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PROPERTY RIGHTS TO A MOTOR VEHICLE FROM THE THEORY OF LEGITIMACY PERSPECTIVE

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Abstract. Property rights are included in the scope of civil law, including ownership rights to motorized vehicles as movable objects. However, the status of civil ownership rights needs to be clarified and reaffirmed in line with the existence of motor vehicle administration policies. Based on civil law provisions, ownership rights to an item can be recognized if the owner can prove ownership according to law. The most prominent object/zaak in civil law is the division of movable and immovable objects. Motorized vehicles are included in movable objects because ownership is easily transferred. It will have an impact on his property rights. Ownership rights to motorized vehicles through bezit/control are not sufficient for the principle of bezit which is understood by the term '*the position of controlling or enjoying an item controlled by oneself or through the intermediary of another person as if the item were one's own*'. However, for motorized vehicles, proof of documentation is required, because motorized vehicles are movable objects and are registered in traffic regulations and local tax levies. A new policy that upholds civil property rights is needed so that people's property rights to objects such as motor vehicles are lost due to arbitrary tax administration.

Keywords: *property rights, motorized vehicles, traffic, registered, civil law.*

Rezumat. Drepturile de proprietate sunt incluse în domeniul de aplicare al dreptului civil, inclusiv drepturile de proprietate asupra vehiculelor motorizate ca obiecte mobile. Cu toate acestea, statutul drepturilor de proprietate civilă trebuie clarificat și reafirmat în conformitate cu existența politicilor de administrare a vehiculelor cu motor. Pe baza prevederilor dreptului civil, drepturile de proprietate asupra unui bun pot fi recunoscute dacă proprietarul poate dovedi proprietatea conform legii. Cel mai important obiect/zaak în dreptul civil este divizarea bunurilor mobile și imobile. Vehiculele motorizate sunt incluse în categoria obiectelor mobile, deoarece proprietatea este ușor transferabilă. Acest lucru va avea un impact asupra drepturilor sale de proprietate. Drepturile de proprietate asupra vehiculelor motorizate prin bezit/control nu sunt suficiente pentru principiul bezit, care este înțeles prin termenul „*poziția de a controla sau de a beneficia de un bun controlat de sine sau prin intermediul*

unei alte persoane, ca și cum bunul ar fi al său". Cu toate acestea, pentru vehiculele motorizate, este necesară dovada documentelor, deoarece vehiculele motorizate sunt obiecte mobile și sunt înregistrate în regulamentele de circulație și în taxele locale. Este necesară o nouă politică care să susțină drepturile de proprietate civilă, astfel încât drepturile de proprietate ale oamenilor asupra obiectelor, cum ar fi vehiculele cu motor, să fie pierdute din cauza administrării fiscale arbitrare.

Cuvinte cheie: *Drepturi de proprietate, vehicule motorizate, trafic, înmatriculare, drept civil.*

1. Introduction

Property rights in Indonesian law are closely related to civil law. So material rights are also known as civil rights. There are absolute and relative civil rights. Absolute rights provide direct power and can be maintained by anyone. Meanwhile, relative rights provide limited power and can only be defended against other parties in a legal relationship. Property rights are also civil rights regulated in Book II of the Civil Code or *Burgelijk wetboek* [1]. The rights of an object are usually called material rights (*zakelijkrecht*). Property rights give direct power over objects and can be maintained by anyone. The right of objects is a set of norms that regulate the legal relationship between people (legal entities) and the objects, such as motorized vehicles are property rights objects, it may create rights (*zakelijkrecht*). Property rights give direct power to the owner regardless of where the object is located [2].

Property rights have several characteristics. The first is absolute, it is controlled freely and defended against anyone; for example, property rights and copyright. Second, *zaak gevolg* or *Detroit de suite* is to follow the object rights to which those are attached. For example, the right to rent, the right to collect profits, and to follow the object whoever the object is. Third, the first level is higher, for example, if a mortgage is attached to a house, then the next mortgage is attached, so the position of the first mortgage is higher than the second mortgage. Fourth, priority is given, for example, mortgage rights on a house, if the owner of the house goes bankrupt, then the mortgage gets priority for settlement without regard to the effects of bankruptcy. Fifth, the right to sue can be exercised against anyone who disturbs the object to defend it. Sixth, property rights can be transferred to anyone. Seventh, Giving direct control over objects [3].

Several experts explain the rights to objects. Sri Soedewi Masjchoen Sofwan said that property rights (*zakelijkrecht*) are absolute rights to an object, where this right gives direct power over an object and can be maintained against anyone [4]. According to van Apeldoorn, material rights are property rights that provide direct power over an object, direct power means a direct relationship between people and the object [5]. According to Subekti, a material right (*zakelijk recht*) is a right that gives direct power over an object, the power of a name can be maintained over every person [6].

Regarding ownership rights to objects, in the civil law system in Indonesia, there is a closed ownership system, a person cannot have substantive rights (*zakelijrecht*) other than those regulated by Book II *Burgelijk Wetboek*, other governing law, or customary law. Therefore, people can only have substantive rights as determined by law. In other words, the number of substantive rights is limited to what is regulated by law. This is different from contract law, which adheres to an open engagement system. That is, someone can exercise personal rights (*personalrecht*) other than those limited by law. In this open system, everyone is free to enter into agreements that may or may not lead to legal relations, whether regulated by law or not. This means that the number of individual rights is not limited to the number

determined by law as long as it does not violate, public order and morality. Everyone can exercise their rights based on a collective agreement [3].

Based on these two systems, a person cannot arbitrarily revoke material legal provisions regulated by law, but only with mutual consent. This means that everything that is determined by law as an object has substantive rights in itself, and cannot be contested, eliminated, or voluntarily exceeds what is determined by law or at another's will. In other words, a property right is an absolute right that gives direct power over an object that can be maintained by every person and has an inherent nature, including in this case over motorized vehicles based on the basic concept of property rights in civil law.

Objects or *zaak* according to civil law as stated in Article 499 of the Civil Code are anything that can become an object of property rights. Objects (*zaak*) can have various meanings, namely; objects as legal objects (Article 500 of the Civil Code), objects as interests (Article 1354 of the Civil Code), objects as legal facts (Article 1263 of the Civil Code), objects as legal acts (Article 1792 of the Civil Code). So what can become an object of property rights can be goods and be in the form of rights, such as copyrights, patent rights, etc. Based on this description, regarding rights to objects which have been divided into various types of objects, the most important thing is the distinction between movable and immovable objects, as well as the difference between registered and unregistered objects. This also includes rights that may accompany, especially rights to registered movable objects such as motorized vehicles as one of the objects in civil law [4].

2. Research methods

This research is normative research methods; namely legal research carried out by examining library materials (such as laws and other legal references). It is then called Library Law research [7]. Using this type of research, the author intends to analyze, understand, and explain property rights to motorized vehicles as registered movable objects from a civil law perspective. This research uses a statutory approach because the main data material is statutory regulations such as the Civil Code and other statutory regulations along with other references related to the regulation and explanation of rights and objects, especially registered movable objects such as motorized vehicles.

Material rights are absolute rights which in some discussions are also confused with relative rights, however, both rights are still within the scope of civil law. Absolute rights consist of; personality rights, for example, the rights to one's name, life, liberty, rights in family law, such as rights arising from the husband and wife relationship, a person and a child relationship; as well as absolute rights over an object, this is what is called material rights. Then experts call relative rights, relative rights, or personal rights, namely all rights that arise because of a debt relationship that can only be maintained temporarily [4].

Property rights have several main characteristics compared to individual rights. These characteristics include [8]:

1. Property rights are absolute rights, which can be defended against anyone, not only contract partners but also other parties who may be involved in it in the future. For example, material rights, such as ownership rights to an object such as a movable object, especially a motorized vehicle, the owner can claim wherever the object is located with the rights granted by law, namely the Right of Revindication (Article 574 *Burgerlijk Wetboek*). This is different from individual rights or relative rights which can only be enforced by certain parties.

2. Property rights have zaaksgevolg or droit de suit (following rights), these rights follow the object to whoever the object is. So property rights are attached to the object, if the object changes ownership then the person concerned is obliged to respect it.
3. Property rights apply the principle of priority; it means that property rights that exist first will take priority over those that come after. In this way, the existence of this right plays an important role, because those who are born first will be paid, while those who are later have to wait for those who are ahead of them.
4. Material rights have droit de preference (prior rights), this preference is regulated in Article 1133 *Burgerlijk Wetboek*, that the party who has these material rights in terms of repayment must have priority, immediately if the goods which are the object of these rights are sold at auction.
5. A lawsuit against property rights is called a property lawsuit. In this right, people have various requests (actie) if there is interference with their rights, for example, re-prosecution, a lawsuit to eliminate interference with their rights, or a lawsuit for restoration to its original state. As is the right that an owner has by suing for revindication based on Article 574 *Burgerlijk Wetboek*.

Apart from that, material rights also have basic principles, including:

1) The principle of a closed system, property rights have a closed system. It means that rights to objects are limitative, limited to those regulated by law.

2) Principle of rights following objects (zaaksgevolg, droit de suite), This principle says that property rights follow the object wherever and whoever the object is.

3) Publicity principle, publicity (openbaarheid) is the "announcement" ownership status in public. The announcement of rights to fixed objects (land) occurs through registration in the land book, while the announcement of movable objects occurs through actual control of the object.

4) The principle of specialization, in the institution of individual land ownership rights, must indicate the shape, boundaries, location, the land area. This principle is found in the rights (ownership, business use, building use) of fixed objects.

5) The principle of totality, ownership rights are only placed on the object in its totality. In other words, rights cannot be placed only on parts of objects. The owner of a building is automatically the owner of the frames, windows, doors, and tiles of the house.

6) Accessie principle, from this principle arises the attachment principle (accessie). An object usually consists of parts that are attached to one main object, such as the connection between a building and roof tiles, frames, doors, and windows.

7) The principle of horizontal separation, *Burgerlijk Wetboek* recognizes the principle of vertical attachment in Articles 571, 600, 601, 603, 604, and 605 while act no. 5 of 1960 concerning the Basic Agrarian Law adheres to horizontal separation taken from the principles of customary law.

8) The principle of can be given, Ownership rights contain the authority to give objects.

9) The principle of protection is, the protection of parties who have good intentions even if the handover is a party without the rightful authority (beschikkings on bevoegd), as regulated in Article 1977 paragraph 1 *Burgerlijk Wetboek*.

10) Absolute principle (coercive law), the provisions governing property law are absolute, which means that property rights must be respected and obeyed by everyone [9].

3. Results and Discussion

3.1. Property rights, types of objects, and how to obtain and remove according to civil law

In general, there are several ways to obtain property rights based on civil law provisions, including [1]:

1. **Confession.** Objects whose owner is unknown (*res nullius*). Then it is recognized by someone who gets it, then they are considered the owner.
2. **Discovery.** An object that is separated from its owner, for example, if it falls while traveling, if someone finds the object and he does not know who the owner is, then that person becomes the owner of the item he found.
3. **Handover.** Property rights are obtained through handover based on certain rights (*rechts Titel*), such as sale and purchase, lease, gift, inheritance, etc. By handing over the title passes to the person to whom the object is handed over.
4. **Expired.** Anyone who controls a movable object for which he does not know the owner of the object (for example because he found it), then ownership rights to the object are obtained after 3 years have passed since that person took possession of the object. For immovable objects, the expiration date is: 1). If there is a 20-year rights pad; 2). If there is no title pad, 30 years; 3). Through Inheritance, property rights can be obtained based on applicable inheritance law, customary law, Islamic law, or Western law.
5. **Creation.** A person who creates a new object, either from an existing object or completely new, can obtain ownership rights to the object he created.
6. **By following/deriving.** For example, if someone buys a pregnant cow and then the cow gives birth, then the owner of the cow has the right to the new calf.

About material rights, *Burgerlijk Wetboek* divides them into two types of material rights, based on their nature, namely:

1) Material rights that provide enjoyment consist of property and *bezit* rights, the right to harvest, and the right to use and inhabit.

2) Material rights that provide collateral consist of Pawn, Fiduciary, Mortgage, Mortgage, and Warehouse Receipt System. Apart from these material rights, Book II of the Civil Code also regulates other rights but they are similar to material rights because they provide guarantees, such as privileges, retention rights, and advertising rights. Based on this, there are various ways to obtain material rights that provide enjoyment, depending on the type of object [10].

a. *Bezit* Rights

Subekti said that *bezit* is a birth circumstance, that a person authorizes an object as if it were his own, which is protected by law, regardless of who the object belongs to [2]. In the Civil Code, *bezit* is translated as a position of authority, namely the position of a person controlling an object, either by himself or through another person, and who maintains or enjoys it as the person who owns the object (Article 529 of the Civil Code). From this definition, *bezit* is the right of a person who controls an object, either directly or through the intermediary of another person, to act as if the object were his own. For a *bezit* to exist, the conditions must be met, namely:

1. For a corpus, the object and the person in question must be related.
2. For an animus, the relationship between a person and an object must be desired by

that person.

Thus, for bezit must have two elements namely authority and the determination to possess something. In this case, bezit is differentiated from "detentie", where someone governs an object according to a certain legal relation to someone else (the owner of that object). So, a "detentor" has no desire to have the object for himself. Bezit's functions include [6]:

1. *Polisionil* function, this means that bezit gets legal protection, regardless of who the object belongs to. So, anyone who uses an object will receive protection from the law until it is proven that he or she does not have the right to the object. Thus, for those who feel their rights have been violated, they must ask for a solution through the police or court.
2. *Zakenrechtelijk* function, this means that a bezitter has owned an object and has been operating for a certain period without any protest from the previous owner, then the bezit turns into property rights through a verjaring institution (after time/expiration).

How to get bezit; According to Article 538 of the Civil Code, ownership of an object is obtained by carrying out an act of withdrawing the object into one's control, to retain it for oneself. According to Article 540 of the Civil Code, there are two ways to obtain bezit, namely:

1. Through occupation (taking objects) means obtaining bezit without help from the person who took bezit first. So bezit is obtained because of his act of taking the goods directly.
2. Through tradition (passing) means obtaining bezit with the help of the person who made bezit first. So bezit is obtained due to handover from other people who have mastered it first.

Apart from these two methods, bezit can also be obtained by inheritance. According to Article 541 of the Civil Code, everything bezit which is the bezit of a person who has died passes to his heirs with all their characteristics and defects. According to Article 593 of the Civil Code, people with memory problems cannot obtain bezit, but minor children and married women can obtain bezit. Meanwhile, regarding the removal of bezit; people can lose bezit if [10]:

1. Power over the object is transferred to another person, either by handing it over or being taken by another person.
2. The object under his control has been abandoned.

Then based on Article 542 to Article 547 of the Civil Code, the bezit is abolished, because:

1. The object has passed into someone else's hands.
2. The object has been abandoned.
3. Destruction of objects.
4. Loss of objects, because they have been taken by someone else or stolen.

b. Proprietary/ *eigendom*

It is explained in Article 570 of the Civil Code, which states that proprietary is the right to enjoy and freely control an object, so long as it doesn't contravene any laws or general rules issued by the relevant agencies so long as it doesn't infringe upon the rights of others, reduces the likelihood that such rights could be revoked in the public interest, pays fair remuneration, and complies with legal requirements. This means that property rights give their owners two fundamental rights, namely:

- 1) The right to take pleasure in using a thing, and

- 2) The right to exercise complete freedom over the object, which means that the owner is free to sell, give away, or hand over the object to anyone, so long as it doesn't clash with any provisions that compel or violate the public interest or the rights of other people. This also includes encumbering, placing other property rights, pledging, or using the object as collateral for a debt.

The characteristics of proprietary as material rights, proprietary are the most perfect right, which has the following characteristics:

- 1) Proprietary is the parent of other property rights, while other Proprietary is children of property rights.
- 2) Proprietary in terms of quality are the most complete rights.
- 3) Proprietary is permanent, they will not disappear in the face of other material rights, while other material rights can disappear if they encounter property rights.
- 4) Proprietary rights are the most basic (main) rights, while other material rights are only part of property rights.

How to obtain ownership rights based on Article 584 of the Civil Code, there are 5 ways to obtain ownership rights to objects, namely[11]:

- 1) Ownership/claim (articles 585, 586, and 587 of the Civil Code).
- 2) Attachment (articles 500 to 502 and articles 586 to 609 of Civil Code).
- 3) Overdue/expired (article 610 of Civil Code, and regulated book IV article 1955 jo article 1963 and article 1967 of Civil Code).
- 4) Inheritance (article 611).
- 5) Handover/ *levering* (article 612, 613, 616 Civil Code, see also Article 1459 of the Civil Code).

How to hand over ownership rights:

- 1) For tangible movable objects (Article 612 of the Civil Code).
- 2) For intangible movable objects (Article 613 of the Civil Code).
- 3) For immovable objects (Article 616 of the Civil Code).

c. The right to collect (use) the proceeds (*vruchtgebruik*)

Article 756 of the Civil Code explained about collect profits right is a material right to take profits from other people's property, as if they were the owner, with the obligation to maintain the property as well as possible. According to Article 759 of the Civil Code, the right to collect profits can be obtained by law or because of the owner's will. Meanwhile, the abolition of the right to collect proceeds as regulated in Article 807 of the Civil Code is:

- 1) Because the owner died.
- 2) Because the period for the right to collect the proceeds has expired or the conditions for that right have been fulfilled.
- 3) Because the rights holder changes to the owner (due to mixing).
- 4) Because the right holder waives his rights.
- 5) Because time has passed.
- 6) Because the object is destroyed:
 - a) Rights of use and occupancy.
 - b) Right to encumber yard/services.
 - c) The right to own buildings or plants on someone else's land/ postal.
 - d) The right to take other people's land income by paying money or income every year/*erfpacht*.

e) Land interest rights and one-tenth yield.

Then Article 818 of the Civil Code determines that use and occupancy rights are acquired and terminated like usufructuary rights. The right to use is the same as the right to occupy. The term right of residence is used for objects such as houses (Article 826 of the Civil Code). Meanwhile, the right to inhabit cannot be handed over or rented to another person (Article 827 of the Civil Code).

Usage rights are differentiated between movable and immovable goods. The right to use movable property is regulated in Book II of the Civil Code. In contrast, the right to use immovable property (land) is regulated in basic agrarian law No. 5 of 1960. According to the Civil Code, the right to use does not include a mortgage object (Article 1164 of the Civil Code), because the right to use is not a material right. Usage rights are individual rights and cannot be transferred without the owner's consent.

Table 1

The existence of Property Rights by Providing Enjoyment		
No	Kinds of Objects	How to obtain
1	Tangible moving objects	Article 612 paragraph 1 <i>Burgerlijk Wetboek</i> is done by giving actually or giving from hand to hand.
2	Intangible moving objects	a) Delivery of Aan toonder's receivables is regulated in Article 613 paragraph 3 <i>Burgerlijk Wetboek</i> carried out by actual delivery, for example paper Money. b) Delivery of receivables (bordering op naam (on behalf of) regulated in Article 613 paragraph 1 <i>Burgerlijk Wetboek</i> is carried out by cassie, namely making an authentic deed or private deed. c) Delivery of receivables from an order is regulated in Article 613 paragraph 3 <i>Burgerlijk Wetboek</i>, carried out by handing over the letter and dissertation with endorsement (writing on the back of the receivable letter stating to whom the receivable is transferred), for example, a money order, check.
3	Property rights to immovable objects (land rights)	Since the juridical handover (transferring of ownership) was carried out, the sale and purchase deed was signed before the Land Titles Registrar.
4	Bezit of moving objects	Real control in good faith, namely such as having an appropriate price as a sacrifice, so that it receives protection from Article 1977 paragraph 1 <i>Burgerlijk Wetboek</i> .
5	Bezit of immovable objects (land rights)	The provisions of Article 1977 paragraph 1 <i>Burgerlijk Wetboek</i> do not apply to immovable objects.

By the provisions of Article 1131 of the Civil Code, collateral covers all existing and new assets of the debtor that will exist in the future. Thus, without the need for a special agreement, these objects become collateral for all of the debtor's debts.

Thus, the concept of publicity governs the emergence of tangible rights that offer guarantees, specifically through registration at the Registration Office.

Specifically for the birth of property rights at a pawn guarantee institution, there are no provisions regarding registration, and material rights at a pawn guarantee institution arise when the object is handed over to a third party [12].

Table 2

The existence of property rights that provide guarantees		
No	Guarantee Agency	The existence of property rights
1	Pawn	When the pawned object is handed over to the creditor or third party. This is a manifestation of the principle of inbezitstelling [13].
2	Mortgage of a ship weighing 20 m ³	Registration is carried out with the Registrar and Transfer of Name Registrar Officer at the place where the ship is registered and recorded in the Master Register of Ship Registration [14].
3	Mortgage right	The existence of a mortgage right based namely on the date of the land mortgage book as referred to in paragraph 4. The land mortgage book date is the seventh day after complete receipt of the documents required for registration [15].
4	Fiduciary	States that it is born on the same date as the date the fiduciary guarantee is recorded in the Fiduciary Register Book [16].

The abolition of property rights in civil law occurs in the following ways [2]:

- 1) The object is destroyed,
- 2) Because an object is destroyed, the rights to that object also disappear,
- 3) Due to transfer,
- 4) Ownership rights, the right to collect profits, or the right to use are extinguished if the object is transferred to another person,
- 5) Due to waiver of rights,
- 6) Due to expiration.

The expiry date for immovable property is generally 30 years (there is a legal basis), while for movable property is 3 years.

d. Due to Revocation of Rights

Public authorities can revoke a person's ownership rights over certain objects, by fulfilling conditions based on a law and carried out in the public interest (with appropriate compensation). Related to objects/zaak within the scope of civil law is divided into several types of objects, including [17]:

1. Tangible and intangible objects as regulated in Article 503 of the Civil Code.
2. Movable and immovable objects in Article 504 of the Civil Code.
3. Objects can be used up and cannot be used up in Article 505 of the Civil Code.
4. Objects that already exist and objects that will exist in Article 1334 of the Civil Code.
5. Objects in trade and outside trade Articles 537, 1444 and 1445 of the Civil Code.
6. Objects that can be divided and cannot be divided Article 1296 of the Civil Code.
7. Registered and unregistered objects are regulated separately in the Mortgage and Fiduciary Rights Law.
8. Objects in the name and not in the name of Article 613 of the Civil Code in the form of basic agrarian law and PP No.24 of 1997 concerning Land Registration.

According to Prof. Soediman Kartohadiprodjo, objects are all tangible goods and rights except property rights. According to Prof. Sri Soedewi Masjchoen Sofwan, the definition of objects is tangible items that can be captured with the five senses, but intangible items include objects too. Prof. Subekti said that objects (*zaak*) are everything that people can judge, and in the narrow sense are things that can only be seen. According to Prof. L.J. van Apeldoorn, according to juridical law, an object is an object of law. The essence of objects (*zaak*) is an essence given by objective law [10]. The division of objects according to these experts into tangible objects and intangible objects; means tangible objects such as land, motor vehicles, and the like. Conversely, intangible assets like patents and copyrights are governed by a different statute rather than the Civil Code, namely in the IPR Protection Law (Intellectual Property Rights) [17].

3.2. Ownership rights to motorized vehicles as movable objects are registered based on the theory of legitimacy

Burgelik Wetbook recognizes the division of many types of objects, but in the development of society, there is a tendency to increase the division of these objects with other new types, namely registered objects and unregistered objects. This has been very important since the *Burgerlijk Wetboek* codification event. Based on the division of various objects in *Burgerlijk Wetboek*, the important and prominent division of objects is the division of movable and immovable objects; because the division brings different legal consequences. In the *Burgerlijk Wetboek*, there is sufficient detail regarding the division of types of objects, but in reality development, there is a need to add new divisions of objects other than those already known in the *Burgerlijk Wetboek*, namely the existence of registered objects and unregistered objects which until now have not been regulated in The *Burgerlijk Wetboek* [4].

This was said by Sri Soedewi that Continental European countries since the Roman Law reception still attach importance to the distinction between movable and immovable objects. Although the importance of the difference between registered and unregistered objects is starting to be recognized/ register goederen en nietregister goederen. Then in Indonesia, the division of objects became known after *Burgerlijk Wetboek* was codified and enforced. Objects that must be registered are regulated in various separate regulations such as regulations on land registration, regulations on ship registration, regulations on motor vehicle registration, and so on [18].

Meanwhile, the difference between immovable and movable objects is important, namely because there are special provisions that apply to each class of objects, for example, regulations regarding the following matters [19]:

a. Regarding bezit rights

Related to bezit regarding movable objects, there is a provision in Article 1977 paragraph (1) *Burgerlijk Wetboek* which determines that anyone who controls movable objects is considered to be the owner. So the bezitter of a moving object is the eigenaar of that moving object. This is not the case with immovable objects. Anyone who controls a movable object cannot be considered the owner of the immovable object.

b. Regarding charges (*bezwaaring*).

Regarding encumbrances on movable objects, a pawn guarantees institution (*pand*) must be used, while for immovable objects a hypothec guarantee institution must be used

(Article 1150) and Article 1162 *Burgerlijk Wetboek*). In particular, regarding the transfer of ownership rights to land, after it is a permanent jurisprudence, the transfer of ownership rights occurs at the time the sale and purchase deed is made in advance of the PPAT, so not after the transfer of name.

c. Regarding handover (*levering*).

Regarding handover (*levering*), Article 612 *Burgerlijk Wetboek* determines that the handover of movable objects can be done by actual handover, while the handover of immovable objects, according to Article 616 *Burgerlijk Wetboek*, must be done by transferring the name on the general list.

d. Regarding expiration (*verjaring*).

Expiration (*verjaring*) for movable objects is not known to expire because *bezit* is the same as *eigendom*, while immovable objects are about expiration. A person can obtain property rights because it has passed 20 (twenty) years (in the case of a legal basis of rights) or 30 (thirty) (in the case of no rights) which is called “*acquisitive verjaring*”.

e. Regarding confiscation (*beslag*).

Revindication *beslag* is a confiscation to reclaim a movable object belonging to the applicant that is under the control of another person. *Beslag* revision is not possible for immovable objects. Then executory *beslag* is a confiscation carried out to implement a court decision. If the price of the movable objects is deemed insufficient to pay the debt owed to the creditor, then execution is carried out on the immovable objects, Table 3.

Table 3

Difference between movable and immovable objects		
How to get	Movabe objects	Immovable objects
Domination / <i>Bezit</i>	This can be done through <i>Bezit</i>	Cannot
Imposition/ <i>Bezwareing</i>	Through pawning, fiduciary, etc.	Through a mortgage
Handover/ <i>Levering</i>	It's real / <i>hand to hand</i>	Through a formal process in line with the provisions of Article 19 basic agrarian law
Expiring / <i>Venzaring</i>	Cannot	Through venturing
Confiscation/ <i>beslag</i>	<i>Executoir</i> (especially movable objects whose value does not cover the debt owed)	<i>Executor beslag</i> / must pass a court decision.

Registered objects are objects registered in a general register managed by an authorized agency. Unregistered objects are objects that are not registered in a general register. Registered objects tend to follow the rules of the immovable object game. This means that the difference between registered and unregistered objects lies in proving ownership. Registered objects are proven by proof of registration, which generally takes the form of a certificate or document in the name of the owner, such as motor vehicles, land, copyright, and so on [20]. One of the purposes of objects that must be registered, such as motorized vehicles, is to make it easier for the Government to exercise control, both in terms of orderly administration of ownership and payment of taxes. Meanwhile, for unregistered objects, it is difficult to know the legal owner of the object is, because the principle applies 'whoever controls the object is considered the owner' [18].

Based on their nature, motorized vehicles, within the scope of civil law studies regarding property, are included in movable objects which are also registered. Civil law, as stipulated in Burgerlijk Wetboek and the Civil Code, does not regulate gambling-registered objects like other types of objects. However, civil law in principle has given recognition to registered objects such as motorized vehicles, one of which is through the principle "as long as it is regulated in law", so concerning motorized vehicles in civil law they are considered moving objects because of their nature as well as registered objects because There is already a law that regulates that motorized vehicles must be registered, namely based on the tax law and the traffic and road transport law [21].

Based on Article 1 number 7 of Law Number 22 of 2009 concerning Road Traffic and Transportation, called Traffic and Road Transport Laws, A vehicle is a kind of transportation on the road that includes both motorized and non-motorized vehicles. Meanwhile, what is meant by motorized vehicles as explained in Article 1 number 8 Traffic and Road Transport Laws is any vehicle, excluding rail-driven vehicles, that is powered by mechanical devices such as an engine. Also based on Chapter VII concerning vehicles, types of motorized vehicles are divided into Article 47 (1) Law Number 22 of 2009 about Traffic and Road Transport Laws 'motorized vehicles and non-motorized vehicles'. Article 47 (2) Law Number 22 of 2009 about Traffic and Road Transport; Regarding the types of motorized vehicles are divided into several types, including; motorcycles, buses, passenger cars, cargo trucks, and other special vehicles. Then based on Article 47 (3) Law Number 22 of 2009 concerning Road Traffic and Transportation, motorized vehicles are grouped based on their function, namely individual and public.

Motor vehicles, as regulated in tax law, are all types of wheeled vehicles used on land roads and moved by motorbikes or other technical devices. The function of the motor is to convert certain energy sources, such as fuel, electricity, or other power, into vehicle propulsion. In the context of tax law, this definition includes; public and private motorized vehicles; Including cars, motorbikes, and other vehicles operating on highways. Towed and Attached Vehicles: Vehicle units towed by the main motor vehicle to transport goods or passengers. Heavy Equipment and Similar Vehicles: Equipment such as excavators, bulldozers, and other vehicles that use wheels and motors as propulsion, as long as this equipment is mobile and not permanently installed. Motorized Vehicles in the Air: Motorboats, speedboats, or other vehicles operating on water. This definition was created to ensure that all types of motorized vehicles that use technical power to move, both on land and in the air, are included in the objects of tax regulation and collection, according to their contribution to the use of public infrastructure and services [22].

Then motorized vehicles which in civil law are included in the type of moving objects because of their nature, also based on Law Number 22 of 2009 concerning Road Traffic and Transportation, motorized vehicles are included in the moving objects which must be registered. Namely by the provisions of part seven concerning registration and identification of motorized vehicles, article 64 of Law Number 22 of 2009 concerning Road Traffic and Transportation that every motorized vehicle must be registered, whether new motorized vehicles, changes in the identity of motorized vehicles and owners, renewal registration and validation. Registration of motorized vehicles has the aim of orderly administration; planning, operational management, engineering for road traffic and transportation, national development planning, and the regulation and oversight of motorized vehicles operated in Indonesia; to aid in the investigation of infractions and/or crimes [23].

Regarding the obligation to register motor vehicles, the government, through Law Number 22 of 2009 concerning Road Traffic and Transportation, used the Motor Vehicle Registration Management System to designate the Republic of Indonesia Police Agency as the implementer. Police forensics uses motor vehicle registration and identity data, which is a component of the Road Traffic and Transportation Information and Communication System [23]. The owner is then issued a motor vehicle owner's book, a motor vehicle registration certificate, and a motor vehicle registration number as evidence that the vehicle has been registered under the information provided to the authorized agency [23]. And to the owner, by issuing and giving these letters, the owner is charged with obligations including; registration and identification of motor vehicles, payment of motor vehicle taxes as well as the required contributions to the road transport and traffic accident funds [24].

Regarding the imposition of taxes by the state on motorized vehicles, especially individual motorized vehicles, it cannot be separated from the tax provisions as a source of regional income; as regulated in Chapter II, Part One concerning types of taxes, Article 2 (1) letter a of Law of the Republic of Indonesia Number 28 of 2009 concerning Regional Taxes and Regional Levies, stipulates that motorized vehicles are subject to provincial tax. In Article 1 number 12 which explains that The tax on motor vehicle ownership or control is known as the motor vehicle tax [25]. This is the basis for motorized vehicles as registered movable objects so that they have consequences both civil and administrative.

In civil terms, material rights to motorized vehicles can be through ownership rights (eigendom rights) and bezit/possession. Property rights over motorized vehicles as movable objects as well as objects that must be registered, based on *Burgerlijk Wetboek*, Traffic And Road Transport Laws, and the Tax Law, the property rights are not sufficient to bezit/possession alone, but the parties holding the property rights must be able to provide proof that they are registered goods. Bezit as regulated in article 529 s/d 568 *Burgerlijk Wetboek*; explained that bezit is compassion; it means that 'whoever controls an item is considered the owner'. Based on the provisions of article 529 *Burgerlijk Wetboek*, Bezit is the state in which an individual maintains or enjoys an object as though they were its owner, either directly or through a third party. Subekti then emphasized that the meaning of bezit is more of a state of birth (fact), where a person controls an object as if it were his own, without questioning who the object is [6].

Then in article 530 *Burgerlijk Wetboek*, it is stated more clearly that there are two kinds of bezit, namely those who have good faith (te goede trouw) and those with bad intentions (te kwader trouw). In this case, a bezit element is also needed; First, there must be a relationship between the thing and the person in question, or corpus; second, is animus, the relationship between a person and an object must be desired (there is a will) by the person to have it. This is related to the basic elements of a bezit holder, namely that those who can have bezit rights are people who are adults, mind, free not under coercion [26].

Motorized vehicles generally have an owner or an object that has an owner, so possession/control over a motorized vehicle that already has an owner, has two possibilities, namely with the help of another person who previously controlled it/the owner and without the help of other related people. Control with the help of the person who controlled it first/owner is called 'tradition control' or 'derivative control', namely through the transfer of the object in the form of control over property rights, pawning, use rights, rental rights, and the right to collect the proceeds depending on the agreement between the parties. Meanwhile, gaining control without the help of the person who controlled it first/owner is

called 'control without leveraging', for example controlling a motor vehicle found on the road, another person's lost motor vehicle. Based on the provisions of Article 1977 paragraph (1) *Burgerlijk Wetboek*, control acts as a basis for perfect rights. Thus the person who controls the object is the same as the owner [27].

Property rights as the basis for perfect rights are limited by paragraph 1977 (2), namely that the legal protection provided by paragraph (1) does not apply to lost or stolen objects. Looking at the provisions of the *Burgerlijk Wetboek*, Article 1977 more clearly regulates the expiry which frees you from obligations, namely whoever controls the movable object in question immediately will be free from the demands of the owner because the time limit/expiration has already passed [11].

This means that for an object, such as a lost or stolen object, *bezit* as a perfect right does not apply. Anyone who loses or has an object stolen, within three years from the time the object is lost or stolen, has the right to ask for the object back from its holder. However, if the holder of the object controls it because he obtained or bought it from a trader who usually trades in the object or at a public auction place, the owner who loses the object or has the object stolen must return the price of the object that the holder has paid or redeem it by the purchase price that has been paid [28]. This is also in line with Legitimacy Theory, namely that ownership rights to an item can only be legally transferred if someone obtains it from the person who has the right to transfer ownership rights to the item, namely the owner. It can be understood that in the context of property rights for motorized vehicles as movable and registered objects (registered objects), it is not only sufficient to possess/control the property rights but also requires administrative proof through valid ownership documents as determined by traffic law, the Tax Law; so that its control cannot be disputed or challenged by anyone.

4. Conclusions

Property rights are divided into 2 (two): material rights that provide enjoyment (*zakelijk genotsrecht*) and legal subjects' right to enjoy an object in full. These material rights are divided into two: 1) material rights that provide enjoyment of the object itself, for example; Ownership rights over land are regulated in the basic agrarian law, while those regulated in the Civil Code are, for example, ownership rights over movable objects/objects that are not land, *bezit* over movable objects/objects that are not land; 2) property rights that provide enjoyment of other people's objects, for example, Business Use Rights, Building Use Rights, Rental Rights, Harvesting Rights, and Management Rights over land, all of which are regulated in the basic agrarian law. Second, material rights that provide collateral (*zakelijk zakeheidsrecht*), including pawning rights; Mortgage of a ship weighing 20 m³; Mortgage right; and Fiduciary. Meanwhile, according to the Civil Code, objects are divided into tangible and intangible objects; movable and immovable objects; objects that can be used up and cannot be used up; objects that already exist and objects that will exist; objects in trade and outside trade; divisible and indivisible objects; registered and unregistered objects as regulated separately in the Mortgage, Fiduciary Rights Law, and objects in the name and not in the name. Based on the provisions of statutory regulations, property rights to motorized vehicles are by way of control/*bezit* as civil provisions are not sufficient because civil law principles recognize the existence of objects that may be regulated by other laws, such as motorized vehicles which are also included in movable objects. Including registered objects,

so that property rights require proof of ownership in the form of a document with the owner's name registered by the provisions of the law.

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Reference

1. Djumikasih, R.; Sulistyarini, Y. E.; Widyanti, R.; Suwardiyati; Wicaksono, S. *Private Law: Textboot*. Brawijaya University Press, Malang, Indonesia, 2022, 95 p. [in Indonesia].
2. Muhammad, A. *Indonesian Private Law*. PT Citra Aditya Bakti, Bandung, Indonesia, 1993, 137 p. [in Indonesia].
3. Asyhadie, H. Z.; Kusumawati, R. *Guarantee Law in Indonesia*. Rajawali Pers, Depok, Indonesia, 2018, p. 91. [in Indonesia].
4. Soedewi S.; Sofwan, M. *Civil Law Security Rights to Land*. First Edition. Liberty, Yogyakarta, Indonesia, 1981, p. 24. [in Indonesia].
5. Van Apeldorn, L. J. *Introduction to Law*. Translated by Mr. Oetarid Sadino, XVI Edition. Pradnya Paramita, Jakarta, Indonesia, 1980, pp. 214-215.
6. Subekti, S. *The Basics of Civil Law*. PT. Internusa, Jakarta, Indonesia, 2001, p. 54. [in Indonesia].
7. Marzuki, P. M. *Legal Research*. Kencana, Jakarta, Indonesia, 2014, p. 92. [in Indonesia].
8. Usanti, T. P. *Civil Law Textbook*. Law Faculty of Airlangga University, Surabaya, Indonesia, 2012, p. 20. [in Indonesia].
9. Badruzaman, M. D. *Looking for a National Property Law System*. Alumni, Bandung, Indonesia, 2010, p. 33. [in Indonesia].
10. Simanjuntak, P. N. H. *Indonesian Civil Law*. First edition. Kencana, Jakarta, Indonesia, 2025, p. 187. [in Indonesia].
11. Tjitrosudibio R.; Subekti, R. *Civil Code*, translation of Burgerlijk Wetboek. Prandya Paramita, Jakarta, Indonesia, 2006, p. 115 [in Indonesia].
12. Fialová E.; Matejka, J. Data Protection and Privacy Issues in The Use of Autonomous Vehicles. *The Lawyer Quarterly* 2022, 12(4), pp. 408-415.
13. Indonesian Burgerlijk Wetboek. Available online: <https://www.hukumonline.com/pusatdata/detail/17229/burgerlijk-wetboek/> (accessed 24/08/2024).
14. Burgerlijk Wetboek in conjunction with Article 60 of Law No. 17 of 2008 concerning Shipping. Available online: <https://natlex.ilo.org/dyn/natlex2/natlex2/files/download/80281/IDN80281%20Idn.pdf> (accessed 25/08/2024).
15. Law of the Republic of Indonesia Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land. Available online: <https://peraturan.bpk.go.id/Details/46093/uu-no-4-tahun-1996> (accessed 25/08/2024).
16. Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantees. Available online: <https://peraturan.bpk.go.id/Details/45374/uu-no-42-tahun-1999> (accessed 10/09/2024).
17. Meliala, D. S. *Development of Civil Law Concerning Objects and Contract law*. Nuansa Aulia, Bandung, Indonesia, 2015, pp. 4-5.
18. Syahrani, R. *Ins and Outs and Principles of Civil Law*. PT. Alumni: Bandung, Indonesia, 2006, pp. 36-109. [in Indonesia].
19. Sudrajat, D. D. *Principles and Classification of Object Law*, First edition. Yrama Widya, Bandung, Indonesia, 2019, pp. 211-221. [in Indonesia].
20. Isnaeni, Moch. *Aircraft Mortgage in Indonesia*. Dharma Muda, Surabaya, Indonesia, 1996, p. 19. [in Indonesia].
21. Nantoi, V.; Nantoi, D.; Pădure, O. Models for Real-Time Traffic Flow Manageability and Decision-Making in Intelligent Transportation Systems. *Journal of Social Sciences* 2024, 7(3), pp. 35-70.
22. Law of the Republic of Indonesia Number 28 of 2009 concerning Regional Taxes and Regional Levies. Available online: <https://peraturan.bpk.go.id/Details/38763/uu-no-28-tahun-2009> (accessed 30/09/2024) [in Indonesia].
23. Law Number 22 of 2009 concerning Road Traffic and Transportation Indonesia. Available online: <https://peraturan.bpk.go.id/Details/38654/uu-no-22-tahun-2009> (accessed 06/10/2024) [in Indonesia].
24. Habiburrahman, M.; Fadli, M.; Hamidah, S.; Djumikasih. Form of Constitutional Rights of Wife and Children as Victims of Sirri Polygamy. *Journal of Social Sciences* 2023, 6(2), pp. 159-171.

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