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### Problems with Regulation of the Minister of Agrarian Affairs Number 18 of 2016 on the Transfer of Ownership of Agricultural Land with Different Domiciles (Guntai)

<sup>1</sup> Amelia Niken Pratiwi, <sup>2</sup> Imam Sanusi, <sup>3</sup> Septian Putri Nindiasari

<sup>1,2,3</sup> Master of Notary, Faculty of Law, University of Jember, Indonesia

Corresponding Author: Amelia Niken Pratiwi

#### Abstract

Most of Indonesia's population depends on the agricultural sector for their livelihood. The Basic Agrarian Law requires agricultural landowners to cultivate and manage their own land actively. However, the reality is that there are still people who own land that exceeds the maximum allowed limit, and there are still landowners who manage their land in a guntai manner. This happens because the rules are inconsistent and irrelevant to the current conditions in the era of globalisation 4.0, where investment is more emphasised than compliance with the regulations. In addition, less stringent supervision from the authorities is also to blame for this, as well as indecisive action due to lacunae in the applied rules. Therefore, it is hoped that the rules will be revised. This research method uses two

methods, namely the statute approach and the conceptual approach. The statute approach in this research is normative legal research, which is a type of research that refers to legal norms contained in laws and regulations. The Result of this research, the transfer of ownership of land with different domiciles (guntai) in Indonesia still faces various problems, including legal inconsistencies, as well as a norm vacuum in the Regulation of the Minister of Agrarian Affairs and Spatial Planning of the National Land Agency Number 18 of 2016 concerning Control of Agricultural Land Tenure which does not clearly state the requirements for land ownership and strict sanctions against violators of the provisions of the regulation.

**Keywords:** Basic Agrarian Regulations, Land Ownership, Guntai

#### 1. Introduction

The land is the primary source for the life and prosperity of a just people. In customary law, land is considered an object that has a soul and cannot be separated from humans. The land has various meanings, such as philosophical, sociological and economic. The definition of land includes all elements of earth, water, air, and natural resources, as well as the relationship between humans and the supernatural realm. The land is considered a strategic resource for national wealth, a unifying region, a gift from God, and for the welfare of the people. The fair and equitable welfare of the people can be achieved by providing added value or useful results to improve welfare relatively.<sup>1</sup>

Land ownership rights in Indonesia stem from the Indonesian nation's right to the land, which is a public responsibility. As it is impossible for all Indonesians to manage all the land together, this task is delegated to the State of the Republic of Indonesia as the organisation of power representing all Indonesians.<sup>2</sup> Article 2(1) of the Basic Agrarian Law explains that the Indonesian people grant the highest ownership rights over land to the state as the mandate bearer to manage and administer the land as a whole.<sup>3</sup>

Article 33(3) of the 1945 Constitution empowers the state to manage natural resources, such as land, water, and natural resources, for the prosperity of the Indonesian people. Along with population growth and development, people's need for land is increasing, which can cause problems. Therefore, the government has made Law No. 5/1960 on the Basic Regulation of

<sup>1</sup> Bernhard Limbong, *Politik Pertanahan*, Jakarta: Margaretha Pustaka, 2014, P. 26

<sup>2</sup> Bhim Prakoso, *Pendaftaran Tanah Sistematis Lengkap Sebagai Dasar Perubahan Sistem Publikasi Pendaftaran Tanah*, Journal of Private and Economic Law, Vol. 1, No. 1, 2021, P. 66.

<sup>3</sup> Firdajarsi, *Tinjauan Hukum Terhadap Pemilikan Tanah Guntai Di Kabupaten Wajo Kecamatan Tempe*, Skripsi: Universitas Islam Negeri Alauddin, 2014, P. 21.

Agrarian Principles, known as UUPA, to overcome problems in the *land* sector and conduct *land reform*. UUPA regulates government policy on land to ensure its effective and efficient use for the welfare of the people.<sup>4</sup>

*Land reform* is an English term consisting of two words, *land* and *reform*, which means land and fundamental change. Indonesia is an agrarian country where the majority of the population earns a living in agriculture, either as landowners, tenant farmers or farm labourers. Therefore, land has an essential role in people's lives because it is a place of business that affects the survival of humanity as a whole. The land is a vital factor for human life, and its existence is very influential in human presence in the world. As an essential element, it is difficult for humans to live without land.<sup>5</sup>

UUPA, which was enacted in accordance with Article 33 paragraph (3) of the 1945 Constitution, has the vital objective of implementing the Land Reform Programme in Indonesia. This programme aims to improve the standard of living of farmers, especially rice field cultivators while supporting the development of a just and prosperous economy based on Pancasila. In this case, *land reform* is vital to increase the productivity of agricultural land. Too much agricultural land ownership can be detrimental to agricultural productivity because the owner cannot work the land himself. If the owner is not near the farm, known as *guntai*, agricultural cultivation becomes less intensive and produces poor agricultural yields. In addition, ownership of agricultural land by *guntai* or outside the sub-district where the owner resides is also prohibited, so all forms of transfer of agricultural land rights through sale, exchange, or grant that result in the new ownership of agricultural land by *guntai* are not allowed.<sup>6</sup>

One important legal aspect of the enactment of the UUPA is the *land reform* programme in Indonesia. The *land reform* programme is:<sup>7</sup>

1. Prohibition of excessive possession of agricultural land;
2. Prohibition of multiple land ownership;
3. Redistribution of land in excess of the maximum limit, as well as land subject to the ban on *guntai*, ex-supraja land and state land;
4. Regulations on the return and redemption of mortgaged agricultural lands;
5. Re-regulation of agricultural land-sharing agreements;
6. The establishment of a minimum limit on the ownership of agricultural land, along with a prohibition on acts that result in the division of ownership of agricultural land into too small parts.

In Article 7 paragraph (1) of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land

Agency (hereinafter referred to as Permen ATR/BPN) No. 18/2016 on Control of Agricultural Land Tenure, there is a regulation stating that landowners who own a land area exceeding the maximum allowable limit and landowners who do not live in the sub-district where the land is located or own the land illegally, must transfer ownership of the land to local residents.

Cases of *guntai* land ownership still occur because Article 7 paragraph (1) of Permen ATR/BPN No. 18/2016 on Control of Agricultural Land Tenure does not clearly regulate the requirements that must be fulfilled by a person in order to own agricultural land in the sub-district where they live. The article only refers to formal truth and does not specify the requirements that must be met to ensure the material truth of a person's domicile. Therefore, there is a loophole for fraud to be committed so that a person can own agricultural land in a *guntai* manner. Until now, the regulation has not been amended, and much fraud has occurred due to the norm void in Article 7 paragraph (1). Based on the background described above, the author gets the following problem formulation:

1. What is the existence of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2016 in overcoming agricultural land in *guntai*?
2. What are the problems of transferring land ownership by *guntai*?

## 2. Research Methods

This research method uses two methods, namely the statute approach and the conceptual approach. The statute approach in this research is normative legal research, which is a type of research that refers to legal norms contained in laws and regulations.<sup>8</sup> Based on its type, this research is descriptive research. Descriptive research is intended to provide data that is as accurate as possible about humans, circumstances, or other symptoms. Normative legal research is the legal research to find legal rules, legal principles, and legal doctrines to answer the legal issues at hand. Normative legal research is conducted to find problem-solving for existing legal issues. The result of this research is to provide a prescription regarding the formulation of the problem posed. Normative legal research only examines legal norms without looking at legal practice in the field (law in action).<sup>9</sup>

## 3. Discussion

### A. The Existence of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2016 in Resolving Agricultural Land in *Guntai*

Farmers, who are an agrarian society, are very dependent on agricultural land as their source of livelihood. Therefore, it is not possible for them to leave their farmland to be abandoned or sold to others, either those still in the vicinity of their farming area or those outside the sub-district.<sup>10</sup>

<sup>4</sup> Salle, Aminuddin, *Bahan Ajar Hukum Agraria*, Makassar: AS Publising, 2010, P. 46

<sup>5</sup> J. Andy Hartanto, *Hukum Pertanahan Karakteristik Jual Beli Tanah yang Belum Terdaftar Hak Atas Tanahnya*, Surabaya: Laksbang Justitia, 2014, P. 9

<sup>6</sup> Maulidi, Mohammad Jefry, M. Arba dan Kaharuddin, *Analisis Hukum Tentang Peralihan Hak Milik Atas Tanah Dengan Bukti Akta Di Bawah Tangan Sebagai Dasar Pendaftaran Tanah Untuk Pertama Kali (Studi Di Kabupaten Lombok Tengah)*, Jurnal Kajian Hukum Dan Keadilan, Vol. 5, No. 3, 2017, P. 414–27.

<sup>7</sup> Urip Santoso, *Hukum Agraria Kajian Komprehensif*, Jakarta: Kencana Prenada Media Group, 2012, P. 213

<sup>8</sup> Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif*, Jakarta: Raja Grafindo Pesada, 2004, P.14

<sup>9</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum*, Jakarta: UI Press, 2010, P. 10.

<sup>10</sup> Rahadiyan Veda Mahardika, et.al., *Kedudukan Subyek Hukum Ditinjau Dari Hak Keperdataan (Refleksi: Terjadinya Tumpang Tindih Lahan Hak Guna Usaha)*, (Jember: UM Jember Press, 2022), P. 50.

However, there are people outside the kecamatan where the farmland is located who own it in guntai. They are not farmers, and their occupation is not in agriculture. The agricultural land was purchased not to be utilised in accordance with its allocation but only as a future investment for them.

The farming community's ignorance of the prohibition of Guntai land ownership has led to Guntai land ownership. This is due to the customs and cultural values inherent in the peasant community. For example, some farming families who manage to earn enough money decide to settle outside their area and sell their land to other people or relatives. Meanwhile, there are also landowners who are reluctant to surrender or transfer their land on the grounds that it will be used as an investment in the future or will be repurchased at a later date when they return to their area of origin. This phenomenon leads to new problems, such as land ownership that exceeds the maximum limit for all family members.

In the context of development, spatial planning can be considered as an intervention effort or government action to achieve integrated development through planning, utilisation, and control of spatial resources, especially in the arrangement of agricultural land. Spatial plans are made considering the perspective of the spatial situation and the future. However, to realise the spatial utilisation plan, coordination is needed in various fields, including the land sector. This is important because spatial planning is basically a land utilisation plan. In this case, land stewardship activities are an integral part of spatial planning. Therefore, land stewardship has a fundamental role as a subsystem of spatial planning.

In spatial planning, attention is required to the condition of land that is already controlled by the community with various forms of legal relationships and diverse uses. Therefore, land aspects should be an integral part of the spatial planning process, including current land use conditions, physical conditions and land capabilities, land potential, and land tenure status. All these factors must be taken into account in order for spatial planning to be carried out effectively and sustainably.

Article 3 of Government Regulation No. 224/1961 on the Implementation of Land Division and Compensation states that guntai land refers to land located outside the sub-district where the landowner resides. Therefore, each landowner is prohibited from owning agricultural land that is located in a different sub-district from where he or she lives. This was done to prevent inefficient cultivation of the land, such as supervision, transport of produce, and exploitation systems that could occur. However, exceptions were made for landowners who resided near the kecamatan where their land was located, provided that the distance between the owner's residence and the land still made it possible to manage the land efficiently in the judgement of the district land reform committee.<sup>11</sup> Guntai land ownership continues to occur in Indonesia. This is due to the following reasons:

1. Lack of public understanding and knowledge of the rule of law related to the prohibition of guntai land ownership.
2. There are conditions that make guntai land ownership unavoidable, such as the landowner granting inheritance rights to his family who do not live in the same sub-

district where the agricultural land is located or the landowner moving to another location while the landowner does not report the move.

3. There are circumstances where the local government (e.g., sub-district head) does not check the requirements for land titles, which can be done by providing a fake ID card.
4. The economic conditions of the people who live where the agricultural land is located are not favourable to owning the land, so, in this case, the local community tends only to work to manage the land, but the land ownership rights remain with the urban community who have stronger and more capable economic conditions.
5. The prohibition of guntai *land* ownership is one of the programmes of *land reform* and is regulated in Article 3 paragraph (1) of Government Regulation No. 224 of 1961 concerning the Implementation of Land Division and Compensation, as amended and supplemented by Government Regulation No. 41 of 1964.
6. The prohibition of guntai land ownership is based on Article 10 paragraph (1) of the UUPA, which states that every person and legal entity that has a right to agricultural land must actively cultivate or work it themselves to prevent extortion. One of the steps to implement this principle is to abolish the guntai tenure of agricultural land, which is the ownership of land outside the area where the landowner lives. This rule is regulated in Article 3 of Government Regulation No. 224/1961 and Article 1 of Government Regulation No. 41/1964. In accordance with the UUPA, Article 3 paragraph (1) of Government Regulation 224/1961 states that landowners who live outside the kecamatan where their land is located must transfer their land rights to another person in the kecamatan where the land is located or move to the kecamatan within six months.

Permen ATR/BPN No. 18/2016 was issued with the intention of achieving several objectives, which are explained in Article 2. These objectives include reducing social inequality, improving people's welfare, and ensuring food security. By requiring the transfer of ownership of agricultural land, the government hopes that people living around the location of the agricultural land can manage it to produce food products that can improve people's welfare. The purpose of overhauling and reforming the agrarian structure, especially land, is to enhance the welfare of the people as a whole.<sup>12</sup>

Permen ATR/BPN No. 18/2016 on Controlling Agricultural Land Tenure aims to reduce social inequality, improve community welfare, and ensure food security. In this case, the regulation seeks to enable people to have rights to agricultural land and manage it to produce agricultural products that can reduce social disparities, improve people's welfare, and contribute to the country's food security. This regulation aims to overhaul and reform the agrarian structure, especially in terms of land ownership, to improve people's welfare.

Permen ATR/BPN No. 18/2016 contains the right to control agricultural land, which consists of the right of ownership and the right of use. People are allowed to own land rights in

<sup>11</sup> Aminuddin Salle, *Bahan Ajar Hukum Agraria*, Makassar: AS Publishing, 2010, P. 232

<sup>12</sup> Yanis Maladi, *Reforma Agraria Berparadigma Pancasila Dalam Penataan Kembali Politik Agraria Nasional*, Jurnal Mimbar Hukum, Vol. 25, No. 1, 2013, P. 29.

ways permitted by law, including hereditary rights acquired through inheritance. Right of use means being able to use and extract products from land owned by the state or another person, which has been regulated in a decree or agreement with the landowner in accordance with the UUPA. In this case, a person can manage land that he does not own by complying with the applicable provisions in the UUPA. The purpose of this regulation is to provide an opportunity for the community to own agricultural land rights and manage them properly in order to improve welfare and contribute to the country's food security.<sup>13</sup>

Article 3 paragraph (1) of Minister of Agrarian and Spatial Planning/BPN Regulation No. 18/2016 asserts that the extent of land tenure and ownership needs to be limited in order to equalise the welfare of the people by distributing space and land evenly. However, in reality, the implementation of this regulation has not been carried out by people in Indonesia. An example can be seen in Pelalawan Regency, where a person is recorded as owning more than 20 hectares of land, even though the area is not densely populated. Land ownership that exceeds the maximum limit is not in line with the goal of achieving equitable distribution of people's welfare.<sup>14</sup>

Article 4 of Permen ATR/BPN No. 18/2016 states that agricultural land owned by an individual can be transferred to another party on the condition that the other party resides in the same sub-district as the location of the land and must show a local identity card as proof. In addition, the transferred land must be used for agricultural purposes and may not be used for other purposes. There are two aspects to note: firstly, if an individual owns land that exceeds the maximum allowable limit under Article 3 of this regulation, he/she must transfer his/her land rights to another person who resides in the same sub-district as the location of the land and can prove this by showing an identity card. Secondly, the transferred land must be managed for agricultural purposes and may not be used for other purposes.

Implementation and compliance with Article 4 of Permen ATR / BPN Number 18 of 2016 are still lacking in the community. There are several factors that cause this to happen, among others:

### 1. Economic Factors

Although there are people from outside the region who are willing to transfer land ownership rights to local people who live in the same sub-district as the location of the land, the reality is that local people are in deplorable economic conditions, making them unable to take ownership of the land. As a country based on the principle of law, the government must take a legal basis in the implementation of economic development.

### 2. Cultural Factors

Ownership of agricultural land by someone living outside the region is acquired through inheritance, which means that the owner is not reached intentionally, but as part of inherited cultural traditions.

<sup>13</sup> Yolanda Regina Purba. *Peralihan Hak Atas Tanah Yang Dilakukan Oleh Masyarakat Adat Simalungun Di Kecamatan Panombeian Panei Kabupaten Simalungun*, Tesis: Universitas Sumatera Utara, 2017, P. 59.

<sup>14</sup> Firman, *Pembatasan Kepemilikan Hak Atas Tanah Pemerintah Daerah Istimewa Yogyakarta Kepada Wni Nonpribumi*, Tesis: Universitas Hasanuddin, 2018, P. 117

### 3. Social Factors

Before there was a land *reform* law regulating land ownership in Indonesia, there were cases of land ownership deeds in Pelalawan Regency that had been passed down from generation to generation by individuals and their families. Although the land ownership exceeded the prescribed maximum limit, the local community did not question it because they worked for the owner or landlord and received sufficient wages. However, if the land is transferred to another party, then people are worried that they will lose their jobs. Therefore, even though the landlords have excess land, the land is still not transferred to other parties.

### 4. Authorised officer factor

Agricultural land ownership practices in Indonesia often experience a transfer of ownership from the original inhabitants of the region to outsiders. This occurs because there is a shift in thinking about the use of land, which is now used as an investment object both for housing, industry and tourism development. This allows for multiple ownership of land, which can occur through buying and selling and inheritance. Notaries or Land Deed Officials (PPAT) play an essential role in this regard by making deeds as evidence of specific legal actions regarding land rights. The deed is used as the basis for the registration of changes in land registration data caused by the legal action.

PPATs have the duty to make deeds as evidence of certain legal acts, such as sale and purchase, exchange, grants, entry into a company, division of joint rights, granting of Building Rights, Title/Use Rights over Land Ownership Rights, granting of Mortgage Rights, and granting of Power of Attorney to impose Mortgage Rights related to land ownership. The PPAT must decide whether to accept or reject the application. However, the PPAT does not have the authority to check the authenticity of the data provided by its clients, such as multiple ID cards, because it only has formal authority regarding administrative requirements. Therefore, the transfer of land rights to parties domiciled outside the land still occurs.

Article 6 of Permen ATR/BPN No. 18/2016 explains that if there is a violation of the provisions stipulated in Article 3 and Article 4, the transfer of land rights will not be registered at the Land Office. This is because excessive and unauthorised land ownership can only be transferred to local people who have identity cards registered in the area where the land is located, and the land must be managed for agricultural purposes. However, in reality, there are still individuals who use multiple ID cards in order to maintain land ownership that exceeds the stipulated limit.

In Permen ATR/BPN No. 18/2016, it is explained that a landowner must live in the same sub-district as the location of his land. If not, then the landowner must sell his land to the local community or move his residence to the land location. This aims to ensure effective land management. If the landowner resides outside the sub-district where the farmland is located, it will be difficult for the landowner to manage the farmland as it will take time to travel to the location of the land. This will result in land management not being optimised as expected. Another threat is that agricultural products can be taken by irresponsible parties so that the landowner will suffer losses.

Therefore, one of the solutions offered is to move to the location where the land is located. However, in reality, moving domicile is not a simple matter. Moving requires

much money and time-consuming preparations. This makes moving to the location where the land is located irrelevant to the actual conditions on the ground.

## B. Problems in the Transfer of Land Ownership by Guntai

The problems encountered in regulating land ownership with different domiciles or the prohibition of guntai land ownership at this time are as follows:

### 1. Rule Inconsistency

Permen ATR / BPN Number 18 of 2016 concerning Control of Agricultural Land Tenure was issued by the government to regulate matters deemed necessary to limit the control of agricultural land, both for individuals as well as land tenure by companies or corporations. The aim is to achieve equitable distribution of welfare by preventing the monopoly of land ownership by certain parties. However, in its implementation, this regulation still experiences problems and obstacles.

One of the problems faced in the implementation of Permen ATR/BPN No. 18/2016 is the inconsistency in the rules that have an impact on community compliance with these rules. This is caused by problems in the regulation of land rights that still cause many problems in various sectors and at the regional level. This problem occurs due to inconsistencies between the UUPA's regulation and other laws, such as Mining, Forestry, Spatial Planning, and Investment. Sometimes, discrepancies also happen between the laws themselves, such as between the Forestry Law and the Mining Law.

There are several problems faced in limiting agricultural land tenure, where the regulations issued by the government are considered inconsistent. On the other hand, the government is determined to improve the investment climate in Indonesia, and one way to do this is by utilising unproductive land for agriculture or plantations. This action is in line with the Nawa Cita agenda to make Indonesia economically independent and improve competitiveness. Therefore, efforts to improve the investment climate and business climate are one of the main focuses to enhance the competitiveness of the Indonesian economy.<sup>15</sup>

### 2. Rule Relevance

Permen ATR/BPN No. 18/2016 was issued with the aim of achieving several things described in Article 2, namely reducing social inequality, improving community welfare, and ensuring food security. Therefore, the regulation that orders landowners to transfer ownership aims to enable people living around agricultural land to manage it and produce the agricultural products needed.

The legal arrangements in Permen ATR/BPN No. 18/2016 governing the transfer of land to local communities are no longer relevant in the era of globalisation 4.0. Basically, the purpose of transferring land to the local community is so that the land can be managed productively. In previous eras, agricultural land far from the owner's residence tended to be unproductive. However, in the current era of globalisation, accessibility and ease of transportation and communication technology allow landowners to manage their land even if they live outside the sub-district. In fact, landowners can monitor and manage their land easily through audio and

visual technology and employ locals to assist in the management of the land. Therefore, the transfer of land due to the inability to manage land is not applicable in the era of globalisation 4.0.<sup>16</sup>

### 3. The Role of Government

In Article 11 paragraphs (2) and (3) of Permen ATR/BPN No. 18/2016 on Controlling Agricultural Land Tenure, it is stated that if there is land ownership that exceeds the specified limit, the land will be designated as Landreform/Agrarian Reform object after an inventory is conducted. However, the problem with monitoring agricultural land tenure that exceeds the limit is the passive attitude often shown by the BPN in monitoring only registered (certified) land. Violations of the maximum limit are generally committed by not registering the land or registering the excess land under someone else's name so that ownership that exceeds the maximum limit cannot always be detected.

Permen ATR/BPN No. 18/2016 on Controlling Agricultural Land Tenure requires the division of agricultural land that violates the provisions to be in accordance with the maximum allowable limit. However, this is often done by landowners who reside outside the sub-district, even though this is against the law. Enforcing the law against ownership or control of agricultural land that exceeds the maximum limit is difficult because the value of compensation provided is too low. The requirements for obtaining land titles through Notary/PPAT are also a problem. PPAT plays an essential role in conducting land registration activities and making deeds as evidence that specific legal actions have been carried out regarding land rights or property rights over apartment units.<sup>17</sup> However, the deed must be followed by the registration of changes in land registration data resulting from the legal action.

In obtaining land titles at PPAT, prior to the introduction of e-KTP, some outsiders may have tried to obtain land titles using fake or multiple identity cards. In the early stages, land titles were processed in front of the village head, who also acted as a Temporary Land Deed Official (PPATS). The village head as PPATS did not in fact check the applicant's residence, such as whether he or she actually lived in the same sub-district where the land was located or at least resided in a sub-district adjacent to the farmland. Therefore, the use of false identities cannot be detected by the PPATS, so the land certificate is issued even though the administrator of the land certificate is not a local resident.<sup>18</sup> Actions to check the correctness of the residence of people who apply for land certificates in accordance with the identity card used as a requirement also have no legal umbrella. With such conditions, there are still people outside

<sup>15</sup> Boedie Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan UUPA, Isi dan Pelaksanaannya*, Jakarta: Djambatan, 2008, P. 284.

<sup>16</sup> Erma, Zetria, dan Yuanita, *Peranan Hukum Dalam Pembangunan Industri Nasional Pada Era Revolusi Industri 4.0*, Prosiding Seminar Nasional Era Industri 4.0., Vol. 1, No. 1, 2019, P. 7

<sup>17</sup> Khafid Setiawan, et.al., *Notaris Dalam Pembuatan Akta Kontrak Yang Berlandaskan Prinsip Kehati-hatian*, Jurnal Ilmu Kenotariatan, Vol. 2, No. 2, 2021, P. 47.

<sup>18</sup> Ni Made Asri Alvionita, *Penataan Kepemilikan Tanah Pertanian Secara Guntai Melalui Program Kartu Tanda Penduduk Elektronik (KTP-El)*, Jurnal Acta Comitatus, Vol. 3, No. 1, 2018, P. 76

who own land in Pelalawan Regency, even though this is not allowed.

#### 4. Conclusion

Despite the issuance of the Regulation of the Minister of Agrarian Affairs and Spatial Planning of the National Land Agency Number 18 of 2016, its implementation is still not optimal in Indonesia. This can be seen from the fact that there is still land ownership that exceeds the maximum limit and there is still ownership of agricultural land by people with different domiciles who have not transferred their land rights.

The transfer of ownership of land with different domiciles (guntai) in Indonesia still faces various problems, including legal inconsistencies, rules that are not in accordance with the conditions of society in the era of globalisation 4.0, as well as a norm vacuum in the Regulation of the Minister of Agrarian Affairs and Spatial Planning of the National Land Agency Number 18 of 2016 concerning Control of Agricultural Land Tenure which does not clearly state the requirements for land ownership and strict sanctions against violators of the provisions of the regulation.

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