



JLPH: Journal of Law, Politic and Humanities

E-ISSN: 2962-2816
P-ISSN: 2747-1985<https://dinastires.org/JLPH> [✉ dinasti.info@gmail.com](mailto:dinasti.info@gmail.com) [☎ +62 811 7404 455](tel:+628117404455)DOI: <https://doi.org/10.38035/jlph>
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The Obstacles in Electronic Land Rights Registration and Their Solutions in land Sale and Purchase Cases

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Abstract: This study analyzes the resolution of obstacles to electronic land rights registration in land sale and purchase cases. The rules in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 3 of 2023 concerning the issuance of electronic documents in land registration activities. This regulation regulates the issuance of electronic documents in land registration activities by setting limits on the terms used in its regulations. However, there are obstacles found in the implementation of land rights registration which were studied by the author using descriptive-analytical research methods, secondary data sources, and primary data, obtained from library research, and interviews with related parties. The results of this study are that land rights in the sale and purchase case cannot be registered because the buyer was declared dead shortly after the signing and there were registration obstacles in the PPAT account after confirmation to the relevant land agency, the heirs of the buyer are required to make a court decision.

Keyword: Deed, Applicant, Official Certifier Of Title Deeds, Electronic Certificate.

INTRODUCTION

Along with the development of human life and society, which is characterized by rapid population growth, the flow of modernization, which is characterized by increasingly sophisticated transportation, communication, and information, human needs for land are also increasing. This phenomenon cannot be avoided or circumvented, including by people living in rural areas. Humans compete to control land as the economic value of land increases. Striving for legal certainty regarding problems that arise in the process of transferring rights or during land registration to realize land rights for land rights holders in Indonesia, is one of the objectives of the UUPA.

To follow up on land regulations mandated by the UUPA and to provide legal certainty for land owners, the government carries out land registration throughout Indonesia as regulated in Article 19 of the UUPA. Therefore, to carry out land registration as intended in Article 19 paragraph (1) UUPA, the Government issued Government Regulation Number 10 of 1961 concerning Land Registration (hereinafter referred to as Government Regulation Number 10

of 1961). To follow up on land regulations mandated by the UUPA and to provide legal certainty for land owners, the government carries out land registration throughout Indonesia as regulated in Article 19 of the UUPA. Therefore, to carry out land registration as intended in Article 19 paragraph (1) UUPA, the Government issued Government Regulation Number 10 of 1961 concerning Land Registration (hereinafter referred to as Government Regulation Number 10 of 1961).

Land registration is carried out to ensure legal certainty and to meet the needs of the community and the Government. This is as stipulated in Article 19 of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) that land registration is carried out to guarantee legal certainty regarding rechtskadaster or legal cadastre. In more detail, the purpose of land registration is described in Article 3 of Government Regulation Number 24 of 1997 as follows:

1. To provide legal certainty and legal protection to holders of rights to a plot of land, apartment units, and other registered rights, so that they can easily prove themselves as holders of the rights in question. For this reason, the rights holder is given a certificate as proof. This goal is the main objective of land registration as mandated by Article 19 of the UUPA.

2. To provide information to interested parties, including the government, so that they can easily obtain the data needed to carry out legal actions regarding areas and apartment units that have been registered. Data presentation is carried out by the Land Office in the Regency or City, consisting of registration maps, land registers, measurement letters, land books, and name lists. So that interested parties, especially prospective buyers or potential creditors, before taking any legal action regarding a particular plot of land or apartment unit, need and therefore have the right to know the data stored in the registers at the Land Office. This is per the open principle of land registration.

The implementation of orderly land administration by carrying out proper land registration is a manifestation of orderly administration in the land sector. To achieve orderly administration, every plot of land and apartment unit, including transfers, encumbrances, and write-offs, must be registered.

Land Deed Drafting Official (PPAT) and National Land Agency (BPN). In this case, PPAT plays an important role in land registration to assist BPN in carrying out land registration activities to serve the community in the land sector. This started with the concept of Ministerial Regulation Number 1 of 2021 concerning electronic land certificates, which the government is currently explaining further in Ministerial Regulation Number 3 of 2023 issued by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Ministry of ATR/BPN). Regarding the explanation of electronic land certificates, it is regulated in Article 2 paragraph (3) of ATR/BPN Ministerial Regulation No. 3 of 2023 which explains that "The application of information and communication technology in Land Registration activities as referred to in paragraph (2) is carried out through an Electronic System." Based on this, this research will discuss the problem formulation, namely First, How Urgent is the Issuance of Electronic Land Certificate Documents. Second, what are the obstacles to issuing electronic land certificates after the existence of ATR/BPN Ministerial Regulation Number 3 of 2023. The discussion raised by the author concerns the application for the transfer of land certificate rights, where the land certificate itself is a piece of evidence that can be used as proof of land ownership and is a final product resulting from the land registration process. Based on the facts available in society, land title certificates that are currently still issued physically (analog) do not fully guarantee legal certainty and legal protection. This has the potential for falsification of certificates, double certificates, and the vulnerability of certificates being lost or damaged, therefore the government is taking initial steps which will be a breakthrough in dealing with land disputes such as falsification of land certificates, double certificates, and the rise of land mafia which is the reason for land disputes. so that the government makes new legal

breakthroughs, otherwise there will be legal stagnation as there is a statement that the law will always lag if it cannot keep up with current developments.

The era of digital technology development is an era where every life support activity is made easier with technology so that every step and process becomes more practical and modern. In Indonesia itself, developments towards the digital era have no longer stopped, indirectly following the needs and desires of the people themselves who want everything to be more practical and efficient. Likewise in the land sector, as part of the modernization of land services, computerized land services have begun to be applied to documents created in the form of electronic documents. This arrangement is contained in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) Number 1 of 2021 concerning Electronic Certificates which came into effect on January 12 2021. The launch of electronic land certificates was on January 12 2021.

The changes made by the government by digitizing land ownership certificates, which have been followed up with the Republic of Indonesia Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats, and Land Registration, have caused a lot of unrest in the community. There are pros and cons to this regulation, they consider holding a physical certificate to be much more important and safer when experiencing a land dispute even though it has the same legal force. However, on the other hand, this digitalization effort is more about the benefits of its use, that with this digitalization it becomes easier for people to use certificates practically and safely.

Rules in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 3 of 2023 concerning the issuance of electronic documents in land registration activities. This regulation regulates the issuance of electronic documents in land registration activities by providing limitations on the terms used in the regulation. Land registration is organized by the Ministry and can apply information and communication technology through electronic systems.

Electronic archives often called digital archives are archives that have changed physical form from paper sheets to electronic sheets. With the implementation of electronic archiving, it is used to provide data archives in the event of land disputes and reduce the occurrence of land disputes, and ensure the availability of archives in the event of lost land certificates. or damaged in terms of legal certainty, including guarantees of legal certainty relating to citizens or legal entities acting as rights holders or referred to as subjects of land rights, guarantees of legal certainty regarding the location, boundaries, and area of land parcels or referred to as objects of rights over land, as well as guarantees of legal certainty relating to rights to the plots of land they own. This guarantee of legal certainty is implemented through land registration for all land plots throughout Indonesia. The output of electronic-based land services is in the form of an electronic certificate, which is explained in Article 1 number 8 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates that electronic certificates issued through an electronic system are realized in the form of electronic documents. It is hoped that this output can become a database for the Land Agency to minimize the causes of land disputes and strengthen the legitimacy of land rights certificates as a guarantee of legal certainty of ownership of land rights in Indonesia. Article 26 paragraph (1) of the UUPA regulates the acquisition of ownership rights to land, namely through buying and selling, exchange, grants, testamentary grants, customary grants, and other acts intended to transfer ownership rights. In Indonesia itself, land acquisition is more often done through buying and selling. The transfer of land rights must be carried out by signing a deed by the Land Deed Making Officer (PPAT) and must be registered for the name change to obtain valid evidence. The sale and purchase of land, is different from the sale and purchase in general, namely that in the sale and purchase of land, an authentic deed or Deed of Sale and Purchase (AJB) is

required, which is legal evidence of the sale and purchase, but in practice the public still does not understand the importance of authentic deeds issued by the Land Deed Making Official (PPAT). The PPAT Deed is proof that the buyer has become the new right holder. Article 37 of Government Regulation Number 24 of 1997 states that the transfer of land rights through sale and purchase can only be registered if proven by a deed made by an authorized Land Deed Drafting Officer (PPAT) per the provisions of statutory regulations. Without a PPAT deed, the sale and purchase cannot be registered because the PPAT is an absolute requirement to register the transfer of land rights. Land registration/registration of land rights will result in the granting of a certificate of proof of land rights, commonly called a land certificate, to the party concerned, which is strong evidence of the land rights they own.

Some legal problems or issues can be raised in writing this journal if they are linked to Article 3 of Government Regulation No. 24 of 1997 concerning Land Registration, legal problems have occurred as researchers discovered an obstacle during the process of registering land rights in the digitalization era, which according to the author, the policies that have been made must be studied more. Therefore, the author is interested in formulating the problem in this research, namely: first, why is the death of the buyer during the land buying and selling process an inhibiting factor in registering an electronic certificate? secondly, what are the efforts to resolve the problem of electronic land registration for transferring rights based on buying and selling at the land office if the second party or buyer's population database finds a statement of death when entering the identity into the PPAT account?.

METHOD

The approach method used in this writing is normative juridical (normative legal research method). The normative juridical research method is library legal research carried out by examining library materials or secondary data. In this research, the scope of this research will be research by drawing on legal principles, which are carried out on written and unwritten positive law. And supported by the Empirical Research Method, where the method is carried out using field data as the main data source such as the results of interviews and observations.

RESULTS AND DISCUSSION

The Death of the Buyer During the Land Sale and Purchase Process is a Factor Inhibiting Electronic Certificate Registration

The land registration system is a process or mechanism used to legally register ownership, rights, and transactions over land. The main objective is to record and provide protection for the property rights of owners and parties participating in land transactions. To create a just and prosperous society, land management and utilization must be carried out well for current and future generations.

In Indonesia, land registration functions to guarantee legal ownership and provide legal certainty (kadastral rechts) regarding land rights. The owner of the land plot wants to obtain documents as proof of rights and ownership of the data provided with legal guarantees by registering the land.

The implementation of changes to electronic certificates which previously used conventional certificates for ownership of land certificates still creates obstacles in the community regarding security, data integrity, and regulatory readiness. Many people believe that electronic certificates are not needed at this time, because there are still many land problems that have not been resolved. However, quite a few people support the transformation to electronic certificates because electronic certificates provide benefits, such as administrative efficiency, data accessibility, and protection from the risk of physical loss. This electronic certificate aims to increase efficiency in public services, and facilitate the digitalization process, to minimize conflicts and disputes. This is the urgency of the transformation to electronic certificates.

Changes and modernization using digital technology will eventually replace the land registration system from the manual (paper) method and will be replaced by a digital-based electronic one. However, the practice of registering land and owning land certificates in Indonesia manually (on paper) has been in place for 61 (sixty-one) years since 1960, when the UUPA (Basic Agrarian Law) came into force. The purpose of land registration is to guarantee legal certainty of land rights and provide legal protection for land ownership. Proof of land registration being carried out is the issuance of a proof of title document as proof of land ownership which is called an analogous land certificate in paper form. Currently, by looking at the accuracy and effectiveness of the use of digital-based technology in various sectors, in the land sector a new policy was born in 2021 which is contained in the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Defense Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates.

However, in practice, there are several cases where one of the parties was declared dead not long after carrying out the signing process at the Land Deed Drafting Officer, which also found similar cases that the author is currently interested in discussing.

The obstacle found in the land registration process in the application for the transfer of sale and purchase rights in the electronic certificate issuance system is the discovery of a statement of death in the buyer's identity when inputting it into the electronic registration system in the PPAT account.

Due to the integration between the dukcapil system and the land office, when the buyer's heirs make the heir's death certificate, the death certificate is automatically entered into the electronic document issuance system at the land office. The factor that is an obstacle to registering the transfer of buying and selling rights is that a solution cannot be found because the menu on the PPAT account is not optimal in supporting this.

Resolution of Problems with Electronic Land Registration for Transfer of Rights Based on Sale and Purchase at the Land Office If the Buyer's Population Database is Found with Information about Death at the Time of Importing Identity to the PPAT Account

Before the enactment of ATR/BPN Ministerial Regulation Number 3 of 2023, Indonesian land registration was still carried out manually by applicants by sending PPAT data to the local Regency/City Land Office. Along with the development of the era of conventional land registration, it was felt that changes were needed, so that the latest guidelines regarding electronic land registration emerged, the results of which would later be given in the form of an electronic certificate. Not only is land registration carried out electronically, data maintenance, both physical data and legal data, is also carried out in the manner as stated in Article 29 paragraph (1) of Ministerial Regulation Number 3 of 2023 which regulates that "Land Registration Data maintenance recording is carried out by recording "changes in Physical Data and/or Legal Data of BT-el management rights, land rights, waqf land, ownership rights to apartment units, and mortgage rights in the form of new Data Blocks whose validation is carried out simultaneously on the e-Certificate."

The Ministry of ATR/BPN in this digital era is implementing electronic certificates as a positive step as a form of improving and modernizing services. In this digital era, it is very easy for people because all activities that support life have become more practical and modern. Technological advances will enable the recording of reports which was previously carried out conventionally to be transferred to an electronic archive structure, electronic archiving is planned as a substantial method of proof. This is an effort to integrate data owned by the Ministry of ATR/BPN. The integration of data and information through electronic certificates has the potential to provide legal protection for the community. Of course, it will be easier to track the protection of land rights documents such as deeds, works, and so on if electronic land certificates are converted. Even though it has been stated in the ATR/BPN Ministerial

Regulation Number 3 of 2023, it turns out that there are still many obstacles that occur in the community or the officers who organize it. If we look at the needs of the audience, where most activities have been carried out digitally, then the results of implementing this electronic certificate are very good progress to be implemented, but in this case, it is also necessary to review how urgent the implementation of this electronic certificate is.

Issuance of ATR/Head of BPN Ministerial Regulation No. 3 of 2023 concerning the issuance of electronic documents in land registration activities should not be done haphazardly, this regulation was issued with the aim of:

1. Realizing a level of efficiency and transparency in land registration;
2. Ensure the integrity of the management of land archives and documents;
3. Can carry out mitigation functions for natural disasters, such as floods, landslides and earthquakes;
4. Reducing the space for individuals or land mafia to operate by digitizing electronic services;
5. Increasing economic growth with electronic transactions is considered to play a big role in this era of advanced technology.

However, there are also problems experienced when implementing the registration system for a PPAT account that has been created, where the management system that has been created is not yet adequate and not optimal.

The transfer of rights due to inheritance occurs by law when the relevant rights holder dies according to Article 42 of Government Regulation Number 24 of 1997 concerning land registration. In the sense that since then the heirs have become the new rights holders. Regarding who is the heir, it is regulated in the customary law that applies to heirs. Registration of the transfer of rights due to inheritance is also required, to provide legal protection to heirs and for the sake of orderly land registration administration, so that the data stored and presented always shows an up-to-date situation. Proof of being an heir can be in the form of a certificate of inheritance rights, a letter determining heirs, or a certificate of heirship.

However, the problematic problem in this era of digitalization is that the existing system is less than optimal, where in the case above, the application for transfer of land sale and purchase rights was hampered because the buyer died and the registration process was hampered because the system was not yet supported.

Based on interviews with respondents, the problem raised by the author which is an obstacle to registering the transfer of land sale and purchase rights in the electronic document issuance system because the buyer dies can be resolved by making a new sale and purchase deed between the seller and the buyer's heirs or by court decision, but this effort has not yet received a proper legal basis so that the respondents are still looking for a solution to resolve this problem.

CONCLUSION

Renewing the old systems or methods currently in use is necessary so that Indonesia is not left behind by the rapid pace of information and communication in the global world. Likewise, with Indonesia's land registration and data system, the government policy implemented in the ATR/BPN Ministerial Regulation Number 3 of 2023 regarding regulations regarding the issuance of electronic documents must receive appreciation and be supported by the public. The necessity or importance of registering land or making certificates electronically is to reduce the number of freezes and forgeries that often occur and to guarantee legal certainty of land rights.

However, the government must also make thorough initial preparations to address public concerns regarding the implementation of electronic land certificates. At this time, it is felt that this policy cannot be implemented optimally because there are still obstacles in the data input system which has not provided solutions to the existing problems.

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