

Legal Review of The Land Office's Legal Responsibility For The Issuance of Multiple Certificates Submitted By PPAT

Hilda Oktaviani¹⁾ & Taufan Fajar Riyanto²⁾

¹⁾ Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: hildaamri97@gmail.com

²⁾ Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: taufanfajarriyanto@unissula.ac.id

Abstract. *Legal Review of the Legal Responsibility of the Land Office for the Issuance of Duplicate Certificates Submitted by PPAT, is an important issue in legal practice in Indonesia. As an institution authorized to issue land certificates, the land office is responsible for providing legal certainty for the certificates it issues. The issuance of duplicate certificates not only harms the parties, but can also damage public trust in the land office. The purpose of this study is to analyze: 1) The process of issuing certificates at the land office. 2) The consequences and legal responsibilities of the land office in the issuance of duplicate certificates submitted by PPAT. The approach method in this study is the statute approach. This type of research is an empirical legal research. The type and source of data in this study are secondary data obtained through literature studies. The analysis in this study is perspective. The results of the study concluded: 1) The procedure for issuing certificates has basically been regulated normatively in Government Regulation Number 24 of 1997 concerning Land Registration and its implementing regulations, which emphasize the importance of the principles of legality, legal certainty, and public service. The process of issuing certificates through land registration, both initial land registration and maintenance of registration data, is carried out in stages, starting from the collection of legal and physical data, land inspection, data announcement, to the issuance of land title certificates by the Head of the Land Office. 2) The issuance of double certificates is a form of land administration defect that has implications for legal uncertainty and has the potential to cause land ownership disputes. The legal consequence of the issuance of double certificates is the cancellation of one or both certificates based on the legal principle that there cannot be two identical rights to the same object. In this case, the Land Office is administratively responsible because land title certificates can only be issued by the institution as the land registration executor in accordance with the provisions of Article 19 of the Basic Agrarian Law in conjunction*

with Government Regulation Number 24 of 1997. If negligence or procedural errors in the verification of legal and physical data are proven to originate from the Land Office, then legal responsibility may arise, either in the form of administrative recovery, compensation, or civil and/or criminal responsibility against authorized officials.

Keywords: Double Certificate; Legal Responsibility; Land Office.

1. Introduction

The existence of land is very important for humans in living their lives, so that a guarantee of legal certainty is needed for the land ownership rights they own. To obtain this guarantee, legal regulations are needed that provide guidelines and regulations whose implementation is carried out consistently in accordance with applicable regulations. One way to achieve this is to register the land with the National Land Agency (BPN) and obtain a certificate as legal proof of ownership. The history of the relationship between Indonesian people and their land is also reflected in the proclamation of independence, where the relationship is regulated in Article 33 paragraph (3) of the 1945 Constitution. This article emphasizes that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest possible welfare of the people.

What has been stated by the Indonesian nation in Article 33 paragraph (3) of the 1945 Constitution, is then further explained in Law Number 5 of 1960 concerning the Principles of Agrarian Principles. In this case, the state as an organization of power representing all the people is given the right to control land with the aim of realizing the prosperity of the people, which is known as the term state control rights. This state control means that the state has the highest authority to:

1. regulate and organize the allocation, use, provision and maintenance of the earth, water and space;
2. determine and regulate legal relations between individuals and the earth, water and space;
3. determine and regulate legal relationships between individuals and legal actions relating to earth, water and space.

From the explanation above, it can be understood that legally, land is defined as the surface of the earth. Meanwhile, land rights are rights granted to a certain part of the earth's surface, which are limited and have two dimensions, namely length and width. With land rights, what is owned is a part of the earth's surface. However, sometimes the authority to use land derived from these rights is expanded to include the use of part of the earth's body underground, water, and the space above it.

Article 1 paragraph 3 of the 1945 Constitution which states "The State of Indonesia is a state of law" which emphasizes that every citizen has an equal position before the law and must comply with existing regulations. All legal

actions taken by the community must be supported by evidence showing that the legal act has occurred.

In order to provide legal certainty regarding land rights for all Indonesian people, the government will carry out land registration throughout the territory of the Republic of Indonesia, in accordance with the provisions of Article 19 paragraph (1) of the UUPA. This article states that

"To ensure legal certainty, the government will organize land registration which will be further regulated by Government Regulation."

The Government Regulation governing the implementation of land registration as mandated in the UUPA is PP Number 10 of 1961 which came into effect on March 23, 1961, then refined by PP Number 24 of 1997 which came into effect on July 8, 1997. Government Regulation Number 24 of 1997 which has been amended by Government Regulation Number 18 of 2021 concerning Land Registration, stipulates that all transfers of land rights and ownership rights to apartment units, whether through sale and purchase, exchange, grant, income, or other methods of transfer of rights, except through auction, can only be registered if accompanied by a deed prepared by an authorized PPAT in accordance with the provisions of applicable laws and regulations.¹

PPAT is a public official who has the authority to prepare authentic deeds related to land rights or ownership rights to apartment units, in accordance with Article 1 number 1 of Government Regulation Number 24 of 2016. All deeds made by PPAT are considered authentic deeds that must meet the applicable forms and provisions. Based on Article 1868 of the Civil Code (KUH Perdata), an authentic deed is a deed that is prepared in accordance with the format stipulated by law, and/or before an authorized public official at the place where the deed is made.²

Land rights are proven by a land ownership certificate, which functions as authentic evidence to provide certainty and legal protection for rights holders, in accordance with the provisions of Article 32 Paragraph (1) of PP 24 of 1997. The process of issuing land certificates is carried out through a Notary/PPAT, then forwarded to the BPN to be issued as a certificate that has valid and strong evidentiary power.

Land title certificate is the final result of the land registration process regulated by law, namely the Basic Agrarian Law and Government Regulation Number 24 of 1997 concerning Land Registration. This certificate has binding legal force for National Land Agency (BPN) officials to issue it as valid evidence of land ownership. This binding provision means that BPN officials are required to correct any errors or mistakes in issuing the certificate, in accordance with applicable regulations.

¹I Ketut Oka Setiawan, 2014, Land Registration Law, Sinar Grafika, Jakarta, p. 106

²Soedharyo Soimin, 2008, Status of Land Rights and Acquisition, Jakarta: Sinar Grafika, p. 86

The National Land Agency has the main task of carrying out government duties in the land sector nationally, regionally, and sectorally. In addition, the National Land Agency also has functions that must be carried out.

The Land Office is a work unit of the National Land Agency located in a Regency or City area, which is tasked with registering land rights and maintaining a general list of land registrations. To carry out these duties, the Head of the Land Agency has the authority to register land rights and issue decrees granting land rights requested by individuals or bodies. In carrying out daily duties, some of the authority to grant land rights is delegated to the Provincial Land Agency Office or the Regency or City Land Agency Office. The duties of the Land Office are regulated in Article 30 of the Regulation of the Head of the National Land Agency Number 4 of 2006 concerning the Organization and Work Procedures of the Regional Office of the National Land Agency and the Land Office, which states that the Land Office has the duties and functions of the National Land Agency in the relevant Regency/City.

The Land Office, as the spearhead of the National Land Agency, has the task of providing direct services in the land sector to the community. The Land Office carries out three main tasks, namely:³

1. Preparing activities in the field of regulating land tenure, land use, managing land rights, as well as measuring and registering land rights;
2. Carrying out service activities in the field of land ownership regulation, land use, land rights management, land rights measurement and registration;
3. Performing administrative and household duties.

Seeing the many lawsuits related to certificates issued in an unlawful manner or not in accordance with legal provisions, and which are detrimental to the legitimate landowner, the court becomes the last channel to request that land rights be returned to the true owner. Therefore, in resolving legal disputes in court, judges must be able to make the right decision based on the lawsuit and the responses of both parties involved. The court plays an important role in realizing justice.

Land issues that often end up in court are generally caused by conflicting claims, where each party has proof of ownership in the form of a certificate. Land conflicts basically do not only arise because of the absence of a land certificate, but land that already has a certificate is also susceptible to disputes. This occurs when in one land object there are two land rights statuses in part of the land area, and each party claims to be the owner, which often causes double certificates (overlapping).

The issuance of duplicate certificates is certainly inseparable from the actions of applicants who submit land data to the Land Deed Making Officer or applications

³Malaka, Zuman, and Habib Adjie, 2017. "Responsibility of the Land Office for the Issuance of Duplicate Certificates (Case Study of Supreme Court Cassation Decision No. 162 K/TUN/2012)." *Jurnal Al-Qānūn* vol 20, no. 2, page 7.

submitted by other parties directly to the National Land Agency, which can cause errors. In addition, this can also occur due to carelessness in checking physical evidence or legal data submitted during the certificate application and issuance process.

Land disputes can be viewed from two perspectives. From the community's perspective, land problems arise due to the incompetence and unprofessionalism of the National Land Agency apparatus and poor land administration. Meanwhile, according to the National Land Agency's view, this is caused by falsification of information from the community, village heads, or PPAT. If it is proven that the dispute that occurred was caused by the negligence of the National Land Agency, then in accordance with the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 11 of 2016 concerning the Settlement of Dispute Cases, Article 68 Paragraph 3 explains that:

"Errors in the process of resolving land cases due to negligence of employees or ministry officials constitute administrative violations that can be subject to administrative sanctions."

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 11 of 2016 concerning Settlement of Dispute Cases, Article 81 Paragraph 1 states that:

"All consequences arising from legal actions taken by BPN employees or officials in handling disputes, conflicts, and land cases regulated in this regulation, which have been implemented in accordance with applicable procedures and give rise to problems in the form of civil lawsuits, state administration, or reports of criminal acts against BPN employees or officials, are the responsibility of BPN."

The problem of land certificates still exists and reappears with different problems. A plot of land that has a double certificate appears and becomes a bitter root for land law in Indonesia. Based on this background, the author is interested in discussing the issuance of double certificates and seeking and understanding the form of accountability of the National Land Agency regarding the issuance of double certificates and their legal consequences. The author summarizes this problem with the title "Legal Review of the Legal Responsibility of the Land Office for the Issuance of Double Certificates Submitted by PPAT"

2. Research Methods

This type of research is empirical legal research. According to Mukti Fajar and Yulianto Achmad, empirical legal research is an approach carried out through direct research in the field by observing and analyzing how regulations are applied in practice in society.⁴The approaches in this study include the statute approach and the sociological approach. The statute approach is used on the basis of analyzing all relevant laws and regulations with the legal issues being

⁴Mukti Fajar and Yulianto Achmad, 2015, *Dualism of Normative and Empirical Legal Research*, 3rd Edition, Pustaka Pelajar, Yogyakarta, p.34

studied.⁵This approach aims to understand the existing legal basis. In addition, the sociological approach is an approach used to study the social factors that influence.⁶This approach aims to identify new meanings or test legal terms in theory and practice.⁷In this study, analysis was conducted. The type and source of data in this study are secondary data. Secondary data refers to information obtained from the literature which is the result of previous research. In this study, the method used is the literature technique (study document). In this study, the analysis was conducted prescriptively, namely to provide arguments for the research results that have been achieved.

3. Results and Discussion

3.1. Certificate Issuance Process at the Land Office

Land registration consists of the words "registration" and "land". Etymologically, registration comes from the word "daftar" which means recording or the act of registering. While the definition of land according to the big Indonesian dictionary is earth in the sense of the earth's surface or the layer of earth that is above it.⁸Government Regulation Number 24 of 1997 Article 1 paragraph 10 and 11 clearly distinguish between systematic and sporadic land registration. In both systematic and sporadic registration, each plot of land that is measured will be issued a measurement letter with the term Situation Picture no longer used. Both types of measurement must still follow the technical principles of measurement and mapping, so that the land plot in question can be mapped accurately, its position and boundaries are known on the map, and it is possible to reconstruct these boundaries in the field.

Government Regulation Number 24 of 1997 no longer distinguishes between certificates and temporary certificates, as well as between measurement letters and situational drawings. Therefore, in the implementation of land registration both systematically and sporadically, only one term is used, namely Certificate, and the term Temporary Certificate is no longer used. Systematic land registration, as regulated in the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 Article 46 paragraph 3, covers the area of one village or sub-district, the determination of which is carried out by the government. The determination of the location is under the authority of the Minister of Home Affairs based on a proposal from the Head of the Regional Land Office, which is prepared with reference to the Land Office work plan. This determination also takes into account certain criteria for the area or region in question as follows:⁹

⁵*Ibid*, p.185

⁶*Ibid*, p.186

⁷Hajar M, 2015, Models of Approach in Legal and Fiqh Research, UIN Suska Riau, Pekanbaru, p. 41

⁸Taufan Fajar Riyanto, 2023, Complete Guide to Smart Learning of PPAT Law, Samudra Biru Publisher, Yogyakarta, page 63.

⁹Legal Institution, 2015. Duties and Functions of the Land Office in Land Registration, Journal of Legal Studies, Bandar Lampung University, Vol. 10, No. 1, page 5.

- a. Some of the areas have been systematically registered;
- b. The number of registered land plots is relatively small, namely around 30% of the estimated number of existing land plots;
- c. It is an urban development area with a high level of development; It is a productive agricultural area;
- d. Points to national engineering base numbers are available.

Systematic land registration can be funded by the budget of the Central Government, Regional Government, or through community self-help with the approval of the Minister of Home Affairs. In its implementation, the Land Agency Office will be assisted by an Adjudication Committee formed by the Minister or an authorized official.

Based on the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 Article 50 paragraph (1) and (2), the composition of the Adjudication Committee includes several elements or specific members as follows:¹⁰

- a. The chairman and member position is held by an employee from the Land Office who has expertise and understanding in the field of land registration or land rights, and has the highest rank compared to other members;
- b. Deputy Chair I and Deputy Chair II, who also serve as members, are held by Land Office employees who have competence and insight in the field of land registration and land rights;
- c. The local Village Head or Sub-district Head, or appointed village official, serves as a member;
- d. The membership of the Adjudication Committee can be expanded by adding one person from among the traditional figures, hamlet heads, or neighborhood heads who have in-depth knowledge regarding the history or background of the land at the systematic land registration location.

Based on Article 51 of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997, in carrying out its duties, the Adjudication Committee is assisted by a special task force, namely a measurement and mapping task force consisting of several measuring officers, as well as a legal data collection task force consisting of two Land Office employees who have expertise in the field of land registration and land rights.

Sporadic land registration includes land plots registered based on individual requests from rights holders or recipients, either individually or en masse. Both sporadic and systematic land registration for the first time, according to

¹⁰I Nyoman Bagiastra, Ni Made Rian Ayu Sumardani, 2021. Legal Responsibility of the Land Office Regarding the Inconsistency of the Results of Electronic Certificate Checks - *Acta Comitatus*, Jurnal Kenotariatan, pp. 8-9.

Government Regulation Number 24 of 1997 Article 12, involve a series of activities as follows:¹¹

a. Physical Data Collection and Processing

Measurement and mapping in the land certificate registration process is carried out in the following stages:

- a) Creation of Registration Base Map.
- b) Determination of Boundaries of Land Plots.
- c) Measuring and Mapping Land Plots and Making Registration Maps.
- d) Making Land Lists and Measurement Letters.

b. Collection and processing of legal data

The collection and processing of legal data in the land certificate registration process is carried out in the following stages:

- a) Announcement of Physical Data and Legal Data.
- b) Validation of Physical Data and Legal Data
- c) Proof of Land Rights
- c. Issuance of certificates
- d. Presentation of physical data and legal data
- e. Storage of general lists and documents

The process of issuing a Certificate follows the procedures set out in Government Regulation Number 24 of 1997 concerning Land Registration. The purpose of issuing this Certificate is so that the holder can easily prove the rights to the land. The Certificate is considered a valid and strong means of proof, as regulated in Article 19 of the UUPA. However, if there is still uncertainty regarding the rights to the land in question, and there are records in the bookkeeping, the Certificate cannot be issued. However, if the records only concern incomplete physical data and are not disputed, the Certificate can still be issued.

In accordance with the service system that has been integrated throughout the Indonesian Land Office, the land registration procedure includes the following stages:¹²

- 1) Submission of application/registration of land rights through counter II.
- 2) Checking the completeness of application/registration files by counter officer II.
- 3) Issuance of TTBP (Application/Registration Document Receipt) by Counter II officers, which usually contains:
 - a. Receipt of application files and complete application documents

¹¹Ibid, pp. 11-13.

¹²Muammar, 2021. Rahman Arif Procedure for Issuing Electronic Certificates as Authentic Evidence of Land Rights Control, *Juridica: Journal of the Faculty of Law, Gunung Rinjani University*, pp. 9-10.

- b. Cost breakdown.
- c. Payment order and collection of proof of registration at counter III.
- 4) Payment by the applicant/registrant at counter III.
- 5) Issuance of payment receipts and proof of registration and payment by counter III officers, which are handed over to the applicant/registrant.
- 6) The land registration process includes measurement, announcement, bookkeeping, and issuance of certificates.
- 7) Collect the certificate at counter IV by the applicant/registrant, by showing the land registration certificate.

3.2. Consequences and Legal Responsibilities of the Land Office in Issuing Duplicate Certificates Submitted by PPAT

3.2.1. Legal Consequences of the Land Office in Issuing Duplicate Certificates Submitted by PPAT

Legal certainty regarding land rights plays a very crucial role. This is in line with the mandate of the Basic Agrarian Law (UUPA) which contains two main aspects, namely certainty regarding the object and subject of land rights. Certainty of the object is related to the location of the land plot that has been determined by geo-reference coordinates in the land registration map. Meanwhile, certainty of the subject is reflected in the identity of the rights holder whose name is recorded in the land registration book managed by the land agency. The official document containing a copy of the map and the registration book is known as a Land Certificate.

Certificate Land rights are the final result of the land registration process, including all changes related to the subject of rights, status of rights, and legal actions taken against the land. This certificate functions as strong evidence, as stated in the provisions of Article 19 paragraph (1) letter c, Article 23 paragraph (2), Article 32 paragraph (2), and Article 38 paragraph (2) of the Basic Agrarian Law (UUPA). This is in accordance with the author's interview with Amalsyah, S.Kom, an employee of the Kendari City Land Office in the field of Dispute Control and Handling who said that:

“The Land Office has a very important role in ensuring legal certainty of land ownership in Indonesia. Its main task in terms of issuing land title certificates is to carry out land administration services, starting from land registration, measuring and mapping land plots, document inspection, to issuing certificates as legal evidence of land ownership or control rights. The functions of the Land Office include arranging, controlling, and providing land information to the public. In the process of issuing certificates, the Land Office ensures that each application meets administrative and legal requirements, verifies data, and coordinates with related parties if necessary. All of this is done to ensure that the certified land is truly legally controlled by the applicant, and to avoid disputes in the future. In addition, the Land Office also functions as an institution that

provides public services in a transparent and accountable manner, in accordance with the principles of orderly, fast, and safe land services.”

Certificate Land functions as strong evidence, but is not absolute or perfect evidence as regulated in the UUPA and its implementing regulations, namely PP Number 10 of 1961 and PP Number 24 of 1997. This means that the information contained in the Certificate has legal force and must be considered true by the judge, as long as there is no other evidence that can refute or state otherwise.

Article 32 paragraph (1) of Government Regulation Number 24 of 1997 states that a Certificate is a means of proof of rights that has strong evidentiary power. However, paragraph (2) of the same article states that if a land plot has been issued a Certificate legally in the name of a person or legal entity that obtained the land in good faith and actually controls it, then other parties who claim to have rights to the land may not claim their rights again if within a period of five years since the Certificate was issued they do not submit a written objection to the Certificate holder and the Head of the local National Land Agency.

There are a number of factors that can trigger the issuance of duplicate certificates, including:¹³

- a) Certificate what is meant is not yet listed in the land registration map or the situation map of the related area, and there is no single map available as a reference.
- b) The term single map is not mentioned in Government Regulation Number 24 of 1997, this term is more often used in the technical context of measurement.
- c) A single map is a map that integrates photogrammetric maps, work maps, line maps and land registration maps into one unit.

The phenomenon of the emergence of dual land title certificates can be caused by the following factors:¹⁴

- a) When field measurements or surveys were carried out, the applicant intentionally provided incorrect information about the location and boundaries of the land.
- b) There is a letter of evidence or acknowledgement of rights which is ultimately proven to contain elements of intent, untruth or falsity, and/or no longer has legal force.
- c) In that area, land registration maps have not yet been prepared.
- d) The issuance of duplicate certificates can also be caused by administrative errors.

The Land Office is required to ascertain who owns the land along with its location, boundaries, and stakes by inviting the landowner and the adjacent landowner. This aims to prevent fraud or errors that could harm the related

¹³Prasetyo Aryo Dewandaru, et.al, 2020. Settlement of Land Disputes Regarding Duplicate Certificates at the National Land Agency, Jurnal Notarius, Vol. 13, No. 1, page 11.

¹⁴Ibid, p. 12.

parties. Data from field measurements and research are needed to ensure the certainty of a land plot, namely:¹⁵

a) Land physical data includes information about the actual condition of a piece of land, including its location or position, the boundaries surrounding it, and the total area of the land. In addition, this data also records whether there are buildings or plants standing on the land. In other words, the main focus of this physical data is on the aspects of geographical position, size, and the presence of physical elements such as buildings or vegetation on the land.

b) Legal land data contains information related to the legal aspects of a plot of land, including who owns or holds the rights to the land. In addition, this data also includes the type or legal status of land rights, as well as whether there are other rights from third parties that burden or affect ownership, such as lease rights, use rights, or mortgage rights. Thus, this data highlights the legality and control of land from a legal perspective.

Thus, the main focus of legal data is on the status of the land, the legal subjects who own or control it, and other rights attached to the land. The process of collecting physical data and legal data, as regulated in Article 14 and Article 23 of Government Regulation Number 24 of 1997, must be applied in the issuance of Land Certificates. This procedure aims to ensure legal certainty regarding land control and ownership, especially in terms of the clarity of the location and boundaries of each plot of land, so as to prevent overlapping land that has the potential to cause double Certificates.

In practice, there are a number of cases in various Land Offices in cities and districts, where Certificates of Ownership Rights are issued inaccurately. This error occurs when the application for a Certificate is submitted by one of the land owners who turns out to be only one of the joint rights holders of the land. In fact, according to the provisions of Article 3 letter d of Presidential Regulation of the Republic of Indonesia Number 10 of 2006 concerning the Land Office, one of the main functions of the Land Office is to provide guidance and general administrative services in the land sector. With this function, it is hoped that the land registration process can be carried out effectively and orderly, which will ultimately create orderly land administration. The implementation of this land administration is the responsibility of the government through the Land Office. In its implementation, the principle of *catur tertib* is applied as a pillar of land administration. The main objective of this land order is to realize the mandate of the Decree of the People's Consultative Assembly Number II/MPR/1998 concerning the General Outlines of State Policy, which emphasizes the importance of arranging land ownership, use and control fairly for the community, as well as improving the quality of the environment and natural resources.

¹⁵Aris Rubianto, 2021. RESPONSIBILITY OF THE NATIONAL LAND AGENCY IN GRANTING CULTIVATION RIGHTS (A Study in Aceh Province), Journal of Legal Studies, Postgraduate Program, Syiah Kuala University, page 14.

The Land Office as an institution authorized to issue land certificates must conduct a thorough examination of potential legal defects that may arise due to its negligence, in order to prevent losses for land rights holders. In Article 1 letter b of the Decree of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 10 of 1993 concerning Procedures for Replacing Land Rights Certificates, it is stated that what is meant by old Certificates are Certificates issued by various previous land agencies, such as the Land Registration Office, Land Registration and Supervision Office, Agrarian Sub-Directorate Office, Agrarian Office, and Regency/Municipal Land Offices before the enactment of the Decree of the Head of the National Land Agency Number 14 of 1989. Meanwhile, according to Article 1 letter c in the same decree, a new Certificate is defined as a Certificate issued by the Regency/Municipal Land Office using the Certificate format or form that has been determined through the Decree of the Head of the National Land Agency Number 14 of 1989.

In addition, the land office also cooperates and coordinates with the Land Deed Making Officer (PPAT) in the process of implementing the issuance of land certificates, this is in line with the author's interview with Amalsyah, S.Kom, an employee of the Kendari City Land Office in the field of Dispute Control and Handling who said that:

“Cooperation between the Land Office and PPAT is an integral part of the land administration system in Indonesia, especially in order to ensure the smoothness and validity of the land registration process. The mechanism begins when the PPAT prepares and signs an authentic deed, such as a deed of sale and purchase, gift, exchange, or grant of mortgage rights, which becomes the legal basis for changes to land data. After the deed is completed, the PPAT is obliged to submit the document along with the complete administration to the Land Office no later than seven working days from the date of signing the deed. The Land Office then verifies the completeness and validity of the documents submitted by the PPAT, takes measurements if necessary, and continues the process of registering changes to land rights in accordance with applicable provisions. This cooperative relationship is carried out in the spirit of coordination and mutual support, where the PPAT acts as a partner of the Land Office in ensuring orderly administration and legal certainty for the community. In addition, the Land Office also periodically provides guidance and supervision to PPAT to ensure that the processes and procedures are carried out in accordance with applicable laws and regulations.”

Basically, a land certificate has strong legal force and is recognized as valid evidence. However, if another certificate appears for the same plot of land, then the legal force of the certificate becomes weak. Legally, a double certificate for land cannot be used as valid evidence. Therefore, in the case of a double certificate, legal protection for the owner and holder of land rights cannot be given optimally. If a double certificate occurs and the land status is in a status quo condition without a court order or cancellation decision, then the recording in

the land book will contain information about the dispute and details related to the matters that are the object of the dispute.

Certificate serves as strong evidence for the land rights holder whose name is recorded in it. However, if there is a defect in the physical data, the legal force of the Certificate can be revoked. The occurrence of legal defects or physical data defects can trigger the emergence of duplicate Certificates. This generally occurs when the mapping of land areas in the land registration map by the Land Office is not carried out accurately. The definition of a duplicate certificate is stated based on the author's interview with Amalsyah, S.Kom, an employee of the Kendari City Land Office in the field of Dispute Control and Handling who said that:

“According to the Land Office, a double certificate is a condition in which there are two or more land title certificates issued for the same or overlapping land plots, either partially or completely. This usually occurs due to administrative errors, inconsistencies in physical and legal data, or abuse of authority and data manipulation. Double certificates create legal uncertainty and have the potential to cause disputes between parties who feel they have rights to the land. The Land Office believes that in order to prevent double certificates, it is necessary to be careful in the land registration process, data validation, and an accurate and integrated land information system. If double certificates have already occurred, the Land Office will conduct research, clarification, and verification of land data and supporting documents to determine the validity of the actual certificate. The settlement process is usually carried out through a mediation mechanism, administrative cancellation if there is a proven procedural flaw, or through legal channels if the dispute cannot be resolved through deliberation.”

The emergence of duplicate certificates in some cases is caused by complaints and objections from land rights owners who feel disadvantaged. They find another certificate with the same number for the same land object, but issued on a different date. Meanwhile, the measurement letter or related situation drawing has the same number, date, and land area. Because they feel disadvantaged, the owners file a lawsuit against the State Administration decision in the land sector issued by the Head of the National Land Agency, because the decision is considered detrimental to their rights to the land.

In some cases of duplicate Certificates on Certificates of Ownership, errors or administrative defects were found that caused legal defects. This occurs when the Certificate is issued with the same name of the owner, object, and land area, even though the owner of the rights has never submitted an application for the issuance of a new Certificate or given power of attorney to another party. Therefore, the Land Office should conduct a thorough examination and check of the Certificates issued to identify the source of the error that caused the emergence of duplicate Certificates. In addition, the office needs to determine the right steps to minimize losses for land rights owners, especially for owners of legitimate Certificates of Ownership.

Dispute resolution through the courts is carried out when deliberation efforts do not produce results or when there are principal problems that can only be resolved by an authorized agency, such as a court. In this situation, the parties concerned are advised to take their problems to court. Generally, these disputes arise due to complaints containing conflicting land rights or other rights related to certain priorities, or because of decisions that are considered detrimental to one of the parties. Dispute resolution must always refer to applicable regulations, pay attention to the balance of interests of the parties, uphold legal justice, and strive to be resolved completely. Settlement through the courts results in a decision (verdict) that determines who is right and who is wrong, because the court has the authority to determine this.

On the other hand, out-of-court dispute resolution, as is the case in customary law systems, is based on cultural values that prioritize peace and harmony in society. This method does not result in determining who is right or wrong, so that good relations between the disputing parties are maintained. Aspects that influence the choice of dispute resolution method include factors related to behavior, meaning, and the purpose of the action, which are actually interrelated. The selection of a dispute resolution institution is not only based on a specific purpose, but also has a special meaning for the actions taken. In addition, there is a close relationship between the purpose and consideration of profit and loss, as well as between the choice of action and the consequences that will be faced. Dispute resolution through the courts is not a necessity, because the law gives the disputing parties the freedom to resolve their problems peacefully outside the courts.

3.2.2. Legal Responsibility of the Land Office in Issuing Duplicate Certificates Submitted by PPAT

Certificate Land rights are the final result of the land registration process required by law, namely based on the Basic Agrarian Law and Government Regulation Number 24 of 1997 concerning Land Registration. This certificate is an obligation for Land Office officials to be issued as proof of legal and strong land ownership. This obligation means that Land Office officials must be responsible for issuing the Certificate, and if there are errors or mistakes in the issuance process, then in accordance with Government Regulation Number 24 of 1997, the official is required to make corrections to the problematic Certificate. This is in line with the author's interview with Amalsyah, S.Kom, an employee of the Kendari City Land Office in the field of Dispute Control and Handling who said that:

“When a case of duplicate certificates occurs that causes losses to one of the parties, the Land Office immediately takes structured follow-up steps in accordance with applicable legal provisions. First, the Land Office conducts an in-depth investigation to identify the cause and the parties involved in the case. Next, a re-verification of the physical and legal data of the land in question is carried out, including coordination with village officials, applicants, and other interested parties in order to find a fair and transparent solution. If

administrative errors are found, the Land Office has the authority to cancel or revoke invalid certificates and correct data in the land registration system. In addition, the Land Office also provides mediation to the parties so that they can resolve disputes amicably before taking legal action. If the problem cannot be resolved internally, the Land Office is ready to support the settlement process through the courts. In addition, the Land Office also evaluates and improves internal procedures so that similar cases do not recur in the future. All of these efforts aim to provide legal certainty, protect community rights, and maintain the integrity of the national land system.”

Seeing the many lawsuits related to Certificates issued in violation of the law or not in accordance with applicable provisions, which ultimately harm the legitimate landowner, the court becomes the last option for landowners to demand the return of their rights. Therefore, in resolving legal disputes in court, judges must be able to determine the right decision based on the lawsuit and the answers of the disputing parties. Land problems that often end up in court generally involve claims from both parties who both have proof of ownership in the form of Certificates. This land conflict does not only occur because there is no Certificate, but can also occur on land that already has a Certificate. In this case, one land object can have two different rights statuses in certain parts, so that each party claims to be the owner, and this often results in the issuance of double Certificates (overlapping).

The issuance of duplicate Certificates is often caused by the actions of applicants who submit land data to the Land Deed Making Officer or applications from other parties that are directly submitted to the Land Office, resulting in errors. In addition, the lack of accuracy in checking physical and legal data during the process of submitting and issuing Certificates is also a contributing factor. In fact, until now land problems in Indonesia are still complex and diverse, including the frequent issuance of two or more Certificates for the same plot of land.

This problem shows that the Land Office still has weaknesses in providing public services, especially in land rights registration, which results in the issuance of double Certificates for land owners. Therefore, the land office must be responsible for the issuance of the double Certificates. If associated with the Theory of Legal Responsibility according to Hans Kelsen, in his theory it is explained that a person can be held legally responsible for a certain action, which means that the subject must bear sanctions if his actions violate the rules of law.¹⁶

In the provisions of the applicable laws and regulations regarding negligence committed by Land Office Officials, the available provisions only cover the imposition of administrative sanctions. Based on Government Regulation Number 48 of 2016 concerning Procedures for Imposing Administrative Sanctions

¹⁶Hans Kelsen, 2019. Pure Legal Theory, Nusamedia, Bandung, page 42.

on Government Officials, the sanctions are regulated in Article 9 and are classified into three types as follows:¹⁷

- 1) Light administrative sanctions, namely:
 - a) Verbal reprimand;
 - b) Tertius reprimand;
 - c) Postponement of promotion to rank, class and/or position rights.
- 2) Medium administrative sanctions, namely:
 - a) Payment of forced money and/or compensation;
 - b) Temporary notification by obtaining rights or positions;
 - c) Temporary dismissal without obtaining the rights of office.
- 3) Heavy administrative sanctions, namely:
 - a) Permanent termination with obtaining financial rights and other facilities;
 - b) Permanent termination with obtaining financial rights and other facilities and published in the mass media;
 - c) Permanent notification without obtaining financial rights and other facilities and published in the mass media.

Certificate Land Rights are categorized as a form of State Administrative Decision based on the provisions of Article 1 number 9 of Law Number 5 of 1986 concerning State Administrative Courts, which has been amended through Law Number 9 of 2004 and Law Number 51 of 2009. In Article 1 number 9 of Law Number 51 of 2009, it is explained that there are several elements that characterize a State Administrative Decision, namely:¹⁸

- a) A written determination;
- b) Issued by a State Administrative Agency or Official;
- c) Contains State Administrative Law actions;
- d) Based on applicable laws and regulations;
- e) Be concrete, individual and final;
- f) Causing legal consequences for a person or civil legal entity.

Government responsibility arises when there is an objection, lawsuit, or judicial review filed by individuals, communities, or legal entities against government actions in carrying out government functions. This process can be carried out through the courts or outside the courts, with demands that include payment of a sum of money (such as subsidies, compensation, allowances, etc.), issuance, cancellation, or revocation of a decision or regulation, and other actions that are a form of fulfillment of government obligations. The same thing was also

¹⁷Iwan Permadi. 2016. Legal Protection for Purchasers of Double-Certified Land in Good Faith for Legal Certainty, Yustisia, Vol. 5, No. 2, pp. 8-9.

¹⁸Asyiah Nur, 2015. Textbook of State Administrative Court Procedure Law. Deepublish, Yogyakarta, page 105.

explained during the author's interview with Amalsyah, S.Kom, an employee of the Kendari City Land Office in the field of Dispute Control and Handling who said that:

“Cases where the Land Office is held legally responsible, both civilly and criminally, for the issuance of duplicate certificates have indeed occurred, although not very often. In some cases, parties who are harmed by the existence of duplicate certificates file lawsuits to demand clarity and justice, which can lead to litigation against the Land Office if negligence or administrative errors are found that cause losses. In the civil realm, the Land Office can be asked for compensation or restoration of the status quo by landowners whose rights have been harmed. Meanwhile, in the criminal realm, if elements of intent, corruption, or gross maladministration are found in the certificate issuance process, law enforcement officers can conduct investigations and prosecutions against the officials or employees responsible. However, in general, the Land Office makes every effort to avoid this by improving standard procedures, carrying out strict supervision, and implementing a digital system to minimize errors. The cases that arise usually become important lessons for improving the land administration system in the future.”

In cases of double certificates, the Land Office has the authority to carry out the negotiation, mediation, and facilitation process between the parties involved in the dispute in order to reach a mutual agreement. This dispute resolution mechanism is implemented in accordance with the provisions contained in the Regulation of the Minister of ATR/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Handling and Settlement of Land Cases. This is in accordance with the author's interview with Amalsyah, S.Kom, an employee of the Kendari City Land Office in the field of Dispute Control and Handling who said that:

“The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) has issued various policies and regulations to prevent the occurrence of duplicate certificates, one of which is the Regulation of the Minister of ATR/Head of BPN Number 21 of 2020 concerning the Handling and Settlement of Land Cases. This regulation establishes standard operating procedures in handling land disputes, including duplicate certificates, through stages such as case assessment, initial title, research, exposure of research results, coordination meetings, final title, and case resolution. If administrative or legal defects are found in the certificate in question, the certificate can be canceled. In addition, to increase transparency and accuracy of land data, ATR/BPN is also developing digital technology such as the "Sentuh Tanahku" application. This application allows the public to verify the status of land certificates online, so that they can identify potential duplicate certificates before making transactions. These policies and regulations demonstrate ATR/BPN's commitment to improving the land administration system and preventing duplicate certificates, in order to provide legal certainty for the public and increase trust public awareness of the land system in Indonesia.”

Article 34 paragraph (1) and (2) of the Regulation of the Minister of ATR/Head of the National Land Agency of the Republic of Indonesia No. 21 of 2020 states that:

(1) In principle, only one land title certificate may be issued for one plot of land unless otherwise stipulated by statutory regulations;

(2) In the event that there are one or more overlapping certificates in one plot of land, either in whole or in part, the certificates in question will be handled as referred to in Article 6 paragraph (1).

Errors in the issuance of land certificates are not included in the realm of criminal or civil law, but can be submitted as administrative disputes at the land office. From an administrative perspective, land office officers do not have the authority to reject land registration applications, either for initial rights registration or for changes in ownership or rights objects, as long as the administrative requirements submitted by the applicant are complete. This is because land office officers do not have the legal authority to assess legal aspects related to the content and validity of land documents submitted by the applicant.

The land office seeks to resolve land disputes in accordance with applicable legal provisions, while still considering the principle of justice and respecting the rights and obligations of all parties involved. In cases of dual certificates, the land office has the authority to facilitate mediation and negotiation between the disputing parties, with the aim of reaching a mutual agreement.

Based on the case description above, it can be concluded that in the process of issuing certificates, the land office has committed a violation of the law by issuing double certificates (overlapping) by the Head of the National Land Agency. As an institution responsible for the land registration process, the land office has made mistakes, either intentionally or through negligence. Therefore, the land office bears full responsibility for the issuance of double certificates arising from the lack of accuracy in the land registration system. The land office is also fully responsible for every certificate issued based on its authority. The principle of absolute responsibility requires the land office to be responsible, both in court and out of court, if a lawsuit arises regarding land rights. Thus, the existence of double certificates that are the source of land disputes is the absolute responsibility of the land office.

Article 32 paragraph (2) of PP No. 24 of 1997 states that:

"In the event that a Certificate has been legally issued for a plot of land in the name of a person or legal entity that acquired the land in good faith and actually controls it, then other parties who feel they have rights to the land can no longer demand the implementation of these rights if within 5 (five) years from the issuance of the Certificate they do not submit a written objection to the Certificate holder and the Head of the National Land Agency concerned or do not file a lawsuit with the Court regarding control of the land or the issuance of the Certificate."

The article states that as long as there is no evidence to prove otherwise, the physical and legal information contained in the certificate must be considered valid and correct data, both in the implementation of daily legal actions and in the process of resolving disputes in court. This provision applies as long as the data in the certificate is in accordance with that recorded in the measurement letter and related land book.

4. Conclusion

The procedure for issuing certificates has basically been regulated normatively in Government Regulation Number 24 of 1997 concerning Land Registration and its implementing regulations, which emphasize the importance of the principles of legality, legal certainty, and public service. The process of issuing certificates through land registration, both initial land registration and maintenance of registration data, is carried out in stages, starting from the collection of legal and physical data, land inspection, data announcement, to the issuance of land title certificates by the Head of the Land Office. The issuance of double certificates is a form of land administration defect that has implications for legal uncertainty and has the potential to cause land ownership disputes. The legal consequence of the issuance of double certificates is the cancellation of one or both certificates based on the legal principle that there cannot be two identical rights to the same object. The Land Office is administratively responsible because land title certificates can only be issued by the institution as the land registration implementer in accordance with the provisions of Article 19 of the Basic Agrarian Law in conjunction with Government Regulation Number 24 of 1997. If negligence or procedural errors in the verification of legal and physical data are proven to originate from the Land Office, then legal responsibility may arise, either in the form of administrative recovery, compensation, or civil and/or criminal responsibility against authorized officials.

5. References

Journals:

- Aris Rubianto, 2021. Tanggung Jawab Badan Pertanahan Nasional Dalam Pemberian Hak Guna Usaha (Suatu Penelitian di Provinsi Aceh), Jurnal Ilmu Hukum, Pascasarjana Universitas Syiah Kuala.
- I Nyoman Bagiastra, Ni Made Rian Ayu Sumardani, 2021. Tanggung Jawab Hukum Kantor Pertanahan Terkait Ketidaksesuaian Hasil Pengecekan Sertipikat Secara Elektronik-Acta Comitas, Jurnal Kenotariatan.
- Malaka, Zuman, dan Habib Adjie, 2017. "Tanggung Jawab Kantor Pertanahan terhadap Terbitnya Sertipikat Ganda (Studi Kasus Putusan Kasasi MA No. 162 K/TUN/2012)." Jurnal Al-Qānūn vol 20, no. 2.
- Muammar, 2021. Rahman Arif Prosedur Penerbitan Sertipikat Elektronik Sebagai Bukti Autentik Penguasaan Hak Atas Tanah, Juridica: Jurnal Fakultas Hukum Universitas Gunung Rinjani.

Pranata Hukum, 2015. Tugas dan Fungsi Kantor Pertanahan Dalam Pendaftaran Tanah, Jurnal Ilmu Hukum, Universitas Bandar Lampung, Vol. 10, No.1.

Prasetyo Aryo Dewandaru, et.al, 2020. Penyelesaian Sengketa Tanah Terhadap Sertifikat Ganda di Badan Pertanahan Nasional, Jurnal Notarius, Vol. 13, No. 1.

Books:

Asyiah Nur, 2015. Buku Ajar Hukum Acara Peradilan Tata Usaha Negara. Deepublish, Yogyakarta.

Hajar M, 2015, Model-Model Pendekatan Dalam Penelitian Hukum dan Fiqih, UIN Suska Riau, Pekanbaru.

Hans Kelsen, 2019. Teori Hukum Murni, Nusamedia, Bandung.

I Ketut Oka Setiawan, 2014, Hukum Pendaftaran Tanah, Sinar Grafika, Jakarta.

Iwan Permadi. 2016. Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda Dengan Cara Itikad Baik Demi Kepastian Hukum, Yustisia, Vol. 5, No. 2.

Mukti Fajar dan Yulianto Achmad, 2015, Dualisme Penelitian Hukum Normatif dan Empiris, Cetakan Ke-3, Pustaka Pelajar, Yogyakarta.

Soedharyo Soimin, 2008, Status Hak dan Pembebasan Tanah, Sinar Grafika, Jakarta.

Taufan Fajar Riyanto, 2023, Panduan Lengkap Belajar Cerdas Hukum Ke-PPAT-an, Penerbit Samudra Biru, Yogyakarta.

Regulation:

The 1945 Constitution (UUD 1945)

Civil Code (KUHPer)

Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA)

Government Regulation Number 24 of 1997 Concerning Land Registration

National Land Agency Regulation Number 1 of 2010 concerning Land Service Standards and Regulations

Government Regulation Number 24 of 2016 Concerning Land Deed Making Officials (PPAT)

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases