

## Legal Protection for the Sale and Purchase of Uncertified Land in Paser Regency, East Kalimantan

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**Abstract.** *This research is based on the fact that many people in Paser Regency still conduct land sales and purchases without certificates based solely on trust and simple receipts, thus creating legal uncertainty and potential ownership disputes. The purpose of this research is to understand the process of buying and selling uncertified land, the obstacles encountered, and the forms of legal protection provided to the parties. This research uses an empirical juridical method with a descriptive analytical approach, which combines secondary data in the form of laws and legal theories with primary data from field interviews. The results show that the practice of buying and selling uncertified land in Paser Regency is still carried out underhand without a PPAT deed and does not go through the land registration process as stipulated in Government Regulation Number 24 of 1997. The main obstacles include a lack of public legal awareness, the perceived high cost of certification, and weak village administrative oversight. Legal protection efforts that can be provided include preventive protection through counseling and mandatory land registration, as well as repressive protection through dispute resolution in court. This research emphasizes the need to increase public legal awareness and the active role of local governments and PPATs in ensuring legal certainty for uncertified land transactions.*

**Keywords:** *Legal; Protection; Selling; Uncertified.*

### 1. Introduction

Land plays a crucial role in human life. As part of the Earth's surface, land serves not only as a place to live but also as a source of life, a place where economic, social, cultural, and development activities take place. Every human being essentially needs land for housing, farming, establishing businesses, and carrying out various other activities. Therefore, the relationship between humans and land is very close, even inseparable from human survival itself.

In the Indonesian legal system, regulations regarding land are based on Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA).<sup>1</sup>This law confirms that all land, water and space along with the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Based on Article 4 paragraph (1) of the UUPA, the state grants various kinds of rights to the surface of the earth, called land, to individuals and legal entities, both individually and collectively, with the intention that the land can be used for the benefit of the life and welfare of the community.<sup>2</sup>

In practice, land rights can only be recognized if supported by valid legal evidence, namely a land certificate. A certificate is strong evidence of rights and has full legal force as stated in Article 19 paragraph (2) letter c of the UUPA and Government Regulation Number 24 of 1997 concerning Land Registration.<sup>3</sup>Through the land registration system, the state provides legal certainty and legal protection to land rights holders, so it is hoped that it can prevent the emergence of disputes, overlapping ownership, or unauthorized transfer of rights.

However, in reality, many people in various regions, particularly in rural areas, have not officially registered their land with the National Land Agency (BPN). Uncertified land is generally only evidenced by traditional administrative documents such as girik (land title), petok D (land title), letter C (land title), village seal, or land certificate (SKT). These documents serve only as "legal title" and do not have the full evidentiary force of a land certificate. As a result, land ownership becomes uncertain and prone to disputes, especially when the land is sold to another party.<sup>4</sup>

This problem becomes even more complex when people engage in uncertified land transactions without going through the proper legal mechanisms. In practice, these land transactions are often conducted underhand, based solely on verbal agreements or simple written statements signed by the parties on stamped paper, without the presence of a Land Deed Official (PPAT) or other authorized official. People resort to this practice due to the perceived high cost of deed preparation, the complicated administrative procedures, and a lack of legal understanding regarding the importance of land registration.<sup>5</sup>

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<sup>3</sup>Article 19 paragraph (2) letter c of the Basic Agrarian Law

<sup>4</sup>Urip Santoso. (2012). *Pendaftaran dan Peralihan Hak Atas Tanah*. Jakarta: Kencana.

<sup>5</sup>Interview with Mr. Eky, Staff of the National Land Agency Office, Paser Regency, 26 August 2025

In accordance with the provisions of Article 37 paragraph (1) of Government Regulation Number 24 of 1997, every transfer of land rights, including sale and purchase, can only be registered if proven by a deed made by a PPAT.<sup>6</sup>

Thus, a land sale and purchase transaction without an authentic deed cannot be registered at the land office, and therefore does not result in any legal consequences for changing the land's ownership status. This means that while the sale and purchase transaction is valid under civil law due to the agreement, it does not generate any legal consequences from a formal legal perspective because it is not recorded in the national land registration system.

This phenomenon also occurs in Paser Regency, East Kalimantan Province, which is still predominantly rural and comprises indigenous communities with relatively low levels of legal awareness. Many people in the area conduct land sales and purchases using traditional methods, based on mutual trust and verbal agreements. In practice, land for sale often lacks a certificate and is only accompanied by a letter from the village head or a payment receipt. This situation creates problems when the land is registered or when another party claims ownership of the same land.

One case that illustrates this problem occurred in Kasungai Village, Batu Sopang District, Paser Regency. In 2015, a resident named Mr. Darmadi purchased a plot of land measuring approximately 20,000 m<sup>2</sup> from Mr. Kurniadi for IDR 60,000,000. The transaction was carried out without a land certificate and was based solely on a payment receipt. Several years later, when the buyer sought to obtain the certificate, it was discovered that part of the land he purchased was still state land and the other part was claimed by another party. As a result, the buyer was unable to certify the land and suffered financial losses due to the loss of rights to the land he purchased.<sup>7</sup>

This case reflects the weak legal protection for uncertified land sales and purchases. In practice, many people suffer a similar fate due to ignorance of legal provisions and the government's lack of education and oversight. When disputes arise, the buyer's legal position is extremely weak because they lack authentic evidence to guarantee their ownership rights. This demonstrates that legal protection for parties in uncertified land transactions remains suboptimal.

In addition to low legal awareness, land issues in Paser Regency are also influenced by economic and social factors. Many residents believe that the land certification process is expensive and time-consuming, so they choose not to certify their land. Furthermore, the majority of residents rely on agriculture and plantations for their livelihoods, where land is often passed down from

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<sup>6</sup>Article 37 Paragraph (1) of Government Regulation Number 24 of 1997

<sup>7</sup>Interview with Mr. Achmad Darmadi, a Land Purchaser Without a Certificate in Paser Regency, 25 August 2025

generation to generation without official documentation. This situation leaves much of the land in the region without complete legal records.

Another problem that arises is overlapping ownership and land boundary disputes. This often occurs due to a lack of accurate measurement data and weak land administration at the village level. In some cases, even land that has been certified can still give rise to disputes due to differences in area or inconsistencies between physical and legal data. This situation demonstrates that although the government has attempted to implement a systematic land registration program through the Complete Systematic Land Registration (PTSL), its implementation on the ground has not been fully effective.

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The issue of buying and selling uncertified land is also related to the legal aspects of notaries. Notaries/PPATs play a strategic role in ensuring legal certainty in every land transaction. However, in the case of uncertified land, PPATs cannot issue a deed of sale because one of the main requirements for a deed is a land certificate as proof of ownership. As a result, people who still want to conduct transactions choose informal channels without involving PPATs, which actually opens up opportunities for fraud, embezzlement, or multiple sales of the same land.

From a legal theory perspective, this situation demonstrates the weak application of the principle of legal certainty, as taught by Hans Kelsen. Legal certainty requires that every legal act have a clear basis, be regulated by written legal norms, and be implemented by an authorized institution. When land transactions are conducted without complying with formal legal requirements, the rights and obligations of the parties are unprotected.<sup>8</sup>In addition, from the perspective of legal protection theory according to Philipus M. Hadjon, the state has an obligation to provide protection both preventively (through land registration and transaction supervision) and repressively (through dispute resolution) for people involved in legal acts in the land sector.<sup>9</sup>

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<sup>8</sup> <http://Jurnal.Uns.Ac.Id/Yustisia/Article/Download/28720/20092> accessed on 05/17/2025 at 20.06 WIB

<sup>9</sup>Philipus. M. Hardjo. (1988). *Perlindungan Hukum bagi Rakyat Indonesia*, Surabaya: Bina Ilmu.

Conditions in Paser Regency demonstrate that the role of local governments and land agencies still needs to be strengthened in educating the public about the importance of land certification. The government should not only focus on implementing administrative formalities but also ensure that every citizen understands the benefits of legal certainty and protection of their land rights. Furthermore, village officials also need to be more careful when issuing certificates or land seals to avoid future legal conflicts.

The problem of buying and selling uncertified land is not only an administrative issue, but also a legal issue that affects the certainty of rights, justice, and social order. This research is important to analyze the extent to which legal protection can be provided to the parties in such transactions, what obstacles occur in practice, and what solutions can be taken to create a fair, certain, and socially just land system as mandated by the 1945 Constitution and the UUPA. Based on the description above, the author is interested in conducting a study entitled: "Legal Protection for the Sale and Purchase of Uncertified Land in Paser Regency, East Kalimantan."

## **2. Research Methods**

The research approach method used in this research is the Descriptive analysis approach method, legal research conducted with the aim of providing an overview of the problems that occur in connection with the use of applicable laws and regulations and relevant theories then collected through data collected, processed, and arranged according to existing theories to obtain problem solving in accordance with applicable provisions. The specifications of descriptive research by Soerjono Soekanto in his book *Introduction to Legal Research* are explained as follows: Descriptive research is research that is intended to provide data that is as accurate as possible about humans, conditions or other symptoms, and only explains the condition of the problem object without intending to draw generally applicable conclusions.<sup>10</sup>

## **3. Results and Discussion**

### **3.1. The Process of Buying and Selling Uncertified Land in Paser Regency, East Kalimantan**

Paser Regency, East Kalimantan Province, has an area of  $\pm 11,603$  km<sup>2</sup> with the center of government in Tanah Grogot.<sup>11</sup> The economy is dominated by agriculture, plantations, and mining. The majority of the population uses the land

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<sup>10</sup>Winarno Surachmad. (1973). *Dasar dan Teknik Research : Pengertian Metodologi Ilmiah*, Bandung: CV Tarsito.

<sup>11</sup> [https://id.wikipedia.org/wiki/Kabupaten\\_Paser](https://id.wikipedia.org/wiki/Kabupaten_Paser) accessed on 20 September 2025

for housing, rice farming, and oil palm plantations.<sup>12</sup> However, much land in this area lacks official title. This land is generally acquired through inheritance, grants, or customary ownership without formal registration at the Land Office, creating a lack of legal certainty.

The sale and purchase of uncertified land in Paser Regency is still often conducted by local resident undercover, without involving a Land Deed Official (PPAT). This is because most land in the area lacks solid proof of title in the form of a certificate from the National Land Agency (BPN). Residents generally only have a certificate of ownership from the village head, such as a certificate of sale, gift, or inheritance, which serves as the basis for transactions.<sup>13</sup>

In practice, the sale and purchase of uncertified land begin with an agreement between the seller and buyer, witnessed by village officials. The village issues a sales and purchase certificate as administrative evidence. Although this certificate lacks the legal force of an authentic deed, in Paser practice, the document is considered valid as the basis for land ownership.

Trust and strong kinship ties in rural areas are the primary reasons why people prefer to settle transactions through customary or family mechanisms rather than formal procedures. Furthermore, the perceived high cost of obtaining a Land Deed (PPAT) and land certification is also a major obstacle. Consequently, the buying and selling process is based solely on trust and does not guarantee legal certainty for the parties involved.

In the context of positive law, land sale and purchase transactions should be carried out based on Article 37 of Government Regulation Number 24 of 1997 concerning Land Registration, which states that every transfer of land rights must be proven by a PPAT deed.<sup>14</sup> However, in practice in Paser Regency, this provision has not been fully implemented. Despite this, residents believe their transactions remain socially and morally valid as long as they meet the requirements of an agreement and are witnessed by village officials.

Interviews with village officials revealed that villages often act as facilitators in preparing documents for the sale and purchase of uncertified land. Villages issue certificates based on proof of ownership and land history, such as deed of gift, inheritance certificate, or previous sale and purchase statements. This document serves as the basis for buyers to proceed with the certification process at the National Land Agency (BPN) if needed later.<sup>15</sup>

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<sup>12</sup>[https://kaltim.antaranews.com/berita/229282/pemprov-kaltim-optimalikan-bangsai-pascapanen-pertanian-di-paser?utm\\_source=chatgpt.com](https://kaltim.antaranews.com/berita/229282/pemprov-kaltim-optimalikan-bangsai-pascapanen-pertanian-di-paser?utm_source=chatgpt.com) accessed on 20 September 2025

<sup>13</sup>Interview with Mr. Mageni Karsa, Village Apparatus of Modang, Paser Regency, 20 August 2025

<sup>14</sup>Interview with Ms. Nurhaniah SH, M.Kn. Notary & PPAT in Paser Regency, 26 August 2025

<sup>15</sup>Interview with Mr. Mageni Karsa, Village Apparatus of Modang, Paser Regency, 20 August 2025

Thus, the sale and purchase of uncertified land in Paser Regency is still dominated by traditional practices with social recognition, rather than formal legal provisions. The community prioritizes practical aspects and trust over formal legal certainty.

### **3.2. Obstacles and Solutions to Uncertified Land Sale and Purchase Transactions in Paser Regency, East Kalimantan**

In the practice of buying and selling uncertified land, various obstacles are encountered, both administrative, legal, and socio-economic. Administrative obstacles arise because most people lack complete land ownership documents, such as plot maps, inheritance certificates, or land ownership histories. Much land in Paser Regency is inherited from generations without ever going through the formal registration process at the National Land Agency (BPN).

Legal obstacles arise because sales transactions without a PPAT deed do not comply with applicable agrarian law. Consequently, the transfer of rights is not recorded in the land registration system, thus not resulting in legal consequences in the form of a valid transfer of rights. This raises the potential for future disputes, especially if there are overlapping ownership claims or multiple sales. Furthermore, there are obstacles stemming from low public legal awareness. Many people do not understand the importance of land registration and the role of PPAT in ensuring legal certainty in transactions. They assume that approval from the village head is sufficient proof of ownership. However, legally, a village certificate is only administrative in nature, not solid proof of land rights.

Economic constraints are also a significant factor. The certification process and the issuance of a PPAT deed are costly, which rural communities consider prohibitive. Therefore, they prefer simple transactions using a village certificate, which is inexpensive and quick.<sup>16</sup>In addition, the lack of outreach from the National Land Agency (BPN) and local governments regarding the importance of land certification has resulted in minimal public awareness regarding the legalization of rights.

Institutionally, obstacles also arise from the limited number of Land Deed Officials (PPAT) in rural areas, making it difficult for the public to access land legal services. The National Land Agency (BPN) also faces technical challenges such as limited land data and incomplete base maps, which slow down the process of registering new land.<sup>17</sup>

Due to these obstacles, the sale and purchase of uncertified land in Paser Regency often creates legal uncertainty. Buyers do not receive strong legal protection, and the land's status remains legally unclear. If a dispute arises later,

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<sup>16</sup>Interview with Mr. Buneng as the Seller of Uncertified Land in Paser Regency, 22 August 2025

<sup>17</sup>Interview with Mr. Eky, Staff of the National Land Agency, Paser Regency, 26 August 2025

buyers can only rely on village certificates as evidence, which legally lack full evidentiary force. Thus, the main obstacles in the sale and purchase of uncertified land include: Incomplete land administration and documents, Weak public legal awareness, High certification costs, Minimal access to PPAT and BPN, and public ignorance about the legal consequences of underhand sales.

To overcome these obstacles, legal, administrative, and educational solutions are needed. From a legal perspective, local governments, along with the National Land Agency (BPN), need to strengthen the implementation of the Complete Systematic Land Registration (PTSL) program so that the public can obtain land certificates at an affordable cost. With a certificate, every sale and purchase transaction will have a strong legal basis and guarantee protection for all parties.

Furthermore, the role of notaries/PPATs must be expanded and made more active in providing education to rural communities about the importance of creating authentic deeds for every transfer of land rights. Authentic PPAT deeds have full legal force and serve as the basis for registering transfers of rights at the National Land Agency (BPN), as stipulated in Article 37 of Government Regulation Number 24 of 1997. This ensures legal certainty and protection for buyers.

Administratively, villages need to be more careful in issuing land certificates. Each certificate should include clear land ownership data and plot boundaries, as well as the signatures of the parties and authorized witnesses. This is crucial so that village documents can serve as valid interim aids in the certification process. In the long term, the Paser Regency government needs to strengthen cooperation with the National Land Agency (BPN) and Land Deed Officials (PPAT) in legalizing community assets. This can be done through mobile integrated services, land law outreach, and certification fee subsidies for low-income communities. These steps will increase legal awareness and accelerate the acquisition of legal land certificates.

Another solution is to strengthen the role of customary law and village institutions as bridges between communities and the formal legal system. Villages can help mediate local land disputes and inventory land ownership histories to prevent overlapping claims. By synergizing customary systems and state law, legal protection for the sale and purchase of uncertified land can be optimized.

With the implementation of these solutions, it is hoped that future land sales and purchases in Paser Regency will be conducted in an orderly, legally valid manner, and provide certainty and protection for all parties. The public will be more aware of the importance of land certification, and the roles of Land Deed Officials (PPAT) and the National Land Agency (BPN) will become increasingly strategic in ensuring orderly land administration.

#### 4. Conclusion

The sale and purchase of uncertified land in Paser Regency, East Kalimantan, is still often conducted traditionally and underhand, without involving Land Deed Officials (PPAT) or registering with the National Land Agency (BPN). This is due to factors such as trust between residents, economic constraints, low legal awareness, and limited access to land services. As a result, these transactions lack legal force and often create uncertainty and potential for future disputes. The main obstacles to this practice include incomplete administrative documents, weak public understanding of the importance of certification, and the high cost of land legalization. To address these issues, a concerted effort is needed through the Complete Systematic Land Registration (PTSL) program, increased legal outreach by Land Deed Officials (PPAT) and local governments, and strengthening the role of villages in recording and monitoring land transactions. With synergy between the community, local government, BPN, and PPAT, it is hoped that the land buying and selling process in Paser Regency in the future can take place in an orderly manner, have legal certainty, and provide legal protection for the parties involved.

#### 5. References

##### Books:

- Philipus. M. Hardjo. (1988). *Perlindungan Hukum bagi Rakyat Indonesia*, Surabaya: Bina Ilmu.
- Urip Santoso. (2008). *Hukum Agraria dan Hak-Hak Atas Tanah*, Jakarta: Kencana.
- Urip Santoso. (2012). *Pendaftaran dan Peralihan Hak Atas Tanah*. Jakarta: Kencana.
- Winarno Surachmad. (1973). *Dasar dan Teknik Research : Pengertian Metodologi Ilmiah*, Bandung: CV Tarsito.

##### Regulation:

Law Number 5 of 1960 concerning Basic Agrarian Regulations.

##### Interview:

- Interview with Mr. Ahmad Darmadi as the Purchaser of Uncertified Land in Paser Regency on 25 August 2025
- Interview with Mr. Buneng as the Seller of Uncertified Land in Paser Regency on 22 August 2025
- Interview with Mr. Eky, Staff of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Paser Regency, on 26 August 2025

Interview with Mr. Mageni Karsa as an Official of Modang Village, Paser Regency  
on 20 August 2025

Interview with Ms. Nurhaniah SH, M.Kn., Notary and Land Deed Official for Paser  
Regency on 26 August 2025

**Internet:**

[https://id.wikipedia.org/wiki/Kabupaten\\_Paser](https://id.wikipedia.org/wiki/Kabupaten_Paser) accessed on 20 September 2025

<Http://Jurnal.Uns.Ac.Id/Yustisia/Article/Download/28720/20092> accessed on  
05/17/2025 at 20.06 WIB  
[https://kaltim.antaranews.com/berita/229282/pemprov-kaltim-optimalkan-  
bangsai-pascapanen-pertanian-di-paser?utm\\_source=chatgpt.com](https://kaltim.antaranews.com/berita/229282/pemprov-kaltim-optimalkan-bangsai-pascapanen-pertanian-di-paser?utm_source=chatgpt.com) accessed on  
20 September 2025