

Legal Certainty for Resolution of Land Disputes Regarding Overlapping Land Ownership Certificates (Case Study at the National Agency Office of Simalungun Regency)

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ABSTRACT

This article examines the issue of legal certainty in resolving disputes over overlapping land ownership certificates that occur in the working area of the National Land Agency (BPN) Office of Simalungun Regency. The main focus of this study is on identifying the factors causing overlapping certificates, which include limitations in the digital mapping system that is not yet fully accurate, changes in administrative boundaries that are not immediately adjusted in land data, and low public understanding and awareness of land law procedures. In practice, the resolution of these disputes refers to the mechanisms regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning the Handling and Settlement of Land Cases. The settlement process begins from the stage of data collection and review, mediation between the parties, to administrative decision-making, including the possibility of canceling one of the problematic certificates. To ensure legal certainty in resolving this dispute, the principle of negative publication with a positive tendency is used, which provides space for legal protection for parties with

good intentions. In addition, the support of the Supreme Court's jurisprudence as a legal precedent, the implementation of more accurate digital mapping technology, and the implementation of the Complete Systematic Land Registration Program (PTSL) are also important instruments in strengthening legal certainty and justice in land matters.

Keywords: Legal certainty; Land Disputes; Certificate Overlap; Land Ownership Rights, National Land Agency

INTRODUCTION

Land plays an important role in the lives of Indonesian people as a natural resource that has economic, social, and cultural value. Land is the main production factor in agricultural and plantation activities which are a source of livelihood for the majority of Indonesian people. Due to its very vital role, land ownership and utilization must be regulated fairly and wisely to prevent conflicts and disputes and ensure legal certainty (Subekti, 2016). The legal basis that guarantees legal certainty in land ownership in Indonesia is the Basic Agrarian Law (UUPA) Number 5 of 1960. UUPA regulates the relationship between humans and land, as well as regulates land

rights (Azra and Sri Wahyu Ananingsih, 2017).

One of the main principles of UUPA is to guarantee legal certainty in land rights for all Indonesian people with the aim of realizing justice, benefit, and legal certainty. One of the crucial problems that often occurs and is a threat to the certainty of land law is overlapping land ownership certificates. Overlapping land ownership certificates is a condition in which there are two or more certificates issued for the same land object, either in part or in whole. In other words, there is an overlap of legal data and physical data on the land plot (Faruq and Hariri, 2023) . The problem of overlapping land ownership certificates has an impact on legal certainty and justice for

land rights holders. Certificates that should be strong evidence of ownership and can be defended before the law no longer provide adequate legal protection (Sulistiyani, 2024). BPN as a non-ministerial government institution responsible for land affairs in Indonesia. One of the main roles of BPN is to resolve disputes, conflicts, and land cases that occur in the community, including cases of overlapping land ownership certificates. Cases of disputes over overlapping land ownership certificates occurred in Simalungun Regency, which is one of the areas with high potential for land conflicts. Data from the Simalungun BPN Office shows that in the period 2021-2023 there was a significant increase which is summarized in the following.

Table 1: Summary of Land Dispute Cases in Simalungun Regency

No	Problems/Disputes	2021	2022	2023	Total
1	Overlapping land ownership certificates	15	20	18	53
2	Land boundary disputes/encroachment	8	12	10	20
3	Customary/customary land ownership disputes	5	7	6	18
4	Disputes due to administrative errors	3	4	3	10
5	Disputes over transfer of land rights	2	3	2	7
6	Disputes over compensation for land for development	4	6	5	15

Note: The figures in the table show the number of cases handled by the Simalungun Regency BPN Office in the relevant year.

The case revealed weaknesses in the land administration system, where there was overlapping issuance of certificates of ownership for the same plot of land. This created legal uncertainty and harmed the parties who should have certainty of ownership of their land. This condition shows the urgency to conduct further research to examine legal certainty in resolving disputes over overlapping certificates, as well as to find effective solutions and recommendations (Murni, Kelen and Sulaiman, 2022).

The urgency to conduct research on legal certainty in resolving disputes over overlapping certificates of ownership for land is becoming increasingly important. This is motivated by the fact that there are still many similar cases that occur in various regions in Indonesia, including in Simalungun Regency which is the focus of

this research. Through in-depth research, it is hoped that the root of the problem and effective solutions can be found to overcome the problem of overlapping certificates (Chandra, 2019).

One crucial aspect that needs to be studied is the effectiveness and consistency of the application of the law in the process of resolving disputes over overlapping certificates. This research is needed to ensure that the dispute resolution mechanism is carried out fairly and in accordance with applicable laws and regulations, and does not harm the rights of the disputing parties (Yusrizal, 2017). This research is also expected to produce concrete recommendations and solutions in ensuring legal certainty for land rights holders. This is very important to protect the rights of land certificate holders from

potential conflicts or disputes that can harm them (Faruq and Hariri, 2023).

MATERIALS & METHODS

This study applies empirical legal methods in order to evaluate legal certainty related to land dispute resolution, focusing on cases of overlapping land title certificates. The empirical legal approach was chosen because it allows researchers to explore the legal reality as it occurs in the field, as well as to examine the extent to which land regulations and policies are implemented effectively by authorized institutions (Marzuki, 2006). To obtain relevant and comprehensive data, this study collected two types of data. Primary data was obtained through in-depth interviews with a number of key informants, including officials of the Simalungun Regency BPN Office, land certificate owners, and parties who had been involved in the dispute. Meanwhile, secondary data was collected through a review of official documentation, court decisions, and literature studies related to land law and dispute resolution (Jonaedi Efendi, Johnny Ibrahim and Se, 2018).

Data analysis was carried out descriptively qualitatively using the interactive analysis model approach from Miles and Huberman. This model consists of three main components, namely data reduction, data presentation, and drawing conclusions or verification (Susanti, 2015). Data reduction is carried out to filter important information from the results of interviews and documentation that has been collected, so that the focus remains on issues related to legal certainty. Furthermore, the presentation of data is arranged in the form of a thematic narrative that makes it easier for readers to understand the flow of problems and the dynamics of their resolution. The final stage is drawing conclusions aimed at providing a comprehensive picture of the effectiveness of the mechanism for resolving overlapping land certificate disputes, as well as identifying obstacles that hinder the achievement of legal certainty in the field

(Qamar, Nuru, Muhammad Syarif, Dachran S. Busthami, 2017).

RESULT

The problem of overlapping land ownership certificates in Indonesia, including in Simalungun Regency, is caused by various internal and external factors that affect the accuracy and efficiency of land administration. Internal factors include several important aspects. First, there is no digital mapping for registered land, especially for certificates issued before 2017. This makes it difficult for the Land Office to visualize the location and boundaries of land accurately, which has the potential to cause overlapping certificates. Although the government has initiated digital mapping, its implementation is still slow, mainly due to limited resources. Second, limited human resources, technology, and budget at the Land Office slow down the process of updating certificate data. Limited staff must handle a large workload, while the technology used is not yet fully adequate to manage land data efficiently. Third, the long bureaucratic process also worsens the situation. There are many administrative stages that must be passed to update land data, resulting in delays in adjusting data to changing conditions in the field (Murni, Kelen and Sulaiman, 2022).

On the other hand, external factors also contribute significantly to this problem. One of them is the change in administrative areas that is not followed by adjustments to certificate data. When there is an expansion or change in regional boundaries, land certificates in the area are often not immediately updated, potentially creating duplicate certificates. In addition, the lack of public awareness and participation in reporting changes to the administrative area of their land also complicates the data updating process. People tend to be passive and only report changes when they are about to make transactions or take care of new certificates, which often causes the recorded data to not match conditions in the

field (Hidayanti, Koswara and Gunawan, 2021). Finally, the dynamics of rapid regional change are also external factors that add to the challenges. Regional expansion, changes in village boundaries, or changes in status from rural to urban often occur in a short time, but are not balanced by adequate land data updates by the National Land Agency (BPN). Comprehensive efforts are needed to overcome this problem. Proposed solutions include full digitization of land mapping, increasing Land Office resources, and bureaucratic reform to simplify the administrative process. In addition, education and outreach to the community need to be improved so that they are more active in reporting changes to administrative areas. On the technical side, better coordination between related agencies and the development of a system that can monitor regional changes in real time are also needed to accelerate the land data updating process. This holistic approach is expected to reduce the risk of overlapping certificates in the future.

DISCUSSION

Land Dispute Resolution Mechanism Regarding Overlapping Land Ownership Certificates at the Simalungun BPN Office

The land dispute resolution mechanism related to overlapping certificates at the Simalungun BPN Office refers to the Regulation of the Minister of ATR/BPN No. 21 of 2020. The settlement begins with case review, initial title, research, exposure of research results, coordination meeting, final title, to case resolution. This process aims to ensure fairness and transparency, in accordance with the principles of good governance. If administrative or legal defects are found, the certificate can be canceled. Administrative defects include errors in physical data and issuance procedures, while legal defects include errors in the application of law and subjects or objects of rights. This cancellation process is carried out through stages involving document review, field

inspection, and decisions by the BPN Regional Office (Raturandang, 2024).

The cancellation decision is final and can be followed by administrative actions, such as recording and withdrawing the canceled certificate. However, the injured party still has the right to file an objection with the State Administrative Court (PTUN) within 90 days. This process often faces obstacles such as resistance from certificate holders, legal complexity, limited resources at the Land Office, potential for social conflict, and less than optimal coordination between agencies. To overcome these challenges, it is necessary to increase institutional capacity, human resource quality, and develop an integrated land information system (Subekti, 2016).

Legal Certainty Regarding the Settlement of Overlapping Land Ownership Certificate Disputes at the Simalungun BPN Office

The results of the study show that overlapping land ownership certificates are the main problem in land disputes in Simalungun Regency. Claims of dual ownership are the main cause of this case, although there was a decrease from 2023 to 2024. Conflicts with customary land owners and administrative errors also contributed. The Simalungun Land Office has made several efforts to ensure legal certainty in resolving these cases, including implementing the principle of negative publication with a positive tendency, which emphasizes that land certificates are considered valid as long as the data listed is correct. If the data is proven to be incorrect, the certificate can be canceled. The office also imposes responsibility for the accuracy of the files on the applicant and utilizes the Supreme Court's jurisprudence regarding duplicate certificates to determine the priority of certificates issued earlier (Utomo, 2020).

These steps, supported by the land data digitization system, aim to improve the accuracy of land registration, but still face challenges in customary land cases. A

mediation approach is also encouraged to resolve disputes more fairly and quickly. The use of Supreme Court (MA) jurisprudence Number 5 of 2018 by the Simalungun Regency Land Office helped resolve overlapping land certificate disputes. However, this approach was carried out carefully and flexibly, considering the sense of justice and the specific conditions of each case. For example, although the jurisprudence supported the certificate that was issued first, intensive mediation resulted in a fairer decision based on the history of land ownership. In addition, the Land Office has implemented digital mapping (plotting) to minimize the risk of overlapping certificates. Despite challenges such as infrastructure and human resources, digital mapping efforts have reached 60% of all land plots in Simalungun Regency. This program is seen as a strategic step in modernizing land administration, improving data accuracy, transparency, and efficiency (Purnamasari, 2010). Other efforts include the Complete Systematic Land Registration Program (PTSL) which accelerates land registration and helps verify and update land data to detect potential overlaps. Despite facing geographical and resource constraints, this program has recorded significant progress, such as resolving cases of overlapping certificates in several sub-districts. Mandatory plotting for every land service is also implemented to ensure that every land plot has accurate digital mapping. Challenges related to technological capacity and human resources are being addressed through training and technology investment. These steps aim to integrate land data into a more comprehensive information system, increase transparency, and prevent future land conflicts (Lestari, 2020).

CONCLUSION

Overlapping land ownership certificates in Simalungun Regency are caused by internal and external factors. Internal factors include the failure to carry out digital mapping of

registered land areas, limited resources at the Land Office, and a long bureaucratic process. External factors include changes in administrative areas without adjusting certificate data, lack of public awareness, and rapid dynamics of regional changes. The mechanism for resolving land disputes regarding overlapping land ownership certificates at the Simalungun Regency BPN office is carried out through handling in accordance with the Regulation of the Minister of ATR/BPN No. 21 of 2020, which includes the stages of case assessment, initial title, research, exposure of research results, coordination meetings, final title, and case resolution. Furthermore, certificates that are proven to have administrative and/or legal defects are canceled based on the results of handling, as well as the issuance of a cancellation decision by the BPN Regional Office against legal products issued by the Head of the Land Office.

The Simalungun Regency Land Office has made various efforts to ensure legal certainty in resolving cases of overlapping land ownership certificates. These efforts include the implementation of the principle of negative publication with positive tendencies, the imposition of responsibility for the accuracy of files on the applicant, the use of MA jurisprudence related to duplicate certificates, the implementation of digital mapping (plotting), the implementation of the Complete Systematic Land Registration Program (PTSL), and the obligation of plotting in every land service. Despite facing various challenges in its implementation, these efforts have shown positive results in reducing and preventing cases of overlapping certificates in Simalungun Regency.

Declaration by Authors

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