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Legal Certainty and Legal Protection for Holders of Certificates of Ownership: An Analysis of Judgment No. 3/Pdt.G/2020/PN.Atb and Judgment No. 2174 K/Pdt/2021

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Abstract: This study analyzes the legal implications of Article 32(2) of Government Regulation No. 24 of 1997 on Land Registration regarding legal certainty and protection for holders of Certificates of Ownership. Using a normative legal research method with a statutory approach, a case-based approach, and a conceptual approach, this study examines the legal reasoning (*ratio decidendi*) in the Atambua District Court Decision No. 3/Pdt.G/2020/PN.Atb and the Supreme Court's judicial review No. 2174 K/Pdt/2021. The analysis is conducted through three main theoretical pillars: the Theory of Judicial Rationale (*Ratio Decidendi*), Gustav Radbruch's Theory of Legal Certainty, and Rudolf von Jhering's Theory of Legal Protection. The research findings indicate that the first-instance court's setting aside of the 5-year time limit was based on the protection of customary land rights and the identification of procedural defects; however, this departure from the rule undermined formal legal certainty (*rechtssicherheit*). Conversely, the Supreme Court restored stability in land registration by affirming the strong probative force (*stark bewijskracht*) of the evidence and the guarantee of protection for bona fide purchasers in accordance with SEMA No. 1 of 2017.

Keyword: Ratio Decidendi, Certificate of Ownership, Legal Certainty, Legal Protection, Land Registration.

INTRODUCTION

Indonesia's natural resources including the earth, water, outer space, and all that they contain are a blessing from God Almighty, bestowed specifically for the benefit of humanity, particularly the Indonesian people (Subair, 2021). Land plays a vital role in the lives of the Indonesian people, which is why it is enshrined in the Constitution of the Republic of Indonesia. For human life, land plays a vital role because, in reality, the relationship between humans and land is eternal. In this regard, it can be said that the relationship between humans and land is very close because land is the foundation of human life. In Law No. 1 of 1960 on Agrarian Principles, land is defined as the earth's surface (Rio Rolando et al., 2024).

The development of national land laws plays a crucial role in achieving public welfare and fostering social order in Indonesia. One of the main pillars in ensuring orderly land administration is the implementation of land registration, which is constitutionally mandated by the Basic Agrarian Law (UUPA). Through the state-administered land registration system, legal certainty is guaranteed for every parcel of land so that rights holders can safely enjoy and optimize their economic assets. Without an orderly and legally certain registration system, the agrarian sector will continue to be plagued by protracted disputes that hinder national development.

Land is not merely a material object within the Indonesian legal system, but rather the foundation for the economic and social stability of citizens (Pambudi et al., 2026). Under the national agrarian law framework, the state has a constitutional responsibility to ensure the certainty of land rights through a wellorganized and transparent land registration system (Masyhur, 2024). Government Regulation No. 24 of 1997 on Land Registration includes a provision in Article 32(2) that provides strong legal protection for holders of Certificates of Ownership (SHM) after a period of five years has elapsed. This provision is designed to serve as “stark bewijskracht,” or absolute evidentiary weight, with the aim of minimizing disputes and providing a sense of security to the rightful owners of their land.

Although these limitation rules are explicitly stipulated in legislation, their implementation in first-instance courts often gives rise to serious legal problems. Various district court decisions frequently reveal interpretive anomalies in which judges disregard the five-year statute of limitations and still grant claims to revoke certificates. This phenomenon of deviation from the rule of law can be clearly observed in a case decided by the Atambua District Court through Decision No. 3/Pdt.G/2020/PN.Atb. The action of the court of first instance in disregarding this statutory time limit has undermined the sense of justice and eroded the foundations of legal certainty in agrarian law.

Theoretically, a trial court judge’s disregard of the statute of limitations constitutes a failure to uphold the principle of formal legal certainty (*rechtssicherheit*) as conceived by Gustav Radbruch. According to Radbruch, a positive legal order requires stable, written rules that are consistently enforced to ensure social order and prevent the emergence of chaos. When law enforcement officials subjectively disregard the deadlines established by law, Rudolf von Jhering’s concept of legal protection (*rechtsschutz*) for the interests of rights holders acting in good faith is neglected. Consequently, the probative value of land certificates loses its legal certainty in the face of unmeasurable judicial discretion.

As a corrective mechanism within the Indonesian judicial system, the Supreme Court issued Decision No. 2174 K/Pdt/2021 to rectify this misinterpretation of the law. The Supreme Court emphatically reaffirmed that the time limit provision in Article 32(2) of Government Regulation No. 24 of 1997 must be adhered to in order to ensure legal certainty in land registration. Through sound legal reasoning (*rechtsvinding*), this cassation decision reflects the essence of the Theory of Judicial Rationale (*Ratio Decidendi*), which prioritizes the accuracy of legal reasoning. This corrective intervention simultaneously restores the value of legal certainty as articulated by Gustav Radbruch and ensures the legal protection (*rechtsschutz*) advocated by Rudolf von Jhering to prevent chaos regarding land ownership in society. This study aims to analyze this dialectic through the lens of the Theory of Judicial Discretion, Gustav Radbruch’s Theory of Legal Certainty, and Rudolf von Jhering’s Theory of Legal Protection. In light of the background discussed above, the author presents the main issues to be addressed in this study, namely :

1. What are the implications of waiving the statute of limitations for land registration under Article 32(2) of Government Regulation No. 24 of 1997 on legal certainty and legal protection for holders of Certificates of Ownership?

METHOD

The type of research used in this study is normative legal research (*doctrinal research*). According to Peter Mahmud Marzuki, normative legal research, or a literature review, focuses on the examination of various legal documents. This approach utilizes a variety of secondary data as the primary material for analysis, including legislation, case law or court decisions, legal doctrines and theories, and legal opinions from experts and scholars (Mahmud, 2011). The purpose of this study is to examine the meaning, consequences, and evolution of the relevant laws. Through this type of normative research, the primary focus is on the examination and analysis of the application of various norms and limitations set forth in positive law. (Mahmud, 2017). This study employs a descriptive-analytical approach focused on examining positive legal norms, specifically Article 32(2) of Government Regulation No. 24 of 1997, which is compared with judicial practice as reflected in Judgment No. 3/Pdt.G/2020/PN.Atb and the Supreme Court's correction in Judgment No. 2174 K/ Pdt/2021. The methodological approaches employed include the statutory approach to assess the consistency of legal norms, the case approach to analyze the judges' ratio decidendi and judicial anomalies, and the conceptual approach to integrate the three main theoretical pillars: the Theory of Judicial Reasoning (*Ratio Decidendi*), the Theory of Legal Certainty (Gustav Radbruch), and the Theory of Legal Protection (Rudolf von Jhering) as analytical tools. The data used consists of secondary data comprising primary legal materials such as legislation and court decisions as well as secondary legal materials in the form of supporting literature, which were then qualitatively analyzed to produce prescriptive conclusions regarding the urgency of strong evidentiary weight (*stark bewijskracht*) and legal protection for holders of SHM certificates.

RESULTS AND DISCUSSION

Article 32(2) of Government Regulation No. 24 of 1997 on Land Registration holds a highly strategic and fundamental position within the national agrarian legal system. This provision is designed not merely as an administrative instrument, but as a substantive legal norm that provides permanent legal certainty for land rights holders. The existence of this norm reaffirms the state's commitment to establishing orderly land administration based on the protection of legitimate property rights. Without clear and definitive regulations, the land registration system would be unable to provide psychological and legal peace of mind to the public engaging in lawful transactions.

Philosophically speaking, the existence of a land certificate as strong evidence of a right or “*stark bewijskracht*” requires certainty that the right cannot be challenged after a certain period of time has elapsed (Julaeha, 2026). Within Gustav Radbruch's framework regarding the three fundamental values of law, legal certainty is one of the main pillars that must be upheld alongside justice and utility. Article 32(2) of Government Regulation No. 24 of 1997 explicitly embodies this value of legal certainty by limiting the timeframe within which other parties may file a lawsuit to invalidate a certificate. Thus, disputes over land ownership have a clear endpoint and are not allowed to drag on indefinitely.

Upon closer examination, this five-year statute of limitations is closely tied to the theory of legal protection proposed by Rudolf von Jhering. Jhering viewed the law as created to protect human interests both individual and societal from various forms of disruption and social uncertainty. In the context of land tenure, holders of Certificates of Ownership (SHM) acting in good faith have a legitimate legal interest in peacefully enjoying their rights without being overshadowed by the threat of past disputes. This protection ensures that legal entities that comply with state procedures are granted appropriate administrative immunity once the time limit has expired.

Furthermore, the legal protection afforded by this norm finds its strongest theoretical basis in Rudolf von Jhering's Theory of Legal Protection. In Jhering's view, law is a teleological instrument created by the state to protect human interests (*interessen*) deemed

valuable for social order (Imam Fawaid & Rahman Saleh, 2023). In the context of land registration, the issuance of a Certificate of Ownership (SHM) constitutes a form of legal protection (*rechtsschutz*) for the interests of legitimate and bona fide rights holders (Murni & Sumirahayu Sulaiman, 2022). The five-year statute of limitations for filing objections set forth in Article 32(2) of Government Regulation No. 24 of 1997 serves as a normative instrument to safeguard those interests from belated legal claims. Thus, once that deadline has passed, the state is obligated to guarantee legal protection for rights holders in order to maintain stability and legal certainty in national land affairs.

However, in practice at the first-instance courts, the application of this principle is often distorted in ways that are quite alarming and undermine legal logic. This phenomenon is clearly reflected in the handling of a case at the Atambua District Court, as set forth in Decision No. 3/Pdt.G/2020/PN.Atb. The panel of judges at that first-instance court openly disregarded the five-year statute of limitations mandated by Article 32(2) of Government Regulation No. 24 of 1997. The judges proceeded to examine the substance of the case in depth and ultimately granted the petition to revoke the certificate, which had been filed well beyond the statute of limitations.

The Atambua District Court's panel of judges' decision to set aside the 5 (five)-year statute of limitations in Judgment No. 3/Pdt.G/2020/PN.Atb was fundamentally based on the need to protect the customary land rights of the Lau Mau indigenous community over the disputed land in Naekasa Village. The Panel of Judges determined that the evacuation or physical displacement of the Lau Mau Tribe members from that location in 1977 due to a natural disaster (*flooding*) constituted a force majeure event. Under the doctrines of land law and customary law, force majeure cannot be categorized as a voluntary abandonment of rights that triggers the forfeiture of rights (*rechtsverwerking*). The presence of three ancestral graves (Bei Halek, Bei Buik, Ina Luruk) as well as the "pamali" forest area at the disputed site serves as factual evidence that the indigenous community's religious-magical connection to their customary lands has never been severed.

In addition to the customary land rights factor, the judge's *ratio decidendi* also identified administrative procedural defects in the issuance of the Certificate of Ownership (SHM) by the Land Office, such as the failure to comply with the obligation to publicly announce land registration (Article 26 of Government Regulation No. 24/1997) and the halting of surveying activities by indigenous residents in 2017. Based on these procedural defects, the judge applied Supreme Court jurisprudence stating that claims to land rights based on acts contrary to rights are not subject to a statute of limitations. Nevertheless, the circumvention of the five-year statute of limitations without clear parameters continues to trigger a serious conflict with the principle of formal legal certainty (*rechtssicherheit*) and threatens the legal standing of a bona fide buyer in accordance with SEMA No. 1 of 2017.

Judicial actions that disregard these statutes of limitations theoretically constitute a clear violation of the principle of formal legal certainty (*rechtssicherheit*). When a judge allows a legally time-barred claim to proceed without restrictive parameters for exceptions, that judge is committing an error in the application of the law (*rechtsvinding*) in formulating the legal rationale (*ratio decidendi*). Conversely, such actions actually create judicial anomalies that undermine the positive agrarian legal order and disregard the state's guarantee of protection for legal subjects who have complied with land registration procedures.

The negative impact of this judicial anomaly severely undermines the agrarian legal order in a broad and systemic manner within society. Certificate holders, who should be entitled to legal protection (*rechtsschutz*) under positive law, have instead become highly vulnerable to lawsuits filed without any time limit. This creates acute legal uncertainty, in which the evidentiary weight of land certificates appears to lose its legal legitimacy in the face of a judge's subjective discretion. As a further consequence, public trust in the land registration system administered by the National Land Agency risks being drastically eroded.

As a corrective mechanism in a state governed by the rule of law (*rechtstaat*), the judicial system in Indonesia provides a mechanism for oversight through appeals to the Supreme Court (Febriansyah Maradi Putra et al., 2025). The issuance of Supreme Court Decision No. 2174 K/Pdt/2021 marks a crucial turning point in realigning the direction of national agrarian law enforcement. The Supreme Court unequivocally overturned the lower court's decision and reaffirmed that the time limit provision in Article 32(2) of Government Regulation No. 24 of 1997 is absolute and binding. This step demonstrates that the highest judicial body is effectively exercising its oversight function to correct erroneous interpretations by lower courts.

From the perspective of the Theory of Judicial Rationale (*Ratio Decidendi*), this Supreme Court decision reflects the success of judicial review in correcting errors in legal reasoning at the trial court level. The Supreme Court has consistently affirmed that the limiting provision in Article 32(2) of Government Regulation No. 24 of 1997 must be adhered to in order to ensure stable and predictable legal certainty for the public. This judicial correction is in line with Gustav Radbruch's doctrine of legal certainty, according to which positive law must be enforced uniformly without arbitrary discretion. This step simultaneously restores a sense of security for rights holders acting in good faith and prevents future chaos regarding land ownership.

Based on the entire series of theoretical and doctrinal analyses outlined above, a comprehensive synthesis regarding the nature of legal protection for land rights can be drawn. The legal protection granted by Article 32(2) of Government Regulation No. 24 of 1997 to holders of Certificates of Ownership acting in good faith must be interpreted as strong legal protection grounded in positive certainty (*stark bewijskracht*). This evidentiary weight is a logical consequence of the fulfillment of all administrative and procedural requirements within the time period stipulated by law, as well as the application of Rudolf von Jhering's Theory of Legal Protection in safeguarding legitimate rights.

The state, through its judicial institutions, has a constitutional obligation to ensure that once this five-year deadline has passed, legally registered land ownership rights can no longer be challenged without proof of a verifiable legal defect. This is absolutely necessary to uphold Gustav Radbruch's principle of legal certainty, which prevents the emergence of chaos and protracted agrarian disputes within society. Thus, the harmonization of land registration norms, the soundness of judicial reasoning (*ratio decidendi*), and the protection of bona fide purchasers under SEMA No. 1 of 2017 form the three pillars for realizing a land legal system that is both just and certain.

CONCLUSION

Based on the legal and theoretical analysis outlined in the discussion, the following conclusions can be drawn:

First, Article 32(2) of Government Regulation No. 24 of 1997 on Land Registration plays a crucial role as a normative instrument that provides substantial and strong legal protection (*stark bewijskracht*) for holders of Certificates of Ownership (SHM) acting in good faith. The five-year time limit stipulated in this provision is a manifestation of Gustav Radbruch's Theory of Legal Certainty, ensuring that the dynamics of land ownership have a definitive end point for disputes and are not left to linger in prolonged uncertainty.

Second, when viewed through the Theory of Judicial Rationale (*Ratio Decidendi*) and Rudolf von Jhering's Theory of Legal Protection, the Atambua District Court's action in Decision No. 3/Pdt.G/2020/PN.Atb which set aside the statute of limitations for the lawsuit constitutes a disproportionate form of judicial anomaly. The disregard for this limiting norm undermines formal legal certainty, disregards the protection of legitimate interests (*interessen*), and creates legal uncertainty that threatens the administrative legitimacy of land registration.

Third, the correction made by the Supreme Court through Decision No. 2174 K/Pdt/2021 serves as a landmark decision that restores the pillar of legal certainty in land registration. Based on Gustav Radbruch's Theory of Judicial Discretion and the value of legal certainty, this cassation decision successfully restores the consistent function of positive norms, provides legal protection for buyers acting in good faith in accordance with SEMA No. 1 of 2017, and mitigates the potential for future chaos regarding land ownership.

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