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Settlement of Land Disputes Certificate of Ownership Rights Number 251/Mojosongo Subdistrict Jebres District Surakarta City Review of General Principles of Good Government In Law Number 30 Of 2014 Concerning Government Administration (Study of State Administrative Court Decision 48/G/2023/PTUN.SMG)

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Abstract: This research aims to determine the Settlement of Land Disputes, Ownership Certificate Number 251/Mojosongo Subdistrict, which can be called SHM No. 251/KM (OC No. 251/MS) through an approach to the principles contained in State Administrative Law in Law Number 30 of 2014 concerning Government Administration. This article uses a juridical-normative research method with library data sources and regulations related to legal documents. The results of this research are Land Dispute Settlement OC No. 251/MS following the General Principles of Good Government (AUPB/GPGG) in the Government Administration Law so that the Semarang TUN court decision following the Principles of Justice, Usefulness, and Legal Certainty under Law Number 5 of 1986 concerning Administrative Courts State (PTUN), findings in related research also show that there are several deviations in the issuance of Land Ownership Certificates which are shortcomings of the Government Agency, namely the National Land Agency, in this case, SHM No. 251/KM includes Fictitious SHM, so it should be necessary to enforce, determine, protect the Law and related facilities more strictly and thoroughly in the Issuance of Ownership Certificate by the relevant agencies as well as fairer and more transparent law enforcement by the Semarang PTUN so that it complies with the Law. PTUN and State Administrative Law, as well as applicable Constitutional Law.

Keyword: Land dispute, Certificate of Ownership, AUPB, Government Administration Law, Administrative Court.

INTRODUCTION

The Land is vital in people's lives and an essential component of land law in Indonesia. In the context of land law, land is defined as part of the earth's surface, which includes the space below and above that surface, used for society's physical and legal benefit.

According to Boedi Harsono, land law regulates the legal relationship between people, land, and rights. -what rights a person can have to the land (Boedi Harsono, 2008).

Based on the Basic Agrarian Law (UUPA) no. 5 of 1960, land has philosophical, sociological, and juridical functions that are essential for the lives of Indonesian society. Philosophically, land in Indonesia is seen as a gift from God Almighty, which must be used as much as possible for the prosperity of the people. This view aligns with Article 33, paragraph (3) of the 1945 Constitution, which states, "Earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." This statement emphasizes that every management and use of land must pay attention to the community's welfare and not conflict with the public interest. Land is not just an economic asset but also has a profound social meaning as a support for people's daily lives.

Sociologically, land has an important social function because it is the basis of the lives and livelihoods of many people. The land is used for various purposes, such as agriculture, housing, and other economic activities. Fair and equitable land use is the key to achieving social and economic justice. Land conflicts often arise when there is injustice in the distribution and control of land, so good regulation and management are necessary to create social harmony. Maria SW Sumardjono explained that land must be seen as a resource that must be managed with the principles of sustainability and justice.

Juridically, land is a legal object with high economic value, so its management and use must be regulated within a clear and firm legal framework to avoid conflicts and disputes (Maria et al., 2001). In this context, UUPA no. 5 of 1960 stipulates that all land in Indonesia belongs to the Indonesian people and provides a legal framework for regulating land rights, including Ownership Rights, Cultivation Rights, Building Use Rights, and Use Rights. This arrangement aims to provide legal certainty to rights owners and prevent land disputes that could harm the community.

The National Land Agency (NLA/BPN), through Presidential Decree (Keppres) Number 26 of 1988 and last amended by Presidential Regulation (Perpres) Number 10 of 2006, has strategic duties and functions in regulating, managing, and resolving land disputes. Based on Presidential Decree No. 34 of 2003 concerning National Policy in the Land Sector, BPN is responsible for formulating policies and implementing land registration throughout Indonesia. This role was strengthened by Presidential Decree No. 10 of 2006, which regulates the duties and functions of BPNs in managing land administration and resolving land disputes.

Land registration is an essential juridical instrument in Indonesian land law. Based on Government Regulation No. 24 of 1997 concerning Land Registration, the main aim of land registration is to provide legal certainty and legal protection to land rights holders so that they can easily prove ownership of their rights and avoid land disputes. Certificate issuance process Land ownership rights are carried out through a series of stages, from collecting physical and juridical data announcements to issuing certificates by BPN.

However, in practice, the issuance of certificates on Land plots often experiences various irregularities such as fake certificates, genuine but fake certificates, double certificates, and overlapping and fictitious certificates, which can give rise to land disputes in the future. A genuine but fake certificate is physically original, but the legal data is falsified or manipulated. Double certificates are issued more than once for the same piece of land, often due to administrative errors or fraud. Overlapping certificates occur when multiple rights holders claim one plot of land based on different certificates. A fictitious certificate is issued for land that does not exist or does not correspond to the physical conditions in the field.

This shows the importance of implementing general principles of good governance in government administration, especially regarding registering and issuing land certificates regulated in Law No. 30 of 2014 concerning Government Administration. Implementing these principles can prevent irregularities and resolve land disputes fairly and transparently.

One example of a confirmed case of irregularities in Land Registration Certificates is taken from the Decision of the State Administrative Court (PTUN) Number 48/G/2023/PTUN.SMG was registered at the Semarang PTUN Registrar's Office on July 25, 2023. In this dispute, there are 8 Plaintiffs whose names are sequentially: Sumardi Hadi Sumarno, Tumini, Sulistiawan, Purwanto, Sri Lestari, Ngadiman, Sudarsi, Suradi, who are represented by attorney Inri Kristen, SH, as Attorney for the Plaintiffs against the Defendant, Head of the Surakarta City Land Office, represented by power of attorney Slamet Suhardi, S.SIT, MM, as Head of the Dispute Control and Resolution Section.

With this, the Plaintiffs sued the Defendant with the disputed object being Certificate of Ownership Number 251/Mojosongo Subdistrict, issued on 8-8-1977, Situation Drawing number 1446/1977 Dated 7-30-1977, Area ± 1085 square meters, in the name of Agusdarsono. The Surakarta City NLA/BPN issued this because it gave rise to legal consequences for the Plaintiffs due to the issuance of the A quo Decree. Agusdarsono has juridical ownership rights, while the parties who control and occupy the plot of land both from generation to generation and continuously obtain evidence of ownership in the form of a Certificate of Ownership of Land is not fulfilled because it is reasonable to suspect that the Owner of Certificate of Ownership Number 251 is Fictitious. After all, during the lifetime of Plaintiffs 1 and 2 from 1956 until today, no one has ever questioned or disturbed the whereabouts of the Plaintiffs and has never known Someone named Agusdarsono.

This interests the Author in this research because the Certificate of Ownership Rights (SHM) is a decree by a government agency relating to various detailed provisions. This strict and thorough publishing process still has administrative efforts and disputes. Hence, the Author chose the article titled "Settlement of Land Disputes Certificate of Ownership Rights Number 251/Mojosongo Subdistrict, Jebres District, Surakarta City Review of General Principles of Good Government in Law Number 30 of 2014 concerning Government Administration (Study of State Administrative Court Decisions 48/G/2023/PTUN.SMG)".

METHOD

This research uses the Juridical-Normative Method; according to Soerjono Soekanto, normative legal research is carried out by examining documents or library materials as a data source. In connection with the Settlement of Land Disputes on Certificates of Ownership through the approach of Law Number 5 of 1986 concerning State Administrative Courts and Law Number 30 of 2014 concerning Government Administration, studying and analyzing all regulations, theories, concepts, and legal principles that related to Land Dispute Resolution and a conceptual approach involving theoretical understanding and legal doctrine relating to the object under study which experts in the field of State Administrative Law and State Administrative Courts recognize. In connection with the object under study, the decision of the Semarang State Administrative Court will be analyzed.

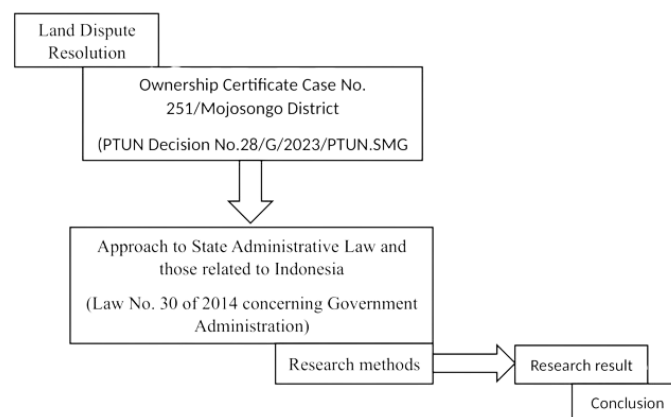


Figure 1. Research Framework.

RESULTS AND DISCUSSION

Principal Land Disputes in Mojosongo, Jebres District, Surakarta City, State Administrative Court Decision Number 48/G/2023/PTUN.SMG

In the mainland dispute, Ownership Certificate No. 251/Mojosongo Subdistrict, Jebres District, Surakarta City, there is an identity of the litigants, and the problem submitted includes

1. Plaintiff's Identity:

1.) Sumardi Hadi Sumarno is an Indonesian citizen, residence in Mojosongo RT. 005 RW. 009 Mojosongo Village, Jebres District, Surakarta City, Central Java Province, freelance daily worker job. Plaintiff 1; 2.) TUMINI, Indonesian citizenship, residence in Mojosongo RT. 005 RW. 009 Mojosongo Village, Jebres District, Surakarta City, Central Java Province, Household Management work. Plaintiff 2; 3.) SULISTIAWAN, Indonesian citizenship, residence in Mojosongo RT. 005 RW. 009 Mojosongo Village, Jebres District, Surakarta City, Central Java Province, freelance daily worker job. Plaintiff 3; 4.) PURWANTO, S. Pd, Indonesian citizenship, residence in Mojosongo RT. 005 RW. 009 Mojosongo Village, Jebres District, Surakarta City, Central Java Province, Private Employee work. Plaintiff 4; 5.) SRI LESTARI, Indonesian citizenship, residence in Mojosongo RT. 005 RW. 009 Mojosongo Village, Jebres District, Surakarta City, Central Java Province, self-employed job. Plaintiff 5; 6.) NGADIMAN, Indonesian citizenship, residence in Mojosongo RT. 005 RW. 009 Mojosongo Village, Jebres District, Surakarta City, Central Java Province, self-employed job. Plaintiff 6; 7.) SUDARSI is of Indonesian citizenship and is a resident of Mojosongo RT. 005 RW. 009 Mojosongo Village, Jebres District, Surakarta City, Central Java Province, Household Management work. Plaintiff 7; 8.) SURADI, Indonesian citizenship, residence in Mojosongo RT. 005 RW. 009 Mojosongo Village, Jebres District, Surakarta City, Central Java Province, freelance daily worker job. Plaintiff 8.

2. Defendant's Identity:

Head of the Surakarta City Land Office, domiciled on Jalan Ki Hajar Dewantara Number 29, Jebres Village, Jebres District, Surakarta City, Central Java Province, in this case, represented by proxy Slamet Suhardi, S.SiT, MM, position of Head of the Control and Dispute Handling Section, and friends, all of whom are nationalities Indonesia, address at the Surakarta City Land Office, Jalan Ki Hajar Dewantara Number 29 Jebres Village, Jebres District, Surakarta City, Central Java Province, works for the State Civil Apparatus (ASN) at the Surakarta City Land Office.

3. Problem Case, in the Semarang State Administration Case Number 48/G/2023/PTUN.SMG, with the object of the dispute being a Certificate of Ownership Number 251/Mojosongo District, Published 8-8-1977, Situation Picture number 1446/1977 Dated 30-7-1977 Area \pm 1085 square meters, in the name of Agusdarsono, giving rise to Reasons for the Interests and Losses of the Plaintiffs, Grounds for the Lawsuit, Reasons the reasons for the Lawsuit and Demands (Petitum) are as follows,

a. Reasons for the Plaintiff's Interests and Losses that Plaintiffs 1 and 2 are the grandchildren and heirs of B. Soikromo alias Saimah Soikromo, who lives and resides on the Letter C 1813 plot of land covering an area of \pm 1085 m². In 2007, Plaintiff 1 divided his land to Plaintiffs 3 and 4, namely his children; Plaintiff 5 received an inheritance from his parents, which was land purchased from B. Soikromo alias Saimah; Plaintiff 6 received land resulting from the sale of B. Soikromo in 1984 and Plaintiff 7, in 1996 Mr. Supardi or Plaintiff 5's parents sold the land to Mr. Sunarna and in 2005 Mr. Sunarna sold the entire land to Plaintiff 8. For all these actions, it is appropriate for the Plaintiffs to have an interest in this case and be the party directly

injured by the publication of the Object of Dispute so that it is legal to file this State Administrative Lawsuit.

- b. Basics of the Lawsuit Whereas on a plot of land measuring $\pm 535 \text{ m}^2$, which is still the right of Mr. Soikromo alias Saimah Soikromo alias Soikromo Saimah until 2023, has experienced inheritance, splitting, and buying and selling events so that currently there are 8 (eight) people (Plaintiffs) and their families who occupy, control and use the plot of land as a residence, as follows:

Plaintiffs 1 and 2 have occupied, controlled, and used the plot of land A quo as a residence since their birth in 1956 (for 67 years); plaintiffs 3 and 4, the children of Plaintiff 1 lived together with Plaintiff 1 for 47 years and 37 years, Plaintiff 5 for 44 years, Plaintiff 6 for 39 years as a result of buying and selling, Plaintiff 7 for 35 years as a result of buying and selling from Mr. Soikromo, Plaintiff 8 for 18 years as a result of buying and selling with Mr. Sunarna.

The Plaintiffs have controlled, occupied, and lived on the land Letter C 1813 for more than 20 consecutive years in good faith without ever being contested and have received recognition from the government and the local community. As long as the Plaintiffs controlled the land, no parties claimed to own it, evicted the Plaintiffs, or reprimanded them. That Mr Soikromo alias Saimah Soikromo alias Soikromo Saimah never sold/gifted land to Agusdarsono and never knew Agusdarsono, That Certificate of Ownership Number 251/Mojosongo Subdistrict, issued on 8-8-1977, Situation Picture number 1446/1977 Date 30- 7- 1977 Area $\pm 1085 \text{ m}^2$, in the name of Agusdarsono allegedly in the name of a fictitious person.

- c. Reasons for the lawsuit states:

- 1) Contrary to the applicable Legislative Regulations that state the Procedure for Issuing Dispute Objects which factually overlap with land areas controlled by the plaintiffs, under Article 9 paragraph 2 of Law Number 5 of 1960 concerning Agrarian Principles, the plaintiffs should be able to carry out the process registration of a quo land because they have the same opportunity given by Law to have ownership rights to the land based on facts and history, and article 3 paragraph 2 of Government Regulation number 10 of 1961 concerning Land registration, in this case, the Defendant did not investigate the history of the land,
- 2) contrary to the General Principles of Good Government, namely the Principles of Accuracy, Usefulness, and Legal Certainty, because the Defendant in issuing a quo Dispute Object did not carefully examine the documents, both physical and juridical data used in issuing the Certificate, the Defendant's actions made the Plaintiffs does not provide benefits from the land in question thereby depriving the plaintiffs of their right to obtain proof of land ownership in the form of a Certificate of Ownership for each Plaintiff, it is clear that the Plaintiff's actions give rise to Legal Uncertainty because they ignore the Plaintiffs' rights which are guaranteed by Legislation to obtain proof of land ownership in the form of a title certificate.
- 3) Petitum (Demand), So the Plaintiffs ask the Chairman of the Semarang State Administrative Court to decide as follows: 1. Grant the Plaintiffs' lawsuit in its entirety; 2. Declare void or invalid Ownership Certificate Number 251/Mojosongo District, Issued 8-8-1977, Situation Picture number 1446/1977 Dated 7-30-1977 Area $\pm 1085 \text{ m}^2$, in the name of Agusdarsono issued by the Head of the Land Office Surakarta City. 3. Require the Defendant to revoke Certificate of Ownership Number 251/Mojosongo District, Issued 8-8-1977, Situation Picture number 1446/1977 Dated 7-30-1977 Area $\pm 1085 \text{ m}^2$, in the name of Agusdarsono. 4. Sentence to the Defendant to pay the costs incurred in this case. Alternatively, if the panel of judges has a different opinion, ask for a decision that is as fair as possible (*ex aequo et bono*).

Defendant provided a written answer on September 11, 2023, in the SHM Dispute Object Exception No. 251/KM in its issuance follows the Basic Agrarian Law, land rights for which rights have been issued cannot be issued new rights without permission or release from the previous right owner. The boundaries had been shown to the applicant; it was proven that the measurement document the applicant had signed was known to the Head of Mojosongo Village. Defendant responded to the AUPB's arguments, and it could be concluded that Defendant felt that the resolution or administrative effort of the existing problems was the responsibility of a good state institution.

In the main case, the Exception states that the Defendant has responded to the claims of the lawsuit, which are limited to the primary duties and functions of the Defendant, which are the authority of the Defendant. In the Exception, accept the Defendant's Exception in its entirety. In the Main Case: 1. Reject the Plaintiff's claim in its entirety or at least state that the Plaintiff's claim is not acceptable; 2. Sentence the Plaintiff to pay all costs incurred in this case.

To strengthen his claim, he provided evidence presented at the Evidence Agenda Session in the form of evidence P-1 to P-88. Defendant provided evidence to strengthen his answer in the form of T-1 to T-12 evidence, and Plaintiff presented two witnesses. Nominate witnesses or expert witnesses.

Primary Legal Considerations of Judges in State Administrative Court Decision Case Number 48/G/2023/PTUN.SM

Based on the Posita or Reasons for the Plaintiff's Claim, the Defendant's Exceptions, and the Plaintiff's Reply, the panel of Judges made the following Legal Considerations,

After the Court looked at the plaintiffs' arguments in their lawsuit and the documentary evidence and witness statements, it found legal facts in the form of 1. The plaintiffs, with their legal representatives, attempted to issue certificates of ownership in the names of each of the plaintiffs; 2. The plaintiffs have already occupied the object of the dispute from birth, and no one has taken issue with it. 3. The publication of the Object of Dispute needs to be revised so that the plaintiffs can register their land and obtain proof of SHM. 4. The time limit for filing a lawsuit is calculated from when the plaintiffs know and feel that their interests have been harmed by the publication of the object of dispute, 5. Considering PERMA No. 6 of 2018, the lawsuit is submitted at least 90 days after the decision of community member 6. is made. Considering the Object of the Dispute was published on August 8, 1977, the plaintiffs became aware of the Object of the Dispute on July 7, 2023; the plaintiffs submitted an objection to the Defendant regarding the request for cancellation of the SHM on July 10, 2023, the Defendant responded to the letter on July 13, 2023, the Plaintiffs submitted a lawsuit to the Semarang PTUN electronically on July 25, 2023.

Seven (7.) so that the Court believes the plaintiffs' lawsuit still has a 90-day grace period, 8. Does publishing the Dispute Object violate statutory regulations and the AUPB? 9. Considering the authority, procedures, and substance of the Basic Agrarian Law and PP regarding Land registration, 10. The Object of the Dispute has authority and is not legally defective or contrary to statutory regulations, 11. Because the Object of the Dispute clearly states the existence of warkah No, 408/J.VIII/Ph/1977, the Defendant must prove This is the case, 12. After the examination hearing, Defendant did not submit proof of the document, 13. There is parcel evidence that Defendant did not complete the land history investigation without any problems, which could result in an error regarding the right to publish the Dispute Object, 14. So, based on the provisions In the above Legislation, the Court thinks that SHM No. 251/KM, in the name of Agusdarsono, from a procedural aspect, has violated statutory regulations and deserves to be declared contrary to the Law, 15. This means that the Defendant's Exception is rejected, and the Plaintiff's Claim is granted in its entirety, 16. By

paying attention to all applicable laws and regulations, Semarang Administrative Courts State Judges: 1. Grants the Plaintiffs' lawsuit in its entirety; 2. Declare the Certificate of Ownership Number 251/District of Mojosoongo, Issued on 8-8-1977, Situation Picture number 1446/1977 Date 30-7-1977, Area \pm 1085 square meters, in the name of Agusdarsono; 3. Require the Defendant to withdraw Certificate of Ownership Number 251/Mojosoongo Subdistrict, Issued 8-8-1977, Situation Picture number 1446/1977 Dated 7-30-1977 Area \pm 1085 square meters, in the name of Agusdarsono; 4. Sentence the Defendant to pay court costs in the amount of Rp. 4,683,500,- (Four Million Six Hundred Eighty-Three Thousand Five Hundred Rupiah).

Review of General Principles of Good Government in Law No. 30 of 2014 concerning Government Administration regarding PTUN Decision Case No. 48/G/2023/PTUN. SMG

The General Principles intended in Law Number 30 of 2014 concerning Government Administration are contained in Article 10, paragraphs (1) and (2), which state that Article 10 (1) AUPB as intended in this Law includes the principles of: a. legal certainty; b. expediency; c. impartiality; d. thoroughness; e. not abuse authority; f. openness; g. public interest; and h. good service. (2) Other general principles outside the AUPB, as intended in paragraph (1), can be applied as long as they are used as the basis for the Judge's assessment as stated in a Court decision that has permanent legal force.

The Judge considers legal certainty, usefulness, and accuracy in the main case. Other things: The Author also provides research results that in the principal cases and decisions of the Semarang State Administrative Court, other principles that have been mentioned also apply, such as the Principle of impartiality, that it is found that with the application of this Principle, fair decisions, benefits, and legal certainty can be implemented in the objects of party disputes. The Defendant does not side with any of the Plaintiffs just because of this problem, so the Surakarta City NLA/BPN has carried out its duties per this Principle because it did not issue a Certificate of Ownership Rights to one of the Plaintiffs. This consistency exists because of the BPN's issuance of the Dispute Object. Even though the Certificate ignores various AUPBs, it was still recognized by the BPN then.

The Principle of not abusing authority, if we look at the appropriate PTUN decision, of course, this Principle can be held accountable for its applicability to the decision; however, for the main case, it is clear if we look at the history of Surakarta city NLA/BPN in 1977, which at that time violated this Principle. should be due to publishing the Dispute Object.

The principle of openness seen from the Semarang PTUN Decision is that the trial is open to the Public. The Public can access the results as Decisions from various trial proceedings. There is no indication of Closure or Privatization by the PTUN; this is following this Principle in the leading case of the case itself can be seen Based on this Principle, BPN has implemented this from the initial process, but in the trial process, the Defendant was unable to admit error, did not provide a copy or response to the Plaintiff along with supporting evidence of the existence of the object of the dispute, making BPN the party that privatized it and could not prove it. There is truth to the object of the dispute because SHM No. 251/KM (OC No. 251/MS) indicates a fictitious SHM.

The Principle of Public Interest, it is clearly that this Principle applies to the Parties in a case at the Semarang PTUN because there is evidence of the reasons for the interests of each party in the case and the Defendant. This is very helpful for the parties seeking justice at the Semarang PTUN. Public interest in the Main Case has been proven. At that time, the Surakarta City BPN issued SHM No. 251/KM, which also refers to this. Still, it can be proven that the SHM is fictitious, which takes away the public interest and benefit for SHM seekers or applicants.

The Principle of good service, of course, following this Principle, the Semarang State Administrative Court for the Parties to the case by achieving the Philosophy of Justice,

Benefits, and Legal Certainty; this PTUN has provided the best excellent service in making decisions to resolve land disputes, providing equal space for the Parties, impartiality, the Principle of speed, and other related principles of justice, so that in the leading case it can also be seen that the Surakarta City BPN is assessed for issuing SHM No. 251/KM does not provide good service, however, when Administrative Efforts have provided services following existing standard operational procedures such as the receipt of this SHM Cancellation Request even though it uses quite a lot of time and money, the Surakarta City BPN, in this case, can work together so that Dispute resolution can be carried out well.

CONCLUSION

The research can be concluded that Land Dispute Settlement SHM No. 251/KM (OC No. 251/MS) is under Law Number 5 of 1986 concerning PTUN and Government Administration Law, which refers to Law Number 30 of 2014, which can be proven and reviewed with the (AUPB/GPGG) in article 10 paragraph (1) and the theory that the Author can convey through a review study mentioned above so that the Court's Decision in deciding this Land Ownership Certificate Dispute reflects a sense of Justice, Certainty and Legal Benefits for Justice Seekers or Parties in litigation.

In the main case, it can be found that there are indications of irregularities in the registration and issuance of the Ownership Certificate, which are declared invalid because they are fictitious. This makes government agencies, especially the Surakarta City NLA/BPN, pay more attention to thoroughness, precision, protection, and law enforcement and always comply with and implement AUPB/GPGG, strictly in Land Registration or Issuance of Ownership Certificate as well as providing Facilities that can provide Benefits in the Public Interest and prevent Land Disputes, especially the Issuance of Ownership Certificates.

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