

Legal Implications of Overlapping Property Rights Certificates (Case Study of State Administrative Decision Number: 83/G/2023/PTUN.SMG)

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Abstract. *Overlapping land title certificates is a common problem in the Indonesian land system. Overlapping certificates arise when more than one certificate is issued for the same plot of land due to administrative errors or inconsistencies in physical and legal data. This problem indicates legal uncertainty regarding land ownership. This study aims to analyze the legal implications of overlapping land title certificates based on Decision Number 83/G/2023/PTUN.SMG. The research method used is a descriptive analytical legal case study approach. This approach is used to analyze in depth a case that has permanent legal force, namely Decision Number 83/G/2023/PTUN.SMG, to see how judges apply legal norms, interpret related provisions, and consider legal facts in resolving disputes over overlapping land title certificates. The theories used in this study are the theory of legal certainty and the theory of legal evidence. The results of this study indicate that the problem of overlapping land title certificates is still widespread in Indonesia. This situation raises doubts about the validity of ownership and often leads to legal disputes. Therefore, strengthening the land registration system, improving the accuracy of the land database, and harmonizing regulations and administrative oversight are necessary to ensure optimal legal certainty and protection of land rights.*

Keywords: *Certificate; Land; Overlapping; Ownership.*

1. Introduction

Human Rights: Land is a natural resource, a gift from God Almighty. It is the most basic human need, serving as a source of life and livelihood. Land and humans have an inseparable relationship from birth to death.¹ Land plays a vital role in

¹Sudjito, 1987, *Prona Mass Land Acquisition and Strategic Land Dispute Resolution*, 1st ed., Liberty,

human life, both economically, socially, and culturally. In society, land not only holds economic value but also holds significant social and cultural significance. The relationship between humans and land is essential because land is an inseparable part of human survival. This relationship is dynamic and constantly evolving with cultural changes and is influenced by social, political, and economic factors.

The sustainability of land in Indonesia is guaranteed in the Constitution of the Republic of Indonesia, namely in the 1945 Constitution of the Republic of Indonesia, Article 33 paragraph (3) which explains that: "The land and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." The government ratified Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) as a mandate from Article 33 paragraph (3) of the Constitution of the Republic of Indonesia. Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) is a law that regulates the basis and provisions for the control of ownership of national agrarian resources.

In Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) Article 19 paragraphs (1) and (2) explains that:

- 1) *To guarantee legal certainty, the Government carries out land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulations.*
- 2) *The registration referred to in paragraph (1) of this article includes:*
 - a. *land mapping and bookkeeping;*
 - b. *registration of land rights and transfer of these rights;*
 - c. *Providing letters of proof of rights, which act as a strong means of proof.*

This provision emphasizes that the government has a responsibility to guarantee legal certainty regarding community land ownership through a land registration system. This land registration includes the process of measuring and bookkeeping the land, recording each transfer of ownership rights, and issuing a certificate of title, which serves as valid and authentic proof of ownership. However, in practice, land registration often faces various obstacles, such as inaccurate measurement data, overlapping boundaries, and weak coordination between land agencies. This condition can lead to differences in physical and legal data, which ultimately has the potential to result in the issuance of two or more certificates for the same plot of land. Land is a subject that is quite vulnerable to ownership disputes, whether between individuals, individuals with legal entities, or even individuals with the government. One problem that frequently arises in the land sector is the issuance of land title certificates that overlap with other plots of land. It is not uncommon

to find cases where two (2) certificates are issued for the same plot of land, giving rise to complex and difficult-to-resolve issues. As a result, landowners whose ownership status is in dispute experience difficulties in managing and utilizing the land, due to the lack of certainty regarding the rightful owner of the land in question. This has caused public unrest because it is very detrimental, especially from an economic perspective. One of the main factors causing land conflicts is the increasing demand for land due to rapid population growth, while land availability remains fixed and cannot be increased.².

Land ownership disputes often end up in a legal resolution process through the State Administrative Court (PTUN). The PTUN has the authority to examine and decide disputes arising from state administrative decisions, including in the land sector, including cases of issuance of land title certificates suspected of being administratively flawed. One interesting case to study is Decision Number: 83/G/2023/PTUN.SMG, which concretely illustrates how the legal process works in resolving disputes resulting from overlapping land title certificates. This case highlights a gap between legal norms and the reality of the situation on the ground, specifically in Article 19 of the UUPA, which states that the government guarantees legal certainty of land ownership through land registration. However, in reality, there is still a lot of overlapping land ownership in Indonesia.

Based on this, the researcher conducted research to explain the problem and tried to develop solutions related to the problem through a thesis entitled "LEGAL IMPLICATIONS OF OVERLAPPING PROPERTY RIGHTS CERTIFICATES (CASE STUDY OF STATE ADMINISTRATIVE DECISION NUMBER: 83/G/2023/PTUN.SMG).

2. Research Methods

The approach used in this research is a descriptive analytical judicial case study. This approach is used to analyze in-depth a case that has permanent legal force, namely State Administrative Decision Number 83/G/2023/PTUN.SMG. Specifications This paper uses descriptive research specifications. Data collection was conducted through library research. Data analysis was prescriptive, providing arguments for the research results.

3. Results and Discussion

3.1. Legal Implications of Overlapping Land Ownership Certificates (Case Study of State Administrative Decision Number: 83/G/2023/PTUN.SMG)

The scope of agrarian law in the context of land law does not necessarily encompass all aspects of land in a physical or geological sense, but rather refers more to the legal aspects related to land rights. In this context, land is understood

²Sarjita, 2005, *Techniques & Strategies for Resolving Land Disputes*, Tugu Jogja Pustaka, Yogyakarta, p. 1

as a part of the earth's surface that has certain values and functions, especially in relation to ownership, control, utilization, and allocation for the benefit of the community or the state. Therefore, to prevent land issues that could develop into conflicts of interest within society, orderly regulation, control, and use of land are necessary. This entire mechanism is known as "land law," a set of legal norms that govern the relationship between humans and land and its use.³

Land in Indonesia is regulated by Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), namely:

- 1) Regulating and organizing the allocation, use, supply and maintenance of earth, water and space;
- 2) Determine and regulate legal relations between people and the earth, water and space;
- 3) Determine and regulate legal relationships between people and legal actions concerning earth, water and space.⁴

Land Registration is regulated in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration. Article 1 number 9 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration explains that: "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 and legal data, in the form of maps and lists, regarding land plots, aboveground space, underground space and apartment units, including the issuance of certificates of proof of rights for land plots, aboveground space, underground space for which rights already exist and ownership rights to apartment units and certain rights that burden them." Land registration is organized by the National Land Agency (BPN) as a non-departmental government agency that has authority in land affairs. The Land Office is a work unit of the National Land Agency (BPN) at the district or city level that carries out land registration activities within its administrative area. In carrying out these duties, the National Land Agency (BPN) acts through authorized public officials to register and record land rights in accordance with statutory provisions.⁵

Land registration is carried out through two methods: systematic land registration and sporadic land registration. Systematic land registration is carried out

³Heru Nugroho, 2002, *Agrarian Political Reform: Realizing the Empowerment of Land Rights*, Mandar Maju, Bandung, p. 99.

⁴Rizky Alexander Poy et al., *Non-Litigation Settlement of Overlapping Land Title Disputes by the Kupang Regency Land Office*, *UNES Law Review* Vol. 5, p. 3452

⁵Meita Djohan Oe, *Duties and Functions of the National Land Agency in Land Registration*, *Journal of Legal Studies*, Vol 1 No 1, p. 62

simultaneously in a specific area at the initiative of the government, while sporadic land registration is carried out at the request of individuals or legal entities individually. Both mechanisms are essentially directed towards achieving the same goal: obtaining a land title certificate as the highest legal evidence with strong evidentiary force.⁶ Every land title registration application submitted to the Land Office will be issued a title certificate according to the type of ownership. This certificate serves as authentic evidence that provides legal certainty for the landowner in using and managing the land.

The problem of overlapping certificates that is the focus of this research is the Semarang State Administrative Court Decision Number 83/G/2023/PTUN.SMG. This problem is a clear representation of flawed land administration that has serious legal implications for the parties. In this problem, the Plaintiff and Defendant are holders of Freehold Certificates with different certificate numbers. Both Freehold Certificates have been legally issued many years ago and have been regularly paid taxes. This problem began when the Plaintiff intended to sell his land which was based on Freehold Certificate Number 692/Muktiharjo Kidul Village, date of issuance April 28, 2000, Measurement Letter Number 193/Muktiharjo Kidul/1999 dated October 5, 1999, with an area of 200 m² (two hundred square meters), in the name of WL, located in Muktiharjo Kidul Village, Pedurungan District, Semarang City. As with general land sales procedures, the Plaintiff first checked the validity of the certificate at the Semarang City Land Office.

Based on the results of the inspection, it was discovered that the transfer of rights process could not be continued because there was an overlap with the disputed land, namely the Certificate of Ownership Number 09393/Muktiharjo Kidul Village, date of issuance June 11, 2019, Measurement Letter Number 01988/Muktiharjo Kidul/2019 dated June 11, 2019, with an area of 193 m² (one hundred and ninety-three square meters), in the name of RB, located in the same village. According to the statement of the owner of the Certificate of Ownership Number 09393, the land was obtained through a sale and purchase transaction from the previous owner who still had a Letter C right. Furthermore, in 2018 the land was submitted for registration through the Complete Systematic Land Registration Program (PTSL), and in 2019 the Certificate of Ownership Number 09393/Muktiharjo Kidul was issued.

Following up on this issue, the Semarang City Land Office invited the parties to mediate regarding the overlapping certificates. However, the mediation did not produce an agreement. Therefore, the Plaintiff took legal action by filing a lawsuit with the Clerk of the Semarang State Administrative Court to sue the Semarang

⁶Devita Tiara Maharani and Novina Sri Indiraharti, Legal Analysis of Legal Protection and Legal Certainty of Ownership Certificate Holders Regarding Overlapping Land Ownership (Case Study of Decision No. 18/G/2014/PTUN.BJM), Trisakti University, West Jakarta, p. 3

City Land Office for the issuance of overlapping certificates, and to request the cancellation of the Freehold Certificate Number 09393/Muktiharjo Kidul Village. During the course of the case, the owner of the Freehold Certificate Number 09393/Muktiharjo Kidul Village then filed a request to be included as a party in the case and was accepted as an Intervening Defendant.

In cases of overlapping land titles, landholders face a devastating situation as their rights suddenly become uncertain. The land title, which should be the strongest evidence of land ownership, becomes a source of dispute, requiring re-verification, through field inspections, re-measurements, summoning boundary witnesses, and lengthy litigation in the State Administrative Court. Furthermore, the land title could potentially be revoked by a court decision, even though the landowner has owned the land for years and acquired it through methods that comply with Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) and its derivative regulations. Psychological and social losses also arise due to the disruption of landowners' ability to exercise and defend their rights.⁷

The problem of overlapping land titles is one of the most chronic agrarian issues in Indonesia, both in conflicts between citizens and corporations, between citizens, and between citizens and state institutions. Land title certificates, as a product of land registration, which should be an instrument of legal certainty as stipulated in Article 19 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), in practice often become a source of new problems due to the emergence of duplicate certificates for the same land object. This also has a structural impact on the national land system. Public trust in the state is declining. If certificates issued by the state cannot provide legal protection, the state is considered to have failed to carry out its constitutional function. This loss of trust can affect land transactions, hinder investment, reduce interest in development, and increase horizontal conflict between citizens.⁸ Annual reports from the Indonesian Ombudsman show that land matters consistently rank among the top three most frequently complained-about sectors. According to the 2023 Indonesian Ombudsman's annual report, the Indonesian Ombudsman received 1,190 reports with agrarian/land matters, out of a total of 8,458 reports received in 2023. Furthermore, through the second quarter of 2024, the Indonesian Ombudsman recorded 979 reports with agrarian/land matters.⁹

Thus, the legal implications of overlapping certificates in Decision Number 83/G/2023/PTUN.SMG are extensive. Not only does it eliminate legal certainty for landowners, but it also has the potential to erase ownership rights held and

⁷A. Harsono, "Tenurial Certainty," *Journal of Law & Development*, 2012.

⁸Edi Setiadi, "Agrarian Conflict and Its Social Impact," *Jurnal Masyarakat Indonesia*, 2019.

⁹Hapiz Jasman, Land Conflicts: A Product of Maladministration in Public Service Delivery, <https://ombudsman.go.id/perwakilan/news/r/pwkmedia--konflik-pertanahan-produk-malaadministrasi-penyelenggaraan-pelayanan-publik--->, accessed on November 22, 2025, at 17.56 WIB.

controlled for years due to the possibility of certificate cancellation. Furthermore, overlapping certificates cause material and immaterial losses, weaken public trust in the national land system, open up the opportunity for lawsuits against land officials, increase horizontal conflicts, and become an obstacle to economic growth and investment. This situation confirms that the implementation of land registration as mandated by Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) has not been running optimally.

3.2. The Judge's Considerations Regarding Overlapping Land Ownership Certificates in State Administrative Decision Number: 83/G/2023/PTUN.SMG

A court decision must explain the judge's considerations in deciding a case, because these considerations will later become the reasons for creating justice in the decision. This is explained in Article 14 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power, namely: "In a deliberation session, each judge is required to convey written considerations or opinions regarding the case being examined and this becomes an inseparable part of the decision." The legal basis for a judge to issue a decision in a civil case must be based on statutory provisions, evidence presented by the parties, and an objective assessment of the evidentiary strength of the evidence. Based on these factors, the judge issued a decision recorded in State Administrative Decision Number: 83/G/2023/PTUN.SMG, with the following ruling:

Exception:

1) Declaring that the Defendant's and Defendant II's Intervention exceptions are not accepted in their entirety;

Main Points:

1) Granting the Plaintiff's lawsuit in its entirety;

2) Declaring the cancellation of Land Ownership Certificate Number 09393/Muktiharjo Kidul Village, Issue Date 11-06-2019 Measurement Letter Number: 01988/Muktiharjo Kidul/2019, Date 11-06-2019, Area 193 m2 in the name of RB, located in Muktiharjo Kidul Village, Pedurungan District, Semarang City;

3) Require the Defendant to revoke the Land Ownership Certificate Number 09393/Muktiharjo Kidul Village, Issue Date 11-06 2019 Measurement Letter Number: 01988/Muktiharjo Kidul/2019, Date 11-06 Supreme Court of the Republic of Indonesia 2019, Area 193 m2 in the name of RB, located in Muktiharjo Kidul Village, Pedurungan District, Semarang City;

4) Ordering the Defendant and the Second Intervening Defendant to pay court costs jointly and severally in the amount of Rp. 1,900,000 (one million nine hundred thousand rupiah).

The Panel of Judges in its legal considerations in the State Administrative Court Decision Number 83/G/2023/PTUN.SMG provided an assessment of the Defendant's response (Semarang City Land Office) and Intervening Defendant II (owner of the Land Ownership Certificate Number 09393/Muktiharjo Kidul Village) and then provided considerations regarding the main points of the problem, as described below:

1) Exception regarding absolute competence (Semarang State Administrative Court does not have the authority to examine, try and decide the a quo case);

That the Defendant and Defendant II argued in their answer which essentially stated that the substance of the Plaintiff's lawsuit was a lawsuit concerning a dispute over control and ownership of land whose authority lies with the District Court and is not the authority of the State Administrative Court. Then the panel of judges in their considerations answered that the formal legal limitations regarding State Administrative disputes are regulated in the provisions of Article 1 number 10 of Law of the Republic of Indonesia Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts, which reads "State administrative disputes are disputes that arise in the field of state administration between individuals or civil legal entities with state administrative bodies or officials, both at the central and regional levels, as a result of the issuance of state administrative decisions, including personnel disputes based on applicable laws and regulations." that by referring to the provisions of Article 1 number 10 of the Republic of Indonesia Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts, it is known that the absolute competence of the State Administrative Courts is to examine, decide and resolve State Administrative disputes, where a dispute can be categorized as a State Administrative dispute if it must fulfill at least 3 (three) elements cumulatively as follows:

- a. The dispute arises between a person or civil legal entity and a state administrative body or official (legal subject);
- b. The dispute arose as a result of the issuance of a state administrative decision (the object of the dispute);
- c. The dispute arose in the field of state administration (nature of the dispute).

For this reason, the panel of judges is of the opinion that this dispute is a state administrative dispute that has fulfilled all the elements in the provisions of Article 1 number 10 of Law Number 51 of 2009 concerning the Second Amendment to Law of the Republic of Indonesia Number 5 of 1986 concerning State Administrative Courts.

2) The main case of the State Administrative Court Decision Number 83/G/2023/PTUN.SMG

The main case in the State Administrative Decision Number 83/G/2023/PTUN.SMG is related to the overlapping of Ownership Certificates between Ownership Certificate Number 09393/Muktiharjo Kidul Village, issued on June 11, 2019 in the name of RB and Ownership Certificate Number 692/Muktiharjo Kidul Village, issued on April 28, 2000 in the name of WL. In its legal considerations, the panel of judges assessed that in conducting this test, it started from "Has the Defendant (Semarang City Land Office) in issuing the object of the overlapping dispute violated the applicable laws and regulations and the General Principles of Good Governance or is it the opposite?". In this case, the panel provided considerations in 3 (three) aspects, namely, the aspect of authority, procedure and substance of the issuance of the State Administrative Decision or in this case the Ownership Certificate of the object of the dispute.

a) Aspects of authority

The object of the dispute in the State Administrative Decision Number: 83/G/2023/PTUN.SMG is a Certificate of Ownership issued in 2019, therefore the laws and regulations used in examining, deciding and resolving administrative legal issues regarding the object of the dispute are laws and regulations regarding land issued before or in that year. Considering that Based on the provisions of Article 1 number 23, Article 5 and Article 6 paragraph (1) of the Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration, from the aspect of the authority to issue the object of the dispute over the Certificate of Ownership there are no legal defects and are in accordance with the laws and regulations referred to above.

b) Procedural and Substantive Aspects

The plaintiff in his lawsuit stated that the Defendant (Semarang City Land Office) in issuing the disputed object had violated Article 32 paragraph (1) and paragraph (2) of the Republic of Indonesia Government Regulation Number 24 of 1997 concerning Land Registration and the general principles of good governance. The panel of judges in examining the core of the dispute above, the panel of judges used the test tools in the form of statutory regulations, namely the Republic of Indonesia Government Regulation Number 24 of 1997 concerning Land Registration and 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 (PTSL). The PTSL program requires a base map. With the existence of a base map for registration of land plots registered in sporadic land registration, their location can be known in relation to other land plots in an area, so that the occurrence of multiple certificates for one land plot can be avoided.

Based on the existing facts, the provisions of the legislation, it can be seen that there has been an overlap in the land plots issued as disputed objects, where

before the issuance of the disputed objects in 2019, the existence of the Certificate of Ownership Number: 692/Muktiharjo Kidul Village dated 28-04-2000 was real and still valid. The Defendant at least processed the Plaintiff's certificate of ownership before issuing the disputed object, this was because the Defendant was not careful and not careful in preparing and/or presenting the registration base map for land registration purposes, this was proven by the existence of evidence in the form of application files (warkah) for the Certificate of Ownership Number: 692/Muktiharjo Kidul Village and the disputed object.

That administrative defects according to the panel of judges are deficiencies or defects due to the issuance of a decree not going through established procedures so that it also affects the substance of the issuance of the decree. The panel of judges is of the opinion that the issuance of the a quo disputed object contains administrative errors, this is because the a quo disputed object was issued on land that has been certified in this case the Land Ownership Certificate Number: 692/Muktiharjo Kidul Village dated 28-04-2000. Considering, that based on the provisions of the laws and regulations as described above, the panel of judges is of the opinion that the Defendant in issuing the Land Ownership Certificate Number: 09393/Muktiharjo Kidul Village, date of issuance 11-06-2019 Measurement Letter Number: 01988/Muktiharjo Kidul/2019, Date 11-06-2019, has violated the applicable laws and regulations, because in its issuance there are administrative defects. That based on all the considerations mentioned above, the panel of judges declared void the Certificate of Ownership Number 09393/Muktiharjo Kidul Village, Issue Date 11-06-2019 Measurement Letter Number: 01988/Muktiharjo Kidul/2019, Date 11-06-2019, Area 193 Supreme Court of the Republic of Indonesia m2 in the name of RB, located in Muktiharjo Kidul Village, Pedurungan District, Semarang City, and required the Defendant to revoke the disputed object.

Based on the description of the main case in the PTUN Decision Number 83/G/2023/PTUN.SMG, it can be concluded that although the issuance of the Certificate of Ownership Number 09393/Muktiharjo Kidul Village in 2019 was carried out by an authorized official in accordance with the provisions of Government Regulation Number 24 of 1997, procedurally and substantially the issuance of the certificate was proven to contain administrative defects because it was issued on a plot of land that previously had a Certificate of Ownership Number 692/Muktiharjo Kidul Village in 2000 which was still valid and valid. The Defendant's inaccuracy in preparing and checking the registration base map and legal data resulted in overlapping land rights, so the Panel of Judges considered that the Defendant's actions were contrary to laws and regulations and general principles of good governance. Therefore, the Panel of Judges declared the Certificate of Ownership Number 09393 of 2019 null and void and ordered the Defendant to revoke the certificate.

4. Conclusion

Land practice policies still face serious problems with the continued prevalence of overlapping certificates, as stated in State Administrative Decision Number 83/G/2023/PTUN.SMG. In the Decision, the Semarang City Land Office was proven to have committed an administrative error by issuing a new Certificate of Ownership when the land object was still owned by another person. This condition not only causes losses for landowners but also demonstrates the state's failure to provide legal certainty. Based on an analysis of the judge's considerations in State Administrative Decision Number 83/G/2023/PTUN.SMG, it can be concluded that the overlapping Certificate of Ownership that occurred between Certificate of Ownership Number 09393/Muktiharjo Kidul issued in 2019 and Certificate of Ownership Number 692/Muktiharjo Kidul issued in 2000 was a direct result of an administrative error in the land registration process carried out by the Semarang City Land Office. Although the issuance of the 2019 certificate was carried out by an authorized official, the panel of judges found that the procedures and substance of the issuance did not comply with the provisions of Government Regulation Number 24 of 1997 or the general principles of good governance.

Recommendations for addressing overlapping land rights in Indonesia include strengthening a digital-based land registration system that connects land offices, village/sub-district governments, and related agencies to reduce duplication and data input errors. Optimizing the use of mapping technology (e.g., geodetic GPS), certifying surveyors, and conducting regular audits to ensure accuracy and compliance with measurement procedures. Implementing reforms to ensure transparency, integrity, and professionalism of government officials, as well as strengthening internal oversight and enforcement of sanctions to prevent abuse of authority, is crucial.

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