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The Accountability of the National Land Agency (BPN) in Land Ownership Disputes Due to Overlapping Rights

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Abstract: This legal research aims to determine the responsibility of the National Land Agency for disputes over overlapping ownership of land rights. This research uses normative research by analyzing the form of responsibility of the National Land Agency for the issuance of multiple certificates that cause disputes in the community. This research uses primary legal materials obtained from legislation, official records and judges' decisions and secondary legal materials obtained from dictionaries, books and journals. The results of this study show that the form of responsibility of the National Land Agency (BPN) is divided into several forms, namely civil responsibility, criminal responsibility, and administrative responsibility. Overlapping certificates must be canceled based on a court decision that has permanent legal force.

Keyword: Liability, National Land Agency, Overlapping Land.

INTRODUCTION

Land has an important meaning in human life because land has a dual function, namely as a social asset and as a capital asset. As a social asset, land is a means of binding social unity among Indonesian people. As a capital asset, land has grown as a very important economic object, not only as a trading material but also as an object of speculation. Land must be used and utilized as much as possible for the welfare and prosperity of the people and its sustainability must be maintained (Dr. H. M. Arba 2021).

Article 19 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) mandates the government to carry out land registration throughout the territory of the Republic of Indonesia in order to provide legal certainty for land rights holders. To follow up on this matter, the government issued a Regulation, namely the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency 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, to improve the previous Government Regulation. The implementation of land

registration in the community is a state task carried out by the government for the benefit of the people in order to provide land rights status in Indonesia. A Land Certificate is a land certificate as proof of rights, the form of which is determined by the Minister of State for Agrarian Affairs/Head of the National Land Agency, consisting of a Copy of the Land Book in one. In a land problem, a certificate can be used as evidence to obtain legal certainty in proving ownership of land rights. A certificate is a strong proof of rights, meaning that it must be considered true until proven otherwise in court with other evidence (Sumardjono 2006).

A registered land certificate is a form of legal certainty that will later be useful as proof. This is because the substance of the certificate consists of physical data and legal data of a land registration object that already has rights. As long as the legal data and physical data are in accordance with the data in the measurement letter and land book of the land area, the certificate becomes a reinforcement in validating ownership. Certificates are used by the community as proof of legal ownership, as long as the physical data and legal data are in accordance with the data in the measurement letter and land book of the relevant rights. This is in accordance with Article 19 of the UUPA which states that the government conducts land registration for the entire territory of the Republic of Indonesia and the existence of a land rights certificate is strong evidence of control or ownership of land (Sumarja and Mh, 2012).

The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency of the Republic of Indonesia is organizing a program to Accelerate the Implementation of Complete Systematic Land Registration as regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Registration. The program aims to provide legal certainty for land to land rights holders through the issuance of certificates, because so far there have often been land disputes in the territory of Indonesia due to the absence of proof of ownership of land rights.

Along with the development of technology owned by the National Land Agency which is used to measure land, the transition of policies and measurement systems applied by the National Land Agency between the old and new policies has caused several problems, especially problems of overlapping land disputes. Some people have experienced their land being used partly by other people or by the owner of the land next door, resulting in overlapping. The certificates owned by both parties who have overlapping land are the original certificates that have been legalized by the National Land Office, but the difference is the old certificate with the new certificate. The cause of the overlapping land is due to the existence of more than one certificate description with the same part of the land, so that the result of this problem is that administratively there is overlapping or overlapping of both part of the land or the entire land area (Chomzah 2002).

The phenomenon of issuing duplicate and overlapping land certificates has caused many parties to sue each other to validate their land ownership. One of them is a case that occurred in Cilegon City, Banten Province. In this case, the Plaintiff, a Limited Liability Company named PT. AMOCO MITSUI PTA INDONESIA ("PT AMI") filed a lawsuit on September 24, 2013 at the Serang State Administrative Court with Decision Number 27/G/2013/PTUN-SRG and the case has permanent legal force or Inkracht up to the Judicial Review Level with Decision Number 26 PK/TUN/2020. Land registration aims to provide legal certainty and legal protection to rights holders of a plot of land, apartment units and other registered rights. To realize this, the Head of the National Land Office issues land title certificates to the rights holders concerned and for the collection and processing of physical data, one of which is the existence of a base map for areas that have not been designated as systematic land registration areas. The National Land Agency strives to provide a base map, with this base map the location can be known so that duplicate certificates for one plot of land can be avoided.

In the process of land registration and issuance of the certificate, there is an administrative defect due to a violation of laws and regulations committed by the National Land Agency, then the National Land Agency must be reported and sued. Based on the case that occurred in Decision Number 26 PK / TUN / 2020, there is a legal fact that Defendant I did not conduct a field inspection (physical data) properly to determine the validity of the evidence submitted by the land registration applicant and examine the legal data of the land plot so as not to cause legal problems in the future. The Defendant should not have taken legal action in issuing a certificate of ownership that is the object of the dispute in the a quo dispute which resulted in losses for the holders of the rights to the land and did not provide legal certainty in the orderly administration of the state which is the responsibility of Defendant I in carrying out its duties.

In its implementation, the National Land Agency is often involved in problems. This can be caused by negligence in the certificate issuance process and the error may arise due to inaccuracy of information or documents submitted by the parties, including negligence in providing correct information. Too many land law cases, especially overlapping land, have occurred in Indonesia, this provides a view to the National Land Agency to take major steps in improving the land registration system to prevent land disputes in the future.

As in the case of the Dantewada district government in the state of Chhattisgarh, India. On March 6, 2025, the local government announced that more than 700,000 land records have been digitized and stored on the Blockchain to improve transparency, security, and efficiency in the land registration system. According to Mayank Chaturvedi, an Indian Administrative Service (IAS) official, the project will eliminate administrative barriers that have so far slowed down people's access to their land documents and prevent data falsification. This initiative has a major impact on the community. Previously, many residents had difficulty in obtaining proof of land ownership, which was often a source of disputes. With Blockchain-based registration, the process of claiming ownership becomes easier and more transparent, thereby helping to reduce legal disputes (Cointelegraph, 2025). Based on the legal issues above, the author is interested in studying the accountability of the National Land Agency (BPN) for disputes over overlapping land rights.

METHOD

This research is a normative legal study, which is research conducted by studying library materials or secondary data consisting of primary, secondary, and tertiary legal materials. The legal materials are systematically organized and studied to draw conclusions from the obtained results. The author uses normative legal research to analyze and address legal issues related to overlapping land ownership rights caused by the negligence and lack of caution by the National Land Agency (BPN). The research problem approach used is content analysis by identifying and inventorying normative provisions, reviewing the law against the research object as a pattern of behavior in society, aimed at the application of administrative law related to the enforcement of law in land ownership overlap cases. This research uses a conceptual approach and a case approach. In this study, the legal issue will be analyzed using a deductive reasoning approach. Deductive reasoning begins with a major premise (general statement) and then a minor premise (specific statement) is presented. From these two premises, a conclusion is drawn (Dr. Jonaedi Efendi and Prof. Dr. Johnny Ibrahim 2018).

In this research, primary legal materials consist of laws, regulations, and court decisions. Secondary legal materials are obtained through the collection of legal books, literature, legal journals, and previous scientific research relevant to the issue discussed. Tertiary legal materials are supporting materials for primary and secondary legal materials in the form of research results, bibliographies, and articles (Marzuki 2017).

RESULTS AND DISCUSSION

The National Land Agency (BPN) is an institution used to register land rights and maintain general land registration lists (Iskandar, Dadang 2014). In order to facilitate the work of the National Land Agency in the land rights registration process, there is also a Land Deed Making Officer as mandated by Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Making Officers who basically have a very important role in maintaining land registration data, namely by creating evidence of a legal act concerning a certain plot of land which is then used as a basis for registering changes in legal data resulting from the legal act, with the stipulation of Government Regulation Number 24 of 1997 concerning Land Registration, the correlation between the Land Deed Making Officer and the implementation of land administration is increasingly clear (Chomzah 2002). The National Land Agency has state authority in the land sector in terms of Issuing a certificate of ownership as 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 2 of 2025 concerning Amendments to the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 16 2022 concerning the Delegation of Authority for Determining Land Rights and Land Registration Activities, where the implementation of land registration is delegated by the Regency/City Land Office agency/official.

Land Certificates are legal products of State Administrative Officials, so that legal provisions apply to them, in this case the National Land Agency. The BPN is responsible for all problems that occur related to land certificates. Basically, the issuance of land ownership certificates is to guarantee legal certainty for the relevant rights owners. As explained in Article 31 and Article 32 of Government Regulation Number 24 of 1997 concerning Land Registration, land certificates are intended to make it easy for rights holders to prove their rights. In practice, disputes often occur over the issuance of land title certificates, one of which is overlapping ownership of land rights which is in accordance with the author's research, namely disputes over overlapping ownership of land rights in the Supreme Court Decision Number 26 PK/TUN/2020.

The occurrence of Overlapping Land Rights Ownership is caused by several factors, namely:

1) Factors arising from the Community, namely:
   a. Not having received the previously applied certificate, so that the person concerned submits a second application for a certificate for the same land;
   b. The use of different evidence of rights to the same land used by 2 (two) certificate holders. Land disputes often occur also because land owners neglect or do not pay attention and do not utilize their land properly so that it is taken over by someone else and claimed as their own and then register the land even though it has been registered by the original owner.
2) Factors arising from the Land Office, namely:
   a. Carelessness of officials/officers;
   b. Negligence of officials/officers (human error). It is possible that the negligence and carelessness in question were carried out intentionally or in other words were planned by certain land registration officials with applicants for land rights registration who were not entitled. So in this case what happened was a criminal act.
3) Factors arising from the local Village/Sub-district Office.

   In fact, in the current government, there is often a mismatch or lack of coordination between government institutions. The local government, namely the sub-district or village that does not have a certified land database, causes when an application for a land ownership certificate is submitted, sometimes the certificate in question is immediately

made and the action is taken without measuring and checking the location and certainty of the land being requested (Evan 2023).

BPN's accountability can be given through 2 (two) forms of accountability, namely Internal Responsibility and External Responsibility. Both of these responsibilities can be charged to BPN for the emergence of overlapping land certificates, including:

Civil Liability of the National Land Agency in Land Disputes

As a result of carelessness and inaccuracy in conducting and checking physical data and legal data in land rights registration, resulting in disputes over ownership of overlapping land rights certificates. The civil sanctions that can be applied by the Land Office are as regulated in Articles 1365 and 1366 of the Civil Code. Article 1365 explains that every unlawful act that causes harm to another person requires compensation for the loss. Then Article 1366 states that everyone is responsible not only for losses caused by their actions, but also for losses caused by negligence or carelessness.

The liability stated in Article 1365 of the Civil Code and Article 1366 of the Civil Code requires an element of fault, meaning that a person must be guilty (liability based on fault). The principle of liability based on fault is based on the principle that there is no liability if there is no element of fault in legal science called Tortious Liability or Liability Based on Fault. Furthermore, the party obliged to prove the element of fault is the party claiming compensation, in other words, the burden of proof is on the plaintiff as stipulated in Article 1865 of the Civil Code "everyone who claims that he has a right, or, in order to confirm his own right or deny the right of another person, points to an event, is required to prove the existence of the right or event." So that the rights holder who feels disadvantaged by the emergence of a dual rights certificate must be able to prove the alleged fault. Against unlawful acts due to negligence, a legal liability model arises, namely (Fuady 2000):

a. Liability with elements of error (intentional and negligent) as stated in Article 1365 of the Civil Code;
b. Liability with elements of error, especially negligence as stated in Article 1366 of the Civil Code;
c. Absolute liability (without error) as stated in Article 1367 of the Civil Code.

Thus it is known that, in the case of overlapping land title certificates, which are done unintentionally, namely purely due to negligence of the land title registration officials, civil liability can be imposed. The BPN party who commits maladministration accompanied by unlawful acts must personally be responsible for replacing the losses incurred and experienced by the rights holder due to the overlapping certificates, in this case, namely material compensation.

Criminal Liability of the National Land Agency in Land Disputes

In terms of criminal liability, if the party concerned is indicated to have committed a criminal act of falsification of documents, in this case the emergence of multiple land title certificates, can be subject to criminal penalties as in Article 264 of the Criminal Code, that:

1) Forgery of documents is subject to a maximum imprisonment of eight years, if committed against:
   a. Authentic deeds;
   b. Debt letters or debt certificates from a country or part thereof or from a public institution;
   c. Letter of ownership or debt or certificate of ownership or debt from an association, foundation, company or airline;
   d. Talon, proof of dividend or interest from one of the letters described in 2 and 3, or proof issued as a substitute for the letters;
   e. Letter of credit or trade letter intended for distribution.

2) Threatened with the same punishment anyone who intentionally uses the letter in the first paragraph, the contents of which are not true or which are falsified as if they were true and not falsified, if the falsification of the letter can.

In order to state that a BPN official has committed the crime of falsification above, it is necessary to consider 2 (two) elements. The two elements in question are the element of a criminal act (actrus reus) and the mental state of the maker (mens rea). And error (Schuld) is an element of the maker of the crime, so it is included in the element of criminal responsibility which means that the maker can be blamed for his actions.

Administrative Accountability of the National Land Agency in Land Disputes

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 that:

1) The BPN RI is obliged to implement court decisions that have obtained permanent legal force, unless there is a valid reason not to implement it.
2) Valid reasons as referred to above are:
   a. There is another conflicting decision against the object of the decision;
   b. A security bond is being placed against the object of the decision;
   c. The object of the decision is being the object of a lawsuit in another case;
   d. Other reasons regulated in the laws and regulations.

The parties who file a lawsuit to the court to obtain an inkracht decision so that there is no more land ownership, but the problem arises if the court decides that one party owns it, then who will replace the losses experienced by the other party, if they have paid for the land, paid the AJB, paid the certificate fee. This needs to be considered so that no party is harmed by a flawed legal process. If the court's decision states who will be responsible, then this right must be implemented (Ladzuardi, Sihotang, and Ilyanawati 2024).

Thus, after a final and binding judge's decision on the related dispute, the National Land Agency is responsible for the certificates it issues. In this case, the responsibility of the National Land Agency for the issuance of duplicate certificates for the same land object is to revoke and cancel the land title certificates it has issued. The National Land Agency as an institution authorized to issue land title certificates is responsible administratively, namely by canceling the land title certificates it has issued.

Based on 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 the Handling and Settlement of Land Cases, the National Land Agency is required to implement court decisions that have obtained permanent legal force, unless there is a valid reason not to implement it. Thus, after a final and binding judge's decision on the related dispute, the National Land Agency is responsible for the certificates it has issued. In this case, the responsibility of the National Land Agency for the issuance of duplicate certificates for the same land object is to revoke or cancel the land title certificates it has issued. BPN as an institution authorized to issue land title certificates is administratively responsible, namely by canceling the land title certificates that it has issued.

Based on the case regarding the overlapping land ownership dispute between HGB Certificate Number 15/1995 and Freehold Certificate Number 1672 and 1672 Object of Dispute, the form of responsibility of the National Land Agency is by canceling one of the certificates based on a court decision and based on the Court Decision stating that the ones that must be canceled are Certificates Number 1672 and Number 1673 Object of Dispute. The decision is in accordance with Article 19 of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) which stipulates that land registration is carried out to provide legal certainty of land ownership. If BPN is negligent in carrying out this task so that there is an overlapping of certificates, BPN can be held accountable. Based on 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, cancellation of land certificates that are contrary to the law, including overlapping/double certificates can be canceled through a decision of an authorized official at the BPN and a court decision that has permanent legal force or inkracht. In court decisions Number 27/G/2013/PTUN-SRG up to the Supreme Court Decision on Judicial Review with Decision Number 26 PK/TUN/2020, the judge in deciding the case has been in accordance with applicable regulations.

CONCLUSION

The National Land Agency (BPN) is a non-departmental government institution that has the task of managing land affairs, with work units located in each province and district/city. BPN is the institution responsible for land registration and the maintenance of the general land registration list. According to Article 32, paragraph (2) of Government Regulation No. 24 of 1997 concerning Land Registration, it is stated that landholders who have obtained their land certificates will receive legal protection. In the case of land disputes, one of the issues is the issuance of Duplicate Certificates. The National Land Agency is responsible for the issuance of such certificates. The forms of responsibility of BPN are divided into three categories: Civil Responsibility, Criminal Responsibility, and Administrative Responsibility.

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