

ISSUANCE OF LAND TITLE CERTIFICATES AS LEGAL CERTAINTY GUARANTEE FOR LAND TITLE HOLDERS

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Abstract

A certificate, which should serve as a legal shield for the owner, may instead become the source of disputes if the issuance process is not carried out in accordance with legal norms. In this context, the legal protection theory developed by Philipus M. Hadjon becomes relevant, which states that legal protection should not only be reactive in the event of rights violations but must also be preventive through orderly and transparent administrative systems and procedures. The objective of this research is to analyze the legal regulation of land title certificate issuance as a guarantee of legal certainty for land rights holders and to examine the legal implications of such issuance. The method employed is normative legal research. Based on the results of the study, it is found that the legal regulation regarding the issuance of land title certificates as a guarantee of legal certainty has been systematically stipulated in various laws and regulations, especially in Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) and Government Regulation Number 24 of 1997 concerning Land Registration. The issuance of certificates is the final result of the land registration process conducted by the National Land Agency (BPN) and holds legal force as legitimate legal proof of ownership. Certificates provide both administrative and judicial legal guarantees over land owned by an individual, while simultaneously creating legal certainty and legal security in every land transaction. The legal implications of the issuance of land title certificates as a guarantee of legal certainty for landholders include, among others, that the certificate confers legitimacy of ownership to a legal subject over a specific parcel of land. The certificate serves as *prima facie* evidence, which places the certificate holder in a strong legal position in land disputes, unless there is compelling evidence to the contrary.

Keywords : Certificate, Land Rights, Legal Certainty

INTRODUCTION

In the framework of a rule of law, as mandated by Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, one of the principles that must be upheld is legal certainty. This legal certainty not only concerns the existence of written norms but also the practical realization of legal guarantees for the civil rights of citizens, including land rights. Land, as one of the most vital objects in the social and economic life of society, holds a very important and strategic legal position. Therefore, legal protection for land rights must be provided tangibly, systematically, and accountably through valid and applicable legal instruments, one of which is the land title certificate (Kementerian ATR/BPN, 2019).

Land certificates, as a legal product of the land agency, are not merely administrative documents but authentic evidence reflecting ownership status recognized by the state and protected by law. The existence of these certificates is based on the provisions of Article 19 of Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA), which states that to ensure legal certainty, the Government shall conduct land registration throughout the territory of the Republic of Indonesia according to provisions regulated by Government Regulation. The intended land registration includes the collection of juridical and physical data, measurement, mapping, recording of rights, and the issuance of certificates as evidence (Sumardjono, 2017). When this process is carried out according to procedure, a strong legal guarantee for the right holder is created. However, when the process is legally or administratively flawed, the potential for ownership disputes becomes very high.

Legal certainty in the context of land rights cannot be separated from the state's role in recognizing and protecting individual property rights. In practice, many classic problems are still found, such as overlapping certificates, falsification of land documents, and the issuance of duplicate certificates, which are sources of agrarian conflict. This phenomenon indicates a gap between regulation and implementation.

From a normative perspective, the issuance of land certificates is a form of implementing the principle of *rechtszekerheid*, which emphasizes the importance of legal order, clarity of norms, and protection of individual rights. Gustav Radbruch argued that legal certainty is one of the main values of law, alongside justice and utility. Therefore, the state's failure to guarantee the validity and authenticity of certificates also injures the principles of justice and citizens' constitutional rights to property guarantees.

More concretely, the National Land Agency (BPN), as the land administration authority, has full authority and responsibility in the certificate issuance process. Through Government Regulation Number 24 of 1997 concerning Land Registration, BPN is given a legal basis for carrying out its constitutional obligations. However, in practice, weak supervision, limited resources, and high instances of bureaucratic irregularities have lowered the quality of legal certainty that should be provided by certificate documents (Radbruch, 2011). This has an impact on the erosion of public trust in the state as a protector of land ownership rights.

Land is a strategic place for human well-being in human life; even after death, humans cannot be separated from land in the eyes of the Almighty. In this regard, everyone has the right to own land (Hartini, 2021). "Land is a valuable asset and has an important role in human life, because in daily life humans are very dependent on land to meet their needs, especially for housing (Murni, 2020). Land ownership issues are closely related to legal certainty regarding land rights for the community. Therefore, it is clear that systematic recording of land and land rights is very important both for state administration and for planning and developing land use itself, as well as for legal certainty in the transfer of rights, transfer or alienation of land rights (Murni, 2020). The Basic Agrarian Law, which is the basic land law, broadly regulates the main issues of agrarian matters in Indonesia. Furthermore, its implementation is regulated in more detail through laws, government regulations, and other statutory regulations. The purpose of the UUPA's enactment is to lay the foundation for the drafting of national agrarian law, which

is a tool to realize welfare, happiness, and justice for the state and people, especially farmers, within the framework of a just and prosperous society. It also aims to lay the foundation for the realization of legal unity and simplicity of land law, and to provide legal certainty regarding land rights for all people (Kristiani, 2020).

The increasing need for land makes land seem increasingly scarce. Therefore, it is not surprising that land selling prices experience higher increases. The imbalance between land availability and land needs causes various problems on many sides. Land issues become more complex when land is no longer able to accommodate all community activities. Thus, to reduce problems regarding land ownership due to unclear legal evidence, it is very necessary for every landowner to have a certificate of land title as tangible, legal, and unchallengeable proof of ownership (Murni, Kelen, & Sulaiman, 2022).

The purpose of establishing the Basic Agrarian Law is to lay the foundation for the drafting of national agrarian law, which is a tool to realize welfare, happiness, and justice for the state and people, especially farmers, to create a just and prosperous society. It also aims to lay the foundation for the unity and simplicity of land law, and to provide legal certainty regarding land rights for all society. Legal certainty for land right holders, according to the UUPA itself, can only be obtained through land registration procedures (which some people refer to as the land certification process).

Article 28D paragraph (1) of the 1945 Constitution states that: "Everyone has the right to recognition, guarantee, protection, and fair legal certainty, as well as equal treatment before the law" (Constitution of the Republic of Indonesia of 1945, 1945). In Article 3 paragraph (3) of the 1945 Constitution, the government's authority to regulate the land sector emphasizes that the earth, water, and natural resources contained therein are controlled by the state to be used for the greatest prosperity of the people in the future, which is affirmed in Law Number 5 of 1960 concerning the Basic Agrarian Law (State Gazette 1960-104) or also called the Basic Agrarian Law. This can be seen in various Government Regulations, Presidential Decrees, Presidential Regulations, and regulations issued by the heads of technical agencies in the land sector (Hadisiswati, 2014).

Article 506 of Book II of the Civil Code explains immovable property, which includes land. In his book, Adrian Sutendi, Jan Michiel Otto, argues that legal certainty must meet the following requirements: clear and consistent legal rules, consistent application of legal rules in government agencies, compliance with these rules by society, independent and impartial judges who apply legal rules consistently and are astute in resolving legal disputes and concrete court decisions (Sutedi, 2011). Legal certainty is what can be determined from the law in concrete matters. Parties seeking justice want to know what the law is in a certain situation or matter before the case begins. Thus, legal security means protecting parties against arbitrary judges (Soerodjo, 2003). A certificate is written information possessed by an authorized person used as a means of proof.

Land registration was initially carried out according to the provisions of Government Regulation Number 10 of 1961 concerning land registration. However, this Government Regulation was not maximal due to several constraints, namely limited funds and personnel, so that most land tenure was not supported by adequate means of proof. In addition, this Government Regulation was not sufficient to allow land registration to be carried out in a short time and with satisfactory results. In registering land, there is no time limit after the transfer of rights. Furthermore, the Land Deed Official does not have to register, but the new owner of the land rights can also do so, so the land is often not registered. To improve this weakness, new regulations on land registration were issued to improve previous land registration regulations (Aprini, 2007).

Article 19 paragraph (1) of the UUPA states that the basis for land registration is to obtain legal certainty, so the Government conducts land registration throughout the territory of

the Republic of Indonesia in accordance with provisions regulated by government regulations. Paragraph (2) outlines the land registration process, which includes measurement, mapping, land bookkeeping, registration of land rights and their transfers, and the issuance of certificates as authentic evidence (Basic Agrarian Law Number 5 of 1960). Land registration results in a certificate being issued as a strong proof of right to the registered land owner. A certificate is a single document containing juridical and physical data required for a registered land parcel in accordance with Government Regulation Number 24 of 1997.

In Indonesia, land registration adheres to a negative publication system. However, it is not a pure negative registration system. The provisions in Article 19 paragraph (2) letter c of the UUPA in conjunction with Article 17 paragraph (1) of Government Regulation Number 24 of 1997 state that land registration officers (Land Office) conduct measurements and seek information regarding the subject and object being registered. Land registration officers are proactive; they do not only rely on information from the certificate applicant. Thus, it is referred to as a negative land registration system with positive elements (Harsono, 1999). In land registration under the negative publication system, what is needed for the valid execution of the law is to determine the transfer of rights to another party as a buyer.

This system adheres to the principle of *nemo plus juris*, meaning that a person cannot transfer or assign more rights than they possess. The truth of the attached data should not be directly trusted because the State does not guarantee the truth of the data. The publication system used is a negative system with positive elements, as stipulated in the negative publication system with positive elements, which will produce strong and valid certificates as proof of rights. This is regulated in the UUPA and Government Regulation Number 24 of 1997 concerning Land Registration (Harsono, 2004). The ownership of land rights can be enjoyed and used according to its designation (Suhariningsih, 2009).

Along with the high value and benefits of land, many people try to obtain proof of land ownership by having fake certificates, where the data on the certificate do not match the data in the land book. A large number of fake certificates create a sense of insecurity. Generally, fake certificates are made on vacant and high-value land using old certificates. Certificate falsification occurs because it is not based on a correct legal basis, such as the issuance of certificates based on fake ownership certificates, other forms such as ATR/BPN stamps, and falsification of land data (Saputra, Silvana, & Marino, 2021). This causes many problems, leading to situations where a certificate contains an object that does not match what it should, but rather someone else's land for which a document was made by an irresponsible person, or there was negligence in the issuance of the document. There can also be duplicate ownership proofs for the same object, often referred to as duplicate certificates. Duplicate certificates are certificates that represent a single unit of land. So, one plot of land with 2 (two) or more certificates has different data. Duplicate certificates lead to legal uncertainty for land right holders, which is not desired in land registration in Indonesia (Fitriani, 2021).

The implementation of land registration will have legal consequences, namely the issuance of a land title certificate, commonly known as a land certificate, to the respective land right holder, which functions as strong evidence. A certificate is a strong proof of right concerning the physical and juridical data contained therein, as long as the physical and juridical data match the data in the survey map and the land book of the concerned right. One of the land rights granted to a person as a result of land registration is ownership rights.

Ownership rights are hereditary, the strongest and most complete rights that a person can have over their land. These ownership rights can be transferred and alienated to other parties, and can only be held by Indonesian Citizens (WNI). Foreign Citizens (WNA), on the other hand, are only entitled to acquire ownership rights through inheritance without a will or through the mixing of assets due to marriage. Although the main function of a land title certificate is as evidence, the certificate is not the only means of proving land rights; it is still

possible to prove a person's land rights with other evidence. The certificate as evidence is very important, for example, in the case of transfer of rights, and legal acts of transfer of rights aim to transfer land rights to other parties (who meet the requirements as right holders), in the form of buying and selling land, exchange, grants or testamentary grants, and so on.

In practice, land certificate cases often lead to disputes because many people try to encroach on other people's land, leading to cases reaching court. Therefore, to provide legal certainty and protection in the land sector, land title certificates are issued to the holder of a plot of land and other registered rights so that if a dispute arises in the future, they can prove themselves as the owner of the land.

The consequences of such disputes can lead to prolonged conflicts among communities. The question then becomes who has a stronger claim to the land, leading each party who believes they are the rightful owner to prove their claim. Therefore, to achieve legal certainty and security of land rights, the public must register their land to obtain a land title certificate as strong evidence of land ownership.

According to the Basic Agrarian Law, as the legal basis for the land sector in Indonesia, Article 19 paragraph (2) sub c states that a certificate is strong evidence. The meaning of a certificate as strong evidence is that the physical and juridical data contained in it, which conform to the data in the Land Book and the relevant Survey Map, must be considered true unless proven otherwise by the court. Thus, as long as it cannot be proven otherwise, the physical and juridical data contained therein must be accepted as true data, both in daily legal acts and in court proceedings, so that the data contained truly must conform to the relevant survey map, because the data is taken from that survey map and land book.

This is further reinforced by the issuance of Government Regulation Number 24 of 1997, in the provisions of Article 32, which states that:

- a) Paragraph (1): "A certificate is a document of proof of right that serves as strong evidence regarding the physical and juridical data contained therein, as long as such physical and juridical data are consistent with the data in the Survey Map and the Land Book of the relevant right";
- b) Paragraph (2): "In the event that a certificate has been legitimately issued for a parcel of land in the name of a person or legal entity who acquired the land in good faith and actually controls it, other parties who feel they have a right to that land can no longer demand the execution of that right if, within 5 (five) years from the issuance of the certificate, they do not submit a written objection to the certificate holder and the head of the relevant land office or do not file a lawsuit in court regarding the control of the land or the issuance of the certificate."

The provisions of Article 32 are aimed at providing legal certainty in the land sector. In conducting registration, the government must use a system, namely the negative publication system (Harsono, 2003). Specifically, in paragraph (2) of Article 32, it states that a person cannot claim land that has been certified in the name of another person or legal entity if, within 5 (five) years from the issuance of the certificate, they do not claim/file a lawsuit in court regarding the control of the right or the issuance of the certificate. Thus, a land title certificate is a copy of the land book or a document in the form of a register containing juridical and physical data of a registered object that already has rights and is then bound into one with a predetermined cover, thereby creating a land title certificate.

Therefore, land certificates are a very important means of proof for legal subjects of land rights. It would be beneficial if the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997, which is the operational regulation of Government Regulation Number 24 of 1997, only required very light evidence, namely witness evidence, in the process of issuing land certificates. Moreover, Government Regulation Number 24 of 1997 has introduced the principle of legal certainty regulated in Article 32, which reflects a shift in the system adopted by land registration in Indonesia from a negative system to a negative-plus system. Land disputes can also arise from the basis of the issuance of a land certificate. Furthermore, to deepen the analysis of judicial competence, it is

also necessary to examine the evidence issued from a land registration process, which is a dominant element in determining judicial competence.

Land ownership without adequate means of proof will be vulnerable to unilateral recognition, forced expropriation, and even criminalization of ownership. A certificate, which should be a legal shield for its owner, can actually become the source of disputes if its issuance process is not carried out according to legal norms. In this regard, the theory of legal protection developed by Philipus M. Hadjon becomes relevant, namely that legal protection is not only provided when a violation of rights occurs but must also be present preventively through an orderly and transparent administrative system and procedures (Tresnawati, 2015).

On the other hand, in the context of national development, land is a primary factor of production. Clear and legally enforceable land certification provides assurance for investors and businesses to conduct legitimate and secure economic transactions. This affirms that certificates not only function as civil evidence but also as a guarantee of certainty in the public and economic spheres. Therefore, strengthening the land certificate issuance system is a necessity in supporting sustainable development based on good legal governance (Harsono, 2018).

As part of the national legal system, land title certificates are also an embodiment of the principles of *lex certa* and *lex scripta* in state administrative law. By making certificate documents an official product of a governmental legal act, their validity and legality must be testable, both administratively and judicially. In this case, court decisions that annul a certificate indicate that an issuance process has not guaranteed due process of law. Therefore, what needs to be emphasized is that the legal force of a certificate lies not only in its physical form but also in the validity of its legal process.

Based on the various realities above, it can be concluded that the existence of land title certificates as a guarantee of legal certainty cannot only be viewed from a formal administrative perspective but must also be viewed from a juridical-normative perspective. Therefore, an in-depth legal study of land certificate issuance needs to be conducted to evaluate the effectiveness of the existing system and formulate the necessary reform measures to ensure comprehensive legal protection for land right holders.

RESEARCH METHODS

The research the author will conduct is normative, meaning it is based on applicable legal norms. In this case, the research focuses on the issuance of land title certificates as a guarantee of legal certainty for land title holders. Normative research is a process of discovering legal rules, legal principles, or legal doctrines to answer the legal issues at hand. This aligns with the prescriptive nature of legal science. This normative legal research is conducted to produce arguments, theories, or new concepts as prescriptions for resolving the problems encountered.

- a. Furthermore, the research approaches used to address the research problems are: Statute Approach: This approach is used to examine all laws and regulations related to the legal problem or issue. It is used to study and analyze laws/regulations pertaining to the research problem.
- b. Conceptual Approach: This approach originates from the perspectives and doctrines developed within legal science.
- c. Historical Approach: This approach is used to examine the background of a regulation and the development of regulations concerning the legal issue at hand.

The data sources used in this normative legal research are secondary data, categorized into 3 (three) parts: a. Primary Legal Materials: These are legal science materials closely related to the researched problem. b. Secondary Legal Materials: These are legal materials that provide explanations or further discuss matters already researched in primary legal materials, namely:

1) Books concerning the Constitution, opinions relevant to the researched problem, and written data related to the research. 2) Various papers, journals, newspapers, magazines, documents, and internet data related to the research. c. Tertiary Legal Materials: These are materials that provide explanations for primary and secondary legal materials, such as the Indonesian Dictionary.

The data collection technique used in normative legal research is solely documentary study/library research, which involves gathering literature data from library studies that will then be correlated with the problem to be researched. Non-structured interviews are also used as a supporting tool, not as a means to obtain primary data.

The data collected from primary, secondary, and tertiary legal materials are then analyzed using a qualitative descriptive method. This analysis technique does not use numbers or statistics but rather focuses on explanations presented in clear, straightforward sentences. The analyzed and described data are then concluded using an inductive method, which involves concluding from specific statements to general statements.

Conclusions are drawn using deductive reasoning, which is the application of general (legal) principles to individual and concrete cases (concrete factual legal problems). The process in deduction is the concretization of law, where legal findings such as values, principles, concepts, and legal norms formulated generally in positive legal rules are then concretized (elaborated) and applied to solve the concrete legal problems faced, thereby yielding conclusions as answers to the previously posed legal questions. In deriving a conclusion, the process begins by observing real factors and ends with drawing a conclusion that is also a fact, with both facts bridged by theories.

RESULT AND DISCUSSION

A. Legal Framework for Issuing Land Title Certificates as a Guarantee of Legal Certainty for Land Title Holders

The issuance of land title certificates is an integral part of the national land administration system. Land certificates are a concrete manifestation of state-recognized ownership and serve as strong evidence of a specific right over a particular plot of land. Therefore, it is crucial to juridically analyze the legal basis for issuing these certificates to ensure that land administration practices operate within a legal framework that guarantees certainty and protection of rights.

Land registration is a continuous and ongoing series of activities carried out by the government, aiming to ensure legal certainty and protection for land title holders, and to easily prove that the certificate holder is indeed entitled to a specific plot of land, through the issuance of a land title certificate (Isnaini & Lubis, 2022). The meaning of legal certainty in land registration activities includes:

1. Legal certainty regarding the person or entity holding the right (subject of the right);
2. Legal certainty regarding the location, boundaries, and area of a plot of land (object of the right); and
3. Legal certainty regarding the right itself (Tehupeiory, 2012).

In conducting land registration activities, there are several important requirements to ensure legal certainty:

1. Cadastral maps can be used for field reconstruction and depict legally valid boundaries according to the right.
2. Survey lists prove that the right holder registered therein is the legally valid right holder.
3. Every right and its transfer must be registered.

Meanwhile, for the purpose of applying for rights and encumbering mortgage rights, land registration can function:

1. As a constitutive requirement for the birth of a right or mortgage right, or a condition that must be fulfilled for the birth of the right.
2. For evidentiary purposes, as the name of the right holder or mortgage right holder will be recorded in the land book and the certificate of right or mortgage right, to strengthen and expand proof.

For buying and selling and other transfers of rights, the function of land registration is to: 1) strengthen proof; and 2) expand proof, because with land registration, sales and purchases can be known to the public or anyone interested.

The Basic Agrarian Law (UUPA), specifically Article 19, mandates land registration to provide legal certainty. This land registration is an obligation for land right holders. The provisions regarding the obligation of land registration for the government as the state administrator are stipulated in Article 19 UUPA as follows:

1. To ensure legal certainty, the Government shall conduct land registration throughout the territory of the Republic of Indonesia according to provisions regulated by Government Regulation.
2. The registration referred to in paragraph (1) of this article includes: a. measurement, mapping, and land bookkeeping; b. registration of land rights and their transfers; c. issuance of certificates of rights, which serve as strong evidence.
3. Land registration shall be conducted considering the state and societal conditions, the needs of socio-economic traffic, and the feasibility of its implementation, as deemed by the Minister of Agrarian Affairs.
4. The Government Regulation shall regulate the fees related to the registration mentioned in paragraph (1) above, provided that citizens who are unable to afford such fees shall be exempted.

Furthermore, the objectives of land registration, as referred to in Government Regulation Number 24 of 1997, are: a) To provide legal certainty and protection to the holder of a right over a plot of land, a multi-story apartment unit, and other registered rights, so that they can easily prove themselves as the respective right holder. b) To provide information to interested parties, including the Government, so that they can easily obtain the necessary data for conducting legal actions concerning registered land plots and multi-story apartment units. c) To ensure orderly land administration.

According to A.P. Parlindungan, Government Regulation 24 of 1997 has enriched the provisions of Article 19 UUPA, stating:

1. That the issuance of a land title certificate provides certainty and legal protection for its owner.
2. In this information system era, the National Land Agency (BPN) Office, as the forefront, must properly maintain all necessary information for a plot of land, both for the government in planning development and for the community itself. This information is important for making decisions related to land issues, including both physical and juridical data, and also for multi-story apartment units.
3. Therefore, orderly land administration should be considered a normal practice.

While affirming the goal of providing legal certainty for community land rights throughout the unified territory of the Republic of Indonesia (Santoso, 2014), the objectives of enacting the UUPA are:

1. To ensure the availability of a complete and clear written legal framework for consistent implementation in accordance with the spirit and provisions of the law.
2. To facilitate land registration for land right holders so they can easily prove their right to the land they control, and for interested parties, such as prospective buyers or creditors, to obtain the necessary information as an object of future legal actions.

Based on this, it is recorded in land history that for the first time, the Indonesian Nation had a Land Registration institution, marked by the promulgation of Government Regulation Number 10 of 1961 (Implementing Regulation of Article 19 UUPA). Since then, a new era has begun in the implementation of land registration and legal certainty regarding land rights in Indonesia, with the uniform application of land registration throughout Indonesia, both for land rights subject to the UUPA and for land rights temporarily still regulated by provisions outside the UUPA.

As a consequence, Government Regulation Number 10 of 1961, which was later perfected by Government Regulation Number 24 of 1997, became a driving force in the implementation of land administration as one of the "four orderly land programs" reinforced in Presidential Decree Number 7 of 1978, namely: 1) orderly land law; 2) orderly land administration; 3) orderly land use; 4) orderly land maintenance; and 5) orderly environmental maintenance.

The most fundamental normative basis in Indonesian agrarian law is Law Number 5 of 1960 concerning the Basic Agrarian Law. Article 19 paragraph 1 of Law Number 5 of 1960 concerning the Basic Agrarian Law states that to ensure legal certainty, the Government shall conduct land registration throughout the territory of the Republic of Indonesia according to provisions regulated by Government Regulation.

The purpose of this registration is not only administrative but also to protect the right holder from disputes and unlawful seizure of rights. The certificate is the final result of this registration process and has legal force as formal and material evidence. In practice, land certificates have been considered *prima facie* evidence of a person's ownership of a plot of land, unless proven otherwise by a court decision that has become legally binding.

Further regulations regarding the mechanism and procedure for land registration are elaborated in Government Regulation Number 24 of 1997 concerning Land Registration. This regulation stipulates that the purpose of land registration includes providing legal certainty and legal protection to the land right holder, through an orderly and structured information and documentation system. Registration is carried out for ownership rights, right to cultivate, right to build, and right of use over state land, as well as ownership rights over multi-story apartment units. The procedures stipulated in Government Regulation Number 24 of 1997 concerning Land Registration include the collection of physical and juridical data, public announcement of data, and the issuance of certificates as proof of rights.

In recent developments, land regulations are also influenced by the presence of Law Number 11 of 2020 concerning Job Creation. This Law revises and inserts new provisions into several regulations, including Law Number 5 of 1960 concerning the Basic Agrarian Law and Government Regulation Number 24 of 1997 concerning Land Registration, with the aim of creating a conducive investment climate through simplification of permits and acceleration of administrative processes, including in the land sector. One of the things highlighted in the Job Creation Law is the integration of electronic services in land registration, which is realized through Minister of ATR/BPN Regulation Number 1 of 2021 concerning Electronic Certificates. This regulation states that certificate issuance can be done digitally, replacing physical certificates, by using an electronic system administered by the Ministry of Agrarian Affairs and Spatial Planning/BPN.

The recognition of certificates as evidence of rights is also regulated through an established jurisprudential system. The Supreme Court, in various decisions, recognizes the evidentiary power of land certificates issued according to procedure. One important precedent is that a certificate issued by the National Land Agency is considered valid as long as it is not annulled by a court. Thus, in the context of civil evidentiary law, a certificate is a strong legal title, meaning it is proof of right that has legally binding force against other parties, including third parties.

The principle of openness and public participation in the land registration process is part of the general principles of good governance. In this regard, the mechanism for announcing physical and juridical data during the registration process has important legal value in providing an opportunity for other parties to submit objections or claims. This is in accordance with the principle of transparency in administrative law, which demands accountability for every government decision that has legal consequences for citizens. According to Maria Farida Indrati, the process of law formation and its application must consider aspects of substantive justice and clarity of norms so that it can be applied consistently and does not lead to multiple interpretations in its implementation (Indrati, 2011).

In the context of legal protection, land certificates also have a strategic function in preventing overlapping rights, fraud, and transfer of rights without the consent of the rightful owner. According to Philipus M. Hadjon, legal protection for the people can be carried out through two mechanisms: preventive and repressive protection (Hadjon, 2012). The issuance of certificates is a form of preventive protection that provides an initial guarantee of a person's rights before a dispute occurs. If there is a violation or neglect, the certificate becomes the legal basis for filing a claim in court as a form of repressive protection.

Despite a strong legal basis, in practice, there are still challenges in certificate issuance, such as overlapping claims, limited spatial data, and land mafia practices. Therefore, the integration of geographic information systems, updating of juridical data, and synergy between central and regional agencies are urgent needs to optimize the effectiveness of the land registration system. In this context, land certification is not only seen as an administrative document but also as an instrument of state recognition of citizens' civil rights, which has social, economic, and political dimensions.

Within the national and international legal framework, the existence of an effective land registration system supports the principles of legal certainty and access to justice, two main elements of the rule of law as developed by modern legal thinkers such as Lon L. Fuller and Ronald Dworkin. Fuller states that good law is law that can be known, understood, and accessed by citizens (the morality of law) (Fuller, 2010). Thus, the issuance of land certificates is a concrete manifestation of the constitutional mandate to ensure social justice and legal certainty for all Indonesian people.

The legal basis for the issuance of land title certificates has been systematically regulated, ranging from Law Number 5 of 1960 concerning the Basic Agrarian Law, Government Regulation Number 24 of 1997 concerning Land Registration, to the latest derivative regulations within the framework of the omnibus law. Land certificates are not merely administrative evidence but a form of real recognition and legal protection of citizens' rights to the land they own. The state's role in issuing and maintaining the integrity of the land certification system is vital in realizing sustainable and human rights-oriented agrarian justice.

The issuance of land title certificates is one of the important pillars in the Indonesian land administration system. A certificate functions as a legal title or the highest legal proof of a right over land, whose existence guarantees certainty and legal protection for the right holder. The activity of issuing land certificates is part of the land registration system carried out by the National Land Agency (BPN). This process is not only administrative but also involves technical and legal aspects, as it directly touches public interests related to ownership rights, transactions, and the resolution of land disputes. Therefore, a systematic, transparent mechanism based on applicable positive legal norms is required.

The main legal basis governing the mechanism for issuing land certificates is Government Regulation Number 24 of 1997 concerning Land Registration. This regulation stipulates that land registration aims to guarantee legal certainty and legal protection for land right holders, through an orderly and transparent information system. The registration

mechanism consists of two forms: initial land registration and data maintenance registration due to transfers, changes, or deletions of rights.

Initial land registration includes the process of identifying unregistered land plots, collecting physical data and juridical data, public announcement, examination by an adjudication committee, and the issuance of certificates. Physical data refers to the size, location, boundaries, and area of the land, while juridical data relates to the subject and object of the right, as well as the type of right attached to the land. Both types of data must be lawfully and clearly verified to serve as the basis for certificate issuance. This process is important as a form of due process in land administration to avoid conflicts of rights between one party and another.

Before a certificate is issued, BPN conducts a public announcement for a certain period, usually 30 days, to provide an opportunity for the public who may have objections or claims against the land. This announcement mechanism is a manifestation of the principle of openness in administrative law, aiming to ensure that government decisions are not closed and authoritarian, but rather participatory and accountable. If there are no legally valid objections, BPN will proceed to the stage of data authentication and certificate issuance.

Unlike initial land registration, the registration of transfer of rights is carried out for land that already has a previous certificate and has undergone a change in status or ownership. This transfer of rights can occur due to sale and purchase, grants, inheritance, exchange, or court decisions. In this process, the applicant must submit a deed of transfer of rights from the Land Deed Official (PPAT), proof of tax payment, and other supporting documents. BPN then validates the documents, verifies physical data, and records the changes in the land book and certificate. In principle, the process of registering the transfer of rights involves updating previously existing data.

The land registration system in Indonesia adheres to the principle of negative publication with positive elements. This means that, fundamentally, a certificate does not provide an absolute guarantee of the validity of the right, but the state remains responsible for providing legal protection for good-faith certificate holders. Consequently, a certificate can be canceled by a court if it is proven that its issuance violated the law or administrative procedures. However, on the other hand, a certificate still provides strong protection for right holders who are unaware of any legal defects in the object they possess.

The application of this publication system is relevant to the principle of good faith registration, which is prevalent in the agrarian legal systems of many civil law countries. According to Peter Butt, a property law expert from Australia, a land registration system must consider the aspect of indefeasibility of title, which is the belief in the integrity of a certificate as valid proof of ownership that cannot be easily challenged except in extraordinary circumstances (Butt, 2014). In the Indonesian context, this principle is affirmed in land administration practices regulated through mechanisms of objection, mediation, and litigation against certificate issuance.

In practice, the mechanism for issuing land certificates is also supported by technological advancements through electronic systems. Minister of Agrarian Affairs and Spatial Planning/Head of BPN Regulation Number 1 of 2021 concerning Electronic Certificates introduces a system for digitalizing certificates and land data. In this system, the registration and issuance processes are carried out through an information technology-based system integrated with the national database. Electronic certificates have the same legal force as physical certificates and are digitally signed by authorized officials. This step aligns with the principles of efficiency and transparency in modern public administration.

However, practical obstacles still frequently occur, especially in the initial stages of collecting physical and juridical data. One major obstacle is the absence of valid written proof of ownership from the applicant, or the existence of overlapping claims over certain land plots.

This is exacerbated by weak coordination between village and sub-district authorities and the land office. In such circumstances, the adjudication committee plays a crucial role in administratively resolving disputes before registration takes place.

Regarding land, according to indigenous legal thought, there is a deep-seated belief that every indigenous customary law community group has a specific land environment as an inheritance or gift from a supernatural power, serving as a lifelong support for the group and its members. This means it is not only for the benefit of one generation, but also for subsequent generations of that customary law community group (Hutagalung, 2003).

From an administrative law perspective, the issuance of a land certificate is a *beschikking* or individual decision that creates legal rights and obligations for specific parties. Therefore, every decision to issue a certificate must be based on valid legal facts and not contradict the general principles of good governance (*algemene beginselen van behoorlijk bestuur*), such as the principles of meticulousness, justice, and legal certainty. Violations of these principles can be grounds for filing a lawsuit to annul the certificate in the state administrative or civil court.

A strong land registration system also serves as a foundation for national economic growth. Certificates issued through valid procedures can be used as bank collateral, investment guarantees, and evidence in business transactions. Therefore, the land registration process has strategic value not only in the context of legal protection, but also in promoting economic stability and sustainable development. In this regard, land law has a close relationship with land economics, which is a branch of economics that analyzes land as an economic asset and legal commodity.

In comparison, countries like the Netherlands and Germany apply a positive publication system, where data in the land register are considered absolutely true and are indefeasible. This differs from Indonesia, which allows for correction of registration data. This systemic difference indicates that Indonesia places principles of caution and protection for legally aggrieved parties as part of its national legal philosophy. Nevertheless, a negative publication system with positive elements still demands high accuracy in initial recording and verification to avoid future uncertainty.

Regarding technical implementation, BPN uses a cadastre system, which is a land information system that records the physical and juridical aspects of every plot of land. This system is developed through land registration activities carried out systematically and sporadically. Systematic activities are conducted through the Complete Systematic Land Registration (PTSL) program, while sporadic activities are based on individual applications. The PTSL program is designed to accelerate the completion of land registration throughout Indonesia, especially for communities that do not yet have formal proof of ownership.

From a normative aspect, it is important to emphasize that the entire process of issuing land certificates must comply with the principle of legality (*asas legalitas*), meaning that every government action must be based on law. This principle is the main foundation of the rule of law, which ensures that no power acts outside legal provisions (Atmadja, 2012). Therefore, procedural non-compliance, document forgery, or abuse of authority in certificate issuance can have fatal legal consequences, including criminal, civil, and administrative sanctions against implicated officials or applicants.

The mechanisms and procedures for issuing land certificates in Indonesia have been comprehensively regulated through a strict and systematic legal framework. Despite the dynamics and obstacles in the field, this system still demonstrates the state's commitment to ensuring legal certainty and protection of land rights for all citizens. Strengthening institutional capacity, modernizing information systems, and overseeing maladministration practices are key agendas for improving the quality of national land services. A land certificate is not merely an administrative document, but also a symbol of legal trust between the state and its people.

The customary law concept of land, as formulated by Boedi Harsono, is described as communalistic religious. This communalistic religious customary law concept allows for the individual control of communal land, as a gift from God Almighty, by citizens, with individual land rights that simultaneously contain elements of commonality (Harsono, 2008). In the national agrarian legal system, the existence of land institutions holds a crucial position as the guardian of administrative order and the guarantee of legal certainty over community land rights. Land rights are a form of civil right that is highly valuable and has broad impacts on economic, social, and political aspects. Therefore, the state has a responsibility to ensure that every acquisition, transfer, and use of land is regulated by principles of justice and legal certainty. In Indonesia, this role is carried out by the National Land Agency (BPN), Land Deed Officials (PPAT), and other supervisory bodies, which synergistically regulate and supervise all land activities in accordance with applicable norms.

The National Land Agency, now under the Ministry of Agrarian Affairs and Spatial Planning, is a state institution functionally responsible for the implementation of land registration, maintenance of land data, regulation of land rights, and public services in the agrarian sector. The existence of BPN is based on Presidential Regulation Number 17 of 2015 concerning the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Perpres No. 17, 2015).

BPN's function in issuing land title certificates is where BPN acts as the technical implementer for collecting physical and juridical data, examining documents, public announcement, and authenticating data as the basis for certificate issuance. Through regional land offices, BPN carries out verification, land measurement, mapping, and services to the community in the form of land information and access to ownership data. This is part of the state's efforts to establish a land system that is transparent, accountable, and based on fair public service.

In its implementation, BPN also has responsibility for strengthening legal certainty through the validation and integration of spatial and juridical data. According to Yudha Pratama, strengthening land data is the foundation for the realization of the principles of certainty of rights and security of tenure, two fundamental principles in modern land law that ensure that right holders will not arbitrarily lose their land. The refinement of national land law is carried out while maintaining values born and extracted from the roots of Indonesian culture without being closed to current changes. The UUPA also requires land registration for various types of land rights (Muchsin, 2010). Therefore, digitalization of land data and service systems based on information technology are key agendas for BPN, as regulated in Minister of ATR/BPN Regulation Number 1 of 2021 concerning Electronic Certificates.

Meanwhile, the function of the PPAT is very strategic in facilitating the transfer of land rights between parties. A PPAT is a public official appointed by the state to create authentic deeds as legal evidence in every land transaction. The deed made by the PPAT is a primary requirement for registering changes in rights with BPN. Based on Government Regulation Number 37 of 1998 concerning the Regulation on the Position of PPAT, the duties of a PPAT include drawing up deeds of sale and purchase, grants, exchanges, release of rights, and division of joint rights. This deed must contain valid juridical data, signatures of the parties, and be authenticated before the PPAT to have full legal force.

In practice, procedural irregularities often arise, both from the applicant, the PPAT, and land officials. These irregularities can include document forgery, abuse of authority, disregard for public announcement procedures, or even collusion in re-measuring land plot.

From an administrative law perspective, the mechanism for supervising deviations also involves testing administrative land decisions deemed to violate the law. In this regard, members of the public who feel aggrieved can file a lawsuit with the State Administrative Court (PTUN) to request the cancellation of a certificate or land decision. According to Andi Hamzah,

the function of control over the actions of public officials in this case is part of the principle of the rule of law, which demands that every power is subject to the law (Hamzah, 2016).

In addition to vertical supervision, Law Number 25 of 2009 concerning Public Services also mandates mechanisms for public complaints, satisfaction surveys, and internal audits of the performance of public institutions, including BPN and PPAT. This is intended to create a system of checks and balances in the land service process. Transparency, efficiency, and accountability are key indicators in evaluating the performance of land institutions.

The role of land institutions is also increasingly important in addressing land disputes involving indigenous communities, large corporations, and national development projects. In this regard, the functions of mediation and adjudication by BPN serve as faster and cheaper non-litigation alternative dispute resolutions compared to court. Land mediation is regulated in Minister of ATR/BPN Regulation Number 11 of 2016, which grants authority to the head of the land office to facilitate conflict resolution based on the principles of deliberation and justice.

The phenomenon of decentralization in the land sector through an autonomy model for autonomous regions seems not to materialize, because the government continues to maintain the existence of the National Land Agency as a national body tasked with maintaining the sustainability of the nation's and state's life system in the land sector (Perpres No. 10, 2006). On the other hand, the granting of authority in the land sector to regional governments based on *medebewind* or auxiliary tasks is regulated where BPN carries out government tasks in the land sector nationally, regionally, and sectorally. The role of land institutions also concerns the aspect of fulfilling the economic and social rights of the community. From a human rights law perspective, the right to land is part of the right to property that must be respected by the state.

The extensive authority of land institutions must be balanced with a strict accountability system. Therefore, strengthening human resource capacity, increasing the moral integrity of officials, and improving governance are important factors in building a credible land system. Recruitment, training, and supervision systems for PPATs and land officials must be carried out continuously to avoid abuse of power.

In comparative law, some countries implement an integrated notarial system, where notaries also function as land registrars, as is the case in France and Germany. This system is considered more efficient and accurate because one institution manages deeds and registration comprehensively. While Indonesia still separates the roles of PPAT and BPN, an integrated electronic system is being developed towards similar efficiency. This international experience shows that clarity of institutional roles and data continuity are key to a strong and reliable land system.

The role of land institutions, both BPN and PPAT, is vital in maintaining legal certainty and orderly land administration in Indonesia. Through a structured system, standard procedures, and effective supervision, the state can realize a land system that protects the interests of all communities without discrimination. Collaboration between institutions, legal strengthening, and public participation are key to creating a just, transparent, and sustainable agrarian order.

The existence of land title certificates holds a central position in the Indonesian agrarian legal system. A certificate is not merely an administrative document, but a legal instrument that has formal and material power in proving rights over a particular plot of land. In the Indonesian legal system, which adheres to the civil law system, a certificate is regarded as the strongest written evidence in demonstrating the existence of a right, the identity of the owner, and the status of the owned object. Thus, a certificate becomes a vital instrument in guaranteeing legal certainty over property rights and serves as the legal basis for various land transactions such as sale and purchase, grants, inheritance, and collateral in the banking sector.

The existence of certificates is recognized in Article 19 paragraph (2) letter c of Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA), which states that the registration referred to in paragraph (1) of this article includes (c) the issuance of certificates of

rights, which serve as strong evidence. This provision is further clarified in Article 32 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, which states that a certificate is a certificate of right that serves as strong evidence regarding the physical and juridical data contained therein, as long as such physical and juridical data are consistent with the data in the survey map and the land book of the respective right.

A certificate also guarantees legal certainty over the identity of the subject, object, and right to the land. The subject refers to the right holder, whose complete and verified data is recorded by the National Land Agency (BPN). The object of the land is described in detail through parcel maps, boundaries, measurements, and locations that are legally and cartographically valid. Meanwhile, the type of right, whether it be ownership right, right to cultivate, right to build, or right of use, is explicitly stated in the certificate. Thus, these three elements form the main foundation for the implementation of land law's function as a guarantee of legal certainty for the community. However, the validity of a certificate can still be compromised by weaknesses in the registration system and irregularities that occur in the field. This brings us to an important discussion regarding the problems and obstacles that frequently occur in the land certification process in Indonesia.

Although the land registration system in Indonesia has undergone various updates and modernizations, there are still a number of obstacles that hinder the effectiveness and credibility of certificates as legal documents. These obstacles not only affect administrative order, but also legal certainty and the protection of community rights.

One of the main problems is land boundary disputes or overlapping rights. This problem arises from inconsistencies between the physical and juridical data recorded by BPN and the actual conditions in the field. Land laws and policies established by colonizers were always oriented towards their own interests and benefits, initially through trade policies. As rulers and concurrently businessmen, they created interests over all sources of life in Indonesia that benefited themselves, in accordance with their goals, by sacrificing many interests of the Indonesian people (Santoso, 2009).

The second problem is dual certificates or legally flawed certificates. This occurs when more than one certificate is issued for a single plot of land, usually due to data manipulation or land mafia practices. Dual certificates undermine the credibility of the registration system and create severe legal uncertainty. In many cases, courts are asked to determine which certificate is valid and which should be canceled. The UUPA has two substances in terms of its applicability: first, it no longer enforces or revokes colonial agrarian law, and second, it establishes national agrarian law (Soeprapto, 1986).

The third, more serious problem is the involvement of land mafia and abuse of authority by rogue BPN or PPAT officials. Land mafia are groups that manipulate the registration process to obtain certificates for land that is not rightfully theirs, often involving corrupt officials or authorities. These actions violate criminal and administrative law, and create significant losses for legitimate landowners. Land mafia cases typically involve forged land deeds, forged signatures, baseless re-measurements, and disregard for objection mechanisms in the certification process.

Land law policy is part of state policies; as a system of norms, land law policy is not only used to regulate and maintain existing behavioral patterns, but goes beyond that. Land law should also be treated as a guiding tool in realizing state policies in social, cultural, economic, land, and national security fields (Soeprapto, 1986).

To overcome these problems, the government has issued a number of land reform policies, including the Complete Systematic Land Registration (PTSL) program and the digitalization of land certificates. However, the effectiveness of these policies depends on the integrity of the apparatus, the availability of accurate data, and active community participation in supervision.

The Indonesian agrarian legal system also needs to provide strong legal protection to victims of irregularities. Mechanisms for lawsuits to the State Administrative Court, civil courts, or even criminal prosecution against implicated individuals must be broadly accessible and supported by transparent evidence. In addition, internal mechanisms such as periodic audits, performance evaluations, and supervision by the Inspectorate General of the Ministry of ATR/BPN must be enhanced. According to Yuliana Santoso, strengthening oversight institutions is crucial to prevent fake certificates and promote credible administrative order (Santoso, 2019).

As a lesson from other countries, such as South Korea and Singapore, full integration between population data, land data, and electronic notarial systems can minimize the chances of forgery or procedural irregularities. Indonesia can learn from these models by building a land information system that connects all related agencies in a single high-tech national database.

Land title certificates are legal instruments that have high legal force in proving ownership, status of rights, and identity of the land object. In various legal transactions such as buying and selling, grants, inheritance, and credit, certificates serve as the main foundation guaranteeing legal certainty. However, the effectiveness of certificates is highly dependent on data accuracy, the integrity of the issuing institutions, and public legal awareness.

Various obstacles in the certification process such as boundary disputes, dual certificates, and land mafia are real challenges that test the credibility of the national land system. Therefore, strengthening regulations, institutional reform, and improving supervision are imperative. Without systemic handling of these obstacles, land certificates will lose their strategic function as a guarantee of legal certainty and protection of land rights.

Land certificates are not only administrative proof of rights, but also valid legal evidence in court if disputes arise. At the same time, the dynamics of national legal development demand continuous reform of the land certification system, so that it can adapt to social, technological, and agrarian developments in the field.

Legal certainty in the agrarian context is closely related to the protection of the subject and object of land rights. Land title certificates provide formal recognition from the state to the right holder, which is officially recorded and announced through the land registration system. With this registration, the right holder obtains a guarantee of their ownership that cannot be easily challenged. This provides a preventive effect against potential conflicts, especially in areas with high vulnerability to agrarian disputes.

The statistical decrease in agrarian conflicts cannot be separated from the role of massive land certification programs. When the legal status of land has been formalized in the form of a certificate, the boundaries, type of right, and identity of the owner become clear. Land law policy implemented within the community must better embody and be embodied by the community itself, so that law is not something alien within the community (Santoso, 2019).

Indonesia has three historical periods of land registration as explained by C.G. Van Huls (Supriyadi, 2006):

- a. The Chaotic Period (*De Chootisce periode*) before 1837.
- b. The Government Surveyors Period (*De periode Van Gauverments Landmatter*) from 1837-1875.
- c. The Land Registration Office Period (*De periode Van Den Kadastralan Dienst*) after 1875.

Another ongoing reform is the digitalization of land documents. Electronic certificates or digital land certificates are introduced as a form of modernizing the land registration system based on technology. This system aims to increase efficiency, reduce bureaucracy, and minimize the potential for forgery or loss of physical documents. Digitalization also supports data integration among agencies such as the Population and Civil Registry Office, BPN, and tax authorities, thereby creating interoperability in land governance. This transformation is a

strategic step in realizing e-government in the agrarian sector, which ultimately strengthens the principle of good governance in public services.

However, this reform is not only administrative but also demands changes in regulation. Changes to laws and regulations are a necessity to adjust positive law to field needs. For example, Minister of ATR/Head of BPN Regulation No. 1 of 2021 concerning Electronic Certificates is a regulation that allows for the national implementation of the digital system. On the other hand, strengthening the aspect of sanctions against violations in the land registration process is also an important agenda in land law reform. This includes regulating the legal responsibility for abuse of authority by rogue land officials or PPATs that cause legal defects in the certification process.

Land registration is the act of registering land that is still categorized as customary communal land to become land with rights attached to it. Registration, according to Government Regulation Number 24 of 1997 concerning Land Registration, is a series of continuous, sustainable, and regular activities carried out by the Government, including the collection, processing, bookkeeping, and presentation, as well as maintenance of juridical data, in the form of maps. It involves lists of land plots and multi-story apartment units, including the issuance of certificates of rights for land plots that already have rights and ownership rights for multi-story apartment units, as well as certain rights encumbering them.

In the context of comprehensive agrarian law reform, the modernization of the land certification system must also be accompanied by public legal education, empowerment of village institutions in land data collection, and strengthening of land administration capacity. These efforts are important so that every citizen understands the importance of the legality of land rights and the procedures that must be followed to obtain a certificate legally. Institutionally, there is a need for the integration of technology-based supervision systems and strong whistleblower mechanisms to prevent corruption and procedural irregularities in the certification process.

Land certification plays an important role in upholding legal certainty, strengthening ownership rights, and providing protection for good-faith parties. However, to ensure the effectiveness of this system, structural and continuous legal reform efforts are necessary. With digitalization, PTSL, and regulatory changes, the Indonesian land system is expected to become more modern, inclusive, and responsive to the challenges of the times. A land certificate is not merely a piece of evidence, but a symbol of the nation's legal civilization in guaranteeing its citizens' rights to land as a source of livelihood.

B. Legal Consequences in the Issuance of Land Title Certificates as a Guarantee of Legal Certainty for Land Right Holders

The existence of land certificates as valid evidence in the Indonesian land law system is a result of a formal and systematic land registration system. Article 19 of Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA) explicitly mandates that the government conduct land registration throughout the Republic of Indonesia to ensure legal certainty. This normative command is further elaborated through Government Regulation Number 24 of 1997 concerning Land Registration, which provides the legal and administrative structure for the registration process and the issuance of certificates as proof of land rights.

Certificates issued by the National Land Agency (BPN) are not merely administrative documents; they are a proof of title, a juridical evidence demonstrating legitimate ownership of a specific land plot. In the context of agrarian law, certificates hold a very strong position because Article 32 of Government Regulation Number 24 of 1997 concerning Land Registration explicitly states that (1) A certificate is a document of proof of rights that serves as strong evidence regarding the physical and juridical data contained therein, as long as such physical and juridical data are consistent with the data in the survey map and the land book of

the respective right. (2) In the event that a certificate has been lawfully issued for a plot of land in the name of a person or legal entity who acquired the land in good faith and actually controls it, other parties who feel they have rights over the land can no longer claim the execution of such rights if, within 5 (five) years from the issuance of the certificate, they do not submit a written objection to the certificate holder and the Head of the relevant Land Office or do not file a lawsuit in court concerning the land possession or the issuance of the certificate.

The validity of a certificate as proof of rights has significant legal consequences. First, the certificate holder is considered the legitimate owner of the land. Second, the certificate becomes the legal basis for various legal actions, such as buying and selling, inheritance, grants, pledges, and debt guarantees to financial institutions. This indicates that a certificate functions not only as proof of ownership but also as a legal transaction tool recognized in the Indonesian legal system. Certificates that have been issued and recorded in the land book provide a juridical guarantee to parties acting in good faith in transactions related to the land.

In the context of land disputes, land certificates play a very important role as primary evidence before the law. Certificates issued based on land registration results have the nature of *prima facie* evidence, meaning evidence that is initially considered true until proven otherwise. This principle is guaranteed in Article 32 of Government Regulation Number 24 of 1997 concerning Land Registration, which states that (1) A certificate is a document of proof of rights that serves as strong evidence regarding the physical and juridical data contained therein, as long as such physical and juridical data are consistent with the data in the survey map and the land book of the respective right.

In judicial practice, agrarian courts and general courts typically accept certificates as binding authentic evidence. Parties wishing to cancel or deny the truth of the data in a certificate are obliged to prove administrative defects, fraud, or long-term physical possession without resistance. In this case, the burden of proof falls on the plaintiff, not the certificate holder.

According to Sudikno Mertokusumo, documents supported by a registration system, such as certificates, have inherently superior evidentiary power compared to other unstructured or informal forms of evidence (Mertokusumo, 2010). Therefore, in the event of conflicts or dual claims over a land plot, the certificate becomes the main starting point in determining who has the strongest right according to positive law.

The legal protection provided by a certificate also reduces the maneuverability of land mafias who often exploit gaps in documentation or boundary conflicts for manipulation. The existence of a certificate as a public document recorded by an official state institution provides a clear legal position for the legitimate owner and strengthens an orderly and accountable land law system.

The publication system of land registration in Indonesia, which is a negative publication with positive elements meaning that publication is fundamentally negative because it does not guarantee absolute ownership validity but has positive elements because it provides legal protection for certificate holders becomes a main pillar of a certificate's strength in dispute resolution.

The position of a land certificate as valid and strong evidence is not only based on normative rules in Law Number 5 of 1960 concerning the Basic Agrarian Law and Government Regulation Number 24 of 1997 concerning Land Registration, but also has juridical roots in national legal practice and developing doctrines. A certificate is the highest symbol of legality in Indonesian land law and serves as primary evidence in all transactions and disputes. Through a good registration system, a certificate can provide legal certainty, guarantee ownership rights, and create stability in the agrarian sector.

The existence of land title certificates is a tangible manifestation of the state's recognition of land ownership rights by individuals or legal entities. Certificates issued by the National Land Agency (BPN) not only function as proof of title, but also create concrete legal

protection. This protection is important because it concerns legal certainty and the guarantee of land rights as part of economic rights and property rights protected by the constitution.

The legal protection provided to certificate holders includes administrative and judicial aspects. Administratively, the state, through BPN, has the obligation to maintain the validity of the data in land certificates and to uphold the legal position of certificate holders against baseless claims. This is in line with the principles of legal certainty and legal security in land law, where everyone who possesses a valid certificate obtains legal guarantee and protection over the land they own. This protection is regulated in Article 32 paragraphs (1) and (2) of Government Regulation Number 24 of 1997 concerning Land Registration, which affirms that the data in a certificate serves as strong evidence unless proven otherwise in court.

Certificate holders also receive judicial protection, namely the right to defend their ownership before the court if another party files a lawsuit. In practice, the Supreme Court has set a precedent through various rulings that place certificates as *prima facie* evidence, meaning initial evidence that is strong enough to demonstrate rights to land until proven otherwise.

Initial registration or the recording of a land right is useful for satisfactorily determining who has the right to a land plot and its boundaries. However, legal protection for certificates is not absolute. When it is proven that a certificate was obtained through an unlawful process, for example through document forgery, manipulation of juridical data, or violation of administrative procedures, the certificate can be declared legally flawed and canceled through legal mechanisms. In this context, legal protection becomes conditional protection, meaning the rights of the certificate holder are only protected as long as they acquired the right legitimately.

The legal cancellation of a land certificate can only be done through a court decision that has obtained permanent legal force. This is affirmed in Article 29 of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 21 of 2020 concerning Handling and Resolution of Land Cases, which states that the cancellation of a Legal Product is carried out by the authorized official due to: a. administrative defects and/or juridical defects; b. the execution of a court decision that has obtained permanent legal force.

The legal consequences of issuing a legally flawed certificate are significant. First, the certificate holder loses legal rights to the land they previously owned. Second, if there is proven active involvement in acquiring the certificate through unlawful means, the owner can also be held accountable civilly and criminally. In civil cases, they can be sued for damages to other parties harmed by the validity of the certificate. Meanwhile, in a criminal context, perpetrators who forge documents or provide false information in the land registration process can be charged under Article 263 of the Criminal Code concerning document forgery and Article 266 of the Criminal Code concerning providing false information in authentic deeds.

Registration is carried out by the National Land Agency in accordance with Article 5 of Government Regulation Number 24 of 1997 concerning Land Registration. Land registration provides legal certainty for land right holders and is also regulated in Article 6 paragraphs (1) and (2) of Government Regulation Number 24 of 1997 concerning Land Registration (Santoso, 2010). This phenomenon shows the importance of due process of law in every stage of land registration. The administrative process of land registration is not merely a formality, but must be viewed as a collective legal protection mechanism for the community. Therefore, the state must ensure the integrity of this process through strict supervision, transparency, and accountability of land officials and Land Deed Officials (PPAT).

For this reason, institutional reform in the land sector, including improving the internal oversight system at BPN and PPAT, is key to maintaining the integrity of land certificates. Efforts to digitalize land certificates and strengthen the national land database are also strategic steps to prevent the issuance of dual or legally flawed certificates in the future. With all its

authority, the state is not only tasked with issuing certificates, but also with ensuring their continuous validity and legality. Land certificates, as a manifestation of the state's recognition of individual rights, must remain within the corridors of justice and legal certainty.

A land list is a document in the form of a list containing the identity of a land plot with a numbering system. This provision is contained in Article 1 paragraph 16 of Government Regulation Number 24 of 1997 concerning Land Registration. Land plots that have been mapped or assigned a registration number on the registration map are recorded in the land list. The form, content, method of filling, storage, and maintenance of the land list are regulated by the Minister of Agrarian Affairs/Head of the National Land Agency (Lubis, 2012).

With the registration of a land portion, it is not merely about achieving a guarantee of certainty and security of ownership towards legal certainty. In fact, an owner will gain completeness of their rights (Ismaya, 2013), for the following reasons:

1. A sense of security in owning land rights.
2. A good understanding of what is expected from the registration.
3. A guarantee of accuracy in the system implemented.
4. Ease of implementation.

The national land system cannot function properly without the involvement of authorized institutions and officials. In Indonesia, the two main actors in the process of land rights registration and transfer are the National Land Agency (BPN) and the Land Deed Official (PPAT). Both play crucial roles in ensuring the legality of every land transaction and the validity of legal documents in the form of certificates. However, when procedural irregularities or administrative errors occur in the certificate issuance process, important questions arise regarding the legal responsibility of the related institutions and officials.

Legal accountability for the issuance of legally flawed certificates is part of the effort to realize the rule of law in the land system. In many cases, the active involvement or negligence of officials, both PPAT and BPN officials, can lead to serious legal consequences. PPATs, as public officials authorized by the state to create authentic deeds in land transactions, are obligated to ensure that the deeds they create reflect the actual legal situation. If a PPAT negligently fails to verify the land ownership status or processes documents that are proven to be false, they can be held accountable administratively and criminally.

The Ministry of Agrarian Affairs and Spatial Planning/BPN, as the supervisory authority, has direct responsibility for enforcing the integrity of the land process. One of the instruments used is internal audits, the formation of investigation teams, and the imposition of disciplinary sanctions against individuals who violate regulations. In practice, this supervision is strengthened by a public reporting system, digitalization of the registration process, and increased integrity of land apparatus through training and regular certification (Supriadi, 2006).

However, the process of enforcing this responsibility is often hampered by overlapping authorities and a weak internal control system. Therefore, structural reforms are needed that prioritize transparency and accountability as main principles in the land work system. The application of good governance principles in land bureaucracy will provide a guarantee of legal protection for the community and reduce the potential for issuing problematic certificates.

Moving on to another dimension, the legal impact of certificates on legal relationships with third parties is no less important. In legal traffic, land certificates not only function as proof of ownership, but also as a basis of trust for third parties, especially in sale and purchase transactions, security rights agreements, or other economic activities based on collateral.

The existence of a certificate also provides a sense of security to good faith third parties, such as land buyers or pledgees. The principle of protection for good faith third parties is important to ensure legal certainty in every transaction. In this case, if a third party buys land from a certificate holder recorded at BPN, then they have the right to obtain legal protection as

long as there is no bad faith and the sale and purchase process is carried out according to procedure.

As affirmed in the elucidation of Article 2 of Law Number 5 of 1960 concerning the Basic Agrarian Law, based on the authorities contained in national land law, it turns out that the formation of national land law and its implementation are, by nature and in principle, the authority of the central government. Therefore, land services as one of the government fields that must be carried out by regencies are limited to locality and are not national in nature (Hutagalung, 2005).

The national land system must ensure the validity of every certificate from the outset so as not to create a domino effect later. The state is obliged to anticipate these legal conflicts by strengthening the land information system, clarifying rules regarding the protection of third parties, and improving prevention and dispute resolution mechanisms fairly and transparently.

The issuance of land title certificates is not merely a form of administrative legalization, but a manifestation of national agrarian law policy to guarantee legal certainty over land in Indonesia. In this context, land certificates have a strategic function as a preventive legal instrument against various forms of agrarian conflict that often arise due to unclear legal status, land boundaries, and the subject of right holders. Granting formal status through land certification aims to provide legal assurance for community civil rights over land and to create order in the national land system.

Land certification as the final outcome of the land registration process provides authentic evidence of land ownership and serves as a strong legal basis for various legal actions, such as buying and selling, grants, inheritance, or using land as collateral in the banking system. In terms of conflict prevention, the existence of certificates has created a more orderly land management system because every certified land plot has a clear legal identity regarding its subject, object, and type of right. This, of course, reduces the possibility of overlapping rights or dual claims that often lie at the root of agrarian disputes in society.

Empirical research shows that agrarian conflicts frequently occur in areas that have not been systematically registered. Disordered land administration creates loopholes for overlapping claims, document forgery, or illegal land occupation that are difficult to control without formal legal certainty. In this case, land certificates have *prima facie* legal force as valid evidence under law, unless proven otherwise through a court decision with permanent legal force. This provision is affirmed in Article 32 paragraph (1) of Government Regulation No. 24 of 1997 which states that a certificate is strong evidence, and unless proven otherwise, the data contained therein are considered true.

In practice, certificate issuance also includes the process of identification and re-measurement of land plot boundaries, supplemented by the collection of juridical data, such as history of possession or proof of rights. This stage aims to ensure that the certificate not only records administrative information, but also reflects the legal status of the land in question. Therefore, a land certificate is not merely a legal document, but also a concrete representation of land tenure security recognized by the state.

Agrarian conflicts that occurred after the reform were largely caused by policy inconsistencies and weak oversight capacity, but the most fundamental cause was the absence of legal certainty over land possession and utilization. In this regard, land certification through formal legal instruments can function as a very effective dispute prevention mechanism, especially in rural areas and areas with high economic land value. This information is supported by Sutedi's opinion, who states that land conflicts can be minimized if the state implements a good and objective land registration system, and ensures that all land is systematically and openly registered to the public (Sutedi, 2019).

The existence of land certificates also has a psychological impact, in the form of an increased sense of security for landowners. When communities feel that their rights are legally

recognized and protected, the potential for horizontal conflict due to overlapping claims can be suppressed. On the other hand, the existence of certificates also provides legal certainty for third parties, such as buyers or creditors, when transacting on the land. If every land transaction is accompanied by a valid land registry check, then the potential for disputes can also be avoided.

However, the effectiveness of certificates as an instrument for preventing agrarian conflicts still depends on the integrity of the land administration system and the professionalism of the involved apparatus. In practice, there are still cases of dual certificate issuance, data manipulation in the registration process, or the involvement of land mafias colluding with rogue officials. This indicates that regulatory improvements and internal oversight are important aspects in realizing the preventive function of land certificates.

To address this, the digitalization of the land system through electronic certificates and geospatial information-based registration systems has become an important policy adopted by the Ministry of ATR/BPN to increase transparency and accuracy of land data. This approach is consistent with the theory of good governance in public administration, where technology-based public services can reduce irregularities and increase public trust in land authorities.

From a legal theory perspective, land certification reflects the principles of legal security and predictability of law, two important elements in a Rechtsstaat or rule of law. When citizens have confidence in the stability and applicability of law regarding their rights, conflicts can be prevented structurally. This aligns with Satjipto Rahardjo's idea that law should be placed as a tool of social engineering capable of creating social order and justice through legal certainty (Rahardjo, 2010).

Land certificates play a central role in the national land system, not only as a means of proof, but also as a foundation for preventing conflicts. The preventive function of certificates will be maximized if supported by an accurate land registration system, public information openness, and the integrity of the officials and institutions implementing it. Therefore, agrarian law reform and modernization of the land system must continue to be promoted to ensure that every plot of land in Indonesia has a clear, legitimate legal status and does not become a source of future conflict.

CONCLUSIONS

The legal framework for issuing land title certificates in Indonesia, which ensures legal certainty for land right holders, is systematically regulated across various laws and regulations. Key among these are Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA) and Government Regulation Number 24 of 1997 concerning Land Registration. The issuance of a certificate is the final outcome of the land registration process conducted by the National Land Agency (BPN), and it holds legal force as legitimate legal proof of ownership. A certificate provides both administrative and judicial legal assurances over an individual's land, simultaneously creating legal certainty and legal security in every land transaction.

From a legal consequence perspective, the issuance of a land certificate legitimizes ownership for the legal subject over a specific land object. The certificate functions as *prima facie* evidence, placing the certificate holder in a strong legal position in any land dispute, unless strong counter-evidence is presented. However, if a certificate is found to be legally flawed whether due to procedural errors, data forgery, or abuse of authority by land officials it can be canceled based on a court decision that has permanent legal force. In such a scenario, the consequences include the loss of ownership rights and potential legal liability for both the owner and the involved officials, encompassing civil and criminal accountability.

REFERENCES

- Atmadja, A. P. S. (2012). *Asas-asas umum pemerintahan yang baik dan hukum tata usaha negara Indonesia*. Jakarta: Prenada Media.
- Butt, P. (2014). *Land law*. Sydney: Thomson Reuters.
- C., Murni. (2020). Pendaftaran peralihan hak milik atas tanah karena pewarisan. *Lex Librum: Jurnal Ilmu Hukum*, 6(2).
- Aprini, E. (2007). *Kepastian hukum sertifikat hak atas tanah kaitannya dengan ketentuan Pasal 32 ayat (2) Peraturan Pemerintah Nomor 24 Tahun 1997* [Tesis, Universitas Diponegoro].
- Tresnawati, E. (2015). *Hukum agraria dalam perspektif keadilan*. Bandung: Nuansa Aulia.
- Fitriani. (2021). Kepastian hukum terhadap pemegang hak milik dalam penerbitan sertipikat tanah ganda pada satu bidang tanah. *Lex Jurnalica*, 18(3).
- Fuller, L. L. (2010). *The morality of law*. New Haven: Yale University Press.
- Radbruch, G. (2011). *Legal philosophy* (K. Wilk, Trans.). New York: Oxford University Press.
- Hadisiswati. (2014). Kepastian hukum dan perlindungan hukum hak atas tanah. *Ahkam: Jurnal Hukum Islam*, 2(1).
- Hadjon, P. M. (2012). *Perlindungan hukum bagi rakyat di Indonesia*. Surabaya: Peradaban.
- Hamzah, A. (2016). *Hukum administrasi negara dalam praktek*. Jakarta: Sinar Grafika.
- Harsono, B. (1999). *Hukum agraria Indonesia: Sejarah pembentukan Undang-Undang Pokok Agraria, isi dan pelaksanaannya*. Jakarta: Djambatan.
- Harsono, B. (2003). *Hukum agraria Indonesia: Sejarah pembentukan Undang-Undang Pokok Agraria, isi dan pelaksanaannya* (Jilid I). Jakarta: Djambatan.
- Harsono, B. (2004). *Hukum agraria Indonesia (Himpunan peraturan-peraturan hukum tanah)*. Jakarta: Djambatan.
- Harsono, B. (2008). *Hukum agraria Indonesia: Sejarah pembentukan, isi dan pelaksanaannya* (Edisi revisi, Cetakan ke-12). Jakarta: Djambatan.
- Harsono, B. (2018). *Menuju reformasi hukum agraria Indonesia*. Jakarta: Rajawali Pers.
- Hutagalung, A. S. (2003). *Konsepsi yang mendasari penyempurnaan hukum tanah nasional* [Pidato pengukuhan Guru Besar FH UI, Depok].
- Hutagalung, A. S. (2005). *Tebaran pemikiran seputar masalah hukum tanah*. Jakarta: Lembaga Pemberdayaan Hukum Indonesia.
- Hutagalung, A. S., & Gunawan, M. (n.d.). *Kewenangan pemerintah*.
- Isnaini, A. A. L. (2022). *Hukum agraria: Kajian komprehensif*. Medan: CV. Pustaka Prima.
- Ismaya, S. (2013). *Hukum administrasi pertanahan*. Yogyakarta: Graha Ilmu.
- Ismaya, S. (n.d.). *Hukum administrasi pertanahan*. Yogyakarta: Graha Ilmu.
- Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional. (2019). *Pendaftaran tanah untuk menjamin kepastian hukum*. Jakarta: Kementerian ATR/BPN.
- Kristiani. (2020). Hukum yang berkeadilan bagi hak ulayat masyarakat hukum adat (kajian dan implementasi). *ADIL: Jurnal Hukum*, 11(1).
- Lubis, Y. (2012). *Hukum pendaftaran tanah*. Bandung: Mandar Maju.
- Indrati, M. F. (2011). *Ilmu perundang-undangan: Jenis, fungsi, dan materi muatan*. Yogyakarta: Kanisius.
- Mertokusumo, S. (2010). *Hukum acara perdata Indonesia*. Yogyakarta: Liberty.
- Muchsin, et al. (2010). *Hukum agraria Indonesia dalam perspektif sejarah* (Cetakan ke-2). Bandung: Refika Aditama.
- Murni, C., Kelen, & Sulaiman. (2022). The legal certainty of land ownership right in registration's context. *International Journal of Law Reconstruction*, 6(2).
- Parlindungan, A. P. (1991). *Komentaris atas Undang-Undang Pokok Agraria*. Bandung: Mandar Maju.
- Parlindungan, A. P. (n.d.). *Pendaftaran tanah di Indonesia*. Bandung: Mandar Maju.
- Rahardjo, S. (2010). *Hukum dan perubahan sosial*. Yogyakarta: Genta Publishing.

- Santoso, U. (2009). *Hukum agraria & hak-hak atas tanah*. Jakarta: PT Fajar Interpretama Offset.
- Santoso, U. (2010). *Pendaftaran dan peralihan hak atas tanah*. Jakarta: Kencana Prenada Media Group.
- Santoso, U. (2014). *Hukum agraria: Kajian komprehensif* (Cetakan ke-4). Jakarta: Prenada Media.
- Santoso, Y. (2019). *Pengawasan administrasi pertanahan dalam perspektif good governance*. Semarang: Universitas Pandanaran Press.
- Saputra, S., & Marino. (2021). Penyelesaian sengketa sertifikat tanah ganda serta bentuk kepastian hukumnya. *Jentera: Jurnal Hukum*, 4(2).
- Hartini, S. (2021). Legal protection for the land owners issuance of double certificates. *Pena Justitia: Media Komunikasi dan Kajian Hukum*, 20(2).
- Soeprapto. (1986). *Undang-Undang Pokok Agraria dalam praktek*. Jakarta: Universitas Indonesia Press.
- Soerodjo. (2003). *Kepastian hukum hak atas tanah di Indonesia*. Surabaya: Arkola.
- Suhariningsih. (2009). *Tanah terlantar (Asas dan pembaharuan konsep menuju penerbitan)*. Jakarta: Prestasi Pusaka.
- Sumardjono, M. S. W. (2017). *Tanah dalam perspektif hak ekonomi, sosial, dan budaya*. Yogyakarta: FH UGM Press.
- Supriyadi. (2006). *Hukum agraria*. Palu: Sinar Grafika.
- Sutedi, A. (2011). *Sertifikat hak atas tanah*. Jakarta: Sinar Grafika.
- Sutedi, A. (2019). *Hukum pertanahan*. Jakarta: Sinar Grafika.
- Tehupeiory, A. (2012). *Pentingnya pendaftaran tanah di Indonesia*. Depok: Penerbit Raih Asa Sukses (Penebar Swadaya Group).