

## Research Article

## **Legal Certainty of Electronic Certificates in Relation to Discrepancies Between Previous and Current Land Conditions**

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### **Abstract**

The background to this problem is that Land Registration is a series of activities carried out by the government continuously, sustainably and regularly and the maintenance of physical and legal data is regulated in Article 1 number 9 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration. Modernization has encouraged the government to implement a gradual digital transformation that will replace analog certificates with electronic ones with the Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 3 of 2023 concerning the Issuance of Electronic Documents in Land Registration Activities. The formulation of the problem in this study is What are the Legal Consequences of Analog Certificates Becoming Electronic Certificates? And How is Legal Certainty Regarding Land Conditions in Previous Measurement Letters Different from Current Physical Land Conditions? The theory used is the Land Registration theory of A.P. Parlindungan and the theory of legal certainty according to Gustav Radbruch. The method used in this study with the type of normative juridical research, namely library legal research or secondary data with primary, secondary and tertiary legal material sources. The research approach used is the statutory, conceptual, case and analytical approach and the technique of collecting legal materials is carried out by identifying and inventorying positive legal regulations, book literature, journals and other legal

material sources. The legal material analysis technique is carried out with systematic and grammatical interpretation. The conclusion of the research results shows that the Legal Consequences of Analog Certificates to Electronic Certificates are not much different in the Regulation of the Minister of Agrarian Affairs and Spatial Planning of the National Land Agency Number 3 of 2023 in the registration of Electronic Certificate activities carried out through a media transfer program. Legal Certainty regarding the condition of the land in the Previous Measurement Letter is Different from the Current Physical Condition of the Land that the Certificate is a strong proof of rights regarding the physical data of the measurement letter and the legal data of the land book but not absolute, then Article 22 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning of the National Land Agency Number 3 of 2023, land registration and maintenance of land data must run in parallel and data must be updated for each change so that legal certainty of land rights is valid and in accordance with the latest conditions.

**Keywords:** : Land Registration, Legal Certainty, Electronic Certificates.

## INTRODUCTION

Land is one of the basic human needs, serving as a source of food and a factor of production. Ownership of land can be proven with a land certificate issued by the authorized institution. The advancement of science, technology, and information has rapidly progressed worldwide. Technological progress ultimately transforms organizational structures and social relationships due to the development of digital technology. Consequently, the land registration system in Indonesia has now implemented information and communication technology. In this context, authorized parties conduct validation and auditing of electronic land certificate data. Physical land certificates, such as land books, measurement letters, and situational maps, are converted into digital formats like Portable Document Format (PDF). This follows the Regulation of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Number 3 of 2023.

This study raises several comparative cases, including:

1. Case Report No: B/HP.03.02/1692-31.75.300/XII/2024 on Digital Transformation concerning inheritance transfer application with file registration 63929/2024 under the name of Sakti as the applicant.
2. Case Report No: B/HP.03.02/1653-31.75.300/XII/2024 on Digital Transformation concerning inheritance transfer application with file registration 58511/2024 under the name of Dr. Rima L M Silalahi CS as the applicant.

3. Case Report No: B/HP.03.02/43-31.75.300/I/2025 on Digital Transformation concerning sale and purchase transfer application with file registration 73826/2025 under the name of Yella Meilanty Efendi as the applicant.

To distinguish this research from previous studies, a comparative analysis with earlier research is conducted as follows:

1. Thesis by Nofa Isnani Hadi titled "Legal Certainty of Electronic Land Ownership Certificates in Indonesian Land Law," Master of Notary, Sultan Agung Islamic University Semarang, 2022. The research focuses on obstacles and solutions in implementing electronic land certificate issuance in Indonesia. The results indicate that the Ministry of Agrarian Affairs and Spatial Planning must first ensure the availability, validity, and mapping of land parcels throughout Indonesia, with no unmapped or unverified land.
2. Thesis by Syamsur titled "Implementation of Electronic Certificates in Enhancing Legal Certainty and Protection of Land Rights in Makassar City," Master of Law, Bosowa University, 2023. The research addresses overcoming obstacles in enforcing electronic certificates to improve land rights protection in Makassar. The study recommends that the government issue a regulation higher than ministerial regulations, specifically a Government Regulation, to guarantee greater legal certainty and protection of community land rights.
3. Thesis by Novita Riska Ratih titled "Juridical Analysis of Electronic Ownership Certificates (E-Certificates) to Realize Legal Certainty," Master of Notary, Islamic University of Malang, 2021. The study examines the legal force of electronic ownership certificates under positive law in Indonesia. Findings reveal that the legal basis for land registration is governed by Article 9 of the Basic Agrarian Law (UUPA), Government Regulation No. 24/1997 on Land Registration, and Ministerial Regulation ATR/BPN No. 1/2021 regarding electronic certificates. The Ministerial Regulation will coexist in land registration administration due to incomplete land registration in Indonesia, with physical and juridical data for each parcel not yet fully available.
4. Thesis by Abdullah Galih Nanda Prasetya titled "Juridical Analysis of Electronic Signature Use on Electronic Land Certificates in the Concept of Legal Certainty," Master of Notary, Sultan Agung Islamic University Semarang,

2022. The research discusses legal protection for holders of electronic certificates as guarantees of land ownership. The findings confirm that legal protection is guaranteed by law, with repressive protection of electronic land certificates recognized under the Electronic Information and Transactions Law (UU ITE).

5. Thesis by Wisnu Mareta Nugraha titled "Implementation of Electronic First Registration of Land by Notaries as Land Deed Officials at the National Land Agency Office, Kendal Regency," Master of Notary, Sultan Agung Islamic University Semarang, 2022. The study investigates the effectiveness of electronic certificates and samples of electronic certificate products. The findings indicate that Government Regulation Number 18 of 2021 Article 84 paragraph (1) states that the implementation of land registration, whether analog or electronic, follows a similar process from execution to certificate issuance.

## **METHOD**

### **Type of Research**

The type of research used in this study is normative juridical supported by interviews, which involves reviewing applicable laws and regulations related to a specific problem and is complemented by interviews.

### **Research Approaches**

The approaches referenced in this study include:

- a. Statute Approach: examining all laws and regulations related to the legal issue being addressed.
- b. Conceptual Approach: analyzing the research problem from the perspective of underlying legal concepts.
- c. Case Approach: building legal arguments based on concrete cases occurring in practice.
- d. Analytical Approach: analyzing legal materials to understand the meaning of terms used in laws and their application in legal practice and decisions.

### **Sources of Legal Materials**

Sources used in normative legal research consist of:

a. Primary legal materials, which are authoritative and binding, including:

1. Law of the Republic of Indonesia Number 5 of 1960 on Basic Agrarian Regulations.
2. Law of the Republic of Indonesia Number 1 of 2024 amending the second amendment to Law Number 11 of 2008 on Electronic Information and Transactions.
3. Government Regulation Number 24 of 1997 on Land Registration.
4. Government Regulation Number 18 of 2021 on Right to Management, Land Rights, Condominium Units, and Land Registration.
5. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency Number 3 of 2023 on Electronic Document Issuance in Land Registration Activities.
6. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency Number 2 of 2025, amending Regulation Number 16 of 2022 concerning Delegation of Authority on Land Rights Determination and Land Registration Activities.

b. Secondary legal materials include all legal publications that are not official documents but provide explanations of primary legal materials, such as relevant research findings.

c. Tertiary legal materials provide guidance or explanations of primary and secondary materials, including dictionaries, encyclopedias, cumulative indexes, and so forth.

### **Legal Material Collection Techniques**

Legal materials were collected by identifying and inventorying positive legal regulations, reviewing library materials (books, scientific journals, research reports), and other relevant legal sources. The collected materials were then classified, selected, and ensured not to contradict each other to facilitate analysis and construction.

### **Legal Material Analysis Techniques**

The techniques used in this study include:

- a. Grammatical Interpretation: also called linguistic interpretation, where the meaning of legal words, phrases, or sentences is derived by relating the text to grammar and everyday usage.
- b. Systematic Interpretation: analyzing legal systems in specific laws or codified law to identify concepts such as legal subjects, rights and obligations, and legal objects. The legal construction technique used is analogy construction, which interprets legal provisions by drawing analogies based on legal principles.

## **RESULT AND DISCUSSION**

### **Legal Certainty Analysis Of Electronic Certificates Regarding Land Conditions On Measurement Letters Previously Different From Current Physical Land Conditions**

#### **A. Legal Consequences of Converting Analog Certificates into Electronic Certificates**

Land is one of the fundamental components of life for Indonesian society, which necessitates continuous development of land law. Land also has high economic value that continues to increase year by year. The purpose of land registration in Indonesia is to provide legal certainty (*rechts cadaster*) of land rights, because by registering land, the landowner obtains a certificate as proof of ownership which guarantees legal certainty.

In Indonesia, land plays a vital role in both community life and national development. Geographically, land is divided into two categories: agricultural land and non-agricultural land, with a pluralistic land ownership system encompassing various forms, ranging from customary rights (*hak ulayat*), ownership rights (*hak milik*), to usage rights (*hak guna usaha*). (#\_ftn2)

Regarding ownership, Indonesian Agrarian Law is rooted in customary law. Customary law serves as the foundation for agrarian law as regulated in Article 5 of the Basic Agrarian Law (*Undang-Undang Pokok Agraria*), which states: "The agrarian law that applies over land, water, and air space is customary law, provided it does not conflict with national and state interests based on the unity of the nation

with Indonesian socialism, as well as the provisions set forth in this law and other regulations, all while respecting elements based on religious law."

From this provision, it can be concluded that the customary law that serves as the basis for agrarian law is the customary law that:

1. Is not in conflict with national and state interests grounded on national unity.
2. Is not in conflict with Indonesian socialism.
3. Is not in conflict with the Basic Agrarian Law (UUPA) and other relevant regulations.
4. Respects elements based on religious law.

### **Legal Certainty Regarding Land Conditions on Measurement Letters That Differ from the Current Physical Condition of the Land**

The Basic Agrarian Law regulates land registration, which aims to provide legal certainty of land rights, making it the government's obligation to conduct land registration throughout the territory of the Republic of Indonesia. The implementation of land registration is mandated by the Basic Agrarian Law to guarantee legal certainty and certainty of land rights. This is carried out to easily prove who holds rights over a particular plot of land. The legal certainty intended in land registration activities includes:

1. Legal certainty regarding the person or legal entity holding rights/a subject of rights over the land.
2. Legal certainty regarding the location, boundaries, and size of a plot of land.
3. Legal certainty regarding the rights to the land.

In land registration activities, several important factors guarantee legal certainty:

1. Cadastral maps can be used for field reconstruction and officially depict boundaries according to rights.
2. Measurement registers can prove the registered rights holder as the legitimate owner under the law.
3. Every right and its transfer must be registered.

The implementation of land registration also aims to establish a central

information system regarding land parcels, enabling interested parties, including the government, to easily obtain data necessary for conducting legal acts related to registered land parcels and condominium units. Good land registration is the foundation for orderly administration in the land sector.

As is known, Gustav Radbruch's Theory of Legal Certainty defines legal certainty as the certainty of a legal rule. Law aims to protect the interests of each individual so that those interests cannot be disturbed, with law guaranteeing legal certainty in human interactions. According to Radbruch, the law ensures security between parties. This theory explains the meaning of legal certainty as follows:

1. Law is positive, meaning that positive law consists of statutory regulations.
2. Law is based on facts, meaning laws are made based on reality.
3. The facts contained or stated in the law must be formulated clearly, to avoid misunderstandings or misinterpretations and to facilitate implementation.
4. Positive law should not be easily changed.

With legal certainty in land affairs represented by certificates as guarantees in land registration and as proof of ownership of land rights, alongside developments in law, especially agrarian law, it can be a guideline that both analog and electronic land certificates outline the subjects, objects, and actual conditions of the land correctly. If in the future there are changes to the subjects, objects, or physical conditions of the land that differ from previous conditions, the community is obligated to register each acquisition or recording through land data maintenance activities.

Viewed through the Theory of Legal Certainty, the land ownership certificate consists of physical data from the Measurement Letter and juridical data from the Land Book. These physical and juridical data describe the subject, object, and condition of the land at the time of registration accurately. However, if the current physical condition of the land differs from what is registered on the certificate, the certificate is still considered to have legal certainty. This is based on Indonesia's land registration system, which follows a negative publication system containing positive elements.

### **Negative Publication System with Positive Elements**

The publication system used in Indonesia's land registration, as regulated in the Basic Agrarian Law and Government Regulation No. 24 of 1997, is a negative publication



system with positive components; it is not a purely negative publication system. Article 19 paragraph (2) letter c states that registration produces certificates as proof of rights, which serve as strong legal evidence. This indicates that the Basic Agrarian Law upholds a registration system with a negative publication containing positive elements. Accordingly, a land ownership certificate is strong evidence but not absolute—it can be contested in the future. The certificate holder is an individual or legal entity with a legal relationship to the land, illustrating the positive publication system. Thus, the certificate functions as evidence of ownership aiming to provide legal certainty over physical data, such as land boundaries, and juridical certainty regarding ownership rights. If at a later date contrary facts about the land condition, boundary markers, or ownership emerge, the landowner is obligated to register maintenance of their land data with the land office to update the land data so that official records correspond to the latest physical and juridical realities.

Considering Indonesia's shifting geography and annual changes in maps, land maps also shift accordingly. This dynamic should be the basis for conducting physical land data maintenance, aided by public awareness to report or register changes in boundaries, markers, size, or conditions recorded in the Situation Map and Measurement Letter. This ensures that land map updates reflect the latest physical and survey results, enhancing legal certainty of Land Ownership Certificates.

According to the theory of land registration, this government-conducted, continuous, periodic activity includes collecting, processing, recording, presenting, and maintaining physical and juridical data in the form of maps and lists concerning land plots with rights and ownership in strata title units, as well as encumbering certain rights.

A.P. Parlindungan, cited by Urip Santoso, explains that land registration originates from the Dutch term "cadastre," meaning a technical record showing location, size, value, and ownership of land plots. Besides describing and identifying land plots, cadastre serves as a continuous record of land rights.

Government Regulation No. 24 of 1997 Article 1 paragraph (1) defines land registration as a series of ongoing, continuous, and orderly government activities involving collecting, processing, recording, presenting, and maintaining physical and juridical data in maps and lists related to land plots and strata title units, including issuance of certificates of rights for registered land and ownership rights for strata

units as well as certain encumbering rights. The elements of land registration can be described as follows:

- a. Series of Activities: refers to various interrelated, sequential activities forming an integrated process aimed at providing necessary data to guarantee legal certainty in land affairs for the public.
- b. Conducted by Government: land registration is a state duty executed by the government in the public interest to ensure legal certainty. The National Land Agency (BPN) conducts this, with implementation by the heads of district/city land offices.
- c. Continuous and Ongoing: the process is perpetual, ensuring that collected data is maintained and updated to reflect subsequent changes in land conditions.
- d. Orderly: all activities are based on relevant laws and regulations, as the results serve as legally recognized evidence, even though evidentiary strength may vary between countries.
- e. Land Plots and Strata Title Units: registration is performed on rights such as Ownership Rights, Right to Cultivate, Building Use Rights, Use Rights, Management Rights, Waqf Land, Strata Title Ownership, Encumbrances, and State Land.
- f. Issuance of Certificates: initial registration results in issuance of certificates as evidence of rights over registered land or strata title units as vertical dwellings.
- g. Encumbrances: these include rights serving as objects of land registration, such as Ownership Rights, Cultivation Rights, Building Use Rights, Use Rights, or Ownership of Strata Titles that may be collateralized by Encumbrance Rights or be burdened by other rights.

Land registration aims to issue land ownership certificates to protect rights holders based on physical and juridical data registered in the land book. The certificate serves as authentic evidence for the certificate holder; if another party claims ownership, the certificate holder has strong legal proof of ownership. The main function of the certificate is as evidence of land rights and encumbrances, generally providing strong proof that the registered holder is the rightful owner.

- a. Certificate Function as Evidence

A land ownership certificate serves as strong evidence as stipulated in Article 19 paragraph 2 letter c of the Basic Agrarian Law and Article 32 paragraph 1 of Government Regulation No. 24 of 1997 on Land Registration. The certificate is proof of rights serving as strong evidence regarding physical and juridical data corresponding to information in measurement letters and land books. The strength of evidence lies not in the form but in legally valid procedural recording.

**b. Certificate Function as Legal Protection**

According to Article 32 of Government Regulation No. 24 of 1997, legal protection is guaranteed whereby a person named in the certificate cannot be challenged by claims from others with land rights after five years have elapsed, and the status as the land rights holder remains protected as long as the land was obtained in good faith and is under actual control by the holder.

## **CONCLUSION**

The legal certainty of land ownership certificates, whether analog or electronic, remains fundamental in Indonesia's land registration system, even when the physical land conditions differ from those recorded in measurement letters. Rooted in customary law and regulated by the Basic Agrarian Law, land registration serves to guarantee the legal certainty of rights over land by accurately documenting physical and juridical data at the time of registration. Indonesia's land registration follows a negative publication system with positive elements, meaning certificates serve as strong but not absolute evidence of ownership and can be contested if contrary facts arise later. The system emphasizes continuous data maintenance and updating of land conditions and boundaries to reflect the current reality, thereby enhancing legal certainty. The issuance of certificates under this system functions both as strong proof of ownership and as legal protection for rightful holders against claims from others after a statutory period. Ultimately, this framework supports orderly land administration, fosters public trust, and ensures the protection of land rights in a dynamic geographic and social environment.

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