chinese Assets object.

This means that since the transfer of land rights in 2011 until 2017 there has been no notification, information, or legal procedure for examining data on objects indicated as Former Foreign/Chinese Assets. In a similar case with registration number 107/G/2016/PTUN.SBY Juncto 44/B/2017/PT.TUN.SBY Juncto 429 K/TUN/2017 with the case position that began with an application for land rights ex HGB No. 438/Darmo

¹⁹ Semarang District Court Decision Number 104/Pdt.G/2019/PN.Smr.

²⁰ Article 32 of Government Regulation Number 24 of 1997 concerning Land Registration.

submitted to the Surabaya City Land Office I could not be processed due to letter No. S-487/WKN.10/2016, dated April 20, 2016 concerning the Settlement of Former Foreign/Chinese Assets. In fact, in his argument, the plaintiff has paid off the object of the case since 1994. Based on the example case above, the author can analyze one of the causes of the Former Foreign/Chinese Assets dispute because the functions of socialization, identification, coordination, supervision by the Settlement Team and the regional assistance team were not carried out properly. This causes a lack of general Former Foreign/Chinese Assets information.

3. Judge's legal considerations

After studying several existing case summaries and identifying various legal considerations of judges, the author can describe that in civil and administrative cases there are similarities in the judge's considerations in deciding on Former Foreign/Chinese Assets objects, namely the existence of legal considerations from the judge by considering the facts of physical control of the land area, history of ownership, and status of land rights registration. If the requested land area has been certified and controlled continuously without any history of disputes, seizures, or conflicts, the panel of judges will tend to reject the arguments of the Defendant/Ministry of Finance of the Republic of Indonesia.

The legal consideration factor of the judge according to the author's analysis also assesses the element of good faith from the land rights holder. As in several summaries of the cases above, if the land area has been issued a certificate of rights through statutory regulatory procedures and before an authorized official, the judge will tend to reject the argument of the Defendant/Ministry of Finance of the Republic of Indonesia which states that the object of the land rights is included in Former Foreign/Chinese Assets.²¹ Thus, it can be described that one of the causes of the Former Foreign/Chinese Assets case not being resolved is because the judge's legal considerations prioritize the last proof of ownership and the good faith of the land rights holder.

In addition to tracing and analyzing court decisions, to sharpen the causal factors for the occurrence of legal problems in resolving Former Foreign/Chinese Assets objects, the author quotes one of the theories of legal certainty according to Jan Michiel Otto, which details legal certainty in a material sense, including the governing institutions (government) implement legal regulations consistently and also submit and obey them. In relation to the implementation of Former Foreign/Chinese Assets as is known to involve elements of the regional assistance team consisting of cross-sector government institutions. In relation to the focus of this research, the author collects legal materials from institutions that are relevant to the formulation of the problem, including Malang City Land Office and Malang State Asset and Auction Service Office.

From both institutions, the author conducted interviews and identified the problems as follows:

²¹ Kurnia Rheza Randy Adinegoro, "Tantangan Implementasi Sertipikat Tanah Elektronik Di Kementerian Agraria Dan Tata Ruang/Badan Pertanahan Nasional Republik Indonesia," *Jurnal Ilmu Kenotariatan* 4, no. 2 (2023): 129–42.

1. Malang City Land Office

The interview with Taris An Nafi Arafat as Land Law Analyst in Malang City Land Office, the result is:

- a. factor causing the Former Foreign/Chinese Assets problem is that there is no concrete and clear regulation of land registration law for objects indicated as Former Foreign/Chinese Assets
- b. The Land Office does not have a database of objects indicated as Former Foreign/Chinese Assets
- c. The Land Office does not yet have a mechanism for controlling Former Foreign/Chinese Assets.
- d. There is no legal procedure for the requirement of a certificate from the KPKNL in the land rights certification procedure so that the land office cannot require requirements outside the provisions.

2. Malang State Asset and Auction Service Office.

The interview with Agus Budi as Head of State Asset Management Section in Malang State Asset and Auction Service Office, the result of factor causing legal problem settlement of former foreign/chinese assets contains:

- a. The Former Foreign/Chinese Assets issue is a sensitive issue and cannot be disseminated to the public so that understanding of Former Foreign/Chinese Assets is also limited. In addition, there is an assumption that Former Foreign/Chinese Assets is an asset that is excluded from public information and is prone to polemics and commotion in the community
- b. The attitude of the community or Former Foreign/Chinese Assets residents to protect their land, especially those that have certificates because they feel they have strong proof of ownership
- c. Due to limited Former Foreign/Chinese Assets information, the Ministry of ATR/BPN often issues land title certificates that are indicated as Former Foreign/Chinese Assets
- d. The tendency of the community to not care because there are no sanctions for violations if the party occupying Former Foreign/Chinese Assets does not want to carry out the settlement procedure according to the provisions of applicable regulations
- e. There is an understanding of the community regarding land law that the highest law is the Certificate of Ownership, whereas according to the Ministry of Finance, the *lex specialis* principle should apply to the settlement of Former Foreign/Chinese Assets

Based on the interview above, the author can identify the factors causing the Legal Problems of Former Foreign/Chinese Assets Settlement from the aspect of government agencies dominated by the following factors:

1. Restrictions on Former Foreign/Chinese Assets socialization to the public because it is an asset that is excluded from Public Information as a form of mitigating the risk of unrest in the community;
2. Public understanding of certificate ownership as strong evidence of land rights so that they tend to ignore the legal rules for Former Foreign/Chinese Assets settlement;
3. There are no legal sanctions for refusing to implement Former Foreign/Chinese Assets settlement;

There are no concrete and clear regulations regarding land registration laws for objects indicated as Former Foreign/Chinese Assets.

IV. URGENCY OF LEGAL REGULATION OF FORMER FOREIGN/ CHINESE ASSETS LAND REGISTRATION OBJECTS

Based on the results of the identification of Former Foreign/Chinese Assets settlement problems as summarized in the various decisions of the cases above and the results of interviews with sources, it can be seen that one of the factors causing the occurrence of Former Foreign/Chinese Assets settlement problems is the unavailability of legal regulations for Former Foreign/Chinese Assets Land Registration Objects in the land registration legal system.²² For this reason, further study is needed regarding the urgency of regulating the law on Former Foreign/Chinese Assets land registration objects using several legal theories, including Jan Michiel Otto's legal certainty theory, Thomas Hobbes' Theory of Justice, Steven J. Heymen's Legal Protection Theory, which the author can summarize as follows:

1. Jan Michiel Otto's Legal Certainty Theory

Based on Jan Michiel Otto's Legal Certainty Theory, the urgency of regulating the legal registration of Former Foreign/Chinese Assets land objects can be seen:²³

- a. Legal certainty for government agencies in organizing Former Foreign/Chinese Assets settlement;
- b. Guarantee of legal certainty for the government in implementing land registration;
- c. Guarantee of Legal Certainty for Judges to consistently apply the rules for Former Foreign/Chinese Assets settlement if a case occurs in a judicial institution;
- d. Guarantee of Legal Certainty for the Community Holding Land Rights Certificates;
- e. Guarantee of legal certainty for the implementation of court decisions if a case occurs in court.

²² Misbah Imam Subari and Justicia Firdaus Kurniawan, "Penggunaan Klausula Proteksi Diri Bagi Notaris Dalam Akta Partij Ditinjau Dari Undang-Undang Jabatan Notaris," *Jurnal Ilmu Kenotariatan* 4, no. 2 (2023): 144–60.

²³ Yovita A. Mangesti and Bernard L. Tanya, *Moralitas Hukum* (Yogyakarta: Genta Publishing, 2014).

2. According to Thomas Hobbes, justice is that an action can be said to be fair if it is based on an agreed agreement

From the statement it can be concluded that justice or a sense of justice can only be achieved when there is an agreement between two parties who have promised. The agreement here is interpreted in a broad form, not only limited to an agreement between two parties who are holding a business contract, renting, and so on.²⁴ But the agreement here is also an agreement on the verdict between the judge and the defendant, laws and regulations that do not side with one party but prioritize the interests and welfare of the public.²⁵ Based on the concept of justice, it is known that at the time of this writing, there were 19 legal cases in court related to Former Foreign/Chinese Assets. Of course, this case arose from a disagreement between the government as the organizer of Former Foreign/Chinese Assets and the community as the owner of the land rights certificate.²⁶ So the intent or sense of justice put forward by Thomas Hobbes according to the author's analysis has not been achieved.

3. Steven J. Heymen's Legal Protection Theory

Continuing with the theory of legal protection according to Steven J. Heymen, legal protection has three main elements, namely:²⁷

- a. Legal protection is related to the status or justice of an individual, which means the status as a free person and citizen;
- b. Legal protection is related to substantive rights, which means the law guarantees the individual's right to life, liberty, and property; and
- c. The most basic understanding of legal protection is related to the enforcement of rights, namely the government's special way of preventing acts of violation of substantive rights, correcting, and providing laws for such violations.²⁸

So if referring to the theory above, the concept of legal protection can be formulated by prioritizing preventive measures against violations of basic rights including ownership, freedom, and law enforcement. Based on this concept, according to the author's analysis, the urgency of regulating the law on land registration for Former Foreign/Chinese Assets objects is to provide more guarantees of ownership, freedom, and law enforcement of land title certificates issued by the State. Thus, the doctrine of land title certificates as strong evidence of ownership can be realized.²⁹

²⁴ Mega Purnamasari, Fendi Setyawan, and Jayus, "Prinsip Keadilan Pengenaan Pajak Terhadap Perseroan Terbatas Yang Dinyatakan Pailit," *Jurnal Ilmu Kenotariatan* 2, no. 2 (2021): 27–42.

²⁵ Muhammad Syukri Albani Nasution, *Hukum dalam Pendekatan Filsafat*, (Jakarta: Kencana, 2017), p.217-218.

²⁶ Bhim Prakoso, "Pendaftaran Tanah Sistematis Lengkap Sebagai Dasar Perubahan Sistem Publikasi Pendaftaran Tanah," *Journal of Private and Economic Law* 1, no. 1 (2021): 63–82.

²⁷ Andi Tira, "Perlindungan Pemegang Sertifikat Hak Milik Atas Tanah Melalui Keputusan Tata Usaha Negara," *Clavia: Jurnal of Law* 17, no. 2 (2019): 15–30.

²⁸ Meralda Amala Istighfarin, "Perlindungan Hukum Kreditur Dan Pemilik Jaminan Dalam Pelaksanaan Perjanjian Kredit Dengan Jaminan Tanah Milik Orang Lain," *Acten Journal Law Review* 1, no. 1 (2024): 64–84.

²⁹ Rahadiyan Veda Mahardika and Gatot Suyanto, "Kedudukan Hukum Badan Bank Tanah Dalam Pengadaan Tanah Untuk Kepentingan Umum," *Jurnal Ilmu Kenotariatan* 3, no. 2 (2022): 58–65.

V. CONCLUSION

Factors Causing Legal Problems in the Settlement of Former Foreign/Chinese Assets Objects include: The Object of the Former Foreign/Chinese Assets Case is a Land Plot That Has Been Certified But Determined as Former Foreign/Chinese Assets; Lack of General Former Foreign/Chinese Assets Information; Judge's Legal Considerations; Restrictions on Former Foreign/Chinese Assets socialization to the public because it is an asset that is excluded from Public Information as a form of mitigating the risk of unrest in the Community; Public understanding of certificate ownership as strong evidence of land rights so that they tend to ignore the legal principles of Former Foreign/Chinese Assets settlement; There are no legal sanctions for refusing to implement Former Foreign/Chinese Assets settlement; There are no concrete and clear regulations regarding land registration laws for objects indicated as Former Foreign/Chinese Assets.

Guarantee of Legal Protection for the Community includes, Guarantee of legal protection for the interests of the state in order to create a safe and conducive community situation, Guarantee of legal protection for the community before a violation of the Former Foreign/Chinese Assets object settlement mechanism occurs, Guarantee of protection to prevent cases in court involving the process of suing between the state and its own citizens, Guarantee of legal protection for the government to implement control mechanisms and law enforcement if there is a certificate issuance procedure that occurs outside the provisions of applicable law, Guarantee of Legal protection for the community for ownership, freedom, and law enforcement of land certificates that have been issued.

REFERENCES

- Mangesti, Yovita A., and Bernard L. Tanya. *Moralitas Hukum*. Yogyakarta: Genta Publishing, 2014.
- Marzuki, Peter Mahmud. *Penelitian Hukum*, Jakarta: Kencana, 2011.
- Muhammad, Abdul Kadir. *Hukum dan Penelitian Hukum*, .Bandung: Citra Aditya Bakti, 2004.
- Nasution, Muhammad Syukri Albani. *Hukum dalam Pendekatan Filsafat*, Jakarta: Kencana, 2017.
- Nugroho, Sigit Sapto. *Hukum Agraria Indonesia*, .Solo: Pustaka Iltiizam, 2017.
- Adi Putra, Restu, Dominikus Rato, and Dyah Othorina Susanti. "Kepastian Hukum Pengaturan Publisitas Pada Program Pendaftaran Tanah Sistematis Lengkap (PTSL)." *Jurnal Ilmu Kenotariatan* 2, no. 2 (2021): 1–13. <https://doi.org/10.19184/jik.v2i2.22161>.
- Adinegoro, Kurnia Rheza Randy. "Tantangan Implementasi Sertipikat Tanah Elektronik Di Kementerian Agraria Dan Tata Ruang/Badan Pertanahan Nasional Republik Indonesia." *Jurnal Ilmu Kenotariatan* 4, no. 2 (2023): 129–42. <https://doi.org/10.19184/jik.v4i2.41314>.
- Herusantoso, Bayu Praditya. "The Antinomy of Agrarian Reform Regulations After the Establishment of the Land Bank Authority." *Jurnal Ilmu Kenotariatan* 5, no. 1 (2024): 17–27. <https://doi.org/10.19184/jik.v5i1.46593>.

- Holla, Rafi Salhi, and Clarissa Oktaviriya Prakoso. "Legal Certainty Regarding the Conversion of Land Certificates To An Electronic System Based On Security Principles." *Jurnal Ilmu Kenotariatan* 5, no. 2 (2024): 88–101. <https://doi.org/10.19184/jik.v5i2.52007>.
- Istighfarin, Meralda Amala. "Perlindungan Hukum Kreditur Dan Pemilik Jaminan Dalam Pelaksanaan Perjanjian Kredit Dengan Jaminan Tanah Milik Orang Lain." *Acten Journal Law Review* 1, no. 1 (August 31, 2024): 64–84. <https://doi.org/10.71087/AJLR.VIII.3>.
- Mahardika, Rahadiyan Veda, and Gatot Suyanto. "Kedudukan Hukum Badan Bank Tanah Dalam Pengadaan Tanah Untuk Kepentingan Umum." *Jurnal Ilmu Kenotariatan* 3, no. 2 (2022): 58–65. <https://doi.org/10.19184/jik.v3i2.36432>.
- Martini, Rita, Dayat Limbong, and Isnaini. "Kedudukan Hukum Aset Bekas Milik Asing/Tionghoa Menurut Peraturan Menteri Keuangan Nomor: 62/PMK.06/2020 Di Kementerian Keuangan Cq. Direktorat Jenderal Kekayaan Negara Cq. Kantor Wilayah Direktorat Jenderal Kekayaan Negara Sumatera Utara." *Journal of Education, Humaniora and Social Sciences (JEHSS)* 5, no. 3 (2023): 2029–43. <https://doi.org/10.34007/JEHSS.V5I3.1460>.
- Permana, Dimas Yudha, Moh. Sigit Gunawan, and Sutiyono Suwondo. "Tinjauan Yuridis Status Hukum Keberadaan 'Aset Bekas Milik Asing/Tionghoa' Terkait Dengan 'Peraturan Menteri Keuangan Nomor 31/PMK.06/2015' (Studi Kasus Di Kantor Pelayanan Kekayaan Negara Dan Lelang Cirebon)." *Hukum Responsif* 11, no. 2 (2020): 93–100. <https://doi.org/10.33603/RESPONSIF.VIII2.5015>.
- Prakoso, Bhim. "Pendaftaran Tanah Sistematis Lengkap Sebagai Dasar Perubahan Sistem Publikasi Pendaftaran Tanah." *Journal of Private and Economic Law* 1, no. 1 (2021): 63–82. <https://doi.org/10.19184/jpel.v1i1.23859>.
- Purnamasari, Mega, Fendi Setyawan, and Jayus. "Prinsip Keadilan Pengenaan Pajak Terhadap Perseroan Terbatas Yang Dinyatakan Pailit." *Jurnal Ilmu Kenotariatan* 2, no. 2 (2021): 27–42. <https://doi.org/10.19184/jik.v2i2.24937>.
- Putri, Natasya Aulia, Sarmilah Sarmilah, Jennifer Velda, and Wulan Mirdayanti Zschock. "Bridging the Gap by Exploring Inequalities in Access to Land and Disparities in Agrarian Law in Indonesia." *Jurnal Ilmu Kenotariatan* 5, no. 1 (2024): 1–16. <https://doi.org/10.19184/jik.v5i1.47416>.
- Sasmita, Dony, Sri Suryanovi, Selvia Yunassanah, and Charles Jimmy. "Optimalisasi Penyelesaian Aset: Tinjauan Kritis Kebijakan Penyelesaian Aset Bekas Milik Asing/Tionghoa." *Amanna Gappa* 33, no. 1 (January 17, 2025): 18–42. <https://journal.unhas.ac.id/index.php/agil/article/view/42924>.
- Subari, Misbah Imam, and Justicia Firdaus Kurniawan. "Penggunaan Klausula Proteksi Diri Bagi Notaris Dalam Akta Partij Ditinjau Dari Undang-Undang Jabatan Notaris." *Jurnal Ilmu Kenotariatan* 4, no. 2 (2023): 144–60. <https://doi.org/10.19184/jik.v4i2.44196>.
- Tira, Andi. "Perlindungan Pemegang Sertifikat Hak Milik Atas Tanah Melalui Keputusan Tata Usaha Negara." *Clavia: Jurnal of Law* 17, no. 2 (2019): 15–30. <https://journal.unibos.ac.id/clavia/article/view/1223>.

- Wau, Hilbertus Sumplisius M., and T. Keizerina Devi Azwar. "Intercept the Land Mafia: An Analysis of the Role of PPAT as a Shield in Illegal Property Transactions." *Jurnal Ilmu Kenotariatan* 4, no. 2 (2023): 88–101. <https://doi.org/10.19184/jik.v4i2.43203>.
- Yurisa, Elzha Putri Widya. "Pendaftaran Tanah Sistematis Lengkap (PTSL) Terhadap Tanah Registrasi Desa (Letter C) Di Desa Mangli Wetan, Kecamatan Tapen, Kabupaten Bondowoso." *Jurnal Ilmu Kenotariatan* 3, no. 2 (2022): 66–75. <https://doi.org/10.19184/jik.v3i2.36443>.