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Legal Certainty in Resolution of Disputes Over Overlapping Land Ownership Certificates

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ABSTRACT

This study discusses legal certainty in resolving disputes over overlapping Land Ownership Certificates with a study of Decision Number 2/G/2023/PTUN.Plk. The purpose of this study is to review and analyze legal regulations regarding the resolution of disputes over overlapping Land Ownership Certificates in realizing legal certainty in Indonesia, to review and analyze the implementation of legal regulations in resolving disputes over overlapping Land Ownership Certificates in providing legal certainty for rights holders, and to review and analyze the legal reconstruction of resolving disputes over overlapping Land Ownership Certificates in the future to realize legal certainty, justice, and legal protection for rights holders in good faith. This study uses a normative juridical method with a statutory regulatory approach and a case approach. The results of the study are that legal certainty in resolving disputes over overlapping Land Ownership Certificates in Indonesia with a study of Decision Number 2/G/2023/PTUN.Plk. The study uses a normative juridical method with a statutory and case approach. The discussion covers legal arrangements, implementation, and reconstruction through layered verification, integration of legal and spatial data, parameters for determining rights, and protection and restoration for rights holders in good faith to realize legal certainty, justice, and legal protection.

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1. INTRODUCTION

Land is a natural resource that holds a strategic position in the lives of Indonesians due to its economic, social, and legal functions. Land is not only a place to live and a source of livelihood, but also an object of investment, business activities, development, and various legal relationships between communities and the state. Therefore, certainty regarding who owns and controls a plot of land is a fundamental requirement for creating legal order and preventing land conflicts. In the context of a state based on the rule of law, certainty regarding land rights cannot be achieved simply through physical control; it must be supported by a land administration system capable of providing certainty regarding the physical and legal data of a plot of land.

The constitutional basis for land management is contained in Article 33

paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which stipulates that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. This provision was then elaborated through Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). One of the important instruments established to provide legal certainty in the land sector is land registration. Article 19 paragraph (1) of the UUPA expressly [1].

Land registration is thus not merely an administrative activity to record the existence of a plot of land, but rather a state legal instrument to provide legal certainty and protection to land rights holders. Article 19 paragraph (2) of the UUPA stipulates that land registration includes land measurement, mapping and bookkeeping; registration of land rights and the transfer of those rights; and the provision of valid proof of rights documents that serve as strong evidence.[1]Thus, the existence of a certificate has a very close relationship with the purpose of land registration, namely to provide certainty regarding the status of rights, the subject of the rights holder, and the land object that is controlled or owned [2], [3].

Regulations regarding land registration are further stipulated in Government Regulation Number 24 of 1997 concerning Land Registration as amended, among others, by Government Regulation Number 18 of 2021.[2]Article 3 of Government Regulation Number 24 of 1997 states that land registration aims to provide legal certainty and legal protection to rights holders of a plot of land, apartment units and other registered rights so that they can easily prove themselves as the rights holders in question.[3]Thus, land registration has a legal protection dimension because the state, through land administration, provides administrative legitimacy to registered rights [4] [5].

Legal certainty includes at least certainty regarding the status of registered rights, certainty regarding the subject who is the right holder, and certainty regarding the land object in question.[4]A certificate, as proof of title, also serves as proof because it contains both legal and physical data regarding the land in question. This physical data includes the location, boundaries, and area of the land, while the legal data relates to the legal status of the land and the title holder.[5]Therefore, the accuracy of the data that forms the basis for issuing certificates is very important in achieving legal certainty [6], [7].

However, the Indonesian land registration system does not give certificates the status of absolute and inviolable evidence. Article 32 paragraph (1) of Government Regulation Number 24 of 1997 stipulates that certificates are proof of rights that serve as strong evidence regarding the physical and legal data contained therein, as long as the data is in accordance with the data contained in the measurement letter and the land title book in question.[6]This character shows that the Indonesian land registration publication system has a negative tendency, so that it is still possible for there to be parties who can

[1]Ibid., Article 19 paragraph (2).

[2]Government Regulation Number 24 of 1997 concerning Land Registration, as amended by Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. Government Regulation Number 24 of 1997 remains in effect, with amendments made through Government Regulation Number 18 of 2021.

[3]Government Regulation Number 24 of 1997 concerning Land Registration, Article 3 letter a.

[4]Boedi Harsono,*Indonesian Agrarian Law: History of the Formation of the Basic Agrarian Law, Its Contents and Implementation*, Volume I, Djambatan, Jakarta, 2008, pp. 474–475.

[5]Randhika A. Manoppo, "The Function of Land Certificates According to Government Regulation Number 24 of 1997 concerning Land Registration,"*Criminal Law*, Vol. VI, No. 10, 2017, pp. 1–2. The study explains that the legal certainty of land registration includes certainty of the status of rights, the subject of rights, and the object of rights and that the certificate contains physical data and legal data.

[6]Government Regulation Number 24 of 1997 concerning Land Registration, Article 32 paragraph (1).

prove stronger rights to land objects that have been certified.[7] [5], [8], [9]

In practice, this situation can create problems when more than one certificate is issued for a single plot of land, each with the same object or partially overlapping objects. This situation is known as multiple certificates or overlapping certificates. Overlapping certificates essentially indicate a problem in land administration because there is more than one administrative product that legitimizes the same or overlapping plots of land. This problem can create uncertainty regarding the party who actually has the land rights, hinder land use, cause economic losses, and ultimately encourage disputes among certificate holders [10], [11].

Certificates, which should be instruments of legal certainty, can instead become a source of uncertainty if their issuance process is not supported by accurate physical and legal data. In this context, the issue of overlapping certificates is not solely related to who holds the certificate, but also relates to how the certificates are issued, whether the registration procedures have been carried out in accordance with legal provisions, whether the physical data has been properly verified, and whether the legal data that forms the basis for certificate issuance has been carefully examined. In other words, substantive legal certainty cannot be separated from the quality of land administration.[8] [5], [6]

This problem becomes even more complex when errors or inconsistencies in land administration data result in new certificates that overlap with existing ones. In such circumstances, people who have obtained Land Ownership Certificates through official procedures may face a situation where their rights are again challenged due to the subsequent issuance of other certificates. This situation raises questions about the extent to which the state guarantees legal certainty to certificate holders and the responsibility of land administration in the event of errors in the certificate issuance process [12].

This issue can be seen in Decision Number 2/G/2023/PTUN.Plk at the Palangka Raya State Administrative Court. The case involves Hj. Musrifah and Hj. Halidah as Plaintiffs against the Head of the Palangka Raya City Land Office and the parties who entered as Intervening Defendants II. The case relates to a dispute over a number of Land Title Certificates which are argued to have an overlapping relationship with the land plots that are the basis of the Plaintiffs' interests.[9]

In this case, there are a number of certificates that are the object of the problem, including Certificate of Ownership Number 13931/Bukit Tunggal issued on July 7 2013, Certificate of Ownership Number 15037/Bukit Tunggal, as well as other certificates issued in the following years.[10]The existence of several certificates for the land plots in question

[7]I Gusti Agung Putri Pradnyautari, I Nyoman Darmadha and I Wayan Novy Purwanto, "Legal Certainty for Holders of Land Ownership Certificates Based on Article 32 Paragraph (2) of PP Number 24 of 1997 concerning Land Registration,"*Kertha Semaya: Journal of Legal Studies*The article explains the nature of Indonesia's land registration publication system and the status of certificates as strong evidence, not absolute proof.

[8]Syendy A. Korompis, "Legal Regulations on Land Registration as Ownership Rights According to Government Regulation Number 24 of 1997,"*Private Law*, Vol. 6, No. 1, 2018. The study confirms that land registration is intended to provide legal certainty and protection to rights holders.

[9]Decision of the Palangka Raya State Administrative Court Number 2/G/2023/PTUN.Plk, section on the identities of the parties and the circumstances of the case. A copy of the decision lists Hj. Musrifah and Hj. Halidah as the Plaintiffs and the Head of the Palangka Raya City Land Office as the Defendant.

[10]Palangka Raya State Administrative Court Decision Number 2/G/2023/PTUN.Plk, regarding the disputed object. The copy of the decision lists, among other things, Land Ownership Certificate Number 13931/Bukit Tunggal and Land Ownership Certificate Number 15037/Bukit Tunggal as part of the certificates at issue in the case.

indicates that there is a problem regarding the relationship between land registration data, land ownership history, spatial data, and the validity of the issuance of certificates .

This case also demonstrates that disputes over overlapping certificates cannot be understood simply as land ownership issues. These disputes also constitute a matter of state administrative law, as certificates are issued through a decision or administrative action by a land official. Therefore, if the certificate issuance is suspected of being conducted through procedures that do not comply with statutory provisions, the legality of such administrative action can be tested through state administrative court mechanisms within their jurisdiction.[11] [13][6] [14]

From an administrative law perspective, the issuance of certificates must meet the requirements of authority, procedure, and substance. Government officials are not only required to have the authority to issue decisions, but are also required to exercise that authority based on the principles of good governance, including the principle of due diligence. The principle of due diligence requires that government agencies or officials, when making decisions, first consider all relevant facts, documents, and legal requirements so that the decisions issued do not cause harm to other parties.[12]

In the context of overlapping certificate disputes, the principle of due diligence is crucial. The Land Office should conduct a physical and legal inspection before issuing a certificate. This inspection must include the conformity of the location, boundaries, area, land history, title, and data already recorded in the land administration system. If the inspection is not conducted adequately, there is a possibility that a new certificate will be issued for an object previously registered in the name of another party.

Decision Number 2/G/2023/PTUN.Plk is also interesting to examine because it highlights issues related to land data management in a technology-based administration system. The case description addresses issues regarding changes to or management of spatial data in the land computer system, which impacts the legibility or inaccessibility of certain land parcels within the system.[13]These facts show that on the one hand, digitizing land administration can increase efficiency and accuracy, but on the other hand, it still requires data validation, integration, maintenance, and security mechanisms so that system changes do not eliminate or obscure registered rights data [15].

This is important because land data is historical in nature. Data on a land parcel not only reflects the condition of the land at the time of registration but also relates to the history of transfers, boundary changes, divisions, mergers, re-measurements, and other legal data changes. If historical data is not properly integrated with new spatial data, duplication or overlapping of land parcels can occur. Therefore, ensuring legal certainty regarding land in the digital era is not sufficient simply by converting analog documents into electronic data; it requires a land administration system that guarantees data integrity, consistency, and traceability [6].

Another issue is determining the legal criteria that can be used to determine which certificates should be retained and which should be revoked in cases of overlapping rights. In state administrative court practice, resolving such disputes cannot be based

[11]Law Number 5 of 1986 concerning State Administrative Courts as amended several times, most recently by Law Number 51 of 2009, specifically concerning the authority of the State Administrative Courts in examining, deciding and resolving state administrative disputes.

[12]Law Number 30 of 2014 concerning Government Administration, Article 10 paragraph (1), specifically concerning the General Principles of Good Governance, including the principle of accuracy.

[13]Palangka Raya State Administrative Court Decision Number 2/G/2023/PTUN.Plk, regarding the considerations and facts of the trial regarding land data and computer systems. A copy of the decision shows that the case addresses the issue of data and mapping of land parcels in land administration.

solely on the chronology of certificate issuance. The history of rights, physical possession, good faith, the validity of the legal basis, the issuance procedure, and the conformity of physical and legal data must also be considered. This is in line with the development of judicial practice, which uses specific parameters to resolve disputes over overlapping rights.[14]

This issue demonstrates the tension between formal legal certainty and substantive legal certainty. Formal legal certainty can be seen in the existence of certificates issued by land officials through administrative procedures. However, substantive legal certainty requires that the certificates truly reflect the legal rights to the land in question. If two certificates are issued for the same object, their existence formally indicates a product of state administration, but it is impossible for both certificates to simultaneously provide substantive legal certainty for the same object [6], [7].

In such circumstances, the state is required to provide a resolution mechanism capable of clearly determining the legal status of the land. Dispute resolution should not stop at the cancellation of one certificate, but must provide clarity regarding the legal reasons why one certificate is declared invalid and why another certificate is considered to have a stronger legal basis. Legal certainty also requires consistency in decisions so that the public can understand the parameters used by the courts in resolving overlapping certificate disputes.

DecisionNumber 2/G/2023/PTUN.Plk is relevant for examination because it demonstrates the complex relationship between certificate issuance, land administration authority, physical and legal data, and land rights claims. On the one hand, there are the interests of certificate holders who obtain rights through the state administrative process. On the other hand, some argue that the issuance of such certificates creates an overlap with pre-existing rights. This situation places the Land Office in a crucial position because the quality of land administration determines whether certificates can function as instruments of legal certainty or become a source of disputes [3].

From the perspective of legal certainty, this issue shows that there is a gap between*that should* And *That should be it.* Normatively, land registration is intended to provide legal certainty and protection to rights holders.[15]However, empirically, disputes arising from overlapping certificates are still possible. This situation demonstrates that legal certainty in land matters requires not only clear norms but also accurate, consistent, transparent, and accountable land administration.

This issue also highlights the importance of evaluating the dispute resolution mechanism for overlapping land title certificates. If the resolution solely focuses on revoking administrative decisions without addressing the root causes of the problems within the land registration system, the potential for new overlapping certificates remains open. Therefore, dispute resolution must be placed within a broader framework, namely, how to build a land administration system capable of preventing the issuance of overlapping certificates and providing an effective correction mechanism when errors occur.

Based on the above description, it can be seen that the issue of overlapping Land Ownership Certificates is not merely a conflict between two certificate holders, but also a problem concerning legal certainty, the quality of land administration, protection of

[14]Supreme Court of the Republic of Indonesia,*Formulation of the Results of the Plenary Meeting of the State Administrative Chamber*, particularly the formulation regarding the resolution of overlapping certificate disputes. This formulation serves as an important guideline in determining which certificates should be retained based on, among other things, the history of rights, physical possession in good faith, and the conformity of issuance procedures.

[15]Government Regulation Number 24 of 1997 concerning Land Registration, Article 3. The normative objective of land registration is to provide legal certainty and legal protection to rights holders.

rights holders, and the effectiveness of dispute resolution. Decision Number 2/G/2023/PTUN.Plk is one of the important cases to examine how positive law and judicial practice provide answers to this problem. Therefore, this research, entitled "**Legal Certainty In The Settlement Of Disputes Over Overlapping Land Ownership Certificates**".

Problem Formulation

Based on the background above, the problem formulation in this research is:

1) What are the legal regulations regarding the resolution of overlapping land ownership certificate disputes in order to achieve legal certainty in Indonesia?
2) How is the implementation of legal regulations in resolving disputes over overlapping land ownership certificates to provide legal certainty for rights holders?
3) How will the legal reconstruction of the settlement of overlapping land ownership certificate disputes in the future be carried out to create legal certainty, justice and legal protection for rights holders who act in good faith?

Research Purposes

Meanwhile, the research objectives in the scientific work that the author presents include:

1) To study and analyze legal regulations regarding the resolution of overlapping land ownership certificate disputes in order to realize legal certainty in Indonesia.
2) To review and analyze the implementation of legal regulations in resolving disputes over overlapping land ownership certificates in order to provide legal certainty for rights holders.
3) To study and analyze the legal reconstruction of the settlement of overlapping land ownership certificate disputes in the future to realize legal certainty, justice, and legal protection for rights holders who act in good faith.

2. METHODS

The type of research used in this study is normative juridical legal research, namely legal research conducted by examining library materials or secondary data as the main research material, so that this research only focuses on theoretical and systematic aspects. Furthermore, in this study, the author also examines legal norms, legal principles, legal synchronization, and the application of legal provisions related to Legal Certainty in the Settlement of Disputes Overlapping Land Ownership Certificates. The approach used by the author in this study is the statutory approach (statute approach) by examining laws that have a correlation and relevance to the legal issues that the author is researching, so that this research consistently refers to the laws that are the basis and guidelines for drawing conclusions, case study approach (case approach), conceptual approach (conceptual approach) namely an approach that emphasizes the analytical point of view of problem solving and also considers the values contained in the norming of regulations regarding the concepts used, then the author also uses an analytical approach (analytical approach) [10], [11].

The type of data used in this study is secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, the Civil Code, Law Number 5 of 1960 concerning Agrarian Principles, Government Regulation Number 24 of 1997 concerning Land Registration, and Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 and Regulation of the Minister of ATR/Head of BPN RI Number 21 of 2020 concerning Handling and

Settlement of Land Cases Secondary legal materials were obtained from books, scientific journals, research findings, and other legal literature relevant to the research. Tertiary legal materials were obtained from legal dictionaries, encyclopedias, and other sources supporting the research [5], [8].

The data collection technique was conducted through a literature study by identifying, inventorying, and reviewing various legal materials related to the research object. Furthermore, the collected legal materials were analyzed qualitatively using the legal interpretation method, namely grammatical interpretation by emphasizing the literal meaning of important texts to maintain legal certainty and consistency and avoid wild interpretations that deviate from the wording of the Law.[16]systematic and teleological, in order to obtain comprehensive legal arguments regarding the problems being researched [16].

3. RESULT AND DISCUSSION

3.1 Legal Regulations Concerning the Settlement of Overlapping Land Ownership Certificate Disputes in Achieving Legal Certainty in Indonesia

3.1.1 Land Registration as an Instrument of Legal Certainty

Land holds a strategic position in social life because, in addition to its economic value, it also has social and legal dimensions. The legal relationship between people and land requires a system that can provide certainty regarding who holds the rights, what the rights are, and how these legal relationships can be proven. Therefore, land registration is one of the state's primary instruments in creating order and legal certainty in the land sector [2], [15].

Constitutionally, state control over agrarian resources originates from Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This provision is then elaborated in Law Number 5 of 1960 concerning Basic Agrarian Regulations. Article 19 paragraph (1) of the UUPA expressly stipulates that to guarantee legal certainty, the government shall carry out land registration throughout the territory of the Republic of Indonesia according to provisions regulated by Government Regulation.

These provisions demonstrate that legal certainty is one of the fundamental objectives of land registration. Land registration is not only intended to administer land but also to provide protection to the public so that rights holders can prove their rights and receive assurance that those rights are recognized by the state.

Article 19 paragraph (2) of the UUPA stipulates that land registration includes land measurement, mapping and bookkeeping; registration of land rights and their transfer; and the issuance of valid proof of rights documents that serve as strong evidence. Thus, a certificate is the final product of a series of land administration processes. The validity and strength of a certificate cannot be separated from the processes that precede it, namely the examination of physical data, legal data, legal basis, measurement, mapping, land bookkeeping and rights registration. If one of these processes is carried out incorrectly, it can give rise to problems regarding the validity of the certificate issued.

Boedi Harsono explains that land registration is a series of activities carried out by the state or government on a continuous and regular basis, including the collection, processing, recording, presentation, and maintenance of physical and legal data regarding land parcels and apartment units. This view demonstrates that land registration is not an activity that stops at the issuance of certificates, but rather an administrative system that must be continuously maintained and updated [16].

Government Regulation Number 24 of 1997 concerning Land Registration, as amended by Government Regulation Number 18 of 2021, reinforces this concept.

[16]Abdi Ridho and Rahmayanti, "Analysis of Legal Interpretation Methods in Problem Solving: Use of Grammatical, Systematic, and Teleological Methods,"*Lexoria (Journal of Indonesian Legal Pluralism)* 2, no. 1 (2026): 29, https://doi.org/https://doi.org/10.2025/hw43jc87.

Article 3 of Government Regulation Number 24 of 1997 stipulates that land registration aims to provide legal certainty and legal protection to rights holders of land plots, apartment units, and other registered rights, so that they can easily prove themselves as the rights holders [5].

Based on these provisions, legal certainty in land registration encompasses at least three aspects: certainty regarding the object, certainty regarding the subject, and certainty regarding the status of the rights. Certainty regarding the object relates to the location, boundaries, area, and identity of the land parcel; certainty regarding the subject relates to the identity of the rights holder; while certainty regarding the status of the rights relates to the type and basis for obtaining the rights in question.

Thus, if a single plot of land has more than one certificate, a fundamental problem arises regarding the purpose of land registration. Two certificates designating the same or partially overlapping objects cannot simultaneously provide substantive legal certainty to their holders.

3.1.2 The Position of the Ownership Certificate as Strong Evidence

Certificates have an important position in the Indonesian land law system. Article 32 paragraph (1) of Government Regulation Number 24 of 1997 stipulates that a certificate is a document that serves as proof of rights and serves as a strong means of proof regarding the physical and legal data contained therein, as long as the physical and legal data are in accordance with the data contained in the measurement letter and the land title book in question.

The use of the phrase "strong evidence" indicates that certificates are not considered absolute evidence. This is a consequence of the Indonesian land registration publication system, which does not strictly adhere to a positive publication system.[17]

Boedi Harsono explained that Indonesia's land registration publication system is essentially a negative system with positive elements. The state does not provide absolute guarantees that the data contained in certificates is always accurate, but it does provide strong evidentiary standing to certificates [16].

This construction has important consequences for resolving disputes over overlapping certificates. If two certificates designate the same object, it cannot simply be said that both certificate holders have equally strong rights. An examination of the basis for issuance, rights history, physical and legal data, physical control, and issuance procedures for each certificate must be conducted.

Thus, the certificate is the starting point of proof, not the end of the proof process if there is evidence that shows defects or discrepancies in its issuance.

3.1.3 Land Dispute Resolution Regulations

Resolving disputes over overlapping land ownership certificates can be done through administrative mechanisms or through the judiciary. At the administrative level, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency has the authority to handle and resolve land disputes in accordance with statutory provisions and its administrative authority.

Administrative resolution has an important function because it allows for research into land data, examination of land history, clarification to parties, research into physical and legal data, and the provision of recommendations or administrative action if errors are found [10], [17].

In disputes over overlapping certificates, a comprehensive administrative review should be conducted. The Land Office must review land records, measurement certificates, registration maps, deed documents, title deeds, transfer history, and

[17]Adrian Sutedi,*Transfer of Land Rights and Its Registration*, Sinar Grafika, Jakarta, 2018, pp. 112–114.

physical ownership data. This is crucial to prevent the issuance of new certificates for already registered land.

3.1.4 Settlement through the State Administrative Court

A certificate as a product of land administration can become the object of a state administrative dispute if it fulfills the elements of a State Administrative Decision or a government administrative decision that can be tested based on the procedural law of the State Administrative Court [17].

The PTUN's review is primarily aimed at assessing the legality of government officials' decisions. Therefore, judges must examine whether the land official had the authority, whether the issuance procedures were carried out in accordance with regulations, and whether the substance of the decision complies with the law.

In this context, resolving overlapping certificate disputes has a special character because disputes over the legality of certificates can intersect with ownership disputes. Therefore, it is necessary to distinguish between the validity of administrative decisions and the civil issue of land ownership.

The Supreme Court has provided guidelines through the State Administrative Chamber Formulation in SEMA Number 3 of 2018. In cases of overlapping certificates, certificates issued later can be canceled if the certificate issued earlier meets certain parameters, including the certificate holder who first controlled the physical land in good faith, the history of rights and control is clear and uninterrupted, or the procedure for issuing the certificate is in accordance with statutory regulations [18].

This formulation is crucial because it provides parameters for judges in determining which certificates are more deserving of legal protection. Thus, resolution is not solely based on the chronology of certificate issuance, but also takes into account the quality of the rights and the administrative process that led to their creation [6].

3.1.5 Principle of Legal Certainty and Principle of Accuracy

The issuance of a Certificate of Ownership is a governmental action and must therefore adhere to the General Principles of Good Governance. Law Number 30 of 2014 concerning Government Administration outlines a number of principles that must form the basis for governance, including the principles of legal certainty and accuracy [19].

The principle of legal certainty requires that government actions have a legal basis and guarantee the rights of the people. Meanwhile, the principle of due diligence requires that government agencies or officials consider all relevant facts and circumstances before making a decision.

In the context of land, the principle of accuracy is crucial. The Land Office must ensure that the land for which a certificate is to be issued is not currently or has not been registered in the name of another party. If inspections are not carried out carefully, the issuance of new certificates could potentially result in overlapping certificates [2].

3.2 Implementation of Legal Regulations in the Settlement of Disputes Overlapping Land Ownership Certificates in Providing Legal Certainty for Rights Holders

3.2.1 DecisionNumber 2/G/2023/PTUN.Plk as a Form of Implementation

The implementation of legal regulations regarding the resolution of overlapping certificate disputes can be seen in Decision Number 2/G/2023/PTUN.Plk. The case involves Hj. Musrifah and Hj. Halidah as Plaintiffs against the Head of the Palangka Raya City Land Office as Defendant and other parties as Intervening Defendants II.

This case is significant because it demonstrates how the issue of overlapping certificates is examined from the perspective of state administrative law. The issues raised concern not only land ownership claims but also the legality of the certificates' issuance by land officials.

Thus, Decision Number 2/G/2023/PTUN.Plk can be used ascase studyto see to what extent normative provisions regarding legal certainty, the principle of accuracy, land registration and resolution of certificate disputes are actually implemented in practice.

3.2.2 Land Data and Administration Issues

One important aspect that emerged in the case relates to land data and administration. The case description addresses issues regarding the land computer system and spatial data, which have implications for the existence or legibility of land parcels within the land administration system.

These facts demonstrate that digitalization of land administration does not automatically result in legal certainty. Digitization can only provide certainty if the data used is accurate, integrated, well-maintained, and traceable.

In the opinion of researchers, if registered land plot data becomes unreadable or unidentified in the system, and then the plot is treated as unregistered land, then there is a serious problem in the aspect of land data integrity.

This shows that legal certainty regarding land must be built not only through certificate documents, but also through a land information system that is able to maintain the continuity of historical data [10], [17].

3.2.3 Implementation of the Principle of Legal Certainty

The implementation of the principle of legal certainty in resolving overlapping disputes must be seen from the state's ability to guarantee that registered land data is not easily violated through the issuance of new administrative products [12].

If a plot of land already has a certificate and a new certificate is issued for the same object, there must be a justifiable legal basis and administrative justification. If such a basis is not available, issuing a new certificate can create uncertainty for the previous rights holder.

In Decision Number 2/G/2023/PTUN.Plk, this issue became important because there was a claim regarding a certificate issued later and it was argued that it overlapped with a land plot that already had a previous right basis.

According to researchers, this situation demonstrates that legal protection for certificate holders must begin at the issuance stage. Rights holders should not be forced to continually defend their rights through the legal process simply because of errors in land administration.

3.2.4 Implementation of the Principle of Accuracy by the Land Office

The principle of accuracy requires the Land Office to carry out a comprehensive inspection before issuing a certificate.

The inspection must at least include:

1) applicant's identity;
2) legal basis;
3) land history;
4) land book;
5) survey certificate;
6) registration map;
7) spatial data;
8) certificates that have been issued;
9) physical mastery; and
10) the possibility of objections or disputes.

If any of the data shows a discrepancy, the issuance of the certificate should not be continued immediately before clarification is carried out.

If any of the data shows a discrepancy, the issuance of the certificate should not be continued immediately before clarification is carried out.

According to researchers, the issues in Decision Number 2/G/2023/PTUN.Plk provide a lesson that data validation must be an integral part of the certificate issuance process. The application of the principle of accuracy should not stop at examining formal documents but must also include an

examination of the condition and history of the land object.

3.2.5 Protection of Good Faith Rights Holders

Protection of rights holders in good faith is an important principle in resolving overlapping certificate disputes.

Good faith is crucial because someone can obtain a certificate through legal procedures and without knowing about any problems in land administration. If it is later discovered that the certificate is overlapping due to an administrative error, it would be inappropriate to impose all legal consequences on the rights holder who acted in good faith.

The formulation of the State Administrative Chamber in SEMA Number 3 of 2018 has included the element of physical control in good faith and a clear and uninterrupted history of rights as one of the parameters in resolving overlapping certificates.

According to researchers, this principle needs to be further developed into a principle of special protection for rights holders acting in good faith. This protection would not only involve recognition of rights but also include redress if those rights are violated due to state administrative errors.

3.2.6 Gap between Regulation and Implementation

Based on this analysis, there is a gap between that should and that be. Normatively, land law has provided legal certainty instruments through the UUPA, PP Number 24 of 1997, PP Number 18 of 2021, Law Number 30 of 2014, as well as dispute resolution mechanisms through land administration, PTUN and general courts [5].

However, in practice, there is still the possibility of overlapping certificates. This indicates that the problem lies not solely in the lack of norms, but also in implementation aspects, particularly:

1) data validation;
2) integration of legal and spatial data;
3) historical data maintenance;
4) the accuracy of land officials;
5) supervision of certificate issuance; and
6) correction mechanism for administrative errors.

Thus, reconstruction is needed that is not only normative but also institutional and systemic

3.3 Legal Reconstruction for the Settlement of Overlapping Land Ownership Certificate Disputes in the Future to Achieve Legal Certainty, Justice, and Legal Protection for Rights Holders in Good Faith

3.3.1 The Urgency of Legal Reconstruction

Legal reconstruction is necessary because the existing mechanism still allows overlapping disputes to only be discovered after the certificate is issued and the injured party files an objection or lawsuit.

According to researchers, the land dispute resolution system must shift from a repressive and reactive approach to a preventive, corrective and restorative approach.

A preventive approach is implemented by preventing the issuance of overlapping certificates. A corrective approach is implemented by providing a mechanism for rapid administrative corrections if errors are discovered. Meanwhile, a restorative approach aims to provide restitution to the injured party [6].

3.3.2 Reconstruction of Parameters for Determining More Entitled Certificates

The first reconstruction is to clarify the parameters in determining which certificates should receive protection when there is an overlap.

These parameters should not only use the certificate issuance date, but use a cumulative approach that includes:

1) time of certificate issuance;
2) validity of the legal basis;
3) history of rights;
4) continuity of control;
5) physical mastery;
6) good intention;

7) conformity of physical data;
8) conformity of legal data;
9) compliance with procedures; and
10) whether or not there are administrative defects.

This formulation is in line with the direction of the Supreme Court's Administrative Chamber Formulation regarding the resolution of overlapping certificates.

According to researchers, these parameters need to be stated more explicitly in regulations to provide uniform guidelines for both the Land Office and judges.

3.3.3 Layered Verification Reconstruction

The next reconstruction is to form a multi-layered verification system before issuing certificates.

The models offered are:



If any discrepancies are found, the publication process must be temporarily stopped until an inspection is carried out. This model changes the administrative paradigm from publishing based on administrative completeness to publishing based on administrative and spatial validity.

3.3.4 Reconstruction of Juridical and Spatial Data Integration

The issues raised in Decision Number 2/G/2023/PTUN.Plk demonstrate the crucial role of spatial data in preventing overlapping land titles. Therefore, each plot of land must have a unique spatial identity linked to its entire legal history.

Researchers propose the principle:*One Parcel, One Identity, One Legal History.* This means that a single plot of land must have a unique identity and a legal history that cannot be interrupted by changes in the information system. Any changes, such as division, merger, transfer of rights, encumbrance of mortgages, or other data changes, must be recorded in one document.*legal history*land area [7].

3.3.5 Reconstruction of the Protection of Good Faith Rights Holders

Researchers offer a mechanism:

Good faith rights holders must be the primary subjects in legal reconstruction.

If someone obtains land through a legal procedure, has a demonstrable basis of rights, conducts transactions fairly, has actual control of the land and is unaware of any administrative defects, then the government's errors in issuing the certificate should not be entirely borne by the rights holder.

In the event that a certificate has to be cancelled due to an administrative error, the law must provide a recovery mechanism.
Such recovery may include:

1) return or restoration of rights;
2) provision of compensation;
3) compensation for losses;
4) reimbursement of costs that have been reasonably incurred;
5) restoration of administrative status; and
6) Office liability when there is an error or negligence.

Thus, certificate cancellation should not be the final solution. There must be a mechanism to restore the injured party.

3.4 Reconstruction of the Multi-Level Dispute Resolution Mechanism



This mechanism allows disputes to be resolved as early as possible.

If the issue is solely related to an administrative error, administrative resolution should be the primary option. If the issue concerns the validity of a land official's decision, the State Administrative Court (PTUN) has the authority to review the decision in accordance with applicable procedural law. If the primary issue concerns civil ownership, the general courts are the appropriate forum.

Clarity of this division is important to avoid overlapping authority and uncertainty regarding the resolution forum.

3.5 Reconstruction of Administrative Accountability

According to researchers, the land system must also clarify accountability if errors in issuing certificates are proven to have originated from administrative negligence.

Accountability can be in the form of:

1) data correction;
2) administrative corrections;
3) internal audit;
4) providing an explanation to the injured party;
5) land data recovery;
6) providing compensation in accordance with legal provisions; and
7) administrative sanctions against officials if they meet the elements of a violation.

This is important because the state not only has the authority to issue certificates, but also has responsibility for the accuracy of the administrative products it issues.

Based on the overall analysis, the researcher offers a Legal Certainty Model for Settling Overlapping Land Title Certificate Disputes Based on the Protection of Good Faith Rights Holders.

The model consists of five pillars:

First, data certainty. Physical data and legal data must be integrated.

Second, procedural certainty. Certificate issuance must go through multiple layers of verification.

Third, Certainty of rights status. There must be clear parameters for determining which certificates are more entitled to protection.

Fourth, certainty of resolution. There must be a clear division between administrative resolution, the PTUN, and general courts.

Fifth, Certainty of protection. Rights holders acting in good faith must receive protection and redress if they suffer losses due to state administrative errors.

As a concrete form *Law to be established*, the researcher proposes a norm that essentially regulates: "In the event that there are two or more Land Ownership Certificates that are indicated to overlap with the same or partially the same land object, the Land Office is obliged to temporarily stop all administrative processes for the relevant area and verify the physical data, legal data, rights history, physical control, and the validity of the certificate issuance procedure."

Furthermore, it can be formulated as follows: "In determining which certificates are legally protected, consideration must be given to the validity of the legal basis, a clear and uninterrupted history of rights, physical possession in good faith, conformity between physical data and legal data, compliance with issuance procedures, and the presence or absence of administrative defects."

Then it is necessary to add a protection norm: "Rights holders who obtain a Certificate of Ownership in good faith and

in accordance with the provisions of laws and regulations are required to obtain legal protection and appropriate remedies if their certificate is declared invalid due to errors or negligence in land administration."

This norm is a form of reconstruction because it combines prevention, verification, determination of rights, protection and recovery in one system.

Based on the analysis of legal regulations and their implementation in Decision Number 2/G/2023/PTUN.Plk, the researcher is of the opinion that the main problem of overlapping Land Ownership Certificate disputes is not merely a lack of legal norms, but there are problems in the implementation of land administration, data integration, validation of spatial and legal data, supervision, and protection mechanisms for rights holders in good faith [11], [15].

Decision Number 2/G/2023/PTUN.Plk demonstrates that errors or discrepancies in land administration can escalate into lengthy disputes involving more than one judicial institution. This situation demonstrates that legal certainty is not achieved solely through the issuance of certificates but must begin with the verification and issuance process.

Therefore, the researcher proposes a paradigm shift from "certificates as evidence of legal certainty" to "land registration as a system of legal certainty." In this paradigm, certificates are merely the end product of a system comprising accurate data, proper procedures, meticulous officials, an integrated information system, effective oversight, and a redress mechanism. Therefore, future legal reconstruction of dispute resolution over overlapping Land Title Certificates must be directed toward a preventive, integrated, data-validation-based system, providing special protection to rights holders in good faith, and providing a mechanism for dispute resolution that is fast, clear, and equitable [5] [15].

4. CONCLUSION

1) The legal regulations for resolving overlapping land ownership certificate disputes in Indonesia have essentially provided a basis for legal certainty through the Basic Agrarian Law (UUPA), Government Regulation No. 24 of 1997, Government Regulation No. 18 of 2021, and settlement mechanisms through land administration and the State Administrative Court (PTUN). However, legal certainty still depends on data accuracy, thoroughness of certificate issuance procedures, and protection for good-faith rights holders.
2) The implementation of legal regulations for resolving overlapping Land Title disputes through Decision Number 2/G/2023/PTUN.Plk demonstrates that legal certainty has not yet been fully realized. Issues primarily relate to the accuracy and integration of land data, administrative accuracy, and protection of good-faith rights holders. Therefore, strengthening verification, oversight, and administrative correction mechanisms is necessary to ensure dispute resolution provides effective legal certainty and protection.
3) Legal reconstruction of overlapping land title dispute resolution needs to shift from a reactive approach to a preventive, corrective, and restorative one through multi-layered verification, integration of legal and spatial data, and clear parameters for determining stronger rights. Reconstruction must also provide protection and redress for well-intentioned rights holders, thereby ensuring legal certainty, justice, and legal protection in future land administration.

SUGGESTION

1) The government needs to strengthen land data verification and integration and supervision of certificate issuance to prevent overlapping rights and provide effective protection for good-faith rights holders.
2) Legal reconstruction of overlapping land title dispute resolution needs to shift from a reactive approach to a preventive, corrective, and restorative one through multi-layered verification, integration of legal and spatial data, and clear parameters for determining stronger rights. Reconstruction must also provide protection and redress for well-intentioned rights holders, thereby ensuring legal certainty, justice, and legal protection in future land administration.
3) The government needs to reconstruct the dispute resolution mechanism through multi-layered verification, integration of legal and spatial data, and protection and redress for rights holders in good faith to realize legal certainty, justice, and legal protection.

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