



LEGAL PROTECTION FOR LAND RIGHTS HOLDERS IN CASES OF MULTIPLE CERTIFICATES

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Abstract: Land disputes have become a complex and very frequent problem. Various factors, including multiple certificates, can cause land disputes. This research uses normative methods to approach legal norms and relevant legal substance. Enacted in 1960, the UUPA is Indonesia's primary legal basis governing land rights. The results show that although there are regulations governing land registration and owners' rights, the legal protection provided to holders of property rights certificates still needs to be improved. Title certificates, which are supposed to be strong evidence, often do not give the expected legal certainty, especially when disputes arise. Land rights holders are expected to receive strong legal protection. The research identified that the community's lack of understanding of their rights and the applicable legal procedures exacerbated the situation. The research also emphasizes the need for reforms in the land law system, including increased socialization of land rights to the public and improvements in land registration procedures.

Keywords: Legal Protection; Multiple Certificates; Right Holders

1. Introduction

Land is both an asset and a capital for development, and it is also a non-economic resource. These two aspects are unity, where humans live above it, and the wealth of natural resources.¹ Land is a natural resource with a high economic value for people's lives. It serves as a location for habitation, agricultural land, and space for various economic activities. Land is often the object of disputes between individuals, groups, or communities and the government.

A land dispute is a conflict or dispute that occurs between two or more parties regarding the ownership rights, use, or boundaries of a land parcel resolved through deliberation or court.² Land disputes can occur due to various factors, including overlapping titles, land use not by its designation, and conflicts between customary and state-recognized property rights. These disputes can involve individuals, groups, or legal entities and are often related to overlapping claims, different interpretations of legal documents, or violations of established rights.

Land conflicts (disputes) are a frequent problem everywhere on earth. Therefore, conflicts related to land are always ongoing because everyone has interests related to land. The development of land conflicts (disputes) is constantly increasing. While the fixed land area causes land conflicts, the number of individuals (humans) relying on land to fulfill their requirements always increases.

¹ Elita Rahmi, "Eksistensi Hak Pengelolaan Atas Tanah (Hpl) Dan Realitas Pembangunan Indonesia," *Jurnal Dinamika Hukum* 10, no. 3 (2010): 356, <https://doi.org/10.20884/1.jdh.2010.10.3.104>.

² Mulia Kartiwi, "Peran Pejabat Pembuat Akta Tanah Dalam Meminimalisir Sengketa Tanah," *Res Nullius Law Journal* 2, no. 1 (2020): 39, <https://doi.org/10.34010/rnlj.v2i1.2888>.



Land disputes occur because of the recognition of property rights and control over the disputed land from each party involved. This then makes the emergence of multiple land certificate ownership. In some areas, the phenomenon in the community is several cases of “multiple certificates,” namely a plot of land registered in 2 (two) certificates that the District / City Land Office officially issues. This creates legal uncertainty as to who the rightful owner of the land is. Due to the issuance of multiple certificates, civil disputes between the parties arise to prove that the assurance of legal certainty regarding the land is resolved through the judiciary.

In the Indonesian legal system, land property rights are regulated by Law No.5 of 1960 on the Basic Agrarian Principles. Although this law provides a solid legal foundation for property rights holders, practice shows that many must receive adequate protection when facing disputes. This is due to various factors, including weak law enforcement, lack of public understanding of their rights, and corruption and abuse of authority.

Land disputes affect not only the title holder but can also trigger broader social conflicts, harm investment, and hamper economic development. Therefore, it is essential to understand how legal protection can be enhanced for holders of property rights to land subject to disputes. This research aims to analyze existing legal protection mechanisms, identify challenges property rights holders face, and provide recommendations for an improved legal system that is more effective in resolving land disputes.

According to this description, the author is very interested in examining these problems through research to gain further knowledge and deepening. The issues to be studied in this research are: (1) What are the factors causing the multiple certificate dispute? (2) What are the legal consequences of multiple certificates? (3) How is legal protection for holders of absolute land rights?

The purpose of this research is (1) To identify the factors causing the occurrence of multiple certification disputes. (2) To discover the legal consequences arising from the existence of multiple certificates. (3) To determine the legal protection for property rights holders over the actual land. By understanding the dynamics of land disputes and the legal protections available, this research hopes to contribute to developing better policies in land administration in Indonesia and increase public awareness of their rights as holders of property rights to land.

2. Research Method

The research method used in this research is normative legal research. Normative legal research uses an approach to legal norms or substance, legal principles, legal theories, and legal comparisons. This research also uses a statutory approach by studying and collecting primary and secondary legal materials. Primary legal materials are legal materials that are binding and authoritative. Primary legal materials can be in the form of laws and regulations, jurisprudence, and others. At the same time, secondary legal materials are all publications on statutes that are not official documents, which can be in the form of legal science books, legal science journals, legal scientific articles, and others.³

³ Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum*, 2008, 86–87.

3. Discussion

3.1 Multiple certificates

Multiple certificates are a situation where there are two or more land certificates are granted for the same piece of land. Various certificates are a common issue in society, as land is a crucial aspect of life. Land-related matters are among the primary, serious, and sensitive problems because they can easily lead to social conflict and often involve the relevant authorities in their resolution.⁴

Multiple certificates are the impact of the National Land Authority's inaccuracy and inattention in issuance. The emergence of various certificates raises the absence of legal assurance and protection for the owners, which can potentially cause future disputes. The dispute also has the potential to cause losses for both parties. Usually, multiple certificates are found on empty or undeveloped land. Several factors contribute to the occurrence of various certificates:

- 1) When conducting field measurements or research, the applicant may intentionally or unintentionally misrepresent the land location and boundaries.
- 2) Evidence or acknowledgment of rights may contain falsehoods, untruths, or may no longer be valid.
- 3) The land registration map for the area in question may be available later.

Generally, land disputes start with a complaint from a particular party, either a person or a legal entity, containing a claim to land rights, either land status or ownership, hoping to receive an administrative settlement by applicable regulations.

To avoid disputes over multiple certificates, it is essential to enhance the development of land maps and improve land administration. This must be done to prevent overlapping certificates. With a good land registration map and land administration, misplacement and boundaries can be identified early on. Multiple certificates can cause legal uncertainty for land rights holders, which is highly undesirable in Indonesia's land registration process. Some of the issues related to various certificates are who is authorized to cancel one of the 2 (two) certificates. Therefore, the court must assess, determine, and decide who is entitled to own the land based on the testimony and evidence of witnesses.

3.2 Factors Causing Multiple Certificate Disputes

A certificate is evidence of one's land rights registered in the land book, providing the owner with written proof of their rights. So, it is important to ensure that only one certificate is issued on a plot of land. Each land title certificate is issued for one parcel of land. However, there are still frequent cases of multiple certificates where a plot of land has more than one certificate.

Paying attention to the case in multiple certificate disputes is necessary because various things can cause multiple certificate cases. Many of the reasons leading to the emergence of various certificates stem from the landowner's lack of attention to their land and improper utilization, resulting in it being claimed by others who then use it, believing that the land is unowned.

⁴ Hardiyanti Hasan and A. M. Rusli, "Keterlibatan Pemerintah Dalam Penyelesaian Sertifikat Ganda Di Kota Makassar," *Madika: Jurnal Politik Dan Governance* 1, no. 1 (2021): 22, <https://doi.org/10.24239/madika.vol1.iss1.687>.

Because they think they have occupied the land for an extended period, individuals may attempt to assert ownership and issue a certificate for the land, unaware that it already has a certificate. Additionally, they may deliberately or accidentally indicate incorrect land locations and boundaries during the measurement or field research.

Furthermore, no database exists at the National Land Agency of registered and unregistered land parcels. Additionally, some people continue to cheat for their benefit, which leads to irregular behavior in the sense of not fulfilling their obligations due to the Land Office personnel's errors in issuing land certificates. The local government factor, whether at the village or sub-district level, needs more data on land that has been certified and is already under possession. Suppose someone applies for a land tenure certificate, and it is issued. In that case, some ill-intentioned individuals suddenly claim land ownership and seek to obtain their land tenure certificate.

Some of the factors that cause land disputes in the form of multiple certificates are:

- 1) Due to errors or mistakes:⁵
 - a. During the measurement or field research, the applicant may deliberately or accidentally indicate the incorrect location and boundaries of the land.
 - b. The evidence or acknowledgment of rights may later be found to be false, misleading, or no longer valid.
 - c. There is no land registration map accessible for the relevant area,
 - d. Multiple certificates being issued for a single plot of land can also arise with inherited properties. The situation often involves an inheritance dispute, where the original owner sold the land to another party without informing their children, issuing a certificate in the buyer's name. Subsequently, the heirs obtain a certificate for the same land, leading to multiple certificates, as the previous certificate had yet to be mapped.

- 2) Affected by Internal and External Factors:
Internal factors :
 - a. When issuing land certificates, land office workers make mistakes;
 - b. The Land Office, a government entity responsible for creating and issuing land certificates, heavily relies on data from other government agencies, such as local or village governments and tax service offices.⁶
External factors :
 - a. Complicated legal process: Complicated or convoluted legal processes in land ownership can be an external factor allowing multiple land titles.

⁵ Marsella Patrya Karim, Weny Almoravid Dungga, and Avelia Rahma Y. Mantali, "Akibat Hukum Dari Diterbitkannya Sertifikat Tanah Dengan Kepemilikan Ganda," *Journal of Comprehensive Science (JCS)* 2, no. 6 (2023): 1537, <https://doi.org/10.59188/jcs.v2i6.372>.

⁶ Patrya Karim, Almoravid Dungga, and Rahma Y. Mantali, 1538.

- b. Lack of supervision and enforcement: Lack of adequate land registration oversight and enforcement can enable fraudulent practices or document falsification.
- c. System failure: Ineffective or poorly coordinated land registration procedures may result in issuing multiple certificates.⁷

Duplicate certificates can occur due to incomplete or missing registration maps, human error, division or expansion of regions, incorrect administration at the sub-district level, and changes in spatial planning by the city government, in addition to the mentioned factors.

More public awareness of land registration procedures is needed to manage and safeguard land rights. This can hurt land ownership and cause various problems, such as difficulties in Registration; many communities need help understanding the steps required to register their land. Complicated and convoluted procedures often discourage them from registering, so the land they own is not officially registered. The lack of knowledge about their rights can make the community vulnerable to fraud or abuse by irresponsible parties. For example, they may fall victim to certificate forgery or unlawful land claims. Many individuals also need adequate access to information regarding land registration procedures, including the requirements and necessary documents. This may be due to insufficient outreach from the government or related institutions. The community frequently needs to understand the significance of land registration as a legal protection. Without legal awareness and a good understanding of the benefits of registration, they tend to overlook its importance, which can ultimately harm them in the future.

3. 3 The Legal Consequences of The Existence of Multiple Certificates

The legal implications of multiple certificates regarding ownership need to be clarified. The existence of various certificates can lead to certainty and disputes regarding who holds legitimate rights to the land, creating complications that take time to resolve. Additionally, there can be financial losses; parties affected by multiple certificates may face significant monetary harm. For instance, an individual who purchases land with a fraudulent or duplicate certificate could lead to a substantial investment if the ownership of that land is challenged or revoked.

Difficulties in transactions are also legal consequences arising from issuing multiple certificates, and various certificates can create challenges in conducting sales transactions or utilizing the land. Parties seeking to acquire rights to the land or use it for business purposes or property development may need help. Additionally, there needs to be more trust within the land registration system; multiple certificates can diminish public confidence in the land registration system managed by the relevant authorities, such as the National Land Agency. This can undermine the integrity of the land registration system and affect public trust in land certificates as legitimate proof of ownership.⁸

Multiple certificates create uncertainty regarding the legitimate owner of a piece of land. This can lead to prolonged legal disputes between parties claiming rights to the same land. One of

⁷ Patrya Karim, Almoravid Dunga, and Rahma Y. Mantali, 1538.

⁸ Patrya Karim, Almoravid Dunga, and Rahma Y. Mantali, 1542.

the certificates deemed invalid may be revoked by the court, resulting in the loss of land rights for the unauthorized owner, Which could result in further losses.

4. Legal Protection for Legitimate Land Rights Holders

The emergence of multiple certificate conflicts in some cases arises when parties, such as land rights holders as aggrieved parties, file complaints and raise objections regarding the issuance of a certificate for the same object with the same number but different issuance dates, along with measurement documents or situational drawings that have the same number and date, as well as the same land area. The holders of land rights feel disadvantaged and, therefore, submit claims against the administrative decisions in the field of land issued by the Head of the Land Office, asserting that such choices have harmed their rights to the land.⁹

Ownership of a piece of land encompasses all legal powers, including legal certainty regarding ownership rights and the physical land and legal protection for the rightful owner against disturbances or other land disputes. Furthermore, Article 3 of Government Regulation (PP) Number 24 of 1997 on Land Registration states that the purpose of land registration is closely tied to providing guarantees for legal certainty in the land sector.

Land registration according to the Basic Agrarian Law (UUPA) No. 5 of 1960, Article 19 states:

- a. To ensure legal certainty, the government carries out land registration per its established regulations.
- b. The land registration process encompasses 1) the measurement, mapping, and documentation of land; 2) the registration of land rights and any transfers; and 3) the issuance of certificates of rights, which act as definitive proof of ownership.
- c. The organization of land registration is tailored to the specific conditions of the state and society, as assessed by the Minister of Agrarian Affairs.¹⁰

One of the goals of land registration is to ensure legal certainty regarding the ownership rights to the land. Land rights holders can obtain legal certainty in their rights through land registration. This legal certainty offers legal protection to the land rights holders, clarifying who the owner is and whether there are any encumbrances on the land. It also provides certainty about the object itself, including its location, boundaries, area, and whether there are any structures or plants on it.

A certificate is a strong proof of ownership. Still, it is not considered absolute or conclusive evidence according to the Basic Agrarian Law (UUPA) provisions and the implementing regulations (Government Regulation No. 10 of 1961 and Government Regulation No. 24 of

⁹ Sandra Dikna Apriliani, "Perlindungan Hukum Bagi Pemegang Hak Atas Tanah Yang Bersertifikat Ganda (Overlapping)," *Jurnal Ilmiah Dinamika Hukum* 22, no. 2 (2021): 27, <https://doi.org/10.35315/dh.v22i2.8715>.

¹⁰ Mudakir Iskandar Syah, "Sertifikat Tanah Ganda Akibat Lemahnya Data Base Pertanahan," *Jurnal Ilmiah Hukum Dirgantara* 4, no. 2 (2014): 51–52, <https://doi.org/10.35968/jh.v4i2.97>.

1997). This implies that the information in the certificate has legal validity and must be recognized (by the judge) as accurate unless disproven by contrary evidence.¹¹

Legally, when a land dispute involves certificates related to the legality of those certificates, the National Land Agency is responsible for the cancellation of certificates as decided by the Administrative Court. This is regulated in Article 54, paragraphs (1) and (2) of the Regulation of the Head of the National Land Agency of the Republic of Indonesia Regulation No. 3 of 2011 regarding the Management, Review, and Handling of Land Cases.

However, not all mediation processes conducted by the National Land Agency (BPN) can resolve the current land disputes. Due to overlapping regulations, BPN needs help addressing land disputes, particularly issues related to multiple certificates. If a resolution is not found, the authority to prove the validity of the numerous land certificates will be passed to the judicial realm, which is deemed competent to provide legal certainty to the rights holder and annul one of the certificates, ensuring that only one certificate remains valid for the object listed in that certificate.

The National Land Agency is responsible for the Administrative Court's decisions concerning issuing certificates as legitimate proof of ownership. In light of this responsibility, the National Land Agency needs to be more discerning and careful when issuing legal products in the form of property certificates to minimize opportunities for others to file civil lawsuits related to ownership proof. If the certificate issuance process is conducted correctly, there will be very few lawsuits from the community regarding land ownership, especially concerning multiple certificates.

Land disputes regarding multiple certificates can generally be resolved through three (3) methods, namely: 1.) Resolution Through Direct Consultation, on the condition that the dispute does not pertain to the determination of land ownership rights that could confer or remove someone's rights to the contested land, and that the parties involved maintain a familial connection and follow the local customary law; 2.) Through Arbitration and Alternative Dispute Resolution. The primary requirement for engaging in arbitration to resolve disputes is that there must be a written agreement accepted by all parties involved; 3.) Dispute Resolution Through the Court System.

According to Sudirman Saad in his book Urip Santoso, legal protection for land rights holders in land registration can be realized if three cumulative conditions are met: (1) The land certificate has been issued for five years or longer, (2) The certificate issuance process is based on good faith, and (3) The land is either physically held by the rights holder or is under their management.¹²

¹¹ Agus Salim, "Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat Hak Milik Dengan Adanya Penerbitan Sertifikat Ganda," *Jurnal Usm Law Review* 2, no. 2 (2019): 178, <https://doi.org/10.26623/julr.v2i2.2269>.

¹² Indri Hadisiswati, "Kepastian Hukum Dan Perlindungan Hukum Hak Atas Tanah," *Ahkam: Jurnal Hukum Islam* 2, no. 1 (2014): 124, <https://doi.org/10.21274/ahkam.2014.2.1.118-146>.

Concerning the legal protection of land certificate holders, legal standing necessitates that the parties demonstrate that their certificate or ownership rights are the most valid. According to the Civil Code, anyone who claims to hold a right and contests another's right is obliged to provide evidence for their claims, as stated in Article 1865 of the Civil Code. In this context, establishing the legitimacy of one party's multiple certificates is done legally in the Administrative Court, which has the exclusive authority to determine the validity of the certificates held by the parties.

For land certificates issued by the District/City Land Office that have been valid for 5 years, this does not imply that individuals who believe the issuance of the certificate has wronged them lose their right to pursue legal action. The grounds that can be used as a basis for a lawsuit to annul or declare the land certificate issued by the District/City Land Office invalid include: (a) The challenged administrative decision contradicts the applicable laws and regulations. (b) The challenged administrative decision is contrary to the principles of good governance. Therefore, this paper will discuss the forms of legal uncertainty related to ownership certificates and the legal protection available for holders of ownership certificates.

The legal principle of *Nemo Plus Iuris* grants protection to the actual rights holder. This principle always opens the possibility of a lawsuit against the registered owner by someone who believes they are the rightful owner. The principle of *Nemo Plus Iuris* provides legal protection to the proper rights holder against actions by others who transfer their rights without their knowledge. Therefore, this principle allows for the possibility of a lawsuit against the owner whose name appears on the certificate from someone who claims to be the rightful owner.

According to the legal principle of *Nemo Plus Iuris*, the ownership of land rights by someone without entitlement is invalid. Consequently, the actual rights holder can always reclaim the rights that have been transferred without anyone's awareness. This is crucial for protecting the actual land rights holders. Generally, this principle applies within a negative registration system.

Regardless of the possibility of winning or losing for the defendant, who is the registered rights holder, this means that the public registry maintained in a country under the principle of registered ownership is not legally protected and lacks evidentiary power. This indicates that being registered in the public registry as a rights holder does not prove the individual is a legitimate rights holder according to the law. Therefore, the government does not guarantee the accuracy of the information in public registries established during the registration of rights, nor is this explicitly stated in the law.

5. Conclusion

Land disputes are conflicts or disagreements between two or more parties regarding ownership rights, usage, or boundaries of a piece of land. Multiple certificates often become a source of complex disputes that require legal resolution to determine the rightful owner. To

prevent the occurrence of numerous certification disputes, land mapping and land administration must be optimized. Factors contributing to the emergence of multiple certificates include registration errors, lack of accurate databases, data manipulation by certain parties, measurement errors during registration, and weaknesses in the existing legal and administrative land systems. In this regard, the BPN needs to develop and implement an integrated information system to accurately record and monitor land data. The legal implications of having multiple certificates include confusion over ownership, financial losses, challenges in conducting transactions, a lack of trust in the land registration system, and the risk that one of the certificates may be declared invalid and revoked by the court. Legal protection for land rights holders in land registration can be realized if three cumulative conditions are met: (1) The land certificate has been in effect for 5 years or longer, (2) The certificate issuance process relies on the principle of good faith, and (3) The land is either physically held by the rights holder or is under their control. If a land certificate issued by the District/City Land Office has been valid for five years, it does not imply that the right to file a lawsuit is forfeited for those who believe the issuance of that certificate has wronged them. The Land Office should carefully check and examine the certificates it issues to identify the causes of errors that lead to multiple certificates and to determine the steps that must be taken to minimize losses for land rights holders, especially for the rightful owners of property certificates.

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