

## Legal Implementation of the Validity of Electronic Certificates

Maulana Zakki Syabbani<sup>1)</sup> & Dahniarti Hasana<sup>2)</sup>

<sup>1)</sup> Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: [maulanazakkisyabbani@gmail.com](mailto:maulanazakkisyabbani@gmail.com)

<sup>2)</sup> Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: [dahniarti@unissula.ac.id](mailto:dahniarti@unissula.ac.id)

**Abstract.** *The implementation of land certificate digitalization from analog certificates converted into electronic certificates is carried out in stages and using a pilot project system. The readiness of both human resources and infrastructure must truly meet the required standards. However, the process of certificate digitalization in Indonesia cannot be denied considering that one of its goals is to minimize land disputes and legal protection for land object owners. This study aims to determine the extent of the implementation of the validity of electronic certificates after the issuance of the Regulation of the Minister of ATR/BPN Number 1 of 2021 concerning Electronic Certificates in Bantul Regency. The approach method used in this thesis is empirical juridical. The specifications of this study use descriptive analysis. The type of data used in this study is primary data which includes Civil Code, Basic Agrarian Law (UUPA) Law Number 11 of 2020 concerning Job Creation Regulation of the Minister of ATR Number 1 of 2021 concerning Electronic Certificates, as well as secondary data containing books and other supporting documents. Collection of research data using interview techniques and document studies or library materials. The data analysis method used in analyzing the data is a qualitative analysis of the interactive model as proposed. The results of the study show that: First, the implementation of land certificate digitalization in Indonesia is gradual. The*

*Bantul ATR/BPN Office is still in the process of processing electronic certificates for Government Offices. Second: Each office of each ATR/BPN is expected to have prepared various aspects such as caution.*

**Keywords:** Analog; Certificate; Electronic; Digitalization.

## 1. Introduction

The digital era is an era where all activities that support life are made easier by technology with the aim of being more efficient and modern. At the end of 2019, the world was shocked by a virus called Covid 19 which caused many crucial problems for countries in the world, including Indonesia.<sup>1</sup>

This condition certainly disrupts all human activities, narrows the limited space for movement, and the economy has drastically declined. The new era (new normal) is a step taken by the Indonesian Government from the previous pandemic to endemic. The community adapts to new situations and conditions, restrictions on face-to-face activities make online/online options a solution. This is considered more efficient both operationally and financially because only through an application can humans discuss and conduct discussions online.

The digitalization of public services in Indonesia has been running through the OSS (Online Single Submission) feature, online trials (e-court), taxation with e-filing tax applications, electronic fiduciary registration, and in the land sector it has started in 2020, namely Electronic Mortgage Rights. In the land/agrarian aspect in order to realize the modernization of land services and the increasingly complex problems related to land registration, electronic-based land services have begun to be implemented.

Through the National Land Agency, a new regulation was passed, namely the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) No. 1 of 2021

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<sup>1</sup>Imas Novita Juaningsih, Analysis of Layoff Policies for Workers during the Covid-19 Pandemic in Indonesia, Adalah: Bulletin of Law & Justice, Vol.4, No.1 (2020), p.189

concerning Electronic Certificates. This effort is a great ideal of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), namely to minimize the occurrence of problems, one of which is duplication of land ownership certificates, so as to reduce the opportunity for conflict and even minimize the occurrence of certificate forgery. On the other hand, this innovative effort is a form of state concern or state contribution to the community in resolving land problems, where land is the main factor for the community to be able to live a decent life because the welfare of the community is the responsibility of the state as stated in the constitution.<sup>2</sup>

However, since the new regulation was passed, it has caused pros and cons in society, this is due to the discourse of withdrawing conventional land certificates by the government, making many people doubt the implementation of electronic certificates. They still have a mindset that holding an original certificate is the safest decision if a problem occurs such as a land dispute. Land itself holds a very important power for human life, so it is not uncommon for every human being to want to have it. So important is the land that it often results in legal consequences, differences of opinion, feuds and even conflicts in the closest environment, namely the family circle.

The results of temporary observations show that not all regions in Indonesia have implemented regulations regarding electronic certificates. The latest regulation, namely Article 16 paragraph 3 of the Regulation of the Minister of ATR Number 1 of 2021 concerning Electronic Certificates, states that the Head of the Land Office withdraws the certificate to be combined with the land book and stored as a document at the land office.<sup>3</sup>This clearly creates doubts for the public to submit the original certificates to be combined and become a document at the Land Office, although this was denied by the Minister of ATR/BPN Sofyan Djalil, however this regulation has been ratified and has become a regulation in force.

Based on this, this study aims to analyze how the implementation of land registration regulations regulated by the 2021 ATR/BPN

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<sup>2</sup>Fitria Dewi Navisa, 2020, The Meaning of the Principle of Interest (Insurable Interest) in Insurance Agreements, <http://repository.unisma.ac.id/bitstream/handle>

<sup>3</sup> Regulation of the Minister of ATR/BPN Number 01 of 2021

Ministerial Regulation and the ideal mechanism for implementing management and application of law regarding the validity of electronic certificates at the Bantul Regency ATR/BPN Office

## **2. Research Methods**

This study uses an empirical legal approach, with a study of documents from legislation, research journals and other supporting literature as well as findings in the field used to analyze this study. The data used in this study include primary data, secondary data and tertiary data.

## **3. Results and Discussion**

### **3.1. Implementation of Electronic Certificates at the ATR/BPN Office, Bantul Regency**

The digital land certificate program or electronic land certificate is not immediately implemented simultaneously throughout Indonesia. Later, the implementation of changes from analog certificates to electronic certificates or new applications will be carried out in stages, starting from big cities such as Jakarta and Surabaya which will be used as pilot projects.

Bantul Regency, in this case by the technical team, namely the Bantul Regency National Land Agency (ATR/BPN) in 2023, has begun the process of changing analog certificates that have been converted into electronic land certificates starting with the management of land owned by the Bantul Regency National Land Agency (ATR/BPN) Office. This implementation will continue to run and be continued on government-owned land assets such as government offices in Bantul Regency to the general public.

So far, the results of the socialization with the Ministry of ATR/BPN with the Regional Office of the National Land Agency of the Special Region of Yogyakarta (Kanwil BPN DIY) related to the requirements for managing media transfers or new registrations of electronic land certificates and the flow and mechanisms for managing them have not been implemented to the general public. The target for achievement in 2024 is that the offices owned by the Regional Government in Bantul Regency can be changed from analog certificates converted to electronic land certificates.

The regulation that has regulated electronic land registration that has been initiated by the Government as a replacement for analog certificates is the Regulation of the Minister of ATR/BPN Number 1 of 2021 concerning electronic certificates. The procedures for land registration and the certificate issuance process include the following:

**a. First Land Registration to Obtain Land Certificate**

Article 12 of Government Regulation Number 24 of 1997 mentions several procedures for first-time land registration, including the following:<sup>4</sup>

- 1) Physical data activities and processing;
- 2) Proof of rights and their accounting;
- 3) Issuance of certificates;
- 4) Presentation of physical and legal data; and
- 5) Storage of general lists and documents.

**b. The implementation of land registration for the first time is based on Article 13 of PP Number 24 of 1997 concerning Land Registration, as follows:<sup>5</sup>**

- 1) Land registration was carried out for the first time through systematic land registration and sporadic land registration;
- 2) Systematic land registration is based on a work plan and is carried out in areas determined by the minister;
- 3) In the event that a village or sub-district has not been designated as a systematic land registration area as referred to in paragraph (2), systematic land registration

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<sup>4</sup>Republic of Indonesia, Government Regulation Number 24 of 1997 concerning Land Registration, Explanation of Article 12

<sup>5</sup>Ibid, Article 13

as referred to in paragraph (2) is carried out through sporadic land registration.

4) Sporadic land registration is carried out at the request of interested parties.

When a land certificate has been obtained, there is data collected as a requirement for land registration in the form of legal data and fictional data in accordance with what has been regulated in Articles 33 and 34 of Government Regulation Number 17 of 1997 concerning Land Registration.

Documents are legal instruments of evidence to be used as evidence of land rights and the identity of the rights holder in them and are stored at the National Land Office which has been regulated in accordance with the provisions of applicable laws and regulations. GJ Renier said "that documents are sources of information in the form of state letters such as agreements, grants, concessions, and others."<sup>6</sup>

### **c. Land Registration Procedures to obtain an electronic Land Certificate**

The electronic land registration system is something new and must be socialized first about the electronic system. The definition of an electronic system states that a system of electronic tools and procedures has the function of preparing, combining, analyzing, changing, placing, displaying, informing, delivering and sharing electronic information.<sup>7</sup>

Regarding the implementation of electronic land registration in Bantul Regency in accordance with the provisions of Chapter 2 of the Regulation of the Minister of ATR/BPN Number 1 of 2021 concerning Electronic Certificates above, electronic land registration is carried out in stages and determined by the

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<sup>6</sup>Samhis Setiawan, Documents – Definition, Differences, Types, Scope, Activities, Examples, Experts, <https://www.gurupendidikan.co.id/dokumen/>, accessed at 22.15 WIB on January 10, 2024.

<sup>7</sup>Republic of Indonesia, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 1 of 2021 concerning Electronic Certificates, Article 1 number 1

minister, namely by considering the readiness of infrastructure, facilities and infrastructure and technological readiness. In terms of electronic land registration, there are several stages in accordance with applicable laws and regulations which will later replace analog land certificates according to the existing procedures in this case explained in Chapter II of the Regulation of the Minister of ATR/BPN Number 1 of 2021 by the National Land Agency. To better understand the differences in general and specifically between electronic land certificates and analog land certificates, please see the table below:

**Table1- Differences between Electronic Certificates and Analog Certificates**

No	Electronic Certificate	Land Difference	Analog Certificate
1	Using a unique code on an electronic document generated by the system.	Document Code	Using a unique code by combining numbers with letters in the blank code
2	Using a QR code system by scanning to get direct information about e-certificates. making it easier for the public.	Scan Code	QR No QR code
3	Using electronic signature	Signature	Manual signature
4	States the aspects of Rights, Responsibilities, Registrations where provisions regarding obligations and prohibitions are included.	Terms of obligation and prohibition	It is noted in the instructions column, the recording of these provisions is not the same, depending on each land office.
5	The information presented is clear, concise and concise.	Document form	In the form of a paper form consisting of several sheets
6	There is only one type of number, namely the Field Identification Number (NIB).	Identity Number	Consisting of several numbers including the title number, measurement letter, field map and field identification number.



Looking at the differences in the table above, it is quite clear the difference between electronic certificates and analog certificates. One of the preliminary conclusions is that electronic certificates ensure the public that electronic certificates are present by providing practical and technical efficiency, as well as analog certificates which provide confidence to the public regarding the guarantee of legal certainty over land ownership or control rights.

However, electronic certificates have also guaranteed the security and legal certainty aspects of Electronic Certificates as stated in Article 4 of the Regulation of the Minister of ATR/BPN Number 1 of 2021 concerning Electronic Certificates:<sup>8</sup>

- 1) The electronic system used is organized as stated in Article 2 paragraph (3) in a professional, safe manner and can be accounted for regarding the operational methods of the Electronic System used.
- 2) The use of electronic systems to carry out land registration, namely:
  - a. Collecting data;
  - b. Processing data; and
  - c. Presenting data.
- 3) When using an electronic system, the results are as stated in paragraph 2, namely in the form of an Electronic Document.
- 4) The issuance of electronic documents as stated in paragraph 3 letter a, the ratification is carried out through electronic initials based on what is determined in the provisions of the Law.
- 5) As stated in paragraph 3 letter b, electronic documents resulting from media transfer are authorized by an authorized or selected party and are authorized by providing an electronic stamp through the system used.

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<sup>8</sup>Ibid, Article 4

The implementation of the validity of electronic land certificates in each region has been running gradually since the ratification of Law Number 1 of 2021 concerning Electronic Certificates. Minister of Agrarian Affairs and Head of the National Land Agency (ATR/BPN) Hadi Tjahyanto explained the latest developments in electronic certificates, he said that "The development of the program is now being carried out, as many as 13 districts/cities that have complete status are prioritized to fully implement electronic certificates."<sup>9</sup>For cities/regencies, it can be considered complete, namely areas whose land mapping process has been fully and officially registered with the National Land Agency (BPN).

Meanwhile, for Bantul Regency, through the Land Agency Office in the implementation of the application of electronic land certificates has been running for 1 (one) electronic land certificate, namely the land certificate used as the Bantul Regency Land Office. In addition, other electronic products, namely electronic land certificates at the Bantul Regency Land Office such as Mortgage Rights, Roya, Certificate Checks and Land Registration Certificates. The implementation of 1 electronic land certificate in Bantul Regency is based on the recent issuance of technical implementation regulations by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) in 2022. Therefore, until now, registration or changes from analog certificates to electronic land certificates have not been opened to the general public, so the flow and mechanism for processing have not been regulated.

In the future, the land certificates will be gradually converted to electronic land certificates, starting from government-owned land with usage rights, such as government offices, State-Owned Enterprises (BUMN), State-Owned Enterprises (BUMN) and others, gradually followed by land owned by the general public. The socialization carried out by the government so far is still limited to that carried out by the Ministry of ATR/BPN and the BPN Regional Office of the Special Region of Yogyakarta (DIY) to

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<sup>9</sup>Samuel Gading, "BPN will issue 13 regions that can issue electronic certificates". Detik finance, Accessed, <https://finance.detik.com/berita-ekonomi-bisnis/d-7134077/bpn-akan-umumkan-13-daerah-yang-bisa-terbitkan-sertifikat-tanah-elektronik>, accessed on February 2, 2024 at 02.00 WIB

other regional government agencies. Meanwhile, socialization to the general public has not been carried out.

The description of the implementation of electronic certificates in Indonesia until now has not been implemented simultaneously, of course the government itself considers the priority scale and existing Human Resources (HR), considering that the socialization by the Ministry of ATR/BPN was carried out in 2022.

Electronic land certificates are stored in the database, then the community as land owners can print their certificates anytime and anywhere. Security aspects The government has also taken steps where the entire information security process uses encryption technology such as cryptography by the National Cyber and Crypto Agency (BSSN). Although in the era of big data, people's lifestyles, daily habits, and ways of thinking have changed, big data is a double-edged sword. It brings convenience to people and carries certain risks.<sup>10</sup>

### **3.2. The Ideal Implementation Mechanism for Management and Application of Law on the Validity of Electronic Certificates at the Bantul Regency ATR/BPN Office**

Electronic land certificates in Indonesia are a necessity for future land services. The implementation of electronic land certificates in land registration services is an innovative step by the Ministry of ATR/BPN to improve the role of public services, so that this good goal can be accepted by all levels of society. The socialization of electronic land certificates should be intensified by the Bantul Regency ATR/BPN Office to raise public awareness of the function and benefits of electronic land certificates as proof of land ownership rights.

The digitalization of land certificates aims to facilitate agrarian services, prevent forgery, and make checking easier and more efficient, such as in the practice of buying and selling, a buyer will not have to check directly at the location. The implementation of

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<sup>10</sup>Dongpo Zhang, (2018), Big data security and privacy protection; 8th International Conference on Management and Computer Science (ICMCS 2018). Atlantis Press, 77, p. 275-278.

electronic land certificates is implemented in stages and is determined by the Minister as regulated in Article 2 paragraph (4) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 1 of 2021 concerning Electronic Certificates.

The Agrarian and Spatial Planning Office/National Land Agency (ATR/BPN) of Bantul Regency in 2022-2023 has made a media transition from analog land certificates to electronic certificates. The next stage that needs to be carried out immediately is to change the analog land certificates of the Bantul Regency Regional Government offices to electronic certificates. So that if in its development it is considered sufficient/complete by the Ministry of Agrarian and Spatial Planning/National Land Agency, it can be implemented to the public in this case the general public.

#### **4. Conclusion**

The government through the Ministry of ATR/BPN has begun to socialize the implementation of electronic land certificates in 2022. The stages and plans for implementing electronic certificates are based on pilot projects in several major cities in Indonesia such as Jakarta and Surabaya, considering that the implementation of this regulation is not simultaneous throughout Indonesia. The implementation of land certificate digitalization at the Bantul Regency ATR/BPN Office at the end of 2023 is still in the initial stage, namely the change of analog land certificates from media to electronic certificates on land objects at the ATR/BPN Office. The digitalization of land certificates in Indonesia occurs when there is a new registration application, then the electronic land certificate process or the media transfer from analog certificates to electronic land certificates is carried out, or due to something such as the practice of land buying and selling processes, changes in ownership status and others. Although there are no sanctions in the Regulation of the Minister of ATR/BPN Number 1 of 2021 concerning Electronic Certificates for parties who are reluctant to digitize land certificates, it is undeniable that the digitalization of land certificates in Indonesia will continue. It is expected that all land offices at the regional level can immediately complete the media transfer process on land objects that are currently used as government offices, then BUMD offices so that the Head of the Minister of ATR/BPN provides

recommendations for complete status and the implementation of electronic certificates to the general public. The ATR/BPN Office in implementing the digitalization of land certificates also provides maximum socialization both through social media platforms and print media as well as information in public spaces. The ATR/BPN Office prepares the human resources needed to face the transition to digitalization of land certificates, so that unwanted things do not occur such as carelessness/carelessness when the implementation begins to apply to the general public.

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