

Legal Position of Land Ownership Certificates and Government Responsibility for Land Ownership Through a Complete Systematic Land Registration Program

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Abstract. *This study investigates the legal status of land title certificates and government responsibilities related to land ownership through the Complete Systematic Land Registration Program (PTSL) using a library methodology. This approach involves analyzing legal documents, related literature, and government policies related to PTSL and land ownership. The formulation of the problem in this study is how the legal status of the Land Title Certificate (SHM) as legal evidence of land ownership in accordance with applicable laws and regulations and how the legal protection is against Decision Decision number 743 / PDT.G / 2022 / PN.JKT.SEL concerning the Cancellation of SHM number 11142 / BINTARO / 2019 and its legal consequences. The library methodology allows for a comprehensive understanding of the legal issues and government responsibilities in the context of PTSL, taking into account the historical, philosophical, and socio-cultural aspects that influence the implementation of the program. Through this approach, it is hoped that in-depth insights can be obtained into the role of land title certificates in ensuring legal certainty of land and the government's responsibility in facilitating sustainable and fair land ownership for the community.*

Keywords: Certificate; Government; Land; Ownership.

1. Introduction

In accordance with the provisions of Article 33 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, state control over the earth, water, and natural resources contained therein is aimed at achieving the prosperity of the people. as much as possible for the welfare of the people. Therefore, all things in Indonesia are oriented towards the welfare of its people and the achievement of national goals. Land refers to a surface that has boundaries and is subject to direct or indirect control by the state, in accordance with the provisions of Article 28D Paragraph 1 of the 1945 Constitution. The formation of the Basic Agrarian Law (UUPA) leads to the implementation of national agrarian laws that provide legal guarantees for everyone and facilitate the use of land, water, and natural

resources as desired. UUPA is related to handling fundamental agrarian problems. However, in its implementation, this law requires the requirements of various laws, regulations, and other related legal provisions.¹

In terms of applicable land regulations, the UUPA is a major advancement in ensuring justice and legal certainty, order, and welfare of citizens of the Unitary State of the Republic of Indonesia. The development of land conditions in Indonesia today is an important element in community life. For example, in terms of planning buildings, building businesses, building residences, and other things that require people to be involved so that individual land ownership can be considered legally valid with the existence of regulations that protect it. On the other hand, the need for land continues to increase. As a result, because the population increases but the availability of land remains limited, the comparison between the population and the available land becomes unbalanced. Therefore, this creates individual interests that have the potential to cause land disputes.²

In accordance with PP No. 24 of 1997, if a certificate has been valid for five years and no party objects, additional certificates cannot be issued on the same land. However, land disputes still often arise where one of the causes is that this country uses the principle of negative public.³The meaning of this negative public principle is that a land certificate is not the only means of evidence.⁴Everyone has the right to question the validity of their land certificate, and the certificate can be cancelled by the court.⁵This can cause problems because it provides an opportunity for someone who has a land certificate to lose their rights. For example, someone has bought land with the correct procedure but has to lose their rights because someone else is suing them.

An institution that meets the requirements to guarantee legal certainty in the form of land title certificates and services for matters related to the implementation of land management is very necessary. Especially matters related to the management of land ownership and rights and regulations in order to build a safe and just community life. The National Land Agency (BPN) is an institution that is specifically tasked with handling these matters. Legal certainty is related to land issues and government policies in the implementation of the Complete Systematic Land Registration (PTSL) program because there is often an overlap between old certificates and new certificates that are only known after

¹ Kiki Rizki et al., 2020, Legal Protection of Land Ownership Certificate Holders with the Issuance of Dual Certificates Based on the Principle of Legal Certainty, *Aktualita* Vol 21, No. 1 pp. 688–689.

² Prasetyo Aryo Dewandaru, Nanik Tri Hastuti, and Fifiana Wisnaeni, 2020 Settlement of Land Disputes Regarding Duplicate Certificates at the National Land Agency, *Notarius* Vol 13, No. 1, p. 156.

³ Fandri Entiman Nae, 2013, Legal Certainty Regarding Ownership Rights to Land That Has Been Certified. *Lex Privatum* Vol 1, No. 5, pp. 54–63.

⁴ AP Protection, 2009, Land Registration in Indonesia, *Mandar Maju*, Bandung, p. 14.

⁵ Fandri Entiman Nae, *Op. cit.*, p. 58.

the old data is updated and the PTSL program ends. When a person who owns land wants to carry out certain legal acts on his land, the issuance of overlapping certificates often occurs.⁶

This condition creates ambiguity that violates the principle of legal certainty and can lead to disputes. Especially if the landowner does not carry out legal acts that can change ownership, but ownership changes or overlaps with a new certificate due to legal acts carried out by someone else. This is like the case of the Haji Nimun family land dispute, which is one example of a dispute that occurred. Their land was almost controlled by someone else because there were certain parties with the initials OR and BT who claimed to have owned the land. They have certificates that show ownership of the Haji Nimun family's land. Even though they never sold the land to OR and BR. However, they finally won the lawsuit at the South Jakarta District Court (PN).

Based on decision 743/Pdt.G/2022/PN.Jkt.Sel and the final and binding certificate W10.U3/2420/HK.02/2/2023, the South Jakarta District Court stated that the certificate of ownership (SHM) number 11142/Bintaro/2019 in the names of OR and BT was invalid and had no legal force.⁷ Although Haji Nimun's family won the lawsuit and their land was reclaimed, this incident proves that Indonesian legal regulations still have loopholes. If the applicable law does not have loopholes that can be misused, then the land certificate for Haji Nimun's family should not have changed its name. Because the name changed, this means that there is a legal problem that must be examined. Several things that need to be considered in this problem are the emergence of certificates in the names of OR and BT. In fact, Haji Ninum's family never sold the land.

A potential cause of having a certificate in someone else's name is the issuance of a duplicate certificate. For example, Haji Nimun had a previously existing certificate, but there was manipulation that created a new land certificate so that there was a duplicate certificate. Another cause is the role of certain individuals who created a certificate of ownership for land that still had the status of a girik or in the form of a letter as proof of ownership rights. The land owned by Haji Nimun's family experienced the second cause. The family felt it was strange that land that was still in the form of a girik could be transferred to a new owner with

⁶ Wardani, Rodliyah, and Munandar, 2023, Legal Consequences of the Issuance of Overlapping Certificates in the Complete Systematic Land Registration Program (Case Study of the West Lombok Regency Land Office), Vol 4, No. 1, pp. 98–99.

⁷ Annas Furqon Hakim and Acos aka Abdul Qodir, Win Lawsuit, Haji Nimun's Family Relieved to be Able to Keep Rp. 44 Billion Land on the Bank of Pesanggrahan River - Tribunjakarta.Com, March 20, 2023, <https://jakarta.tribunnews.com/2023/03/20/menang-gugatan-keluarga-haji-nimun-lega-bisa-pertahankan-tanah-rp-44-m-di-pinggir-kali-pesanggrahan>.

the status of a Certificate of Ownership (SHM). It is suspected that the BPN was involved in the issuance of the SHM.⁸

In the case of the Haji Nimun land dispute, the status of the land is girik status. Regardless of whether OR and BT manipulated it or not, the judge's decision can be interpreted as an attempt to recognize the authority of the girik land certificate rather than the SHM. The implication is that people will think that the SHM can be annulled with a power of attorney or girik. In fact, the Haji Nimun case where Haji Nimun's family won the lawsuit was not because the status of the power of attorney or girik could defeat the SHM, but because the issuance of the SHM itself was made illegally. However, the public could interpret that a power of attorney or girik could annul the SHM. The impact is that there will be certain parties who do not accept ownership of land with a SHM where the land has been sold legally and not against the law. For example, someone knowingly sells their land to someone.

When strong evidence can still be challenged and annulled by another power of attorney, the question that arises is how to provide legal clarity regarding the power of the SHM as valid evidence.

This raises the question of how the SHM could be issued in the names of the two defendants. The panel of judges finally stated that the defendants had committed an unlawful act. The panel of judges also stated that the SHM was invalid and had no legal force as a certificate. The defendants were also legally sentenced to cancel the SHM issued in the names of Octa Rahardjo and Bunadi Tjatnika. The decision of the panel of judges raises the question of what legal considerations support the considerations of the panel of judges. The basis for this consideration is that regardless of how the SHM was issued, the SHM remains valid evidence. This means that it is not surprising that this question arises. On the other hand, the considerations of the panel of judges in Decision Number 743/Pdt.G/2022/PN South Jakarta did not mention the legal basis for the cancellation of the SHM that had been issued.

The panel of judges only stated several things, namely that the defendants were not present at the trial, the disputed object had never been sold, the history of the certificate issuance was incorrect, and the defendant did not deny the existing evidence. However, it did not indicate at all what kind of laws and regulations function as a legal basis to justify the reasoning of the panel of judges in annulling the authority of the SHM as valid evidence. Therefore, this study aims to study the legal basis of the panel of judges' decision. In addition, the case of Haji Nimun raises questions regarding how the government's accountability

⁸ Congratulations Saragih, Winning in Court, Hj Nimun Successfully Defends Land on the Banks of the Pesanggrahan River, March 21, 2023, <https://mediaindonesia.com/megapolitan/567504/menang-di-pengadilan-hj-nimun-berhasil-pertahankan-lahan-di-tepi-kali-pesanggrahan>.

must be implemented so that the rights of the community to their land can be properly maintained. Thus, referring to all these problems, the research study entitled Legal Position of Certificates of Ownership and Government Responsibility for Land Ownership Through a Complete Systematic Land Registration Program.

2. Research methods

The research approach method used in this thesis is a normative legal research method because this study examines laws and regulations relevant to the land system in Indonesia. The specifications of this study use analytical descriptive which is useful for describing data and theories in order to answer research questions. Analytical descriptive research is a research approach that combines descriptive and analytical elements. This study aims to describe a phenomenon or event, while simultaneously analyzing the relationship between variables or factors involved. In analytical descriptive research, researchers do not only focus on the description or general picture of a particular situation or phenomenon, but also analyze and interpret the existing data.⁹

Data sources come from primary data and secondary data. Primary data is data taken from primary sources, namely through observation, interviews, and questionnaires.¹⁰ Meanwhile, secondary data is data obtained from books, literature, and articles.¹¹ Data collection methods can be observation, interviews, and documents.¹² In short, data analysis can be done by involving data condensation, data presentation, and drawing conclusions:¹³

3. Results and Discussion

3.1 Legal Position of the Certificate of Ownership (SHM) as Legal Evidence of Land Ownership in Accordance with Applicable Laws and Regulations.

Certificates in the Basic Agrarian Law (UUPA) play a very important role in ensuring legal certainty over land ownership rights in Indonesia. As legal evidence of land ownership rights, certificates are issued with the aim of providing legal certainty to land owners and parties involved in land transactions. In the context of certificate issuance, the National Land Agency (BPN) has a

⁹ Muannif Ridwan, Bahrul Ulum, and Fauzi Muhammad, 2021, The Importance of Applying Literature Review in Scientific Research, Masohi Journal, Vol. 2, No. 1, Pg. 44.

¹⁰ Edi Suryadi, Deni Darmawan, and Ajang Mulyadi, 2019, Communication Research Methods with a Quantitative Approach, PT Remaja Rosdakarya, p. 177.

¹¹ Alif Ulfa, 2021, The Impact of the Merger of Three Islamic Banks in Indonesia, Scientific Journal of Islamic Economics Vol. 7, no. 2, p. 1101.

¹² Mulyadi, Basuki, and Prabowo, 2019, Qualitative Research Methods and Mixed Methods: The Latest Perspectives for Social Sciences, Humanities and Culture, Rajawali press, Depok.

¹³ Matthew B. Miles, A. Michael Huberman, and Johnny Saldana 2014, Qualitative Data Analysis: A Methods Sourcebook, Sage Publications, Inc.

central role as an institution responsible for the land registration process and certificate issuance.¹⁴

In the UUPA, the land registration system adopted is a negative publication system that contains positive elements.¹⁵ This concept refers to the principle that land registration is carried out by implementing the principle of negative publication, which means that anything that is not officially registered is considered invalid. However, in a positive context, land registration also means that officially registered documents can be used as a strong basis for proving ownership of the land rights.

With the existence of a negative publication system that contains positive elements, the issuance of certificates by the BPN becomes very important. The certificate is the final result of the land registration process that reflects the official status of land ownership by its owner. The existence of this certificate not only provides legal certainty for land owners, but also facilitates the land transaction process and protects the rights of land owners from disputes or lawsuits.

Issuance of certificates is an important step in realizing legal certainty over land ownership rights in Indonesia. Through certificates, people can obtain strong legal protection and support economic and social development in various regions. Therefore, there needs to be commitment and cooperation between various parties to increase public access to land certificates and strengthen land institutions:

- 1) Certificate as a proof of rights that is valid as a strong evidence, not as an absolute evidence. Strong here means the characteristic of a negative publication system.
- 2) The land registration system uses a rights registration system, not a deed registration system. The rights registration system is a characteristic of a positive publication system.
- 3) The state does not guarantee the truth of the physical data and legal data listed in the certificate. This is a characteristic of the negative publication system.

Land title certificates are legal instruments that play a vital role in ensuring legal certainty for land rights holders in Indonesia. The concept of legal certainty is covered in various laws and regulations, including Government Regulation No. 24 of 1997 concerning Land Registration. In this regulation, the explanation related

¹⁴Tobing, GHS Lumban, 1983, Regulations on the Position of Notary, Jakarta: Erlangga.

¹⁵ Desi Apriani and Arifin Bur, 2021, Legal Certainty and Legal Protection in the Land Registration Publication System in Indonesia," *Jurnal Bina Mulia Hukum* 5, no. 2 pp. 220–239.

to the meaning of strong evidence illustrates the importance of certificates as proof of rights that have high legal force.

Land ownership certificates are regulated in Government Regulation No. 24 of 1997 as authentic documents containing physical and legal data related to land rights. This document provides legal certainty to land rights holders by recognizing the existence and validity of their ownership rights.¹⁶.

Land title certificates play a very important role in providing legal certainty for land title holders in Indonesia. Through the land registration process carried out in accordance with applicable provisions, land title certificates can be a strong means of proof before the law, as well as providing effective protection for the rights of land owners. Therefore, the government and the community need to work together to strengthen the land registration system and increase legal awareness in the community in order to achieve the objectives mandated in the laws and regulations.¹⁷:

- 1) to provide legal certainty and protection to holders of land plots, apartment units and other registered rights so that they can easily prove themselves as the holders of the rights in question;
- 2) to provide information to interested parties, including the Government, so that they can easily obtain the data required to carry out legal acts regarding registered land plots and apartment units;
- 3) to ensure orderly land administration.

Constitutional Court Decision Number 12/PUU-XIX/201 in the judicial review of Article 23 paragraph (1) of the Basic Agrarian Law (UUPA) highlights the importance of legal certainty in land ownership rights, especially ownership rights. The Constitutional Court stated that every legal act involving the transfer or encumbrance of land rights is invalid if it is not registered with the authorized agency in accordance with the processes and procedures determined by statutory regulations.¹⁸.

The approach used in the Constitutional Court Decision emphasizes the importance of land rights registration as an absolute requirement to obtain legal

¹⁶Abdulkadir Muhammad, 2011, Indonesian Civil Procedure Law, Citra Aditya Bakti, Bandung, page 119.

¹⁷Ade Maman Suherman, J. Satrio, 2010, Legal Explanation Regarding Age Limits, National Legal Reform Program, Jakarta, p. 6

¹⁸Otje Salman. S. 2012, Philosophy of Law. Refika Aditama, Third Printing, Bandung.

certainty. This is done as a step to avoid ambiguity or uncertainty regarding land rights ownership which can result in conflict and disputes in the future.¹⁹.

With the requirement of land registration, the government has a strong legal basis to ensure that land ownership is officially and legally recognized. This registration process also serves as a mechanism to protect the rights of land owners from unauthorized claims or demands.

The Basic Agrarian Law (UUPA) stipulates that the government is responsible for registering land throughout the territory of the Republic of Indonesia. The main purpose of this land registration is to ensure legal certainty over rights related to land, such as ownership rights, building use rights, business use rights, and other rights.

By obtaining a land title certificate through the registration process, the land title holder has strong evidence of ownership of the land. This certificate is legally recognized and can be used as evidence in various transactions, including buying and selling, granting mortgages, and transferring other land ownership rights.

The importance of land title certificates as strong evidence in court ensures that the judicial process can be carried out efficiently and fairly. By having a land title certificate, the party filing a land ownership claim can strengthen their argument and avoid confusion or doubt in determining the judge's decision.

In terms of correcting land title certificates, the authority to make changes is not the court, but the National Land Agency (BPN). BPN is responsible for issuing and managing land title certificates, so it has the authority to make changes if errors or discrepancies are found in the certificate.

The process of correcting a land title certificate is carried out by submitting an application for a certificate change by the injured party to the BPN. This application must be accompanied by a court decision stating that there is an error in the land title certificate.

The explanation of the certificate as a strong but not absolute or perfect evidence according to the provisions of the Basic Agrarian Law (UUPA) and Government Regulation Number 10 of 1961 concerning Land Registration, as well as Government Regulation Number 24 of 1997 concerning Amendments to PP Number 10 1961, underlines the importance of legal policy in handling land title certificates. This shows that land title certificates, although important documents and have legal force, are not absolute or flawless.

If there is a defect or inaccuracy in the data listed in the land title certificate, the court has the authority to decide to cancel the certificate. However, the

¹⁹Telly Sumbu, 2011, *General Dictionary of Politics and Law*, first printing, Media Prima Aksara, Jakarta.

cancellation of the certificate by the State Administrative Court (PTUN) judge must be based on strong evidence regarding the defective legal basis in the issuance of the certificate, both formally and materially.

In practice, the cancellation of a certificate by a PTUN judge is a serious step and must be based on a strong legal basis. This is to prevent abuse of power or injustice in handling land ownership cases. The court must ensure that every action taken in relation to land title certificates has gone through a fair and transparent process.

Thus, the involvement of the court in handling land title certificates is an integral part of the legal system that functions to protect the rights of land owners and ensure legal certainty in land ownership. The cancellation of land title certificates by PTUN judges must be carried out with wisdom and caution, taking into account all available evidence and arguments. This aims to ensure that the decision taken is the best for all parties involved and in accordance with the principles of legal justice.

Government Regulation Number 24 of 1997 concerning Land Registration has an important role in addressing the weaknesses of the negative publication system in land registration. One of the steps taken to overcome this problem is to strengthen the institution of "rechtverweking" known in customary law, which is legally recognized through Article 32 of the Government Regulation. This article reflects an effort to create a mechanism that ensures legal certainty for land certificate holders while providing protection for legitimate land ownership.

However, it is important to note that this "rechtverweking" mechanism is not absolute and must meet the requirements set out in Government Regulation Number 24 of 1997. Land certificate holders must be able to prove that the land has been obtained in good faith and has actually controlled it, and has gone through a five-year period without any written objections or lawsuits in court. Article 32 Paragraph (2) of Government Regulation Number 24 of 1997 provides a strong legal basis for land certificate holders to defend their ownership rights more firmly, while also providing protection for the stability and legal certainty of land ownership in Indonesia.

Article 32 Paragraph (2) of Government Regulation Number 24 of 1997 strengthens the role of certificates as a strong means of proof in the context of land ownership. With this provision, land title certificates become a vital instrument in strengthening the ownership rights of a person or legal entity over the land they own. This article provides strong legal certainty for land certificate holders, while also providing protection for legitimate and good faith land ownership. The main objective of land registration is to guarantee legal certainty in the land sector. Although the publication system used is a negative publication system, where registration is carried out without any active announcement to the

public, this does not reduce the practical meaning of the legal certainty produced by land certificates. On the contrary, the existence of a land title certificate provides strong guarantees for the land ownership rights owned.

The provisions of Article 32 Paragraph (2) of PP No. 24 of 1997 also underline the importance of the principle of balanced protection in the context of land ownership. Protection is given not only to parties who own land and control it in good faith, but also to parties who acquire land in good faith and strengthen their ownership rights through land registration in accordance with applicable provisions.

Overall, Article 32 Paragraph (2) of PP No. 24 of 1997 plays an important role in maintaining legal certainty and stability in land ownership. This provision creates a solid legal basis for land certificate holders, while still paying attention to the principle of balanced protection for all parties involved in land ownership and control.

The negative principle in the land registration system is one of the important principles in efforts to create legal certainty in the land sector. Although limited to only five years, this principle is considered the best step in land registration in Indonesia. This is reflected in the provisions of Article 32 Paragraph (2) of Government Regulation Number 24 of 1997, which stipulates that the negative publication system is valid for five years after the certificate is issued.

The change from a negative to a positive publication system is a reflection of the government's efforts to provide stronger protection for legitimate land ownership rights. With a certificate that has been registered for five years and the certificate holder has actually controlled the land, the existence of the land becomes more secure and easier to maintain.

Status Land Rights Not Subject to UUPA

According to Article 9 of Government Regulation Number 24 of 1997 concerning Land Registration, the following can be objects of land registration: 1. Plots of land owned with Ownership Rights, Cultivation Rights, Building Rights and Usage Rights; 2. Land Management Rights; 3. Waqf Land; 4. Ownership Rights for Apartment Units; 5. Mortgage Rights; 6. State Land. However, a fact shows that in society there are still Eigendom Rights, Opstal Rights, Erfpacht Rights and the rights of indigenous people or bumi putera who are subject to Customary Law which do not have written evidence, which are owned by local residents called customary land, for example, Ulayat Land Rights, Customary Land, Yasan Land, Gogolan Land and others. Conversion of former land rights is one of the instruments to fulfill the principle of legal unification through Law Number 5 of 1960. Regulation of the Minister of Land and Agrarian Affairs (PMPA) Number 2 of 1962 regulates provisions regarding the affirmation of conversion and registration of former Indonesian land rights normatively. The conversion

regulation is an implementation of the transitional provisions of Law Number 5 of 1960. With the enactment of national agrarian law (UUPA), for lands with western rights and lands with customary rights, in order to enter the UUPA system, it must be resolved through a conversion institution. Specifically for lands subject to Customary Law but not registered in the conversion provisions as land that can be converted to a land right according to the provisions of the UUPA, but the land is recognized as customary rights, then an effort is taken to "Confirmation of Rights" which is submitted to the Head of the local Land Registration Office followed by preliminary evidence such as tax evidence, a letter of sale and purchase made before the UUPA came into effect and a letter confirming a person's rights and also explaining that the land is for housing or for agriculture and information on the citizenship of the person concerned. In the UUPA there are 3 (three) types of conversion: 1.) Conversion of land rights, originating from western land rights, 2.) Conversion of land rights, originating from Indonesian rights, 3.) Conversion of land rights, originating from former Swapraja land.

A person whose land registration will issue a certificate of proof of rights issued by the BPN. With this certificate, a person can prove himself as the legitimate holder of land rights and can provide legal certainty and legal protection for the holder of rights and his land as intended by the purpose of land registration as regulated in Article 3 PP 24/1997 and Article 2 paragraph (2) of Permen ART/BPN 6/2018 concerning Complete Systematic Land Registration. Second, repressive legal protection, namely a form of legal protection that is more directed towards efforts to resolve disputes. Regarding land ownership rights that do not yet have a certificate, they still receive legal protection if they obtain the land in good faith. The importance of proof of land rights is especially when registering the land and the land is to be transferred such as buying and selling. In the case of initial land registration/the process of issuing certificates of ownership of land originating from customary lands such as SKT, whether carried out systematically or sporadically, the implementation procedure is carried out by means of Recognition of Rights/Confirmation of Rights, as regulated in the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration.

Furthermore, Article 9 paragraph (2) number 2 letter (a) PMNA/Ka. BPN No. 9 of 1999 clearly states that one of the requirements for processing an application for land ownership rights is to include a legal basis as basic evidence of control, either in the form of a certificate, girik, plot letter, letters of evidence of release of rights and settlement of land and houses and/or those that have been purchased from the government, court decisions, PPAT deeds, deeds of release of rights, and other letters of evidence of land acquisition. Legal certainty regarding Land Certificates as the basis for evidence of registration of Land Rights

Certificates provides convenience for the public who wish to register Land Certificates with the Land Office. If the Land Certificate does not have a Letter C book in the relevant Sub-district, the Land Certificate can be processed for registration as basic evidence of registration of the Land Rights Certificate, on condition that the Sub-district Head provides information that there is no Letter C book in the Sub-district (vide attached), or no other evidence is found, the Land Office can process the registration of the Customary Land Rights by referring to Article 24 Paragraph (2) of Government Regulation Number 24 of 1997, concerning Land Registration. With this convenience, it can provide benefits, strong evidence of ownership is the Land Rights Certificate unless proven otherwise.

Recognition and respect for the traditional rights of the people to land subject to customary law are clearly regulated in the 1945 Constitution Article 18 B paragraph (2) which states "The State recognizes and respects the customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law." Clearly, the Constitution of the Republic of Indonesia expressly recognizes and respects the rights that apply in the Motherland of Indonesia. Land Certificates as the basis for proof of registration of Land Rights have legal certainty. Land Certificates that are registered have strong evidence, namely Land Rights Certificates, through the *rechtverwerking* institution, land that has been certified for 5 years since the certificate was issued, no party can sue or sue the land. This is explained in Article 32 Paragraph (2) of Government Regulation Number 24 of 1997. With this *Rechtverwerking* institution, it can provide legal certainty and legal protection as one of the objectives of land registration.

Before the UUPA came into effect, records were made to determine the areas of land or yards and trees that had been given to certain people, accompanied by the recording of the names and owners of each. This recording was intended to determine the share of each owner of the land in the planned general tax, as well as to resolve issues regarding boundaries arising from land owners with each other or between land owners and the government at that time. The meaning of proof of rights according to the Regulation of the Minister of Agriculture and Agrarian Affairs No. 2/1962 is:

Article 20 paragraph (2) of the UUPA stipulates that Ownership Rights can be transferred and assigned. Transferred means that Ownership Rights are transferred from one person to another due to a legal event, namely the death of the Ownership Rights holder. Transferred Ownership Rights mean that Ownership Rights are transferred from one person to another due to a legal act, namely through buying and selling, bartering and giving.

The strongest proof of land rights is a certificate. In the certificate it can be seen who has the right to a certain area of land, which measurement letter/situation drawing is contained in the certificate. To obtain a certificate, land registration must be carried out. Land registration is very important because it guarantees legal certainty and legal protection and is carried out for the benefit of the community and government.

3.2 Legal Protection against Decision Number 743/PDT.G/2022/PN.JKT.SEL concerning Cancellation of SHM Number 11142/BINTARO/2019 and its Legal Consequences

Decision Number 743/PDT.G/2022/PN.JKT.SEL issued by the South Jakarta District Court is a legal decision that decides the cancellation of the Certificate of Ownership (SHM) number 11142/BINTARO/2019. This decision has various legal consequences that need to be considered²⁰.

That the intent and purpose of the Plaintiff's lawsuit is essentially that the Plaintiffs claim to be the legal owners of the plot of land Plot 101 with an area of 2000 M2 (two thousand square meters) Block DIII Number Kohir 4.02.10.05.08.042 in the name of H. Asmat Bin H. Nimun which is a grant from H. Nimun Bin H. Midan and Girik 1340 with an area of 2464 M2 (two thousand four hundred and sixty four square meters) Number Kohir 4.02.10.05.08.042 in the name of H. Nimun Bin H. Midan but suddenly it was ridden by the Defendants to obtain a certificate of ownership (SHM) Number 11142/Bintaro/2019 issued on June 17, 2019, Measurement Letter Number 01776 of 2019 dated June 17, 2019 with an area of 3,694 m2 so that harming the Plaintiffs and the Defendant's actions constitute an unlawful act.

Considering that because the time period and formalities of the summons according to law have been carried out legally and properly, the Defendant who did not appear in court and did not order another person to appear as his attorney, must be declared absent; Considering that after the Panel of Judges read, studied and observed, it turned out that the Plaintiffs' lawsuit was quite reasonable and did not conflict with the law, therefore it can be the basis for examination in this case.

That the main point of dispute between the Plaintiffs and the Defendants and Co-Defendants is the Land owned by the Plaintiffs: Plot 101 with an area of 2000 M2 (two thousand square meters) Block DIII Number Kohir 4.02.10.05.08.042 in the name of H. Asmat Bin H. Nimun which is a grant from H. Nimun Bin H. Midan located in Bintaro Village RT 007 RW 05, Pesanggrahan District (formerly known as Bintaro Village RT 008 RW 05, Kebayoran Lama District), South Jakarta City, Girik 1340 with an area of 2464 M2 (two thousand four hundred and sixty four

²⁰ Ibid.

square meters) Number Kohir 4.02.10.05.08.042 in the name of H. Nimun Bin H. Midan located in Bintaro Village RT 007 RW 05, Pesanggrahan District Pesanggrahan (formerly known as Bintaro Village RT 008 RW 05, Kebayoran Lama District), South Jakarta City, with boundaries as in the lawsuit hereinafter referred to as the object of the dispute, all of the land is still in the name of H. Nimun Bin H. Midan located in Bintaro Village RT 007 RW 05, Pesanggrahan District (formerly known as Bintaro Village RT 008 RW 05, Kebayoran Lama District), South Jakarta City, but the Plaintiffs were surprised because the land belonging to the Plaintiffs was suddenly occupied by the Defendants to obtain a certificate of ownership (SHM) Number 11142/Bintaro/2019 issued on June 17, 2019, Measurement Letter Number 01776 of 2019 dated June 17, 2019 with an area of 3,694 m² (three thousand six hundred and ninety four square meters) located on Jalan Lebak Tanjung RT 007 RW 005, Bintaro Village, Pesanggrahan District, South Jakarta City, DKI Jakarta Province on behalf of Okta Rahardjo and Bunadi Djatnika (Defendant 1 and Defendant 2).

That to prove their claim, the Plaintiffs have submitted evidence in the form of letters and witnesses who have been presented at the trial. The written evidence from the Plaintiffs is in the form of: P-1 to P-,12, while the witness evidence is witness Bambang Irawan and witness Kardono. Considering, that the things that need to be proven by the Plaintiff are:

1. Ownership of land that is the object of dispute;
2. The disputed object has never been sold;
3. Certificate issuance history is incorrect;

In the context of legal protection, the decision provides protection to parties who are harmed due to negligence or errors in the issuance of land certificates. In this case, the decision provides protection to the party who filed a lawsuit to cancel SHM number 11142/BINTARO/2019. Thus, the decision becomes a legal basis that provides legal certainty for parties who suffer losses due to land certificates that are issued illegally.

The legal consequence of the decision to cancel SHM number 11142/BINTARO/2019 is the cancellation of the ownership rights stated in the certificate. With this cancellation, the land ownership rights previously registered in the SHM are no longer valid. This means that the party previously recognized as the land owner in the certificate loses its ownership rights.

In addition, the legal consequences of the decision are the return of the land status to a state that is not yet registered or does not have a valid certificate. With the cancellation of SHM number 11142 / BINTARO / 2019, the land returns to its initial status before the issuance of the certificate, so that the land ownership status becomes unclear and requires a re-registration process.

Furthermore, the legal consequences of the decision are the provision of legal certainty for parties who have interests related to the land in question. With the decision to cancel SHM number 11142/BINTARO/2019, parties who have interests related to the land can obtain legal certainty regarding the status and ownership of the land in question.

In addition, the legal consequences of the decision also include further legal processes that may occur. Parties who feel aggrieved by the cancellation of SHM number 11142/BINTARO/2019 can file an appeal or other legal efforts to fight for their interests. This can involve a longer and more complex legal process, depending on the response and actions of the parties involved.

Overall, the decision Number 743/PDT.G/2022/PN.JKT.SEL regarding the cancellation of SHM number 11142/BINTARO/2019 has various legal consequences that need to be considered carefully. This decision provides legal protection to parties who are harmed due to errors or negligence in the issuance of land certificates, while also providing legal certainty for parties who have interests related to the land in question.

In the author's analysis, the South Jakarta District Court Decision Number 743/PDT.G/2022/PN.JKT.SEL regarding the cancellation of the Land Ownership Certificate (SHM) Number 11142/BINTARO/2019 reflects the complexity of legal issues in the land sector in Indonesia. This case raises the issue of the validity of land ownership documents and the procedures that must be taken to prove legitimate ownership rights. In this context, legal protection against court decisions and their legal consequences are crucial aspects that need to be analyzed in depth. Legal protection against court decisions is the foundation of a fair and transparent justice system. Court decisions that have permanent legal force must be respected and implemented by all parties involved.

Legal protection against court decisions involves several important aspects. First, after the decision has permanent legal force (*inkracht*), the decision is binding and must be respected by all parties. This means that the party who feels aggrieved by the cancellation of the SHM must accept the court's decision as final, unless there are other legal remedies such as cassation or judicial review that are still open. Second, legal protection also includes the implementation of the execution of the decision. The National Land Agency (BPN) as the authorized party must implement the decision by revoking the canceled SHM and correcting or updating land data in accordance with the court decision. This is important to ensure that land records reflect the correct legal status in accordance with the court decision.

The decision to cancel the SHM has various significant legal consequences, both for the certificate holder and other interested parties. With the cancellation of the SHM, the certificate holder loses ownership rights to the land in question.

This means that all rights and obligations related to the land are transferred or returned to the party entitled according to the court decision. In addition, the cancellation of the SHM provides legal certainty for other parties who may have claims or interests in the land. With a court decision, the legal status of the land becomes clear and prevents ongoing disputes.

Legal protection against court decisions and the legal consequences of SHM cancellations are important aspects in maintaining legal certainty and justice in the land system in Indonesia. Decision Number 743/PDT.G/2022/PN.JKT.SEL emphasizes the importance of the integrity of the land registration process and the validity of land ownership documents. With strong legal protection, it is hoped that all parties can respect and implement court decisions, and prevent land disputes in the future. The cancellation of SHM by the court shows that the law functions as an instrument of justice, ensuring that individual rights are protected and administrative errors can be corrected through a transparent and fair legal process.

4. Conclusion

Based on the research on decision number 743/Pdt.G/2022/PN Jkt.Sel, it can be concluded that: The legal standing of a land ownership certificate is very important in determining legal ownership. The decision emphasizes that a land ownership certificate must meet the requirements stipulated in laws and regulations. This indicates the importance of the validity of a land ownership certificate in ensuring legal land ownership and providing legal certainty to its owner. In the context of the Complete Systematic Land Registration (PTSL) program, land ownership certificates issued through the program must meet the requirements stipulated in laws and regulations. The certificate issuance process must be carried out in cash and transparently, at a reasonable price, and preceded by careful research on the status of the land. These steps aim to avoid defective or invalid certificates that can lead to ownership disputes in the future. The existence of a land ownership certificate that meets the requirements of laws and regulations is very important in maintaining legal certainty and preventing ownership disputes. Through the PTSL program, it is hoped that a valid and reliable land ownership certificate can be created as legally binding proof of ownership, so as to provide maximum legal protection to land owners.

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