Accountability of Land Deed Officials (PPAT) in Overcoming Duplicate and Overlapping Certificates in Indonesia

Fitra Rahmadani, Fotri Apik Rakhmawati, Noor Hidayah, Tetti Samosir, St. Muslimah Suciati
Universitas Pancasila Jakarta, Universitas Halu Oleo
Corresponding Email: rahmadanifi995@gmail.com

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Abstract

The formation of the problem of double or overlapping certificates in Indonesia is a crucial issue caused by various factors, such as weak land administration systems, invalid data, lack of physical verification, and inaccurate land boundary mapping. This study aims to analyze the factors that cause double and overlapping land certificates in Indonesia and efforts to provide legal accountability for PPATs related to the existence of double and overlapping land certificates in Indonesia. This study is a juridical-normative study with a conceptual and legislative approach. The results of the study confirm that the Land Deed Making Officer (PPAT) has legal responsibility for errors or violations committed, both in administrative, civil, and criminal aspects. The level of error of PPAT in issuing deeds related to double or overlapping certificates is the basis for determining the form of legal accountability that can be imposed. Therefore, supervision and law enforcement of PPATs are very important to ensure legal certainty and maintain public trust in land transactions.

I. Introduction

land certificate is legally a proof of land rights issued by the National Land Agency (BPN) or other authorized agency after going through the land registration process. (Muh. Fajri Nurahmin et al., 2021) This certificate has several important functions and positions in land law in Indonesia. A land certificate is proof of legal ownership of a plot of land and its buildings. Through the certificate, it can be known who the rights holder is to the land, so that the certificate becomes the main basis for proving legal ownership of the land. (Ardiansyah et al., 2021)

According to Article 32 of Government Regulation No. 24 of 1997 concerning Land Registration (PP Land Registration), a land certificate serves as a strong means of proof regarding the physical data and legal data listed therein, as long as the data is in accordance with the relevant measurement letter and land book. The certificate becomes an authentic means of proof in the legal process if a land dispute occurs. (Ariansyah & Anggriani, 2022) The issuance of land certificates aims to provide legal certainty and legal protection to land rights holders. (Lestari et al., 2022) With a certificate, the rights holder can easily prove himself as the rightful owner, and is protected from potential disputes or claims from other parties. (Elbert, Fernando, 2021)

Land certificates can also be used as collateral in economic transactions, such as being used as collateral for bank loans, as well as increasing the selling value of the land due to the clear and legally recognized ownership status. (Fuad & Erowati, 2019) Land certificates contain important information such as the owner's identity, location, area, boundaries of the land, and type of land rights (e.g.: Ownership Rights, Cultivation Rights, Building Rights, etc.). Land certificates are proof of rights that serve as strong evidence regarding the physical data and legal data contained therein, as long as the physical data and legal data are in accordance with the data in the measurement letter and the land book of the relevant rights. (Gunanegara, 2022)

A land certificate is legally an official and authentic document that serves as proof of ownership and guarantees legal certainty over a plot of land in

Indonesia. (Susilowati, 2021) This certificate is very important for legal protection, certainty of rights, and supporting various transactions and economic interests related to land. (Anwar, 2020) However, in practice, there is a problem in the form of double land certificates that exist in society. Double land certificates are a situation where two or more certificates are issued for the same piece of land, but owned by different parties. This condition creates ownership conflicts, legal uncertainty, and losses both financially and psychologically for bona fide land owners.

As of 2020, the National Land Agency (BPN) has issued approximately 71,591,014 land certificates throughout Indonesia. (Lulu Fitriani, Muhammad Sofyan Pulungan, 2021) With such a large number of certificates, it is highly likely that cases of double certificates will occur, which is one of the most common land conflicts, where one piece of land can have two or more original certificates issued by the BPN. The Ministry of Agrarian and Spatial Planning/BPN has recorded that between 2017 and 2022, there were approximately 20,000 land disputes being handled, most of which were related to cases of double certificates or overlaps. (Sagoni et al., 2023) Before the Complete Systematic Land Registration Program (PTSL), of the 46 million registered land plots, many had not been properly plotted, making them prone to duplicate certificates. (Nurhayati et al., 2022)

The case of double land certificates in Indonesia is a classic problem that still persists to this day, mainly due to weak land administration in the past, lack of land area maps, as well as intentional factors and a lack of public education. One important role in minimizing double certificates is the need for a role from the Land Deed Maker Official (PPAT). (Rohim, 2022) Therefore, this study specifically analyzes the legal accountability efforts of PPAT related to the existence of multiple and overlapping land certificates in Indonesia. This study aims to answer two legal issues, namely: (i) Factors that cause multiple and overlapping land certificates in Indonesia and (ii) legal accountability efforts of PPAT related to the existence of multiple and overlapping land certificates in Indonesia.

2. Research Method

This research, focusing on the aspect of PPAT's legal accountability in relation to the existence of double land certificates and overlaps in Indonesia,

is a juridical-normative study focusing on the analysis of concepts and legislation related to the authority of PPATs in their efforts to hold legal accountability if there are double land certificates and overlaps in Indonesia. (Efendi, A'an, Dyah Ochtorina Susanti, 2019) The primary legal materials used in this research are: Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), Government Regulation Number 24 of 1997 concerning Land Registration (PP Land Registration), and Regulation of the Minister of Agrarian and Spatial Planning/National Land Agency Number 18 of 2021 (Permen ATR/BPN Land Certificate). Secondary legal materials consist of both online and book-based literature discussing agrarian law, land law, and land certificates. Non-legal materials include a dictionary. Legal material analysis is conducted qualitatively, focusing on legal solutions. (Diantha, 2017)

3. Results and Discussion

Factors Causing Double and Overlapping Land Certificates in Indonesia

Land viewed from a legal perspective in Indonesia is a legal object that is regulated comprehensively in the national land law system. (Surata et al., 2020) Generally, land law is a series of regulations and provisions governing the ownership, use, and utilization of land, as well as the legal relationship between landowners and other parties interested in that land. (Prasetio, 2024)(Cahyaningrum, 2022) The Basic Agrarian Law (UUPA) is the primary legal foundation for land regulation in Indonesia. The UUPA affirms that land is a natural resource controlled by the state and must be used to the greatest extent for the prosperity of the people. (Rani, 2021) The UUPA emphasizes that land in Indonesia is not solely a private possession but also carries a social function that must be preserved. The state has the right to control land for public interest, and regulations regarding land rights must consider customary law and the customary rights (hak ulayat) of indigenous communities. (Prasetio et al., 2021)

Land law regulates various types of land rights, which include:(Artaji et al., 2024)(Damanik, 2023):

a. Ownership Rights. The strongest and most complete rights to land, giving the owner full rights to use, control, and utilize the land.
b. Cultivation Rights, Building Rights, Usage Rights, and Lease Rights. Limited rights that grant permission to other parties to use the land with certain limitations. These rights must be registered and proven with a valid land certificate as a guarantee of legal certainty. One thing that needs to be done is to register the land.

Land registration aims to provide legal certainty regarding land ownership. Every land must be registered at the local land office and have a certificate as proof of legal rights. Land certificates serve as strong evidence in terms of land ownership and status. (Bhawika Wimala Pastika et al., 2022) Land registration provides legal certainty to land rights holders so that owners can easily prove their rights to the land through certificates issued by the government.(Tilman et al., 2021) Land registration provides strong legal protection for landholders, reducing the risk of disputes or claims from others.

Registered land data makes it easier for others, including potential buyers, creditors, and the government, to obtain accurate information on land status and ownership, enabling safe and transparent legal transactions.

Land registration is part of a well-organized land administration system that includes systematic and organized measurement, mapping, bookkeeping, and recording of land rights. (Ardiansyah et al., 2021) Land certificates issued after registration are valid and strong evidence in law that can be used in various legal processes and transactions. Land must be registered so that the owner has valid proof of ownership and is legally protected from claims or disputes that may arise in the future. (Ramadhani, 2021) With registration, the process of buying and selling, borrowing with land as collateral, or transferring other rights becomes easier and safer because the land status is clear and documented. Land registration helps the government in managing land resources effectively, including spatial planning, development planning, and monitoring land use. (Rahmawati, 2022)

Accurate and complete registration data can prevent overlapping ownership and land conflicts that often occur in society. Land registration serves to provide certainty and legal protection to land rights holders, provide clear information for related parties, and realize orderly land administration. (Nurahmani, Aditya Robi Rismansyah, 2020) Land must be registered so that ownership rights are clear and protected, facilitate transactions, and support good land management by the government. (Fazira & Khaidir, 2022)

Land in Indonesia is not only viewed as an object of private ownership, but must also fulfill a social function. (Rosmidah & Pebrianto, 2020) Land use must be in accordance with the designation and spatial planning regulated by laws and regulations, and must not harm the public interest. Land in the legal perspective in Indonesia is regulated as a resource controlled by the state with a social function that must be maintained. (Judijanto et al., 2024) Land rights are regulated in detail in the UUPA and its implementing regulations, with registration and certification as a means of providing legal certainty. (Sulaiman, 2021) Land law also accommodates the existence of customary law and provides a dispute resolution mechanism to maintain justice and order in land management. One important aspect related to land as stated in Article 24 paragraph (1) of the UUPA states that land rights are proven by a certificate.

Articles 25 to 29 of the UUPA regulate the issuance, form, content, registration, maintenance, changes, and deletion of land certificates. (Santoso, 2017)

PP on Land Certificates as implementing regulations of UUPA specifically regulates procedures for land registration and issuance of certificates. Article 1 paragraph 20 of PP on Land Certificates defines a certificate as a letter of proof of land rights and other rights that have been recorded in the land book. Article 4 paragraph (1) of PP on Land Certificates emphasizes the purpose of land registration to provide certainty and legal protection to rights holders. Article 32 of PP on Land Certificates states that a certificate is strong evidence regarding the physical and legal data listed therein, as long as it is in accordance with the measurement letter and land book. A land certificate is legal evidence that states that a person or legal entity has legal rights to the land. (Adikara, 2022) Land registration provides legal certainty and protects owners from potential land ownership disputes.

A land certificate serves as strong legal evidence to defend ownership rights in case of disputes or claims from other parties. This aligns with the UUPA, which recognizes certificates as legally binding proof of land rights. In land sales or transfers, certificates simplify transactions by assuring that the land is genuinely owned by the party named in the certificate, protecting buyers from fraud or future disputes. Certificated land commands higher market value and is more attractive as an investment due to its clear and legally recognized ownership status. (Anwar, 2020) Land certificates can be used as collateral or security to obtain loans from banks or financial institutions. This makes it easier for landowners to obtain business capital or other financing.

Land certificates assist the government in the orderly management and regulation of land resources, providing legal certainty that supports development and social order. Land certificates are very important because they are proof of legitimate and legal ownership, provide strong legal protection, facilitate property transactions and management, increase investment value, and open access to financing. (Suhadi & Niravita, 2024). Land certificates also play a vital role in supporting land administration order and national development.

The issue of duplicate or overlapping land certificates in Indonesia is a

serious and widespread problem, causing ownership conflicts and legal uncertainty. Duplicate land certificates occur when two or more certificates are issued for the same piece of land but owned by different parties. This creates complex ownership disputes that often lead to social and legal conflicts. The problem of duplicate certificates has reached a "critical" stage in Indonesia, affecting various areas, both rural and urban, even in plantation areas.

Generally, several factors contribute to the prevalence of duplicate or overlapping land certificates in Indonesia. One key factor is the presence of invalid and incomplete land data at the National Land Agency (BPN), which is the primary cause of duplicate certificate issuance. Inaccurate data, insufficient field verification, and weak administrative oversight create opportunities for duplicate certificates to be issued. (Ariansyah & Anggriani, 2022) Other contributing factors include incomplete and inaccurate land surveys, leading to unclear land boundaries and potential overlaps when certificates are issued. Furthermore, individuals may intentionally apply for new certificates for already-certified land for personal gain, as obtaining a new certificate is often perceived as easier and cheaper than transferring existing rights. Land mafias and the problem of duplicate or overlapping land certificates are closely intertwined in Indonesia, creating a serious issue that disrupts legal order and national development. (Krismantoro, 2022b).

Land mafias are organized groups or individuals who commit land-related crimes to illegally seize ownership of others' land. Common tactics include document forgery, collusion with corrupt officials, legal manipulation, and fraud. (Ginting, 2020) Land mafia exploits weaknesses in the land administration system, weak supervision, and low law enforcement to carry out these illegal acts. (Krismantoro, 2022a) The impacts of land mafias are far-reaching. They undermine the rule of law and justice, erode public trust in the government, hinder investment and development, and create protracted land disputes and conflicts.

Land mafias often exploit administrative and legal loopholes to create duplicate or overlapping certificates by forging documents, illegally applying for new certificates, or colluding with land officials. These tactics allow them to illegally seize and resell land, resulting in protracted disputes and significant losses for individuals and the nation. (Wirawan et al., 2022).

Duplicate land certificates are a tool used by land mafias to claim ownership of land they do not rightfully own, complicating dispute resolution and law enforcement. In Indonesia, land mafias exploit weaknesses in the land administration system to commit crimes such as document forgery and the issuance of duplicate or overlapping land certificates. This causes land disputes that harm both individuals and the nation, hindering development. Combating land mafias and the problem of duplicate certificates requires a concerted effort involving stronger law enforcement, improved land administration systems, and increased public awareness.

Another contributing factor to duplicate and overlapping certifications in Indonesia is that land officials sometimes too readily accept documents without conducting thorough physical field verification, leading to incorrect certificate issuance. The problem of duplicate or overlapping land certificates stems from weak land administration and databases, insufficient field verification, incomplete land plots maps, and intentional wrongdoing. This results in disputes that harm many parties and require resolution through mediation, courts, and criminal law enforcement. Improving land administration and data systems is key to comprehensively addressing this issue.

PPAT Legal Accountability Efforts Related to the Existence of Double and Overlapping Land Certificates in Indonesia

The role of the Land Deed Maker (PPAT) is central to the process of issuing land certificates in Indonesia. In relation to the issuance of land certificates, PPAT is responsible for creating authentic deeds that contain agreements or legal acts concerning land rights, such as sale and purchase, donation, exchange, granting new rights, or the imposition of mortgages. (Alfared & Ayunda, 2023). This deed serves as the official basis for the National Land Agency (BPN) to issue land certificates. PPAT ensures that every land transaction is based on valid, complete documents that comply with applicable laws and regulations. Therefore, PPAT plays a role in safeguarding the legal validity and security of land transactions, reducing the risk of disputes. (Putri & Marlyna, 2021). Before creating a deed, a PPAT is obligated to verify the

original certificate and data at the land office to ensure the consistency and validity of the land rights to be transferred or encumbered. This is crucial to prevent the issuance of duplicate or overlapping certificates.

The PPAT is responsible for gathering necessary documents, such as survey reports, land plot maps, and previous ownership documents, which are prerequisites for land certificate issuance. (Moechthar, 2024) Following the creation and signing of the deed, the PPAT is required to register it with the local land office within a maximum of 7 working days for further processing. This includes updating legal data and issuing a new certificate in the name of the rightful owner. In the digital age, PPAT also plays a role in issuing electronic land certificates (e-Certificates) by following the procedures for digital document validation and government-mandated security standards. This accelerates and increases the transparency of land administration processes. (Diane et al., 2024) By creating and registering valid deeds, PPAT helps provide legal certainty and protection for parties with an interest in the land, ensuring their rights are officially recognized by the state. PPAT acts as a public official who creates authentic deeds for legal actions related to land rights, serving as the basis for the issuance of land certificates by the BPN. (Abdillah, 2023) PPATs (Public Deed Makers) ensure the validity of transactions, verify data, gather supporting documents, and register deeds with the land office. This role is crucial for providing legal certainty, transaction security, and supporting the modernization of land administration in Indonesia. PPATs have broad legal responsibilities regarding the creation of authentic deeds that form the basis for issuing land certificates. If a PPAT makes errors, is negligent, or commits illegal acts in creating a deed, they are legally accountable.

The legal liability theory applicable to PPATs primarily refers to the legal responsibility theory put forth by Hans Kelsen. According to Kelsen, legal responsibility means that a person is accountable for a specific act that contravenes the law and must bear the sanctions resulting from that act. (Trivisonno, 2021)(Syofyan Hadi, 2022) Kelsen divides legal liability into four main types that are relevant for PPAT, namely:

a. Individual Liability

A PPAT is personally responsible for violations they commit during the

creation of land deeds. This includes deeds with legal defects or document forgery.

b. Collective Liability

In certain contexts, a PPAT might be held responsible for violations committed by others within their work environment. However, this is less common for PPATs.

c. Liability Based on Fault (Schuld)

A PPAT is liable if a mistake is made intentionally or due to negligence that is foreseeable and could cause harm. For example, negligence in verifying document validity leading to losses for another party.

d. Strict Liability

A PPAT can be held liable even if the mistake was unintentional and unforeseeable. This might include administrative oversights resulting in legally defective deeds.

In addition to Kelsen's theory, the theories of fautes personnelles and fautes de service are also used to explain the liability of PPATs. The theory of fautes personnelles states that a PPAT is personally liable for damages caused by their errors or negligence in creating a deed. (Bima Saputra, Shinta Hadiyantina, 2025) The theory of fautes de service states that responsibility can be imposed on the agency or position held by the PPAT, not just the PPAT personally, depending on the context of the error. (Bima Saputra, Shinta Hadiyantina, 2025)

Land Deed Officials (PPATs) bear significant legal responsibility due to their crucial role in creating authentic deeds that underpin land certificate issuance. PPATs are obligated to create deeds that are legally sound in both substance and form, exercising utmost caution to prevent misuse and errors that could harm involved parties. (Pangerti Ningtyas & Priandhini, 2022) Errors or negligence by a PPAT (Public Deed Maker) can invalidate or legally taint a deed, harming the parties involved and leading to disputes. Clear accountability for PPATs helps ensure legal certainty in land transactions. If mistakes are made, those harmed have the right to sue for compensation and seek justice through the courts.

Negligent or violating PPATs (Public Deed Makers) can face administrative sanctions (warnings, suspension), civil lawsuits (damages), and criminal charges (e.g., document forgery). Strict oversight by the PPAT

Supervisory Board and the Ministry of Agrarian Affairs aims to minimize errors and maintain the integrity of the profession. (Pintoko, 2021) Here's the English translation of the text:

PPATs (Public Deed Makers) are public officials authorized by the state to create authentic deeds for legal transactions involving land, such as sales, donations, and mortgages. Deeds created by PPATs hold strong evidentiary value in court. As legal professionals, PPATs must adhere to ethical codes and applicable laws. They are responsible not only legally but also morally and ethically in carrying out their duties. PPATs serve as a bridge between the public and the government in land registration and title verification processes. By creating valid deeds, PPATs help to achieve legal certainty and order in land administration.

The legal accountability of PPATs is crucial for maintaining the validity of deeds and legal certainty in land transactions. They face administrative, civil, and criminal liability for any errors. As legal professionals, PPATs hold a strategic position as public officials and must perform their duties with integrity, professionalism, and adherence to ethical codes. A balanced approach to oversight and legal protection is needed to support PPATs in carrying out their duties effectively and transparently.

In legal practice, PPATs (Public Deed Makers) can face administrative sanctions for violations. These sanctions range from warnings and license revocation to dismissal from their position. Specifically, negligence or wrongdoing in deed creation—such as using a forged power of attorney or creating a legally flawed deed—can result in administrative penalties including warnings, reprimands, and ultimately, removal from office. (Sintya, 2024). Oversight and guidance from relevant agencies prevent PPAT (Public Deed Maker) misconduct. PPATs must uphold their oath of office, acting honestly, responsibly, and professionally. Ethical violations damage their reputation and result in ethical or administrative penalties.

PPATs are also civilly liable for damages caused by legally flawed or invalid deeds (Article 1365, Indonesian Civil Code). They are responsible for losses from such deeds, and aggrieved parties can sue for compensation. A defective deed can be annulled, rendering the underlying agreement unenforceable.

Criminal penalties apply for actions like document forgery, creating false deeds, or other unlawful acts, including imprisonment and fines. Specific criminal offenses, such as forging documents (Articles 263-266 of the Criminal Code, up to 8 years imprisonment), fraud (Article 378), tax evasion (Article 374 and Law No. 31 of 1999 on Corruption), and money laundering (Law No. 8 of 2010), carry corresponding criminal sanctions.

Administrative penalties (temporary or permanent dismissal, Ministerial Regulation No. 2 of 2018, and PPAT Code of Ethics) are also possible. A PPAT is accountable for the validity of their deeds but not for the truthfulness of information provided by parties, provided due verification and document checks were performed.

Errors leading to legally flawed deeds, annulments, compensation claims, and criminal or administrative penalties can result from mistakes in deed creation, especially those underlying land certificates. Therefore, PPATs must proceed cautiously, following procedures, and maintaining professional integrity.

In short, PPATs face administrative, civil, and criminal liability for errors or violations. As public officials creating authentic deeds for land transactions, they must act with integrity, professionalism, and in accordance with laws and ethics. Negligence or violations lead to administrative sanctions (warnings, license revocation, dismissal). Civil liability involves damage claims (Article 1365, Indonesian Civil Code) for legally flawed deeds. Criminal penalties apply to offenses such as forgery, fraud, tax evasion, or money laundering, under the Criminal Code and special laws. PPATs are accountable for deed validity, but not for the accuracy of information provided by involved parties, provided due diligence was performed. Oversight and law enforcement are crucial for legal certainty in land transactions and public trust in the profession. The liability for duplicate or overlapping certificates depends on the extent of PPAT's involvement and negligence, impacting the type of legal liability—administrative, civil, or criminal—that's applied.

4. Conclusion

The problem of duplicate or overlapping land certificates in Indonesia stems from several factors. One of the main culprits is weaknesses in the land

administration system, including invalid or incomplete land data, insufficient physical verification in the field, and unclear land boundaries due to inaccurate mapping. Furthermore, deliberate actions by individuals seeking personal gain by applying for new certificates on already-registered land exacerbate the situation. Land mafias exploit legal loopholes and weak oversight, engaging in document forgery, collusion, and legal manipulation, leading to the illegal issuance of duplicate certificates. On the other hand, land officials sometimes readily accept documents without thorough examination, resulting in administrative errors. These factors are interconnected, leading to complex land disputes, harming the public, and hindering legal certainty and national development.

PPATs (Public Deed Makers) have broad legal responsibilities encompassing administrative, civil, and criminal aspects for errors or violations in their duties. As public officials creating authentic deeds in land matters, PPATs must act honestly, professionally, and adhere to laws and ethical codes. Negligence can result in administrative sanctions ranging from warnings to dismissal. Civil liability can involve compensation claims for flawed deeds, and criminal penalties can be imposed for offenses like forgery, fraud, or embezzlement. While PPATs are responsible for the validity of deeds, they are not responsible for the accuracy of information provided by the parties if they have conducted proper verification procedures. Therefore, oversight and law enforcement are crucial for ensuring legal certainty and maintaining public trust in land transactions. PPAT liability in cases of duplicate or overlapping certificates hinges on the extent of their negligence in performing their duties. The level of negligence will determine the type of legal liability imposed, whether administrative, civil, or criminal. If a PPAT's actions or negligence contribute to the issuance of duplicate or overlapping certificates, they will face sanctions commensurate with the nature of the violation within the relevant legal framework.

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