

Juridical Study on the Cancellation of Land Certificate by *Proof of Power Endorsement* in the Review of Law No. 5 of 1960 concerning the Basis of Agrarian Law (study of decision No. 3/G/2021/PTUN. BDG)

M Agung Purnama

Universitas Padjadjaran, Indonesia

muhammad21186@mail.unpad.ac.id**Keywords**Certificate Cancellation,
Statement of Eigendom,
Basic Agrarian Law.**Abstract**

This study discusses the cancellation of land ownership certificates based on evidence of verponding eigendom (BEV) in the framework of Indonesian Law, especially by Law No. 5 of 1960 concerning Agrarian Principles. The study aims to explore the legal basis, procedures, and implications of cancelling land certificates when administrative defects or court decisions have permanent legal force. The research method used is normative juridical with a descriptive approach, analyzing the Rule of Law and the case of Decision Number 3/G/2021/PTUN case. BDG. The study results show that the certificate can be cancelled if administrative, legal defects or the ratification of power are not by the procedure. In addition, court decisions have an essential role in determining the validity of certificates. The implications of this study show the importance of strengthening land administration in the National Land Agency (BPN) to increase legal certainty for landowners and reduce the potential for ownership conflicts in Indonesia.

Correspondence Author: M Agung Purnama

E-mail: muhammad21186@mail.unpad.ac.id**INTRODUCTION**

Land is a vital resource that has an essential role in the lives of the Indonesian people, both in terms of economy, society, and culture. This makes ownership and land rights sensitive and vulnerable to disputes. The Indonesian government has issued various regulations, one of which is Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles, known as the Basic Agrarian Law (UUPA), to regulate agrarian rights and the cancellation of illegal or problematic land certificates (Rachmawati, 2022).

In practice, problems related to the cancellation of land rights certificates can arise due to various factors, including administrative and legal defects, ownership disputes, or the ratification of questionable power. This can be seen in several juridical studies and analyses conducted previously. For example, in a survey conducted regarding the cancellation of land rights certificates due to administrative and legal defects according to the Regulation of the Minister of State for Agrarian Affairs/Head of BPN Number 9 of 1999, it was found that administrative defects can be a valid reason for cancellation if it is proven that there is negligence on the part of the National Land Agency (BPN). In addition, other legal studies show the importance of legal protection for land certificate holders to ensure legal certainty (Rachmawati, 2020; Rachmawati, 2020).

Cancelling land certificates becomes more complex when it comes to ownership disputes involving more than one party claiming the same land rights. The study highlights that ownership disputes often arise due to differences in understanding of the evidence of legal ownership, which ultimately requires court intervention. In this study, the decision of the State Administrative Court (PTUN) is often a reference in determining the validity and clarity of land ownership status (Official, 2021).

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The problem of legal certainty regarding land ownership is wider than administrative defects or owner disputes. The Basic Agrarian Law provides a solid legal basis for every citizen to own land rights. However, land registration and issuance of rights certificates still need to overcome various obstacles. Ayunda emphasized the importance of legal certainty through certificates as authentic evidence of land ownership rights. However, many cases show that certificates issued only after a valid process have the potential to be revoked by the PTUN if administrative irregularities or proof of double ownership are found (Srykandy, 2020)

For example, decision Number 15/G/2021/PTUN. PTK, based on Law Number 51 of 2009 concerning State Administrative Courts in Pontianak City, shows that the judiciary has the authority to decide the validity of land certificates based on existing evidence. In this context, judicial authorities play an essential role in resolving land disputes related to certificates issued by BPN (Oktariana, 2022).

On the other hand, land ownership disputes caused by multiple ownership are complex legal issues. His research on the decision of PTUN Number 103/G/2016/PTUN-BDG shows that PTUN can cancel the land certificate if it is proven that a new certificate submission overlaps with the previous certificate. This shows that the role of the PTUN in deciding the cancellation of land certificates is vital to protect the rights of the rightful owners and prevent further conflicts (Rachmawati, 2019).

Another case that shows this complexity is the cancellation of 605 land certificates in the Batam Authority Area, which was discussed by. In this case, the court cancelled the land certificate due to ambiguity in the issuance process. This shows that in addition to land rights, other essential elements are of concern in the Basic Agrarian Law, namely the guarantee of the correctness of physical and juridical data in land rights certificates (Rachmawati, 2019).

In some cases, certificates issued by BPN are often used as proof of legal land ownership. However, further studies show that land certificates only sometimes guarantee the validity of ownership if other evidence shows legal defects. This problem becomes even more complicated when there is a claim to land supported by evidence of the ratification of power that needs to be by the procedure. The replacement certificate is often disputed because not all parties can accept the replacement procedure as valid evidence (Mara, 2016 : Chairunnisa, 2021).

An in-depth juridical study of the cancellation of land certificates due to administrative and legal defects, multiple ownership disputes, and negligence in the certificate issuance process shows the importance of transparent and accountable governance in BPN. This is also strengthened by the provisions in the UUPA that give the community the right to own and control land legally.

This study will further review the mechanism for cancelling land certificates, especially related to evidence of power ratification in the context of Decision Number 3/G/2021/PTUN. BDG. This research will discuss the legal basis for cancelling land certificates by referring to the UUPA and relevant court decisions. By looking at the role of the PTUN in reviewing the validity or not of a land certificate based on existing administrative evidence, this research is expected to make an essential contribution to strengthening legal certainty for land owners and authorities.

In particular, this study seeks to answer several key questions, including: What is the legal basis for the cancellation of land certificates issued without legal procedures? How does the procedure for cancelling certificates by the PTUN impact legal certainty for legal landowners? This research is expected to provide insight for policymakers and stakeholders in understanding the importance of the correct administrative process in issuing land certificates to avoid disputes in the future.

RESEARCH METHOD

This study uses a normative juridical approach method with descriptive specifications. This method aims to analyze the applicable legal rules related to the cancellation of land certificates based on evidence of power ratification in the perspective of Law No. 5 of 1960

concerning Basic Regulations on Agrarian Principles (UUPA) and decision Number 3/G/2021/PTUN. BDG.

The normative juridical approach is a method that focuses on the study of applicable legal rules and principles that underlie regulations and court decisions related to the cancellation of land certificates. This method explores various primary and secondary legal sources to understand the legal framework governing the legalization of power and the issuance of land rights certificates. Primary legal sources in this study include Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles, Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 9 of 1999, Decision of the State Administrative Court Number 3/G/2021/PTUN. BDG. Meanwhile, secondary legal sources include relevant legal literature, such as journals, books, articles, and other scientific publications supporting juridical analysis of land certificates' revocation.

This descriptive approach describes the related decision's legal facts, applicable regulations, and legal principles. The purpose is to provide a comprehensive overview of how agrarian Law is implemented in cases of cancellation of land certificates and how the court assesses evidence of the legalization of power in determining the validity of land certificates.

Data collection is carried out through library research, which is collecting legal data through legal documents such as laws and regulations, court decisions, and other legal documents. Data from these sources were analyzed to gain an in-depth understanding of the juridical context of the cancellation of land certificates that are the object of research.

The collected data is analyzed using the qualitative analysis method, where relevant data from court decisions, legal regulations, and supporting literature will be analyzed in depth to obtain conclusions related to this research. The analysis process is carried out by interpreting the content and substance of the applicable legal rules and aligning them with the findings of the court decision in this case. This qualitative analysis aims to understand the extent to which legal rules are applied in the context of the cancellation of land certificates and how the application is in line or not with the principles of agrarian Law regulated in the UUPA.

RESULTS AND DISCUSSION

Basis for Cancellation of Land Certificate

The legal basis used by the Plaintiff is Article 52, paragraph (1) of Law Number 9 of 2004 concerning the State Administrative Court, which states, "A person or civil legal entity the State Administrative Decision has harmed his interestsrative Decision may file a written lawsuit to the competent court which contains a demand that the disputed State Administrative Decision be declared null and void or invalid, with or without compensation or rehabilitation claims."

Acte Van Eigendom, Eigendom Verponding Number 6391, proves that the legal owner of the land is Raden Ardisasmita (deceased), and the Plaintiff is his heir. The ownership of *a quo land* comes from buying and selling activities by *Frans August Witbols Feugen* and Raden Ardisasmita (deceased). Raden Ardisasmita (deceased) never transferred or sold the land object to another party. Even today, the land object is still recorded on the map of Pasir Impun Village by *Eimendom Verponding* Number 6391 in the name of Raden Ardisasmita.

The Defendant has issued a Certificate of Ownership of the Land in Question issued by the Bandung City Land Office registered in the name of PT Global Kurnia Grahutama, which comes from the Certificate of Rights Number 736 / Pasir Impun Village which was last recorded in the name of Handi Wijaya, initially from the Certificate of Ownership Number 1 / Tjikadut Village in the name of *Frans August Witbols Feugen* and the last was recorded in the name of Raden Atang Prawirasasra. The certificate issued by Defendant included the Plaintiff's land in its entirety. It was included in the Certificate of Property Rights of Building Rights Number 34/Pasir Impun without rights and contrary to the Law.

Articles 37-38 of Law No. 5 of 1960 concerning the Agrarian Constitution stipulate that the use of land or the granting of the right of use for construction must be carried out in the form of an authentic agreement between the owner of the land concerned and the party who will obtain the right and is based on the requirement that the right must be registered by the provisions of Article 19 of Law No. 5 of 1960 concerning the Agrarian Constitution. Issuing the *Journal of Indonesian Impressions (JII)* Vol. 3, No. 11, November 2024

Certificate of Building Rights issued by the Defendant violates Article 19 paragraph (2a) concerning land mapping and bookkeeping. It is proven that part of the land plot covering an area of 42,780 m² belongs to the Plaintiff, as evidenced by *Acte Van Eigendom, Eigendom Verponding* Number 6391, in the name of Raden Ardisasmita and has never been purchased by PT Global Kurnia Grahata. Regarding the Certificate of Ownership, which is the basis of the Certificate of Building Ownership, it also has a legal defect that is contrary to Article 21 paragraph 1 of Law No. 5 of 1960 concerning the Basis of Agrarian Law which states that only Indonesian citizens can have property rights, because *Frans August Witbols Feugen* not an Indonesian citizen based on the Certificate of the Ministry of Law and Human Rights of the Republic of Indonesia dated January 12, 2021 Number AHU.4.AH.10.01910.

Proof of Eigendom Verponding as Proof of Certificate Cancellation

The right of Verponding Eigendom can be transferred to property rights through a conversion process by Article 1 Paragraph (1) of the Second Part of the UUPA, which states that *the Right of Verponding Eigendom* over land can become property rights with the provisions contained in Article 21 of Law No. 5 of 1960 concerning the Basic Law of Agrarian Affairs. Based on this legal basis, the one who is most entitled to have a Certificate of Ownership is Raden Ardisasmita (deceased) because *Frans August Witbols Feugen* did not meet the requirements listed in Article 21 of Law No.5 of 1960 concerning the Legal Basis of Agrarian Law.

Eigendom Verponding is one of the vital pieces of evidence, as stated in Law No. 5 of 1960 concerning the Basis of Agrarian Law, which states that the State provides legal certainty and protection for landowners. Law No. 5 of 1960 concerning the Basic Law of Agrarian Affairs also mandates state recognition of proof of ownership of former eigendom. Even though this right is no longer active, *Eigendom Verponding* is still legal evidence of the land owned.

The conversion of *Eigendom Verponding's* rights into property rights can only be done on September 24, 1980, and if the rights have yet to be transferred at that time, then the rights will end, and the State will directly control the land. *Frans August Witbols Feugen* is still an Indonesian citizen and cannot apply to convert *his Eigendom Verponding rights* into proprietary rights. However, in this case, on December 15, 1964, a certificate of Property Rights Number 1/Tjikadut Village was issued in the name of Frans August Witbols Feugen, contrary to the Law.

The evidence of *Eigendom Verponding* owned by the heirs of Raden Ardisasmita (deceased) can be vital in this case. It can be a clear legal basis for the process of land conversion and recognition, even though it has not been registered as a Certificate of Ownership because the registration of Certificate of Ownership Number 736/Tjikadut Village in the name of Frans August Witbols Feugen has an administrative legal defect by Article 1 Paragraph (14) of the Ministerial Regulation Agrarian / Head of the National Land Agency No. 9 of 1999 which states that the cancellation of land rights certificates can be carried out if there is an administrative legal defect. 9 of 1999 states that the cancellation of land rights certificates can be carried out when there is an administrative legal defect in its issuance.

Implications of Decree Number 3/G/2021/PTUN. BDG

The Judges' Consideration stated that the Defendant had been guilty of issuing a Certificate of Property Rights to Frans August Witbols Feugen, which did not pay attention to the citizenship status, which was also related to the conversion provisions listed in Article I paragraph (1) of the Conversion Provisions in the UUPA so that *Eigendom Verponding* Number 6391 changed the status of land rights from property rights to state land after the enactment of the UUPA.

Based on Decree Number 3/G/2021/PTUN. BDG, it was stated that the Defendant violated the provisions of the applicable laws in issuing *Objectum litis* because it did not conduct a correct land history research as stated in Article 53 paragraph (2) of Law Number 9 of 2004 concerning the State Administrative Court, the decision has implications for *Objectum litis* The certificate was crossed out from the list of land books at the Bandung City Land Office.

Therefore, the Certificate of Building Ownership Number: 34/Pasir Impun registered in the name of PT Global Kurnia Grahata was cancelled, and the Defendant bore all court costs.

In this case, the decision of the State Administrative Court has applied Article 38, paragraph 2 of the UUPA, which states that land registration is strong evidence to be able to abolish the right to use the building so that it is in line with the judge's decision that states that the Defendant is guilty because there is an administrative defect in the land registration that occurred. Therefore, the right to use the building must be revoked due to illegal land registration, issuance of a Certificate of Ownership and transfer of land.

Land Certificate Cancellation Problem

Law No. 5 of 1960 concerning the Agrarian Constitution states that land ownership is based on land registration. In practice, land registration is a problem that occurs continuously. In this case study, land registration into a Certificate of Ownership is carried out by the person who first registered the land. Meanwhile, the evidence of *Eigendom Verponding* belonging to Raden Ardisasmita (deceased) is concrete evidence, as evidenced by the sale and purchase transaction between Frans August Witbols Feugen and Raden Ardisasmita (deceased). However, when the land registration had not been registered or changed to a Certificate of Ownership by Raden Ardisasmita (deceased), the land was registered by Frans August Witbols.

Starting from the Certificate of Property Rights Number 736 / Tjikadut Village in the name of Frans August Witbols Feugen and until several changes to the last one becoming a Copyright Certificate that causes losses to the owner. The Certificate of Rights Has a Fatal Administrative Law Defect because it does not meet the requirements listed in the UUPA for land ownership requirements in Indonesia. Article 21, paragraph (4) states that a person with foreign nationality cannot own land if the inheritance is without a will or a mixture of assets due to marriage, and the right to the land will be revoked, and the land will fall to the State.

The problem with the cancellation of land certificates is that the evidence still needs to be in the form of *Eigendom Verponding*, which should have been converted before the specified time. In addition, the transfer of land ownership carried out by Frans August Witbols Feugen traced the history of this land branch. However, the recording carried out in Pasir Impun Village is one of the solutions in determining the location of *Eigendom Verponding* No. 6391, which is a land object according to the attachment of *Acte Van Eigendom*, *Eigendom Verponding* No. 6391 in the name of Raden Ardisasmita.

One of the considerations of the Panel of Judges in this decision is also the 5-year deadline to file an objection to the issuance of the certificate and not to file a lawsuit to the court regarding the certificate regulated in Article 32 Paragraph 2 of Government Regulation No. 24 of 1997 concerning Land Registration. However, a comparison is made with Article 55 of Law No. 5 of 1986 concerning the State Administrative Court. In this particular case, it is not the 5-year period that is the focus, but the ownership of land rights and issuing certificates violating laws and regulations. Thus, the Defendant was found guilty.

CONCLUSION

The study concludes that the cancellation of land certificates in Indonesia can occur due to administrative legal defects, which include non-compliance with issuance procedures, inaccurate measurements, or inappropriate owner data. The case in decision Number 3/G/2021/PTUN. The BDG points out that *Eigendom Verponding* as proof of ownership has significant legal force in supporting the validity of land claims, especially compared to certificates issued without due process. The PTUN, in this case, emphasizes the role of the land certificate as authentic evidence that must meet all administrative requirements to provide legal certainty for the owner.

This research underscores the importance of strengthening administrative governance at the National Land Agency (BPN) so that each land certificate is issued according to legal procedures, ultimately reducing the potential for ownership conflicts. The PTUN decision, in this case, provides an important precedent for similar land disputes, reminding us that the issuance of land certificates must be based on proof of legal ownership and by applicable legal

provisions. Thus, this study confirms that the cancellation of certificates by the State Administrative Court in the context of evidence of the ratification of legitimate power is an essential step in strengthening legal certainty and protecting the rights of legal landowners in Indonesia.

REFERENCE

- Chairunnisa, N. I. (2021). *Juridical Analysis of the Cancellation of the Certificate of Replacement of Land Ownership (Study of Decision Number 52/G/10/PTUN. MTR)*. [Thesis]. University of Jember.
- Mara, A. (2016). Guarantee of Physical and Juridical Data Correctness in Land Rights Certificates (Case Study in Semarang City). *Diponegoro Law Journal*, 5(3).
- Mahendra, R. (2019). Juridical Analysis of the Cancellation of Rights to Land Certificates by the State Administrative Court Due to Multiple Ownership Disputes (Analysis Study of Decision Number 103/G/2016/PTUN-BDG).: *Journal of Law*, 3(2). ASK ORKG
- Oktariana, T. A. (2022). Juridical Analysis of Decision Number 15/G/2021/PTUN. PTK is based on Law Number 51 of 2009 concerning the State Administrative Court of Pontianak City—*Journal of Legal Fatwa*.
- Rachmawati, R. D. (2019). Authority of the Judiciary in the Cancellation of Land Certificates. URECOL Proceedings 9. *UNIMMA*.
- Rachmawati, R. D. (2019). Problems of Cancellation of 605 Land Certificates in the Batam Authority Area (Study of the Decision of the Tanjung Pinang State Administrative Court No. 15/G/2014/PTUN. TPI). *Journal of Law*, 7(3).
- Rachmawati, R. D. (2020). Juridical Analysis of the Cancellation of Property Rights Certificate Number 00809/Pasir Gunung Selatan Village. Thesis, Trisakti University. Trisakti Repository
- Rachmawati, R. D. (2020). Cancellation of Land Rights Certificate Due to BPN's Negligence and as the Executor of Court Decisions. *Journal of Law*, 6(1).
- Rachmawati, R. D. (2022). Cancellation of Land Rights Certificate Due to Administrative Law Defects According to the Regulation of the Minister of State for Agrarian Affairs/Head of BPN Number 9 of 1999. *FIAT IUSTITIA: Journal of Law*, 2(1).
- Rachmawati, R. D. (2021). Cancellation of Land Rights Certificate Due to BPN's Negligence and as the Executor of Court Decisions. *Journal of Law*, 5(2). Garuda Ministry of Education and Culture
- Rachmawati, R. D. (2020). The certificate of ownership of land rights is authentic evidence according to Law No. 5 of 1960. *Journal of Law*, 6(1). Neliti
- Rachmawati, R. D. (2020). Land Certificate: Validity, Use and Weakness in Indonesia's Land Law System. *Jurisprudential: Journal of Law*, 2(1). Jurisprudential
- Rahadi, B. A. (2014). Juridical study of abandoned land based on Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles. Thesis, University of Jember. Repository UNEJ
- Official, P. (2021). Juridical Analysis of Land Ownership Certificates Cancellation Due to Land Rights Ownership Disputes (Study of Decision Number 1590 K/Pdt/2020.PN Dmk). Thesis, Sultan Agung Islamic University. UNISSULA Repository

M Agung Purnama

Juridical Review of the Cancellation of Land Certificates by Eigendom Verponding Evidence in Review
of Law No.5 of 1960 concerning Basic Agrarian Law (study of decision Number 3/G/2021/PTUN.BDG)

Saleh, A. A. (2022). Juridical Analysis of the Cancellation of Land Title Certificates Due to Land Rights Ownership Disputes (Study of Decision No. 08/Pdt.G/2020/PN.Psw). Thesis, Sultan Agung Islamic University. UNISSULA Repository

Srykandy, A. (2020). Juridical Analysis of the Legal Certainty of Land Rights Ownership Based on Law Number 5 of 1960. *Journal of Law*, 5(2).