

# **Transfer of Absentee Land to Maximize the Benefits of Agricultural Land in Toroh Grobogan, Central Java, Indonesia: A Legal Perspective**

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## **Abstract**

The people of Toroh Grobogan live mainly by working in the fields and rice fields, which usually belong to them. However, there are also farmers working in rice fields whose owners are far from the location of the land or outside the Toroh Grobogan District. So they can't master their fields or land. Juridically, the method of ownership and cultivation of the land is prohibited according to Government Regulation Article 3 Paragraph (1) Number 224 of 1961 concerning the Implementation of Land Division and Compensation, because farmers who live outside the district where the land is located, within six months, must transfer their land rights to other people in the area where the land is located. The method used in this study was qualitatively descriptive, with research samples taken through snowball sampling and internal sampling. The discussion results showed that the implementation of the transfer of absentee land rights in Toroh Grobogan was by the provisions of the legislation, namely government Regulation 224 of 1961.

**Keywords:** transfer of land rights, absentee land, paddy farmers

## **1. Introduction**

The Unitary State of the Republic of Indonesia is an agrarian country where most of the economic life of its population based on the agricultural economy. Therefore, land, water, and the natural resources contained therein, as well as outer space as a gift from God Almighty, have very significant social duties for a just and prosperous society. To ensure the sustainability of Indonesian agriculture and agricultural land, the government issued Law Number 5 of 1960 concerning Agrarian Law, which came into effect on September 2, 1960. This law includes agricultural administrative law and civil law (Roha et al., 2016). The government can stipulate

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and issue policies related to land, namely the allotment, use, supply, and maintenance of land, water, and space. The state can take someone's rights based on the common interests of the people, with appropriate compensation, and according to the method determined by law (Marita et al., 2021).

The Indonesian people are not the owners of all the countries in their territory, but are the "supreme rulers." The powers that can be delegated are: the authority to regulate and administer the allotment, use, supply, and maintenance of earth, water, and space (Article 2 Paragraph (2a) of the Agrarian Law). This delegation can also be carried out in customary law communities. In terms of legal certainty in the field of state land, land can be used for the greatest possible prosperity of the people, so it is not permissible to control and own land that crosses borders, and absentee land is not permitted. This is in accordance with Article 3 Paragraph 1 of Government Regulation Number 224 of 1961, namely: the owner of agricultural land who lives outside the land area where the land is located is obliged to transfer his land rights to another person within a period of six months (Sri Wibawanti et al., 2021).

The operation of legal norms must be mandatory based on legal principles and the content of legal rules formulated in statutory regulations (Chumaidi & Noor, 2022). It is impossible to comprehend the nature of law without understanding legal principles. Therefore, to understand the laws, must-have be studied the legal principles. However, in its development, the provision of land as an agricultural resource is not guaranteed, and its use must remain following the welfare of the people. The existence of land does not fulfill the concept of mutual benefit in the social function of land rights. One of the problems that are currently emerging is related to the conception of social activities that meet the common needs of all people, namely overlapping land ownership so it is still far from the goal of legal certainty (Rejekiingsih, 2016).

The people of Toroh Grobogan live mainly by working in the fields and rice fields, which usually belong to them. However, there are also farmers working in rice fields whose owners are far from the land or are outside the Toroh Grobogan District. So they could not control their land. A farmer works on someone else's land with all the power, responsibility, and risk, but receives only a portion of the produce he manages. On the other hand, a risk-free landowner away from the location of his land, without risk or sweat, will get most of the returns from his land.

Juridically, this method of owning and cultivating land is prohibited according to Government Regulation Article 3 Paragraph 1 Number 224 of 1961 concerning the Implementation of Land Distribution and Compensation because farmers who live outside the district where the land is placed must, within a period of six months, transfer their rights to other people in the area where their land stands (Putra, 2019). Everyone must know the substance of the Agrarian Law that applies in Indonesia, bearing in mind that as an agrarian country, problems in the land sector are very closely related to everyday life. This study aims to determine absentee land arrangements in Law No. 5 of 1960 and its implementing regulations, implementing the absentee land transfer process in Toroh Grobogan, Central Java, as a form of maximizing the benefits of agricultural land and the benefits of the process of transferring land to farmers' lives.

## **2. Research Method**

This research is qualitative and is used to support researchers in generating an in-depth and nuanced understanding of certain phenomena (Lester et al., 2020). This type of research is

empirically juridical from a legal standpoint (Irianto, 2017). The data used comes from primary and secondary data. Primary data was obtained through snowball sampling from farmers (Naderifar et al., 2017). The technique used in collecting data uses interviews both directly and indirectly (Rachmawati, 2017). Interviews were conducted with land deed officials and farmers who transferred absentee land rights. In addition, this study also uses secondary data from primary legal materials in the form of statutory regulations such as Law No. 5 of 1960, Government Regulation No. 224 of 1961, and No. 41 of 1964. Besides that, it also uses secondary legal materials sourced from scientific literature, such as books and journals. The data obtained from primary and secondary sources were processed qualitatively to conclude according to the research topic.

### **3. Results and Discussion**

#### **3.1. Absentee Land in the Perspective of the Agrarian Law**

Land plays a significant role in human life because it has two functions, namely, as a social resource and as a capital resource (Saptutyingsih et al., 2020). As a social resource for the Indonesian people, the land is a means of supporting social unity to live and thrive, while as a capital resource, the land is a dominant factor in development. To guarantee the sustainability of land as a social and capital resource, the government issued Law Number 5 of 1960 concerning Agrarian Law as an implementation of Article 33 Paragraph 3 of the Constitution of 1945 (Putu Rosa Paramitha Dewi & I Nyoman Budiana, 2021). The state as an organization is the highest authority of all people, controlling the land, water, space, and the natural resources contained therein. The administration of the state over this land is for the greatest prosperity of the people in the sense of realizing the happiness and prosperity (Article 2 Agrarian Law).

To implement the Agrarian Law, the government issued Law No. 56 Prp of 1960 concerning the Determination of Agricultural Land Areas, which aims to increase the income and standard of living of the cultivating farmers of the land as a basis or prerequisite for development to carry out the economy towards a just and prosperous society. The right to land and natural resources is the economic right of citizens, the government is responsible for protecting, promoting and upholding it (Article 69 Law No. 39 of 1999 concerning Human Rights). Article 2 of the Agrarian Law gives the state great and broad powers to regulate the allocation of agricultural resources. The existence of human rights over rural resources and subsequent policies on the appropriation of agrarian resources are highly dependent on legal and state interests (Suárez, 2015). Even though the concept of state control has eliminated the application of the domain principle, the principle has reappeared through the implementation and practice of the state's right to control (Triyono, 2015). There are still many problems and disputes over agricultural land, which show that the legal certainty of ownership of people's rights over agricultural assets is very low (Nurdin & Tegnan, 2019).

One of the problems in the land sector is the existence of absentee land. Land absentee ownership refers to land that someone owns but is not located where they live. Owning land without being present is prohibited by the Agrarian Law. The prohibition of not having land is prohibited because it violates the principle of citizenship in Article 9 Paragraph (1), according to which "only Indonesian citizens can have full relations with the earth, water, and space." The provisions of Article 1 and 2 and paragraph 2 stipulate that "every Indonesian citizen, both male, and female, has the same opportunity to obtain the right to receive benefits and benefits for himself and his family" (Abdurahman, 2016).

To provide legal certainty regarding the existence of the absentee land, the government issued Government Regulation No. 224 of 1961, was amended by Regulation No. 41 of 1964 concerning Land Distribution and Compensation. This government regulation prohibits a person from owning agricultural land that is outside the sub-district where he lives. The purpose of the prohibition on the ownership of absentee land is so that the results obtained from the control of agricultural land can be enjoyed by the people who live in the area where the land is located. Government Regulation Number 224 of 1961 requires landowners who live outside the sub-district where the land is located to transfer rights to the land to another person. The said government regulation also requires landowners to move to the sub-district where the land is located.

Article 10 of the Agrarian Law states that agricultural land must be cultivated and used alone. Therefore, the owner of the arable land (guntai), namely the owner of the land outside the owner's residence, must be evicted. Owners of agricultural land who move places or leave their residence outside the land area for two consecutive years are required to report to the local authority, and within one year after the expiration of the two years, they are obliged to transfer ownership rights to the land to other people who live in the area where the land is located. Thus, the Agrarian Law has provided space for the transfer of absentee land. The classification of land rights is stated in Article 20 Paragraph (2), which states that property rights transferred to other people. The transfer of land rights can also be carried out on the land with building use rights, as stated in Article 35, Paragraph 3: building use rights transferred to another person. The transfer of land rights creates new land rights, as stated in Article 37 of Government Regulation 24 of 1997 concerning Land Registration.

### ***3.2. Transfer of Absentee Land Rights in Toroh Grobogan, Central Java***

The obligation to transfer absentee land rights is a mandate from Law No. 56, Prp of 1960 concerning the Determination of Agricultural Land Areas, which regulates land reform. Implementation of land reform is carried out through a) limitation on the maximum area of land tenure; b) prohibition of absentee land ownership; c) redistribution of lands that are over the maximum limit, lands subject to the absentee ban, ex-self-governing lands, and state lands; d) determination of the minimum area of ownership of agricultural land accompanied by a prohibition on acts that result in the division of ownership of agricultural land into too small parts. The government continues to strive for the land reform program to run well. One of the ways is through the transfer of absentee land rights, as happened in Toroh Grobogan, Central Java.

Toroh is one of the sub-districts in Grobogan where the majority of the population has a livelihood as a farmer. Based on these conditions, maximization of land as agricultural land is the main requirement to meet their needs. In general, the land in Toroh Grobogan is utilized for very varied purposes. The following table will show the use of land in Toroh Grobogan:

**Table 1:** *Land Use in Toroh Grobogan, Central Java*

<b>No.</b>	<b>Description</b>	<b>Volume (Hectare)</b>
1	Technical Irrigation Paddy Soil	11.930,80
2	Semi-Technical Irrigation Paddy Soil	1941,40
3	Dry Soil of Yard/Building	2401,11
4	Garden Dry Soil	1935,10
5	Wet Land (Pond)	3.10
6	Thick Forest	2.918
7	Tourism Forest	11.40
8	Sports field	19.75
9	Grave	26.35
10	Others	562.89
	<b>Total Number</b>	<b>21.749,9</b>

**Source:** *Processed Data, 2022*

In the table above, the most of the land in Toroh Grobogan is used for technically irrigated rice fields using means or tools and semi-technically irrigated rice fields. The land allocated for paddy fields with these two classifications totals 13,872.2 hectares. This amount does not include land used for yards covering an area of 2401.11 hectares and dry land for gardens covering an area of 1935.10 hectares, among others. Based on the table, most of the land in Toroh Grobogan for agricultural land. Agricultural land must be used by people who live in the district where placed. If someone owns land outside the sub-district, must be transferred to another person, as stated in Article 3 of Government Regulation No. 224 of 1961.

The transfer of land rights is carried out through a process of transferring rights facilitated by the Land Deed Making Officer. Article 37 of Government Regulation No. 24 of 1997 concerning Land Registration mandates the facilitation of officials making land deeds in transferring absentee land rights. Technically, the transfer of land rights is required through an agreement made by the land deed official. The implementation of the transfer of absentee land rights is through the following stages:

1. After reaching an agreement regarding the transfer of land rights, the applicant or other guardian must complete the documents required in connection with the transfer of land rights, namely: (1) a certificate of land ownership; (2) evidence submitted by the village head and known by the district leader that the land without dispute; (3) proof of payment of land registration fees; and (4) a certificate of citizenship.
2. The applicant must pay the form for the assessment of rights and the registration fee for the removal of rights. The applicant will get proof of payment of the land registration fee. In addition, the applicant must fill out a set of transfer deed formulas consisting of: (1) a letter of application for permission to transfer rights, in four copies; (2) a statement from the village head known to the district leader; and (3) a statement of the lands owned by the applicant.
3. After all the necessary documents are realized, the land deed official can determine when the deed is signed, often referred to as the meeting of the land deed-making officer.
4. The official making the land deed reads the contents of the deed before signing the deed of transfer of land rights to find out the contents of the agreement of the parties in the transfer of land rights.
5. The transfer of land rights must be witnessed by two persons. Anyone can become a witness as long as, according to the law, they are capable of acting. However, in practice, the official making the land deed asked the village head and a member of the village government to act as witnesses.

After this process, there has been a transfer of rights over the absentee land. The deed can be registered with the National Land Agency to make a certificate. The procedure for issuing a certificate by the National Land Agency must, among other things, refer to the provisions of Government Regulation 24 of 1997 concerning Land Registration.

### ***3.3. Benefits of Transfer of Absentee Land Rights in Toroh Grobogan, Central Java***

The function of land in the transfer of absentee land rights has considerable benefits for maximizing the benefits of agricultural land. Among the benefits of transfer, absentee land is to increase in agricultural yields obtained from the exploitation of agricultural land can mostly be enjoyed by farming communities who live in rural areas and not by urban people who do not live in villages. Another benefit of the ban on absentee land ownership is to reduce social inequality, distribute people's welfare, and ensure food security. In addition to these two benefits, the prohibition of absentee land ownership can also have other benefits, such as



protecting poor farmers from being cut off from access to agricultural land and preventing the emergence of abandoned land and the lack of use of agricultural land.

The transfer of rights from absentee land can encourage the continued use of agricultural land that is utilized by people or legal entities that are closer to the land's existence. The transfer of absentee land is expected to provide the greatest prosperity or benefits for the community under the Constitution of the Republic of Indonesia of 1945. The transfer of absentee land rights also reduces land ownership by landlords who monopolize land ownership, making it difficult for cultivators to use it efficiently, and removing the system can create equal opportunities for other communities to use the land to support their daily needs.

In general, the transfer of absentee land rights in Toroh Grobogan, Central Java, can already be carried out under laws and regulations; however, several things hinder the transfer of absentee land rights, namely: the emergence of sectoral egos between sectoral ministries that manage natural resources, so that bureaucratic obstacles become dominant; the lack of a legal umbrella to carry out this cross-sectoral program; and the fact that the transfer of absentee land rights is based on the National Land Agency, a non-departmental government institution that is considered less strong to run it. It is better if the absentee land transfer is used as a joint movement to carry out absentee land rights slowly, involving government officials and the community. The government needs to provide an understanding that land has a social function, which is not only interpreted as a legal basis for land use in the public interest, but also for the protection of land use, personal interests, and social interests within the state.

### **3.4. Conclusion**

The transfer of absentee land is the implementation of land reform legally and normatively mandated by Law No. 5 of 1960. The transfer of absentee land rights in Toroh Grobogan Central Java Indonesia, has been carried out under the provisions of the laws and regulations that apply mainly based on Government Regulation No. 224 of 1961. The transfer of absentee land rights can provide strategic benefits to the sustainability of the benefits of agricultural land following the economic and social functions of the land. The benefit that can be drawn from the transfer of absentee land rights is that it can increase the agricultural output of the Toroh Grobogan people of Central Java, Indonesia, the majority of whom work as farmers so that they can reduce social inequality, distribute people's welfare, and ensure food security. In addition to these two benefits, it can also protect poor farmers from the loss of access to agricultural land and avoid the emergence of abandoned land and the lack of utilization of agricultural land.

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