

DOI: <https://doi.org/10.38035/jlph.v4i4>

Received: 30 May 2024, Revised: 12 June 2024, Publish: 16 June 2024

<https://creativecommons.org/licenses/by/4.0/>

## Legal Certainty For Holders of Land Rights Over The Issuance of Multiple Certificates

Rizal Iskandar Soewito<sup>1</sup>, Gunawan Djajaputra<sup>2</sup>

<sup>1</sup>Tarumanagara University, Jakarta, Indonesia, : [Rizalshefor99@gmail.com](mailto:Rizalshefor99@gmail.com)

<sup>2</sup>Tarumanagara University, Jakarta, Indonesia, [gunawandjayaputra@gmail.com](mailto:gunawandjayaputra@gmail.com)

Corresponding Author: [Rizalshefor99@gmail.com](mailto:Rizalshefor99@gmail.com)<sup>1</sup>

**Abstract:** One of the fundamental principles of the rule of law is the guarantee of legal certainty and legal protection of the rights of citizens. Laws and regulations in Indonesia, including the 1945 Constitution and Government Regulations, emphasize the state's interest in regulating the use and utilization of natural resources, including land, for the public interest and prosperity of the people. However, land is often a source of complex disputes because of its limited quantity and importance for human life. Land registration or land registration is an important step in providing legal certainty regarding land ownership. Through regulations, the government determines procedures and procedures for carrying out land registration, including collecting physical and juridical data and issuing land title certificates. However, there are still challenges and obstacles in implementing land registration, including the issuance of multiple certificates. Internal and external factors such as maladministration, lack of public knowledge, and the high rate of development can cause the issuance of double certificates. Legal protection is needed to ensure legal certainty for owners of land rights, including in resolving multiple certificates through a fair and just legal process. Regulations regarding land registration and land rights certificates also provide a time limit for parties who feel they have rights to land to submit objections, thus providing legal certainty for land rights holders. Land certificates play a dual role as a State Administrative Decree (KTUN) and proof of civil rights to land, so that the resolution of disputes regarding land certificates can be carried out through two different judicial channels.

**Keyword:** Assurance, Certificate, Double

### INTRODUCTION

Land is a vital asset in human life, not only as a place to live or a source of food needs, but also as a symbol of ownership and survival. Its presence is not only the basis for all human activities, but also the legacy left behind when someone leaves this world. In this context, land ownership becomes very important because it includes aspects of legal certainty that affect people's rights. The issue of land ownership is not only related to people's needs for housing or agricultural land, but also about justice and legal certainty in the transfer of land rights. To address this uncertainty, a systematic and clear recording system of land rights is crucial for the state and the community. The Basic Agrarian Law (UUPA) in Indonesia is the main foundation in regulating agrarian issues in general.

Through the UUPA, the state seeks to realize welfare, happiness and justice for all the people, especially for the peasants, and provide legal certainty regarding land rights. However, the increasing need for land is not proportional to the limited availability of land, causing land prices to continue to rise. This imbalance creates various problems in the community related to land ownership and utilization. Therefore, land title certificates are a very important instrument for every landowner to provide real, valid and inviolable evidence of their land ownership. In this context, further research on the importance of land title certificates as an instrument of legal certainty and protection of land ownership becomes very relevant. This study will discuss the role of land title certificates in the context of legal certainty, protection of land rights, and resolution of land ownership issues in Indonesia<sup>1</sup>.

The Basic Agrarian Law (UUPA) is an important milestone in agrarian regulation in Indonesia. The enactment of the UUPA aimed to lay the foundation for a national agrarian law that would be the main instrument in realizing welfare, happiness and justice for the country and the people, especially the peasants. The focus is not only on achieving a just and prosperous society, but also on the unity and simplicity of land law and providing legal certainty regarding land rights for the entire community. Issues related to land ownership are the main focus in the context of UUPA implementation. Land certificates are a very important instrument in ensuring legal certainty for landowners. The right to own land is a human right of every individual or citizen guaranteed in the 1945 Constitution of the Republic of Indonesia, which emphasizes that property rights cannot be taken over arbitrarily by anyone. In reality, land issues require special attention and careful handling from various parties. In the current era of rapid development, the guarantee of certainty of land rights is very important. Land regulations, such as Law No. 5/1960, are important instruments in regulating land use activities throughout Indonesia, including conducting the necessary inventories. In this context, further research into the implementation of the UUPA and related regulations, and their impact on the certainty of land rights and the resolution of land issues, is highly relevant. This study will further discuss the importance of the LoGA and related regulations in the context of providing legal certainty regarding land rights for the people of Indonesia<sup>2</sup>.

Land registration is an important process in providing legal certainty for land rights holders. Article 19 Paragraph (2) of the UUPA stipulates that one of the registration activities is to present a valid certificate as strong evidence. Other articles in the UUPA, such as Article 23 and Article 32 Paragraph (1), underline the importance of certificates as strong evidence of land rights. Although land registration provides a guarantee of legal certainty, however, the results of land rights registration can still be challenged or sued by other parties who feel more entitled. The high value and benefits of land encourage people to try to obtain proof of land ownership, but unfortunately, the phenomenon of fake certificates is increasing. Forged certificates are generally made on vacant and high-value land, often using old certificates. Forgery can occur because it is not based on the correct basis of rights, such as issuance of certificates based on fake ownership certificates or falsification of land data. The impact of certificate forgery is very serious, resulting in legal uncertainty for land rights holders. In addition to forgery, the phenomenon of multiple certificates is also a serious problem in land registration in Indonesia. Multiple certificates lead to legal uncertainty for land rights holders, as the data listed in the certificate can be different, and there are even cases where one land parcel has more than one certificate. In this context, further research on fake certificates and multiple certificates is important to understand their

---

<sup>1</sup> Permadi, I. (2016). Perlindungan hukum terhadap pembeli tanah bersertifikat ganda dengan cara itikad baik demi kepastian hukum. *Yustisia*, 5(2), 448-467.

<sup>2</sup> Permana, I. G. A. D. S., Satya, G. A. D., & Sudarsana, I. K. S. (2014). Kepastian Hukum Sertifikat Hak Milik Atas Tanah Sebagai Bukti Kepemilikan Bidang Tanah. *Dalam Jurnal Kertha Semaya*, 2(5).

impact on legal certainty in land registration in Indonesia. This study is expected to provide better insight into the challenges and solutions in addressing this phenomenon in order to improve legal certainty for land rights holders.

## **METHOD**

This paper uses the Normative Juridical Research Method. Normative legal research is one of the methods often used in the discipline of law. In contrast to empirical research that focuses on real data and observable phenomena, normative legal research concentrates on existing legal norms, principles, and concepts. This article will discuss the approach and implementation in normative legal research. Normative legal research is a type of research that examines the law as norms or rules that apply. Its main focus is the analysis of legal texts, such as laws, regulations, court decisions, doctrines, and legal literature. The purpose of this research is to understand, explain, criticize, and formulate the ideal law in accordance with the principles of justice and legal certainty. Normative legal research is a very important method in the development of legal science. By focusing on legal norms and principles, this research helps in understanding and criticizing existing laws as well as formulating more just and effective laws.

## **RESULTS AND DISCUSSION**

Land registration is a series of activities carried out by the government in a continuous and regular manner, which includes collecting, processing, bookkeeping, and presenting and maintaining physical and juridical data in the form of maps and lists of land parcels and apartment units. This process also includes the issuance of certificates as proof of ownership rights to land parcels and flat units and certain rights encumbering them. This definition is stipulated in Article 1 point 1 of Government Regulation Number 24 of 1997. Land registration as regulated in Government Regulation No. 24 of 1997 is a refinement of the scope of land registration activities previously regulated in Government Regulation No. 10 of 1961. In the old regulation, land registration activities only included measurement, mapping, land bookkeeping, land registration, transfer of land rights, and provision of proof of rights as strong evidence. Land registration activities generate two types of data: physical data and juridical data. Physical data includes information on the location, boundaries, and area of the land parcel and apartment unit being registered, including the existence of buildings on it. Meanwhile, juridical data includes information on the legal status of the land parcel and flat unit, the right holder, other parties who have rights over the land, and the burdens that encumber it. Law No. 5/1960, known as the Basic Agrarian Law (UUPA), states that the government organizes land registration throughout the territory of the Republic of Indonesia with the aim of ensuring legal certainty over land rights. These land registration activities include measurement, land acquisition, land clearing, registration of land rights, transfer of rights, and provision of proof of rights that serve as strong evidentiary tools. Land rights referred to in this law include property rights, business use rights, and building rights. However, the UUPA does not specifically mention the government agency responsible for organizing land registration or the name of the legal proof of rights. This is later explained in Government Regulation No. 10/1961 which states that the Land Registry Office is the responsible agency, and the title deeds are called certificates. The certificate, according to Article 13 paragraph (3) of Government Regulation No. 10/1961, is a copy of the land book and measurement letter sewn with cover paper, the form of which is determined by the Minister of Agrarian Affairs<sup>3</sup>.

---

<sup>3</sup> Sari, L. M., & Hanim, L. (2017). Kepastian Hukum Dalam Penyelesaian Sengketa Timbulnya Tumpang Tindih Sertifikat Hak Milik (SHM) Atas Tanah (Studi Kasus Di Kantor Pertanahan/Agraria Dan Tata Ruang Kota Pontianak). *Jurnal Akta*, 4(1), 33-36.

Land registration is very important to provide legal certainty for landowners. By having a certificate, a person has valid juridical evidence of the land he owns. Without a certificate, land ownership claims become weak and vulnerable to legal disputes. Land certificates contain physical and juridical data that have been registered in the land book and serve as guidelines for owners as written evidence of their rights. However, in practice, problems such as multiple certificates still occur. Multiple certificates are situations where a single parcel of land has more than one certificate, leading to legal uncertainty for landowners. This phenomenon often occurs due to negligence in the certificate issuance process or irresponsible actions from certain parties. To address this problem, it is imperative for the government and the public to ensure that the land registration process is carried out carefully and thoroughly. The government needs to strengthen the land registration system to avoid duplicate certificates and increase legal certainty for landowners. Thus, land registration not only provides legal certainty but also supports stability and order in land use in Indonesia.

Multiple land certificates are a phenomenon where one land parcel has more than one certificate of ownership. This raises various legal issues and certainty of land rights. The causes of the issuance of multiple certificates can be divided into internal and external factors. The Basic Agrarian Law and its implementing regulations are sometimes not implemented honestly, fairly and responsibly. There are individuals who utilize their authority for personal gain, thus ignoring the principles of the applicable law. Lack of supervision from superiors creates opportunities for subordinate officials to act inconsistently with their duties and responsibilities. This opens the door for errors or manipulation in the process of registering and issuing land certificates. The unavailability of accurate land registration maps results in difficulties in identifying and managing land data. This can lead to errors in determining land boundaries and issuing certificates. Officials at the Land Office who are not thorough in examining the documents on which the certificate is based can lead to the issuance of certificates without fulfilling the conditions prescribed by law. This negligence is often the main cause of multiple certificates being issued<sup>4</sup>.

Public knowledge of the laws and regulations in the land sector, especially the procedures for issuing certificates, is still lacking. This makes people vulnerable to fraud and errors in the land registration process. The availability of land is disproportionate to the demand for land, leading to high pressure on demand for land. As a result, competition and conflicts over land are increasing, often leading to the issuance of multiple certificates. The high rate of development increases the demand for land, which results in an increase in land prices. This situation is often exploited by certain parties to gain profits through unauthorized means, including the issuance of multiple certificates. At the time of measurement or research in the field, the applicant may intentionally or unintentionally indicate the wrong location and boundaries of the land. These errors, if undetected by officials, can lead to the issuance of certificates that do not match the reality on the ground. Proofs or acknowledgments of rights that are later found to be untrue, fake or no longer valid can also cause multiple certificates to be issued. This demonstrates the importance of thorough document verification prior to certificate issuance. Conflicts or misunderstandings specific to inherited land are common. In some cases, heirs may disagree or not have the same understanding regarding the division of inherited land, which can lead to the issuance of duplicate certificates. To address the issue of multiple certificates, comprehensive measures are needed from both the government and the community. Increased supervision, thoroughness in document examination, public education on land regulations, and the provision of accurate land registration maps are some of the steps

---

<sup>4</sup> Anatami, D. (2017). Tanggung jawab siapa, bila terjadi sertifikat ganda atas sebidang tanah. *Jurnal Hukum Samudra Keadilan*, 12(1), 1-17.

that can be taken to prevent the issuance of multiple certificates. Only then can legal certainty and justice in land ownership be optimally realized.

The issuance of multiple certificates over land raises various legal issues and uncertainty of rights for certificate holders. To overcome this, right holders are entitled to legal protection as stipulated in various legal provisions applicable in Indonesia. Article 19 paragraph (2) letter c, this article states that land registration produces valid evidence documents as strong evidence. This means that certificates issued through the land registration process are considered valid and have significant legal force as evidence. Article 23 paragraph (2), Article 32 paragraph (2), and Article 38 paragraph (2), These provisions confirm that the recording of various legal events related to land is a strong evidentiary tool. This means that any changes or legal events recorded in the land book provide valid evidence of ownership status and other rights attached to the land. Legal Protection According to Government Regulation No. 24/1997, Government Regulation No. 24/1997 states that land title certificates are valid and strong evidence of rights. The process of issuing a certificate involves collecting, processing, storing, and presenting accurate physical and juridical data, so that the data contained in the certificate must be considered correct unless it can be proven otherwise. Therefore, the certificate serves as strong evidence that guarantees legal certainty for the holder. The Publication System in the Indonesian Land Registry adheres to a negative publication system (not absolute) which contains positive elements. In this system, land registration does not necessarily make the certificate holder the rightful owner if there are other parties with stronger rights that have not been registered. However, land registration provides significant legality and legal recognition, so that data in land books and certificates are considered true and valid until there is evidence to the contrary.<sup>5</sup>

In the event of revocation of a land certificate, the right holder is still entitled to legal protection. The government, through the Ministry of Agrarian Affairs and Spatial Planning, is responsible for ensuring that the process of issuing certificates is carried out based on the principles of legal certainty, accuracy and security. The principle of legal certainty guarantees that the data contained in the certificate has strong legal force, while the principle of accuracy ensures that the data is correct and valid. The case of multiple certificate issuance is a serious problem that requires special attention from all relevant parties. Legal protection for land rights holders is guaranteed through various provisions in the UUPA and government regulations. In addition, the negative publication system with positive elements adopted in Indonesia provides significant legality for certificate holders, although not absolute. Government efforts in ensuring legal certainty, accuracy and security in the land registration process are essential to address these issues and guarantee the rights of landowners in Indonesia. Legal protection is a fundamental concept in the legal system that aims to provide security to individuals or groups from threats, disturbances, terror, and violence. This protection can be done through litigation (through the courts) or non-litigation (outside the courts). According to various views, legal protection is a human right that must be safeguarded by law enforcement officials through preventive and repressive legal instruments, both written and unwritten<sup>6</sup>.

The land registration process involves collecting, processing, storing and presenting physical and juridical data. Land certificates issued through this process are valid and strong evidence. Data recorded in land books and certificates are considered correct unless proven otherwise. Therefore, land registration is very important to ensure legal certainty for land rights holders. In the event of multiple certificates, settlement can be made by looking at the

---

<sup>5</sup> Jannata, M. M. (2022). *Akibat Hukum Terhadap Adanya Sertifikat Ganda Hak Atas Tanah* (Doctoral dissertation, Universitas Islam Kalimantan MAB).

<sup>6</sup> Ratih, N. R. (2021). *Analisis Yuridis Sertifikat Tanah Hak Milik Elektronik (E-Certificate) Demi Mewujudkan Kepastian Hukum*.

archives and data held by the National Land Agency (BPN). If one of the certificates is proven to be fake, it can be canceled to provide legal certainty to the rightful owner. The concept of legal protection aims to provide security and legal certainty to the community, including in terms of land ownership. In the case of multiple certificates, legitimate rights holders must obtain legal protection through clear and fair procedures. The government, through existing regulations and mechanisms, must ensure that every citizen gets their rights fairly and according to the law. Accurate and transparent land registration is key to preventing land disputes and providing legal certainty for all parties<sup>7</sup>.

Article 32 paragraph (2) of Government Regulation No. 24/1997 is an important foundation in providing legal certainty for land rights holders. This article states that parties who feel they have a land right are no longer entitled to demand the exercise of that right if within five years of the issuance of the certificate they do not file an objection. This provision provides legal protection to land certificate holders and prevents unfair legal recourse by other parties after a certain period of time. The provision in Article 32 paragraph (2) of GR 24/1997 aims to ensure that after five years have passed without a lawsuit or objection, land certificate holders who control the land in good faith can no longer be sued by other parties. Maria S.W. Soemardjono states that this is a reasonable step, as it provides a sufficient period of time for legitimate rights holders to file claims or objections if they feel aggrieved. Without this time limit, legal certainty for certificate holders would always be threatened by claims from other parties. Article 32(2) of GR 24/1997 provides much-needed legal certainty for land certificate holders by setting a five-year time limit for filing objections to the issuance of a certificate. This provision not only protects land rights holders from unfair claims, but also encourages them to immediately take possession and use the land in accordance with their rights. In addition, with two channels for dispute resolution, either through the PTUN or the District Court, legal certainty in the issuance and ownership of land certificates is increasingly guaranteed. This legal protection is important to maintain stability<sup>8</sup>.

## CONCLUSION

One of the principles of the rule of law is the guarantee of legal certainty and legal protection, where the rights of citizens must be protected and guaranteed by the state. This is reflected in the 1945 Constitution, which stipulates that the state has the authority to regulate all matters relating to the interests and welfare of the wider community, including controlling the earth, water and natural resources for the public interest. Land registration is a series of activities carried out by the government to ensure legal certainty over land rights. This includes the collection, processing, bookkeeping, and presentation of physical and juridical data about land as well as the issuance of title certificates. Law No. 5 of 1960 and Government Regulation No. 24 of 1997 regulate land registration and the issuance of land title certificates as a strong means of proof. There is a problem of multiple certificates caused by internal and external factors, such as not implementing the law honestly, lack of supervision, lack of public knowledge, and errors in measurement. Land rights holders are entitled to legal protection, and land registration aims to provide legal certainty. Legal protection also includes dispute resolution through the judicial system. There is a time limit for filing objections to land certificates, failing which the certificate holder is deemed to have valid land rights. Thus, land registration and the issuance of land title certificates are state efforts to provide legal certainty and legal protection to land title holders, with the aim of reducing land disputes and increasing public confidence in the land system.

---

<sup>7</sup> Fitriani, L., Pulungan, M. S., & Sadjarwo, I. W. (2021). Kepastian Hukum Terhadap Pemegang Hak Milik Dalam Penerbitan Sertipikat Tanah Ganda Pada Satu Bidang Tanah. *UNES Law Review*, 4(1), 48-63.

<sup>8</sup> Salim, A. (2019). Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat Hak Milik Dengan Adanya Penerbitan Sertifikat Ganda. *Jurnal USM Law Review*, 2(2), 174-187.

## REFERENCE

- Anatami, D. (2017). Tanggung jawab siapa, bila terjadi sertifikat ganda atas sebidang tanah. *Jurnal Hukum Samudra Keadilan*, 12(1), 1-17.
- Fitriani, L., Pulungan, M. S., & Sadjarwo, I. W. (2021). Kepastian Hukum Terhadap Pemegang Hak Milik Dalam Penerbitan Sertipikat Tanah Ganda Pada Satu Bidang Tanah. *UNES Law Review*, 4(1), 48-63.
- Jannata, M. M. (2022). Akibat Hukum Terhadap Adanya Sertifikat Ganda Hak Atas Tanah (Doctoral dissertation, Universitas Islam Kalimantan MAB).
- Permadi, I. (2016). Perlindungan hukum terhadap pembeli tanah bersertifikat ganda dengan cara itikad baik demi kepastian hukum. *Yustisia*, 5(2), 448-467.
- Permana, I. G. A. D. S., Satya, G. A. D., & Sudarsana, I. K. S. (2014). Kepastian Hukum Sertifikat Hak Milik Atas Tanah Sebagai Bukti Kepemilikan Bidang Tanah. Dalam *Jurnal Kertha Semaya*, 2(5).
- Ratih, N. R. (2021). Analisis Yuridis Sertifikat Tanah Hak Milik Elektronik (E-Certificate) Demi Mewujudkan Kepastian Hukum.
- Salim, A. (2019). Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat Hak Milik Dengan Adanya Penerbitan Sertifikat Ganda. *Jurnal USM Law Review*, 2(2), 174-187.
- Sari, L. M., & Hanim, L. (2017). Kepastian Hukum Dalam Penyelesaian Sengketa Timbulnya Tumpang Tindih Sertifikat Hak Milik (SHM) Atas Tanah (Studi Kasus Di Kantor Pertanahan/Agraria Dan Tata Ruang Kota Pontianak). *Jurnal Akta*, 4(1), 33-36.