

Ensuring Legal Certainty of Land Through Effective Registration Processes

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Abstract

Land registration is a vital component in the land system that ensures legal certainty and protection of land rights. This research aims to evaluate how effective land registration can address issues of legal certainty and protection of landowners' rights. This research uses a qualitative approach to examine the land registration process, including stages such as data collection, verification, announcement, and certificate issuance. Data was collected through document studies supported by case studies. The results show that implementing transparent, accountable, and information technology-based land registration can reduce land disputes and increase legal certainty. The need for training for officers, active community participation, and simple procedures are crucial to realizing an effective land registration system. The study concludes that the effectiveness of land registration depends not only on administrative procedures but also on the commitment to apply the principles of transparency and fairness.

Keywords: Land Registration, Land System, Effectiveness, Legal Certainty, Legal Protection

INTRODUCTION

Legal certainty and protection of land rights holders are fundamental aspects that significantly affect social and economic stability and the sustainability of development (Moechthar & Poespasari, 2021). Land is a physical resource and an asset with significant economic and social value (Guo & Liu, 2021). Therefore, land ownership and rights must be appropriately regulated so as not to cause disputes and conflicts in the future. To establish legal certainty, one of the measures that a party controlling land can take is registering the land with the Land Registration Office, which the National Land Agency manages (Wajdi & Ramadhani, 2022). Land registration is an official process that involves recording ownership and use rights to land in a legally recognized registration system. An effective registration system ensures that land rights are legally recognized and protected by law.

Legal certainty in the context of land ownership means that land rights are recognized and protected by law so that landowners can feel secure and confident that their property rights will not be challenged or unlawfully expropriated (Iswantoro, 2021). Land registration is an official record that records the legal owner of a parcel of land and what rights are attached to the land. Proper registration makes information on land ownership rights transparent and easily accessible to interested parties. This registration reduces the likelihood of disputes and conflicts due to multiple claims or uncertainty over ownership rights (Tchatchoua-Djomo et al., 2020). An effective registration system also facilitates land transactions, provides certainty to buyers or borrowers, and supports decision-making based on accurate data.

Effective land registration provides legal certainty for land rights holders and contributes to sustainable economic development (Hull et al., 2020). Clear and legal land ownership facilitates access to finance and investment, strengthens economic rights, and improves people's quality of life. In addition, the legal certainty resulting from good land registration also facilitates land transactions, such as sale and purchase, inheritance, or granting of security (Erwiningsih, 2023). With valid and legally recognized proof of ownership, transactions become safer and more transparent, as both parties can be confident that they are dealing with an authorized and legitimate party. Effective land registration also enables the government to manage land better, including spatial planning and land use.

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In addition to providing legal certainty, land registration also provides legal protection to land rights holders (Singirankabo & Ertsen, 2020). This legal protection means that the rights of landowners are officially recognized and protected by applicable legal regulations. By registering land, owners obtain legal proof of ownership, usually in the form of a certificate or other official document, stating their rights to the land (Yubaidi et al., 2022). This document becomes authentic evidence recognized by courts and authorities, which can be used to protect landowners from various forms of rights violations, such as illegal land occupation, false claims by other parties, or ownership disputes. According to data from the Ministry of Agrarian Spatial Planning/National Land Agency, in the 2018-2020 period there were 82,625 cases of land disputes, but only 63.5% of these cases were successfully resolved, namely around 5,470 disputes and conflicts. This underscores the urgent need for awareness and action to address land disputes and conflicts (Putra & Winanti, 2024).

In addition, land registration clarifies the legal status of land and the rights attached to it, such as ownership rights, business use rights, or building use rights (Gościński & Kubacki, 2021). This information is essential to ensure that other potentially interested parties, such as potential buyers, tenants, or creditors, can clearly and openly verify land ownership status. Land registration thus helps prevent fraud or double claims, where more than one party claims ownership or rights to the same land. In a dispute or dispute, land registration documents become an essential tool that can be used in court to prove ownership or specific rights to the land. With clear and valid evidence, landowners can more easily defend their rights and obtain justice.

However, in practice, there are still many problems related to land registration, such as data inaccuracies, complicated bureaucracy, and lack of coordination between the institutions involved. Inaccuracies in registration can lead to serious legal problems, such as land disputes, ownership conflicts, difficulties in the administrative process, and multiple certificate documents on the same piece of land, commonly known as overlapping certificates, and lead to legal uncertainty for landholders and disputes between rights holders because it can harm people who have rights to the land, which has an impact on legal uncertainty and land ownership disputes.

One example of a problem related to multiple certificates is the case of a land dispute regarding multiple certificates that was raised before the court up to the cassation level, namely the dispute with Register Number 170 K/Pdt/2017. Therefore, it's crucial to strengthen and improve the land registration system. This is not just an important step, but a necessary one to ensure that land rights are guaranteed and legally protected. Considering that land is a natural resource that must be used and utilized for the welfare of the community, as stated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. It's time to take action and improve the system for the benefit of all.

RESEARCH METHOD

This research uses a qualitative approach to deeply understand the land registration process and its impact on legal certainty and protection of landowners' rights. The type of research used is descriptive, which provides an overview of the procedures for land registration. Case studies support this research. Case studies related to the land registration system. Data sources come from secondary data in documents, reports, and publications related to land registration, laws and regulations, and previous research (Noor, 2023). Data collection techniques are carried out by collecting and analyzing official documents, laws and regulations, and data related to land registration. The data collected is analyzed qualitatively to understand the context and legal and procedural background of land registration to create legal certainty and protection.

DISCUSSION

Government Regulation No. 18 of 2021 regulates land registration in Indonesia concerning Management Rights, Land Rights, Flat Housing Units, and Land Registration. Article 1, paragraph (9) states that Land Registration is a series of activities carried out by the government in a sustainable, continuous, and organized manner. These activities include collecting, processing, recording, and presenting and maintaining physical and juridical data in maps and lists. The data includes land parcels, above-ground, underground, and apartment units. This process also includes providing evidence of ownership rights for plots of land, above-ground space, and underground space that already have rights, as well as ownership rights over apartment units and certain

rights that encumber the property.

Land registration carried out by the land controller will have legal effects on the registered land. The effect of land rights registration is the issuance of a title deed, commonly known as a land certificate (Abdulai, RT and Ochieng, 2017). This certificate significantly benefits the holder of the land right, such as creating land law order and supporting community economic activities. Land certificates can be used as collateral in financial transactions (Kusiluka & Chiwambo, 2019; Wardhana et al., 2020). As an official document issued by the state based on the Basic Agrarian Law No. 5 of 1960, land certificates are legal evidence of officially registered land ownership rights that can provide certainty and legal protection to land rights holders (Chumaidi et al., 2023).

Effective Land Registration to create Legal Certainty

Land Registration is a series of activities carried out by the government on a regular, consistent, and sustainable basis to provide legal certainty and protection to holders of rights to a land parcel so that they can easily prove their ownership legally (Hariyanto et al., 2024). Land registration also aims to provide accurate information to interested parties, including the government, to facilitate them in obtaining the necessary data to perform legal actions related to land parcels and realize better land administration orders.

Technically, land registration in Indonesia is based on simple, safe, affordable, up-to-date, and open principles (Karjoko et al., 2021; Kusmiarto et al., 2021). The simple principle requires that the main provisions and procedures of land registration are easily understood by interested parties, especially land rights holders. The safe principle prioritizes the implementation of careful land registration to guarantee legal certainty, which is the primary purpose of land registration itself. The affordable principle ensures that land registration services are accessible to all parties, especially by considering the needs and economic capabilities of the underprivileged. The up-to-date principle requires that the data collected is constantly updated and complete, and the recording of data changes is carried out regularly so that the data at the Land Office always reflects the current situation in the field. Meanwhile, the open principle ensures that the data available at the Land Office is reality and can be accessed by the public at any time to ensure accuracy and trust in the information provided.

Land registration can be done with two types of registration: first-time land registration, which includes rights that have never been recorded or recorded at the Land Office, and registration of rights that occur due to transfer of ownership or encumbrance of rights such as debt collateral (Zainuddin & Ramadhani, 2021). Land registration for the first time is a registration activity carried out on land registration objects that have never been registered before. This activity, overseen by the Ministry of Agrarian Affairs, includes collecting and processing physical data (measurement and mapping), proving rights and recording them, issuing certificates, presenting physical and juridical data, and storing public registers and documents in the form of data, electronic information, and/or electronic documents created through the Ministry of Agrarian Affairs' electronic system.

Registration of rights arising from the transfer of land rights and ownership rights over apartment units through sale and purchase, exchange, grants, inclusion in a company and other legal acts of transfer of rights, except transfer of rights through auction, can only be registered if evidenced by a deed made by an authorized Land Deed Officer in accordance with the provisions of the applicable laws and regulations. This process ensures that all transfers of rights are legally documented and verified. In certain circumstances as determined by the Minister of Agrarian Affairs, the Head of the Land Office may register a transfer of rights over a ownership rights land parcel, which is carried out between individual Indonesian citizens evidenced by a deed that is not made by a Land Deed Officer. Transfer of rights through transfer of rights by auction can only be registered if evidenced by an excerpt of the minutes of the auction made by the Auction Officer. No later than 7 (seven) working days before a land parcel or flat unit is auctioned either in the context of an execution auction or a non-execution auction, the Head of the Auction Office shall request information from the Land Office regarding the land parcel or flat unit to be auctioned. The Head of the Land Office shall issue the information no later than 5 (five) working days after receipt of the request from the Head of the Auction Office.

For the registration of transfer of rights due to inheritance regarding registered land rights and ownership rights over apartment units, the person who receives the land rights or ownership rights over apartment units concerned as inheritance must submit to the Land Office the relevant rights certificate, the death certificate of

the person whose name is recorded as the rights holder and a proof letter as the heir. If the recipient of the inheritance is more than one person, the transfer of rights is registered to that person based on the proof letter as the heir. Suppose the recipient of the inheritance is more than one person. When the transfer of rights is registered, it is accompanied by a deed of inheritance division, which contains information that the land rights or property rights over a particular apartment unit fall to a specific recipient of the inheritance. In that case, the transfer of land rights or property rights over the apartment unit is registered to the relevant recipient of the inheritance based on the proof letter of the heir and the deed of inheritance division.

Currently, land registration is organized through two approaches: systematic and sporadic (Biraro et al., 2021). Systematic land registration is the process of registering land for the first time. It is carried out simultaneously, covering all unregistered land registration objects in a village area or its equivalent. This process involves collecting physical and juridical data for all land registration objects in the entire territory of the Republic of Indonesia, with financing coming from the government budget and the community. Landowners are expected to participate in this activity. In contrast, sporadic land registration is registering land for the first time individually or en masse for one or several land registrations objects in a particular area or part of a village area.

The land registration process is carried out through a series of procedures, including measuring the land, collecting physical and juridical data, and verifying documents proving ownership or rights to the land (Aditya et al., 2021). After all data is verified and the registration process is complete, the government will issue a land certificate through the National Land Agency or other relevant agencies. This certificate serves as legal proof of ownership or land rights and protects the owner against claims from other parties. By having a land certificate, the owner has a solid legal basis to manage, utilize, or transfer his land rights by applicable regulations. A certificate of title to land can be used as vital. Even absolute evidence of rights, if it meets the criteria that the certificate of title to the land is legally issued in the name of a person or legal entity, is obtained in good faith. It is worked, and within 5 (five) years of the issuance of the certificate, no one has filed a written objection to the certificate holder and the head of the local district/city land office or has not filed a lawsuit to the court regarding the control or issuance of the certificate.

Legal Protection of Rights Holders through an effective Land Registration System

Legal protection for land rights holders is one of the crucial aspects of the land system in Indonesia (Ramadhani, 2021). This protection aims to provide legal certainty, prevent disputes, and guarantee the rights of landowners (Hariyanto et al., 2024). An effective land registration system is the main instrument for achieving legal protection. The land registration process must be thorough and meticulous, involving accurate land measurement, complete physical and juridical data collection, and thorough document verification (Weningtyas et al., 2024). Once the data is verified, land certificates are issued and stored in an organized system. In addition, an effective land registration system must be easily accessible to the public. Education and socialization on the importance of land registration and the procedures to be followed are essential to ensure that all levels of society can benefit from this service. The government must also provide an effective mechanism for handling data changes, such as ownership transfers or land use changes, to keep the data up-to-date and accurate.

An effective land registration involves various stages that must be carried out carefully and meticulously. Each stage ensures that land registration runs smoothly and provides the desired legal certainty. Following established procedures, the government can protect landowners' rights and minimize land disputes. The stages of effective land registration include:

Collection of physical data and juridical documents: Land measurement and mapping are done to determine the boundaries and area of the land accurately. Landowners must also collect the necessary juridical documents, such as proof of land ownership, personal identification, and registration application letter. Completeness of these documents will expedite the registration process and minimize data errors.

Data verification and validation: Field verification ensures that the physical data matches the actual conditions on the ground. Officers will conduct land measurements to ensure that the area and boundaries of the land match the proof of ownership. In addition, juridical documents are checked to

ensure their authenticity and compliance with applicable regulations. The relevant officer will research the submitted documents to ensure their validity.

Announcement and rebuttal: After the document research and land measurement stages are completed, the land registration process continues with an announcement regarding the land registration application. This announcement is an important step to ensure transparency and provide an opportunity for the surrounding community to actively participate by providing responses or rebuttals. The announcement is made by the National Land Agency through various media, such as notice boards in urban village or village offices, print media, and official websites. This announcement contains complete information about the land being registered, including the location, size, and owner applying for registration. This information is conveyed clearly and openly so that the public can know it well. During the announcement period, usually 30 days, the surrounding community is given the opportunity to file a protest or objection if they have evidence or valid reasons to oppose the land registration. This rebuttal period is very important as it allows parties who may be affected to put forward their rights or claims, making them feel involved and valued in the process.

Certificate Issuance: If no objections are received during the announcement period, the National Land Agency officials will proceed with issuing the land certificate. All information related to the land, including boundaries, area, and owner, is included in the certificate. An authorized official at the National Land Agency then signs the prepared land certificate. It is then registered in the land book as an official record of land ownership. The completed land certificate is handed over to the landowner. This certificate serves as proof of legal ownership and is recognized by the state.

Several essential aspects must be considered and implemented correctly for the land registration system to provide optimal legal protection. These include openness of information for public access, accountability, and strict supervision, as well as training and competence of officers. In addition, efficient use of information technology, active community participation, simple and affordable procedures, and ongoing data maintenance are also essential.

Information Disclosure: Information disclosure is critical to ensuring land registration data is accessible to all interested parties. The land registration system should allow the public to check land ownership status, boundaries, and other relevant information. This transparency minimizes potential land disputes as all parties can access accurate and up-to-date information.

Accountability and Oversight; Strict accountability and oversight are not just measures, but crucial safeguards in the land registration process. Officers involved in registration should be held accountable for the accuracy and veracity of the data they manage. Oversight by the authorities and the public is a powerful deterrent against acts of corruption and abuse of power, ensuring that the registration process runs in accordance with applicable laws and procedures.

Training and Competence of Officers; Land registration officers must not only have adequate knowledge and skills, but also keep them updated to perform their duties properly. Regular training and competency upgrading is not a luxury, but a necessity to ensure that officers understand the applicable regulations, and are able to perform accurate measurement, verification and recording.

Use of Technology: Information technology and geographic systems (GIS) can improve the efficiency and accuracy of land registration. Digital systems can simplify data management, speed up the verification process, and provide a secure information storage and access platform (Noor et al., 2023). Technology can also assist in monitoring changes in land ownership and use in real time.

Community Participation: Active participation of the community in the land registration process is essential. Communities should be given the opportunity to provide input and rebuttal during the registration process. Their role is not just to participate but also to ensure the accuracy and fairness of the process. Socialization and education on the importance of land registration should also be conducted on an ongoing basis to increase community awareness and understanding of their rights.

Simple and Affordable Procedures: Land registration procedures should be simple and affordable for all levels of society. High registration fees and complicated procedures can be an obstacle for landowners, especially those from weaker economic groups. By simplifying procedures and lowering costs, more people can access land registration services and obtain legal protection.

Ongoing Data Maintenance: Land registration data should be updated regularly to reflect land ownership and use changes. This process involves [specific details of the data maintenance process]. Ongoing data maintenance ensures that the information stored is always accurate and relevant and can be used as a basis for various legal and administrative purposes.

By implementing the above aspects, the land registration system can provide optimal legal protection for landowners. Information disclosure allows for broad public access, while strict accountability and oversight ensure the integrity of the process. Officer training and efficient use of information technology support the accuracy and speed of registration. Active community participation and simple and affordable procedures enhance accessibility and fairness. Ongoing data maintenance ensures that information remains relevant and accurate. The legal certainty created, together with transparency and accountability, will prevent land disputes and ensure that the state effectively recognizes and protects landowners' rights.

CONCLUSION

Land registration is a crucial element in ensuring legal certainty and the protection of land. Through a transparent and structured registration process, the rights of landowners can be legally recognized and safeguarded. Stages such as data collection, verification, announcement, and the issuance of certificates play an important role in creating legal certainty and preventing land disputes. The implementation of aspects such as information disclosure, accountability, technology use, and community participation support the effectiveness of the land registration system. By ensuring that each stage is carried out carefully and in accordance with regulations, the land registration system can provide optimal legal protection and reduce the risk of disputes. Therefore, the success of land registration depends not only on administrative procedures but also on a commitment to execute the process with transparency, fairness, and efficiency.

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