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A JURIDICAL REVIEW OF DISPUTE RESOLUTION REGARDING MULTIPLE CERTIFICATES FOR THE SAME LAND

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Abstract

This research aims to juridically analyze the Indonesian agrarian legal system in regulating and resolving disputes over dual certified land rights, as well as to evaluate the effectiveness of resolution mechanisms in ensuring legal certainty and protecting public rights. The issue of double certificates is a phenomenon where more than one certificate is issued for the same land object, which normatively contradicts the principle of legal certainty as mandated in Article 19 of the Basic Agrarian Law (Undang-Undang Pokok Agraria). The research method used is qualitative with a normative juridical approach. Primary data were obtained from legislation such as Law No. 5 of 1960 (Undang-Undang Pokok Agraria) and Government Regulation No. 24 of 1997, while secondary data were gathered through literature studies of legal texts, journals, and related documents. Data analysis was conducted using a descriptive-qualitative technique to provide an in-depth explanation of the legal phenomena. The results indicate that the primary causes of double certificates include weaknesses in land administration, overlapping authority, lack of inter-agency coordination, and the practices of land mafias. Dispute resolution mechanisms can be pursued through three channels administrative routes within the Ministry of ATR/BPN (clarification and cancellation), non-litigation (mediation), and litigation through the courts (civil or administrative court/PTUN). The state plays a crucial role in preventing these issues through the digitalization of land data and strengthening administrative oversight. The study concludes by emphasizing the need for regulatory harmonization and human resource improvement within land institutions to create a transparent, accountable, and fair land system.

Keywords: ATR, BPN, Dual Certificates, Legal Certainty, Land Disputes

INTRODUCTION

The history of land tenure in Indonesia has evolved from pre-colonial customary law systems and Dutch colonial rule to the enactment of the 1960 Basic Agrarian Law, which serves as the cornerstone of national agrarian law. Agrarian reform has continued into the modern era to ensure justice and legal certainty regarding land. The stages of land tenure in Indonesia can be outlined as follows During the pre-colonial period, land systems were governed by customary law. Land was regarded as communal property (*hak ulayat*) managed by indigenous communities or village heads, rather than as the individual property seen today. Land as a Source of Conflict Academically, land is a subject highly susceptible to conflicting interests; consequently, its status often transforms into a source of complex conflict. This phenomenon is driven by competition for space among various actors with differing orientations, where limited land availability clashes with ambitions for economic expansion and the ever-growing need for housing. From a legal perspective, land conflicts often stem from overlapping ownership claims or regulatory inconsistencies, ultimately creating legal uncertainty and triggering protracted disputes involving individuals, corporations, and the state. Among the various manifestations of disputes arising from this competition for space, one of the most critical issue and a frequent trigger for the escalation of legal conflict is the phenomenon of overlapping ownership, specifically in the form of multiple certificates for the same land.

From an academic perspective, the phenomenon of overlapping certificates manifests as a systemic lack of synchronization in land administration and a failure to validate both legal and physical data. This issue often stems from the transition period in land record-keeping, during which the integration of traditional title documents such as *girik* or *Letter C* with modern land registration systems was not comprehensively mapped within digital databases. Consequently, an information disconnect arose between village-level administration and land offices, enabling the issuance of new certificates for land parcels that were *de jure* already registered but had not yet been accurately plotted on registration maps *de facto*.

From both technical and legal standpoints, this overlapping issue is exacerbated by flaws in cadastral survey procedures and the implementation of Indonesia's *negative with positive elements* land registration system, under which a certificate serves as strong though not absolute evidence of title. A lack of precision in identifying physical boundaries, combined with administrative loopholes during document verification, creates opportunities for bad-faith third parties to manipulate the process of applying for land rights. From an agrarian law perspective, this situation not only creates legal uncertainty for rights holders but also transforms land into an arena for power struggles and complex litigation, stemming from the state's failure to uphold the principles of publicity and certainty regarding the location of the land parcel. Consequently, this study provides an in depth legal analysis of resolution efforts for land rights disputes involving multiple certificates for the same property.

RESEARCH METHODS

The research method employed in this study is the Normative Legal Research method, as the study relies on academic argumentation to examine legal sources. It utilizes three approaches the statute approach, to conduct an in-depth analysis of the hierarchy and substance of relevant regulations; the case approach, to analyze court rulings that have acquired permanent legal force (*inkracht*) in order to understand the application of law in concrete cases involving overlapping land rights; and the conceptual approach, to examine the concepts of legal certainty and legal protection for good-faith certificate holders, as well as the evidentiary value of certificates within the negative-plus land registration system adopted in Indonesia (Benuf & Azhar 2020).

The legal materials utilized consist of both primary and secondary sources. Primary legal materials include the Basic Agrarian Law (UUPA) No. 5 of 1960, Government Regulation No. 18 of 2021, and relevant jurisprudence or court rulings concerning overlapping land certificates. Secondary legal materials encompass legal textbooks, scholarly journals, and relevant prior research findings. All legal materials were systematically gathered through library research and documentary analysis, and subsequently classified according to the legal hierarchy. The data analysis technique employed in this study is qualitative descriptive analysis, aimed at understanding the legal phenomenon from the perspective of the legal actors or subjects and elucidating the meaning underlying the existing legal facts (Erwinsyahbana & Ramlan 2017).

RESULT AND DISCUSSION

The state plays a fundamental role in ensuring the governance and administration of land tenure as part of its constitutional mandate to realize social justice and legal certainty. Normatively, this is rooted in Article 33, Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which affirms that the land, water, and natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people, as further regulated by Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA). Article 19 of the Basic Agrarian Law mandates that the state conduct land registration throughout Indonesia to ensure legal certainty a process encompassing surveying, mapping, land recording, and the issuance of certificates as valid proof of rights. Within the framework of legal certainty theory as articulated by Gustav Radbruch law should provide clarity, consistency, and predictability in its application. However, the existence of multiple certificates for the same land actually reflects legal uncertainty, as there are two or more instruments of title that are administratively recognized by the state for an identical parcel of land. This demonstrates that, although the land law system was normatively designed to provide legal certainty, its implementation has not yet been fully effective (Mahardika, 2026).

In this context, this study presents a case study regarding the issuance of dual land titles that resulted in a legal dispute (Case No. 34/G/2024/PTUN.SRG). The dispute originated from the issuance of two distinct administrative legal instruments concerning a plot of land located in the Kalodran area (formerly Kalodran Village, now Kalodran Urban Village), Walantaka District. Chronologically, the dispute began with the issuance of Freehold Title (SHM) No. 00281/Kalodran Village on October 11, 2001, to Hj. Malihah Bin Wahid, covering an area of 1,550 m². A legal conflict subsequently arose after the Serang Regency Land Office issued a second title for the same location SHM No. 00772/Kalodran Village on September 26, 2008, to Syafrudin, covering an area of 776 m². Following administrative boundary changes mandated by Serang City Regional Regulation No. 10 of 2011, the status of the area shifted from Kalodran Village to Kalodran Urban Village, moving from the jurisdiction of Serang Regency to Serang City. Consequently, authority over land matters including the cancellation of titles was transferred to the Serang City Land Office, as stipulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) No. 15 of 2020. The dispute ultimately entered the judicial system on September 4, 2024, when Ir. Tjahjadi Aquasa filed a lawsuit with the Serang Administrative Court seeking the cancellation of both titles. The lawsuit is based on an overlap of land rights deemed legally flawed and in violation of the General Principles of Good Governance (AUPB), as well as prejudicial to the Plaintiff's legal interests regarding the land.

This phenomenon can stem from several interrelated factors. From a legal perspective, the issuance of multiple certificates for the same land parcel can result from a weak legal basis for land tenure such as the use of unsubstantiated or inadequately verified title documents and unresolved overlapping ownership claims (Nurhayati & Suardi, 2026). From a technical

standpoint, the issue relates to inaccuracies in physical land data, including errors in measurement and boundary demarcation, as well as the lack of an optimal, integrated coordinate-based mapping system, which can lead to a single land parcel being identified differently on registration maps. Administratively, multiple certificates may arise from weaknesses in data recording and verification processes within the National Land Agency (BPN), such as a lack of data integration, staff oversight, and potential duplication within land registers or land administration systems. Another factor is negligence by BPN officials in verifying title documents and land history whether during measurement, legal data review, or certificate issuance thereby creating opportunities for administrative errors. Furthermore, the use of weak or invalid title documents such as *girik* records or land statements that have not undergone rigorous verification increases the likelihood of multiple certificates being issued, particularly when there are competing claims over the same land parcel. According to Boedi Harsono, Indonesia adheres to a negative publication system with positive tendencies, a system that recognizes the land certificate as strong, yet not absolute, evidence of ownership. Consequently, the data contained in the certificate remains open to challenge and rebuttal by other parties possessing stronger evidence. This system differs from a positive publication system, which provides an absolute guarantee regarding the accuracy of the data recorded in the certificate (Milala & Purba, 2025).

Furthermore, the mechanism for announcing physical and juridical data as stipulated in Government Regulation (PP) Number 24 of 1997 has limited effectiveness. Normatively, this announcement is intended to allow the public to raise objections if their rights are infringed upon. In practice, however, not everyone is aware of such announcements, particularly those located outside the area or lacking access to land information. Consequently, many objections arise only after the certificate has been issued, meaning disputes cannot be prevented at an early stage. Other weaknesses lie in human resources and administrative oversight. In some instances, the issuance of duplicate certificates stems not merely from technical errors but also from official negligence, abuse of authority, document manipulation, and even land mafia activities that exploit loopholes in land administration (Annas & Rahmah 2025).

This situation indicates that the issue of duplicate certificates is caused not only by flaws in legal norms but also by weaknesses in the legal structure and the oversight of norm implementation. From a juridical perspective, an ideal certificate issuance mechanism should not focus solely on fulfilling formal administrative procedures but must also guarantee the material accuracy of the data serving as the basis for granting rights. Therefore, it is necessary to strengthen data verification systems, integrate national digital land databases, improve inter-agency coordination, and enforce stricter oversight across all stages of certificate issuance. Additionally, regulations need to be refined to strengthen the land publication system, ensuring that certificates can truly provide stronger legal certainty to the public. Thus, from a normative standpoint, the current mechanism for issuing land rights certificates actually incorporates sufficiently comprehensive stages to prevent the occurrence of duplicate certificates. However, flaws in the negative publication system, inaccuracies in land data, suboptimal administrative digitization, weak oversight, and the abuse of authority have prevented the land registration system from fully achieving its goal of providing legal certainty. This situation is a primary reason why the issuance of duplicate land certificates remains an issue in Indonesia (Fredy & Tira 2025).

In the initial stage, the resolution of dual-certificate disputes is conducted through an administrative mechanism within the ATR/BPN framework, encompassing the filing of complaints, file review, and the verification of physical and legal data regarding the disputed land. This stage aims to identify any administrative or legal flaws in the certificate issuance process. Under ATR/BPN Ministerial Regulation Number 21 of 2020, the land authority is empowered to handle cases through the clarification, investigation, and analysis of the

documents serving as the basis for certificate issuance. If procedural errors are discovered, administrative actions such as data correction or a recommendation to revoke the certificate may be taken (Nugroho et al., 2025). Subsequently, a non-litigation mechanism serves as an alternative resolution method that prioritizes the principles of deliberation and mutual agreement among the parties. In practice, resolving dual certificate disputes via non-litigation mechanisms acts as a preventive and persuasive initial step. This mechanism includes mediation and negotiation facilitated by the ATR/BPN to reach an agreement without resorting to court proceedings. ATR/BPN-facilitated mediation is the primary instrument at this stage, providing the parties with the opportunity to reach a peaceful resolution outside the judicial system. This approach is considered more effective as it saves time and costs while avoiding protracted conflict (Sulfian, 2025). However, the success of mediation relies heavily on the good faith of the parties and the mediator's ability to facilitate constructive dialogue. Mediation is a crucial instrument because it enables a faster, more efficient resolution that prioritizes a win-win outcome. Additionally, the ATR/BPN may re-examine physical and legal data and implement administrative corrections if procedural flaws in the certificate issuance are identified.

If resolution through administrative and non-litigation channels proves unsuccessful, the dispute may proceed via litigation in court. Disputes concerning the validity of certificate issuance are generally brought before the State Administrative Court (PTUN) including disputes over the issuance of duplicate certificates as they involve an administrative decision (the issuance of the certificate itself). Conversely, disputes involving civil rights are brought before the General Courts, as these proceedings center on ownership rights. In both litigation processes, the judge assesses the evidentiary weight and validity of each certificate based on the evidence submitted, examining whether there were administrative flaws, legal defects, or elements of an unlawful act in their issuance. Furthermore, if a legal defect is proven, the State through the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) has the authority to cancel the certificate. Such cancellation may be executed administratively in cases of procedural or data errors, or pursuant to a court ruling that has attained permanent legal force (*inkracht*) (Grasia Kurniati, 2016).

These provisions demonstrate that while a certificate serves as strong evidence of rights as stipulated in Article 32 paragraph (1) of Government Regulation Number 24 of 1997 its status is not absolute; it remains subject to cancellation to ensure justice and legal veracity. In other words, a certificate recognized as strong evidence can still be revoked if proven to be legally defective. Moreover, upon the issuance of a court ruling with permanent legal force (*inkrach*), ATR/BPN is obligated to execute the judgment, including cancelling any certificate declared invalid. The administrative cancellation of certificates carried out when a legal defect is identified, without the need to await a court ruling aligns with the provisions of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) Number 9 of 1999. This mechanism demonstrates the state's corrective authority in upholding the integrity of the land administration system. Beyond formal mechanisms, resolving land disputes requires a more comprehensive approach centered on strengthening the land administration system. Preventive measures such as the digitization of land data, enhanced information transparency, and the integration of geographic information systems serve as strategic steps to prevent the recurrence of similar disputes in the future (Febriyanti et al., 2026).

Consequently, dispute resolution focuses not only on addressing existing conflicts but also on system improvements to avert new disputes. Thus, efforts to resolve land disputes arising from duplicate certificates reflect a multidimensional approach that encompasses administrative, non-litigation, and litigation mechanisms. The effectiveness of such resolution hinges on synergy among land agencies, law enforcement officials, and public legal awareness regarding the maintenance of orderly land administration. Therefore, strengthening regulations,

enhancing the quality of personnel, and reforming the land system are essential to ensure optimal legal certainty and protection for all parties involved.

In the ruling on Case Number 34/G/2024/PTUN.SRG, the Panel of Judges presented several key legal reasons and arguments forming the basis for the annulment of the disputed certificates, as follows Violation of the Principle of Diligence within the General Principles of Good Governance (AUPB) The judge argued that the Defendant (Land Office) violated the General Principles of Good Governance (AUPB), specifically the Principle of Diligence. This was because the state administrative official failed to conduct an in-depth validation and examination of both physical and juridical data prior to issuing the certificates, resulting in an overlap with land that had already been certified. Procedural Legal Flaws in Land Registration The judge found that land registration procedures stipulated in Government Regulation Number 24 of 1997 had been disregarded (Kesuma & Ramadhan, 2025).

Under Article 1 point 1 of said Regulation, land registration is intended to be conducted continuously and systematically to ensure legal certainty; however, the emergence of duplicate certificates demonstrated a failure in maintaining the public land registration records. Responsibility Arising from Administrative Boundary Changes The judge emphasized that although the initial certificates were issued by the Serang Regency Land Office, the legal responsibility to rectify and annul the problematic certificates now falls under the authority of the Serang City Land Office. This is based on the change in status of the Kalodran area from a *Desa* (rural village) to a *Kelurahan* (urban village), as well as the enforcement of the Minister of ATR/BPN Regulation Number 15 of 2020 regarding operational jurisdictions. Principle of Legal Certainty The judge's legal reasoning emphasized that a land certificate serves as proof of rights intended to provide legal certainty to the holder. The existence of two distinct certificates for the same plot of land was deemed a form of legal uncertainty that prejudiced the Plaintiff's legal interests and violated the very purpose of land registration. The Final and Concrete Nature of the Object of Dispute The judge concluded that the objects of dispute (SHM 00772 and SHM 00281) constituted State Administrative Decisions that were concrete, individual, and final, thereby creating legal consequences for a person; consequently, the court has the authority to annul them if a legal defect in their issuance is proven (Suryawan & Setianto, 2023).

Based on the panel of judges' legal considerations in Case Number 34/G/2024/PTUN.SRG, the analysis regarding the party deemed at fault or responsible for the issuance of duplicate certificates can be detailed as follows The panel of judges determined that the Defendant (Head of the Serang City Land Office) bears administrative responsibility for the legal instruments issued by their office. Although some certificates were issued by the Serang Regency Land Office prior to the administrative division of the region, legally, the responsibility for maintaining land data and revoking legally flawed certificates transferred to the Defendant alongside the shift in jurisdiction. The emergence of duplicate certificates indicates a violation of the Principle of Diligence (or Carefulness) within the General Principles of Good Governance. The judge held that state administrative officials should have meticulously validated physical and legal data before issuing new rights over a property that was already registered. The failure to synchronize data highlights a breakdown in the administrative transition process from Serang Regency to Serang City.

Land authorities were deemed negligent in ensuring that all supporting documents (*warkah*) and certificate data were fully transferred and integrated, resulting in overlapping rights over the same location. Regarding the position of the private party (Right Holder) Although this dispute involves intervening parties (Syafrudin and the heirs of Hj. Malihah), from the perspective of state administrative law, the judge's inquiry into fault focused on the procedure by which the state official issued the decision, rather than on the parties' civil-law intent (*mens rea*), unless the use of forged documents during the land registration process was

proven. Judge's Conclusion The judge determined that a certificate issued subsequently over a plot of land that was already certified is administratively flawed, as it violates legal certainty and the principles of land registration stipulated in Government Regulation (PP) No. 24 of 1997. Therefore, the party at fault regarding procedure is the land agency that failed to exercise due care in managing the public land registration records, thereby causing loss to the legitimate rights holder.

An analysis of the judicial reasoning employed in resolving disputes involving multiple land titles reveals that court rulings serve primarily as legal instruments to resolve conflicts over rights and restore legal certainty compromised by overlapping land ownership. However, judicial resolution is essentially a remedial measure taken only after a dispute has already arisen. A judge's successful determination of the rightful titleholder does not negate the fact that the land administration system failed, allowing multiple titles to be issued for the same parcel of land. Therefore, resolving disputes through court rulings must be complemented by more fundamental preventive measures specifically, ensuring the state can prevent the issuance of multiple titles from the outset by maintaining an orderly, accurate, and accountable land administration system. It is in this context that the state's role becomes crucial not merely as an arbiter resolving disputes through legal mechanisms, but as a guarantor of legal certainty obligated to prevent land disputes through an effective land registration system and to provide legal protection for all holders of land rights.

The persistence of legal issues within the community specifically land disputes involving multiple certificates for the same plot highlights the weak legitimacy of the competent authority, namely the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), in its role as the administrator of land affairs. An inability to guarantee the accuracy of land data imposes administrative and legal burdens on the state, including an increase in disputes requiring resolution through litigation or non-litigation mechanisms. Furthermore, this situation risks causing financial losses to the state due to compensation claims and hinders investment by undermining legal certainty regarding land ownership. The issue of multiple certificates is not merely a technical administrative matter; it also impacts the stability of the national legal and economic systems. From the perspective of Indonesia’s land law system which adheres to a negative publication system with positive elements, as stipulated in Article 32 paragraph (1) of Government Regulation Number 24 of 1997 a land certificate serves as strong evidence but is not absolute. This framework allows for legal challenges against issued certificates; consequently, when multiple certificates exist, resolution relies heavily on evidentiary proceedings in court (Atikah, 2022). While this system allows room for substantive justice, it simultaneously prolongs legal uncertainty for the disputing parties. Thus, the issuance of multiple certificates generates widespread negative consequences for the state, the government, and the public, directly conflicting with the principles of legal certainty and legal protection. Therefore, it is essential to strengthen the land administration system, enhance the integrity of officials, and reform land policies to ensure that every issued certificate truly reflects optimal legal certainty and protection (Yulianto et al., 2026).

From a legal perspective, the state's administrative function is realized through the implementation of land registration, as stipulated in Article 19 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA). This activity encompasses the collection of physical and legal data, land recording, and the issuance of certificates serving as strong evidence of rights. Through this mechanism, ATR/BPN plays a strategic role in ensuring that every parcel of land is legally registered and that no overlapping rights occur. Consequently, this administrative function serves as a primary instrument for preventing the issuance of duplicate certificates, a problem often rooted in disorganized land data. Furthermore, in executing this administrative function, ATR/BPN must prioritize the prudential principle and the principle of legal certainty at every stage of land registration. This entails

rigorous verification of physical and legal data, adherence to the principle of publicity through public announcements, and the continuous maintenance of data. These provisions are further regulated by Government Regulation Number 24 of 1997 concerning Land Registration, which emphasizes the importance of accuracy and transparency in the land administration process.

CONCLUSIONS

Legal certainty regarding land tenure is a fundamental pillar underpinning administrative order and preventing the issuance of duplicate certificates. From a normative standpoint, the mandate of Article 19 of Law Number 5 of 1960 (Basic Agrarian Law) reinforced by Article 3 of Government Regulation Number 24 of 1997 positions land registration as an instrument of legal protection designed to guarantee clarity regarding the subject, object, and type of land rights. However, Indonesia's negative publication system with positive elements means that land certificates possess strong yet not absolute evidentiary value; this leaves room for disputes involving overlapping certificates arising from failures to validate historical data. This phenomenon of duplicate certificates manifests as a multidimensional systemic misalignment, rooted in issues ranging from weak document verification (*warkah*) and inaccurate physical-geographic (cadastral) measurements to a failure to synchronize data during administrative transitions between land offices. From an agrarian law perspective, the state's preventive role is crucial and can no longer be deferred; genuine legal certainty can only be achieved by strengthening administrative oversight systems, harmonizing regulations, and accelerating the integration of a digital national land database that is accurate, transparent, and accountable.

Based on an in-depth analysis of jurisprudence and judicial practice, it can be concluded that the legal reasoning employed by judges in resolving disputes involving dual land titles centers on examining the formal (procedural) and material (substantive) validity of the disputed land rights. Within the State Administrative Court (PTUN) system, judicial reasoning focuses primarily on the legality of the certificate's issuance, guided by the principle of *contrarius actus* and the General Principles of Good Governance (AAUPB). Judges will annul certificates found to suffer from administrative legal defects such as errors in measurement procedures or mistakes in verifying the land's history (*warkah*). Conversely, within the General Court (Civil) system, judicial reasoning emphasizes establishing which party holds the strongest and legally valid civil right. In this context, judges typically apply the principle of *prior tempore potior jure* recognizing the holder of the earliest-issued certificate as having the superior right provided the certificate was obtained in good faith, through proper procedures, and the land itself is under physical possession. Thus, judicial reasoning serves not only as a dispute resolution mechanism to uphold justice for the parties involved but also acts as a judicial corrective to the inherent weaknesses of the negative-with-positive-elements registration system adopted in Indonesia's agrarian governance laws.

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