

LEGAL PROTECTION OF THE ORIGINAL CERTIFICATE OWNER ON THE ISSUANCE OF A SUBSTITUTE CERTIFICATE THAT IS AGAINST THE LAW

Sari Wahyuni Amanda¹, Enny Koeswarni²

^{1,2}*University of Indonesia, Master of Notary, FHUI Campus Building E 1st Floor Depok
16424, West Java
sariwahyuniamanda@gmail.com, ekoeswarni@yahoo.com*

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Abstract

The purpose of the issuance of a replacement certificate is to replace the damaged certificate of land rights caused by accidental damage due to natural disasters or damage due to aging paper or the certificate being torn due to the carelessness of the holder, which causes the certificate to be unusable. The problem in this research is how is the legal protection of the owner of the original certificate for the issuance of a replacement certificate against the law by the Land Office of Semarang City? The research method used is normative juridical using secondary data and analyzed using qualitative methods. The results of the study show that the legal protection of the owner of the original certificate for the issuance of a substitute certificate against the law by the Land Office of the City of Semarang is divided into 2 (two), namely preventive legal protection through deliberation between the holder of land rights and also as a plaintiff with the Land Office of the City of Semarang before taken through the Court which has been regulated in the 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 which aims to provide legal certainty and justice regarding the control, ownership, use and utilization of land. The second legal protection is repressive through a lawsuit to cancel the decision of the Head of the Land Office of Semarang City to the State Administrative Court and also a lawsuit against the law to the District Court.

Keywords: Legal Protection, Substitute Certificate, Against the Law

INTRODUCTION

In essence, land rights are legal relationships between people (including legal entities) and land, where the relationship has legal protection. The purpose of land rights is to provide legal certainty to the legal relationship, so that the right holder can carry out the authority/contents of his land rights safely.¹

The object of land rights is land, meaning that what is entitled to by the right holder is the land. However, the authority of the right holder is differentiated based on the type of land rights he has. Based on the provisions of Article 16 paragraph (1) of Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles stipulates the types of land rights, namely: property rights, cultivation rights, building rights, use rights, lease rights, land clearing rights, rights to collect forest products and other rights. will be determined by law and temporary rights. In practice, land rights administration only consists of property rights, usufructuary rights, building use rights and usufructuary rights. In addition, there are quasi land rights, namely management rights.²

Land rights contain the authority to use the earth's surface, including part of the earth's body and the space above it, only necessary for purposes directly related to the use of the land concerned for purposes in accordance with the nature and purpose of determining the rights within the limits specified in the legislation. . Thus land rights are not absolute, because the authority of the rights is limited. In connection with the existence of a person's ownership of land, it is usually proven by the ownership of a certificate.³

Certificates are letters of proof of rights, both for land rights, management rights, waqf land, property rights over flat units and mortgage rights, each of which has been recorded in the relevant land book. Land title certificate is a letter of evidence that a person or a legal entity has a right to land or a certain plot of land.⁴

Letter of proof of the right, if the land has been recorded. The land book is a list of fields, which are filled in, and thus are documents of evidence, regarding the types of rights or lands that are recorded, the subject who owns them, which land is entitled to (refer to the letter of measurement or the picture of the situation). , and other encumbering rights. The certificate of land rights consists of a copy of the land book and a measuring document which is bound into one cover.⁵

As a proof of rights, the function of the certificate lies in the field of proof. By having a certificate of land rights, it is easy to prove based on juridical, namely.⁶

1. The legal status of the land that we control or own, namely the right of ownership, right of cultivation, right of building, right of use, or right of management;
2. That the name written on the certificate is the one who is entitled to a land;
3. Expenses that may exist on the land, for example, whether there are mortgage rights or debt guarantees or not;
4. What legal events have occurred on the land, for example buying and selling, exchanging, grants, inheritance, and other events recorded in the land book and certificate of land rights.

Land, which is a very important factor for society and the state, must also adapt to the needs of the community and the interests of the state. In order to meet the demands required land supplies to accommodate the dynamics of these developments. Meanwhile, to ensure the implementation of the land function as a means of fulfilling the interests and needs of the community and the state, legal certainty of land rights is required, so that the implementation

¹Rusmadi Murad, *Menyingkap Tabir Masalah Pertanahan*, (Bandung: Mandar Maju, 2007), p. 72.

²Ibid.

³Yudhi Setiawan, *Instrumen Hukum Campuran Dalam Konsolidasi Tanah*, (Jakarta: PT. Raja Grafindo Persada, 2009), p. 13.

⁴Urip Santoso, *Hukum Agraria dan Hak-Hak Atas Tanah*, (Jakarta: Kencana Prenada Media Group, 2005), p. 29.

⁵ Soetomo, *Pembebasan Pencabutan Permohonan Hak Atas Tanah*, (Surabaya: Usaha Nasional, 1984), p. 90.

⁶Ibid.

of the authority and land rights can take place properly. However, the demands for legal certainty are often not in line with their expectations. This can be seen from the number of land disputes that arise.⁷ One of the land disputes is the issue of illegally issuing replacement certificates.

Article 57 paragraph (1) Government Regulation Number 24 of 1997 concerning Land Registration states:

"At the request of the right holder, a new certificate is issued as a replacement for the damaged certificate; lost, still using a blank certificate that is no longer used, or which is not submitted to the auction buyer in an execution auction."

Based on Article 57 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, the purpose of the issuance of a replacement certificate is to replace the damaged certificate of land rights caused by accidental damage due to natural disasters or damage due to aging or torn paper. certificate due to the carelessness of the holder, which causes the certificate to be invalid. In addition to the destruction of the certificate, another problem faced by the certificate holder is the missing whose whereabouts are unknown, so that it is very detrimental to the owner of land rights.

Problems arise when the issuance of a replacement certificate at the Land Office occurs because of an unlawful act from a party claiming to be the owner of the land stating that the certificate of title to the land he owns has been lost, even though in fact it is not, so there is a lawsuit for the cancellation of the replacement certificate to the court on the basis of that the original certificate is not lost. This happened in the case of issuing a certificate at the Semarang City Land Office under the name of Rony Pinondang Sipahutar.

In this case, the object of the dispute is the Certificate of Ownership Number 1484, dated May 26, 2011, land area of 110 m² with Letter of Measurement: 00212/Krobokan/2011 dated May 9, 2011, the location of Jalan Ayodyapala No.65, Krobokan Village, on behalf of Rony Pinondang Sipahutar, and Certificate of Ownership Number 1485 dated 26 May 2011, land area 190 m² with Measurement Letter 00213/Krobokan/2011 dated 9 May 2011, location Jalan Ayodyapala No. 65, Krobokan Village, on behalf of Rony Pinondang Sipahutar.⁸

The two SHMs mentioned above are new land certificates issued by the Head of the Semarang City Land Office on top of the old land certificates, namely Certificate of Ownership Number 327 Krobokan Village under the name of Adelberd Sipahutar who was declared missing by Rony Pinondang Sipahutar.

Marice Lambok Hasoloan as the Plaintiff said that in early September 2011, he received information that the 300 m² inherited land located at Jalan Ayodyapala No. 65, Krobokan Village, West Semarang District, Semarang City, there is a sign for sale, which after the Plaintiff visited the location of the inheritance, he found the truth of the facts.

Furthermore, the Plaintiff asked for an explanation of the status of the inherited land to the Land Office of Semarang City by sending a letter on September 5, 2011, which was answered by the Land Office of Semarang City with Letter Number 1698/300.7.33.74/K/2011, dated October 18, 2011, regarding Explanation of Certificates. Freehold land no. 327 Krobokan Village, West Semarang District contains the following items:

1. On November 15, 2010 a second certificate was issued as a replacement for the lost certificate, Hak Milik no. 327 Kelurahan Krobokan written in the name of Adel Sipahutar;
2. On 02-22-2011 it was transferred to Rony Pinondang Sipahutar based on a statement of inheritance dated 08-12-2010 made by the heirs and known to the Lurah Hutatoruan X and the Camat Tarutung;
3. Furthermore, on May 26, 2011, Ownership No. 327 Krobokan Village has proposed a solution by Br. Rony Pinondang Sipahutar into 2 (two) fields, namely Ownership No. 1484 and Ownership No. 1485 Krobokan Village written in the name of Rony Pinondang Sipahutar.

⁷Rusmadi Murad, *Op.Cit.*, p. 71.

⁸Decision Number 03/G/2012/PTUN.SMG.

Initially the land area of 300 m² is located on Jalan Ayodyapala No. 65, Krobokan Village, West Semarang District, Semarang City belonged to Hadi which was subsequently purchased by Adelberd Sipahutar on February 19, 1979 with proof of house sale/purchase letter Number: 121B/.22/II/1979 which was then followed up with certificate of Ownership Number Number: : 327 dated 24-09-1986 with Measurement Letter dated 6-2-1980 No. 763/1980, area of ± 300 m² for Adelberd Sipahutar.

Since the death of Adelberd Sipahutar on March 9, 1988 as the beneficiary of the land rights and Timanur boru Hutapea as the maker of the inheritance statement from Adelberd Sipahutar who died on March 26, 2005, until now the inheritance land covers an area of 300 m² which is located at Jalan Ayodyapala No. 65, Krobokan Village, West Semarang District, Semarang City, there was never any division or division of land according to the will of Adelberd Sipahutar (deceased) while the land certificate was handed over and kept by Marice Lambok Hasoloan bow Sipahutar (Plaintiff). With the issuance of Certificates of Ownership No. 1484 and 1485, which changed from a replacement certificate to Certificate of Ownership No. 327 which is declared missing is not true because the Certificate of Ownership No. 327 is not lost and has been with the Plaintiffs as heirs since December 1986.

Based on the above background, the problem in this study is how the legal protection of the owner of the original certificate for the issuance of a replacement certificate against the law by the Semarang City Land Office

RESEARCH METHOD

This research is basically a normative juridical research, because the target of this research is law or normative methods in the form of legal principles and legal systems.⁹ Normative research in this study is a research that describes or describes in detail, systematically, thoroughly and deeply about the rationale for the legal protection of the owner of the original certificate for the issuance of a substitute certificate against the law. This research is descriptive because it describes the applicable laws and regulations and is associated with legal theories in their implementation practices related to the problems to be studied. The data obtained will be analyzed by qualitative analysis.

RESULTS AND DISCUSSION

Legal Protection of the Owner of the Original Certificate of Illegal Issuance of a Substitute Certificate by the Land Office of Semarang City

Land within the territory of the Republic of Indonesia is a major natural resource, apart from having deep spiritual value for the Indonesian people, it also functions very strategically in meeting the increasingly diverse and increasing needs of the state and its people, both at the national level and in relation to the international community. A similar statement is contained in TAP MPR IX/MPR/2001.

Land title certificate is a letter of evidence that a person or a legal entity has a right to land or a certain plot of land.¹⁰ This provision implies that as long as the contrary has not been proven, physical data and juridical data included in the certificate must be accepted as correct data, both in daily legal actions and in disputes in court, as long as the data is in accordance with what is stated in the letter. measuring and the relevant land book.

As time goes by the ownership of land rights holders to land certificates, there are often problems regarding the certificates they have, even though land certificates are strong evidence of ownership of land rights. Such problems are for example the destruction of certificates of land rights caused by accidental damage due to natural disasters or damage due to aging paper or tearing of certificates due to the carelessness of the holder, which causes the certificate to be unable to be used. In addition to the destruction of the certificate,

⁹ Soerjono Soekanto dan Sri Mamuji, *Penelitian Hukum Normatif-Suatu Tinjauan Singkat*, (Jakarta: Rajawali Press, 2007), p. 10.

¹⁰ Urip Santoso, *Loc.Cit.*

another problem faced by the certificate holder is the missing whose whereabouts are unknown, so that it is very detrimental to the owner of land rights.

In connection with this, the Government provides a way out for people who have been damaged or have lost their land rights certificates, namely the existence of a replacement certificate. As stated in Article 57 paragraph (1) of Government Regulation Number 24 of 1997 which states:

“At the request of the right holder, a new certificate is issued as a replacement for the damaged certificate; lost, still using a blank certificate that is no longer used, or which is not submitted to the auction buyer in an execution auction”.

Problems arise when the issuance of a replacement certificate at the Land Office occurs because of an unlawful act, so that the replacement certificate does not have legal certainty. This happened in the case of the issuance of a replacement certificate at the Semarang City Land Office on behalf of Adelberd Sipahutar who later turned to Rony Pinondang Sipahutar.

The issuance of the replacement certificate caused losses for Marice Lambok Hasoloan boru Sipahutar who had held the old certificate. Therefore, the state through the government as a party that can provide legal protection to land rights holders, as it is understood that the right to legal protection concerns how the duties, roles as well as responsibilities that must be carried out by the power of state identity.

Every citizen has basic rights, namely the right to safety, security and legal protection. As a consequence of the recognition of these rights, it is not allowed for any member of society as a citizen to receive unfair services from state power. Based on the theory of legal protection from Philipus M. Hadjon, the legal protection of the owner of the old certificate for the issuance of a replacement certificate by the land office, namely:

1. Preventive Legal Protection Through the 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

Based on Article 32 paragraph (1) of Government Regulation No. 24 of 1997, a certificate of land rights is a strong piece of evidence regarding the physical and juridical data contained in it. However, other parties who feel they have rights to the land can file an objection with the juridical data for a predetermined period of time.

Replacement certificates can be issued for damaged or lost certificates. When a replacement certificate is issued, which in the process of issuing it is against the law, the owner of the land rights will file a complaint and objection as the party who is harmed by the appearance of the replacement certificate. The replacement certificate is issued with the same object with the same number, including a picture of the situation with the same number and date, and the same land area. However, the difference between the replacement certificate and the old certificate is that the issuance date and year are different.

The purpose of the land rights owners who file objections and complaints is so that the land rights owners get an administrative settlement with what is called a correction from the State Administrative Officer because the land rights owner feels his interests have been harmed.

Based on the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Canceling State Land Rights and Management Rights, the authority to make these corrections rests with the Head of the Land Office. Cancellation of land rights can be done due to administrative defects, one of which is the cancellation of the issuance of a replacement certificate.

In the case of the issuance of a replacement certificate which later resulted in a new certificate, namely Certificate of Ownership Number 1484, dated May 26, 2011, land area of 110 m² with Letter of Measurement: 00212/Krobokan/2011 dated May 9, 2011, the location of Jalan Ayodyapala No.65, Kelurahan Krobokan , on behalf of Rony Pinondang Sipahutar, and Certificate of Ownership Number 1485 dated 26 May 2011, land area 190 m² with Measurement Letter 00213/Krobokan/2011 dated 9 May 2011, location Jalan Ayodyapala No. 65, Kelurahan Krobokan, on behalf of Rony Pinodang Sipahutar, there was an administrative defect which resulted in a legal defect in the certificate which appeared on May 26, 2011.

In the event that a dispute arises due to the issuance of a replacement certificate which is illegal, the settlement of the Certificate of Ownership Number 1484, dated May 26, 2011, land area of 110 m² with Measurement Letter: 00212/Krobokan/2011 dated May 9, 2011, location Jalan Ayodyapala No. .65, Krobokan Village, on behalf of Rony Pinondang Sipahutar, and Certificate of Ownership Number 1485 dated 26 May 2011, land area 190 m² with Measurement Letter 00213/Krobokan/2011 dated 9 May 2011, location Jalan Ayodyapala No. 65, Krobokan Village, on behalf of Rony Pinondang Sipahutar, the certificate can be canceled.

Settlement can first be carried out by deliberation between the holder of land rights and also as the plaintiff with the Semarang City Land Office before taking the route through the Court which has been regulated in 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 Case Settlement. Land Affairs as amended by 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.

The purpose of resolving land cases is to provide legal certainty and justice regarding the control, ownership, use and utilization of land. One of the settlements of land cases¹¹ the authority of the Head of the Land Office is an error in the process/procedure for issuing a replacement certificate.¹²

In the case of settlement of land cases concerning procedural errors in the process of issuing a replacement certificate, after receiving a complaint from the holder of land rights, the officer responsible for handling the complaint shall examine the Complaint file.

The examination of the complaint file is then forwarded for data collection and analysis. The data collected can be in the form of:¹³

- a. physical data in the form of thematic and cadastral, terrestrial and photogrammetric maps, image maps showing the location, area and boundaries of land, spatial maps, land use maps and other maps related to the case being handled;
- b. juridical data in the form of documents on the subject of the dispute, documents regarding the basis of rights, deed/letter of land acquisition, documents showing land status, land history, court decisions regarding case objects, and other administrative data/documents showing the administrative process for the issuance of legal products on land which is the object of the Case;
- c. field data are facts that describe the actual condition, control and utilization of land use which is the object of the Case; and/or
- d. information material is data/information from people who are involved in the process and/or who know the process of issuing legal products and/or parties who know the relationship between the parties and the land that is the object of the case.

After the implementation of data collection activities, the official who is responsible for handling Disputes, Conflicts and Cases at the Land Office conducts an analysis. After receiving the report, the Head of the Land Office submits the results of data collection and analysis to the Head of the BPN Regional Office to subsequently issue a decision to cancel

¹¹ Article 1 point 1 of the 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 states "Land Cases, hereinafter referred to as Cases, are disputes, conflicts, or land cases that are submitted to the Ministry of Agrarian Affairs and Administration. Space/National Land Agency, Regional Office of the National Land Agency, Land Office in accordance with their respective authorities to obtain handling and settlement in accordance with the provisions of laws and regulations."

¹² Article 35 letter c 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.

¹³ Article 9 paragraph (1) 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.

the land rights that are the object of the Dispute and Conflict issued by the Head of the Land Office, namely the issuance of the Certificate of Ownership Number 1484, dated 26 May 2011, land area 110 m² with Measurement Letter: 00212/Krobokan/2011 dated 9 May 2011, location Jalan Ayodyapala No.65, Krobokan Village, under the name of Rony Pinondang Sipahutar, and Certificate of Ownership Number 1485 dated 26 May 2011, land area 190 m² with Measurement Letter 00213/Krobokan/2011 dated 9 May 2011, the location of Jalan Ayodyapala No. 65, Kelurahan Krobokan, on behalf of Rony Pinondang Sipahutar, which is a new certificate that has changed from a replacement certificate which was issued against the law.

Settlement of land cases resolved through the 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 is a form of preventive legal protection, namely Marice Lambok Hasoloan is given the opportunity to file an objection or opinion before a government decision get a definitive form.

2. Repressive Legal Protection Through Lawsuits for Cancellation of the Decision of the Head of the Land Office of Semarang City to the State Administrative Court and Lawsuits for Unlawful Acts to the District Court

Decree of the Head of the Land Office of Semarang City in issuing Certificate of Ownership Number 1484, dated May 26, 2011, land area of 110 m² with Letter of Measurement: 00212/Krobokan/2011 dated May 9, 2011, the location of Jalan Ayodyapala No.65, Krobokan Village, on behalf of Rony Pinondang Sipahutar, and Certificate of Ownership Number 1485 dated 26 May 2011, land area 190 m² with Measurement Letter 00213/Krobokan/2011 dated 9 May 2011, location Jalan Ayodyapala No. 65, Krobokan Village, on behalf of Rony Pinodang Sipahutar, has violated Article 57 paragraph (3) of Government Regulation Number 24 of 1997 concerning Land Registration.

Based on positive law in Indonesia, all decisions of State Administrative Officials that are deemed detrimental can be requested for the cancellation or invalidity of the decision through the State Administrative Court. Based on Article 47 of Law Number 5 of 1986 in conjunction with Article 1 number 10 of Law Number 51 of 2009, the State Administrative Court has the authority to examine and decide and resolve state administrative disputes with the object of dispute in the form of a State Administrative Decree.

Based on Article 53 paragraph (1) of Law Number 9 of 2004 in conjunction with Article 47 of Law Number 5 of 1986 in conjunction with Article 1 number (10) of Law Number 51 of 2009, the Panel of Judges has the authority to examine whether the decision letter on the object of dispute has been fulfill the elements as a state administrative decision as formulated in Article 1 point 9 of Law Number 51 of 2009 which is a condition (*candido sine quanon*) whether or not a state administrative dispute exists in the case.

Based on these provisions, in the case of the issuance of a new certificate at the Land Office of Semarang City on behalf of Rony Pinondang Sipahutarn who switched from a substitute certificate issued against the law, a lawsuit for cancellation by Marice Lambok Hasoloan can be filed through the State Administrative Court. In addition to the lawsuit for the cancellation of the certificate issuance in the name of Rony Pinondang Sipahutar at the State Administrative Court, if Marice Lambok Hasoloan suffers losses from the issuance of a replacement certificate which is illegally carried out, a lawsuit against the law can also be filed in the District Court.

Article 1365 of the Civil Code states "Every act that violates the law, which brings harm to another person, obliges the person who because of his fault caused the loss, to compensate for the loss." The right to claim compensation in Article 1365 of the Civil Code is a form of repressive legal protection, because the claim for compensation will be resolved in court. This right is essentially the same as the right to file a dispute in court. Thus, the real form of legal protection given in the case of issuing a replacement certificate at the Semarang City Land Office on behalf of Rony Pinondang Sipahutar is repressive legal protection.

In terms of legal protection put forward by Philipus M. Hadjon, it focuses more on repressive legal protection facilities, namely legal protection only occurs when it is in the trial stage. This is because according to Philipus M. Hadjon, in Indonesia there is no specific

regulation on preventive legal protection, although according to the author, currently preventive legal protection already exists in Indonesia, namely with the existence of Law Number 30 of 1999 concerning Arbitration and Alternative Settlement. Disputes, as well as 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 Land Cases.

Munir Fuady is of the opinion that as a civil lawsuit, then of course the party filing a civil lawsuit, in this case the victim of an unlawful act, must prove many things, including proving the fault of the perpetrator if the unlawful act was negligence or intentional. This proof is often not easy to do. It is not always easy to bring in witnesses or other evidence to prove the existence of such unlawful acts.¹⁴

Wirjono Prodjodikoro referred to the term unlawful act as violating the law. The term unlawful act in general is very broad in meaning, namely if the word "law" is used in the broadest sense and legal actions are viewed from all angles.¹⁵

Learning from this experience, according to the author, it is necessary to think about efforts to improve the implementation of the agreement chosen by the parties. Currently in the land sector, there is already a statutory regulation that explicitly provides a legal basis for the application of Alternative Dispute Resolution (Alternative Dispute Resolution/ADR), namely the 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.

It is necessary to develop an ADR institution in the land sector. This is due to 2 (two) things, namely:

1. In every civil dispute filed in court, the judge always proposes a peaceful settlement by the parties (Article 130 HIR).
2. Explicitly how to resolve problems regarding the form and amount of compensation in land acquisition activities is sought through deliberation.

Handling land issues consists of several activities, including: identifying each type of case encountered, collecting and processing information material data resulting from coordination and investigation, to then describe it through forensic data analysis with certain approach methods.

The results of the analysis and discussion determine the form, effort and method of solving the problem with several alternative solutions. In carrying out the dissection of the case, analytical knives are needed which are carried out with a legal approach and legislation. The more legal regulations that are used as a reference, the sharper the analysis used and thus the results of the case dissection are more objective and transparent to the results achieved. Therefore, the land/agrarian legislation is a decisive environment in handling land issues.¹⁶

Many cases have been successfully resolved by negotiation and mediation, but not infrequently they have to be resolved by judges or administrative decisions. Even those that can only be suggested or recommended to be solved in other ways.¹⁷ Not all legal decisions taken will satisfy the parties. Legal settlements are often not considered sufficient to satisfy a sense of justice. The law cannot always satisfy the needs of society. Dissatisfaction encourages people to seek other means that are not legal, for example through political or social channels.¹⁸

Based on this case, there were inaccuracies and inaccuracies to the officials and officers of the Semarang City Land Office. With this inaccuracy and inaccuracy, the replacement

¹⁴Munir Fuady, *Perbuatan Melawan Hukum, Pendekatan Kontemporer*, (Bandung: Citra Aditya Bakti, 2002), p. 99.

¹⁵Wirjono Prodjodikoro, *Perbuatan Melanggar Hukum Dipandang Dari Sudut Hukum Perdata*, (Bandung: Mandar Maju, 2000), p. 1.

¹⁶Rusmadi Murad, *Menyingkap Tabir Masalah Pertanahan*, (Bandung: Mandar Maju, 2007), p. 30.

¹⁷*Ibid.*

¹⁸*Ibid.*

certificate was issued. So that this incident does not happen again, the efforts that can be taken by the Land Office in preventing the emergence of a replacement certificate due to unlawful acts in the future are:

1. The material of the rule of law must ensure that there is no gap to interpret the law ambiguously, because that ambiguity will create legal uncertainty

Article 57 paragraph (3) Government Regulation Number 24 of 1997 has not provided legal certainty in the case of an application for a replacement certificate that can be submitted by the heirs by attaching a letter of proof as heirs, because Article 57 paragraph (3) of Government Regulation Number 24 of 1997 does not clarifies whether the applicant is all heirs or can be represented by only one heir. Therefore, it is necessary to revise Article 57 paragraph (3) of Government Regulation Number 24 of 1997 by providing an explanation that the applicant for the issuance of a replacement certificate is all heirs or can be proven by a power of attorney from all heirs, so that the replacement certificate does not lose its legal certainty.

2. Improved Discipline and Accuracy of Officers

As is well known, controlling a certificate is a process that requires the participation of several other relevant agencies in issuing the necessary certificates as a basis for rights, for example a village head certificate, inheritance statement, sale and purchase seals and so on. These certificates are also not free from forgery, expiration, even sometimes they are not true or fictitious.

In this regard, it is necessary to have the discipline, thoroughness, and accuracy of the Semarang City Land Office officers when receiving an application for the issuance of a replacement certificate. The form of precision and accuracy is that when an heir wishes to apply for the issuance of a replacement certificate, the officials and officers of the Land Office of the City of Semarang are not only guided by the statement letter of the heirs, but must also ask for the family genealogy of the original right holder and ask for a power of attorney. of the heirs in the management of the replacement of the certificate which was declared lost.

This is necessary so that the occurrence of the issuance of a replacement certificate as in the case of the issuance of a replacement certificate at the Land Office of Semarang City on behalf of Rony Pinondang Sipahutar does not occur again. In addition to this, training and training for officials and officers of the Semarang City Land Office needs to be held and carried out continuously so that the knowledge and experience of Semarang City Land Office officials and officers can be increased, so as to minimize errors in issuing replacement certificates.

3. Awareness and compliance with the law and public behavior

The legal invalidity of the replacement certificate issued by the Land Office of Semarang City on behalf of Rony Pinondang Sipahutar was due to Rony Pinondang's disobedience and dishonesty in giving a statement under oath before the Head of the Semarang Land Office regarding the loss of the original certificate. Therefore, it is necessary to have good faith on the part of the applicant, namely the heirs.

This good faith is needed as an effort not to seek unreasonable profits or to deceive other parties, to honestly intend to fulfill obligations or to comply with all regulations that have been made including regulations regarding the issuance of replacement certificates, which include a statement under oath before the Head of the Land Office. Semarang regarding the loss of the original certificate.

CONCLUSION

Legal protection for the owner of the original certificate for the issuance of a substitute certificate against the law by the Land Office of the City of Semarang is divided into 2 (two), namely preventive legal protection through deliberation between the holder of land rights and also as the plaintiff with the Land Office of the City of Semarang before taking the route through the Court. which has been regulated in the Regulation of the Minister of Agrarian 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 which aims to provide legal certainty and

justice regarding the control, ownership, use and utilization of land. The second legal protection is repressive through a lawsuit to cancel the decision of the Head of the Semarang City Land Office to the State Administrative Court and also a lawsuit against the law to the District Court.

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