

# Juridical Review of Double Certified Land Dispute Settlement in The Scope of Agrarian Law

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**Abstract.** Every ownership of land has legal force within it, both legal force regarding the ownership of land rights and legal protection regarding the legal owner for land disputes owned. In the provisions of Government Regulation Number 24 of 1997 Article (3) explains that a land registration aims to provide guarantees for legal certainty and protection in the land sector. This type of research is Normative research. The approaches used are a statutory approach and a conceptual approach. The data source used is secondary data. Data analysis was carried out descriptively and qualitatively. This research found that double certificate land disputes can occur from various legal events whether intentional or unintentional by the parties. One of the factors that occurs is the existence of an interest in controlling land objects in a way that is contrary to the law and against the law as stated in the Civil Code Article 1365 Repressive legal protection can be done by trying to resolve a dispute that has already occurred.

**Keywords:** Juridical Review, Multiple Certified Land Disputes, Scope of Agrarian Law.

## 1 Introduction

In view of Regulation no. 5 of 1960 concerning Essential Agrarian Standards Guidelines (UUPA), in Article 1 section (4) of the UUPA it is expressed that land is the outer layer of the earth. Everyone has access and is permitted to use the land to which they have rights. 6 Land is a basic need in carrying out productive human activities, both as a container and as a factor of production. Land currently in use must be registered for land rights or land ownership rights. The origin of the word land registration comes from the Dutch language, namely *Rechts Cadaster*, which means relating to the area, value, and ownership of land. This land right was given by PP No. 24 of 1997 concerning Area Enrollment as an arrangement of legitimate sureness. 9 Land enrollment is safeguarded by the State as expressed in Article 3 PP No. 24 of 1997 concerning Area Enlistment which intends to ensure sureness and legitimate security for each holder of land privileges and to guarantee precise organization.[1]

There are two dimensions related to the certainty of a right, namely the object and subject of land rights. Object certainty is a right that can be seen through certainty regarding the location of the land plot, while subject certainty can be seen from the owner's name in the land book. The land book then becomes a certificate which is used as evidence accompanied by a land map, through which the certificate can become strong evidence in physical and juridical evidence. In

the Basic Agrarian Law, land certificates are never mentioned, but as found in Article 19 paragraph (2) letter c, there is a mention of "proof of rights". In everyday terms, this certificate of title is often interpreted as a land certificate. There have been several land cases where fake certificates were issued by the land office. Forgery of land certificates occurred because they were not based on correct rights, such as BPN stamps and forgery of land certificates. The way to obtain legal certainty regarding land title certificates is for the dual certificate holder to submit a complaint to the National Land Agency (BPN) as the institution with authority in the land sector. The proof process is through the National Land Agency.[2]

Covering issuance of choices from organizations straightforwardly connected with land is likewise a figure the development of land debates. For instance, the issuance of a declaration for coal mining should be given by a few government organizations, including the Ranger Service Division, the Mining Office, and others connected with the pronouncement. These questions happen because of an absence of coordination between the land procurement putting together organization and other related parties, for instance, the nearby land office. It implies government irregularity in giving guidelines in the land area and frail management while executing these guidelines. The absence of straightforwardness brought about by restricted information and data in regards to land control and proprietorship, as well as the absence of straightforwardness of data accessible locally, is one of the reasons for the underlying development of land debates.[3]

Land ownership in Indonesia itself, if traced from its history, can be divided into two periods, namely land ownership before and after the promulgation of the Basic Agrarian Law (UUPA). Land ownership in the period before the promulgation of the UUPA gave rise to a legal dualism governing land in Indonesia, on the one hand, Dutch colonial land law applied or adhered to the Western Civil Law system, and on the one hand, the Customary Law system also applied which applies to native people who do not have written evidence, which is often called customary land or *ulayat* land. Then, in the period after the promulgation of Law Number 5 of 1960 concerning Basic Agrarian Regulations, the dualism of land law in Indonesia ended and land law in Indonesia experienced uniformity. Of course, this UUPA provides a major change in the land regulations in Indonesia which were very complex before the enactment of the UUPA. As developments progress, there are now problems with land registration in Indonesia considering that there was legal dualism in force, namely before the promulgation of the UUPA, this still left new problems, especially in terms of recording land ownership.[4] Multiple land certificates are one of the problems of land law in Indonesia and something that must be given special attention to creating land legal certainty in Indonesia.

Every ownership of land has legal force within it, both legal force regarding the ownership of land rights and legal protection regarding the legal owner for land disputes owned. In the arrangements of Unofficial law Number 24 of 1997 Article (3) makes sense of that a land enlistment expects to give certifications to legitimate sureness and security in the land area. 7 What is implied via land enlistment should be visible in Article 1 number (1) of Unofficial law Number 24 1997 which makes sense of that "Land enrollment is a progression of exercises completed by the Public authority persistently, economically and consistently, including the assortment, handling, accounting, and show and support of actual information and juridical information, as guides and records, with respect to regions land and loft units, including the arrangement of declarations of confirmation of title for plots of land to which there are as of now existing privileges and possession freedoms to condo units as well as specific privileges that hinder them." Aside from that, Article 19 passage (1) of the Fundamental Agrarian

Regulation overall makes sense of that the reason for land enrollment is to get lawful conviction with respect to the subject of freedoms and their items [5].

To ensure legal certainty, resolving disputes over multiple land certificates can be carried out using legal protection efforts in the form of repressive legal protection and preventive legal protection. Repressive legal protection here means that in carrying out a settlement it can be done by trying to resolve a dispute that has already occurred. Meanwhile, preventive legal protection efforts mean that the public is allowed to provide objections or submit opinions that they wish to express before a government decision receives an accurate form. In this case, the government, or more precisely BPN provides preventive protection, which aims to provide prevention before a violation occurs, one of which is by issuing UUPA, PP, and other regulations governing land registration.

The above land rights dispute arises for several reasons which are used as the basis for a lawsuit in court. A lawsuit in the form of a claim for rights to land aims to obtain legal protection provided by the court to prevent *eigenrichting* from taking the law into their own hands. This land dispute can be sued at the State Administrative Court or District Court up to the Supreme Court level, this case even involves a third party with *derdenverzet* (third-party resistance). Resolving these disputes is an important key to closing the shock in social life. A civil dispute is a problem involving interests between individuals and individuals regarding personal interests. A prosperous, peaceful, just and prosperous social life is certainly highly desired by the government of any country in the world, including Indonesia. This situation will not be realized without continuity between several supporting and supporting factors. The supporting factors in realizing a safe and peaceful life are very diverse, including economic, social, political, and cultural factors. Meanwhile, the most important supporting factor in creating prosperity is the security factor.

Definition of Land Registration in Government Regulation No. 24 of 1997 is a refinement of the scope of land registration activities based on Article 19 paragraph (2) PP No. 10 of 1961 which only covers: Measuring, mapping and recording land, registering and transferring land rights and providing proof of rights as a strong bookkeeping tool. The assurance of lawful sureness that is planned to be acknowledged in land enlistment incorporates conviction about the situation with the privileges being enrolled, sureness about the subject of the right, and assurance about the object of the right. This land enrollment creates a Land Testament or endorsement of land privileges as lawful proof. It is a guarantee of legal certainty for Certificate holders as perfect evidence as long as no opposing party proves otherwise. A person or legal entity will easily prove themselves as the holder of the rights to a plot of land as well as the condition of the land, for example, the area, boundaries, existing buildings, the type of rights, and the burdens that exist on the rights to the land, and so on.[5]

## 2 Methods

This type of research is Normative research. The approaches used are a statutory approach and a conceptual approach. The data source used is secondary data. Data analysis was carried out descriptively and qualitatively.[6] Concluding is carried out using a deductive method, namely concluding the general to the specific, especially those related to the research topic, namely the Juridical Review of Multiple Certified Land Dispute Settlement within the Scope of Agrarian Law. Subjective information examination is done in the event that the observational

information got is as an assortment of words. It's anything but a progression of numbers and can't be set up into classifications. Information can be gathered in different ways (interview perceptions, archive occurrences, and recording tapes). It is typically handled first prior to being utilized in subjective exploration, including the aftereffects of interview records, information decrease, examination, information understanding, and triangulation.[7]

### **3 Findings and Discussion**

#### **3.1 Implications of a Juridical Review of Dual Certified Land Dispute Settlement in the Scope of Agrarian Law**

The Unitary Condition of the Republic of Indonesia (NKRI) is a legitimate express that is situated towards general government assistance as written in the 1945 Constitution, so it won't be isolated from lawful disagreements regarding land which is a crucial issue in the public eye, particularly in the land area. Residents generally need to safeguard their privileges, while from one perspective, the public authority should likewise give general government assistance to every Indonesian resident. Lawful insurance is required for the execution of local area interests. This can be realized if some rules or regulations are obeyed by the community. Land rights are a basic right that is very meaningful for society for a person's dignity and freedom. On the other hand, the state must guarantee legal certainty regarding land rights, even though these rights remain limited by the interests of other people, society, and the state. The application of the meaning of dispute to the land sector gave birth to the term land dispute. Land disputes can be formulated as "disputes that make land the object of dispute.

The establishment of this UUPA is a forward leap in guaranteeing equity and legitimate conviction, request, and government assistance of individuals of the Unitary Condition of the Republic of Indonesia about the pertinent land guidelines. The ongoing improvement of the land circumstance in Indonesia can be supposed to be something urgent in human existence in Indonesian culture, like in arranging structures, getting ready organizations, places for jobs, etc which expect people to be engaged with it, so the capability of land proprietorship by people with the presence of defensive legitimate guidelines, it very well may be supposed to be lawfully substantial [5]. Behind everything, the requirement for land is expanding constantly, where there is an irregularity among people and accessible land in light of the fact that the populace is expanding however land accessibility is as yet restricted. Along these lines, this makes individual interests emerge which can prompt questions. A plot of land with double endorsements can bring about legitimate vulnerability for the gatherings holding land privileges, as would be considered normal in land enrollment in Indonesia. Instances of twofold testaments still regularly happen in a few districts in Indonesia, bringing about land endorsement holders charging each other that the declarations they hold are genuine despite the fact that one of the twofold testaments is phony where the item expressed on the declaration isn't the genuine article. , so that to get lawful conviction in regards to the land title declaration, one of the double endorsement holders presents an objection to the Public Land Organization as the establishment with expert in the land area. On the off

chance that the verification cycle through the Public Land Organization doesn't finish up, the position to demonstrate various declarations of land privileges proceeds to the court which is considered to have capability in giving lawful sureness to the freedoms holder and dropping one of the testaments.

Article 19-point (1) UUPA No. 5 of 1960 gives a clarification that to ensure lawful conviction of proprietorship freedoms to land, the public authority is holding a land enrollment program all through the domain of the Republic of Indonesia as indicated by the arrangements controlled by unofficial laws. Land registration is an administrative process in which the authority of the National Land Agency (BPN) office produces a certificate as proof of ownership rights to a plot of land. The certificate of ownership of land is the final result of all procedures for the registration of land rights, including changes contained therein regarding the subject matter, the status of the rights, and legal actions carried out on the land, which are a strong means of proof as stated in Article 19 paragraph (2) letter (c) UUPA. However, in reality, most of what is currently happening is that holders of land ownership certificates still feel insecure about the certainty of their rights, because land disputes still frequently occur at the land office.

### **3.2 Form of Juridical Review of Multiple Certified Land Dispute Settlement Within the Scope of Agrarian Law**

Multiple certificate land disputes can occur from various elements of legal events, whether intentional or unintentional by the parties. One of the factors that occurs is the existence of an interest in controlling land objects in a way that is contrary to the law and against the law as stated in the Civil Code Article 1365 which states that "each act that abuses the law, which carries damage to others, commits the individual who, due to their shortcoming, publishing the loss, compensating for the loss." From this provision, it can be concluded that if an act is contrary to the law and causes loss to another party due to a mistake, it means that the party who committed the mistake is obliged to compensate for the loss. Meanwhile, Article 1366 of the Common Code expresses that each individual is capable for misfortunes brought about by their activities as well as for misfortunes brought about by their carelessness or absence of care. Thus, based on the regulations governing it, the settlement process can be carried out through litigation or non-litigation.[8]

Normatively, BPN is the only institution/institution in Indonesia that has been given the authority to carry out the mandate to manage the land sector and BPN carries out duties in the land sector nationally, regionally, and sectorally. BPN was formed based on Presidential Decree Number 26 of 1988 concerning the Land Agency. As per BPN's operational guidelines, the leadership of this institution then issued Decree No.11/KBPN/1988 in conjunction with BPN Decree No. 1 of 1989 concerning the organization and work procedures of BPN in provinces and districts/cities. Then the position and role of the BPN Agency was strengthened by the Government through the formation of Deputy V who specifically reviews and resolves land disputes and conflicts. As regulated in the regulation of the Head of BPN-RI Number 3 of 2006 concerning the Organization and Work Procedures of BPN-RI, the study and handling of land disputes and conflicts is the authority of Deputy V (five) and also supervises the directorate of conflicts, disputes and land cases.[9]

Concerning twofold declarations, or at least, a plot of land has more than one endorsement, since this outcomes in legitimate vulnerability for holders of land freedoms which is profoundly unfortunate in land enrollment in Indonesia. Copy authentications frequently happen which brings about questions between declaration holders who denounce each other that what they have is genuine despite the fact that one of the endorsements is phony where the article expressed on the testament isn't the genuine one, to get lawful conviction with respect to the testament of title. Over the land, one of the declaration holders records a claim.

Practically speaking, the goal of land debates isn't just completed by the Public Land Organization yet can likewise be settled by the General Courts and State Regulatory Courts. Assuming the General Courts center more around common and criminal matters in land questions, it would be not the same as the State Authoritative Courts which settle land debates connecting with choice letters gave by the Public Land Organization or other provincial authorities connecting with land. Article 53 Number 1 of Regulation No. 5 of 1986 concerning State Regulatory Courts: " An individual or common legitimate element who feels that their advantages have been hurt by a State Regulatory Choice might present a composed claim to the able Court containing an interest that the contested State Managerial Choice is pronounced void or invalid, regardless of a case for pay as well as restoration".[10]

Regarding the binding force of a peace agreement, it is generally regulated in Article 1858 of the Civil Code which states that all peace agreements have between the parties a force like a judge's decision at the final level. A mediation agreement is an agreement that the parties reach with the help of a mediator. Mediation will have permanent and binding legal force after the agreement is stated in the form of a peace deed. The mediation process carried out by BPN is unable to resolve the current land disputes, which is why it is very difficult for BPN to realize all the vision, mission, and strategic programs it carries out. BPN experiences problems in resolving land disputes, especially the problem of double certificates due to overlapping existing rules or regulations [9]. On the off chance that a goal isn't tracked down then the position to demonstrate various endorsements of land privileges is gone on in the court which is considered to have skill in giving legitimate conviction to the right holder and dropping one of the declarations so just a single testament is substantial and has the item expressed in the authentication.[11]

#### **4 Conclusion**

1. Multiple certificate land disputes can arise from various elements of legal events, whether intentional or unintentional by the parties. One of the factors that occurs is the existence of an interest in controlling land objects in a way that is contrary to the law and against the law as stated in the Common Code Article 1365 which expresses that "each act that abuses the law, which carries damage to others, commits the individual who, due to their issue, publishing the loss, compensating for the loss."
2. To ensure legal certainty, the resolution of multiple land certificate disputes can be carried out using legal protection efforts in the form of repressive legal protection and

preventive legal protection. Repressive legal protection here means that in carrying out a settlement it can be done by trying to resolve a dispute that has already occurred.

## 5 Suggestion

1. It is hoped that there will be a dual certificate dispute resolution process. It would be good to maximize it in the mediation process so that the resolution is not complicated. However, if the mediation process does not achieve satisfactory results, the parties to the dispute can resolve the case through a judicial institution.
2. It is trusted that there will be an assurance of lawful sureness that will be acknowledged in this land enlistment, including conviction about the situation with the freedoms being enrolled, conviction about the subject of the right, and conviction about the object of the right. This land enrollment creates a Land Testament or endorsement of land privileges as lawful proof.
3. It is trusted that in the event that the confirmation cycle through the Public Land Organization doesn't close, the power to demonstrate different declarations of land freedoms will proceed to the court which is considered to have capability in giving legitimate conviction to the privileges holder and dropping one of the endorsements.

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