

## Legal Protection for the First Certificate Holder Upon the Issuance of a Duplicate Certificate

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**Abstract.** *This study aims to analyze the legal protection for the first certificate holder in the case of the issuance of duplicate certificates and to determine the factors causing the emergence of duplicate certificates and how the Supreme Court's legal considerations in Decision No. 189K/Pdt/2011. This type of research is normative juridical with a statutory, conceptual, and case approach. The results of the study indicate that the first certificate holder has strong legal protection and its position is recognized as more legitimate than subsequent certificates. The causes of the issuance of duplicate certificates include administrative errors, negligence, or unlawful acts. The Supreme Court's considerations in the decision emphasize that the first certificate must take precedence for legal certainty. Thus, legal protection for the first certificate holder is an important part of ensuring legal certainty in the Indonesian land system.*

**Keywords:** *Certificates; Dual Certificates; Legal Certainty; Legal Protection.*

### 1. Introduction

Land plays a crucial role in Indonesian society. Besides being a basic human need for shelter, land also serves as a factor of production and a valuable economic asset. Therefore, legal certainty regarding land ownership is essential to ensure the fair protection of people's rights.<sup>1</sup> The Republic of Indonesia through the Basic Agrarian Law (UUPA) Number 5 of 1960<sup>2</sup> has established the principle that all land rights must be registered to ensure legal certainty. In practice, land registration is realized through the issuance of land certificates as strong proof of rights. Land

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<sup>1</sup>Maria S.W. Sumardjono., (2009), *Tanah dalam Perspektif Hak Ekonomi Sosial dan Budaya*. Jakarta : Kompas.

<sup>2</sup>Law Number 5 of 1960 concerning Basic Agrarian Regulations.

owners rely on these certificates for legal proof in every transaction and protection against third parties.

However, in reality, cases of duplicate certificates are still common. Duplicate certificates occur when more than one certificate is issued for the same plot of land. This situation creates legal uncertainty and has the potential to give rise to land disputes that are detrimental to the public. This problem demonstrates that the land administration system in Indonesia is not yet fully effective. Cases of duplicate certificates not only cause losses for individuals but also impact public trust in the government. This can undermine the state's legitimacy in providing legal certainty. Furthermore, duplicate certificates can be exploited by malicious parties to engage in land mafia practices, ultimately harming the wider community.

From a legal theory perspective, dual certificates raise serious issues related to legal certainty and legal protection. Gustav Radbruch's theory of legal certainty emphasizes the importance of legal order to protect citizens' rights. Meanwhile, according to Satjipto Rahardjo, legal protection should be granted to parties who act in good faith and have complied with applicable legal procedures. The phenomenon of duplicate certificates also highlights weaknesses in technical aspects, such as document filing, land measurement, and legal data verification. In many cases, negligence by land officials and a lack of oversight are the key to the issuance of duplicate certificates. This demonstrates the absolute need for improvements to the land administration system.

This research is important because it aims to provide an in-depth analysis of legal protection for first-time certificate holders, who, in principle, have a stronger legal standing than subsequent certificate holders. Furthermore, this research also discusses the factors that lead to the emergence of duplicate certificates and the considerations of judges in resolving land disputes through court decisions. Thus, this research is expected to provide academic contributions to the development of land law and provide practical input for the government and the public. The primary focus of this study is how legal protection for first-time certificate holders is enforced, how the causes of duplicate certificates can be minimized, and how judicial considerations in concrete cases provide direction for resolving land disputes in Indonesia.

## **2. Research Methods**

### **2.1.1. Problem Approach**

This research was conducted using a normative juridical approach, namely research conducted by examining library materials or secondary data.

### 2.1.2. Research Specifications

This research is essentially a combination of library research and field research. Furthermore, it is descriptive and analytical in nature.

### 2.1.3. Data Sources and Types

In this study, the type of data required is secondary data, which will be obtained through library research and library materials. Secondary data in this study was obtained through library research, namely to obtain materials used to collect data in the library.

### 2.1.4. Data collection technique

The data collection method was conducted through a literature review. This review involves seeking written information on law from various sources, widely published, and needed in normative legal research.

### 2.1.5. Data Analysis Techniques

The data obtained in this study were processed and analyzed using a normative qualitative method, meaning that the data obtained were arranged as far as possible systematically and completely, for this reason, the data analysis stage will begin with the stage of codifying facts, both legal facts and non-legal facts.

## 3. Results and Discussion

### 3.1. Procedure for Issuing Land Certificates

Santoso and Wijayanti (2020) explain that dual certificate disputes basically arise due to weak land administration, so that accurate land registration becomes the main instrument for legal certainty.<sup>3</sup>The procedure for issuing land certificates is regulated in Government Regulation No. 24 of 1997 concerning Land Registration and is implemented by the National Land Agency (BPN). The main stages include:

1. **Land registration application**→ submitted by attaching proof of ownership, deed of transfer of rights, and identity of the applicant.
2. **Physical data collection**→ measuring and mapping land plots to determine boundaries, area and location.

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<sup>3</sup>Santoso, A., & Wijayanti, E., (2020), Kepastian hukum dalam pendaftaran tanah di Indonesia: Analisis terhadap sengketa sertipikat ganda. *Jurnal Penelitian Hukum De Jure*, Vol. 20 (4), p. 623–640.

3. **Collection of legal data**→ checking ownership documents (deeds of sale and purchase, inheritance, gifts, court decisions, etc.).
4. **Data announcement**→ measurement results and legal data are announced at the village/sub-district office for a certain period of time to provide an opportunity for objections.
5. **Bookkeeping of rights and issuance of certificates**→ if there are no objections, the data is recorded in the land book, and a certificate is issued and handed over to the applicant.

These stages aim to ensure legal certainty over land. However, in practice, obstacles often arise, such as negligence by officials, document manipulation, and overlapping data, which can lead to the emergence of duplicate certificates. One form of evidence for land ownership is a certificate. A certificate is strong and authentic evidence that guarantees legal certainty for its holder. The physical and legal data contained in the certificate must match the data contained in the land register and the relevant measurement letter. However, in current practice, many problems are encountered related to land ownership certificates, one example being the issue of duplicate certificates. Duplicate certificates, also known as overlapping certificates, are certificates that describe the same plot of land.<sup>4</sup>

### 3.2. Legal Protection for the First Certificate Holder

Land certificates are strong proof of rights in accordance with Article 32 PP No. 24 of 1997.<sup>5</sup> The first certificate holder has a stronger legal standing than subsequent certificate holders. According to Puspitasari (2021),<sup>6</sup> legal protection for land title certificate holders in cases of double certificates is important to guarantee legal certainty and avoid losses to parties with good intentions.

Forms of legal protection consist of:

- **Preventive**→ through land registration mechanisms, data publication, and administrative monitoring systems.
- **Repressive**→ through dispute resolution in court, where the first certificate is usually recognized as proof of legal title.

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<sup>4</sup>Chomzah, Ali, Acmad, (2002), *Hukum Pertanahan II Sertipikat dan Pemasalahannya*, Jakarta: Prestasi Pustaka, p. 139.

<sup>5</sup>Article 32 PP no. 24 of 1997 concerning Land Registration

<sup>6</sup>Puspitasari, D., (2021), Perlindungan hukum bagi pemegang sertipikat hak atas tanah dalam kasus sertipikat ganda. *Jurnal Hukum dan Peradilan*, Vol. 10 (3), p. 451–470.

The theory of legal certainty (Radbruch) emphasizes the importance of legal order in protecting citizens' rights. Meanwhile, the concept of legal protection (Satjipto Rahardjo) provides the basis for the state's obligation to protect legitimate rights holders.

In this case, there were two certificates for one plot of land. Rahman (2019) in his research explained that resolving disputes over dual certificates through the courts often takes a long time, but remains the primary route when mediation is unsuccessful.<sup>7</sup>The Supreme Court affirmed that the first certificate has stronger legal standing. The judge's considerations were based on:

- The principle of legal certainty → only the first certificate is valid.
- Principle of justice → protection for rights holders in good faith.
- The principle of benefit → maintaining the stability of land law so as not to cause wider socio-economic losses.

This decision provides important information that duplicate certificates must be cancelled to maintain legal certainty.

### 3.3. Factors Causing the Issuance of Duplicate Certificates

Causes of duplicate certificates include:

1. **Administrative error** → weak recording and archive storage system at BPN.
2. **Negligence of officers** → less thorough in examining documents and land plot maps.
3. **Document forgery** → certain parties in bad faith manipulate land deeds.
4. **Data overlap** → differences in information between village/sub-district records and records at the land office.
5. **Limitations of digitalization systems** → national land data integration is not yet optimal.

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<sup>7</sup>Rahman, M. F., (2019), Penyelesaian sengketa tanah melalui pengadilan: Studi kasus putusan sertipikat ganda. *Rechtidee*, Vol. 14 (1), p. 75–92.

#### 4. Conclusion

The holder of the first certificate is entitled to legal protection because the land certificate is valid proof of title. The issuance of duplicate certificates is caused by administrative weaknesses, official negligence, and abuse of authority. Supreme Court Decision No. 189K/Pdt/2011 confirms that the first certificate holds a stronger position than subsequent certificates. The government needs to strengthen the land administration system, improve internal oversight, and accelerate data digitization. The public must also be more cautious in conducting transactions by verifying the status of land certificates.

#### 5. References

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- Maria S.W. Sumardjono., (2009), *Tanah dalam Perspektif Hak Ekonomi Sosial dan Budaya*. Jakarta : Kompas.

##### Regulation:

- Article 32 PP no. 24 of 1997 concerning Land Registration
- Law Number 5 of 1960 concerning Basic Agrarian Regulations.