

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

The Conformity of Use Rights Over State Land and the Boundaries of Authority For Physical Control by Regional Governments Against Citizen Freehold Titles

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Abstract. *Overlapping certificates between government institutions and citizens represent a complex issue in Indonesian land law. This study aims to analyze the conformity of the legal standing of regional government Use Rights (HP) adjacent to citizens' Freehold Titles (SHM), as well as the boundaries of authority for physical control over disputed regional assets. This normative juridical study employs statutory, conceptual, and case approaches, focusing on the land dispute in Tubanan Village between the Regional Government of Jepara (HP No. 14) and a citizen with the initials AHS (SHM No. 454). The results indicate that the issuance of the Jepara Regional Government's Use Right does not meet the conformity of land law because it was issued over a land object already encumbered by a valid, earlier-issued SHM, meaning third-party grant documents do not automatically invalidate existing civil rights. Furthermore, unilateral physical enforcement by the Regional Government using Satpol PP personnel constitutes an abuse of authority (detournement de pouvoir). Under administrative and agrarian law, the real execution of physical control over disputed regional assets is restricted by the absolute authority of judicial institutions through legally binding decisions, rendering unilateral actions an unlawful act by the government (onrechtmatige overheidsdaad). This study recommends resolving the dispute through reconciliatory mediation or judicial mechanisms to ensure legal certainty.*

Keywords: *Certificates; Government; Overlapping; Physical; Regional.*

1. Introduction

In the structure of Indonesian land law, land registration serves as the primary instrument to

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

achieve administrative order, legal certainty, and legal protection for land rights holders¹. Based on Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA), the Freehold Title (Sertifikat Hak Milik/SHM) is positioned as the strongest, most complete, and hereditary type of right, providing absolute civil guarantees to its owner. On the other hand, for government institutions or regional governments, the acquisition of land through Use Rights (Sertifikat Hak Pakai/HP) over State Land is regulated to support the execution of general governance duties and public facility development². Ideally, the acquisition and recording of Regional Property (Barang Milik Daerah/BMD) based on Use Rights must fulfill the *clear and clean* principle, meaning that the requested land object must be completely free from control or pre-existing civil rights of other parties. The Regional Government, as the representation of state authority, is obligated to uphold the General Principles of Good Corporate Governance (AAUPB), particularly the principles of thoroughness and legal certainty, by respecting the civil rights of its citizens before taking any legal action.

However, empirical evidence shows a failure in the land registration system, leading to overlapping certificate disputes (*overlapping*). This real phenomenon occurred in a land conflict in Tubanan Village, Kembang District, Jepara Regency. The Regional Government of Jepara Regency claims a plot of land covering an area of 41,430 M² as a regional asset based on Use Right Certificate (HP) Number 14, obtained through a grant mechanism from a third party (PT CJP) in 2015. On the other hand, a citizen with the initials AHS controls the exact same land object based on a Freehold Title Certificate (SHM) Number 454 under the name of Sri Wulan covering an area of 20.237 M², which has been officially and legally issued since 1982. This real condition further escalated when the Jepara Regional Government prioritized preventive physical actions consisting of launching consecutive warning letters and deploying Satpol PP, military (TNI), and police (Polri) personnel to secure the location and demand the demolition of the citizen's building under the pretext of enforcing regional property management regulations, despite the National Land Agency (BPN) stating that both certificates remain active administratively³.

Prior research on overlapping certificate disputes generally focuses on malregistration within the National Land Agency (BPN) or resolution through the cancellation of certificates at the

¹ Permadi, Iwan. "Electronic title certificate as legal evidence: The land registration system and the quest for legal certainty in Indonesia." *Digital Evidence and Electronic Signature Law Review* (2023): 47-61.

² Hardi, Imelda, Kurnia Warman, and Hengki Andora. "Penguasaan tanah sebagai barang milik daerah oleh Pemerintah Kota Padang." *UNES Law Review* 6, no. 1 (2023): 1419-1432.

³ https://jateng.bpk.go.id/wp-content/uploads/2022/09/2022_0927_KLI_JT_Kabupaten-Jepara_OL_Lingkarjateng.pdf

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

State Administrative Court (PTUN)⁴. These studies often view government institutions as equal to ordinary private legal subjects in overlapping disputes⁵. The gap in this study lies in the neglect of the boundaries of public authority inherently attached to government institutions when a dispute occurs. When a dual ownership dispute arising from a single village document (Leter C/Girik) has not been annulled by a court, the object legally holds a *status quo* position. However, an anomaly exists where regional asset management regulations (Government Regulation Number 27 of 2014) are frequently interpreted by regional governments as a legitimation to conduct unilateral land evictions without a court order. This creates a normative clash between the executorial authority of Satpol PP in securing regional assets and the protection of the civil rights of citizens holding earlier-issued SHM.

The novelty of this study lies in the construction of legal boundaries constraining the right of physical control by regional governments over state land under Use Rights (Hak Pakai) that overlap with active Freehold Titles (SHM) owned by citizens. Rather than merely debating the formal validity of overlapping certificates at the upstream registration phase, this research critically examines the validity of governmental actions (*bestuurshandling*) at the downstream phase when unilaterally enforcing control over disputed land. Based on this novel framework, the research questions are focused on two primary legal issues: First, how is the conformity of the legal standing of a regional government's Use Right Certificate evaluated when confronted with a citizen's Freehold Title that was issued earlier over the exact same land object? Second, to what extent are the boundaries of authority defined for regional governments in exercising physical control and securing regional assets whose ownership status remains entangled in an overlapping dispute?. Consequently, the primary objective of this study is to formulate the limitative boundaries of physical control over regional assets to prevent abuses of power (*detournement de pouvoir*) that manifest as unlawful acts by the government (*onrechtmatige overheidsdaad*). The urgency of this research is paramount to provide juridical guarantees that a government institution's Use Right cannot be utilized as a coercive tool to negate the civil property rights of the public protected by law before a final and binding court decision (*inkracht*) is established.

⁴ Wiranto, Ahmad, Patricia Audrey Ruslijanto, and Herlindah Herlindah. "The Implementation of Cancellation of Land Title Certificates Due to Administrative Defects After the Enactment of Government Regulation No 18 of 2021: A Case Study of the Land Office in Malang Regency." *Path of Science* 10, no. 7 (2024): 5001-5008.

⁵ Bagchi, Aditi. "Private Law and Public Discourse." *Ariz. L. Rev.* 65 (2023): 541.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

2. Research Methods

This study employs a normative juridical research method, which conceptualizes law as a coherent system of written norms comprising legal principles, dogmas, statutory regulations, and legal doctrines⁶. To address the formulation of the problem comprehensively, three distinct analytical approaches are utilized: the statutory approach (*statute approach*) to scrutinize agrarian laws and regional property management regulations; the conceptual approach (*conceptual approach*) to dissect principles of land law and the boundaries of public administrative authority; and the case approach (*case approach*) to analyze the practical normative implications of overlapping land titles⁷. The case analysis specifically examines the land dispute in Tubanan Village between the Regional Government of Jepara Regency, as the holder of Use Right Certificate Number 14, and a citizen holding Freehold Title Certificate Number 454.

The data utilized in this study consists strictly of secondary data, which is categorized into three types of legal materials. Primary legal materials comprise authoritative and binding regulations, including the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), Government Regulation Number 24 of 1997 concerning Land Registration, and Government Regulation Number 27 of 2014 in conjunction with Government Regulation Number 28 of 2020 concerning the Management of State/Regional Property. Secondary legal materials, which provide further clarification on the primary sources, consist of agrarian law textbooks, legal journals, expert opinions (doctrines), and the comprehensive chronological report of the dispute published by *Lingkarjateng*. Tertiary legal materials, including legal dictionaries and the Great Dictionary of the Indonesian Language (KBBI), are employed to provide definitions and clarifications of technical terminology⁸.

The technique for collecting legal materials is carried out through library research (*studi kepustakaan*) by systematically inventorying, classifying, and reviewing relevant legal documents. Once collected, the legal materials are examined using qualitative analysis based on deductive logic, drawing conclusions from general normative frameworks to specific legal realities. Through this analytical process, the study identifies the legal standing of the overlapping active certificates. Subsequently, the unilateral enforcement and physical security

⁶ Bhat, P. Ishwara. *Idea and methods of legal research*. Oxford University Press, 2019.

⁷ Satory, Agus, Yenny Febrianty, Widiyanti Rahayu Budi Astuti, and Aditya Fajri Kurnia Pradana. "Metode Penelitian Hukum." *Penerbit Tahta Media* (2024).

⁸ Rifa'i, Iman Jalaludin. "Ruang Lingkup Metode Penelitian Hukum." *Metodologi Penelitian Hukum* 6 (2023).

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

measures carried out by the regional government and the Satpol PP are normatively evaluated against the boundaries of executorial authority. Ultimately, this research provides a legal prescription regarding how the regional government should implement its Use Rights without negating the pre-existing civil rights of citizens

3. Results and Discussion

3.1. The Conformity of the Legal Standing of the Jepara Regional Government's Use Right Certificate vs the Citizen's Freehold Title (SHM)

To examine the conformity of the legal standing between Use Right Certificate (Hak Pakai/HP) Number 14 under the name of the Regional Government of Jepara Regency and Freehold Title Certificate (Sertifikat Hak Milik/SHM) Number 454 under the name of a citizen (AHS), the analysis must be anchored in the nature of land rights under Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA). Article 20 of the UUPA stipulates that a Freehold Title (SHM) is a hereditary, strongest, and fullest right that a person can possess over land. The characteristics of being "strongest" and "fullest" signify that an SHM holds the highest civil standing and provides absolute legal certainty to its holder against any external claims, provided that the certificate was issued through lawful procedures⁹. Conversely, the Use Right regulated under Article 41 of the UUPA possesses diametric characteristics. A Use Right is the authority to use and/or collect products from land controlled directly by the State or land owned by another party¹⁰. For government institutions or regional governments, Use Rights over State Land are granted with specific spatial and functional limitations namely to support core institutional duties, public administration, or public infrastructure development and are bound by a specific duration or for as long as the land is actively utilized for official government purposes¹¹.

The agrarian conflict taking place in Tubanan Village, Kembang District, Jepara Regency, vividly illustrates a sharp juridical clash resulting from the phenomenon of overlapping certificates (*overlapping*) over the exact same plot of land. The Regional Government of Jepara Regency

⁹ Lestari, Desi Kurnia. "STATUS HUKUM PEMEGANG HAK MILIK ATAS SATUAN RUMAH SUSUN DENGAN SERTIFIKASI HAK GUNA BANGUNAN YANG TERBIT DIATAS HAK PENGELOLAAN SETELAH BERAKHIRNYA HAK GUNA BANGUNAN." *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* (2016).

¹⁰ Sappe, Suryani, Adonia Ivone Latturete, and Novyta Uktolseja. "Hak Pakai Atas Tanah Hak Milik dan Penyelesaian Sengketa." *Batulis Civil Law Review* 2, no. 1 (2021): 78-92.

¹¹ Pacellengi, Lucky Fidel Andi. "Kedudukan Hukum Sertifikat Hak Pakai Tanah Pemerintah Daerah Atas Penggunaan Fasilitas Olahraga Di Kota Kendari= The Legal Position of Local Government Land Rights to Use Certificate for the Use of Sports Facilities in Kendari City." PhD diss., Universitas Hasanuddin, 2024.

The Conformity of Use Rights Over State ...
(Susila Esdarwati)

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

claims the 41,430 M² plot of land as a legitimate part of its Regional Property (Barang Milik Daerah/BMD). This claim is based on Use Right Certificate Number 14, which was recorded into the regional asset inventory after receiving a grant from a third party, PT CJP, through a Handover Minute (Berita Acara Serah Terima/BAST) Number 600/2514 on April 15, 2015. On the other hand, a citizen with the initials AHS controls the physical layout of the same land object based on Freehold Title Certificate Number 454 under the name of Sri Wulan, covering an area of 20,237 M². Chronologically, the citizen's SHM was officially issued by the Land Office in 1982, whereas the Jepara Regional Government's Use Right was only formally issued in 2017. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) of Jepara Regency itself has administratively confirmed that both transactional documents are concurrently active and officially recorded. This overlapping condition triggers extreme land law uncertainty, as two rights with mutually negating legal characters coexist on a single expanse of land.

From the perspective of land registration law, the issuance of the Use Right Certificate under the name of the Jepara Regional Government in 2017 strongly indicates a substantive juridical defect at the upstream registration phase¹². Pursuant to Government Regulation Number 24 of 1997 concerning Land Registration, any issuance of a new land title certificate must adhere to the prudent principle and the fulfillment of the *clear and clean* principle. This implies that before the Land Office issues a Use Right to a government entity, the requested state land object must be verified as completely free from any pre-existing civil rights belonging to the public or other parties. The fact that both certificates remain active demonstrates a systemic failure in tracing the historical land registry records (*warkah tanah*). The land authority (BPN Jepara) indicated that both documents originate from the same traditional village land registry document, namely a Girik or Leter C entry. In national agrarian law doctrine, there is an absolute principle that a single Leter C number or Village Land Book entry can only be utilized and recorded once as the basis for converting and issuing a registered land title¹³. Once that Leter C entry was converted into SHM Number 454 in 1982, the status of that customary land by law transformed into private civil freehold property under full legal protection.

Consequently, the land agency's action in processing and issuing Use Right Number 14 in 2017 based on the same Leter C entry or over a land object that had already been explicitly registered

¹² Isnaini, Hatta, and Hendry Dwicahyo Wanda. "Prinsip Kehati-Hatian Pejabat Pembuat Akta Tanah dalam Peralihan Tanah yang Belum Bersertifikat." *Jurnal Hukum Ius Quia Iustum* 24, no. 3 (2017): 467-487.

¹³ Rohmatika, Fina, Malik Fahad, and Sumriyah Sumriyah. "Kekuatan Hukum Letter C Sebagai Alat Bukti Hak Kepemilikan Atas Tanah." *Khirani: Jurnal Pendidikan Anak Usia Dini* 1, no. 2 (2023): 64-76.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

as an SHM since 1982 constitutes a clear act of land malregistration. This malregistration yields an administrative defect because it completely ignores the pre-existing rights of another party that were established earlier¹⁴. The Jepara Regional Government argues that they acquired the land lawfully through a grant mechanism from PT CJP, where Article 1 of the BAST states that the second party (PT CJP) guarantees that the granted object comprising the New River Segment and its adjacent land is free from any legal disputes or issues. The Regional Government operates under the assumption that their administrative management conforms to Government Regulation Number 27 of 2014 concerning the Management of State/Regional Property. However, in both civil and land law, there is a universal legal maxim that cannot be bypassed: *nemo plus iuris ad alium transferre potest quam ipse habet*, meaning no one can transfer or assign a right to another party greater than the right they actually possess¹⁵.

If PT CJP acquired or controlled the land through a flawed procurement process, or if the object they granted stood upon an active freehold title owned by a citizen, then by law, the guarantee within the BAST is rendered void ab initio and lacks the legal weight to invalidate the citizen's SHM. A private civil grant document executed between a third party and the Regional Government in 2015 does not possess public coercive power to annul or override the statutory status of an SHM dating back to 1982. Members of Commission A of the Jepara Regional Legislative Council (DPRD) also provided a critical note that the local Village Government was completely excluded from the past asset transfer or grant process. The absence of the Tubanan Village Government's involvement in tracing historical transactions, sales, and the recording of land books (*tumpi/Leter C*) rendered the Regional Government's administrative asset acquisition imprecise and legally obscure.

The conformity of the legal standing of a regional government's Use Right is only deemed valid and legally binding if its acquisition process included a proper relinquishment of rights or a land procurement mechanism that settled pre-existing civil titles. Given that the citizen's position (AHS) is supported by the oldest authentic evidence (the 1982 SHM), according to the principle

¹⁴ Jeis, Tamami Dirga, Alpi Sahari, and Ahmad Fauzi. "Perlindungan Hukum Terhadap Pemegang Sertipikat Hak Atas Tanah Ganda Yang Dikeluarkan Oleh Kantor Pertanahan Nasional Dalam Objek Yang Sama (Analisis Putusan Mahkamah Agung Nomor 1820 K/Pdt/2017)." *Iuris Studia: Jurnal Kajian Hukum* 2, no. 1 (2021): 64-73.

¹⁵ Yonatan, Yonatan, and Rosa Agustina. "The Feud of Nemo Plus Iuris Ad Alium Transferre Potest Quam Ipse Habet and Nemo Dat Quad Non Habet (Nemo Dat Rule) Legal Principles Against The Legal Principle of Good Faith (Bona Fides) in Indonesian Courts." *Indonesia Law Review* 12, no. 2 (2022): 6.

The Conformity of Use Rights Over State ...
(Susila Esdarwati)

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

of *prior tempore potior iure* (he who is first in time is preferred in law)¹⁶, the citizen's legal standing as a freehold title holder is normatively superior and must be legally shielded against a government Use Right issued later¹⁷. The unilateral claim by the Jepara Regional Government asserting that the land automatically and absolutely belongs to the local government simply because it is recorded in the Inventory Asset Card (Kartu Inventaris Barang/KIB) of the BPKAD is a flawed logic in administrative law. A KIB entry is merely an internal accounting administrative system for regional government assets and holds no civil property law implications before the actual legality of the underlying land title is proven. Thus, the standing of Use Right Certificate Number 14 held by the Jepara Regional Government over the disputed object in Tubanan Village fails to establish conformity with the national land law order, materially containing land registration defects that can serve as a solid ground for certificate cancellation in a court of law.

3.2. The Boundaries of Authority for Physical Control Over Disputed Regional Assets with Overlapping Certificates

An analysis of the physical security measures carried out by the Regional Government of Jepara Regency over the disputed land in Tubanan Village requires a sharp dissection from the perspective of Public Administrative Law, particularly concerning the doctrines of the source, validity, and boundaries of governmental authority (*bestuursbevoegdheid*)¹⁸. Within the concept of a democratic state based on the rule of law (*rechtsstaat*)¹⁹, every material or legal action carried out by the authorities (*bestuurshandling*) must rely upon the principle of legality. This principle dictates that the government possesses no inherent authority; any power it exercises must originate from a valid statutory attribution, delegation, or mandate²⁰. In the context of managing Regional Property (Barang Milik Daerah/BMD), the Regional Government of Jepara Regency bases its land enforcement actions on the provisions of Government

¹⁶ Rasyaki Putri Adim, Azmi Fendri, Delfiyanti, "Penyelesaian Sengketa Jual Beli Antara PT. Mitra Mata Jakarta Pusat Dengan PT. Bank Mandiri (Studi Putusan Pengadilan Tinggi Jakarta Nomor 305 PDT 2020 PT.DKI.JKT)". 2026. *UNES Law Review* 8 (2): 629-37.

¹⁷ Gunanegara, S. H. *Hak Negara & Warga Negara Atas Tanah: Di Berbagai Negara*. Vol. 1. Gunanegara, 2020.

¹⁸ Zamroni, Mohammad. "Konsep kewenangan dalam perspektif hukum perdata." *Mimbar Hukum* 36 (2024).

¹⁹ Arrahma, Faradila. "IMPLEMENTASI KONSEP NEGARA HUKUM DAN DEMOKRASI DALAM SISTEM KETETANEGARAAN INDONESIA: STUDI TENTANG SUPREMASI HUKUM DAN KEDAULATAN RAKYAT." *Jurnal Media Akademik (JMA)* 3, no. 6 (2025).

²⁰ Nur, M. Arya. "Kebijakan Publik dan Legalitas Tindakan Administrasi Pemerintahan: Suatu Pendekatan Yuridis-Normatif." *Jurnal Atribusi Hukum* 1, no. 1 (2026): 45-54.

The Conformity of Use Rights Over State ...
(Susila Esdarwati)

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Regulation Number 27 of 2014 concerning the Management of State/Regional Property. This regulation indeed mandates the Regional Head, as the Holder of BMD Management Power, to take asset security measures encompassing three main dimensions: administrative, legal, and physical security²¹.

However, a fatal failure that frequently occurs in the bureaucratic practice of asset enforcement is a simplified interpretation of the phrase "physical security." Regional governments often interpret physical security as an independent executorial right that grants absolute legality for regional apparatuses to conduct land evictions, fencing, demolitions, and to deploy the Regional Police Force (Satpol PP) unilaterally in the field. Herein lies a profound normative clash²². The physical security regulated under administrative asset management law is designed to be applied exclusively to land or building objects whose legal ownership status is already *clear and clean* meaning the asset materially and absolutely belongs to the region and is not encumbered by the valid civil rights of any other party. When the land object claimed as a regional asset is found to be in a state of overlapping ownership (*overlapping*) with an active Freehold Title (SHM) held by a citizen, the juridical character of the object instantly transforms into a *status quo* object.

This *status quo* status carries very strict legal consequences: neither party, whether an individual citizen or the Regional Government as a public authority, is permitted to take unilateral actions that alter the physical layout or evict the other party from the disputed land before a final and binding legal decision is established. The actions of the Jepara Regional Government in prioritizing a repressive approach in the field by launching consecutive warning letters, installing ownership claim signs, and deploying integrated personnel from Satpol PP, the military (TNI), and the police (Polri) to physically seize the land clearly illustrate an abuse or excess of power granted by law (*detournement de pouvoir*²³). The concept of *detournement de pouvoir* occurs when authorities use their public power (in this case, the authority to secure assets) for a purpose other than that for which the power was granted, or use it by violating

²¹ Mujahidin, Mujahidin. "Implementasi Peraturan Pemerintah Nomor 27 Tahun 2014 Tentang Pengelolaan Barang Milik Negara/Daerah Di Kabupaten Penajam Paser Utara." *Lex Suprema Jurnal Ilmu Hukum* 2, no. 1 (2020).

²² MASDORO, MASDORO. "PERANAN SATUAN BRIGADE MOBILE DALAM PERLINDUNGAN MASYARAKAT TERKAIT PENGUSURAN RUMAH LIAR DI POLDA KEPRI." PhD diss., Universitas Islam Sultan Agung Semarang, 2025.

²³ Verde Aldea, José. "Quelques particularités du détournement de pouvoir en droit administratif espagnol actuel." *International Review of Administrative Sciences* 26, no. 4 (1960): 364-369.

The Conformity of Use Rights Over State ...
(Susila Esdarwati)

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

boundaries regulated in other equal or higher statutory laws²⁴.

The Regional Government must clearly understand that the enforcement mechanisms of spatial planning or asset management attached to Satpol PP are strictly restricted by the General Principles of Good Governance (AAUPB)²⁵, particularly the principle of thoroughness (*zorgvuldigheidsbeginself*) and the principle of legal certainty (*rechtszekerheidsbeginself*). While Satpol PP possesses the authority to enforce Regional Regulations (Perda) and maintain public order²⁶, it is completely devoid of the juridical competence to execute land that is subject to a pure civil ownership dispute. Under the prevailing legal order in Indonesia, the physical eviction or actual execution over a disputed land object is an absolute competence and authority of the judiciary²⁷, either through the District Court in the realm of civil land disputes or the State Administrative Court (PTUN) regarding the validity of administrative decisions (certificates). An execution can only be enforced based on an executorial title contained within a court decision that has acquired permanent legal force (*inkracht van gewijsde*), led directly by the Chairman of the District Court through an execution order and carried out by court bailiffs²⁸.

When a regional government bypasses these judicial boundaries and acts as both "judge and executioner" over its own claimed land, such an action materially turns into an Unlawful Act by the Government, historically and doctrinally known as *onrechtmatige overheidsdaad* (OOD)²⁹. The element of unlawfulness in the Jepara Regional Government's actions is fulfilled because the forced physical eviction clearly violates the subjective rights of a citizen (AHS) protected by the Constitution and the UUPA through an SHM that was issued much earlier (in 1982). The

²⁴ Jiwantara, Firzhal Arzhi, Siti Hasanah, and Lukman Lukman. "Konsep penyalahgunaan wewenang dalam perspektif hukum administrasi di Indonesia." *Jurnal Indonesia Sosial Sains* 3, no. 2 (2022): 468918.

²⁵ Anugrah, Firman. "Kewenangan Satuan Polisi Pamong Praja Dalam Pengamanan Aset Daerah Pemerintah Provinsi Sulawesi Selatan= Authority of the Civil Service Police Unit in Securing Regional Assets of the Government of South Sulawesi Province." PhD diss., Universitas Hasanuddin, 2022.

²⁶ Suhendi, Dedy. "Satuan Polisi Pamong Praja sebagai organisasi perangkat daerah yang menjaga wibawa pemerintah dengan menegakan peraturan daerah." *Jurnal Tatapamong* (2021): 157-175.

²⁷ Setiawan, Gilang, Shailawa Ramb Madani, Brina Saskya Paramita, and Lintang Yudhantaka. "Pelaksanaan Eksekusi Riil terhadap Tanah dan Bangunan dalam Penyelesaian Perkara Perdata (Studi Penetapan Ketua Pengadilan Negeri Madiun Kelas 1B Nomor 02/Pen. Pdt. Eks/2021/PN Mad)." *Sultan Jurisprudence: Jurnal Riset Ilmu Hukum* 3, no. 1 (2023): 1-17.

²⁸ Taluke, Asdian. "Eksekusi Terhadap Perkara Perdata yang Telah Mempunyai Kekuatan Hukum Tetap (Ingkraah) Atas Perintah Hakim Dibawah Pimpinan Ketua Pengadilan Negeri." *Lex Privatum* 1, no. 4 (2013): 151060.

²⁹ Bimasakti, Muhammad Adiguna. "Onrechtmatig Overheidsdaad Oleh Pemerintah Dari Sudut Pandang Undang-Undang Administrasi Pemerintahan/Act Against the Law by the Government from the View Point of the Law of Government Administration." *Jurnal Hukum Peratun* 1, no. 2 (2018): 265-286.

The Conformity of Use Rights Over State ...
(Susila Esdarwati)

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

government cannot hide behind the pretext of protecting regional assets to legitimize actions that injure the fundamental rights of its own people. The lack of involvement of the Village Government in tracing past transaction histories, as highlighted by Commission A of the Jepara Regional Legislative Council (DPRD)³⁰, reinforces the argument that the past administrative process of the Regional Government contained procedural defects. Consequently, it is highly unethical and unlawful if the consequences of internal governmental administrative errors are forced upon a citizen through unilateral physical eviction.

Therefore, the limitative boundaries of the authority for physical control over disputed regional assets with overlapping certificates must be formulated as follows: **First**, physical security measures by a regional government must stop and be confined strictly to administrative securing (internal recording) and legal securing (filing a lawsuit in court or reporting to the BPN) once the fact of an *overlapping* with a citizen's valid freehold title is identified. **Second**, regional governments are strictly prohibited from conducting executorial physical enforcement (forced land eviction) without holding a final court order commanding such an eviction. **Third**, if a regional government firmly believes that its grant documents or Use Rights are correct, it bears a moral and legal obligation as a civilized public institution to test that validity through a civil lawsuit to invalidate the citizen's title in a court of law, rather than using the coercive power of security apparatuses to suppress citizens in the field. Through the assertion of these limitative boundaries of administrative law, the equality before the law between the state and its citizens can be upheld, while preventing administrative anarchy in land management that harms the constitutional rights of the public.

4. Conclusion

The Legal Standing of Overlapping Certificates: The issuance of Use Right Certificate Number 14 (in 2017) under the name of the Regional Government of Jepara Regency fails to establish conformity with the national land law order and contains a substantive juridical defect at the upstream registration phase. Based on the Basic Agrarian Law (UUPA) and the universal maxim of *prior tempore potior iure*, the civil legal standing of the citizen holding Freehold Title Certificate (SHM) Number 454 officially active since 1982 is normatively superior and must receive absolute legal protection. The private grant instrument executed via the Handover Minute (BAST) by a third party lacks the legal capacity to annul or override a valid, pre-existing freehold title, as no party can transfer a greater right than what they actually possess (*nemo plus iuris ad alium transferre potest quam ipse habet*). The Boundaries of Physical Control

³⁰ https://jateng.bpk.go.id/wp-content/uploads/2022/09/2022_0927_KLI_JT_Kabupaten-Jepara_OL_Lingkarjateng.pdf

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Authority: The authority of a regional government to conduct physical security enforcement over regional assets under Government Regulation Number 27 of 2014 is strictly confined by public administrative law when the underlying land object is subject to an active ownership dispute (*status quo*). The actions of the Jepara Regional Government in executing forced land clearance and unilateral physical enforcement using Satpol PP personnel without a legally binding court order (*inkracht*) constitute an abuse and excess of authority (*detournement de pouvoir*). Normatively, the actual execution and physical eviction over disputed titles remain the absolute competence of the judiciary; hence, coercive unilateral enforcement by the authorities is categorized as an unlawful act by the government (*onrechtmatige overheidsdaad*).

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