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## Juridical Analysis of Errors in Recording the Origin of Land on Land Management Rights by the National Land Agency

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**Abstract:** Soil functions as the surface layer of the earth that supports plant roots' growth, supports upright plants and meets water and air needs. The importance of land for humans is very clear, because humans cannot live without land. Therefore, land registration becomes increasingly important for society as time goes by. The land registration process produces legal consequences, namely the issuance of a land certificate which functions as legal and strong evidence for the holder of rights to the land. However, with the large number of certificates issued by the National Land Agency (BPN), the possibility of errors in the certificate issuance process remains, even though the chance of such errors occurring is small. One error that may occur is an error in recording the origin of land over management rights, as illustrated in the Decision of the State Administrative Court for Judicial Review Number 206/PK/TUN/2023. This research uses normative juridical research methods. Errors or omissions in issuing a certificate can cause the certificate to become invalid, either due to inaccurate data on the legal subject or legal object stated in the certificate. These errors can occur at various stages of land registration. Adding phrases such as "Above HPL No. 1/Jatinegara" can affect the meaning and legal consequences for PT ABC as the legal owner of the land. The existence of provisions regarding certificates and land rights is a preventive step to protect land rights and prevent disputes. For repressive legal protection, which is applied after a dispute occurs, the aim is to resolve the conflict. If a land dispute arises, repressive legal protection can take the form of restoring rights to the original owner of the land

**Keyword:** Land Rights, Certificate, Management Rights.

### INTRODUCTION

Land is a crucial element to support human life and welfare activities. Physically, soil is part of the earth's crust consisting of minerals and organic materials. Soil functions as the surface layer of the earth that supports plant roots' growth, supports upright plant growth and meets water and air needs. The importance of land for humans is very clear because humans cannot live without land. Various human activities, such as the construction of residences, places of worship and places of business, agriculture, and the exploitation of natural resources such as

mining products, always involve land and are carried out on it. This makes it important for everyone to own, control, and defend the land they need from other parties. However, land, which is a basic need for human life, will face various challenges, namely as follows (Adrian Sutedi, 2013): (1) Limited land, both in terms of quantity and quality, compared to the needs that must be met; (2) Shifting patterns of relationships between land owners and the land itself due to changes arising from development processes and general social change; (3) On the one hand, land has developed into a very important economic commodity, while on the other hand, land has also become an object of commerce and speculation; (4) On the one hand, the land must be used for the welfare of the people fairly and equally, both physically and mentally, while on the other hand, its sustainability must be maintained.

In land law, there are regulations regarding various control rights over land. Basically, all types of land tenure rights contain a series of authorities, obligations, and/or prohibitions for the right holder to do something with the land they own. The meaning that something is permissible, obligatory, and/or prohibited to be done is the content of the control right in question, and is the criterion for distinguishing a land control right from other control rights (Boedi Harsono, 2003). Land rights are rights that give authority to use land that is given to a person or legal entity. In principle, the purpose of land use is to fulfill two types of needs, namely to cultivate and to build something (Arie Sukanti Hutagalung, 2009). In general, rights holders can use land according to their needs, while still complying with the restrictions set by law. The authority of land rights holders is also limited based on the type of rights they have. For example, Building Use Rights only give the right to construct and own buildings on the land. Legal protection for control and ownership of land only applies if it is based on valid land rights. Article 4 of Law no. 5 of 1960 concerning the Basic Agrarian Principles Regulations ("UUPA") states that State Control Rights can grant various types of land rights to individuals or legal entities (as legal subjects), with the aim that the land is used and exploited under its intended purpose, for increasing the prosperity and welfare of rights holders, their families and the surrounding community. The UUPA regulates several rights to land, including Ownership Rights, Business Use Rights, Building Use Rights, and Use Rights.

In the development of national land law, Management Rights are also known. If you look at the existing regulations in the UUPA, there are no provisions that explicitly mention "Management Rights" as one of the land rights. The UUPA only mentions the term "management" in General Explanation II number 2 of the UUPA. Boedi Harsono stated that apart from regional governments and customary law communities, the delegation of the implementation of some of the state's authority over land can also be carried out to authority bodies, state companies, and regional companies by granting control of certain land with what is known as Management Rights (Boedi Harsono, 2003). As explained in Article 1 paragraph 2 of the Minister of Agrarian and Spatial Planning Regulation no. 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights ("Permen 18/2021"), Management Rights are control rights from the state whose implementation authority is partly delegated to the holder of Management Rights. Ministerial Regulation 18/21, among other things, regulates legal entities that can be granted Management Rights, namely Central Government agencies, Regional Governments, State-Owned Enterprises (BUMN), Regional-Owned Enterprises (BUMD), land bank entities or legal entities appointed by the Central Government. Looking at the UUPA, it is more appropriate that Management Rights are referred to as an aspect of "authority" to manage land, whereas in Ministerial Regulation 18/2021 it has been changed to a separate land right. In practice, the implementation of Management Rights has experienced significant developments both in terms of regulation and implementation in the field.

In everyday life, land ownership rights are often disputed and even taken to court. This is due to the importance of land in human life, which triggers efforts in various ways to obtain land,

including by taking land belonging to other people. Disputes in the land sector can result in prolonged conflict between the community members involved. This conflict often extends to involve each of the heirs in dispute, and can sometimes result in many victims being involved. Often the parties in a dispute will try hard to prove that they have more rights to the land. Therefore, land registration becomes increasingly important for society as time goes by. Land registration will produce legal consequences, namely the issuance of a certificate of proof of land rights known as a land certificate, which functions as a legal and strong proof for the holder of rights to the land (Urip Santoso, 2010). A certificate is a document that functions as proof of legal and strong rights, reflecting the physical and juridical data contained in it, as long as the data is in accordance with the information contained in the relevant land measurement certificate and book. The issuance of a land certificate is proof of ownership of land rights issued by the National Land Agency (BPN) by statutory regulations. However, considering the large number of certificates that have been issued by BPN, there is a possibility that errors will occur in the process of issuing land certificates because humans are certainly not free from mistakes, although there is a small possibility of errors occurring. One of the errors that can occur is an error in recording the origin of the land over land management rights, as in the case of the State Administrative Decision at Judicial Review Level 206/PK/TUN/2023 dated 6 December 2023 between PT ABC as the Plaintiff and the Head of the City Administrative Land Office East Jakarta as Defendant and PT XYZ as Defendant II intervened on January 26 2024 which the author will examine.

Therefore, the author is interested in researching a problem described above with the title "Judicial Analysis of Errors in Recording the Origin of Land on Land Management Rights by the National Land Agency" which contains the problem of errors in recording the origin of land on land management rights on land certificates. and the consequences for land rights holders in the event that there is an error in recording the origin of the land above the land management rights on the land certificate.

## **METHOD**

In this research, the type of research used is normative juridical research. Normative juridical research is a type of legal research that focuses on library studies, namely by studying library materials or secondary materials (Bambang Sunggono, 2009). This normative juridical research is descriptive and focuses on legal norms as the object of research. The sources come from existing legal provisions as well as case examples used to analyze and study the topic being researched. In this research, the data analysis technique used is qualitative data analysis with a descriptive approach. This means that qualitative data is analyzed and explained descriptively. The analysis process is carried out by understanding and assembling the data that has been collected and arranging it systematically so that conclusions can be drawn and the information is easy to understand.

The method of collecting data in this research uses the library research method. Library study is an approach used to collect information and data by utilizing various materials available in libraries, such as documents, books, magazines, history, and so on (Mohamad Nazir, 2013). This method also involves reviewing reference books and the results of previous similar research to obtain a relevant theoretical basis. In this research, the author looked for literature related to the topic discussed, including books, scientific journals, articles, papers, news, and internet sources.

## **RESULTS AND DISCUSSION**

**Legal Protection for Land Rights Holders in the Event of Errors in Recording the Origin of Land Over Land Management Rights on Land Certificates**

One way to protect the rights of landholders is to provide legal certainty regarding the rights to the land they own. To ensure legal certainty, in accordance with the provisions of Article 19 of the Basic Agrarian Law, the state regulates the land registration system through Government Regulation Number 24 of 1997. This land registration is managed by the government, specifically the National Land Agency, and carried out by the Head of the Land Office at the level district or city where the land is located. The requirement for legal protection of land rights to be guaranteed is that the land plot must first meet the elements of legal certainty. This includes ensuring that the certificate owned by the right holder or party controlling the land is an official, valid product from BPN and is still valid as proof of ownership. By registering land rights, it will be clear who the owner is, the size of the land, its location and its boundaries. Therefore, if this element of certainty is met, the state is obliged to provide legal protection. To create legal certainty in the land sector, several conditions must be met, including (a) There is a written legal instrument that is complete, clear, and applied consistently. (b) Implementation of effective land registration. (c) Availability of clear legal rules that are implemented consistently. (d) Government agencies apply legal rules consistently and comply with and follow these regulations. (e) People adapt their behavior to applicable legal regulations. (f) Judges must be neutral and apply legal rules consistently and thoroughly in resolving legal disputes (Adrian Sutedi, 2013).

True legal certainty lies in the strength of the certificate of ownership of land rights as legal evidence, including in the context of court. However, legal certainty with a negative system is relative legal certainty, which means that legal certainty is guaranteed by statutory regulations as long as there is no evidence to the contrary (S. Chandra, 2005). According to PP no. 24 of 1997, land registration uses a negative publication system. In this system, the state plays a passive role, only accepting and recording what is stated by the party applying for registration. As a result, it is possible that someone else who feels they have a more legitimate right to the land could make a claim. Therefore, parties who acquire land must do so in good faith. Land registration is needed to provide legal certainty to individuals who control and own land so that rights to the land are legally recognized. Land registration will produce legal consequences, namely the issuance of a certificate of proof of land rights known as a land certificate, which functions as a legal and strong proof for the holder of rights to the land (Urip Santoso, 2010). For example, if someone owns the land but does not yet have a certificate, ownership of the land has not been legally recognized and can only be claimed as their own without clear legal force, which allows other people to also claim it. Therefore, it is important to register land and issue certificates so that land ownership can be legally proven. The right to obtain legal protection includes duties, roles and responsibilities that must be fulfilled by state authorities. As citizens who are part of a state entity, every individual has basic rights such as the right to safety, security, and legal protection. With the recognition of these rights, no one in society should receive unfair treatment from state power. A land certificate functions as proof of land rights which includes physical data and juridical data recorded in the land book, so that it becomes a legal reference for the owner. In Article 1865 of the Civil Code, it is explained that every person who claims to have a right, or points to an event to confirm his or her right or to dispute another person's right, is obliged to prove the existence of that right or the event stated. It is important to ensure that the information in the land certificate corresponds to the actual facts. This is confirmed in Article 32 PP no. 24 of 1997 which explains that a certificate is a proof of rights that is valid as a strong means of proof regarding the physical data and juridical data contained therein, as long as the physical data and juridical data are per the data contained in the measurement letter and land rights book in question. If a certificate of land has been legally issued in the name of a person or legal entity who acquired the land in good faith and controls it, then other parties who feel they have rights to the land can no longer demand the implementation of that right if within 5 (five) years after the issuance of the certificate, do not

submit written objections to the certificate holder and the Head of the Land Office concerned or file a lawsuit to the Court regarding control of the land or the issuance of the certificate. The existence of these provisions is of course one of the preventive steps for legal protection related to land disputes that can be taken to prevent disputes from occurring.

Regarding repressive legal protection, which is applied after a dispute occurs, the aim is to resolve the conflict. If a land dispute occurs, repressive legal protection can take the form of restoring rights to the original owner of the land. In other words, the law will protect the legal owner of the land in dispute. In the case of land disputes, repressive legal protection functions to return rights to the legal owners, but this process must go through several stages. Parties involved in land disputes can resolve them through litigation (court) or non-litigation (outside court). Usually, cases that cannot be resolved through non-litigation channels will be forwarded to litigation, namely court. The certificate has the strength of evidence like an authentic deed after the judge or lawyer must accept the certificate as a true deed with the following criteria (Yahya Harahap, 2005): (a) Physical data, juridical data, administrative data, contained in the certificate are by those in the general registers at the Land Office. (b) Physical data can be reconstructed in the field. (c) As long as it is not proven otherwise that the acquisition was made in good faith. (d) He is physically mastered in the field.

Thus, it can be concluded that a land title certificate can guarantee legal certainty and legal protection as strong evidence, as long as the physical data, juridical data, and administrative data are per the land measurement certificate and land book at the land office, and are supported by manuscripts stored in the public register. The effectiveness of implementing legal protection will be realized if the legal system, which consists of elements of legal structure, legal substance, and legal culture, works synergistically in its implementation. In this way, the legal system can achieve the goals expected by society. The legal protection that can be obtained by land owners if there is an error in issuing a certificate by the Land Office, for example in the case studied, namely an error in recording the origin of land over management rights, is by correcting the certificate for the error. The certificate revision application process can be carried out through the following steps (Andina Alfia Rizqi and Yusriadi: (a) The applicant must submit a revision request letter directly, written by himself and signed. (b) After the application letter is received at the Land Office, an inspection process will be carried out to determine the type of error that occurred. (c) The Land Office will examine the relevant documents and determine whether the error originates from internal parties at the Land Office or from the applicant's side. (d) If the error is proven to originate from the Land Office, the error will be corrected. (e) Corrections to errors will be recorded on the certificate by adding an initial as a sign of correction, which is carried out by the Head of the Land Office or by the Head of the Section in charge. (f) After repairs have been made, the updated certificate will be handed back to the owner.

If the local land office refuses to revise the land certificate, the owner of the land rights can take several steps to resolve the problem. What can be done is to complain to the head of the local land office. In the case analyzed, the land rights holder had complained, but the local land authority still refused to revise the land certificate because he had checked the registration map plot on the computerized East Jakarta Land Office for the position of the SHGB No. land plot. 254 is above HPL No. 1. In this case, the land rights holder can take the next step, namely through legal action or trial. However, before taking this route, it would be better if the problem was resolved by mediation or arbitration first. If the problem still has not been resolved then legal action or trial can be taken. In the case analyzed, because the error was made by the local land office, a lawsuit can be filed with the State Administrative Court (PTUN). The lawsuit submitted to the PTUN is a petition containing demands against state administrative bodies or officials and is submitted to the court to obtain a decision.

## CONCLUSION

The main purpose of land registration is to provide legal certainty and protection, where land rights holders will obtain a land rights certificate as legal proof. This certificate, which is the final result of the land registration process, includes all changes related to the subject, status of rights, and legal actions regarding the land, and functions as legal and strong evidence. This means that the information contained in the certificate is considered to be legally correct unless there is evidence to prove otherwise. However, in practice, State Administrative Officials (TUN) may violate the law, either due to errors or negligence in carrying out their duties in issuing certificates. These errors or omissions can cause the certificate to become invalid, either due to inaccuracies in the legal subject data or legal objects listed. This error can occur at various stages of land registration. The addition of the phrase "Above HPL No. 1/Jatinegara" can also change the meaning and legal consequences for PT ABC as the legal owner of the land.

To ensure legal protection for land rights, the main requirement is that the land plot must first meet the elements of legal certainty. By registering land rights, it will be identified who the owner is, the size of the land, the location, and the boundaries. Therefore, if this element of certainty is met, the state should provide legal protection. The existence of these provisions is a preventive step to protect land rights and prevent disputes. In the case of repressive legal protection, which is applied after a dispute occurs, the aim is to resolve the conflict. If a land dispute arises, repressive legal protection can take the form of restoring rights to the original owner of the land. For example, if an error occurs in the issuance of a certificate by the Land Office, such as an error in recording the origin of land over management rights, the legal protection that the land owner should receive is through correction of the certificate to correct the error. If the local land office refuses to revise the land certificate, the land right holder can take legal action or trial to resolve the problem. However, it would be good if the land rights holder could take mediation or arbitration first to resolve the problem before taking legal action or trial.

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