

Responsibility of Land Deed Officials for Issuing Replacement Certificates Due to Loss

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Abstract. Land title certificates are strong evidence of land ownership, providing legal certainty through the land registration system. In practice, problems often arise in the form of lost land title certificates, including during the processing at the Land Office. This situation causes losses for rights holders and raises legal issues regarding the responsibility of Land Deed Officials (PPAT). This study aims to analyze the procedures for issuing replacement certificates for lost land by the Serang Regency Land Office and the responsibility of PPATs in the event of lost certificates during the land registration process. The research method used was sociological juridical with analytical descriptive specifications. The results showed that the procedure for issuing replacement certificates was implemented in accordance with Government Regulation Number 24 of 1997, while the PPAT's responsibilities were principally administrative and professional as long as there was no element of error or negligence. The research results indicate that the procedure for issuing replacement certificates has been implemented in accordance with statutory provisions, particularly Government Regulation Number 24 of 1997 concerning Land Registration, but administrative obstacles remain. The responsibility of the Land Deed Official (PPAT) is, in principle, administrative and professional as long as there is no element of error or negligence.

Keywords: Land Registration; Replacement Certificate; Responsibilities of PPAT.

1. Introduction

Land plays a vital role in Indonesian society due to its interconnectedness with economic, social, and legal aspects. Land is not only viewed as an economic object but also has a social function, as affirmed in the Basic Agrarian Law.¹ The land registration system is implemented to guarantee legal certainty and legal protection for land rights holders.² This legal certainty is realized through the issuance of certificates as proof of rights that have strong evidentiary power as long as the physical and legal data are in accordance with the land book.³ Certificates are proof of rights that serve as strong evidence in the land registration system in Indonesia.⁴ Legal certainty can only be realized if legal norms are implemented consistently by implementing officials.⁵ Likewise, the SANLaR Journal emphasizes that orderly land administration is the main prerequisite for achieving legal protection for land rights holders.⁶ The responsibility of public officials in the land administration process must be measured based on the principles of professionalism and prudence (prudential principle).⁷

In land registration practices, problems often arise in the form of lost land title certificates. Loss of title certificates can be caused by negligence on the part of the title holder, natural disasters, or administrative errors in the processing process. These problems create legal uncertainty and have the potential to lead to land disputes.

Land Deed Officials (PPAT), as public officials, play a strategic role in the land registration process. Every deed prepared by a PPAT serves as the basis for the Land Office to issue certificates. Therefore, if a certificate is lost during the processing process, a comprehensive review of the PPAT's legal responsibilities is necessary.

This study aims to determine and analyze the responsibilities of Land Deed Officials in issuing replacement certificates for land lost during the certificate registration process at the Land Office.

2. Research Methods

This study uses a sociological juridical method with analytical descriptive specifications. The juridical approach is used to examine the provisions of laws and

¹ Law Number 5 of 1960 concerning Basic Agrarian Regulations, Article 6.

² Law Number 5 of 1960 concerning Basic Agrarian Regulations, Article 19.

³ Government Regulation Number 24 of 1997 concerning Land Registration, Article 32 paragraph (1).

⁴ Urip Santoso, *Registration and Transfer of Land Rights*, Kencana, Jakarta, 2014, p. 5.

⁵ Widayati, "The Problem of Disobedience to the Constitutional Court's Decision on the Judicial Review of Laws," *Journal of Legal Reform*, Vol. IV No. 1, 2017, p. 120.

regulations governing land registration, replacement certificates, and the position of PPAT, while the sociological approach is used to examine their application in practice at the Serang Regency Land Office.

Primary data were obtained through observation and interviews with officials from the Serang Regency Land Office and Land Deed Officials (PPAT). Secondary data were obtained through literature review in the form of laws and regulations, agrarian law books, and scientific journal articles, particularly the SANLaR Journal and the Akta Journal. Data were analyzed qualitatively and descriptively.

3. Results and Discussion

3.1. Procedure for Issuing Replacement Certificates Due to Loss at the Serang Regency Land Office

The issuance of replacement certificates for lost land is regulated in Article 57 of Government Regulation Number 24 of 1997 concerning Land Registration. This provision governs the application process, physical and legal data review, announcement of lost certificates, and the issuance of replacement certificates.⁸

Based on the results of research at the Serang Regency Land Office, the issuance of replacement certificates for lost land was carried out in accordance with the provisions of Article 57 of Government Regulation Number 24 of 1997 concerning Land Registration in conjunction with Articles 137–140 of the Regulation of the Minister of ATR/BPN Number 3 of 1997.

Empirically, the stages carried out are as follows:

1. Reporting Loss

Rights holders are required to report the loss of the certificate to the police to obtain a Certificate of Loss.

2. Application for Replacement Certificate

The applicant submits a written application to the Land Office by attaching:

- Police report of loss;

⁶ Jawade Hafidz, "Agrarian Reform and Legal Certainty of Land Rights," Sultan Agung Notary Law Review (SANLaR), Vol. 3 No. 2, 2021, p. 215.

⁷ Teguh Prasetyo, "Professional Responsibilities of Land Deed Officials from an Administrative Law Perspective," Jurnal Akta, Vol. 5 No. 1, 2018, p. 88.

⁸ Government Regulation Number 24 of 1997 concerning Land Registration.

- Photocopy of identity card;
- Photocopy of certificate (if any);
- Stamped statement of loss;
- Proof of land control/use.

3. Juridical and Physical Data Research

The Land Office conducts inspections of:

- Land book;
- Measurement letter;
- Registration map;
- History of transfer of rights (if any).

4. Announcement in Mass Media

To prevent objections from third parties, an announcement was made in the mass media for 30 days.

5. Issuance of Replacement Certificate

If there are no objections during the announcement period, a replacement certificate will be issued with the note that the old certificate is declared invalid.

In practice in Serang Regency, the relative completion period is around 1-3 months depending on the completeness of the files and the absence of disputes.

Based on research at the Serang Regency Land Office, the procedures for issuing replacement certificates have been carried out in accordance with statutory provisions. However, administrative obstacles remain, including incomplete application documents from applicants.

3.2 Responsibilities of PPAT in the Event of a Certificate Being Lost During the Registration Process

Based on the results of interviews and observations, several problems were found:

- a. The certificate was lost while it was still in the processing process at the PPAT;

- b. There was administrative negligence in storing documents;
- c. The public does not understand the procedures so there are delays;
- d. Rights holders have concerns about the potential misuse of lost certificates.

The case that most often gives rise to legal problems is when the certificate is lost while it is still in the possession of the PPAT for the purposes of changing the name or registering the transfer of rights.

If the certificate is lost in the possession of the PPAT, there are several aspects of responsibility attached, namely:

1. Administrative Responsibilities

PPAT can be subject to administrative sanctions based on the PPAT Job Regulations if proven negligent in carrying out his obligations.

2. Civil Liability

Under Article 1365 of the Civil Code, any unlawful act that results in a loss requires the perpetrator to compensate. If the loss occurs due to the negligence of the PPAT, the rights holder has the right to claim compensation.

3. Professional Responsibilities

PPAT as a public official is obliged to apply the prudential principle in managing original documents.

In practice in Serang Regency, settlement is often carried out through deliberation, where the PPAT helps and facilitates the process of issuing replacement certificates and bears administrative costs as a form of moral and professional responsibility.

The PPAT's responsibility in the event of a lost certificate is primarily administrative and professional. If the loss of the certificate is due to the PPAT's negligence, the PPAT can be held accountable in accordance with administrative and civil law.⁹

⁹ Habib Adjie. *Civil and Administrative Sanctions against Notaries as Public Officials*. Bandung: Refika Aditama, 2011, p. 88.

4. Conclusion

The procedure for issuing replacement certificates for lost land at the Serang Regency Land Office has been carried out in accordance with statutory provisions. The PPAT's responsibilities are primarily administrative and professional and depend on the presence or absence of errors or negligence. There is a need to improve coordination between PPAT and the Land Office and strengthen the land administration system to minimize the risk of losing certificates in the future.

5. References

Journals:

- Hafidz, Jawade. (2021). "Reformasi Agraria dan Kepastian Hukum Hak Atas Tanah". dalam *Sultan Agung Notary Law Review (SANLaR)*, Volume 3 No. 2, p. 215.
- Prasetyo, Teguh. (2018). "Tanggung Jawab Profesi Pejabat Pembuat Akta Tanah dalam Perspektif Hukum Administrasi". dalam *Jurnal Akta*, Volume 5 No. 1, p. 88.
- Widayati. (2017). "Problem Ketidakpatuhan Terhadap Putusan Mahkamah Konstitusi Tentang Pengujian Undang-Undang". dalam *Jurnal Pembaharuan Hukum*, Volume IV No. 1, p. 120. url: <http://jurnal.unissula.ac.id/index.php/jurnalhukum/article/download/11391/4439>

Books:

- Adjie, Habib. (2011). *Sanksi Perdata dan Administratif terhadap Notaris sebagai Pejabat Publik*. Bandung: Refika Aditama.
- Harsono, Boedi. (2008). *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*. Jakarta: Djambatan.
- Santoso, Urip. (2014). *Pendaftaran dan Peralihan Hak atas Tanah*. Jakarta: Kencana.
- Soekanto, Soerjono. (2014). *Pengantar Penelitian Hukum*. Jakarta: UI Press.

Regulation:

- Government Regulation Number 24 of 1997 concerning Land Registration.
- Law Number 5 of 1960 concerning Basic Agrarian Regulations.