

## Issues Of The Land Office In Determining Land Rights On Duplicate Certificates

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### **Abstract.**

*Land is one of the fundamental sources of human life, ensuring human survival. Every individual who owns land requires proof of ownership, namely a land certificate, which is issued by the Land Office. Certificates can be issued upon land registration with the aim of providing protection and legal certainty to land rights holders. However, it is not uncommon for issues to arise with some land certificates, leading to legal disputes, such as Duplicate Certificates. The purpose of this research is to identify, analyze, and examine the issues in determining land rights holders in cases of Duplicate Certificates. This research employs an empirical legal research approach, conducted at the Land Office of the ATR/BPN in Klaten Regency. It is supported by literature review to obtain necessary data such as theories, doctrines, principles, and other legal provisions. Secondary legal sources used include textbooks, legal dictionaries, legal journals, and commentaries on court decisions, which are relevant to primary legal sources and aid in the analysis of this research. The findings of this research indicate that the issue arises when disputing parties fail to reach an agreement through mediation, leading to legal proceedings in court and ultimately, a binding legal decision.*

**Keywords:** Land Office, Certificates and Land Rights.

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### **I. INTRODUCTION**

Land serves as one of the fundamental resources for human sustenance, guaranteeing human survival. It's not merely a place to live or the foundation for building structures; rather, land is valued beyond measure, both functionally and materially. Every individual who owns land requires proof of ownership, namely a land certificate. With this certificate, individuals can sell, mortgage, donate, or inherit their land rights to others. One form of land ownership is through the issuance of a physical proof by the Land Office, the singular institution specifically empowered by the law to manage land-related matters. Land Office operates under the supervision of the Ministry of Agrarian Affairs and has a specific task and function: to carry out governmental duties in the field of land affairs in accordance with the provisions of laws and regulations (Winanti, 2020). Certificates are issued by the Land Office, in accordance with Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter referred to as GR No. 24/1997). This regulation stipulates that a certificate serves as evidence of rights such as land ownership, land management rights, endowment land rights, ownership rights over condominium units, and mortgage rights, each of which is recorded in the respective land register. The issuance of land certificates aims to provide benefits to rights holders based on both physical and juridical data recorded in the land register. One of the proofs of land ownership is a certificate recognized in Indonesia since the implementation of the land registration system. In this context, a land certificate differs from a land register.

The land register is a document containing both juridical and physical data on land rights, while the certificate serves as evidence of ownership rights recorded and integrated with the land register, acknowledged as true unless proven otherwise. (Winanti, 2020). Land registration serves the purpose of providing protection and legal certainty to land rights holders, ensuring their rights are safeguarded. Additionally, it aims to organize land use in a manner that fosters prosperity among the people of Indonesia and optimally manages land resources (Ismaya, 2013). Land registration also aims to determine the status of

land parcels, which is crucial for the government in the process of issuing land certificates. Therefore, certificates must provide strong evidence, and the information contained within them should be accepted as justified unless there is evidence to the contrary (Sibuea, 2011). Land registration is governed by Government Regulation No. 24 of 1997. However, it is still possible for issues to arise with some land certificates, leading to legal disputes that may result in the loss of land ownership rights. This can occur when claims are made by other parties holding similar certificates, leading to the cancellation of certificates (Adhinda Putri Syara L.S., 2021). The land registration system in place operates on a negative registration system. This system results in the issuance of land certificates to land rights holders, serving as strong evidence in legal proceedings in case of disputes. Once issued by the competent authority, namely the Land Office, these certificates carry significant legal consequences.

Land certificates serve as robust evidence, providing proof of land rights. The procedure for obtaining land rights depends on the status of the land, whether it is State Land or Rights Land. If the land is classified as State Land, the procedure involves applying for rights. On the other hand, if the land is categorized as Rights Land, the acquisition process includes transferring rights through transactions such as buying, gifting, or exchanging. Any land rights obtained through the application process must be registered at the available Land Office office in each district or city (Anatami, 2017). The issuance of land ownership certificates involves the participation of the applicant, village government, and relevant agencies in the application process. However, currently, these land ownership certificates may not fully satisfy the desires and needs of the public. This is due to the lengthy process and the frequent occurrence of disputes in determining rightful ownership of the land (Winanti M. R., 2023). There are various issues related to land certificates, one of which is dual certificates. Dual certificates, also known as overlapping, occur when a piece of land has two different pieces of evidence of ownership and is owned by two different individuals. When this happens, there is no legal certainty for the land rights holders, and the Land Office plays a crucial role in assisting the disputing parties. The emergence of dual certificates is undoubtedly related to the Land Office as the issuer of land ownership certificates, as there are underlying reasons for this occurrence.

This necessitates obtaining information from the relevant authority, namely Land Office. For example, the Land Office of Klaten Regency, located at Jalan Veteran Number 88, Barenglor, North Klaten District, Klaten Regency, Central Java, provides information regarding the determination of land rights holders. Efforts to resolve land disputes are based on prevailing laws and regulations while also considering fairness and respecting the rights and obligations of each party. Resolution of land disputes is not solely the responsibility of the Land Office but can also be addressed by the Administrative Court authorized to handle land dispute cases. Thus, the Land Office has authority in resolving land disputes, including those involving dual certificates. Besides its responsibilities in land administration activities from land registration to certificate issuance, the Land Office is also obliged to enforce the decisions of the Administrative Court. The Land Office is an entity that must be accountable (as a defendant) in the event of disputes. However, these duties must be fulfilled, given that the Land Office is authorized in the issuance of certificates, and therefore, the revocation or annulment of certificates must go through the Land Office. The Land Office is responsible for the annulment of certificates by the Administrative Court due to errors or negligence in the certificate issuance process (Kiki Rizki, 2020).

## **II. METHODS**

The type of legal research utilized by the author is empirical legal research. To support the information regarding the occurrence of dual certificates issues, the author requires accurate data on the problem at hand, as well as other legal conditions and phenomena. Hence, the author conducted the research at the Land Office of the ATR/BPN in Klaten Regency, located at Jalan Veteran Number 88, Barenglor, North Klaten District, Klaten Regency. This research is further supported by literature review, aiming to obtain necessary data such as legal publications encompassing textbooks, legal dictionaries, legal journals, and commentaries on court decisions. In this research, secondary legal sources used include textbooks, legal dictionaries, legal journals, and commentaries on court decisions. These sources are related to primary legal sources and aid in the analysis of this research.

### III. RESULT AND DISCUSSION

#### Issues of the Land Office in Determining Land Rights on Duplicate Certificates

Land registration is fundamentally one of the duties of the government and falls under its jurisdiction. The purpose of conducting land registration is stipulated in Article 10 of the Agrarian Law, which states that land registration is a government duty carried out with the aim of ensuring legal certainty in the field of land. This legal certainty ensures clarity regarding the location, boundaries, and size of the land, as well as the status of the land and the individuals who hold rights to it, as indicated in the form of certificates. This legal certainty is intended to prevent disputes that may arise when there is ambiguity regarding land ownership rights (Sukiyati, 2019). Land registration results in the emergence of land rights for individuals who possess certificates. Land rights entail ownership over a specific portion of the Earth's surface, which can be granted to individuals either individually or collectively. The ownership of these land rights is absolute, meaning it must be fully supported by government programs to ensure that the rights of Indonesian citizens are realized in a fair manner. These land rights persist even after the owner has passed away, meaning they continue to be transferred to their heirs as long as they meet the requirements for ownership (Ryan, 2014). In the practice of land registration administration, systematic methods are prioritized because they accelerate the acquisition of data regarding the land parcels to be registered.

Challenges encountered in land registration include land parcels eligible for certificate issuance and those not recorded in land books but are still subject to disputes in court (Tambuno, 2023). To ensure legal certainty, land rights holders are provided with certificates as strong evidence. According to Article 4 of Government Regulation No. 24 of 1997, to provide certainty and legal protection as stipulated in Article 3 letter a, land rights holders are granted land rights. The definition of a certificate is outlined in Article 1 of Government Regulation No. 24 of 1997, which states that a certificate is a document serving as evidence of rights as referred to in Article 19 paragraph (2) letter c of the Agrarian Law for land rights, land management rights, endowment land rights, ownership rights over condominium units, and mortgage rights, each of which is recorded in the respective land register. Legal certainty is an assurance provided by the law, ensuring that those entitled to it possess and obtain their rights (Wijayanta, 2014). Gustav Radburch explains that the elements of legal certainty must be safeguarded to the best of their ability to maintain the order or organization of a country. Positive law, in this regard, regulates human interests that must be obeyed, even though positive law may also be deemed unjust or insufficient in achieving the goals of the law (Nurlinda, 2009). Based on Gustav Radburch's understanding, it can be concluded that legal certainty is achieved when people adhere to applicable regulations, even if those regulations are imperfect. However, the existence of these regulations provides certainty to society. A certificate can be considered legally valid once it has been legalized by the competent authority. Disputes may arise when parties who believe they have rights to a piece of land contest ownership (Muthallib, 2020). It means that a certificate serves as absolute evidence of rights, and as permanent evidence that can be revoked if the certificate is legally flawed. Even if land has been granted a certificate, if a party claiming ownership of the land files a lawsuit in court, they can request the annulment of the issued certificate based on a legally binding court decision (Rezeki Aldila Rajab, 2020). The law must provide certainty so that all members of society can experience justice from the law itself (Nuryanto, 2018). Sudikno Mertokusumo asserts that legal certainty is an assurance that the law can be enforced, and those entitled to it can obtain their rights, ensuring that decisions can be implemented.

The issuance of 2 (two) land certificates for a single land plot, caused by a lack of transparency in land ownership and limited information on land ownership, can be concluded to be due to:

1. Negligence by the landowner who fails to oversee their property, allowing it to be claimed by others due to perceived lack of ownership.
2. Delay by the owner in obtaining a certificate, which may be exploited by unscrupulous individuals to report a loss to the police and request a replacement certificate from the Land Office
3. Involvement of individuals who check certificate status at the Land Office and duplicate the data.
4. Lack of diligence by Land Office officials during the issuance of land certificates.
5. Insufficient data from local governments regarding land that has been certified or claimed by others (Supriyanto, 2023).

In cases like this, the Land Office plays a role in fairly determining land ownership rights. However, there are challenges involved in making these determinations. Land ownership rights are fundamental and significant for individuals' dignity and freedom. Nevertheless, it is also the state's obligation to provide legal certainty regarding land rights, even though these rights may be constrained by the interests of others, the community, and the state itself (Kiki Rizki, 2020). The approach adopted by the Land Office of Klaten Regency in determining land ownership rights includes the following steps:

1. Receiving complaints from involved parties.
2. Identifying the arising issues.
3. Checking the dispute location, related to the registration section of land records, and examining the land survey documents.
4. Using location sharing (plotting on cadastral maps) to measure the disputed location reported by the parties.
5. Offering mediation to the parties for self-mediation (negotiation) or through a mediator.
6. Conducting mediation sessions with the parties by Land Office, which are carried out up to 3 (three) times (Supriyanto, 2024).

Mediation is a conflict resolution effort where conflicting parties agree to bring in a third party who acts independently as a mediator. This mediator facilitates discussions and negotiations to help the parties reach a mutually acceptable solution. Mediation is an alternative dispute resolution process outside of the court system, aimed at resolving disputes amicably. In handling civil cases, judges often emphasize that both parties must undergo mediation before proceeding to litigation. Parties can either choose their own mediator or use a mediator designated by the panel of judges, whose names are listed in the court's mediator registry (Rahmah, 2019). The party feeling aggrieved about their rights can report to the Land Office if there's a dispute regarding their land rights. Upon receiving the report, the Land Office offers the parties the option to settle through negotiation or mediation with a mediator. If negotiation fails to reach an agreement, the Land Office initiates mediation. After the mediation, the parties decide whether to maintain their respective positions or accept the mediated solution provided by the Land Office. If the parties agree with the mediator's solution, a peace agreement is drafted, and one of the certificates is canceled. It's noted that if the dispute involves certificates issued more than five years ago, all matters must be resolved through a court decision. A challenge faced by the Land Office in determining land rights holders is when mediation fails to reach a resolution. In such cases, the parties may opt to bring the case to court, where the Land Office may also become a defendant. If the court finds that the dispute stemmed from administrative defects by the Land Office, they must review the land's history for incomplete procedures and administration. Upon the court's final decision, the cancellation of one of the certificates is executed through a Cancellation Decision Letter (Supriyanto, 2024).

With both physical and juridical data stored at the Land Office concerning a land ownership right, the implementation of land registration aims at both legal order and land administration order. This aligns with the provisions set forth in Article 4 of Government Regulation No. 24 of 1997, which outlines several key aspects:

- a. Providing legal certainty and legal protection to landowners by issuing a certificate of land ownership. This is intended to ensure that landowners have valid and robust evidence of their land ownership.
- b. Carrying out an information function by opening access to physical and juridical data of a land parcel and registered housing units. This is aimed at ensuring transparency and accessibility of information regarding land status to the general public.
- c. Achieving administrative order by registering every transfer, encumbrance, and termination of land rights and ownership of housing units. This is intended to ensure that any changes in ownership or land status are officially recorded and well-documented.

The role played by the Land Office as a public service provider in the field of land affairs to minimize disputes in land matters caused by overlapping certificates includes:

- a. Managing data to resolve cases in the field of land affairs.
- c. Collecting data on land issues and disputes.

- d. Reviewing and preparing draft decisions on land dispute resolution.
- e. Reviewing and preparing concepts for the cancellation of land rights due to administrative defects based on the strength of court decisions.

In handling and resolving land dispute cases caused by overlapping certificates, Land Office has specific mechanisms, such as:

- a. Receiving complaints regarding overlapping certificates.
- b. Conducting problem identification to determine if the issue falls within Land Office jurisdiction.
- c. Reviewing issues related to the purpose of the complaint and determining whether it can be further processed.
- d. If the issue is strategic, specialized work units may be formed. If it is political, social, and economic in nature, other institutions such as the DPR (People's Consultative Assembly), Ministry of Home Affairs, or relevant local governments may be involved.
- e. Compiling research reports as recommendations for resolving issues.

The ruling of the judges, whether from the District Court or the Administrative Court authorized to annul a state official's decision, in this case, canceling one of the land ownership certificates, will not necessarily result in a win-win situation for both parties in the dispute. One party will inevitably lose and feel aggrieved by the decision, even though legal remedies are available. If the loss incurred by the losing party is due to negligence, carelessness, or intentional actions by the Land Office, then morally and financially, the responsibility lies with the Land Office. Claims for compensation can be pursued through the local District Court. With the court's ruling, there is legal certainty as to who is entitled to the land ownership certificate. However, one of the disputing parties may still feel aggrieved by the decision. This serves as a lesson and reminder for the Land Office to be more diligent and meticulous in administrative activities, such as investigating the history of land parcels and mapping boundary lines accurately before issuing certificates for disputed properties. This way, the agency can avoid causing harm to other parties, as it would ultimately be responsible for resolving such disputes.

#### IV. CONCLUSION

Ownership of land by two different individuals will indeed have legal implications in the future. Landowners have legal certainty within Indonesia's land law system, meaning they have the right to take action regarding their land. Therefore, the strength of proving land ownership is crucial for the rightful landowner, and it is provided with full and robust guarantees because the certificate contains physical and juridical data stored in the Land Office. In providing legal assurance to landowners, the government should improve its land service and registration systems by verifying the documents submitted to ensure their accuracy regarding the land status. The Land Office has the authority to resolve any land disputes. If there is a dispute over a forged certificate due to negligence by Land Office officials, leading to losses, then the responsibility lies with the Land Office.

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