

Problems in the Implementation of a Complete Systematic Land Registration Program Regarding the Emergence of Overlapping Land Certificates

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Abstract. *This research aims to analyze what are the factors behind the overlapping in the issuance of land certificates through the complete systematic land registration program at the Semarang City Land Office, and the guarantee of legal certainty. The research method used in this study is: the type of research used in this study is empirical legal research, the approach method used is the structural approach and Economic Analysis Of Law. The data used is primary data with qualitative descriptive data analysis. The results of the study show that the factors behind the overlapping in the issuance of land certificates through the complete systematic land registration program at the Semarang City Land Office in 2023 can be seen from 3 angles, namely: First, legal substance, there are weaknesses in Article 22 and Article 24 Regulation of the Minister of ATR/Head of BPN RI Number 6 of 2014/2018. Article 22, there are weaknesses in terms of the strength of the evidence written statement regarding physical control of the land and in good faith, and witnessed by at least 2 witnesses; Article 24, in the case of limited space for the 14-day objection period, even though it meets the principle of publicity, it can be missed by anyone who has less access to information; Second, legal structure, that in the process of implementing the PTSL Program does not involve PPAT as the party authorized to make the deed, so its legal force as evidence is very weak. The involvement of the Licensed Cadastral Surveyor Service Office as a Physical Task Force in measurement and mapping can include making a basic map of registration, determining land boundaries, and making a land map (PBT), the results are less in accordance with the standards set by the Land Office; and Third, legal culture, that's it weak legal awareness among the public regarding the importance of administrative requirements in the land registration process. Guarantee of legal certainty in issuing land certificates through the Complete Systematic Land Registration Program which overlaps at the Office Land Semarang City, realized by taking mediation steps based on the provisions Number*

30 of 1999 and Regulation of the Minister of ATR/Head of BPN RI Number 21 of 2020.

Keywords: *Land; Overlapping; Problems; PTSL; Registration.*

1. Introduction

Land is the surface of the earth, whether in the form of land or water. Closed water, including the space above and within the earth's body, within certain limits, the use and utilization of which are directly or indirectly related to the use and utilization of the earth's surface.¹ Land is a basic human need for living in this world for housing, as well as various activities such as agriculture, forestry, industry and others. As a form of legal certainty for land ownership,²Therefore, the government has given land rights to and can be owned by individuals, either individually or jointly, as well as legal entities, to be used or utilized, either as ownership rights, business use rights, building use rights, or usage rights.³

Land rights can be obtained by registering the land. Land Registration is a series of activities carried out by the Government continuously, sustainably and regularly, including the collection, processing, bookkeeping, and presentation as well as maintenance of physical data and legal data, in the form of maps and lists, regarding land plots and apartment units, including the provision of proof of rights for land plots for which rights already exist, and ownership rights to apartment units and certain rights that encumber them.⁴

Land registration for the first time according to Article 13 of the Republic of Indonesia Government Regulation Number 24 of 1997 concerning Land Registration is carried out using 2 (two) methods, namely systematic land registration and sporadic land registration. This land registration system was inspired by the failure to satisfactorily realize the first land registration program, namely that based on the Republic of Indonesia Government Regulation Number 10 of 1961 concerning Land Registration, which was in effect for more than 35 years, and only resulted in 16.3 million plots of land, out of 55 million plots of land rights that were registered.

¹ Article 1 Number 1 Government Regulation of the Republic of Indonesia Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration.

² Article 19 Paragraph (2) letter c of Law Number 5 of 1960 concerning Basic Agrarian Principles.

³ Arie Sukanti Hutagalung, 2012, *The Importance of Land Registration in Indonesia*, Jakarta, Rih Asa Sukses PenebarSwadaya Group, p. 8.

⁴ Article 1 Number 1, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration.

Furthermore, with the enactment of The Government of the Republic of Indonesia Number 24 of 1997 concerning Land Registration, is also considered to have not produced optimal results. Land registration of 126 million land plots in Indonesia only 46 million have been registered, this means there are 80 million land plots that have not been registered. Meanwhile, it is estimated that land growth is more than 1 million plots per year.

Given this condition, the current government through the Ministry of ATR/BPN which has the authority to register land and has a target of 126 million plots of land in Indonesia to be registered and certified in total by 2025, has issued a policy regarding the first land registration system called the Complete Systematic Land Registration Program (PTSL) through the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN RI Number 6 of 2018 concerning Complete Systematic Land Registration.

PTSL is a Land Registration Activity for the first time which is carried out simultaneously for all Land Registration objects throughout the territory of the Republic of Indonesia in one village/sub-district area or other name of the same level, which includes the collection of physical data and legal data regarding one or several Land Registration objects for the purposes of registration.⁵

PTSL is one of the government programs that makes it easier for people to get land certificates for free. Certificates are quite important for land owners, to avoid disputes and disagreements in the future, therefore the purpose of implementing PTSL is for realize providing legal certainty and legal protection for community land rights based on the principles of simplicity, speed, smoothness, safety, fairness, equity, openness and accountability, so as to improve the welfare and prosperity of the community and the country's economy, as well as reduce and prevent land disputes and conflicts.

Implementation of PTSL activities based on Article 4 Paragraph (4) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6Year2018 concerning Complete Systematic Land Registration, carried out through 13 (thirteen) stages, namely: 1). Planning; 2). Determination of location; 3). Preparation; 4). Formation and determination of the PTSL adjudication committee and task force; 5). Counseling; 6). Collection of physical data and collection of legal data; 7). Research of legal data for proof of rights; 8). Announcement of physical data and legal data and their ratification; 9). Confirmation of conversion, recognition of rights and granting of rights; 10).

⁵ Article 1 number 2 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration.

Bookkeeping of rights; 11). Issuance of land title certificates; 12). Documentation and submission of activity results; and 13). Reporting.

Based on the evaluation results Ministry of Agrarian Affairs and Spatial Planning/National Land Agency shows that on March 3, 2023, the implementation of PTSL found the following:

1. The results of measuring and mapping PTSL activities are still sporadic;
2. The data from the measurement of unregistered land areas are still found to overlap with data from land areas that have been registered and mapped.;
3. There is still overlap between the registered mapped land areas (KW 1, 2, 3);
4. The registered land area mapped does not correspond to the actual conditions in the field; and
5. There are obstacles in the implementation of K4 land area mapping (KW 4, 5, 6).⁶

Based on the result evaluation mentioned above, it appears that in there are various obstacles in the implementation of PTSL, one of which is the issuance of overlapping certificates. Overlapping land that has experienced a pile-up of certificates, where for the same land plot there are 2 (two) land rights certificates with different data, this gives rise to a dispute between the two parties, each of whom holds a certificate of rights to the land.⁷

Regarding the issuance of the Certificate through program this PTSL, it was found that there was certificate the field the Lan dover lapping with the land plane certificate another, as happened at the Semarang City Land Office, in 2022 there were 152 cases and 40% of the cases indicated overlapping.⁸Overlapping occurs this shows that the government's obligation to organize land registration to create legal certainty as mandated by Article 19 of the UUPA is hampered by this.

In connection with this matter on, one of the objectives of enacting the UUPA as contained in its General Explanation, is to lay the foundations for providing legal certainty regarding land rights for all people. Gustav Rad bruch, explains that legal certainty is one of the objectives of law and it can be said that legal certainty is part of the effort to realize justice.⁹Legal certainty itself has a real

⁶ Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, 2023, Technical Instructions for Complete Systematic Land Registration 2023 Number 3/Juknis-HK.02/III/2023, p. 8.

⁷Karmita Afandi, 2012, Settlement of Overlapping Land Certificate Disputes Through Mediation Due to Application for Conversion of Recognition of Rights (Case Study at the Cirebon Regency Land Office), Thesis, Diponegoro University, p. 16.

⁸Semarang City Land Office Data 2022

⁹ Mario Julyano, and Aditya Yuli Sulistyawan, 2019, Understanding the Principle of Legal Certainty Through the Construction of Legal Positivism Reasoning, *Crepido Journal: Journal on the Basics of Legal Thought: Philosophy and Legal Science*, Vol. 1 No. 1, pp. 13-22., url: <https://ejournal2.undip.ac.id/index.php/crepido/>, accessed on May 13, 2024, at 17.00.

form, namely the implementation or enforcement of the law against an action that does not see who the individual is who does it. Through legal certainty, everyone is able to predict what they will experience if they do a certain legal action.

Starting from the phenomenon as described above, the latest situation shows that the implementation of the PTSL program organized by the government has many problems, one of which is overlapping with land areas. Certificate others. So that the initial objective of the implementation of PTSL, namely legal certainty for the community holding land rights, has not been able to realize justice, because the community is actually harmed by this incident and the community still has to fight to defend the right to land as their property.

Based on the background above, the researcher is interested in discussing the study of the Problems of Implementing a Complete Systematic Land Registration Program Regarding the Emergence of Overlapping Land Certificates in the City of Semarang.

2. Research Methods

The research approach method used in this thesis is the empirical legal research method, namely research that emphasizes research aimed at obtaining legal knowledge empirically by going directly to the object.¹⁰The approach used is the structural approach and Economic Analysis Of Law. The specification of this research uses descriptive analysis, namely research that in addition to providing a description, writing and reporting an object or an event will also draw general conclusions from the problems discussed. Data sources come from primary data and secondary data. The data used is primary data with qualitative descriptive data analysis. Data collection methods include interviews, Document Studies or Library Materials. The data analysis method used in analyzing data is qualitative analysis.

3. Results and Discussion

3.1 Factors Influencing the Occurrence of Overlapping in the Issuance of Land Certificates Through the Complete Systematic Land Registration Program at the Semarang City Land Office

Overlapping occurs the accumulation of certificates for the same land plot object, there are 2 (two) land rights certificates with different data, which gives rise to disputes between the two parties, each of whom holds a certificate of rights to the land, which can be caused by various factors.

¹⁰Soejono Soekanto, 2008, Introduction to Legal Research, University of Indonesia Press, Jakarta, p. 88.

The factors underlying the overlapping in the issuance of land certificates through the complete systematic land registration program at the Semarang City Land Office in 2023 can be analyzed using the legal system theory of Lawrence M. Friedmann, then each legal system consists of 3 (three) sub-systems, namely legal structure (structure of law), legal substance (substance of the law) and legal culture (legal culture).

In the theory of legal systems, it is explained that what is meant by legal substance includes legal material, for example as stated in laws and regulations or policy regulations. Then what is meant by legal structure is the institution/agency, personnel and the authority to enforce the law. While what is meant by legal culture is the behavior and mindset of the community and law enforcement personnel.¹¹

Based on the results of an interview with Dian Puri Winasto, SH, as Head of Section for Handling Problems and Land Control of Semarang City, based on the legal system theory of Lawrence M. Friedmann, it shows that there are weaknesses in the PTSL policy issued by the government, namely Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration. The description is as follows:

a. Substance of the Law

Regarding the substance of the law, Lawrence M. Friedman explained "Another aspect of the legal system is its substance. By this is meant the actual rules, norms, and behavioral patterns of people inside the system...the stress here is on living law, not just rules in law books."

Another aspect of the legal system is its substance. What is meant by substance is the rules, norms, and real patterns of human behavior that are in the system. So the substance of law concerns the applicable laws and regulations that have binding power and serve as guidelines for law enforcement officers.

Legal substance Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 about Complete Systematic Land Registration, which is used as a guideline by officers for the implementation of PTSL, based on interview results with Dian Puri Winasto, SH, as Head of Section for Handling Problems and Land Control of Semarang City, from the substantive aspect, this regulation has weaknesses, when this regulation is implemented, namely it has the potential to cause problems, one of which is the overlapping problem, namely as follows:

¹¹ Lawrence M. Friedman, *American Law An Introduction Second Edition* (American Law An Introduction) Translator Wishnu Basuki (Jakarta: Tatanusa, 2001), pp. 7-9.

potential to cause problems, one of which is the overlapping problem, namely as follows:

1) Article 22

In Article 22 regulate about Legal Data Research for Proof of Rights, as follows:

- (1) For the purposes of proving rights, the PTSL Adjudication Committee conducts research into legal data as referred to in Article 21.
- (2) In the event that proof of community land ownership is incomplete or does not exist at all, it can be supplemented and proven with a written statement regarding ownership and/or physical control of the land area in good faith by the person concerned.
- (3) The element of good faith as referred to in paragraph (1) consists of the physical fact of controlling, using, utilizing and maintaining land from generation to generation for a certain period of time and/or obtaining it in a manner that does not violate the provisions of statutory regulations.
- (4) Good faith as referred to in paragraph (3) is proven by a statement from the applicant/PTSL Adjudication participant stating:
 - a. There are no objections from other parties regarding the land owned or not in a state of dispute
 - b. Does not include or is not:
 - 1) Assets of the government, regional government, or state-owned enterprises/regional-owned enterprises; or
 - 2) Forest area
- (5) The statement letter as referred to in paragraph (1) is made with the following provisions:
 - a. Witnessed by at least 2 (two) witnesses and local people who do not have family ties with the person concerned up to the second degree, either in vertical or horizontal kinship, who state that the person concerned is truly the owner and the person in control of the land; and
 - b. Made based on true information and can be accounted for both civilly and criminally, and if at a later date there are elements of untruth in the statement, it is not the responsibility of the Adjudication Committee.

Proof of rights in the implementation of PTSL is regulated in Article 22, based on results of an interview with Dian Puri Winasto, SH, as Head of the Semarang City Land Problem Handling and Control Section, stated that in its implementation, there are problems related to written statements regarding ownership and/or physical control of land in good faith when evidence of land ownership is incomplete or does not exist at all.

The provisions of Article 22 require a written statement regarding physical control of the land and in good faith. The statement regarding physical control of the land must be witnessed by at least 2 (two) witnesses from the local

environment who are not related and can be held accountable both civilly and criminally.

The element of good faith from the fact of physically controlling, using, utilizing, and maintaining land from generation to generation for a certain period of time and/or obtaining it in a manner that does not violate the provisions of laws and regulations. Good faith is proven by a statement from the applicant/participant of the PTSL Adjudication stating: a). there is no objection from other parties to the land owned or not in a state of dispute; and b). not included or not an asset of the Government, Regional Government, or State-Owned Enterprise/Regional-Owned Enterprise; or Forest Area (Article 22).

2) Article 24

In Article 24, regulate about announcement of physical data and legal data and its validation, which is usually called the principle of publicity. The principle of publicity or openbarrheid according to Soedikno Mertokusumo, states that everyone has the right to know the legal data about the subject of rights, the name of the land rights, the transfer of rights and the burden of land rights. In addition, everyone has the right to file an objection before the issuance of a certificate, replacement certificate, lost certificate or damaged certificate.¹² The principles of publicity are regulated in the provisions of Article 24 as follows:

- 1) The recapitulation of legal data that has been included in the legal data research report on land plots that have been mapped on land plot maps is included in the list of legal data and land plot data.
- 2) In order to fulfill the principle of publicity in proving land ownership, legal data and physical data of land plots and maps of land plots are announced using the physical data and legal data announcement form (DI 201B) for 14 (fourteen) calendar days at the PTSL Adjudication Committee Office and the Village Office.
- 3) Interested parties are given the opportunity to submit objections regarding physical data and legal data (DI 201B) as referred to in paragraph (2) during the announcement period.
- 4) After the announcement period as referred to in paragraph (2) ends, the physical data and legal data are validated by the PTSL Adjudication Committee which is made in the form of a report on the validation of the announcement of physical data and legal data (DI 202).
- 5) Legal data and physical data of land plots are prepared in accordance with the format as stated in Attachment VII which is an integral part of this Ministerial Regulation.

¹² Waskito, Op.Cit., p. 9.

- 6) If at the time of validation of physical data and legal data as referred to in paragraph (4) there is still incomplete data or there are still objections that have not been resolved, then the physical data and legal data will still be validated by providing notes in the minutes of validation of physical data and legal data regarding matters that are incomplete and/or objections that have not been resolved.
- 7) In the event that a party files an objection as referred to in paragraph (3), a written notification shall be given to immediately file a lawsuit in court.
- 8) Objections as referred to in paragraph (6) are recorded in the list of objections/objections to the announcement of the results of the physical data and legal data research (DI 309).
- 9) Handling of objections is carried out in accordance with statutory provisions.

Based on the provisions of Article 24, regarding the principle of publicity, it is explained that the objection period for submitting objections related to the announcement of legal data and physical data of land plots and maps of land plots is 14 (fourteen) days. The provisions for the objection period are based on results of an interview with Dian Puri Winasto, SH, as Head of the Semarang City Land Problem Handling and Control Section, is very short when compared to the provisions in Article 26 of Government Regulation Number 24 of 1997 concerning Land Registration which provides a time limit of 30 (thirty) days for systematic land registration or 60 (sixty) days for sporadic land registration.

b. Legal Structure (Structure Of Law)

Regarding the legal structure (Structure Of Law), Lawrence M. Friedman explains:

“To begin with, the legal system has the structure of a legal system consisting of elements of this kind: the number and size of courts; their jurisdiction....Structure also means how the legislature is organized....what procedures the police department follows, and so on. Structure, in a way, is a kind of cross section of the legal system...a kind of still photograph, with frozen the action.”¹³

Structure is a pattern that shows how the law is implemented according to its formal provisions. This structure shows how the courts, lawmakers and legal bodies and processes run and are implemented by law enforcers. Law enforcers have a great influence on the law enforcement process, no matter how good the law is made, if the implementing structure is not based on professionalism, it will

¹³ Lawrence M. Friedman, Op.Cit., p. 9.

not produce fair decisions, so that justice for the community will never be realized.

The weaknesses of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration are seen from the aspect of legal structure based on results interview with Dian Puri Winasto, SH, as Head of Section for Handling Problems and Land Control of Semarang City namely as follows:

1) Does not involve land deed drafting officials (PPAT)

Land Deed Making Official, hereinafter referred to as PPAT, as stated in Article 1 Number 1 of Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Making Official, is a public official who is authorized to make authentic deeds regarding certain legal acts regarding land rights or Ownership Rights of Apartment Units.

According to the Author's analysis, in fact, the implementation of the PTSL Program must involve the role of PPAT as an official who is given the authority to make land deeds, as regulated in Article 6 of Government Regulation Number 24 of 1997 concerning Land Registration, in which the implementation of land registration is carried out by the Head of the Land Office assisted by PPAT and other officers.

What is meant by a PPAT deed according to Article 1 Number 4 of the Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Making Officials is a deed made by a PPAT as evidence of the implementation of certain legal acts regarding land rights or ownership rights to apartment units. This means that the deed made by the PPAT has perfect evidentiary force.

2) Involvement of Licensed Cadastral Surveyor Service Office

The target for land registration through the PTLs Program is 126 million plots of land in Indonesia, which must be registered and certified in their entirety by 2025. For Semarang City, the target for 2023 is 8,249 plots of land throughout Semarang City. To meet the target of 8,249 plots of land in 2023, the Semarang City Land Office is collaborating with partners. One of them is a Licensed Cadastral Surveyor.

Based on the results of the interview withwith Dian Puri Winasto, SH, asSection ChiefCountermeasuresSemarang City Land Problems and Control, stated that the involvement of the Licensed Cadastral Surveyor Services Office has great potential

for overlapping, because the results measurement and mapping can include making registration base maps, determining land parcel boundaries, as well as making land parcel maps (PBT), not in accordance with the Standard Operating Procedure (SOP) of the Semarang City Land Office.

c. Legal Culture.

Regarding legal culture, Lawrence M. Friedman explains *"The third component of legal system, of legal culture. By this we mean people's attitudes toward law and legal system, their beliefs ...in other words, is the clarification of social thought and social forces that determine how law is used, avoided, or abused."*¹⁴

Legal culture concerns legal culture which is an attitude (including the legal culture of law enforcement officers) towards the law and the legal system. No matter how good the legal structure is to implement the established legal rules and no matter how good the quality of the legal substance is. Which if made without the support of a legal culture by people involved in the system and society, law enforcement will not run effectively.

In legal culture, it can be seen from the tradition of daily behavior which is simple and reflect signs that apply to legal subjects, the emergence of obedience in everyday life and groups begins with the legal awareness of society. Legal awareness can grow because of the fear given by legal sanctions.

In relation to the implementation of the land registration program at the Semarang City Land Office, its success cannot be separated from the legal culture factor. The actors behind the overlapping in the issuance of land certificates through the complete systematic land registration program at the Semarang City Land Office in 2023, seen from the legal culture based on the results of interviews with Dian Puri Winasto, SH, as Head of Section for Handling Problems and Land Control of Semarang City, is the weak legal awareness of the community regarding the importance of administrative requirements in the land registration process. With such a frame of mind and limited by time, considering that the PTSL program is an acceleration program, so that the inherent culture is the service of the officers who facilitate all matters.

3.2 Guarantee of Legal Certainty in Issuance of Land Certificates Through a Complete Systematic Land Registration Program That Overlaps at the Semarang City Land Office

Based on the provisions contained in Article 19 of the UUPA, land registration carried out in Indonesia is land registration in the framework of "rechts kadaster" namely land registration whose purpose is to provide legal certainty and legal protection to land rights holders, in the final process of land registration,

¹⁴ Lawrence M. Friedman, *Ibid.*, p. 9.

evidence is issued in the form of a Land Book and Land Certificate consisting of a copy of the Land Book and Measurement Letter. In order to provide legal certainty and legal protection for people's land rights fairly and evenly, and to encourage the growth of the country's economy in general and the people's economy in particular, and to immediately realize what is mandated by Article 19 of the UUPA.

The Complete Systematic Land Registration Program (PTSL) is not only stated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Registration but also in the Presidential Instruction of the Republic of Indonesia Number 2 of 2018 concerning the Acceleration of Complete Systematic Land Registration throughout the Territory of the Republic of Indonesia, as well as the Joint Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, Minister of Home Affairs, Minister of Villages, Development of Disadvantaged Regions and Transmigration Number 25/SKB/V/2017 Number 590-3167A of 2017 Number 34 of 2017 concerning Financing of Preparation for Systematic Land Registration.

PTSL is carried out to provide legal certainty for land rights holders and other parties who have interests in the land they control. Legal certainty of land ownership can be realized by issuing land certificates. The Basic Agrarian Law stipulates that the Government conducts land registration throughout the territory of the Republic of Indonesia which aims to guarantee legal certainty over land rights.

In connection with the above, Gustav Radbruch, in his book entitled "Einführung in die Legalwissenschaften", wrote that there are 3 (three) legal objectives, namely benefit (Generosity), justice (Gerechtigkeit), and certainty (Rechtssicherheit). The implementation of these three legal objectives must use the principle of priority.¹⁵

Legal certainty is an inseparable characteristic of law, especially for written legal norms. Law without certainty value will lose its meaning because it can no longer be used as a guideline for behavior for everyone. Certainty itself is called one of the objectives of law.

According to Gustav Radbruch, it can be said as a basic legal value, namely legal certainty. The principle of legal certainty in this article tries to understand how it correlates with legal positivism reasoning. Gustav Radbruch also mentioned that there are 4 (four) things that are the basis of the meaning of legal certainty, including:

- 1) Positive law is a law
- 2) Laws based on facts or established laws

¹⁵ Mario Julyano, and Aditya Yuli Sulistyawan, Op.Cit., pp. 13-22.

- 3) Facts must be formulated clearly, so as to avoid misunderstandings and be easy to implement.
- 4) Positive law cannot be easily changed.¹⁶

Legal certainty requires an effort to regulate law in legislation, made by an authorized and authoritative party, so that the rules become a legal aspect. This aspect can later guarantee legal certainty, that the law functions as a regulation that must be obeyed.

The descriptions of legal certainty according to Gustav Radbruch above, then it can be said that legal certainty actually contains several meanings, namely, there is clarity, does not cause multiple interpretations, does not cause contradictions, does not change, and can be implemented. So that an analysis can be made that:

First, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Registration actually seems to contain clarity, is not open to multiple interpretations, and can be implemented, but this regulation is a regulation on land registration that contradicts the previous regulation, namely Government Regulation Number 24 of 1997 concerning Land Registration Juncto Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. Although the PTSL Program aims to ensure legal certainty for land ownership rights holders, it should not contradict existing regulations.

Second, Apart from being contradictory, the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the Land Agency National Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Registration, also this regulation often changes. As this regulation has often been changed. Prior to this ministerial regulation, the applicable regulation was the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Implementing Provisions of Government Regulation Number 24 of 1997 concerning Land Registration as amended several times, most recently by the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Implementing Provisions of Government Regulation Number 24 of 1997 concerning Land Registration. This means that in order to realize legal certainty for the community, regulations should not be changed frequently.

Based on the description above, it can be seen that the validity of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete

¹⁶ Gustav Radbruch, 1961, *The First Fence In The Law Of The People*, Kohler Verlag, Stuttgart, p. 36.

Systematic Registration, which is contradictory and always changing, creates legal uncertainty in the land registration process, one of which is overlapping.

Although in reality the certificate obtained from land registration does not fully guarantee legal certainty and legal protection for the subject or object of the land, this is proven by the fact that in the community there are still many land problems or disputes for which land rights have been registered, in other words the land has a certificate.

The steps taken by the government are considered good in realizing the provision of legal certainty and legal protection for landowners, this is shown by the seriousness of the central government in continuing to update the regulations for accelerating land registration which are welcomed by local governments as officers who are directed by one procedure contained in the technical instructions for implementing the acceleration of complete systematic land registration. However, the government must continue to seek solutions and improve the land registration system in order to optimize the purpose of land registration, namely to provide a guarantee of legal certainty and genuine legal protection. The solution is a resolution through deliberation and consensus in line with the Pancasila principle, namely the fourth principle.

This mediation step is based on Article 24 Paragraph (9) Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Registration, instructs for settlement based on applicable laws and regulations. Overlapping land disputes at the Semarang City Land Office Settlement of land disputes using alternative dispute resolution mechanisms or Alternative Dispute Resolution (ADR) based on Article 1 number (10) of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, that Alternative Dispute Resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlement outside the court by means of consultation, negotiation, mediation, conciliation, or expert assessment.

Specifically, overlapping land disputes at the Semarang City Land Office are resolved through mediation as regulated in Article 43 Paragraph (1) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Settlement of Land Cases. Mediation is stated in Article 1 number (11) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Settlement of Land Cases, that mediation is Case Resolution method through negotiation process to reach an agreement carried out by the parties facilitated by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regional Office of the National Land Agency,

Land Office according to its authority and/or land mediator.

The mediation settlement mechanism can be implemented by and on the initiative of the Ministry, Regional Office, Land Office according to their authority and/or on the initiative of the disputing party; or individuals or institutions on the initiative of the disputing party. In principle, Mediation must be attended by the parties/principals. If the parties cannot attend due to health reasons and/or other legitimate reasons, Mediation can be represented by a power of attorney who is authorized to decide with the approval of the disputing party. If the parties have been invited 3 (three) times properly but do not attend, then Mediation is declared a failure.

In the implementation of Mediation, experts and/or related agencies may be present with the agreement of the parties. In the event that a peace agreement is reached through Mediation, it is stated in a peace deed and registered by the parties at the District Court in the jurisdiction of the land that is the object of the Case to obtain a peace decision. The implementation of the results of Mediation related to land administration is submitted to the Ministry, Regional Office, Land Office according to their authority by attaching a peace decision, peace deed; and data/documents regarding the land object of the Case.

In the event that Mediation does not produce an agreement and/or fails, the Ministry, Regional Office, Land Office according to their authority will make a decision on Case Settlement. The results of the Mediation are stated in the minutes of the Mediation Implementation containing the agreement and follow-up of the Mediation signed by the Official/head of the Settlement Team/Mediator. This mediation step is taken as a form of accountability from the Semarang City Land Office as an extension of the government to realize legal certainty of land ownership for the community.

4. Conclusion

The factors underlying the overlapping in the issuance of land certificates through the complete systematic land registration program at the Semarang City Land Office in 2023 can be seen from 3 angles, namely: First, legal substance, there are weaknesses in Article 22 and Article 24 Regulation of the Minister of ATR/Head of BPN RI Number 6 of 2014/2018. Article 22, there are weaknesses in terms of the strength of the evidence written statement regarding physical control of the land and in good faith, and witnessed by at least 2 witnesses; Article 24, in the case of limited space for the 14-day objection period, even though it meets the principle of publicity, it can be missed by anyone who has less access to information; Second, legal structure, that in the process of implementing the PTSL Program does not involve PPAT as the party authorized to make the deed, so its legal force as evidence is very weak. The involvement of the Licensed Cadastral Surveyor

Service Office as a Physical Task Force in measurement and mapping can include making a basic map of registration, determining land boundaries, and making a land map (PBT), the results are less in accordance with the standards set by the Land Office; and Third, legal culture ythat's itweak legal awareness among the public regarding the importance of administrative requirements in the land registration process. Guarantee of legal certainty in issuing land certificates through the Complete Systematic Land Registration Program which overlaps at the OfficeLandSemarang City, realized by taking mediation steps based on the provisionsNumber 30 of 1999 and Regulation of the Minister of ATR/Head of BPN RI Number 21 of 2020.

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