

LEGAL PROTECTION OF LAND RIGHTS HOLDERS AGAINST LAND OWNERSHIP DISPUTES

Indrawati Lestari Siang¹, Putra Hutomo², Supot Rattanapun³

Jayabaya University, Indonesia^{1,2}, Rajamangala University of Technology Krungthep, Thailand³

Email: sucimaryana@gmail.com¹, putrahutomo90@gmail.com², supot.r@mail.rmutk.ac.th³

Abstract

This research aims to analyse the legal protection for land rights holders in Indonesia in the face of ownership disputes. Through a normative juridical approach, this research examines the regulation and implementation of legal protection, particularly in terms of land registration and proof of ownership. The findings show that legal protection has not been optimal due to limitations in the implementation of regulations, unclear administrative procedures, and low effectiveness of dispute resolution mechanisms. Reforms in the land registration system and the strengthening of related institutions are expected to improve legal certainty for land rights holders. This research contributes to the development of agrarian law with a focus on the protection of land ownership rights to ensure justice and legal certainty.

Keywords: *Legal protection, land rights, ownership disputes.*

INTRODUCTION

Indonesia is a country with an agrarian economic life, where land has a central role in people's lives (Ayun, et al., 2020). As the population increases and development needs in various sectors, land becomes an increasingly crucial resource. However, this high demand for land often leads to ownership conflicts and disputes (Salsabilla, 2022; Earlene & Djaja, 2023; Herlina & Maulana, 2024) that require serious attention from various parties, especially the government, to ensure the availability of regular and equitable land.

The importance of legal certainty over land ownership in Indonesia is regulated in Law No. 5/1960 on Basic Agrarian Regulations (UUPA). UUPA provides the basis of national agrarian law to ensure justice, welfare, and prosperity of the people. One of the main objectives of the UUPA is to create legal certainty for land rights owners, which is realised through land registration as proof of official ownership. Article 19 of the LoGA states that land registration by the government is an effort to provide legal certainty to landowners through the issuance of certificates as proof of legal rights.

The implementation of this land registration provision is further regulated in Government Regulation No. 24/1997 on Land Registration. The certificate produced through this process is strong evidence of rights, as stated in Article 32 paragraph (1) of PP 24/1997, which states that a certificate is a proof of rights containing physical and juridical data of the land owner. This legal certainty is strengthened by the provision in Article 32 paragraph (2), where other parties claiming land rights must file an objection within five years after the certificate is issued, or the right is considered cancelled.

However, in practice, the processing of land rights certificates still faces various obstacles, ranging from complicated administrative systems (Juprianta, et al., 2021) to high costs (Juprianta, et al., 2021). In addition, certificate legality issues still occur frequently, such as the existence of fake certificates, original but fake certificates, and multiple certificates that trigger overlapping rights. This condition not only makes it difficult for

people to obtain legal certainty over their land, but also opens up opportunities for landownership disputes.

As a result of the issuance of multiple certificates and ownership disputes, communities are often involved in conflicts that require resolution, either through deliberation mechanisms under the coordination of the National Land Agency (BPN) or through judicial channels. This condition shows that legal protection for land rights holders in Indonesia still requires improvement so that every landowner can enjoy their rights with effective legal certainty.

This research aims to analyse and describe the legal protection provided to land rights holders in Indonesia in the face of land ownership disputes. Through this approach, it is expected to identify various factors that affect the effectiveness of legal protection, as well as various obstacles faced in the process of resolving land disputes. In addition, this research will describe aspects of regulation and policy implementation related to legal protection for landowners who already have certificates as proof of legal ownership. The focus on aspects of land registration, proof of ownership, and dispute resolution mechanisms is intended to provide a thorough understanding of the role of law in guaranteeing landowners' rights.

The main hypothesis proposed in this study is that legal protection for land rights holders in the face of land ownership disputes is still not optimal, due to limitations in the implementation of regulations, unclear administrative procedures, and the lack of effectiveness of dispute resolution mechanisms. Therefore, improvements in regulatory structure and law enforcement are expected to improve the protection provided to landowners. This hypothesis leads to the assumption that efforts to improve legal certainty for land rights holders require a holistic approach that includes not only legal aspects but also strengthening the role of institutions that handle land disputes.

This research is expected to make a significant contribution to the development of scientific discourse in the field of agrarian law by focusing on the protection of land ownership rights as an effort to ensure justice and legal certainty. By revealing the gap between regulations and practices of legal protection of land, this research has the potential to provide input for policy makers in improving land registration regulations and strengthening the ownership dispute resolution system. In addition, this research can also serve as a reference for legal practitioners and relevant stakeholders to understand the right strategy in protecting land ownership rights from the threat of disputes that often occur.

The conceptual framework of this research is built on the concept of legal protection as a tool to provide certainty and justice for land rights holders. Referring to the theory of legal certainty and legal protection, this research considers how land registration, realised through certification, becomes a strong legal basis for claiming legal ownership. In this context, the regulatory, administrative and institutional aspects of land registration and dispute resolution are analysed to understand the effectiveness of legal protection for rights holders. As such, this framework will guide the research in identifying factors that support and hinder the legal protection process and evaluating the relevance of existing policies in addressing land ownership disputes in Indonesia.

LITERATURE REVIEW

Legal protection is a concept that describes the role of law in creating justice, order, certainty, benefits, and peace in society (Kholifatin, et al., 2024; DM, et al., 2022). Law is basically something abstract (Widiasih et al., 2021), but in practice it can be realised in a real and concrete form. The effectiveness of a rule of law can be measured by how far its application is able to bring goodness, happiness, and reduce community suffering. Thus, legal protection is not only intended to guarantee individual interests, but also to maintain a balance between the rights of the community and the role of the government.

In the agrarian context, legal protection provides guarantees to legal subjects, both individuals and legal entities, through preventive and repressive legal instruments. Preventive protection aims to prevent potential disputes by providing opportunities for aggrieved parties to express their opinions before decisions are taken by the government. Meanwhile, repressive protection is presented to deal with conflicts that have already occurred and ensure a fair settlement for the disputing parties.

This view of legal protection is also supported by Philipus M. Hadjon (Bediona, et al., 2024; Liusudarso, et al., 2022), who states that the law must protect the dignity and human rights of every individual or legal entity in accordance with applicable provisions and authorities. Hadjon emphasises that the government has the responsibility to provide guarantees of legal protection, especially for those whose interests are harmed, so that the state can carry out its function in protecting the rights of its citizens effectively.

Furthermore, Hadjon outlined that there are two forms of legal protection: preventive and repressive (Ramadhon & Gorda, 2020). Preventive protection allows aggrieved parties to express their views before government decisions are taken, aiming to minimise the risk of disputes. Meanwhile, repressive protection, in addition to functioning as a conflict management effort, also prioritises peaceful and effective dispute resolution. Both types of protection are based on the concept of human rights, which serves as a limitation of government power and as a form of government responsibility in safeguarding the rights of citizens.

The principle of legal protection for citizens dealing with government decisions rests on the recognition of human rights. The idea was born to limit the government's authority and emphasise the state's obligation to protect people's rights. Thus, the theory of legal protection is an important foundation in analysing the issue of legal protection for land rights holders, especially in cases of disputes or ownership of land. This understanding of the importance of legal protection is particularly relevant in the context of Indonesia's land system, where disputes over land ownership rights often occur due to weak legal implementation and overlapping land administration. This legal protection theory can be an analytical framework to assess the extent to which the existing legal system is able to protect the rights of land certificate holders from ownership issues from claims by other parties that can be detrimental.

METHOD

This research uses a normative juridical approach that focuses on analysing laws and regulations, legal theories and jurisprudence related to land ownership disputes, with the aim of understanding legal protection for land rights holders. In addition, this research also includes interviews with bodies or institutions authorised to issue land certificates to gain additional perspectives. The specification of this research is descriptive analytical, which describes and analyses the object of research factually. The legal materials used consist of secondary sources collected through literature studies, including theories, expert opinions, and research results relevant to the issues of land registration, certificates, cancellation, and dispute resolution mechanisms. The procedure for collecting legal materials is carried out systematically by selecting related primary and secondary legal sources, while data analysis uses a normative-qualitative method. The normative approach is used to assess applicable regulations as positive legal norms, while the qualitative approach is applied to obtain in-depth understanding through grouping, processing, and interpreting related legal materials, so as to produce a comprehensive analysis of legal protection for land rights holders in the face of ownership disputes.

RESULT AND DISCUSSION

Legal protection for land rights holders against ownership disputes is fundamentally regulated through the 1945 Constitution, which provides the foundation for the establishment of national agrarian law in Indonesia. As a realisation of this constitutional provision, Law No. 5/1960 on the Basic Regulation of Agrarian Principles (UUPA) was drafted as the basis for the development of agrarian law aimed at creating prosperity, happiness and justice for society. UUPA was designed to create unity and simplicity in land law, one of the objectives of which is to provide legal certainty through the land registration system (Qadarisman, 2023; Prasetyo, 2023).

Furthermore, in Government Regulation No. 24/1997 on Land Registration, it is outlined in more detail that land registration has an important role in ensuring legal certainty and providing protection for land rights holders. Article 3 letter a of this Government Regulation emphasises the importance of legal certainty and protection for land rights holders, which is implemented through the issuance of certificates as proof of rights. This certificate is a strong and authentic legal instrument to prove ownership rights, as stipulated in Article 19 paragraph (2) letter c of UUPA and Article 32 paragraph (1) of PP No. 24/1997 (Yubaidi, 2020).

The land certificate has the position of a copy of the Land Book and Surat Ukur that contains physical and juridical data, such as location, boundaries, land area, and type of right. In practice, although UUPA does not explicitly mention the term "certificate," Article 19 paragraph (2) letter c is often interpreted as a letter of evidence of rights, which in daily practice refers to a land certificate. This instrument is considered capable of creating legal order and certainty for the community, where landowners who have registered their land according to legal procedures obtain a stronger guarantee of legal certainty and protection than de facto ownership (Sudira, et al., 2023; Pinuji et al., 2023).

However, in practice, land registration in Indonesia still faces challenges, one of which is incomplete data at the National Land Agency (BPN) which can trigger land ownership disputes, such as overlapping land rights. This condition occurs when one land parcel is claimed by more than one party with certificates containing inconsistent physical or juridical data, due to data collection errors or inaccuracies during initial registration. This phenomenon often escalates conflicts in the community and threatens the legal certainty that certificates are supposed to bring (Bakker & Moniaga, 2010; Prasetyo, 2023).

In response to these conditions, the government launched the Complete Systematic Land Registration (PTSL) Programme, which aims to accelerate and improve the systematisation of land registration. However, PTSL is also faced with various challenges, especially in providing legal protection for certificate holders under the negative publication system applied, where the absence of a claim is not a guarantee of land ownership. This leaves rights holders vulnerable to potential claims, especially on lands that are located in customary areas or have not been properly recorded (Permadi, 2023; Krismantoro, 2023).

The need for legal system reforms and reforms in the framework governing land rights is increasingly urgent. These reforms could include adopting a positive publication system that more clearly recognises land rights, while strengthening dispute resolution mechanisms. Another innovation that could be pursued is the introduction of electronic land certificates, which would increase transparency and simplify the ownership verification process, helping to reduce the risk of disputes (Eng, 2016; Permadi, 2023).

In addition to dispute resolution through formal channels, the integration of informal dispute resolution mechanisms is an alternative that can involve community participation, strengthen social engagement, and reduce the burden on the justice system. An example of this initiative is through land mediation, which promotes dialogical resolution within the community (Al-Amin, & Akter, 2022).

Overall, while efforts have been made to address land ownership disputes through programmes such as PTSL, challenges remain. Strong legal protection for land rights holders requires a comprehensive approach, including reform of the land registration system, improvement of dispute resolution mechanisms, and recognition of customary land rights. These measures are essential to create a more equitable and stable land system that supports sustainable development and social harmony (Krismantoro, 2023; Prasetyo, 2023).

CLOSING

Conclusion

This research concludes that legal protection for land rights holders in Indonesia in the face of ownership disputes still faces many challenges. Although regulations such as the Basic Agrarian Law and Government Regulations on land registration have been drafted, their implementation has not been fully optimized. This is due to limitations in the implementation of regulations, a lack of inter-agency coordination, and unclear administrative procedures that can trigger disputes. The Complete Systematic Land Registration (PTSL) program has also not been able to provide strong protection for rights holders, especially on potentially overlapping land. Therefore, improvements to the

registration system and strengthening of dispute resolution mechanisms are needed to provide legal certainty for land rights holders.

Suggestion and Recommendation

In order to strengthen legal protection for land rights holders, it is recommended that the government improve the land registration system through the adoption of positive publication to increase legal certainty. In addition, it is important to improve the transparency and accuracy of data at the National Land Agency (BPN) and strengthen coordination between central and local governments in handling land disputes. The implementation of an electronic certificate system could be a step forward in improving efficiency and reducing the risk of ownership conflicts. In addition, a holistic approach is needed that includes reforms in land registration policy, institutional capacity building, and socialization of clear procedures to guarantee landowners' rights.

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