Settlement of land disputes over ownership in Indonesia land Registration System
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Abstract
The Basic Agrarian Law (UUPA) is Law Number 5 of 1960 concerning Basic Agrarian Regulations aimed at resolving the dualism conflict of agrarian law in Indonesia at that time, where previously most of the Indonesian people still applied agrarian law based on Western law colonial and a small part based on customary law. The purpose of writing this journal is to analyze and understand the occurrence of legal disputes against dual certificate holders and to analyze and understand the obstacles and solutions to the resolution of dual certificate legal disputes. The research method used in this paper is a qualitative research method with a normative juridical approach. Based on the results of the study, show that the occurrence of multiple certificates is caused by several factors, namely the existence of bad faith from the certificate applicant, an error on the part of the Land Office, namely in terms of collecting and processing physical data and land juridical data, the unavailability of a comprehensive land registration map, and because the domicile of the interested party is outside the city. Settlement of land disputes can be resolved by way of deliberation by the parties and through the judiciary. On the other hand, there is a need for special procedural law provisions either through deliberation or mediation at the BPN and the courts in the event of a dispute resolution through litigation.

I. Introduction
The Basic Agrarian Law (UUPA) is Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles aimed at resolving the conflict of agrarian law dualism in Indonesia at that time, where previously most Indonesian people still enforced agrarian law based on western (colonial) law and a small part based
on customary law. The birth of UUPA, as a national agrarian law, is expected to provide legal certainty for all people and enable the achievement of the functions of earth, water, and space as well as natural resources as aspired to.

Land for the people of Indonesia is a valuable asset that is considered to have long-term investment value land also has a social role and sociocultural foundation, so conflicts and differences of opinion on land issues often arise as a result of land scarcity and the large need for human habitation.

The provisions regarding the legal certainty of land rights are regulated in Government Regulation Number 10 of 1961 concerning Land Registration. Then following the dynamics in its development, the Government Regulation was refined by Government Regulation Number 24 of 1997 concerning Land Registration (PP 24/1997) and has been updated by Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration (PP 18/2021). This latest government regulation simplifies the requirements and procedures for land registration. Legal certainty regarding land rights as mandated by the PP provides comfort for their rights, with legal protection that greatly helps the community from land dispute problems.

The form of protection of related laws regarding land rights is a Certificate or title to land owned. The phenomenon that occurs in the community in some regions is several cases of "double certificates", namely a piece of land registered in 2 (two) certificates which are officially both issued by the Regency / City Land Office. As a result of the issuance of the double certificate, a civil dispute between the parties was raised, to prove the guarantee of legal certainty over the land was resolved through a judicial institution.

The land problem is one of the development sectors that requires very serious and extra careful handling from the Government. This extra caution is needed because the land issue from the past until now is a very complicated and

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1 Bernhard Limbong, Agrarian Policy Opinion, First Printing, (Jakarta: PT Dharma Karsa Utama, 2014), him 1
complex legal issue. One of them is the existence of double certificates on land, where a piece of land has two land certificates by two different people.

The issuance of two certificates on land on a piece of land can cause legal problems, considering that certificates have a function as evidence of land rights and dependent rights, and while the original owner of land with double certificates also needs to be given legal guarantees and legal protection. Based on the explanation above, the researcher wants to examine the problem formulation as follows:

1. How does a legal dispute occur against a double certificate holder?
2. What are the obstacles and solutions to legal dispute resolution Double certificates?

2. Research Method

The type of research used in this study is the normative juridical law research method. Normative juridical research is the study of legal regulations including the study of norms and principles contained in these rules. The approach used in this study is a normative approach (legal research) which analyzes legislation, analytical approach, and historical approach. Various legal materials are analyzed or discussed using systematic interpretation and grammatical interpretation. The legal materials used in this writing are primary legal materials, secondary legal materials, and tertiary legal materials.

Primary Data Collection Techniques start with relevant laws then government regulations, presidential regulations, to ministerial regulations related to the focus of the research. The collection of secondary data is carried out following theoretical needs, especially regarding legal theories and Data Analysis Techniques used are Legal analysis and prescriptive analysis.

The purpose of writing this journal is to analyze and understand the occurrence of legal disputes against double certificate holders and analyze and
understand the obstacles and solutions to the resolution of double certificate legal disputes.

3. Results and Discussion

A. The occurrence of legal disputes against dual certificate holders.

Legal certainty regarding land rights is very important, as the mandate of the UUPA contains two dimensions, namely the certainty of the object of land rights and the certainty of the subject of land rights, namely the certainty of the location of land parcels with geo-reference coordinates in a land registration map and the certainty of subjects indicated by the name of the holder of land rights listed in the land registration book at the land agency, where copies of maps and land registration books are known as Land Certificates.

The certificate of land title as the final result of the land rights registration process including changes regarding its subject, status of rights, and legal acts committed against its land is a strong evidentiary tool as stated in the provisions of Article 19 paragraph (1) point c, Article 23 paragraph (2), Article 32 paragraph (2) and Article 38 paragraph (2) of the UUPA.

The certificate is strong proof and is not absolute/perfect proof according to the provisions of the UUPA and the Government Regulations that implement it (PP Number 10 of 1961 and PP Number 24 of 1997). This means that the information contained therein has legal force and must be accepted (by the judge) as true as long as and as long as there is no evidentiary evidence to the contrary.2

In Article 32 paragraph (1) of Government Regulation Number 24 of 1997, it is stated that a Certificate is a sign of proof of rights that applies as a strong evidentiary tool, but paragraph (2) of the article states that if on a piece of land that has been issued a Certificate legally in the name of a person or legal entity who acquires the land in good faith and controls it, then other parties who feel

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2 Arie S. Hutagalung, Tebaran Pemikiran Seputar Masalah Hukum Tanah, cet. 1, (Jakarta:LPFI, 2005), hlm 81
they have rights to the land can no longer claim the exercise of these rights if within 5 (five) years from the issuance of the Certificate does not file a written objection to the holder of the Certificate and the Head of the Land Office concerned or does not file a lawsuit with the Court regarding the control of land or the issuance of the Certificate.

Several things can cause the occurrence of the double certificate, including:

1. The certificate in question is not mapped in the land registry map or the situation map of the area, and there is no single map.
2. The term single map not contained in Government Regulation Number 24 of 1997 is a term that is often used in technical measurements.
3. A single map is a map made up of photogrammetry maps, work maps, line maps, and land registration maps that are combined into one.

Multiple land title certificate cases can occur due to the following:  

During field measurement or research, the applicant deliberately pointed out the wrong land layout and land boundaries.

1. The existence of a letter of evidence or recognition of rights that turns out to contain intentional/untrue/false and or no longer valid.
2. For the area concerned, there is no land registration map.
3. Double certificates can also occur supported due to the onset of administrative errors.

The Land Office concerned should ascertain who owns the land, its location, boundaries, and land pegs, by calling the landowners and the owners of land adjacent to the applicant's land so that no fraud excess or deficiency results in losses to these parties. These measurements and research are the types of data needed for the certainty of a plot of land, consisting of:

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3 Supranowo, “Sertipikat dan Permasalahannya”, (Makalah disampaikan pada Seminar Nasional Kegunaan Sertipikat dan Permasalahannya, Yogyakarta, 9 Juli 1992), hlm. 10
1. Physical data (physical land), about the land, namely the location/location, boundaries, the area of buildings, and plants on it. So it is pegged to the location, boundaries, and area (whether or not there is a building on it).

2. Juridical data (juridical land), regarding its rights; who is the owner/holder of the rights, the category of land rights status, the presence or absence of the rights of other parties who encumber.

So it is pegged to the status of the land, subjects, and other rights that are above it. The collection of physical data and juridical data as stipulated in Article 14 and Article 23 of Government Regulation Number 24 of 1997 must be applied in the process of issuing the Certificate. This physical and juridical data collection procedure is to ensure legal certainty in the field of land tenure and ownership, the certainty factor of the location and boundaries of each piece of land, to avoid overlaps resulting in double certificates.

Some land offices in various cities/districts experienced problems where they inaccurately issued Title Certificates to applicants submitted by landowners, who were included as one of the joint rights holders of the rights to the Certificate's freehold land plot. According to Article 3 Letter d of the Presidential Regulation of the Republic of Indonesia Number 10 of 2006 concerning the National Land Agency, one of the functions of the National Land Agency is guidance and general administrative services in the land sector. With this clear function, it is hoped that land registration can be carried out effectively and regularly, resulting in orderly land administration.

Counterfeiting is rife today, several individuals do commit modes of forgery, including:

1. Original Sertipikat Multiplication:
   a. The original certificate is photocopied and then the contents are copied into a blank of a fake certificate
b. Office signatures and stamps are forged.

c. All contents are copied from a copy of the certificate.

2. Change part or all of the contents of the original Certificate, which is not by applicable regulations. The modus operandi is: The name of the title holder, land area, and title number on the Certificate are changed.

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4. Using Certificate blanks whose process has not been completed, either those that have been or have not been signed by officials. The modus operandi is:

   a. The name of the right holder was not changed, while the name of the village and sub-district was changed and the land area in general was changed to be larger.
   
   b. Land book and Situation Drawing/Measuring Letter.
   
   c. Some officials' signatures are forged and some are genuine, while the contents of the Certificate are not changed.

5. Use a blank cover A valid certificate from another office and used inside or outside the territory of another office. The modus operandi is: By the other party the cover is removed and the contents are replaced with another blank sheet and the contents of the Certificate are forged.

6. Using fake blanks printed on the outside, the inside of the blank as well as the contents and signatures of officials are forged.

7. Change a certificate that has been turned off. The modus operandi is:

   Certificates that have been turned off, deleted/eliminated so that it looks like a valid Certificate. On the land book, it is already noted that it is turned off.

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5 Ibid, hlm 45.
In this context, we note that the principle adopted differs from the usual practice where there is a double certificate issuance over one parcel of land resulting in two certificates. In the case of jurisprudence related to these double certificates, it is usually stated that the certificate issued first has legal validity, while the one issued afterward has no legal force.

The Land Office as the issuing agency must trace the legal defects that can arise caused by the agency, so as not to harm the owners of land rights. Article 1 letter b of the Decree of the Minister of Agrarian State/Head of the National Land Agency Number 10 of 1993 concerning Procedures for Replacing Land Rights Certificates defines the old Certificate as follows:

“The old certificate is a certificate that has been issued by the Land Registration Office, Land Registration and Supervision Office, Agrarian Sub-Directorate Office, Agrarian Office, and District/Municipality Land Office before the enactment of the Decree of the Head of the National Land Agency Number 14 of 1989."

Meanwhile, the definition of a new Certificate according to Article 1 letter c of the Decree of the Minister of Agrarian State/Head of the National Land Agency Number 10 of 1993 concerning Procedures for Replacing Land Rights Certificates is a Certificate that has been issued by the District/Municipality Land Office using Certificate blanks as stipulated by the Decree of the Head of the National Land Agency Number 14 of 1989.

The legal position of land titles is very strong in the eyes of the law. However, when another certificate for the same land appears, the position of the certificate becomes weak. This double certificate, juridically, cannot be recognized as a valid means of proof. With this double certificate case, legal protection for owners and holders of land rights cannot be fully provided.

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means of proof. With this double certificate case, legal protection for owners and holders of land rights cannot be fully provided.

For dual certificate positions if the status of a land is status quo and there is no order from the court and there is no cancellation decision, then the books in the land book will include records of disputes and disputed matters.

**B. Constraints and efforts to resolve legal disputes Double certificate.**

The certificate provides evidentiary power for the owner of the land right whose name is listed in the Certificate, unless there is a physical data defect, the legal force of the Certificate will be lost. With juridical defects and physical data defects that can give rise to double certificates, this happens to certificates that are not mapped incorrectly in the land registry map by the local Land Office.

The emergence of double certificates in some cases arises because the parties as owners of land rights make complaints and objections as aggrieved parties by the appearance of certificates on the same object with the same number but the issuance of different dates of years, while for letters of measurement/pictures of situations with the same number and date, and the same land area. The holders of land rights owners feel aggrieved so they file a claim against the State Administrative Decree in the land sector that has been issued by the Head of the Land Office, which by issuing the Land Office decision has harmed the rights of the owner of the land.

Normatively, BPN is the only institution or institution in Indonesia that is authorized to manage land parcels, by Law Number 10 of 2006 concerning the National Land Agency which states: "That BPN carries out tasks in the land sector nationally, regionally, and sectorally." In the same context, the use of arbitration as a dispute resolution mechanism can be carried out through a written
agreement agreed by the parties, as provided for in the same Presidential
Regulation.\(^6\)

However, some dispute resolutions facilitated by BPN do not always go
well, because BPN is only an institution that issues certificates by the application,
as long as all procedures are carried out by any party who makes the application
and all conditions are met, the certificate will be issued. This means that the thing
that must be of concern is the system of BPN that does not read land certificates
that have been registered.

On the other hand, there are several cases of double certificates on Title
Certificates where there are many errors or administrative defects that result in
legal defects in certificates that appear with the same owner's name, the same
object, and the same area, especially the owners of land rights never ask the Head
of the Land Office to issue a new Certificate or authorize others. The Land Office
should first check or examine in detail the Certificate issued by it to find out the
cause of the error that occurred so that a double Certificate arises and to find out
what steps must be taken to minimize losses from land rights owners, especially
to the actual owners of Property Rights Certificates.

Settlement through the Court is carried out if the deliberative efforts are
deadlocked, or it turns out that there are principle problems that must be
resolved by other authorized agencies, such as the court, then the person
concerned is advised to submit the matter to the court. So in general, the nature
of this dispute is due to a complaint containing a conflict over land rights and
other rights to an opportunity/priority or the existence of a provision that is
detrimental to him.

In the end, the settlement must always pay attention to/always based on
applicable regulations, pay attention to the balance of interests of the parties, and

\(^6\)Jimmy Joses Sembiring, Cara Menyelesaikan Sengketa Diluar Pengadilan, (Jakarta: Visimedia, 2011),
hlm. 58.
uphold legal justice and this settlement is sought to be complete. Dispute resolution through the courts is a form of dispute resolution that results in a decision (verdict) that is like justifying or blaming one of the litigants. The above happens because the court is given the power to determine who is right and wrong. On the other hand, dispute resolution outside the court (in the customary law system) is based on cultural strength, oriented toward peace and harmony in community life. This method of settlement does not cause consequences for the existence of wrong and right parties and still maintains good relations between the disputing parties.

The aspects that influence the choice of action in resolving a dispute in the form of factors that affect behavior, meaning, and purpose, as mentioned in advance do not stand alone. These three aspects of one's actions have something to do with each other. The use of a certain dispute resolution institution in addition to having a certain expected purpose, also at the same time has a certain meaning for its actions. In addition to the relationship between goals and profit and loss calculations, there is also a relationship between the choice of action taken and the consequences that will occur.

Dispute resolution through the courts is not a compulsion because the law allows disputing parties to settle disputes outside the court by peaceful means.

4. Conclusion

The occurrence of legal disputes against holders of property rights certificates with the regulation of double certificates, due to the interest to control land objects in unlawful ways such as fraud, fictitious buying and selling, forgery of certificates, and duplication of certificates in various modes. In addition, it is also supported by the weak performance of BPN officials, especially the lack of accuracy/scrutiny in researching the administration of Certificate control applications.
The obstacle faced in resolving legal disputes against holders of property rights certificates with double certificates is because, the TUN Court Decision is not firm in the cancellation of certificates which are considered legal defects, resulting in the position of the land becoming status quo and there is no order from the court and there is no cancellation decision, then the books in the land book will include records of disputes and disputed matters.

Land title certificates that cannot be proven to be false the Certificate, then the Certificate is valid and guarantee legal certainty and protection for land rights holders. As for the party who takes legal action on a double certificate, which in this case transfers its rights through sale and purchase, as long as the acquisition of its rights has fulfilled the provisions and procedures based on applicable laws and regulations, and has reversed its name, so that the name listed in the certificate is his name, then the certificate provides legal certainty and protection for him.

In addition, regarding the proof of transfer of land rights, the sale and purchase deed made by PPAT is an authentic deed that can be used as strong evidence in court. Settlement of double certificates in cases so far can be done in several ways. The first thing taken is deliberation taken by the parties, namely the right holder as the plaintiff and the Land Office as the defendant. If deliberation cannot be taken, the Land Office can resolve unilaterally by reviewing the issuance of double certificates that have been issued due to administrative errors and misdesignation of land layout and boundaries. The results of the review can be followed up by canceling the Certificate which can be decided by the National Land Agency. In conclusion, these provisions must be regulated through the procedural law of dispute resolution for the occurrence of double certificates.
5. Suggestion

The government, especially the Ministry of Land, needs to improve a more structured registration system because the key to preventing double certificate disputes from happening again is the correct data, the government also needs to provide counseling to village officials such as village heads who are the starting point for supporting data for making certificates, so that it can be ascertained that the applicant is the rightful owner of the right to the land.
References