

Legal Protection for Land Rights Holders in Cases of Overlapping Ownership of a Plot of Land in the City of Semarang

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Abstract. *Legal aspects and land ownership in Indonesia are also a focus of attention. Issues of overlapping land ownership often arise, leading to conflicts between stakeholders. Legal protection for landowners is essential to maintain stability and prevent uncertainty that could harm the economy and society. The purpose of this study is to examine and analyze legal protection for land rights holders and the obstacles and solutions in resolving cases of overlapping ownership of a plot of land in Semarang City. This research approach falls within normative legal research. The data types and sources include primary and secondary legal materials. The data collection method is a literature study. The analysis method is empirical qualitative analysis. The results of the study show thatThe problem of overlapping ownership of a plot of land (or overlapping certificates) is one of the most complex land disputes in the city of Semarang, and in Indonesia in general. Legal protection for land rights holders in such cases is based on the principles of agrarian law and the applicable judicial process. Obstacles in resolving overlapping land ownership disputes are inaccurate physical and legal data, bad faith and manipulation, and long and protracted legal processes. Solutions to resolving overlapping land ownership disputes include optimizing mediation and document research at the National Land Agency (BPN), digitizing land data, utilizing the services of legal advisors or land consultants, utilizing the services of legal advisors or land consultants, taking the PTUN legal route for administrative decisions, and resolving through deliberation on the validity of BPN administrative decisions.*

Keywords: *Legal; Overlapping; Ownership; Protection.*

1. Introduction

Land is seen as a supporting factor for the growth of all aspects of life such as economic, political, social and cultural, besides that all the needs of society to

achieve prosperity depend on land such as housing and fields of work.¹ Legally, the earth, water, and natural resources are the power of the state to be used as much as possible for the welfare and prosperity of the people, which is the main basis for the economy and the power of the state over all wealth, including natural resources, as stated in Article 33 of the Constitution. Article 33 of the Constitution, Paragraph (1) states that the economy is structured as a joint effort based on the principle of family; Paragraph (2) states that branches of production that are important for the state and that control the livelihood of many people are controlled by the state; Paragraph (3) states that the earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

Article 33 of the 1945 Constitution has a philosophy that the Indonesian economy is based on the spirit of mutual cooperation, family, the role of the state in regulating the economy, especially for important branches of production, so that it can be used for the Indonesian people, and that the state is responsible for creating the prosperity of the people so that the land, water and wealth within are controlled by the state because the people are more important than individuals. Referring to this philosophy, the role of the government in carrying out its function of carrying out land affairs is to guarantee legal certainty over community land ownership so that it can support a just and prosperous community economy.

Furthermore, Article 2 Paragraph (1) Law Number 5 of 1960 concerning Basic Agrarian Principles Regulations which in essence explains that the earth, water, space and natural resources are controlled by the state as the highest authority.

Legal aspects and land ownership in Indonesia are also a focus of attention. The complex land ownership system encompasses various forms, from customary rights (Hak Adat), ownership rights (Hak Milik), to land use rights (Hak Guna Usaha). Issues of overlapping land ownership often arise, leading to conflicts between stakeholders. Legal protection for landowners is essential to maintain stability and prevent uncertainty that can harm the economy and society. In urban contexts, population growth and urbanization place additional pressure on land. The development of infrastructure, housing, and urban industry requires intelligent and sustainable land use. Sound spatial planning and prudent development policies are key to ensuring that land supports the development of cities in a sustainable and competitive manner.

Thus, the existence of land in Indonesia not only reflects its diverse geographical conditions but also reflects the complexity of challenges and opportunities across various sectors of life. Sustainable land management, legal protection, and awareness of the importance of maintaining a balance between land use and

¹Ali Achmad Chomzah, *Agrarian Law (Land in Indonesia)*, (Pustakarya Achievement: Jakarta, 2004), page 87.

conservation are key to ensuring that land remains a valuable asset for current and future generations.

One of the main issues in the agrarian realm is land conflict, or what is often referred to as land disputes. Land disputes that still frequently occur today are partly caused by overlapping or overlapping land disputes. Overlapping land measurement issues in Semarang are a common problem. This is caused by various factors, including errors in land registration, duplicate certificates, and unclear land boundaries. These overlaps can lead to legal disputes, development difficulties, and legal uncertainty over land ownership. Causal Factors, a. Registration Errors: Errors in the land registration process, such as errors in measurement, mapping, or data recording, can cause overlaps. b. Multiple Certificates: The issuance of more than one certificate for the same plot of land can lead to overlapping claims due to conflicting ownership claims. c. Unclear Boundaries: Unclear clear and measurable land boundaries can trigger disputes due to the lack of clear reference points.

To achieve legal certainty in land ownership, a person must have a legally recognized written document as proof of ownership. This is crucial for the community to ensure legal certainty in land ownership. Article 19 of the 1960 UUPA states that the Government is responsible for registering land throughout the Republic of Indonesia in accordance with the rules stipulated by Government Regulations. This land registration is also explained in Government Regulation Number 24 of 1997 to ensure legal certainty. Based on the provisions of Government Regulation Number 24 In 1997, it was concluded that clarity regarding land rights under the UUPA had two aspects: clarity regarding the object of land rights and clarity regarding the subject of land rights. One definite sign of land ownership rights is when the location of the land has georeferenced coordinates registered on the land registration map. In this case, a clear subject can be seen from the name of the land owner registered in the land registry book at the land office. Briefly, a document containing a copy of the map and land registration information is known as a land certificate. However, in practice, the guarantee of legal certainty regarding land ownership rights sometimes cannot be guaranteed according to expectations. laws regarding land ownership in Indonesia.²

Provisions regarding legal certainty regarding land ownership are regulated in Government Regulation Number 10 of 1961 concerning Land Registration. One sign of certainty of property rights is the clarity of determining the location of the land based on its coordinates on the land registration map. The exact subject can be determined by the name of the person or legal entity that owns or holds the land rights, as recorded in the land registration deed at the land office. A copy of

²Isna Dwi Fatatun, "Justice and Legal Certainty in Land Dispute Settlement Through Mediation at the Sleman Regency Land Office in 2014-2015", Thesis, Faculty of Sharia and Law, Sunan Kalijaga State Islamic University, Yogyakarta, 2016, p. 4

this land registration document is also known as a land ownership certificate. However, sometimes the legal provisions regarding land ownership do not always meet expectations and are often uncertain. Once a land certificate is issued, the land office does not guarantee that the party named on the certificate will not be disputed. The UUPA uses a negative registration system where another party who believes they have rights to a property can file a lawsuit in court with sufficient evidence. If substantiated, the certificate can be revoked.³

One of the cases of overlapping land rights handled by the Semarang City National Land Agency (BPN) is the case of overlapping land ownership located in Tlogosari. with SHM No. 258/ Tlogosari Kulon, Certificate Issuance on November 18, 1996 with Situation Drawing dated May 1, 1996 No. 4638/1996. Covering an area of $\pm 3,526 \text{ m}^2$ in the name of Liem Wei (Intervention Defendant III). On the other hand, the plaintiff (Chrisno In Dianto) filed an objection that the plaintiff had the Plaintiff's Ownership Rights with Evidence of Situation Drawing Number 2437/1994, Yasan C.2943 p.45 D.III with an area of $\pm 1,806 \text{ m}^2$ on May 2, 1994. On the basis of the overlap, the plaintiff filed a lawsuit to the Semarang PTUN with a decision rejected, then appealed to the Surabaya PTUN with a decision rejected, then the plaintiff took cassation with a decision rejected.

The problem of overlapping land is certainly detrimental to the community. In its implementation, the Semarang City Land Office carries out a series of stages in handling land cases, starting from receiving complaint reports, document examination and verification, field investigations, to the mediation process between the disputing parties. If mediation does not result in a resolution, the problem can be referred to the court or authorized institution in accordance with applicable legal provisions. In addition, the Semarang Land Office also plays a role in preventing potential conflicts, namely by increasing transparency in land administration, accelerating the land certification process and conducting outreach on the rights and obligations of the community as land rights holders.

Legal protection is essential for these overlapping land claims. Legal protection for overlapping land titles is crucial for creating legal certainty, as overlapping land titles can lead to disputes and uncertainty over ownership. This protection is implemented both preventively (such as through legal counseling) and repressively (through court proceedings) to protect the rights of legitimate landowners and minimize conflict.

Based on the description, it encourages and attracts the author's curiosity to conduct research with the title "Legal Protection for Land Rights Holders in Cases of Overlapping Ownership of a Plot of Land in the City of Semarang".

³Nae, 2013. Entiman Fandri. Legal Certainty Regarding Ownership Rights to Certified Land. Journal, p. 62.

2. Research Methods

The type of research used is normative research. This type of normative legal research is based on the focus of its analysis on legal norms, including positive legal inventory research, legal principles research, legal research in concreto, legal systematics research, and research on the level of legal synchronization. This research focuses on written regulations, doctrines, and jurisprudence through library studies and qualitative analysis, without requiring field research. The characteristics of normative legal research are analyzing law as a system of norms or rules that serve as benchmarks for behavior, not as social facts, using secondary data such as laws and regulations, court decisions, doctrines, and scholarly opinions, using deductive thinking methods to draw conclusions from general principles to specific cases, explaining and interpreting data in the form of statements, not numbers, and not requiring primary data collection from the field, because the focus is on written legal materials or doctrines.⁴

The approach used is a statutory approach. This approach is carried out by examining laws and regulations related to the legal issue being researched.⁵ Data collection instruments are instruments used to collect research data and facts. Data are obtained through an inventory of statutory regulations, in which case the researcher only uses inventory data.⁶ The methods used in the data collection process are library research, internet browsing, scientific article research, research on scholarly works, and document research, including scientific papers, and published journals, newspapers and other official documents related to the research discussion, then identified and studied as a whole unit. The data collection technique used by the author in writing this research is the normative legal research method or library research.

The analysis used is a normative qualitative analysis, meaning that norms are based on statutory regulations that apply as positive law, while qualitative analysis is the analysis of legal materials derived from secondary legal materials. Qualitative analysis of the legal materials obtained and selected, namely through the analysis of legal materials that are systematically collected and selected, finally obtained the conclusions of this paper.

⁴ Agulegistin, M. (2018). *Legal Analysis of Comparative Study of the Position of Witnesses in the Making of Notarial Deeds According to Islamic Law and the Notary Law (UUJN) No. 2 of 2014* (Doctoral dissertation, Faculty of Law, UNISSULA).

⁵ Muhaimin, *Legal Research Methods* (Mataram: Mataram University Press, 2020). p. 57.

⁶ *Ibid*, p. 40.

3. Results and Discussion

3.1. Position Case

Plaintiff: Chrisno in Dianto, Ir. SH

Defendant 1: Central Java Regional Police

Defendant II: Semarang City Land Office

Defendant II Intervenor: Liem We Tjen

One of the cases of overlapping land rights handled by the Semarang City National Land Agency (BPN) is the case of overlapping land ownership located in Tlogosari. With SHM No. 258/ Tlogosari Kulon, Certificate Issuance on November 18, 1996 with Situation Drawing dated May 1, 1996 No. 4638/1996. Covering an area of $\pm 3,526 \text{ m}^2$ in the name of Liem Wei (Intervention Defendant III). On the other hand, the plaintiff (Chrisno In Dianto) filed an objection that the plaintiff had the Plaintiff's Ownership Rights with Evidence of Situation Drawing Number 2437/1994, Yasan C.2943 p.45 D.III with an area of $\pm 1,806 \text{ m}^2$ on May 2, 1994. On the basis of the overlap, the plaintiff filed a lawsuit to the Semarang PTUN with a decision rejected, then appealed to the Surabaya PTUN with a decision rejected, then the plaintiff took cassation with a decision rejected.

a. Contents of Decision Number 93/G/2020/PTUN.SMG

Issuance of SHM No. 258/ Tlogosari Kulon, Certificate Issuance on November 18, 1996 with Situation Drawing dated May 1, 1996 No. 4638/1996. Area of $\pm 3,526 \text{ m}^2$ in the name of Liem Wei

Issuance of Certificate of Ownership No. 258/ Tlogosari Kulon, on November 18, 1996 with a Situation Drawing dated May 1, 1996 with an area of $\pm 3,526 \text{ m}^2$ in the name of Liem Wei Tjen on February 22, 1997 based on the Sale and Purchase Deed dated February 7, 1997, thereby eliminating the Plaintiff's Ownership Rights with Evidence of Situation Drawing Number 2437/1994, Yasan C.2943 p.45 D.III with an area of $\pm 1,806 \text{ m}^2$ on May 2, 1994;

Issuance of Certificate of Ownership No. 258/ Tlogosari Kulon, on November 18, 1996 with a Situation Drawing dated May 1, 1996 with an area of $\pm 3,526 \text{ m}^2$ in the name of Liem Wei Tjen on February 22, 1997 based on the Sale and Purchase Deed dated February 7, 1997, thereby eliminating the Plaintiff's Ownership Rights with Evidence of Situation Drawing Number 2437/1994, Yasan C.2943 p.45 D.III with an area of $\pm 1,806 \text{ m}^2$ on May 2, 1994

Mr. Liem Wei Tjen is a person who has controlled the Object of the Dispute of Actions of Government Agencies and/or Officials issued by Defendant II for ± 23

Years on the grounds of SHM No. 258 Tlogosari Kulon which appears to be 3,526 m² (Three thousand five hundred twenty six square meters) owned by the Reporter, but in reality only 1,500 is owned by the Reporter.

Issuance of Certificate of Ownership No. 258/ Tlogosari Kulon, on November 18, 1996 with a Situation Drawing dated May 1, 1996 with an area of $\pm 3,526$ m² in the name of Liem Wei Tjen on February 22, 1997 based on the Sale and Purchase Deed dated February 7, 1997, thereby eliminating the Plaintiff's Ownership Rights with Evidence of Situation Drawing Number 2437/1994, Yasan C.2943 p.45 D.III with an area of $\pm 1,806$ m² on May 2, 1994

The Plaintiff has valid Proof of Ownership of the Disputed Object issued by Defendant II in the form of a Situation Drawing (GS) Number C.2943, p.45, D.III Tlogosari Kulon Village (Dh. Sambirejo) Semarang City, Central Java, covering an area of $\pm 1,806$ m² in 1994.

The Plaintiff's claims, which claim to be the owner of the land located in Tlogosari Kulon Subdistrict, are incorrect and have no legal basis, because the Land Ownership Certificate No. 258/Tlogosari Kulon Subdistrict has been issued on the land in the name of LIEM WIE TJEN.

Certificate of Ownership No. 258/Tlogosari Kulon Subdistrict in the name of LIEM WIE TJEN (Object of the Case) was issued by the Head of the Semarang City Land Office in accordance with his authority, so that its issuance is not arbitrary and not against the law, and does not conflict with applicable laws and regulations for the following reasons:

- a. That the issuance of Land Ownership Certificate No. 258/Tlogosari Kulon Village in the name of LIEM WIE TJEN (Object of the Case) is a Land Administration Action carried out by Defendant II (Head of the Semarang City Land Office) as an authorized official in the form of Registration of the Decision of the Head of the Regional Office of the National Land Agency of Central Java Province No. SK.600/419/1/44/PH/33/96 dated 8-11-1996 and the Maintenance of Land Registration Data (transfer of rights) based on PP No. 10 of 1961 and PP No. 24 of 1997;
- b. Based on the legal facts above, the Certificate of Ownership No. 258/Tlogosari Kulon Subdistrict in the name of LIEM WIE TJEN (Object of the Case) has fulfilled the Authority Aspect, Formal Procedure Aspect and Material Substantive Aspect, and is in accordance with the applicable Laws and Regulations in its issuance;

Based on the descriptions above, it can be concluded that the issuance of Land Ownership Certificate No. 258/Tlogosari Kulon Village in the name of LIEM WIE TJEN (Object of the Case) by Defendant II (Head of the Semarang City Land Office) is legally valid, and regarding the Plaintiff's arguments stating that the Defendant's actions are contrary to statutory regulations, it is incorrect and has no legal basis,

so that there are legal grounds for the Panel of Judges to reject the plaintiffs' lawsuit in its entirety.

The Defendant's Decision Does Not Contradict the General Principles of Good Governance, because: 1. Article 53 paragraph 2 letter b of Law No. 5 of 1986 in conjunction with Law No. 9 of 2004 in conjunction with Law No. 51 of 2009 and in its explanation states: Article 53 paragraph 2 letter b, The reasons that can be used in the lawsuit as referred to in paragraph (1) are: b. The State Administrative Decision being contested is contrary to the general principles of good governance. What is meant by "general principles of good governance" includes the principles of legal certainty, orderly state administration, openness, proportionality, professionalism, accountability.

That the issuance of Certificate of Ownership No. 258/Tlogosari Kulon Subdistrict in the name of LIEM WIE TJEN (Object of the Case) is to guarantee legal certainty in the ownership of land rights, so that there is no overlap with other certificates.

Based on the descriptions above, all of the arguments in the Plaintiff's lawsuit in the main case are wrong, incorrect and have no legal basis.

The issuance of Certificate of Ownership No. 258/Tlogosari Kulon Village in the name of LIEM WIE TJEN (Object of the Case) is in accordance with the provisions of Article 53 of Law No. 5 of 1986 in conjunction with Law No. 9 of 2004 in conjunction with Law No. 51 of 2009 concerning the Second Amendment to Law No. 5 of 1986 concerning State Administrative Courts, so that there is legal reason for the Honorable Panel of Judges to reject the plaintiffs' lawsuit in its entirety.

In the decision it is stated that

- 1) Plaintiff's lawsuit was not accepted.
- 2) Ordering the Plaintiff to pay court costs of IDR 1,148,500, (one million one hundred forty eight thousand five hundred rupiah).

b. Contents of Decision Number: 131/B/2021/PT.TUN.SBY. (Appeal Level)

Plaintiff: Chrisno in Dianto, Ir. SH

Defendant 1: Central Java Regional Police

Defendant II: Semarang City Land Office

Defendant II Intervenor: Liem We Tjen

The decision at the appeal level is:

- 1) Receive appeals from Plaintiffs/Appellants;

2) Confirming the decision of the Semarang State Administrative Court, Number 93/G/2020/PTUN.SMG, March 24, 2021, on which the appeal was filed;

3) Ordering the Plaintiff/Appellant to pay court costs at both levels of court, the costs for the appellate court level are set at Rp. 150,000.00 (one hundred and fifty rupiah).

c. Contents of Supreme Court Decision Number 404 K/TUN/2021 (Cassation Level)

Plaintiff: Chrisno in Dianto, Ir. SH

Applicant for Cassation I: Central Java Regional Police

Respondent in Cassation II: Semarang City Land Office

Respondent in Cassation III: Liem We Tjen

Considering, that the lawsuit was declared unacceptable by the Semarang State Administrative Court with Decision Number 93/G/2020/PTUN.SMG, dated March 24, 2021, then at the appeal level the decision was confirmed by the Surabaya High State Administrative Court with Decision Number 131/B/2021/PT.TUN.SBY, dated May 25, 2021

Considering, that after this final decision was notified to the Applicant of Cassation on May 27, 2021, the Applicant of Cassation then submitted an oral cassation application on June 3, 2021, the application was followed by a Cassation Memorandum containing the reasons received at the Clerk's Office of the Semarang State Administrative Court on June 17, 2021.

Based on these considerations, the cassation application is accepted.

Considering, that in addition to that, the reasons mentioned are essentially regarding the assessment of the results of the evidence which are of an appreciative nature regarding a fact, which cannot be considered in the examination at the cassation level, because the examination at the cassation level only concerns the non-implementation or errors in the implementation of the law, as referred to in Article 30 of Law Number 14 of 1985 concerning the Supreme Court as amended by Law Number 5 of 2004 and the second amendment by Law Number 3 of 2009.

Decision:

1) Rejecting the cassation request from the Cassation Applicant CHRISNO INDIANTO, Ir., SH

2) Ordering the Applicant to pay court costs at the cassation level in the amount of IDR 500,000.00 (five hundred thousand Rupiah).

3.2. Legal Protection for Land Rights Holders in Cases of Overlapping Ownership of a Plot of Land in the City of Semarang

The issue of overlapping land ownership (or overlapping certificates) is one of the most complex land disputes in Semarang, and in Indonesia in general. Legal protection for land rights holders in such cases is based on the principles of agrarian law and applicable judicial processes.

The following are the main aspects of legal protection and the mechanisms for resolving them:

1. The legal principle of "the strongest evidence"

In the Indonesian land registration legal system (negative system with positive tendencies), legal protection is given to the party holding the strongest and most legally valid proof of ownership.

1) Land Title Certificate (for example, SHM) issued by BPN is strong and valid initial evidence. Based on Article 19 paragraph (2) letter c jo. Article 23, Article 32, and Article 38 Government Regulation (PP) no. 24 of 1997 concerning Land Registration, land title certificates function as:⁷

a) Valid Evidence: A certificate is a legal document that proves rights and is issued according to law.

b) Strong Proof of Power: In Indonesia's legal system, which adheres to a negative-positive system, certificates have strong evidentiary power. The physical and legal data contained therein are presumed to be true unless another party can prove otherwise in court.

c) Initial Evidence: The phrase "strong initial evidence" is often used because the validity of the certificate can still be tested in court if there is a lawsuit from a party who feels they have stronger rights or if there are administrative defects in its issuance (for example, measurement errors, falsification of basic documents, or overlapping ownership).

Therefore, although a certificate is not absolute, inviolable evidence, it places the holder in a very strong legal position, and it is the party suing who has the burden of proof to prove otherwise.

⁷ Duppa, PF, Soepeno, MH, & Kermite, JA (2024). The evidentiary power of documentary evidence in land ownership rights according to applicable law in Indonesia (Case study of dual certificates). *Lex Administratum*, 12(2).

Based on Article 19 of the Basic Agrarian Law (UUPA) no. 5 of 1960 and Article 32 of Government Regulation (PP) no. 24 of 1997, land certificates function as:⁸

a) Strong Evidence: The certificate serves as a strong means of proof regarding the physical data (location, boundaries, area) and legal data (legal status and rights holder) contained therein.

b) Valid Initial Evidence: In the Indonesian legal system which adheres to a negative system with a positive tendency, a certificate is considered true and legally valid until another party can prove otherwise in court.

c) Legal Protection: Certificates provide legal guarantees and protection for rights holders, minimizing the risk of disputes or unfounded claims. Therefore, in cases of overlapping ownership in Semarang City, land certificates are the primary evidence that will be considered and the validity of their issuance will be investigated by the National Land Agency (BPN) or the court.

2) If there is an overlap, the focus of the resolution will be on tracing the history of certificate issuance: which certificate was issued first legally (earlier in time is stronger in right), and whether the issuance procedure was correct.

2. The Role of Mediation and Settlement at the BPN Level

The first step often taken is an out-of-court settlement through the Semarang City National Land Agency (BPN). The BPN has the authority to:⁹

a. Mediation: Bringing both parties together to find a mutually agreeable solution.

b. Physical and Legal Data Research: The BPN will conduct an in-depth investigation of both certificate data, re-measure the location, trace the certificate issuance documents (warkah), and look for potential administrative errors.

c. Cancellation or Change of Data: If an administrative error is found in the issuance of one of the certificates, the BPN has the authority to cancel or revise the problematic certificate, in accordance with the authority of the State Administrative Officer (PTUN).

⁸ Duppa, PF, Soepeno, MH, & Kermite, JA (2024). The evidentiary power of documentary evidence in land ownership rights according to applicable law in Indonesia (Case study of dual certificates). *Lex Administratum*, 12(2).

⁹ Rasmawati, I., Laturette, AI, & Radjawane, P. (2022). The Position of the National Land Agency as a Mediator in Land Dispute Resolution. *TATOHI: Journal of Legal Studies*, 2(1), 47-68.

3. Litigation (Court) Path

If the resolution at the BPN level does not achieve results, further legal protection is sought through the courts:¹⁰

a. Civil Lawsuit (District Court): A party who feels aggrieved can file a civil lawsuit to ask the court to declare the legal owner and request the cancellation of the deed of sale or other related documents. Civil proceedings are used to resolve disputes regarding material ownership rights (substance of ownership) between two parties who both claim to be the legal owner. Purpose of a Civil Lawsuit:

1) Declaring the Legal Owner in Material: The main focus of the lawsuit is to ask the Panel of Judges at the Semarang District Court to determine, based on the evidence submitted by both parties (certificates, documents, witnesses, proof of tax payments), who among them has the greatest material right to the land.

2) Cancellation of Related Documents: As part of the demands in a civil lawsuit, the plaintiff usually requests that the deed of sale, sale and purchase agreement, or other civil document that forms the basis of the opposing party's ownership be declared invalid or cancelled.

3) Further Legal Consequences: If the district court's decision is in favor of one of the parties, the decision becomes a strong legal basis for the BPN to make administrative adjustments, such as canceling the certificate belonging to the losing party and confirming ownership rights for the winner of the case.

Differences with PTUN Lawsuits¹¹

a. District Court focuses on property disputes between individuals (civil law).

b. State Administrative Court (PTUN) focuses on disputes over government administrative decisions (i.e. whether or not the certificate issuance process by BPN officials is valid).

Civil litigation is a legal protection mechanism that allows rights owners to seek substantive justice regarding their land ownership.

4. Protection from Good Faith Third Parties

The law also protects land buyers who act in good faith (buy honestly, check the certificate at the National Land Agency, and pay in full) even if it is later discovered that there is overlapping ownership. In some cases, the rights of buyers in good faith can be protected, while other parties who are harmed may have to seek

¹⁰ Rasmawati, I., Laturette, Al, & Radjawane, P. (2022). The Position of the National Land Agency as a Mediator in Land Dispute Resolution. *TATOHI: Journal of Legal Studies*, 2(1), 47-68.

¹¹ Rasmawati, I., Laturette, Al, & Radjawane, P. (2022). The Position of the National Land Agency as a Mediator in Land Dispute Resolution. *TATOHI: Journal of Legal Studies*, 2(1), 47-68.

monetary compensation from the party selling the problematic land. This protection is based on several legal provisions, especially Article 32 paragraph (2) of Government Regulation (PP) No. 24 of 1997 concerning Land Registration, which states that third parties who act in good faith are protected, even if the certificate that forms the basis of the transaction is later declared legally flawed or must be canceled.¹²

The "Good Faith" Criteria Include:¹³

- a. Act Honestly: The buyer is completely unaware of any disputes, claims by other parties, or legal defects in the land he is purchasing.
- b. Conducting a Fair Inspection: The buyer has taken reasonable steps, such as:
 - 1) Check the validity of the certificate at the local Land Office (BPN Semarang City).
 - 2) Conduct transactions through an authorized Land Deed Making Officer (PPAT).
 - 3) Ensure payment is made in full.
 - 4) Check the physical condition of the field and ask local residents about the status of the land.

Legal Consequences in some cases of overlap:¹⁴

- a. If the court decides that the buyer was acting in good faith, his rights to the land may be preserved or protected.
- b. The original injured party (the legal owner who has lost their rights) cannot reclaim the land directly from a good-faith buyer. Instead, the injured party must seek monetary (financial) compensation from the party who sold the land illegally (the party who was dishonest or committed fraud). This principle provides legal balance and certainty in land law enforcement in Indonesia.

In summary, legal protection for rights holders in overlapping cases in Semarang City is highly dependent on the strength of documentary evidence (certificates and documents), good faith, and the ability to take the appropriate resolution route, either through the National Land Agency (BPN) or the competent court.

¹² Askar, A. (2022). Legal Protection for Good Faith Buyers in the Settlement of Land Rights Disputes. *Journal of Lex Theory (JLT)*, 3(1), 16-32.

¹³ AZIS, SL (2024). LEGAL RESPONSIBILITY OF LAND DEED OFFICIALS (PPAT) FOR FORGERY OF DOCUMENTS BY THE PARTIES IN THE PREPARATION OF SALE AND PURCHASE DEEDS (Doctoral dissertation, Sultan Agung Islamic University, Semarang).

¹⁴ Permadi, I. (2016). Legal protection for buyers of double-certified land in good faith for legal certainty. *Yustisia*, 5(2), 448-467.

In cases of overlapping ownership of a plot of land in Semarang City, legal protection for land rights holders is based on the principle of prudence, proof of legal ownership, and resolution through administrative or court channels.

The following are the legal protection and dispute resolution mechanisms:¹⁵

1. Negative Publication System (Positive Tendency)

Indonesia adopts a negative publication system for land registration (Government Regulation No. 24/1997). This means that land certificates are strong and valid evidence, but not absolute. If another party believes they have a stronger right, they can challenge the certificate's validity in court. Legal protection is granted to the party with the most valid and compelling data.

2. Legal and Strong Proof of Rights

In cases of overlap, the primary legal protection rests on the strength of evidence of ownership.

a. Certificate of Ownership (SHM) which is issued legally and through the correct procedures (does not contain administrative defects) is the strongest proof of ownership.

b. The party that can prove that the certificate issuance process was earlier and in accordance with procedures has a stronger legal position.

3. Dispute Resolution Path

Rights holders who feel they have been harmed have several options for dispute resolution:¹⁶

a. Administrative Path (BPN Mediation) Land rights holders can submit a request for dispute resolution to the Semarang City Land Office. The National Land Agency (BPN) plays a significant role in mediating, reviewing physical data (re-measurement) and legal data (land history), and seeking a peaceful solution. Dispute resolution at the BPN level is regulated by Minister of ATR/BPN Regulation No. 21 of 2020 concerning the Handling and Settlement of Land Cases.

The Significant Role of the Semarang City Land Office Includes:

¹⁵ Permadi, I. (2016). Legal protection for buyers of double-certified land in good faith for legal certainty. *Yustisia*, 5(2), 448-467.

¹⁶ Siregar, UZ (2025). Settlement of Overlapping Land Disputes Through Mediation at the Semarang City Land Office: (Case Study of Kalipancur Village, Ngaliyan District, Semarang City). *Lex Generalis Law Journal*, 6(9).

- a. Acceptance of Dispute Request: Rights owners who feel they have been harmed can submit a written application to the Head of the Semarang City Land Office to resolve the dispute that has occurred.
- b. In-depth Physical and Legal Data Research: BPN will form a team to carry out field verification. This team will re-examine the land boundaries, carry out re-measurements, examine the warkah (basic documents of ownership) in depth, and compare data from both parties to the dispute.
- c. Mediation Facilitation The BPN acts as a neutral mediator or facilitator. Its goal is to bring the two parties together to find a peaceful solution, consensus, or mutual agreement without having to go to court.
- d. Issuance of Recommendations or Administrative Decisions: If the BPN research finds an administrative error in issuing one of the certificates (for example, a measurement error), the BPN can issue a recommendation or administrative decision to make corrections, cancellations or adjustments to the data, which then becomes the legal basis for resolving the problem.

This administrative route is highly recommended because the process is relatively faster and cheaper compared to litigation in court, and focuses on finding a win-win solution.

Rights holders facing overlapping ownership issues can submit a dispute resolution request to the Head of the Semarang City Land Office. The process involves several key steps:¹⁷

- a. Application Submission: The rights owner submits an official application letter to the local BPN.
- b. Data Research: BPN, through the dispute section or related fields, will conduct in-depth research:
 - 1) Physical Data: Re-measurement in the field to compare the position of the land object with the existing land registration map.
 - 2) Legal Data: Tracing the warkah (basic document of ownership) of both parties to find out which certificate was issued first and according to procedures.
- c. Mediation and Clarification: The National Land Agency (BPN) will summon the disputing parties for mediation. BPN officers will act as neutral mediators (third parties) to clarify the issues and facilitate deliberation.¹⁸

¹⁷ Romadhoni, DE (2022). Settlement of Overlapping Land Ownership Disputes by Mediators at the Semarang City Land Office (Doctoral dissertation, Sultan Agung Islamic University, Semarang).

¹⁸ Romadhoni, DE (2022). Settlement of Overlapping Land Ownership Disputes by Mediators at the Semarang City Land Office (Doctoral dissertation, Sultan Agung Islamic University, Semarang).

d. Seeking a Peaceful Solution The primary goal of mediation is to reach a mutual agreement (consensus). The solutions sought are non-coercive, fair, and beneficial to all parties, for example through boundary adjustments, partial compensation, or the cancellation of certificates proven to be legally flawed.

b. Civil Court Path: If BPN mediation fails or one of the parties feels aggrieved, a lawsuit can be filed with the Semarang District Court to determine who the legal owner of the land is.

c. State Administrative Court (PTUN): If the overlap occurs due to an administrative flaw in the certificate issuance process (for example, measurement or data errors), a lawsuit can be filed with the Semarang Administrative Court to cancel the certificate that is deemed invalid.

4. The Role of Notaries/PPAT and Third Parties in Good Faith

Legal protection also extends to third parties who purchase land in good faith (through an authorized Land Deed Official/PPAT who verifies the certificate's authenticity at the National Land Agency) without knowledge of any dispute. The law tends to protect these good-faith buyers, although the cases remain complex.¹⁹In summary, in Semarang City, legal protection for holders of overlapping land rights is provided through the enforcement of the strongest and most administratively valid proof of ownership, with resolution of the problem being pursued through the National Land Agency (BPN) or through litigation in court. This principle is recognized in Indonesian law (particularly Article 32 paragraph (2) of Government Regulation No. 24 of 1997 and Supreme Court jurisprudence). Protection is provided to parties who purchase land honestly, through the correct procedures (involving the Land Deed Official (PPAT) and BPN verification), and without knowledge of any dispute. This aims to maintain certainty and security in land sale and purchase transactions. The core of dispute resolution in Semarang, or in Indonesia in general, rests on the enforcement of the strongest and most administratively valid proof of ownership. Problem resolution can be pursued through two main channels:

a. Administrative Path (BPN): Mediation and research of documents to reach a peaceful solution or improve administrative data.

b. Litigation (Court) Path: Through the District Court (civil rights disputes) or PTUN (BPN administrative decision disputes) if deliberation fails.

¹⁹ Romadhoni, DE (2022). Settlement of Overlapping Land Ownership Disputes by Mediators at the Semarang City Land Office (Doctoral dissertation, Sultan Agung Islamic University, Semarang).

3.3. Obstacles and solutions in resolving cases of overlapping ownership of a plot of land in Semarang City.

Resolving overlapping land ownership disputes in Semarang City often faces various obstacles, both administrative and legal. The effectiveness of a solution depends heavily on the good faith of the parties and the strength of the evidence.

The following are the main obstacles and solutions commonly applied in resolving overlapping land ownership disputes:

Major Obstacles in Resolving Overlapping Land Disputes

1) Inaccurate Physical and Legal Data:²⁰

Field measurement data often differs from the data recorded in old BPN documents (warkah). In addition, basic land acquisition documents (such as Letter C or other certificates) are often incomplete or difficult to trace their authenticity. Inaccurate land measurement methods from ancient (pre-modern) times, changes in natural boundaries (erosion, tidal flooding in the Semarang area), or errors in initial recording often cause data in old documents (warkah) to be inconsistent with current field conditions. Impact: This creates doubt when the BPN reconstructs land boundaries and areas, making it difficult to determine the accuracy of which certificate has the most valid data.

Historical land acquisition documents, such as Letter C or village head/sub-district certificates, were often manual and vulnerable to loss, damage, or even forgery. Village/sub-district data was sometimes out of sync with data at the National Land Agency (BPN). Impact: When disputes arise, tracing land history is hampered. If the authenticity of the underlying documents is difficult to prove, determining the legality of the initial certificate issuance becomes extremely difficult.

This inaccuracy and incompleteness of data directly complicates the application of the legal principle "earlier in time is stronger in right." Disputing parties find it difficult to prove which certificate issued earlier is procedurally correct and valid, often requiring lengthy and complex court proceedings.

2) Bad Faith and Data Manipulation

There are parties who deliberately manipulate land boundaries, use forged documents, or exploit individuals to illegally issue duplicate certificates. Impact:

²⁰ Rizaldi, M., Mujiburohman, DA, & Pujiriyani, DW (2023). Mediation as an Alternative to Resolving Overlapping Land Disputes Between Cultivation Rights and Ownership Rights. *Widya Bhumi*, 3(2), 137-151.

Creates complexities in criminal law alongside civil law and undermines trust between parties.²¹

3) Long and Protracted Legal Process:

If a dispute goes to court (either civil or administrative court), the process can take years, incur high costs, and lead to legal uncertainty for the legitimate rights holders. Impact: Economic and mental harm to the disputing parties.

4) BPN Resource Limitations:

The Semarang City Land Office, like other land offices, may face challenges in terms of limited personnel, budget, and time to thoroughly examine thousands of old and fragile certificates. The impact: The administrative resolution process is slow.

Solutions in Resolving Overlapping Land Disputes

1) Optimizing Mediation and Warkah Research at the BPN:²²

Maximize the role of the Semarang City Land Office in conducting thorough land title research. Mediation facilitated by the National Land Agency (BPN) is often the quickest solution if the parties are willing to reach a settlement through boundary adjustments or partial compensation.

2) Land Data Digitalization (PTSL Program)

Through the Complete Systematic Land Registration (PTSL) program, the government is digitizing land data. Accurate digital data minimizes the risk of future overlapping claims and facilitates the tracking of existing overlapping data.

3) Utilization of Legal Advisory or Land Consultant Services

Involving legal experts or consultants who understand agrarian law can help rights holders prepare strong evidence, both for the process at the BPN and in court, thereby speeding up the settlement process.

4) Taking the PTUN Legal Route for Administrative Decisions

If the overlap is caused by an administrative flaw (such as a measurement error or improper certificate issuance), a lawsuit to the State Administrative Court (PTUN) is often more effective and expeditious than a civil lawsuit in the District Court. The PTUN focuses on the validity of the BPN's administrative decisions.

²¹ Permadi, I. (2024). Land Mafia Crimes as a Threat to Legally Secure Land Ownership. Legal Perspective, 1-25.

²² Romadhoni, DE (2022). Settlement of Overlapping Land Ownership Disputes by Mediators at the Semarang City Land Office (Doctoral dissertation, Sultan Agung Islamic University, Semarang).

5) Settlement Through Deliberation in Good Faith:

Although difficult, consensus remains the best solution, which may involve joint re-measuring, adjusting land boundaries, or financial compensation to avoid lengthy legal proceedings.

Resolving overlapping land ownership issues in Semarang City often faces significant obstacles, both administratively, legally, and socially. However, solutions exist that can be implemented through various formal mechanisms.²³

Some of the main obstacles in resolving overlapping cases in Semarang include:

- 1) **Different Validities of Physical and Legal Data:** Often, both parties have certificates that appear legally valid, but the physical data (location, boundaries, area) and legal data (ownership history) recorded at the National Land Agency (BPN) are different or incorrect from the start. Determining which data is correct requires a complex and time-consuming search of the basic documents.
- 2) **Past Administrative Errors:** Many overlapping cases stem from past BPN officer errors, such as measurement errors, duplicate certificate issuances, or the processing of fraudulent documents. These internal errors complicate the process of revoking legally flawed certificates.
- 3) **Bad Faith and Document Forgery:** Obstacles often arise when one of the parties uses fake documents or there is a land mafia that deliberately creates duplicate certificates, making the proof process in court complex.
- 4) **Length of Legal Process:** Settlement through the courts, both Civil and PTUN, can take years, involving various levels of court (district, high, cassation), which requires large costs and energy from the disputing parties.
- 5) **Lack of Legal Literacy in Society:** Some people in Semarang still do not understand the correct legal procedures, so they often take the wrong path or are easily exploited by irresponsible parties.²⁴

Solutions to overcome these obstacles involve effective administrative, mediation and litigation approaches:

1. **In-depth Research by BPN (Verification and Clarification)** The first solution is to maximize the role of the Semarang City Land Agency (BPN) in conducting in-depth research into land data and history. The BPN must proactively reconstruct data

²³ Ardini, A., Hasibuan, MI, Ummairah, D., & Putri, EQA (2024). Protecting Landowner Rights: Enforcement of Criminal Law Against Land Encroachment in Indonesia. *DiH: Jurnal Ilmu Hukum*, 85-94.

²⁴ Ardini, A., Hasibuan, MI, Ummairah, D., & Putri, EQA (2024). Protecting Landowner Rights: Enforcement of Criminal Law Against Land Encroachment in Indonesia. *DiH: Jurnal Ilmu Hukum*, 85-94.

and re-measure to determine which certificates are valid according to the initial procedures.

2. Mediation Optimization Mediation at the Land Office or through a professional mediator is often the quickest and most affordable solution. With a neutral facilitator, both parties can reach an amicable agreement (such as a sale or purchase of a portion of the land or compensation) without the need for lengthy court proceedings.

3. Administrative Court Path for Cancellation of Legally Defective Certificates If it is proven that a certificate was issued improperly, the legal solution is to file a lawsuit with the State Administrative Court (PTUN) to overturn the Head of the National Land Agency's decision to issue the certificate. The PTUN's decision will provide a strong legal basis for administrative resolution at the BPN.

4. Criminal Law Enforcement: For cases involving document forgery or land mafia, the legal solution is through a police report and criminal proceedings. Criminal proceedings can help uncover bad faith and facilitate the cancellation of illegally issued certificates.²⁵

5. Improving the PTSL (Complete Systematic Land Registration) Program: As a long-term and preventive solution, the massive PTSL program in Semarang City aims to systematically record all land parcels, thereby minimizing the potential for overlapping in the future with more accurate and digitalized data.

4. Conclusion

Based on the research results, it can be concluded that

1) The issue of overlapping land ownership (or overlapping certificates) is one of the most complex land disputes in Semarang, and in Indonesia in general. Legal protection for land rights holders in such cases is based on the principles of agrarian law and applicable judicial processes.

2) Obstacles in resolving overlapping land ownership disputes are inaccurate physical and legal data, bad faith and manipulation, long and protracted legal processes, and limited BPN resources. Solutions to resolving overlapping land disputes include optimizing mediation and document research at the BPN, digitizing land data, utilizing the services of legal advisors or land consultants, utilizing the services of legal advisors or land consultants, taking the PTUN legal route for administrative decisions, and resolving through deliberation on the validity of BPN administrative decisions.

²⁵ Ardini, A., Hasibuan, MI, Ummairah, D., & Putri, EQA (2024). Protecting Landowner Rights: Enforcement of Criminal Law Against Land Encroachment in Indonesia. *DiH: Jurnal Ilmu Hukum*, 85-94.

B. Suggestions

Suggestions to prevent a recurrence of overlapping land ownership cases in Semarang City require systemic improvements, both in terms of government administration and public legal awareness. The following steps can be taken to minimize similar incidents in the future:

1. Improving Data Quality and Digitalizing BPN Services

a. Complete Systematic Land Registration (PTSL) Completion: The Semarang City Government and the National Land Agency (BPN) must accelerate the PTSL program throughout the region. PTSL aims to record and certify all land parcels to create a comprehensive and accurate spatial and legal database.

b. Spatial Data Integration: Using a sophisticated geographic information system (GIS) to digitally and accurately map all land areas. This spatial data must be connected and integrated across relevant agencies (BPN, Semarang Regional Government spatial planning department, and other relevant agencies).

c. Systematic Audit of Certificate Issuance: Conduct regular internal audits of the legacy certificate issuance process to identify potential overlapping baseline data.

2. Strengthening BPN Internal Supervision and Accountability

a. Inherent Supervision: Tighten supervision of measuring officers and BPN employees in the field to ensure that standard operating procedures (SOP) for measurement and data validation are carried out correctly and without manipulation.

b. Service Transparency: Increase transparency in every process of land certificate administration to reduce the gaps for Corruption, Collusion, and Nepotism (KKN) which are often the root of overlapping problems.

3. Increasing Public Legal Awareness

a. Land Law Education: Local governments need to actively conduct outreach and education to the public regarding the importance of land certification, maintaining ownership documents, and installing clear boundary markers.

b. Utilization of Online Certificate Check Services: Encourage the public to regularly use BPN online services to check the status and validity of land certificates they own or wish to purchase.

4. Regulatory Improvement and Multi-Party Collaboration

a. Inter-Agency Synergy: Strengthening collaboration between the National Land Agency (BPN), the Semarang City Government (Spatial Planning Agency, Housing and Settlement Agency), and the Primary Tax Office. Building Permit (IMB) and

Land and Building Tax (PBB) data must be synchronized with land certificate data at the BPN.

b. Through these preventive measures, it is hoped that a stronger, more accurate land administration system can be created, and that it can provide legal certainty for all residents of Semarang City.

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