

## EFFECTIVENESS OF LEGAL PROTECTION FOR LAND RIGHTS CERTIFICATE HOLDERS AGAINST UNLAWFUL THIRD-PARTY CLAIMS

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### Abstract

Legal protection for land rights certificate holders is a crucial aspect in realizing legal certainty in the agrarian sector. Land certificates, which are supposed to be the strongest evidence of ownership, still often face challenges in the form of claims from third parties that do not have a legal basis, such as oral inheritance claims, physical possession without certificates, or unrecorded customary recognition. This study aims to analyze the effectiveness of legal protection for land certificate holders in dealing with these claims. The method used is normative juridical with a case study approach, which examines national regulations such as the Law no. 5 of 1960 concerning Basic Agrarian Principles (UUPA) and Government Regulation No. 24 of 1997 concerning Land Registration as well as a number of court decisions, including cases involving unilateral cancellation of certificates. The results of the study show that although legal norms have provided strong protection through the principle of legality and the principle of legal certainty, in practice there are still gaps such as weak integration of land data, administrative inconsistency, and low public legal literacy. In addition, judicial practices are also not completely consistent in deciding land cases. Therefore, legal protection for land certificate holders has not been fully effective. It is necessary to strengthen the administrative system, strict law enforcement against claims without legal basis, and increase public understanding of the importance of formal legality in land transactions and ownership. With this step, it is hoped that Indonesia's land system will be able to provide substantive protection and prevent future agrarian disputes.

**Keywords:** legal protection, land certificate, land, legal certainty

## INTRODUCTION

The legal protection of land rights cannot be separated from the principle of the rule of law as stated in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "The State of Indonesia is a state of law." As a legal state, Indonesia must provide legal certainty and protection to every citizen, including land ownership and control matters. As part of the community's economic rights, land rights must be guaranteed certainty and sustainability to function optimally in supporting people's welfare. Legal certainty in the land sector depends on the land registration system. This registration is a legal means for legally and administratively compiling, recording and recognizing a person's rights to certain land parcels. In practice, land registration, which produces a land title certificate, is the strongest evidence in proving ownership, as confirmed in Articles 23, 32, and 38 of the UUPA and Article 32 paragraph (1) of PP Number 24 of 1997. However, this legal provision does not fully provide real protection when faced with cases of ownership disputes involving parties with bad faith or legal engineering (R Soeroso, 2024).

The increasing number of land-related cases has now become a potential integrated threat in the absence of preventive efforts or a structured approach to resolve the issue. This is especially concerning in the context of ensuring security, justice, and the protection of victims' human rights. Therefore, in the event of a land dispute, the rightful landowner has the opportunity to obtain legal protection through the judicial process. In this regard, the government also has an obligation to seek solutions or alternatives to public issues by providing legal protection to individuals or groups who possess legitimate land rights, or to those holding original land certificates that are deliberately misused by certain individuals to commit criminal acts (Raden Nadya Asshary Noviani, 2023).

This illustrates a clear gap between *das Sollen*, or what the law should be, and *das Sein*, or the reality in practice. Juridically, land registration and the issuance of certificates are meant to provide legal certainty, protection, and fairness. However, in *das Sein*, or the actual situation on the ground, this ideal is often not realized. The ineffectiveness of legal protection in this context shows weaknesses in the regulatory aspect and touches on institutional issues. The National Land Agency (BPN), as the implementing agency for land administration, is still often faced with problems of transparency, accountability, and low integrity of some apparatus (Zulkarnain & Priskap, 2023). Many public reports regarding illegal levies, land mafia practices, and disputes over overlapping rights show that the existing system cannot provide maximum protection for legal landowners. In fact, in several court decisions, certificates of land rights can be canceled because the process of issuing them is considered procedurally flawed, even though the owner obtained the rights in good faith (Zulfikar et al., 2020).

Juridically, this kind of practice is contrary to the principles of *rechtszekerheid* (legal certainty) and *doelmatigheid* (legal benefits) in national agrarian law (Yamin & Zaidar, 2018). The absence of comprehensive protection for certificate holders results in material and immaterial losses and reduces public trust in state institutions. This also potentially violates citizens' constitutional rights as regulated in Article 28D paragraph (1) of the 1945 Constitution, which states, "Everyone has the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law." (Suharyono et al., 2022).

Apart from that, the protection of land rights is also part of the protection of property rights as regulated in Article 36 of Law Number 39 of 1999 concerning Human Rights, which states that "Every person has the right to own, individually or jointly with other people, objects, whether movable or immovable." Any party, including the state, cannot take over these property rights arbitrarily without going through fair and transparent legal procedures. Thus, *das Sollen* dictates that land rights must be protected through a fair, transparent, and accountable legal mechanism. However, *das Sein* shows a different picture—one where landowners are still vulnerable to injustice, manipulation, and weak law enforcement.

With comprehensive reform and synergy between institutions, it is hoped that the land system in Indonesia will not only create legal certainty on paper but also provide substantive justice for the community. Because, in reality, the land is not just an economic asset but also a source of identity, security, and prosperity for the Indonesian people.

## RESEARCH METHOD

This research adopts a normative juridical method which focuses on the legal approach as norms or rules that apply in the Indonesian legal system (Lie et al., 2023). This approach emphasizes analysis of statutory regulations that form the legal basis for implementing land rights, including the Basic Agrarian Law (UUPA) and Government Regulation Number 24 of 1997 concerning Land Registration. Other implementing regulations are also an essential part of this research, considering their relevance in ensuring the implementation of the land system by legal objectives (Maulani, 2021). In analyzing

issues in the land context, this research also integrates a case approach by utilizing studies of several relevant court decisions, especially those relating to land disputes, cancellation of certificates, and registered land rights (Supriati, 2018). Thus, this approach provides deeper insight into how existing regulations are applied in practice and deal with legal issues that arise. The main data sources in this research consist of primary legal materials, such as laws, government regulations, and court decisions, which are complemented by secondary materials in the form of relevant scientific literature, such as legal journals and books discussing the theory and practice of land law. To obtain the necessary data, data collection techniques were carried out through in-depth literature studies of existing legal sources and documentation of relevant legal documents. With this method, this research can provide a comprehensive and objective analysis of the implementation of land law in Indonesia and its contribution to protecting the rights of land certificate holders.

## RESULTS AND DISCUSSION

### The Importance of Protecting Land Rights from Unlawful Claims

The urgency of land certificates as strong evidence lies in their function as administrative documents and as legal guarantees for the stability of land rights in society. In the context of the rule of law, the existence of a certificate is a manifestation of the principle of legality and legal certainty as guaranteed in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that every person has the right to recognition, guarantees, protection, and fair legal certainty. Therefore, when someone has obtained a land certificate, there should be no more doubts or interference with his rights as long as the document was obtained through a legal procedure (Pangidoan et al., 2022).

Unfortunately, in Indonesia's social and legal realities, the guarantees provided by land certificates often face serious challenges. One of the causes is the overlap of the national legal system and customary law, which have not been fully integrated into the modern land administration system (Mukholifah et al., 2024). Customary law in many regions still recognizes land control based on lineage or consultation of indigenous communities, although this is not always recorded in the national land registration system. This lack of integration has triggered many dispute cases, where parties claiming rights based on customary law file lawsuits against certificate holders who are valid according to national law (Nadya & Noviani, 2023).

Apart from that, the community's weak legal literacy regarding the importance of formal registration and land rights transfer also worsens the situation. Many people still buy and sell land privately without a notarial deed or registration with the National Land Agency. As a result, problems arise when the next generation of the previous seller or buyer feels disadvantaged and claims land that has legally changed hands but has not been registered. This condition could open up space for land mafia practices and document manipulation, weakening the position of certificates in the eyes of the law (Anantara & Irfan, 2023).

This case reflects the importance of land registration as an effective means of legality and ownership protection. In a legal context, the decision emphasizes that the land registration system aims to create legal certainty, not merely as a pseudo-administration. When the certificate has been issued, and there is no evidence of fraud, the state must be present to provide legal certainty to the legal owner while preventing the development of disputes based on undocumented claims. Therefore, this case sets an important precedent that proof of land ownership must not only be historically valid but must also be followed by official recording to have legal force that protects it in the long term (Irfan & Kurniati, 2018).

Third-party claims with no legal basis, often called non-juridical claims, refer to claims that cannot be proven through valid or legally valid evidence. These claims usually arise from parties who are not registered as legal owners in the national land registration system (Manthovani & Istiqomah, 2021). In Indonesian law, non-juridical claims often do not meet the administrative and legal requirements stipulated in applicable regulations, such as Government Regulation Number 24 of 1997 concerning Land Registration.

One of the main conditions for recognizing a right to land is valid registration through the national land registration system. Without valid registration, third-party claims to the land do not have clear legal standing. This is further strengthened by the provisions of Article 32 paragraph (2) of Government Regulation Number 24 of 1997, which regulates that a person not registered in the land book must file a lawsuit for recognition of land rights within five years after the registration is carried out. If a claim is submitted after this period, the claim is deemed to have no strong legal basis and may be considered invalid.

Furthermore, the "valid evidentiary power" principle in the land registration system provides legal protection for registered rights. This system is designed to provide legal certainty regarding land ownership status, so claims that are not registered or submitted after the specified time limit will face significant challenges in obtaining legal recognition. Thus, non-juridical claims not only conflict with applicable provisions but also damage the basic principles in the land law system that upholds transparency and clarity of the legal status of the land.

It is important to note that these non-juridical claims can trigger legal disputes, which often require lengthy court proceedings to assess the claim's validity, especially if the party making the claim cannot provide valid or strong evidence regarding rights to the land. Therefore, claims that do not comply with legal land registration procedures and are not submitted within the specified period may be considered invalid and cannot be considered by the Indonesian legal system (Surianto et al., 2021).

Non-juridical claims often take the form of physical control of land without being accompanied by valid legal documents, such as land title certificates or sale and purchase deeds made by Land Deed Officials (PPAT). Apart from that, claims of this kind can also be based on the confessions of traditional figures or evidence that does not have formal evidentiary power recognized by law (Saifuddin & Qamariyanti, 2022). In this context, Article 19 paragraph (1) of Law no. 5 of 1960 concerning Basic Agrarian Principles (UUPA) stipulates that land rights can only be obtained based on applicable laws and regulations through legal registration and recognition by the competent authority. This means that claims that only rely on physical control without being supported by valid legal evidence will contradict the fundamental principles regulated in the UUPA (Fitriani et al., 2021). This phenomenon of non-juridical claims is often exploited by individuals who want to take advantage by demanding compensation or even seizing land already legally controlled by another party. This kind of claim can create legal uncertainty in the land system, especially if the party making a claim cannot show valid evidence by the provisions of Article 32 paragraph (2) PP No. 24 of 1997, which regulates a five-year time limit for submitting rights claims. In this case, if a lawsuit is filed in court and the judge is not careful in assessing the evidence presented, this non-juridical claim could interfere with the landowner's legal rights.

It is important to note that in dealing with non-juridical claims, the land registration system in force in Indonesia, as regulated in Article 19 paragraph (1) UUPA and Article 32 PP No. 24 of 1997, prioritizes the principles of "legality" and "legal certainty" in recognizing land rights. This system aims to provide guarantees that only legally registered rights can obtain legal protection, thereby avoiding potential disputes and legal uncertainty.

The principle of "legality" requires that recognition of land rights be based on valid documents, which include land certificates and other proof of registration recorded in official land books. Thus, any claim that is not supported by official documents or registered in the legal land registration system must be rejected to maintain stability and legal certainty in land ownership. Unregistered claims can potentially disrupt the land legal system and trigger disputes detrimental to parties who have legally obtained land rights.

Furthermore, judicial institutions must consistently refer to applicable legal provisions and not provide room for non-juridical claims that can create uncertainty in land ownership. By maintaining consistency in applying the principles of legality and legal certainty, the integrity of the land registration system in Indonesia will be more guaranteed while protecting the rights of parties who have legally obtained land by procedures. As a preventive measure, it is also essential for the public to better understand the correct land registration procedures to avoid potential claims that do not have a strong legal basis.

### **Forms of Legal Protection for Land Certificate Holders**

In the context of land ownership disputes, the theory of legal protection serves as a crucial foundation for understanding the legal position of certificate holders of land rights. Land certificates, as strong evidence within the Indonesian legal system, represent a form of preventive legal protection, as they are issued through procedures established in the national land registration system. When claims or lawsuits arise from parties without lawful basis, repressive legal protection emerges in the form of defense in court to ensure that the legal rights of the certificate holder are recognized and safeguarded.

The application of the theory of legal protection also reflects the principle of the rule of law as stipulated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees every citizen the right to recognition, assurance, protection, and fair legal certainty. Therefore, this theory is highly relevant in analyzing how the legal system responds to baseless (non-juridical) claims from parties not registered in the national land administration system. By using this theory as an analytical tool, it can be shown that the form of legal protection afforded to certificate

holders is not only formal and administrative, but also comprehensive through legal processes that ensure certainty, justice, and the protection of property rights.

Legal protection for land certificate holders in Indonesia is designed comprehensively and layered through an approach that includes preventive, repressive, administrative, and criminal measures, all of which create order, justice, and legal certainty regarding land rights. Each element of this protection has a vital purpose and role, both to prevent future problems and to provide a clear solution if a dispute or violation of the rights of the land certificate holder occurs. First, preventive protection is key in preventing legal problems from arising in the future. The land registration system is regulated in Article 19 of the Basic Agrarian Law (UUPA) and further detailed in Government Regulation No. 24 of 1997 concerning Land Registration as the primary basis for preventing land disputes. This land registration not only functions as an administrative record but also as an effort to provide legal certainty regarding land rights. Through this system, every land-related transaction, such as buying and selling, grants, or inheritance, is legally recorded in the state register, which makes it easier to verify and check the legality of land rights. The existence of a land certificate registered in the state means that the right holder has valid and substantial evidence and reduces the risk of disputes arising from unauthorized third-party claims. Land registration also prevents land grabbing or unauthorized transfer of land rights, which often become a source of conflict in the future.

Second, repressive protection is a form of legal action that can be taken if a dispute arises regarding land ownership or status. Land certificate holders who feel their rights are threatened can use legal channels to defend their rights. One of the main instruments in repressive protection is the judiciary, where legal land certificate holders can file a lawsuit or defense against illegal third-party claims. Thus, the judicial route functions as a tool to restore the rights of legal land certificate holders and prevent abuse of rights by other parties.

Third, administrative protection in the context of the transfer of land rights focuses on aspects of the legality and legal certainty of every land transaction carried out, ensuring that the entire process runs by applicable legal provisions. Transferring land rights, whether through sale and purchase, gift, inheritance, or other agreements, must go through legal administrative procedures and relevant regulations to ensure that the transaction is recognized and protected by law. This includes agreements between the parties involved and all administrative stages that ensure the legality of the transaction. Therefore, clear administrative procedures are an integral part of creating an effective and efficient legal protection system for land rights owners and other parties involved in the transaction (Fitriani et al., 2021).

Articles 1320 and 1338 of the Civil Code (KUHPerdata) provide basic guidelines regarding the conditions for the validity of agreements in force in Indonesia. These guidelines include four main elements: the existence of an agreement between the parties to the transaction, the legal skills of both parties, the object of the contract being clear and legal, and objectives that do not conflict with law and public order (JY Palenewen, 2022). In land transactions, consent must be obtained from the parties involved, and valid documentary evidence must be provided per applicable legal provisions. The validity of this land transaction will be tested by implementing applicable administrative procedures, which ensure that every transfer of land rights is carried out by following the procedures regulated by statutory regulations.

Furthermore, every legal land transaction must be recorded in the land registration system managed by the National Land Agency (BPN). This land registration process is not just a formality but also an important instrument to guarantee the validity of the transfer of land rights in the eyes of the law. This registration creates transparency in every land transaction, ensuring that land status or ownership changes are accurately recorded in official documents. With a clear and structured registration system, parties involved in land transactions can obtain authentic evidence of the legal status of the land, which becomes the basis for protecting their rights. This also protects third parties interested in the land because the information recorded in the land registration system becomes a reference that can be legally accounted for (JY Palenewen, 2022).

The existence of well-organized administrative procedures also supports the realization of effective supervision of every land transaction. This supervision involves authorized parties such as BPNs, the community, and other interested parties. With clear regulations, land transactions can be monitored transparently, which allows earlier identification of potential problems or legal violations, such as falsification of documents, manipulation of data, or even disputes related to land rights. Through optimal supervision, the government and related parties can prevent abuse or fraud that could harm parties involved in land transactions.

Additionally, administrative protection provides security for the parties involved in land transactions, whether land owners, buyers, or third parties. By having a clear and standardized process,

each party can feel more confident that their rights will be protected by law. For example, a buyer who carries out a land transaction will feel more satisfied because he has the guarantee that the land he is buying has been legally registered, there are no disputes, and there will be no confusing ownership claims in the future. This will create a more conducive investment climate, where the parties feel confident that the transactions they carry out meet the requirements and procedures that are legally valid.

In this case, administrative protection also contributes to the stability of the property and land market in Indonesia. When every land transaction is carried out by prioritizing good administrative principles, the land system becomes more transparent and accessible to the public. This is important in reducing illegal practices such as unauthorized buying and selling of land or prolonged land disputes. By maintaining legal validity and certainty in every land transaction, administrative protection helps create a more stable and safe community environment while supporting the property sector's healthy development.

Furthermore, strict and detailed administrative procedures also protect society's social interests. The land is a valuable asset, and a clear registration system and legal procedures protect the public from potential losses due to uncontrolled land transactions. This is important, considering that land is not just an object of economic transactions but also has high social and cultural value, especially for Indigenous peoples or communities who depend on land for their lives. In this case, administrative protection provides a sense of security for the parties involved in the transaction and ensures that community land rights are properly protected, in accordance with applicable law.

Fourth, criminal protection exists as a form of law enforcement that prevents and provides sanctions for criminal acts related to land, such as falsifying documents or manipulating land data. Article 263 of the Criminal Code (KUHP) regulates document falsification, which also applies to land documents such as land certificates, transfer of rights letters, and other legal documents relating to land. Falsifying land documents can harm parties who legally own land, cause significant economic losses, and create legal uncertainty that undermines trust in the land system. In this context, it is hoped that the threat of serious criminal penalties against perpetrators of forgery or manipulation of land documents will provide a deterrent effect and prevent criminal acts that harm legitimate parties. Criminal protection also applies to those who misuse land data for personal gain, such as through data manipulation or land grabbing. Therefore, strict criminal sanctions against criminal acts in the land sector play an important role in maintaining the integrity of the Indonesian land system.

As well as to obtain legal protection, parties who feel aggrieved can file a lawsuit to resolve the dispute, there is a settlement mechanism that can be pursued through the courts, both general courts and the State Administrative Court (PTUN). This procedure is very important to provide justice for the parties involved in the dispute and ensure that the rights of the owner are protected. Dispute resolution in court begins with the initial step of filing a lawsuit. An aggrieved party, either a legitimate landowner who has a valid certificate or a party who feels that they have rights to the same land, can file a lawsuit with the court.

Overall, legal protection for land certificate holders in Indonesia is expected to create a safe, fair, and transparent legal climate. With this comprehensive approach, starting from prevention through the land registration system, dispute resolution through the judiciary, administrative legitimacy in land transactions, to enforcing criminal law against land violations, it is hoped that it can provide a sense of security and trust to the community in the existing land system. More than that, these three forms of protection also have a broader aim: to encourage the creation of good land governance and to strengthen legal certainty, which will impact the sustainability of economic, social, and environmental development in Indonesia.

Comprehensive legal protection for land certificate holders also plays a role in building public confidence in the state institutions in charge of land affairs, such as the National Land Agency (BPN), notaries and the judiciary. When people see that the land registration process is transparent and that there are legal guarantees for registered rights, public participation in the land legalisation and registration process will increase. This is important in creating a more orderly and structured land system, as well as minimising illegal practices that have often been a source of agrarian conflict.

It is also important to emphasise that the success of this legal protection system relies heavily on the synergy between strong regulations and consistent implementation in the field. This means that law enforcement officers, land deed officials (PPATs), and BPN employees must carry out their duties professionally, accountably, and free from corrupt practices. If the authorities are not firm in taking action against violations of the law in the land sector, then the legal protection that has been ideally designed will still be difficult to realise in reality. Therefore, strengthening the capacity of land institutions and internal supervision is one of the main keys in maintaining the integrity of the national land system.

On the other hand, improving people's legal literacy is also an important aspect that should not be ignored. Communities must be empowered through legal education to understand the importance of land registration and the correct legal procedures in every land transaction. Public ignorance is often exploited by irresponsible individuals to carry out manipulative practices, such as buying and selling land without valid documents or unilateral recognition without a clear legal basis. By understanding their legal rights and obligations, people will be more vigilant in safeguarding their land ownership and not easily fall victim to land mafia practices.

## CONCLUSION

Land certificates are critical as legal and binding evidence of land rights based on the discussion described. The certificate functions as proof of ownership and as a strong legal basis to protect land rights holders. However, in practice, claims against registered land, even though they are not based on valid legal evidence, still often occur, whether through inheritance claims, customary claims, or claims from parties who do not have clear rights. This shows the challenges of implementing and monitoring the land system in Indonesia. Legal protection for land certificate holders has been well regulated through various mechanisms, which include preventive, repressive, administrative, and criminal protection. The land registration system controlled in the Basic Agrarian Law and Government Regulation No. 24 of 1997 aims to provide legal certainty and prevent disputes from arising. However, the effectiveness of this legal protection is still hampered by several practical problems, such as the existence of land tenure without rights, multiple certificates, overlapping rights, and an administrative system that is not yet fully integrated. Therefore, improvements are needed in aspects of land data monitoring and integration, as well as the use of technology to increase transparency and accuracy in land registration. Thus, even though the existing regulations are quite strong, their implementation still needs to be improved to provide maximum protection for the rights of land certificate owners and prevent illegal disputes.

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