



## Legal consequences of the cancellation of land ownership certificates for third parties: A review of legal protection and liability theories

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### Abstract

The cancellation of land ownership certificates often impacts third parties who have obtained their rights through valid and good faith transactions. This study aims to analyze the legal consequences faced by third parties following such cancellations, viewed through the lens of legal protection and liability theories. A normative juridical method was employed, using a case study approach—specifically, Decision Number 13/Pdt.G/2018/PN Jth. The findings indicate that the negative publication system in Indonesia's land registration process provides limited legal protection to third parties. The responsibility of sellers, as well as the importance of preventive and repressive legal protection, are key factors in addressing legal uncertainty.

**Keywords:** Certificate cancellation, third parties, legal protection, liability, legal certainty

### Introduction

Land registration is a crucial component of Indonesia's agrarian legal system. It includes administrative procedures aimed at providing legal certainty over land rights, promoting more structured land control, and reducing land disputes within the community. As regulated by Government Regulation Number 24 of 1997 on Land Registration, its objectives are to ensure legal certainty over land rights and reduce land conflicts. Ideally, this system fosters orderly land tenure, which is vital for public welfare. However, land disputes remain frequent, often caused by invalid ownership certificates or forged documentation.

The study of land registration in Indonesia continues to attract scholarly attention due to its significant role in guaranteeing legal certainty and protecting land rights. Though designed to uphold formal verification and documentation, in practice, the system remains vulnerable to irregularities, such as document forgery.

Under Article 1 point 20 of Government Regulation No. 24 of 1997, a land certificate serves as formal proof of land rights, as referred to in Article 19(2)(c) of Law No. 5 of 1960 concerning Basic Agrarian Law, covering ownership rights, management rights, waqf land, strata title, and security rights—each recorded in the corresponding land book.

Land Deed Officials (PPATs) play a pivotal role in the agrarian legal framework. Authorized to create authentic deeds concerning the transfer of land rights—such as sales, gifts, exchanges, inheritance, and agreements—PPATs must ensure the legality of these transactions. They verify administrative and legal compliance and facilitate land rights registration with the National Land Agency (BPN). PPATs also act as impartial legal advisors and must fulfill their duties with integrity. Failure to do so may result in administrative or criminal sanctions under applicable laws. Certificates issued by BPN contain both physical (location, boundaries, area) and juridical (right holder, legal basis, encumbrances) data, serving as authentic written evidence under Articles 164 HIR/284 RBg and Article 1866 of the Civil Code.

A land certificate may be annulled if there is an administrative defect in its issuance, such as procedural

errors, incorrect application of laws, inaccurate subject or object identification, overlapping rights, or false data. This cancellation can occur via administrative application to the Minister of ATR/BPN or judicial review at the Administrative Court (PTUN), provided the claim is filed within 90 days. Beyond that, jurisdiction shifts to the District Court. Article 16 of Government Regulation No. 24/1997 allows for cancellation if there is proof of fraud or illegality in the issuance.

A practical example is Decision No. 13/Pdt.G/2018/PN Jth, involving a dispute over a 670 m<sup>2</sup> land parcel in Gampong Lampenureut Ujong Blang. The plaintiff, heir of the late Drh. M, challenged the issuance of Ownership Certificate No. 278, granted based on a forged SPORADIK and heir certificate, and later sold to a third party, complicating enforcement of the Syariah Court's decision.

The court ruled the defendant's actions unlawful and invalidated both the certificate and the associated deed of sale. This case illustrates how illegitimate certificates undermine legal ownership, causing significant material and legal harm.

The case also underscores the need for reform and tighter oversight of land registration, advocating digitalization, a centralized national database, and comprehensive agrarian law reform.

Thus, Indonesia's land registration system must integrate regulatory, technological, and administrative oversight approaches to strengthen legal protection and minimize disputes arising from fraudulent or duplicate certificates.

### Research Method

This study employs a normative juridical method, focusing on the analysis of legal documents, court decisions, and statutory regulations. The selected case—Decision Number 13/Pdt.G/2018/PN Jth—serves as a concrete example of certificate cancellation and its consequences for third parties.

### Research Findings

#### 1. Impact of Certificate Cancellation on Third Parties

Land ownership certificates issued by BPN include physical and juridical information derived from applicant statements

and field inspections. As authentic evidence in civil proceedings, their annulment can significantly affect third parties who rely on them in good faith. In Decision No. 13/Pdt.G/2018/PN Jth, the third party (Defendant II) acquired land via a Deed of Sale from an unauthorized seller. This led to the cancellation of the certificate they held, illustrating that land ownership in Indonesia is not always conclusive—even with a certificate.

## **2. Liability Theory**

Third parties are responsible for verifying the validity of acquired rights. Failure to conduct due diligence may result in the loss of property rights. According to the Civil Code, sellers are liable for hidden defects (Articles 1504–1512). If a seller knowingly transfers defective property, they must refund the purchase price and provide compensation (Article 1508).

## **3. Legal Protection Theory**

This theory posits that the law must safeguard good faith actors. Legal protection comprises preventive and repressive measures. However, Indonesia's negative publication system offers no absolute guarantee of certificate validity. Thus, administrative flaws can lead to cancellation, depriving third parties of expected legal protection.

## **4. Legal Gaps and Protection Efforts**

The lack of explicit safeguards for third parties in Government Regulation No. 24/1997 highlights a regulatory gap. Other rules, such as BPN Regulation No. 3/2011 and Ministerial Regulation No. 3/1997, also fail to provide clear remedies. Consequently, the roles of judges, PPATs, and government agencies are vital in offering equitable solutions through administrative responsibility or compensation.

## **Conclusion**

Third parties who acquire land through valid transactions and in good faith may still lose their rights due to the annulment of administratively flawed certificates. Indonesia's negative land registration system does not fully ensure legal certainty. Therefore, stronger legal protection for third parties is essential, through explicit regulatory measures, seller compensation, and accountability of officials responsible for issuing defective certificates.

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