



Legal implications for land owners in multiple certificate cases: A normative legal review

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Abstract

This research aims to analyze the legal implications faced by landowners in cases of overlapping land rights or double certificates. The focus is on how the legal rights of the rightful certificate holders are affected by administrative errors within the land registration system. This study applies a normative juridical method through literature review, examining primary legal materials such as the Basic Agrarian Law (UUPA), Government Regulation No. 24 of 1997, and Ministerial Regulation of ATR/BPN No. 1 of 2021, as well as secondary legal sources including books, legal journals, literature, and relevant official documents. The findings indicate that rightful owners may lose legal protection when certificates are issued without due diligence. Mediation by the National Land Agency (BPN) and strengthening of the land registration data system are key solutions to resolve and prevent similar conflicts in the future.

Keywords: Double certificate, legal implications, legal certainty

Introduction

The Unitary State of the Republic of Indonesia is a state based on law, as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "The State of Indonesia is a state based on law." Consequently, the state is obliged to guarantee and protect the rights of its citizens, including the right to acquire, own, and enjoy property rights. One form of property right that is guaranteed is land ownership. Land plays a vital role in community life, not only as a place to live, but also as a means for carrying out economic, social, and cultural activities, and for human interaction within society.

According to Article 4 paragraph (1) of Law No. 5 of 1960 concerning the Basic Agrarian Law (UUPA), land is "the surface of the earth that can be granted to and owned by individuals, either individually or jointly with other individuals or legal entities." Article 4 paragraph (2) of Law No. 5 of 1960 concerning Basic Agrarian Regulations broadly explains that what is meant by land is the authority to use land for land-use purposes within the limits set forth in the Basic Agrarian Law and other higher-level regulations (Chomzah, 2002) ^[8].

Land is a basic necessity for carrying out productive human activities, both as a container and as a factor of production (Soerodjo, 2002) ^[9]. Land used today must be registered for land rights or land ownership rights. The word "land registration" originates from the Dutch word "Rechts Cadastre," meaning "relating to the area, value, and ownership of a piece of land" (Sutedi, 2018) ^[10].

Law No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA) stipulates the obligation to register land throughout Indonesia as an effort to guarantee certainty of rights and legal certainty over land. This provision is expressly stated in Article 19 of the Basic Agrarian Law (UUPA), which states that the government is obliged to organize land registration to ensure legal certainty for land rights holders. To address the provisions of Article 19 of the UUPA concerning land registration, the government issued Government Regulation Number 24 of 1997 concerning

Land Registration, amending the previous Government Regulation. This regulation aims to strengthen a more orderly land administration system and ensure legal certainty regarding land rights. Land registration is a state duty carried out by the government for the benefit of the public, particularly in granting legal status to land ownership rights in Indonesia.

Previously, Government Regulation Number 10 of 1961 stipulated that a certificate is a document proving land rights, the form and structure of which are determined by the Minister of Agrarian Affairs/Head of the National Land Agency. The certificate consists of a copy of the Land Book attached to the document. In practice, a land certificate serves as crucial evidence in proving land rights and is used to guarantee legal certainty of ownership for legitimate rights holders.

Based on the background outlined above, the main problem to be examined in this research is: What are the legal implications for landowners in cases of dual certificates, based on a normative legal perspective? This study aims to analyze the legal implications borne by landowners in cases of dual certificates, with an emphasis on legal protection for owners in good faith in the national land system. The urgency of this research lies in the continued frequency of land conflicts due to overlapping certificates, which creates legal uncertainty and threatens the community's constitutional rights to land. By using a normative juridical approach, this study is expected to contribute to the renewal of a more accountable land registration system, as well as strengthening the guarantee of legal certainty in resolving land disputes in Indonesia.

Research Methods

This research uses a qualitative method with a descriptive and normative-juridical approach to examine the legal aspects related to the implications of land ownership certificates in cases of overlapping land claims. Data collection techniques were conducted through literature review utilizing secondary data sources in the form of laws

and regulations, legal textbooks, scientific journal articles, and the official websites of relevant government agencies. Data analysis in this study was conducted using a normative-juridical method proposed by Peter Mahmud Marzuki. This analysis aims to interpret the legal norms contained in the laws and regulations, legal principles, and the doctrines of legal experts. The data obtained through the literature review was systematically processed and compiled to produce logical legal arguments and comprehensively answer the research problem formulation.

Results and Discussion

Legal Implications for Landowners

The existence of multiple certificates for the same plot of land constitutes a form of irregular land administration that directly impacts the legitimate landowner. In practice, owners who have obtained certificates through official procedures and in good faith can still be sued by other parties who also hold certificates for the same land. This creates uncertainty about ownership status, as the existence of a certificate does not always guarantee a strong legal position if there are defects in the physical or legal data during registration (Intan Hanisa, 2025) ^[11]. This provision aligns with Article 32 paragraph (2) of Government Regulation Number 24 of 1997, which states that certificates can be revoked if proven to be legally flawed and are revoked through a legally binding court decision.

Another equally serious implication is the risk of revocation of legitimate ownership rights due to legal proceedings, even if the certificate was issued directly by the National Land Agency. This cancellation often occurs without considering the good faith of the owner, who followed all procedures as stipulated in Article 19 paragraph (1) of the Basic Agrarian Law, which stipulates that land registration is carried out to ensure legal certainty for rights holders. As a result, legitimate land owners can lose their legal rights to their land simply because another certificate was issued earlier or due to weaknesses in the verification system.

Besides the legal aspects, the economic impact of duplicate certificates is also quite significant. Disputed land cannot be used for productive activities such as selling, inheriting, or using it as collateral for loans. This results in real economic losses, especially if the dispute resolution process is lengthy and hinders legal certainty regarding the land (Virginia, 2024) ^[12]. These losses are further exacerbated by the burden of proof that legitimate owners must bear in court, including document collection, court costs, and legal representation.

These legal implications demonstrate the state's weak protection for legitimate and good-faith rights holders. In fact, Article 3 of Government Regulation No. Law No. 24 of 1997 explicitly states that the purpose of land registration is to provide legal certainty and protection to rights holders. When this provision is ineffective due to duplicate certificates, it violates the principles of justice, legal certainty, and legal protection, which should be upheld in a state governed by law, as stipulated in Article 1 paragraph (3) of the 1945 Constitution.

The Concept of Dual Certificates in the Land System

Dual certificates are a condition in which two or more land title certificates are issued for the same plot of land to different legal entities. In practice, this creates legal uncertainty, triggers ownership conflicts, and undermines

the principle of legality in land administration. This phenomenon commonly occurs due to weak legal and physical data verification systems, negligence by officials, and the lack of data integration between land agencies (Ratnawati, 2023) ^[13].

In accordance with Article 19 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), the government is obliged to carry out land registration to guarantee legal certainty for land rights holders. This provision is reaffirmed in Government Regulation Number 24 of 1997, which states that land registration is carried out to provide legal certainty and legal protection to rights holders.

Overlapping land title certificates occur when two or more certificates are issued for the same plot of land to different parties. This situation creates legal uncertainty and triggers land ownership conflicts (Rampengan, 2023) ^[14]. This is exacerbated by the lack of synchronization between digital and manual base maps, as well as the continued use of outdated, outdated legal data (Samosir, 2024) ^[15].

Accountability of the State and the National Land Agency (BPN) for Duplicate Certificates

Land title certificates are products of State Administrative Officials (TUN); therefore, the provisions of State administrative law apply. As a result of these legal actions, a person acting as a TUN official may commit acts that constitute an unlawful act, either due to error or negligence in carrying out their legal obligations (Kalo, 2025) ^[18].

Land dispute resolution is not only carried out by the National Land Agency (BPN), but also through the General Courts and State Administrative Courts, depending on the type of dispute. General courts handle civil and criminal matters, while State Administrative Courts handle disputes related to administrative decisions by land officials. In the case of duplicate certificates, the National Land Agency (BPN) is directly responsible for all land issues related to the granting of rights and the issuance of land certificates. It can be said that any governmental administration that contains elements of maladministration and harms citizens, the responsibility and liability for which falls on the individual committing the maladministration. Furthermore, the state administration assumes criminal liability if there are criminal elements in the governmental actions (Sufriadi, 2014) ^[16]. The forms of responsibility held by the National Land Agency are

a. Legal Responsibility Related to Lawsuits in Court

A party filing a lawsuit in court regarding the same plot of land, i.e., two (2) overlapping land certificates, creates legal uncertainty for the land rights holder, resulting in administrative legal defects in its issuance. Thus, any legal certainty that occurs through land registration is guaranteed.

b. Administrative Responsibility for Certificate Payment

The National Land Agency's decision to grant a certificate or land title is an administrative action directly related to the State Administrative Court. Under the principle of State Administrative Law, the parties concerned must be given the opportunity to file a lawsuit in court. Disputes arising from a State Administrative Decision are State Administrative disputes. A State Administrative Decision must always be related to cause and effect. Without a State

Administrative Decision, a State Administrative dispute cannot arise. Landowners or individuals related to land ownership can request the cancellation and revocation of a land certificate. Revocation of land rights due to flawed administrative law is not permitted by the authorized official.

Settlement of Duplicate Certificate Disputes

The National Land Agency (BPN) is the only institution in Indonesia authorized to manage land affairs, in accordance with Presidential Regulation No. 85 of 2012 concerning the National Land Agency. Based on Decree of the Head of the National Land Agency No. 3 of 2011 concerning the Management, Assessment, and Handling of Land Cases, land cases are handled to provide legal certainty regarding land ownership and control. The resolution of overlapping certificate land disputes is carried out through mediation, which includes a) opening, b) presentation of the overlapping certificate case, c) response and discussion, d) conclusion and closing.

The procedure for resolving land disputes resulting from duplicate certificates is carried out through several stages. First, a complaint is filed by the aggrieved party with the Land Office regarding the disputed land. After receiving the report, the administration section will prepare a recommendation letter addressed to the Land Dispute, Conflict, and Case Section for follow-up. Second, the disputing parties are summoned. The dispute resolution department will issue a summons to the parties to attend the mediation process. Third, if the mediation is successful and the parties reach a mutual agreement, the mediator will prepare a Mediation Report. This document serves as a statement of peace, agreed to and signed by both parties as a form of peaceful dispute resolution.

The binding force of a peace agreement is generally regulated in Article 1858 of the Civil Code, which states that all peace agreements have the force of a final judge's decision between the parties. A mediation agreement is an agreement reached by the parties with the assistance of a mediator. Mediation becomes legally binding once the agreement is formalized in a peace agreement deed.

In reality, the mediation process conducted by the National Land Agency (BPN) is incapable of resolving current land disputes. This is why it is very difficult for the BPN to realize its vision, mission, and strategic programs. The BPN faces obstacles in resolving land disputes, particularly the issue of duplicate land certificates, due to overlapping regulations. If a resolution is not found, the authority to prove the dual certificate of land rights is continued in the realm of the court which is considered to have the competence to provide legal certainty to the holder of the rights and cancel one of the certificates, so that only one certificate is valid by having the object stated in the certificate. Land dispute resolution can also be carried out through the State Administrative Court (PTUN) and General Court. The PTUN focuses on resolving land disputes related to Decrees issued by the BPN or other Officials related to land, while the General Court focuses more on civil issues (Prasetyo Aryo Dewandaru, 2020) ^[17]. Land disputes, in this case dual certificates, are resolved in three (3) ways, namely

1. Direct Settlement Through Deliberation. Direct resolution through deliberation can only be carried out if the land dispute is not directly related to the

determination of ownership rights that could potentially grant or remove someone's rights to the disputed land. This deliberation is usually possible if the disputing parties are related and adhere to local customary law.

2. Through Arbitration and Alternative Dispute Resolution. Arbitration is a method of dispute resolution by one or more arbitrators appointed by agreement of the parties, with the provision that the resulting decision is binding and final. The main requirement for resolution through arbitration is a written agreement approved by both parties before or after the dispute arises.
3. Dispute Resolution Through the Courts. Dispute resolution, including land disputes, is regulated by Law Number 4 of 2004 concerning Judicial Power. Article 1 of the Law states that judicial power is an independent state power to administer justice to uphold law and justice. In accordance with applicable regulations, dispute resolution related to ownership is delegated to the General Courts, while disputes regarding land institution decisions are delegated to the State Administrative Courts, and disputes concerning waqf land are submitted to the Religious Courts.

Conclusion

Duplicate certificates reflect a weak land administration system that creates legal uncertainty for legitimate owners. This results in the cancellation of rights, economic losses, and a higher burden of proof in court. Resolution mechanisms such as mediation and litigation are not yet fully effective. Reform of the land registration system and strengthening of legal protection are needed to ensure certainty and fairness of land rights.

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