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THE LEGALITY OF THE NATIONAL LAND AGENCY IN THE TRANSFER OF LAND RIGHTS AS MATRIMONIAL DOWRY IN MAKASSAR CITY: A FIQH AL-MUNĀKAHĀT PERSPECTIVE

Nurul Mujahidah[1], Kurniati[2], Achmad Musyahid[3], & Abdi Wijaya[4]

[1,2,3,4]Postgraduate Program of Universitas Islam Negeri Alauddin Makassar
Correspondence Email: nurulmujahidah44@gmail.com

ABSTRACT

The transfer of land rights as a matrimonial dowry carries significant religious and legal dimensions. In Islamic jurisprudence (fiqh al-munākahāt), a dowry becomes the wife's exclusive right once the marriage contract is concluded, regardless of whether it involves money or land. However, under Indonesia's statutory framework, land ownership can only be recognized through procedures regulated by the Ministry of Agrarian Affairs and the National Land Agency (ATR/BPN), primarily Law No. 5 of 1960 on Basic Agrarian Principles and its implementing rules. The National Land Agency (BPN), as the authority for issuing certificates of ownership, does not consider a marriage contract a valid legal basis for transferring land rights. This situation, also observed in Makassar City, highlights a gap between religious entitlements and positive law, which in turn may lead to disputes or misuse. This study applied a qualitative method that integrates normative juridical and theological-juridical approaches. The normative juridical perspective interpreted law as a system derived from statutory provisions, while the theological-juridical perspective analyzed it through religious principles. The findings revealed that although Islamic law recognizes the wife's immediate entitlement to land given as dowry, Indonesian land law requires formal legal transactions—such as sale-purchase or donation—to effectuate the transfer. These mechanisms, however, involve substantial costs, contradicting the dowry's essence as a free gift. To secure the wife's legal standing, this research concludes that land designated as dowry should be formally transferred through a hibah (grant) process after marriage.

Keywords: Dowry; fiqh al-munākahāt; transfer of land rights

1. INTRODUCTION

Marriage is a significant institution in society that encompasses not only legal aspects but also various other dimensions such as social, cultural, and economic factors.[1] It represents the

[1] Martha Albertson Fineman, "Why Marriage," *Va. J. Soc. Pol'y & L.* 9 (2001): 239.

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union of two individuals as husband and wife, complementing each other.[2] In Islam, marriage is commonly referred to as nikah, which signifies the establishment of a mutual agreement that creates a connection between a man and a woman,[3] aimed at legitimizing their intimate relationship.[4] The term nikah is associated with the concept of akad, which serves as the initial representation that permits the intimate relationship between a man and a woman.

The implementation of marriage within Islamic teachings is supported by fundamental principles known as the pillars of marriage. From the perspective of the jurisprudence of marriage, as articulated by Islamic scholars, the pillars and requirements of marriage do not significantly differ from the regulations established by the prevailing laws in Indonesia.[5] This principle serves as a guideline for organizing and elaborating on the technical provisions regarding marriage in Indonesia.[6] The pillars and requirements of marriage, as outlined in the Compilation of Islamic Law, are detailed in Chapter IV, Article 14, which includes the prospective husband, prospective wife, marriage guardian, two witnesses, and the acts of proposal and acceptance.[7] Furthermore, it is stated that the dowry is not considered a pillar but is an obligatory gift from the prospective husband to the prospective wife. In the view of the classical jurists of Islamic law, the mahr (dowry), while not generally regarded as a fundamental pillar (rukun) of marriage, is nonetheless considered an indispensable element and a necessary legal effect of the marriage contract. Imam Malik, however, diverges from this position by asserting that the mahr constitutes an integral component of marriage itself.[8] Islamic jurisprudence further affirms that women hold a distinct legal entitlement to the mahr, such that, once transferred, it becomes the exclusive property of the wife. A parallel principle is also embodied in the Indonesian legal system, wherein the mahr is expressly acknowledged as the wife's individual right.

Articles 30 to 38 of the KHI regulate the concept of dowry. In Indonesia, the form of dowry is generally shaped by the socio-economic and cultural circumstances of each region.[9] The determination of its value is not confined by any statutory minimum or maximum but is instead contingent upon the mutual agreement of the parties to the marriage. Within the Bugis-Makassar community, matrimonial practice is characterized by the traditions of *uang panai* and the dowry, both of which constitute obligations incumbent upon the groom to provide for the

[2] Glanville L Williams, "The Legal Unity of Husband and Wife," *The Modern Law Review* 10, no. 1 (1947): 16–31.
[3] Fiqh Munakahat I Kosim et al., "Dalam Kajian Filsafat Hukum Islam Dan Keberadaannya Dalam Politik Hukum Ketatanegaraan Indonesia," *Depok: Raja Grafindo Persada*, 2019, h. 9.
[4] Shabnam Banoo and Tanveer Ahmed, "Rules of Marriage in Islam: A Comprehensive Analysis," *Journal of Emerging Technologies and Innovation Research (JETIR)*, 2024.
[5] Muhammad Ulil Albab and Ahmad Izzuddin, "Interfaith Marriage in Islamic Law and Positive Law in Indonesia: A Study of the Conditions and Pillars," *AL-WIJDÃN Journal of Islamic Education Studies* 10, no. 1 (2025): 131–61.
[6] Juwaini Saleh et al., "Marriage Guidance Towards Family Resilience in Aceh: A Study of Islamic Law Philosophy," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 594–613.
[7] Redwan Yasin et al., "GUARDIAN'S RESPONSIBILITY FOR THE WELFARE OF CHILDREN IN MARRIAGE: A STUDY ACCORDING TO ISLAMIC LAW," *Malaysian Journal of Syariah and Law* 12, no. 3 (2024): 778–89.
[8] Kiran Naz and Humaira Jahangir, "Mahr: An Essential Component of Islamic Matrimony and Its Legal Significance," *Al-Marjān (المرجان)* 2, no. 3 (2024): 59–75.
[9] Darmawan Darmawan, "Transformasi Mahar Perkawinan Melalui Estetika Di Desa Paberasan Kabupaten Sumenep," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 11, no. 2 (2021): 140–66.

bride.[10] Among the Bugis-Makassar, the dowry may consist of gold, religious items such as prayer equipment, a plot of land, or other assets of considerable value,[11] reflecting the high esteem accorded to such possessions within the community.

Under Islamic law, land given as a dowry (*mahr*) is deemed to become the exclusive property of the wife from the moment of its delivery.[12] However, complications arise within the framework of Indonesian positive law, particularly in relation to the transfer of land rights, which falls under the authority of the National Land Agency (Badan Pertanahan Nasional – BPN). The BPN does not recognize the conveyance of land through the mechanism of dowry as a legally valid mode of transferring land rights. As a result, the land remains formally registered under the name of the donor rather than the recipient, thereby disadvantaging the wife, who is the rightful owner according to Islamic legal principles. This discrepancy creates the potential for misuse of rights and poses significant challenges for the wife in asserting her ownership, notwithstanding the prior matrimonial agreement.

In light of the previous description, the researcher has found it essential to conduct a study regarding the legality of BPN in relation to the transfer of land rights acquired as a matrimonial dowry. This aims to provide legal certainty for the wife as the legitimate owner of the land obtained as a matrimonial dowry.

2. METHODS

The type of research employed was qualitative research, aimed at understanding the phenomenon under discussion. The study was achieved through a normative legal approach, which examined the internal aspects of norms or rules as well as the applicable legislation. In addition to this approach, a theological normative approach was also utilized, which analyzed laws or norms based on religious principles. Based on the methods employed in this research, the primary sources of data were drawn from the prevailing legislation in Indonesia as well as relevant provisions of Islamic law, while the secondary sources consisted of doctrinal writings, legal literature, scholarly books, journals, and expert opinions related to the subject under study.

3. RESULTS AND DISCUSSION

A. Regulation on the Transfer of Land Rights

The transfer of land rights constitutes a pivotal element of agrarian law, governing the mechanisms through which land rights may be conveyed from one party to another. Within Indonesia's agrarian legal system, the relationship between legal subjects and land is regulated through various recognized forms of land rights, including ownership rights, cultivation rights (Hak Guna Usaha – HGU), building use rights (Hak Guna Bangunan – HGB), usage rights (Hak

[10] Muhammad Iqbal and L Sudirman, "Mahar Dan Uang Panaik Perkawinan Pada Tradisi Masyarakat Dalam Pandangan Hukum Islam (Studi Kasus Di Kelurahan Limpomajang Kacamatan Marioriawa Kabupaten Soppeng)," *Inspiratif Pendidikan* 9, no. 2 (2020): 128–48.
[11] Ilham Abbas et al., "Hak Penguasaan Istri Terhadap Mahar Sompa Perkawinan Adat Bugis Makassar (Kajian Putusan PA Bulukumba Nomor 25/Pdt. P/2011/PABlk)," *Kanun Jurnal Ilmu Hukum* 20, no. 2 (2018): 203–18.
[12] Zainuddin Ali, "Hukum Perdata Islam Di Indonesia Jakarta: Sinar Grafika," *Cet Ke-1*, 2006, h. 65.

Pakai), and lease rights (Hak Sewa).[13] The transfer of land rights operates as a legal mechanism enabling the substitution of the rights holder, while remaining consistent with and subject to the foundational principles of national land law.

Article 37, Paragraph (1) of Government Regulation Number 24 of 1997 regarding Land Registration[14] states that the transfer of land rights constitutes a legal action that results in the transfer of rights over land from the previous rights holder to another party.[15] The Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles (UUPA) stipulates that the rights to land that can be transferred include the following rights:

1. Right of Ownership (Hak Milik)
2. Right to Cultivate (Hak Guna Usaha / HGU)
3. Right to Build (Hak Guna Bangunan / HGB)
4. Right of Use (Hak Pakai)
5. Right of Lease (Hak Sewa)
6. Land rights encumbered with a mortgage, provided that the mortgage follows the land.[16]

In the context of acquiring land ownership under the UUPA, there are two methods through which this can occur: originarily and derivatively.[17] The originar acquisition of land ownership refers to the initial establishment of ownership rights according to customary law, government designation, and statutory provisions, as outlined in Article 22 of the UUPA.

1. Ownership rights to land arising under customary law

Ownership rights may arise through the opening of land (for example, clearing forest areas), which gives rise to what is termed *lidah tanah*. Land clearing is carried out collectively by members of an indigenous community under the leadership of the customary head.[18] The term lidah tanah refers to the natural expansion of land along rivers, lakes, or coastal areas. Such newly formed land is deemed to belong to the individual whose property borders the land concerned. Ownership rights established under customary law may subsequently be registered with the local land office.

2. Ownership rights to land arising by government determination

Ownership rights may also originate from state land. Such rights are granted upon application for land rights and are conferred through a Decree on the Granting of Rights (Surat Keputusan Pemberian Hak – SKPH) issued by the local land office.

[13] Ni Ketut Suartining and Benny Djaja, "Land Rights in the Land Law System in Indonesia According to the Basic Agrarian Law Number 5 of 1960," *Journal of Social Research* 2, no. 6 (2023): 1775–85.
[14] MATERIIL DITINJAU DARI, *Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah*, 1997.
[15] Raymond Talinbe Abdulai and Edward Ochieng, "Land Registration and Landownership Security: An Examination of the Underpinning Principles of Registration," *Property Management* 35, no. 1 (2017): 24–47.
[16] Undang-Undang Nomor, *Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria*, 5 AD.
[17] Urip Santoso, "Hukum Agraria Dan Hak-Hak Atas Tanah," *Jakarta: Prenada Media*, 2005, h. 96.
[18] Helen Akolgo-Azupogo et al., "Land Governance in Northern Ghana: Creating Communities of Practice between Tribal Leaders and the Government," *Land Use Policy* 107 (2021): 105493.

3. Ownership rights to land arising by statutory provision

Ownership rights may also arise by virtue of statutory provisions, particularly through the conversion of land previously held under customary tenure into ownership rights recognized under national agrarian law.[19]

The derivative acquisition of property rights involves a legal entity gaining ownership of land through methods like purchasing, trading, converting, or inheriting.[20] When legal proceedings arise related to these events, the ownership rights of the land are transferred or shifted from one legitimate legal entity to another.

In detail, the transfer of land rights is regulated under Article 20 paragraph (2) of the Basic Agrarian Law (UUPA), which stipulates that ownership rights may be transferred and conveyed to another party. The explanation of such transfers is as follows:

1. Transfer by Operation of Law

Transfer by Operation of Law refers to the transfer of land ownership rights from the holder to another party as the result of a legal event.[21] For instance, upon the death of the rights holder, ownership rights are, by law, transferred to the heirs who qualify as lawful subjects of ownership rights.

The procedure for registering the transfer of ownership rights by operation of law is governed by Article 42 of Government Regulation No. 24 of 1997 on Land Registration in conjunction with Articles 111 and 112 of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency (BPN) No. 3 of 1997 on the Implementation of Government Regulation No. 24 of 1997 on Land Registration.

2. Transfer by Legal Act

Transfer by legal act refers to the conveyance of ownership rights over land from the holder to another party as the result of a legal transaction.[22] Examples of such legal acts include sale and purchase, exchange, grant (hibah), contribution of land as capital in a company, and auction. The transfer of rights by legal act must be evidenced by a deed executed before a Land Deed Official (PPAT), except in the case of auctions, where it is substantiated by an Auction Minutes issued by the auction officer.

The procedure for transferring ownership rights by means of sale and purchase, exchange, grant, or capital contribution is regulated under Articles 37–40 of Government Regulation No. 24 of 1997 on Land Registration in conjunction with Articles 97–106 of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency (BPN) No. 3 of 1997. Meanwhile, the procedure for transfer of rights through auction is governed by Article 41 of Government Regulation No. 24 of 1997 in conjunction with Articles 107–109 of the same Ministerial Regulation.

[19] Adrian Sutedi, *Sertifikat Hak Atas Tanah* (Sinar Grafika, 2011), h. 65.
[20] Kartini Muljadi, *Seri Hukum Harta Kekayaan: Hak-Hak Atas Tanah*, Kencana, 2005, h. 85.
[21] Dani Ramdani Sukirman et al., "TRANSFER OF RIGHTS TO INDIVIDUAL OWNED LAND TO THE COMPANY," *JILPR Journal Indonesia Law and Policy Review* 6, no. 2 (2025): 217–28.
[22] Sukirman et al., "TRANSFER OF RIGHTS TO INDIVIDUAL OWNED LAND TO THE COMPANY."

The transfer of land rights in Islamic law refers to the provisions governing the movement of ownership rights over land from one party to another in accordance with the principles of sharīʿah. The foundational principle of Islamic law in the transfer of land rights rests upon the conception of ownership as a trust (amānah) from Allah (SWT), which must be exercised with due regard to justice, balance, and beneficial use, provided that such use does not conflict with the dictates of sharīʿah. The concept of transfer of land rights in Islamic law may take the following forms:

1. Voluntary transfer, which may take the form of sale, grant, or exchange.
2. Involuntary transfer, which may occur through inheritance or endowment (particularly where the transfer is carried out for the public interest pursuant to policy considerations.)

The transfer of land rights under Islamic law must satisfy certain procedural requirements, including the conclusion of a valid contract with clearly stipulated terms, as well as the presence of witnesses to the transaction,[23] in order to prevent disputes in the future.

B. The Legal Status of Land Acquired as Marriage Dower (Mahr)

The term mahr does not appear in Law No. 1 of 1974 on Marriage; however, the term is explicitly recognized in the Compilation of Islamic Law (Kompilasi Hukum Islam). Article 30 of the Compilation of Islamic Law stipulates that the prospective groom is obliged to provide a mahr to the prospective bride, the amount, form, and type of which are to be mutually agreed upon by both parties. In determining the amount of mahr, simplicity and ease are to be taken into consideration.

In Islamic law, mahr is regulated in several verses of the Qur'an, one of which is found in Surah al-Nisāʾ (4:4), which states:

وَاٰتُوا النِّسَاۤءَ صَدُقٰتِهِنَّ نِحْلَةً ۗفَاِنْ طِبْنَ لَكُمْ عَنْ شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوْهُ هَنِيْۤـًٔا مَّرِيْۤـًٔا

Translation :

"And give women 'you wed' their due dowries graciously. But if they waive some of it willingly, then you may enjoy it freely with a clear conscience." (Qur'an, al-Nisāʾ [4]:4)[24]

The mahr provided by the husband to the wife constitutes the wife's absolute personal right. Accordingly, when land is given as mahr at the time of the marriage contract (ijab qabul), it becomes the exclusive property of the wife. Nevertheless, from a juridical perspective, such land does not automatically vest full legal ownership in the wife. This is because, under prevailing land law, ownership of land as recognized by the National Land Agency (BPN) is determined by the name recorded on the land certificate. Consequently, a transfer of title procedure is required to perfect the wife's ownership rights.

The process of transferring the name on a land certificate given as mahr is intended to perfect the legal ownership of the land by the wife in accordance with prevailing land law.[25]

[23] HM Fauzan and MH SH, *Kaidah-Kaidah Hukum Yurisprudensi Norma-Norma Baru Dalam Hukum Kasus* (Prenada Media, 2017).
[24] Kementerian Agama Republik Indonesia, *Mushaf Al-Qur'an Dan Terjemah* (Jakarta: CV. Pustaka Jaya Ilmu, 2019), h. 77.

However, under the juridical framework, such a name transfer requires that a transfer of rights occur beforehand. This requirement is stipulated in Government Regulation No. 24 of 1997 on Land Registration, which provides that the transfer of rights over a strata title unit through sale and purchase, exchange, grant, capital contribution to a company, or other legal acts of transfer—except for transfers through auction—may only be registered if evidenced by a deed executed by a Land Deed Official (Pejabat Pembuat Akta Tanah / PPAT) authorized under the applicable laws and regulations. Accordingly, the transfer of land rights falls within the authority of the PPAT, who is empowered to draw up the land deed serving as the legal basis for such transfer. The types of deeds prepared by the PPAT as the basis for the transfer of rights include:

1. Deed of Sale and Purchase
2. Deed of Exchange
3. Deed of Grant
4. Deed of Capital Contribution to a Company
5. Deed of Partition of Joint Rights
6. Deed of Mortgage Granting
7. Deed of Granting of Right to Build over Ownership Land
8. Deed of Granting of Right of Use over Ownership Land

Pursuant to Government Regulation No. 24 of 1997 on Land Registration, as amended by Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Strata Titles, and Land Registration, as well as Ministerial Regulation No. 3 of 1997 on the Implementing Provisions of Land Registration, particularly Article 5 paragraph (1) as amended by Minister of Agrarian Affairs Regulation No. 16 of 2022 on the Delegation of Authority for the Granting of Land Rights and Land Registration Activities under Article 77, there exists a direct correlation with Article 2 paragraphs (1) and (2) of Government Regulation No. 37 of 1998, as amended by Government Regulation No. 24 of 2016 on the Amendment to Government Regulation No. 37 of 1998 concerning the Position of Land Deed Officials, which provides as follows:

(1) The principal duty of a Land Deed Official (PPAT) is to carry out certain activities of land registration by drawing up deeds as evidence of the performance of specific legal acts concerning land rights or ownership rights over strata title units, which shall serve as the basis for registering amendments to land registration data resulting from such legal acts.

(2) The legal acts referred to in paragraph (1) include: a. sale and purchase; b. exchange; c. grant; d. capital contribution to a company (inbreng); e. partition of joint rights; f. granting of right to build or right of use over ownership land; g. granting of mortgage rights; h. granting of power of attorney to encumber with mortgage rights.

Based on Government Regulation No. 24 of 1997 on Land Registration, Ministerial Regulation No. 3 of 1997 on the Implementing Provisions of Land Registration, and Government

[25] Dian Ekawati et al., "Prosedur Peralihan Kepemilikan Hak Atas Tanah Di Indonesia," *Community Service Journal* 2 (2021): 90–101.

Regulation No. 37 of 1998 as amended by Government Regulation No. 24 of 2016 concerning the Position of Land Deed Officials, as elaborated above, the legal status of land given as mahr is subject to the requirements of land registration, including the amendment of registration data or the transfer of land rights. Juridically, perfection of title cannot be effected merely through an application for registration or a request for transfer of rights in the juridical data of the land certificate. This is notwithstanding the fact that, under Islamic law, land received as mahr in marriage becomes the exclusive property of the wife upon delivery of the mahr by the husband to the wife at the time of the ijab qabul.

C. Legality of the National Land Agency (BPN) of Makassar City in the Transfer of Land Rights as Matrimonial Dowry

Land rights constitute a form of control encompassing a series of authorities, obligations, and/or prohibitions vested in the right holder with respect to actions over the land in their possession.[26] Within the framework of agrarian law, land rights are defined as rights of control over land, comprising a set of authorities, obligations, and/or prohibitions conferred by the State. Pursuant to the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) No. 18 of 2021 concerning Procedures for the Establishment of Management Rights and Land Rights, land rights are described as rights arising from a legal relationship between the right holder and the land, including the space above the land and/or the subsurface space, granting entitlement to control, own, use, utilize, and maintain the land, the space above it, and/or the subsurface space. Accordingly, land rights confer upon the holder the authority to make use of and derive benefit from the land in question, while simultaneously imposing a series of authorities, obligations, and/or prohibitions as determined by the State.

The right of control constitutes a legal relationship involving the actual physical dominion over an object, thereby enabling its holder to use or otherwise benefit from it in accordance with their own interests.[27] The concept inherently encompasses the element of physical supervision or oversight over the controlled object. One of the principal features of the right of control is the authority to safeguard such rights against interference by third parties. The terms control and to control may be understood both in a physical sense and in a juridical sense. Juridical control is grounded in rights recognized and protected by law, which generally entitle the right holder to exercise physical possession over the land. The National Land Agency (BPN) functions as the state authority vested with the mandate to determine and guarantee legal certainty regarding control and entitlement to specific parcels of land, as evidenced by the issuance of land certificates.

The National Land Agency (BPN), as the state institution responsible for land administration in Indonesia, holds a central role in ensuring the legality of land rights transfers. This role is grounded in various national agrarian regulations, including statutes, government regulations, and technical regulations. The duties and functions of BPN in relation to land rights transfer are based on the prevailing legislative framework, as follows:

[26] Ratna Nur Pratiwi and FU Najicha, "Mengenal Macam-Macam Hak Atas Tanah Di Indonesia Sesuai Dengan UUPA," *Jurnal Hukum, Surakarta* 4, no. 2 (2023).
[27] Irawan Soerodjo, *Hukum Pertanahan Hak Pengelolaan Atas Tanah (HPL): Eksistensi, Pengaturan, Dan Praktik* (Laksbang Mediatama, 2014).

1. Law No. 5 of 1960 concerning Basic Agrarian Principles, Article 19, which regulates land registration to provide legal certainty regarding land rights. Pursuant to this mandate, The National Land Agency (BPN) is tasked with conducting land registration, performing measurement, mapping, and recording of land, as well as issuing land certificates.
2. Government Regulation No. 24 of 1997 concerning Land Registration, Article 2, which mandates land registration to guarantee legal certainty over land parcels. Under this provision, The National Land Agency (BPN) functions to carry out systematic or sporadic land registration, manage national land administration, and maintain cadastral maps and ownership records.
3. Presidential Regulation No. 20 of 2015 concerning the Ministry of Agrarian Affairs and Spatial Planning/The National Land Agency (BPN), Article 2, which assigns responsibility for administering governmental affairs in the field of agrarian/land affairs and spatial planning.
4. Regulation of the Minister of Agrarian Affairs and Spatial Planning/The National Land Agency (BPN) No. 35 of 2016 concerning the Organization and Working Procedures of the Ministry of ATR/The National Land Agency (BPN), Article 3, which provides authority to manage land affairs, including land registration, dispute resolution, and agrarian reform.[28]

From the foregoing regulations, it is evident that the principal mandate of the National Land Agency (BPN) is to administer land registration and to provide legal certainty in accordance with the applicable laws and regulations.

Based on the foregoing provisions, the National Land Agency (BPN), as the state authority competent in matters of land rights transfer, remains subject to various regulations, particularly those concerning the administrative aspects of such transfers. One of the most critical components of the transfer of land rights is compliance with Law No. 28 of 2009 on Regional Taxes and Regional Levies. Its relevance to the transfer process lies in the Duty on the Acquisition of Land and Building Rights (Bea Perolehan Hak atas Tanah dan Bangunan – BPHTB), a regional tax which constitutes a mandatory requirement for obtaining land rights at the National Land Agency (BPN) in cases of transfer by sale and purchase, grant (hibah), or inheritance.

Another key provision is Government Regulation No. 24 of 1997 on Land Registration, Article 37, which stipulates that the transfer of land rights must be registered with the National Land Agency (BPN) and substantiated by a deed executed by a Land Deed Official (PPAT). In addition, Government Regulation No. 34 of 2016 on BPHTB, Article 11, prescribes that settlement of the BPHTB must be completed prior to the signing of the transfer deed by the PPAT. Similarly, Article 19 of the Basic Agrarian Law (UUPA) provides that land registration and the transfer of land rights may only proceed once all tax obligations relating to the land object have been fulfilled. Furthermore, Article 9 of Minister of Finance Regulation No. 91/PMK.03/2015 on the Procedures for BPHTB Payment establishes that BPHTB settlement constitutes an administrative prerequisite for the execution of the PPAT deed, which in turn serves as a

[28] Nur Hayati, "Peralihan Hak Dalam Jual Beli Hak Atas Tanah (Suatu Tinjauan Terhadap Perjanjian Jual Beli Dalam Konsep Hukum Barat Dan Hukum Adat Dalam Kerangka Hukum Tanah Nasional)," *Lex Jurnalica* 13, no. 3 (2016): 147934.

mandatory requirement for the lawful registration of the transfer at the National Land Agency (BPN).

Accordingly, it can be concluded that the payment of the BPHTB by the applicant is a crucial element in the transfer of land rights. The BPHTB payment is a prerequisite for the signing of the deed by the PPAT, and the PPAT deed itself is an essential condition for the transfer to be validly recorded at the National Land Agency (BPN).

In the context of Makassar City, the applicable BPHTB rate for land transfers by way of hibah is regulated under Regional Regulation of Makassar City No. 1 of 2024 on Regional Taxes and Regional Levies. Articles 43(1), 43(5), and 44 provide that the taxable amount is based on the Tax Object Acquisition Value (Nilai Perolehan Objek Pajak – NJOP), with a Non-Taxable Acquisition Value (Nilai Perolehan Objek Pajak Tidak Kena Pajak – NPOPTKP) of IDR 80,000,000 (eighty million rupiah), and a tax rate of 5% (five percent).

For illustrative purposes, in the case of a land transfer by grant (hibah) with an NJOP of IDR 694,152,000 (six hundred ninety-four million one hundred fifty-two thousand rupiah), the BPHTB payable, as calculated by the Makassar City Government, amounts to IDR 30,707,600 (thirty million seven hundred seven thousand six hundred rupiah). This figure, however, does not represent the entirety of expenses incurred by the transferee in seeking juridical amendment of the land certificate obtained as matrimonial dowry, as additional costs include PPAT deed services and preliminary administrative procedures prior to the registration of the transfer.

4. CONCLUSION

Based on the findings of this study, it may be concluded that the *mahr* (dowry) constitutes the absolute property of the wife, given voluntarily and received unconditionally. The same principle applies where the *mahr* takes the form of land. However, since the National Land Agency (BPN) is the authority vested with competence over the legality of land ownership, and given that the existing regulatory framework does not explicitly recognize the transfer of land rights as *mahr* in marriage, the wife does not acquire juridical ownership rights over such land. The *mahr* in the form of land may only be transferred through the mechanism of a grant (*hibah*), which itself is subject to additional legal and administrative requirements. The relatively high costs associated with this process constitute a significant factor that undermines the voluntary nature of giving and receiving land as *mahr*. In light of these findings, it is recommended that the National Land Agency (BPN) consider establishing a regulatory framework, or collaborating with relevant stakeholders, to provide a legal pathway for the transfer of land rights acquired as *mahr* in marriage.

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