

Legal Protection for Land Certificate Holders in the Complete Systematic Land Registration Program

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Abstract

Introduction: Soil is not only a means of food production but also symbolizes social status. The Complete Systematic Land Registration Program (PTSL) is an effort to achieve legal certainty, although it still faces various obstacles such as lack of public awareness, land disputes, unclear village boundaries, and abuse of authority.

Purposes of the Research: This research aims to study, analyze, and determine the legal certainty of complete systematic land registration (PTSL) as well as the legal strength of land rights certificates in the complete systematic land registration (PTSL) program.

Methods of the Research: This research is a normative juridical research, using a descriptive analytical research type using primary, secondary and tertiary legal sources. The approach used is a statutory approach (Statute Approach), a conceptual approach (conceptual approach) and a case approach (Case Approach). The technique of collecting legal materials uses a literature study which is then analyzed qualitatively in order to answer the problems studied.

Results Main Findings of the Research: The research results show that although the PTSL program aims to provide legal certainty for land rights holders, in reality, many certificate holders still face various obstacles such as administrative inefficiencies, unclear land boundaries, abuse of authority, and overlapping ownership claims, which result in a lack of assurance and legal protection for land certificate holders. The land rights certificates issued through this program, which are supposed to be strong legal protection instruments, often become sources of uncertainty and problems because they can be disputed by other parties claiming rights to the same land, thereby rendering the land certificates legally weak.

Keywords: Legal Protection; Land Certificate Holders; Complete Systematic Land Registration.

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INTRODUCTION

Natural resources that have high economic, socio-political and security defense value, one of which is land.¹ Therefore, land development policy must be an integral part of national development policy.² Land has an important meaning for the life of the Indonesian

¹ Rokhimin Dahuri. "Pengelolaan Ruang Wilayah Pesisir dan Lautan Seiring Dengan Pelaksanaan Otonomi Daerah." *Mimbar: Jurnal Sosial dan Pembangunan* 17, no. 2 (2001), p. 139.

² Angelia Rosmaniar, Agustina klista Mimin, and Benediktus Peter Lay. "Pembatalan Sertifikat Hak Milik Atas Tanah Sengketa Pemerintah Daerah Kabupaten Kupang." *Jurnal Ilmiah Dan Karya Mahasiswa* 1, no. 3 (2023), p. 342.

people.³ This is because Indonesia is an agrarian country, where all activities carried out by the majority of Indonesian people require and involve land issues.⁴ In some societies, land is considered sacred, because it is a symbol of social status that it has. The fulfillment of human needs for food, because humans are able to cultivate and utilize the land.⁵

Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "The earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". Article 33 of the 1945 Constitution of the Republic of Indonesia states that the word "controlled" does not imply ownership by the state. The general explanation in Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles of the Republic of Indonesia, (hereinafter referred to as the UUPA), explains that the state only has authority over land. The term "mastered" here is not the same as "owned"; rather, it reflects certain rights given to the state as a representation of the power of all the people. This is expressly formulated in Article 2 paragraph (2) of the UUPA that the authority of the state as a form of the right to control is: a) Regulating and organizing the designation, use, supply and maintenance of the earth, water and space; b) Determining and regulating the legal relations between people and the earth, water and space; c) Determining and regulating the legal relations between persons and legal acts concerning the earth, water and space".

Article 1 number 1 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning the Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration which is referred to as Land Registration is: "a series of activities carried out by the government continuously, continuous and orderly, including the collection, processing, bookkeeping and presentation as well as maintenance of physical data and juridical data in the form of maps and lists, regarding land plots and flats, including the provision of proof of rights for plots of land that already have rights and property rights over flats and certain rights that burden them".

The process of registering the right produces a certificate that acts as legal proof of the right. The land rights certificate is a strong means of proof, as stipulated in Article 19 paragraph (2) letter c of the UUPA. The certificate, as proof of rights and strong evidence, is also regulated in Article 32 paragraph (1) of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration, that: "A certificate is a proof of rights that applies as a strong means of proof of physical data and juridical data contained therein, as long as the physical data and juridical data are in accordance with the data contained in the survey deed and the relevant land book".

³ Meyske Tanamal, Teng Berlianty, and Theresia Louize Pesulima. "Jual Beli Tanah dan Bangunan Atas Objek Jaminan Utang." *TATOHI: Jurnal Ilmu Hukum* 2, no. 4 (2022), p. 362.

⁴ Putu Diva Sukmawati, "Hukum Agraria Dalam Penyelesaian Sengketa Tanah di Indonesia." *Jurnal Ilmu Hukum Sui Generis* 2, no. 2 (2022), p. 89.

⁵ Indra Rusdian Lego. "Perlindungan Hukum terhadap Pemegang Hak Atas Tanah yang di Tetapkan Sebagai Tanah Terlantar." *Jurnal Ilmiah Wahana Pendidikan* 6, no. 4 (2020), p. 1087.

In Indonesia, land rights certificates are considered strong evidence, in accordance with the provisions affirmed in Article 32 paragraph (1) of Government Regulation Number 24 of 1997 concerning land registration, which has now been revoked and reaffirmed in Government Regulation Number 16 of 2021 concerning Land Registration. To ensure legal certainty in land registration, the National Land Agency must understand that the security factor is one of the main principles and objectives. Therefore, the National Land Agency must be careful, meticulous, and meticulous in taking care of the issuance of land certificates and the land registration process to ensure the truth about the land owner as well as other aspects such as the area, boundaries, and location listed in the certificate.⁶

The main purpose of the enactment of the UUPA is to create legal certainty related to land rights for all Indonesian people. To achieve this legal certainty, there are two steps that can be taken, namely: ⁷ 1) Provide written, complete and clear legal tools; 2) Implement land registration that allows land rights holders to prove ownership of the land they control, and allows the government to implement land policies.

Land registration is not only intended to protect the owner, but also to find out the status, ownership, rights, area, use, and other things related to a land.⁸ The guarantee of legal certainty to be established in this land registration includes the certainty of the status of the registered rights, the certainty of the subject of the right, and the certainty of the object of the right. This land registration produces a certificate as proof of his rights.⁹ Land registration procedures are very important, this is because this factor supports the implementation of sustainable development, and the development carried out is a conscious effort made by the community to achieve a better life.

Today's development process will always be in contact with the environment, in this case the use of the land itself, which can give rise to very complex problems, as in the land registration procedure, as a guarantee of legal certainty, for land owned by the community from the state (through the National Land Agency).¹⁰ The current government, through the Ministry of ATR/BPN which is responsible for land registration, has tried to increase the acceleration of the land registration process through various programs and projects, albeit limited. Programs and projects such as the Land Administration Project (PAP), *Land Management and Policy Development Project* (LMPDP), adjudication project, Larasita, and the National Agrarian Program (Prona), which have existed before, have not succeeded in achieving the target of land registration throughout Indonesia. The latest program is the Complete Systematic Land Registration (hereinafter referred to as PTSL) organized by the Ministry of ATR/Ka. BPN, with a target of registering and certifying all 126 million land plots in Indonesia by 2025. This target is outlined to achieve 5 million fields in 2017, 7 million fields in 2018, 9 million fields in 2019, and 10 million fields annually until 2025. If land registration is still carried out as usual, with around 500 thousand plots per year, it will take 160 years to register all land in Indonesia.¹¹ The definition of the PTSL program is regulated in Article 1 number 2 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018

⁶ Adrian Sutedi, *Sertipikat Hak Atas Tanah*, (Jakarta: Sinar Grafika, 2012), p. 61.

⁷ Urip Santoso, *Pendaftaran dan Peralihan Hak Atas tanah*, (Jakarta: Kencana, 2010), p. 2.

⁸ Dalimunthe, *Pelaksanaan Landreform Di Indonesia Dan Permasalahannya*, (Medan: FH USU Press, 2000), p. 132.

⁹ Santoso, *Pendaftaran Dan Peralihan Hak Atas Tanah*, (Jakarta: Kencana, 2010), p. 2.

¹⁰ Indra Yudha Koswara, "Pendaftaran Tanah sebagai Wujud Kepastian Hukum Dalam Rangka Menghadapi Masyarakat Ekonomi Asean (MEA)", *Jurnal Hukum Positum* 1, no.1 (2016), p. 28.

¹¹ Anggling Aditya Purbaya, 2017, *Lewat Sambungan Video, Jokowi Bagikan Sertipikat Tanah di 5 Daerah*. <https://news.detik.com/berita/d-3783024/lewat-sambunganvideo-jokowi-bagikan-sertipikattanah-di-5-daerah>.

concerning Complete Systematic Land Registration, that: Complete Systematic Land Registration hereinafter abbreviated as PTSL is the first Land Registration activity that is carried out simultaneously for all Land Registration objects throughout the territory of the Republic of Indonesia in one village/sub-district area or another name which is at the same level, which includes the collection of physical data and juridical data regarding one or more objects of Land Registration for the purpose of registration.

PTSL organized by the Ministry of ATR/Ka. BPN, with a target of 126 million land plots in Indonesia has been registered and fully certified by 2025. Then it is broken down into a target of 5 million fields in 2017, 7 million fields in 2018, 9 million fields in 2019 and 10 million per year until 2025. Land registration that is carried out consistently like this, takes as many as 160 years for land registration in Indonesia.¹²

The implementation of PTSL regulated in Chapter IV of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration is divided into eight stages, namely, planning, juridical data research for proving rights, determination of location, preparation, establishment and determination of the PTSL adjudication committee and task forces, counseling, physical data collection and juridical data collection, announcement of physical data and juridical data and their validation. Article 88 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats and Land Registration (hereinafter abbreviated as Government Regulation Number 18 of 2021) stipulates that the results of the collection of physical data and juridical data in land registration are systematically carried out for 14 (fourteen) calendar days. The announcement of physical data and juridical data can be done through *the website* provided by the ministry. The existence of the PTSL program is based on data from the Ministry of ATR/BPN that there are 126 million land plots but until now only 72 million land plots have been certified with an area of 29,688,781 hectares (ha),¹³ This means that 54 million land plots to date have not been certified, meanwhile, out of a total of 54 million land plots that have not been certified, 6000 of them are land in dispute status. This can be seen more clearly in the following table:

Table 1. Land Status Data in Indonesia

No	Land Status	Number (Field)
1. Certified Land	Certificate of Title	69.900.000
	Building Use Rights	5.300.000
	Right to Use Business	15.600
	Right to Use	795.000
	Management Rights	5.700
	Waqf Land	161.100
2. Uncertified Land	Not yet certified	53.994.000
	Disputed Land	6.000

Source: Ministry of ATR/BPN, 2021

¹² Sari Leti, *Pelaksanaan Percepatan Pendaftaran Tanah Sistematis Lengkap Pada Kantor Pertanahan Indragiri Hilir*, (Tesis: Program Magister ilmu Hukum, Universitas Islam Riau, Pekanbaru, 2019), p. 22, <https://repository.uir.ac.id/13807/1/171022125.pdf>.

¹³ Handoyo Bayu Aditty. "Strategi Percepatan Peningkatan Kualitas Data Pertanahan di Kantor Pertanahan Kabupaten Karanganyar". *Jurnal Tunas Agraria* 3, no. 3 (2020), p. 121.

The PTSL program was formed on the basis of low interest and data on registered land ownership, even though the existence of a land rights certificate is a form of certainty and legal protection for the owner. Therefore, the PTSL program is expected to ensure legal certainty and legal protection of lands owned by the community, but this hope faces various obstacles that have an impact on the quality of certificates issued. The problem that occurs in the PTSL program is the incompleteness of data and documents that support land registration. There are many cases where the land is not registered with valid proof of ownership or accurate physical and juridical data, which can lead to disputes later on.

Acts of corruption and abuse of authority by officials are also factors that hinder the creation of legal certainty guarantees in the PTSL program. Bad actions by corrupt organizers by carrying out illegal levies, gartification, bribery and extortion as well as indications of abuse of office in its implementation. This action is clearly carried out by individuals who are given the authority to carry out the PTSL program who have positions and positions in the PTSL committee, including village heads, village officials and residents formed in this program committee.¹⁴ Illegal levies and alleged corruption of the PTSL program occurred in various regions with a fairly large number of victims with losses reaching 2 billion rupiah by withdrawing a sum of money from participants.¹⁵ This corrupt practice leads to the existence of duplicate or overlapping certificates, which ultimately leads to land ownership conflicts between communities.

Legal uncertainty is also exacerbated by weak coordination between government agencies related to land registration. For example, data owned by the National Land Agency (BPN) is often out of sync with data owned by local governments or other agencies. This leads to inconsistencies in the information on registered land, so the issued certificate does not have strong legal force. People who feel aggrieved by this data discrepancy often have to go through a long and convoluted legal process to obtain legal certainty for their land rights certificates.

The lack of socialization and public understanding of the procedures and requirements in the PTSL program also contributes to legal uncertainty. Many people do not understand their rights and obligations in the land registration process, so they are often trapped in legal problems due to ignorance. Less effective socialization from the government leads to low community participation in the PTSL program, and ultimately hinders the goal of this program to create legal certainty and justice for all landowners in Indonesia.

From the aspect of regulating the PTSL program, it also seems rushed, if you look at how the regulations and guidelines for the implementation of PTSL often change. It is recorded that the change in the PTSL arrangement has been changed four times. Ministerial Regulation of ATR/Ka. BPN Number 35 of 2016 amended by Ministerial Regulation of ATR/Ka. BPN No. 1 of 2017; enhanced by the Ministerial Regulation of ATR/Ka. BPN Number 12 of 2017; until finally revised again with the Ministerial Regulation of ATR/Ka. BPN Number 6 of 2018. These changes reflect the immaturity of the PTSL program strategy and concept. Regulations are set and revised in a patchy manner. The large number of *stakeholders* involved and the many technical and "political" problems in the field are an apology for these regulatory changes. This becomes more complicated considering that the

¹⁴ Tirsia Tatara, Kadi Sukarna, and Zaenal Arifin, "Tindak Pidana Korupsi Bidang Pertanahan Terhadap Program Pendaftaran Tanah Sistematis Lengkap (PTSL)," *Jurnal USM Law Review* 6, no. 1 (2023), <https://doi.org/http://dx.doi.org/10.26623/julr.v6i1.6400>. p. 310,

¹⁵ Agus Raharjo, "1.319 Warga Jadi Korban Pungli Program PTSL Mantan Kades Di Tangerang," *Republika.Co.Id*, 2022, <https://news.republika.co.id/berita/rejghp436/1319-warga-jadi-korbanpungli-program-ptsl-mantan-kades-di-tangerang>.

regulation on PTSL is only stipulated in a legal hierarchy at the level of a Ministerial Regulation. Meanwhile, several legal principles manifested in regulations at the level of Government Regulation Number 24 of 1997 concerning Land Registration have "overlapped" with the Minister of ATR/Ka. BPN which regulates the acceleration of the PTSL program.¹⁶

Another important issue related to the legal certainty of the implementation of land registration is the principle of publicity. This principle regulates and guarantees proof of ownership of land rights where every registration application must be carried out the announcement of physical data and juridical data during a certain time. Article 26 of Government Regulation Number 24 of 1997, gives 30 calendar days for anyone to file an objection. This time can usually be used to file a block and/or lawsuit by the disputing party. However, in the Ministerial Regulation of ATR/Ka. BPN Number 6 of 2018 Article 24, this deadline was cut to 14 calendar days only – without previously changing the provisions of Article 26 of Government Regulation Number 24 of 1997.

The PTSL program in Maluku Province in 2021 is spread across all districts and cities in Maluku. Maluku Province has implemented the PTSL program by the Regional Office of the National Land Agency of Maluku Province since 2018. The implementation of PTSL in Maluku aims to realize a *complete* Maluku Province land registration road map in 2024. In terms of target, the implementation of PTSL in 2021 in Maluku Province compared to 2020 there was an increase in Land Parcel Maps (PBT), but it decreased for Land Rights Certificates () and K4 fields, namely from 26,376 PBT Fields, 25,395 Fields and 7,851 K4 Fields in 2020 to 39,100 PBT, 20,000 and 7,199 K4.¹⁷ The problems and obstacles in the implementation of PTSL mentioned above then cause various potential land disputes, including in Maluku. The number of land disputes in Maluku Province that have caused land and land disputes between communities, has even caused conflicts between families, villages or countries, which can disrupt the stability of security, peace, and public order. This shows that Indonesia's land administration system needs to be improved in order to provide legal certainty of land rights. This condition has caused various land problems/conflicts between various parties in several regions in Indonesia, one of which is in Maluku.

METHODS OF THE RESEARCH

The method used in this study is normative juridical research using a statutory approach and a conceptual approach. The legal materials used are primary legal materials, secondary legal materials and tertiary legal materials. Existing legal materials are collected through literature studies, which are then analyzed qualitatively to answer the problems studied.

RESULTS AND DISCUSSION

A. Legal Certainty for Complete Systematic Land Registration (PTSL)

Legal certainty is what the legal subject expects to know what is prohibited or not prohibited by law, so there needs to be a good and clear norm in a law and regulation, as well as clearly its application in society.¹⁸ Legal certainty is not an absolute thing to fulfill

¹⁶ <https://ombudsman.go.id/artikel/r/artikel--ptsl-antara-target-dan-kaget>.

¹⁷ https://ppsdm.atrbpn.go.id/pluginfile.php/292063/mod_data/content/217724/Laporan%20Aksi%20Perubahan%20PKA%202021%20Budi%20Jaya%20-%202029%2006%202021.pdf.

¹⁸ Bernard L. Tanya, *Teori Hukum*, (Yogyakarta: Genta Publishing, 2013), p. 58.

the purpose of the law, but rather as advice that is used according to the situation and conditions by paying attention to the principles of benefit and efficiency.

Normative legal certainty is a regulation that is made and promulgated definitively because it regulates clearly and logically.¹⁹ Without legal certainty, a person does not know what to do and eventually feels uncomfortable, but when he focuses too much on a legal certainty, too strict obedience to a rule will result in rigidity and injustice. Legal certainty is what the legal subject expects to know what is prohibited or not prohibited by law²⁰, So there needs to be a good and clear norm in a law and regulation, as well as clear application in society. Legal certainty is not an absolute thing to meet legal objectives, but rather as advice that is used according to the situation and conditions by paying attention to the principles of benefit and efficiency.

The implementation of the PTSL program is expected to meet the quality in all regulations, principles, principles, and also the overall methods used.²¹ The implementation of the PTSL program of the Land Office in Indonesia is a hope as the fastest bridge or road so that in 2025 all land plots in Indonesia can be registered.²² The acceleration of land registration with the PTSL program is a mandate from Article 33 A paragraph (3) of the 1945 Constitution, Article 2 and Article 19 of Law Number 5 of 1960. Therefore, it is felt that it is necessary to accelerate land registration to pursue the percentage of registered land which is still below 50% until now.

One of the ways taken by the Ministry of Agrarian and Spatial Planning/National Land Agency is through the program to Accelerate the Implementation of Complete Systematic Land Registration as stipulated in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration. The registration of land rights certificates through the PTSL program is carried out through systematic first land registration, which is the first land registration activity that is carried out simultaneously covering all registration objects that have not been registered in the area or part of the territory of a village or sub-district. Land registration is systematically based on the government's long-term and annual work plan and is carried out in areas that have been determined by the Minister of Agrarian and Spatial Planning/Head of the Land Agency. The government in carrying out the registration of land rights certificates is carried out by taking into account the conditions and situations of the country and society, the needs of socio-economic traffic, and the possibility of its implementation. With the consideration of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency, the PTSL program uses a budget from the State Revenue and Expenditure Budget (APBN).

A series of land rights certificate registration activities by the government carried out by the Land Office, in its implementation assisted by other officials.²³ Systematic registration benefits on a large scale and will be more effective than sporadic registration. Of course,

¹⁹ Aulia, K. N., Lestari, A., Latief, L. M., & Fajarwati, N. K., "Kepastian Hukum Dan Keadilan Hukum Dalam Pandangan Ilmu Komunikasi". *Journal Sains Student Research* 2, no. 1 (2024), p. 714.

²⁰ Mussa Ali Fatullah, and Husein Manalu. "Analisa Kepastian Hukum Sertipikat Pengganti Atas Tanah Hak Milik." *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 6, no. 2 (2024), p. 67.

²¹ Arif Tanri, Bambang Eko Turisno, and Adya Paramita Prabandari. "Kepastian Hukum Hak Atas Tanah Melalui Pendaftaran Tanah Sistematis Lengkap." *Notarius* 13, no. 2 (2020), p. 79.

²² Nazifah, Herma Yanti, and M. Iqbal. "The implementation of complete systematic land registration at the Jambi City Land Office." *Face of Law* 6, no. 1 (2022), p. 186.

²³ Rokhmansyah, Mohammad Firza, and Nynda Fatmawati Octarina. "Peran Pejabat Pembuat Akta Tanah Dalam Pendaftaran Tanah Sistem Lengkap." *Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-undangan dan Pranata Sosial* 7, no. 2 (2022), p. 18.

systematic land registration is prioritized because it accelerates the acquisition of data on the plots of land to be registered. PTSL is carried out to obtain legal certainty for the owner of the land rights certificate and other parties who have an interest in the land they control. Legal certainty of land ownership can be realized by issuing land certificates.²⁴ Land certificates connect between the legal certainty of the land parcel and the rights holder.²⁵ The nature of land certificates is strong evidence. Everything stated in the land book and the land title certificate is valid as a strong proof until it can be proven that the contrary is not true.

Government policies set in the implementation of the PTSL program are aimed at providing a sense of fairness, certainty, and also benefits for land rights holders. The PTSL program should be able to provide equal space and opportunities for every Indonesian citizen to play an active role in it with the output of its implementation that is able to provide legal certainty of ownership of their own land. However, the reality is that various legal problems that occur in the implementation of the PTSL program cause legal uncertainty for land rights certificate holders. The result of this legal uncertainty is that there is no guarantee of legal protection for land rights holders even though they have obtained land certificates issued by BPN through the PTSL program.

Legal uncertainty for land rights holders in the PTSL program is a crucial issue in Indonesia, even though certificates issued through this program are supposed to be legal proof of land ownership. One of the main causes of this uncertainty is the overlapping of land ownership claims,²⁶ in many cases, the PTSL certificate issued turns out to cover land that already has claims from other parties.²⁷ This situation often occurs due to inadequate land data verification processes, as well as complicated and poorly documented land administration histories, making it difficult to ensure the legality of claims from various parties.

Administrative problems and weaknesses in the verification of land historical data exacerbate the situation of legal uncertainty. Many lands in Indonesia are not properly documented, and historical information is often missing or incomplete. When the land registration process is carried out without adequate verification, it is likely that overlapping certificates will appear. This is the main source of disputes in court, where each party feels that they have valid evidence of land ownership. In situations like these, PTSL certificate holders often have to face lengthy and complex lawsuits, even if they already have the certificate as proof of ownership. This legal uncertainty also reflects structural weaknesses in the agrarian legal system in Indonesia. The process of resolving land disputes in court often takes a very long time and costs a lot, making it a heavy burden for land rights holders, especially those from economically weak backgrounds. Many landowners do not have adequate knowledge of their rights and applicable legal procedures, making them vulnerable to intimidation and manipulation by parties who are more powerful or more experienced in legal matters.

²⁴ Dewi Rachmawati. "Kepastian Hukum terhadap Tanda Bukti Kepemilikan Hak Atas Tanah." *Syntax Literate: Jurnal Ilmiah Indonesia* 6, no. 6 (2021), p. 15.

²⁵ Shinta Novi Wardhani. "Kekuatan Hukum Sertifikat Hak Atas Tanah Dikaitkan Dengan Kepastian Hukum Dalam Pendaftaran Tanah." *Al-Qanun: Jurnal Pemikiran dan Pembaharuan Hukum Islam* 21, no. 1 (2018), p. 72.

²⁶ Muhammad Edra Alamsyah, and Diding Rahmat. "Analisis Yuridis Program Pendaftaran Tanah Sistematis Lengkap (Ptlsl) Sebagai Upaya Pemberantasan Praktik Mafia Tanah Di Pekanbaru." *Lex Omnibus: Jurnal Hukum Tata Negara dan Administrasi Negara* 1, no. 1 (2024), p. 57.

²⁷ Nur Ayu Alamal Huda, and Ana Silviana. "Penyelenggaraan Pendaftaran Tanah Sistematis Lengkap (PTSL) yang Berkepastian Hukum." *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam* 5, no. 2 (2023), p. 92.

Legal certainty for land rights holders in the PTSL program also cannot be realized due to the negative impact of acts of abuse of authority by officials.²⁸ Actions such as illegal levies, gratuities, bribery, and extortion carried out by parties who have positions and positions in the PTSL committee result in the disruption of the guarantee of legal certainty. This leads to the emergence of duplicate or overlapping certificates, which ultimately triggers land ownership conflicts among communities. The significant financial losses of up to 2 billion rupiah due to this corrupt practice are also concrete evidence of the adverse impact on the integrity and public trust in the program.

The legal uncertainty faced by land rights holders in this context is also influenced by the factors of lack of transparency and lack of supervision of the implementation of PTSL. The presence of individuals who commit corruption and abuse of authority raises doubts in the process of registration and validation of land ownership. This creates an unstable and confusing legal environment for landowners, threatens the security of their ownership and makes it difficult to develop and invest in land. Therefore, serious handling of corruption issues and strict law enforcement against violations in the PTSL program are crucial to restore trust and ensure fair legal protection for all stakeholders.

This uncertainty is also caused by the lack of socialization and education about the PTSL program and the legal rights owned by certificate holders.²⁹ Many certificate holders do not understand that their ownership can still be sued and how they should protect their rights in the event of a dispute. PTSL programs, while aimed at providing legal certainty and improving community welfare through legal land ownership, often do not achieve these goals in practice. The reality on the ground shows that many certificate holders still live in uncertainty and vulnerability to legal disputes, which can ultimately hinder efforts to improve people's welfare and economic development.

The effort to realize legal certainty for land certificate holders through the PTSL program is in line with van Apeldoorn's view in his theory of legal certainty, which is of the view that legal certainty actually has two important aspects, the first aspect is "*bepaalbaarheid*" or the ability to form laws through concrete things,³⁰ This means that the party seeking justice can know the specifics of how the law will be applied in a particular situation before starting a legal process. The second aspect that legal certainty refers to the application of clear, fixed, and consistent laws where the implementation is not influenced by subjective factors. From Van Apeldoorn's view above, according to the author, the theory of legal certainty is not only concerned with the legal certainty of various legal provisions themselves, but more than that concerns the certainty of the application of the law as well. In the context of legal certainty for land certificate holders, the author is of the view that the theory of legal certainty from Van Apeldoorn is very relevant. Legal certainty for land certificate holders involves the knowledge that their ownership rights have been clearly defined and protected by law. This means that the procedures and criteria for issuing land certificates should be transparent and accessible, allowing individuals to estimate the legal recognition of acquired property rights. Consistency in the application of land law ensures that all landowners are treated equally, reducing the risk of arbitrary decisions and legal disputes. However, the reality in the implementation of the PTSL program in Indonesia reveals that

²⁸ Arief Setiabudi, "Peran Tim Saber Pungli Polda Lampung Dalam Operasi Tangkap Tangan Terhadap Pelaku Pungli Program Pendaftaran Tanah Sistematis Lengkap (PTSL)." (Skripsi, 2019), p. 3. <https://digilib.unila.ac.id/58295/3/Skripsi%20tanpa%20bab%20pembahasan.pdf>.

²⁹ Annesya Puspita S, *Efektifitas Pelaksanaan Pendaftaran Tanah Sistematis Lengkap Di Badan Pertanahan Nasional (ATR/BPN)*. Tesis. Universitas Islam Sultan Agung Semarang, 2023, p. 80. https://repository.unissula.ac.id/30760/2/21302100006_fullpdf.pdf.

³⁰ Nuruz Zaman, *Konstitusi Dalam Perspektif Politik Hukum*, (Jakarta: Scopindo Media Pustaka, 2021), p. 62.

there is a discrepancy with the ideal of legal certainty. Many land certificate recipients in the PTSL program do not receive a guarantee of legal certainty due to various challenges. These challenges include administrative inefficiencies, lack of clarity in land boundaries, and disputes arising from overlapping claims. These issues undermine the principle of "*bepaalbaarheid*" because landowners cannot be sure of the legal status of their land despite having held a certificate.

In addition, inconsistencies in the application of the law and the influence of subjective factors in the PTSL program exacerbate the problem. Program implementation can be influenced by local power dynamics, abuse of authority, and varying interpretations of land law, leading to unequal treatment of land certificate holders.³¹ According to the author, this situation is contrary to the second aspect of legal certainty according to Van Apeldoorn, which demands the application of the law that is clear, stable, and impartial. To address these issues, it is important to increase transparency, improve administrative processes, and ensure that the legal framework is applied uniformly to enforce the legal certainty that land certificate holders deserve.

Through the PTSL program, the government aims to create justice and legal certainty by providing a clear and transparent mechanism for communities to register their land.³² This not only increases legal certainty but also supports economic and social development by providing a strong legal basis for land ownership. However, in reality, these expectations have not been fully achieved. Many land certificate holders still face legal uncertainty due to various constraints such as administrative inefficiencies, lack of clarity of land boundaries, and overlapping claims disputes. This shows that although PTSL has great potential, its implementation needs to be improved to truly realize its original purpose, to address this problem, the government needs to strengthen administrative capacity and increase training for officers involved in the PTSL process to ensure that all procedures are carried out efficiently and to standards. There is a need for increased transparency in land boundary determination and dispute resolution through the development of a more sophisticated information system that can be accessed by the wider community. Stricter supervision of the implementation of the program to minimize the subjective influence and abuse of authority practices is urgently needed. With these measures, legal certainty for land certificate holders can be more guaranteed, in accordance with the principles outlined by Van Apeldoorn, and able to support broader economic and social development goals.

B. Legal Strength of Land Rights Certificates in Complete Systematic Land Registration Program

Legal force is a concept that refers to the authority and legal applicability of a norm, regulation, or decision. In general, legal force indicates the extent to which a rule of law is recognized, respected, and adhered to by individuals, institutions, or society at large. The power of law depends on the degree of honor and legitimacy given by the society or the authority that issues it. If a law is considered fair, comes from a democratic law-making process, and is in accordance with social values, then it will have a greater degree of power.

The force of the law is also reflected in the level of compliance and compliance with these legal rules. If society at large obeys and respects the law, then the law is considered to have

³¹ Dian Aries Mujiburohman. "Potensi Permasalahan Pendaftaran Tanah Sistematis Lengkap (PTSL)." *BHUMI: Jurnal Agraria dan Pertanahan* 4, no. 1 (2018), p. 89.

³² Masnah. "Implementasi Kebijakan Pendaftaran Tanah Sistematis Lengkap (PTSL) Di Kabupaten Muaro Jambi." *Jurnal Renaissance* 6, no. 02 (2021), p. 83.

strong power. The ability to enforce the rule of law consistently and effectively is also an important factor in determining the force of the law. If violations of the law can be easily detected and sanctioned accordingly, then the rule of law will be stronger. A rule of law that is considered fair and applied equally to all individuals indiscriminately will be more likely to have strong force. Injustice or inequality in the application of the law can reduce trust and obedience to the law. A law that is consistent and predictable in its application will give people confidence about what is expected of them and the consequences of their actions. This will increase the overall force of the law. Legal institutions, such as the judicial system, the police, and other law enforcement agencies, have an important role in determining the force of the law. The credibility and effective performance of these institutions will help increase trust in the law. Thus, the applicability of the law depends not only on the existence of the legal norm itself, but also on a number of external factors that affect how the law is viewed and implemented in society.

Land registration that aims to provide legal certainty is known as *recht cadaster/legal cadaster*. The guarantee of legal certainty that is to be realized in this land registration includes legal certainty of the status of the registered rights, the certainty of the subject of rights, and the certainty of the object of rights.³³ Land registration which has the purpose of providing legal certainty and legal protection to the holder of land rights, with evidence produced at the end of the land registration process in the form of a land certificate consisting of a copy of the land book and a certificate of survey. Thus, a land certificate is not just a facility, but a right of the holder of land rights guaranteed by law. The purpose of issuing a certificate in land registration activities for the first time is so that the right holder can easily prove that he is the holder of his rights. The certificate is issued for the benefit of the relevant rights holder according to the physical data and juridical data that have been registered in the land book.

The provision of legal certainty to land rights holders in this government regulation is given an affirmation of the extent of the evidentiary power of certificates, which is stated as a strong evidentiary tool by the UUPA. For this reason, it is provided that as long as it has not been proven otherwise, the physical data and juridical data included in the certificate must be accepted as correct data, both in daily legal acts and in disputes in Court, as long as the data is in accordance with what is stated in the survey letter and the relevant land book (Article 32 paragraph (1) of Government Regulation Number 24 of 1997), and that a person cannot claim land that has been certified in the name of another person or legal entity, if for 5 (five) years since the issuance of the certificate he has not filed a lawsuit with the Court, while the land was acquired by such person or other legal entity in good faith and is physically controlled by him or by another person or legal entity that has his approval (Article 32 paragraph (2) of this Government Regulation).

The evidentiary power of a certificate, which is declared as a strong means of proof by the UUPA, is only valid if no other party can prove otherwise. As long as there is no other evidence, the physical data and juridical data included in the certificate must be accepted as correct data. Therefore, the negative stelsel also provides legal protection for the actual land rights holder, as long as it can be proven that he is the owner of the land object. The principle of *nemo plus jurisprudence* provides legal protection to the actual rights holder against the actions of other parties who transfer their rights without his knowledge. Therefore, the

³³ Sigit Sapto Nugraha, I Wayan K. J. U, *Pokok-Pokok Hukum Agraria Indonesia*, (Klaten: Lakeisha, 2022), p. 146.

principle of *nemo plus jurisprudence* is always open to the possibility of a lawsuit against the owner whose name is listed in the certificate from the person who feels that he is the owner. Based on the principle of *nemo plus jurisprudence*, the control of a right to land by a person who is not entitled is null and void, thus the actual right holder can always reclaim his rights that have been transferred without his knowledge from anyone and to whom the right belongs.

According to Boedi Harsono, the applicable land registration publication system in Indonesia is a negative system that contains positive elements, because it will produce valid proof of rights as a strong means of proof, as stated in Article 19 paragraph (2) letter c, Article 23 paragraph (2), Article 32 paragraph (2) and Article 38 paragraph (2) of the UUPA. There will also be no statement as in the articles of the UUPA, that certificates are strong evidence.³⁴ In line with that, according to Elza Syarif, the negative Stelsel used in land registration in Indonesia aims to provide legal protection for real landowners. However, the granting of land certificates in the name of the applicant who is the owner as stated in the certificate of proof of land rights is not absolute.³⁵ So that through a negative stelsel it gives an opportunity to the person or party who feels that their rights are more correct/stronger than those contained in a certificate to claim this by submitting it to the local District Court with the adage that anyone who feels entitled must submit their evidence. If this is convincing, then the district court judge declares that the certificate is void, and declares that the person who filed the case is more entitled and convincing. After the land rights are registered, the government issues a land certificate as proof of ownership of the land from the requesting party. As a result of the law of registration of land rights, everything stated in the certificate can be considered true as long as no one else can prove otherwise.

The Government of Indonesia has improved the land registration system by integrating data collection and maintenance procedures as well as the issuance of rights certificates. Despite the negative publications, efforts have been made to ensure the correctness of the data presented. Government Regulation Number 24 of 1997 overcomes the negative publication of land registration by establishing the institution of "*recthsverweking*" in Article 32. Article 32 Paragraph (2) states that if a certificate for a plot of land has been lawfully issued in the name of a person or legal entity that acquires and controls the land in good faith, another party who feels that he has the right to the land cannot demand the exercise of the right if within 5 years from the issuance of the certificate he does not submit a written objection to the certificate holder and the Head of the Land Office concerned or does not submit a written objection lawsuit to the Court related to land tenure or issuance of certificates.

Proving land rights in Indonesia is complex because there are no traditions or regulations that require registration. Many rights have no written evidence, only recognized based on circumstances and customary rights by landowners. Article 32 paragraph (2) of Government Regulation No. 24 of 1997 states that certificates are a strong means of proof in land registration to ensure legal certainty in the field of land. The provision does not undermine the fair protection, both for the landowner and for the party who acquires and controls the land in good faith and registers it. This negative principle, although only valid for 5 years, is the best in land registration. Based on Article 32 Paragraph (2) of the Government

³⁴ Boedi Harsono, *Hukum Agraria Indonesia (Sejarah, Pembentukan, Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya)*. (Jakarta: Djambatan, 2008), p. 477.

³⁵ Elza Syarif, *Pensertifikatan Tanah Bekas Hak Eigendom*. (Jakarta: Kepustakaan Populer Gramedia, 2014), p. 71.

Regulation, the negative publication system in Indonesia is valid for 5 years. Once the certificate holder meets the requirements and controls the land in real terms, the publication system becomes positive. The author argues that traditional values in indigenous peoples make land ownership based on hereditary customary law. The provisions of Article 32 paragraph (2) of Government Regulation Number 24 of 1997 concerning Land Registration are seen in the concept of individual rights according to customary law related to customary rights.

Based on the description above, it can be concluded that the legal certainty of land certificates, including the results of the PTSL program that has been legally issued by the government, then becomes an absolute means of proof so that it can no longer be challenged by other parties, if within a period of 5 years there are no objections from other parties to the control and issuance of the land certificate.³⁶ The nature of the proof of the land certificate which only applies as strong proof (not absolute) in Article 32 paragraph (1), if understood partially, then it can be said that the certificate that has been issued by the government has no legal certainty. However, if the legal substance of Article 32 paragraphs (1) and (2) is understood comprehensively and deeply, in fact the provisions stipulated in this article provide legal certainty which also contains the values of justice. Because the essence of legal protection in land registration is to provide legal protection to the actual landowners, not those whose names are listed as the subject of rights in the land certificate.

Regarding the PTSL Program, which was initiated to provide legal certainty for land ownership, it turns out that in reality it faces various challenges and legal problems that hinder the creation of legal certainty guarantees for land certificate holders. Although land rights certificates are supposed to provide legal protection and certainty, the implementation of PTSL programs in various regions shows the opposite. This legal uncertainty arises due to corruption and abuse of authority by the authorities in the land registration process, which results in the occurrence of duplicate or overlapping certificates.

Land ownership conflicts that arise due to legal uncertainty are very detrimental to land certificate holders. Holders of legitimate land certificates in most cases have to face lawsuits or disputes with other parties claiming rights to the same land. Lengthy and expensive legal processes often have to be taken to resolve these disputes, which ultimately reduces the value and benefits of the land certificates owned. This shows that land certificates that are supposed to be a tool of legal protection are instead a source of problems and uncertainty for their owners.

Answering this problem, according to the author, by citing the views in the theory of legal protection from Philipus M. Hadjon which can be used as a framework to analyze legal protection efforts for land rights certificate holders in the PTSL program. According to Hadjon, there are two types of legal protection, namely preventive and repressive legal protection, in relation to the problems in this study, it is appropriate to use repressive protection means that aim to resolve disputes after violations of the law or rights occur. Repressive legal protection will be relevant when a dispute arises over a claim to land ownership between a valid land rights certificate holder and another party claiming the same ownership.

Land rights certificates issued through the PTSL program are supposed to provide legal certainty to the holder. However, due to the possibility of claims disputes from other parties

³⁶ L. Sahono, "Penerbitan Sertipikat Hak Atas Tanah Dan Implikasi Hukumnya". *Perspektif* 17, 2 (2012), p. 90.

and various other legal problems, this guarantee of legal certainty can be disrupted. Therefore, repressive legal protection efforts are needed to ensure that the rights of certificate holders are still recognized and protected. When a land ownership dispute occurs, the holder of a land right certificate can use the dispute resolution mechanism provided by law. This can be done through litigation in court or through non-litigation channels such as mediation or arbitration. This mechanism is included in the effort to protect repressive laws because it aims to resolve disputes that have occurred.

Law enforcement efforts are also part of the protection of repressive laws. This includes legal action on various problems in the implementation of the PTSL program such as administrative inefficiencies, lack of clarity of land boundaries, abusive practices of authority, and overlapping ownership claim disputes that are detrimental to land rights certificate holders, in this framework, repressive legal protection is essential to provide a sense of security and legal certainty to land rights certificate holders in the PTSL program. Effective dispute resolution efforts and firm law enforcement will be key in maintaining public trust in the PTSL program and the land system as a whole.

CONCLUSION

Legal certainty for land rights holders in the PTSL program has not been realized because many land certificate holders still face legal uncertainty with various obstacles such as administrative inefficiencies, lack of clarity on land boundaries, abusive authority practices, and overlapping ownership claim disputes. The legal force of the PTSL program through land rights certificates owned by the certificate holders does not provide a guarantee of legal force. Land certificates, which are supposed to be a tool of legal protection and strong evidence, instead become a source of problems and uncertainty for the owner because at any time it can be disputed by other parties who claim the same land rights.

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