

Legal Certainty Regarding the Conversion of Land Certificates To An Electronic System Based on Security Principles

Holla

holla@atrbbpn.go.id

Land Office on Situbondo, Indonesia

Rafi Salhi

Utrecht University, Netherlands

Clarissa Oktaviriya Prakoso

Brawijaya University, Indonesia

ABSTRACT

The purpose of this study is to determine the regulation of conversion of land certificate issuance to electronic system, in addition to determine the legal consequences of the security principle of electronic certificates. The type of research uses normative juridical. With the Legislative and conceptual approaches. The results of the study are: 1. That in the issuance of electronic certificates through 2 stages, namely the first issuance of electronic certificates through the first land registration for land that has not been registered, the mechanism is carried out by collecting and processing physical data, proof of rights and bookkeeping, issuance of certificates, presentation of physical data and legal data and storage of general lists and documents carried out through an electronic system. Second is the issuance of replacement certificates from analog certificates to electronic certificates for land that has been registered, replacement is carried out through a request for land registration data maintenance services and replacement is carried out if the physical data and legal data in the land book and certificate are in accordance with those in the electronic system. That the policy of implementing electronic land certificates is an effort to improve land services and ensure legal certainty in an effort to provide legal protection for its owners. The benefits for the community from electronic certificates are that there is guaranteed legal certainty and it reduces land certificate disputes because the electronic certificate security system already uses encryption technology such as cryptography.

KEYWORDS: Security Guarantee, Electronic Land Certificate



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I. INTRODUCTION

Land is essentially inseparable from human life. The Republic of Indonesia affirms the recognition of land ownership rights by including regulations in its constitution. The 1945 Constitution regulates this in Article 33 which includes the earth, water, and natural resources

contained therein.¹ Based on the provisions of the article, it shows that every citizen has the right to own land as a place to live and make a living. Therefore, anyone who lives in the territory of the Unitary State of Indonesia must obey and respect the provisions of the constitution.²

Land is also an important part that cannot be separated from human life, especially for the Indonesian nation, so the role of the state is very important in regulating the control of this land. The state as an organization that has authority over all Indonesian people is delegated by the Indonesian nation to control, regulate, manage and also resolve all issues related to the management of the functions of the earth, water and all its contents. Land is also an important aspect of every human life. This is because land is a place for humans to carry out various activities and socialize with the environment around them.

That the area of land is always fixed, it cannot increase, while the population continues to grow, so it cannot be denied that the need for land will continue to increase and it cannot be denied that there will be problems in the land sector. Land in Indonesia has been regulated in the Basic Agrarian Law, namely Law Number 5 of 1960, which is a legal regulation that regulates land issues in Indonesia. Land then becomes one of the objects of regulation that is quite complex in the land law system in Indonesia, both in terms of its acquisition, management to the resolution of disputes that sometimes arise from land ownership rights.³ Regulations regarding land ownership rights in Indonesia have been regulated since 1960, namely through Law No. 5 of 1960 concerning Basic Agrarian Principles, called UUPA

Land registration activities have a purpose, namely to guarantee legal certainty over land. This is done for the benefit of land rights holders, so that the community can easily prove that they have the right to a certain plot of land. Land registration for the first time is very important, because plots of land that have been registered will receive certificates and have legal certainty.⁴ Currently, the percentage of land ownership certificates for first-time land registration in Indonesia is still low.⁵ In fact, people can use their land as a requirement to obtain capital and use certificates as collateral to obtain credit at banking institutions. In addition, land certification can also reduce space for intermediaries, reduce land problems (disputes/conflicts/cases), suppress speculators and land manipulators.⁶

Land registration, as an implementation of Article 19 of the UUPA, is an effort by the Government to guarantee legal certainty, including: guarantee of legal certainty regarding the person or legal entity holding the rights (subject of land rights); guarantee of legal certainty regarding the location, boundaries and area of the land plot (object of land rights); and guarantee of legal certainty regarding land rights. As the main objective of land registration is

¹ Urip Santoso, *Hukum Agraria dan Hak-hak Atas Tanah*, (Jakarta: Prenada Media, 2007), P. 10.

² Urip Santoso, *Hukum Agraria Konprehensif*, (Jakarta: Prenada Media, 2012), P. 9.

³ Stevi Hendi Lawalata, et.al. "Konsinyasi/penitipan uang sebagai bentuk ganti rugi atas pengalihan hak tanah". *PAMALI: Pattimura Magister Law Review* 1, No. 1, (2021): 16-29

⁴ Westi Utami, et.al. "Collaboration Of Three Stakeholders 'Trisula' in Realizing The Complete Village Map". *Jurnal Sosioteknologi* 20, No. 2, (2021): 210-224

⁵ San Yuan Sirait, et.al. "Sertifikasi Tanah Program Pendaftaran Tanah Sistematis Lengkap: Deskripsi dan Manfaatnya". *BHUMI: Jurnal Agraria dan Pertanahan* 6, No. 2, (2020): 236-248

⁶ Iwan Permadi, "Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda Dengan Cara Itikad Baik Demi Kepastian Hukum". *Jurnal Yustisia* 5, No. 2, (2016): 448-467.

to provide legal certainty and protection, the holder of the land rights in question is given a Land Rights Certificate. With the Certificate, the holder of the land rights obtains strong evidence of his land, because the Certificate contains legal data and physical data regarding the land. The implementation of land registration properly is the basis and manifestation of orderly administration in the land sector. To achieve this orderly administration, every plot of land and apartment unit, including transfers, burdens and deletions, must be registered.

The legal certainty provided by this country is contained in Article 19 paragraph (1) of the Basic Agrarian Law, namely to guarantee legal certainty by the Government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulations. In relation to the protection and legal certainty of land rights, this must be registered as strong evidence. Land registration as the first stage for Indonesian citizens to obtain legal protection and certainty has a definition regulated in Article 1 number 1 of Government Regulation Number 24 of 1997 concerning Land Registration, namely a series of activities carried out by the government continuously, continuously and regularly, including the collection, processing, bookkeeping, and presentation as well as maintenance of physical data and legal data, in the form of maps and lists, regarding land plots and apartment units, including the provision of proof of rights for land plots that already have rights and ownership rights to apartment units and certain rights that burden them.

A certificate can be said to have legal force if it has been legalized by an authorized official. The thing that causes disputes tends to occur when the parties are wrong and at odds with each other in fighting over a right to land. In general, land rights disputes occur starting from the initial process of making a Certificate, namely when the land is measured. The definition of an electronic Certificate is stated in Article 1 paragraph (8) of the Regulation of the Minister of ATR/BPN Number 1 of 2021: "Electronic Certificates, hereinafter referred to as e-Certificates, are Certificates issued through an Electronic System in the form of Electronic Documents"

There are several studies that examine electronic certificates as conducted by Silviana,⁷ the results of the study show that the implementation of electronic land certificates is a necessity in order to meet the needs of an increasingly modern society, because electronic land certificates can provide more legal certainty regarding land ownership and minimize land mafia and land disputes. Yani & Syafiin⁸ mentions one type of land archive is a land certificate which is proof of ownership of land rights in physical form (paper). This has the potential for certificate forgery and the vulnerability of certificates being damaged or lost, so this electronic certificate archive can be a valid evidence in the event of a land dispute, and can minimize forgery of land certificates and guarantee the availability of archives if the land certificate is damaged or lost.⁹

⁷ Ana Silviana, "Urgensi sertipikat tanah elektronik dalam sistem hukum pendaftaran tanah di Indonesia", *Administrative Law and Governance Journal* 4, No. 1, (2021): 51-68

⁸ Ahmad Yani, and Rezky Amalia Syafiin, "Pengarsipan Elektronik Sertifikat Tanah Untuk Menjamin Ketersediaan Arsip Sebagai Alat Bukti Yang Sah Pada Sengketa Pertanahan", *Khazanah: Jurnal Pengembangan Kearsipan* 14, No. 1, (2021): 57-73.

⁹ Candya Upavata Kutey Karta Negara, et.al. "Urgensi Sistem Pengamanan Pada Sertifikasi Tanah Digital". *Jurnal Hukum Lex Generalis* 2, No. 9, (2021): 832-855..

Because it has high security when applied in a digital land certificate security system, but there are no regulations governing it. Blockchain technology is able to maintain the security of physical and legal data on registered land areas. In relation to the importance of legal certainty of land ownership, especially in the life of the state, agrarian legislation in Indonesia regulates land registration in order to guarantee legal certainty for the holders of land rights in question. In order to guarantee legal certainty for the holders of land rights, according to the law, a Certificate is a strong means of proof so that the owner is given legal certainty and legal protection.¹⁰

Electronic certificates are of course in the form of data collected into one base located in the BPN districts and cities throughout Indonesia which are currently in the spotlight are related to security which is the biggest concern of the public about a system that is easily broken into or hacked, according to cyber data from the National Police Criminal Investigation Unit recorded in 2020 as many as 1,300 government and state institution accounts have been hacked this of course causes panic in society because as we know Indonesia is not free from the shadow of land disputes that are still being tried in court then how can electronic certificates be said to be authentic evidence if they enter the realm of civil law until the trial process if a dispute occurs.

In addition, currently the delivery of information and communication in the form of electronic transactions in this case in the form of electronic certificates in the process of proof and its strength as valid or authentic evidence aims to determine the extent of the strength of electronic certificates in the procedure for proving ownership of land rights.¹¹

Thus, this research is different from previous research, previous researchers only raised the study of electronic certificates from the aspects of benefits, archiving and security of electronic certificates. Certificates are the final product of the land registration process, the most important part is the land registration process which must use an electronic system. So this research is important because it raises the study of the legal certainty aspect of the conversion process from analog certificates to electronic certificates based on the principle of security.

II. METHODOLOGY

This article uses a normative legal research type with a statutory regulatory approach, by examining regulations related to legal issues such as Law No. 11 of 2020 concerning Job Creation, PP No. 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration, PP No. 24 of 1997 concerning Land Registration and Permen ATR/Ka BPN No. 1 of 2021 concerning Electronic Certificates. Then presented descriptively analytically to produce an argument and find legal issues related to the legal certainty of electronic certificate conversion registration.

¹⁰ Arifin Bur, and Desi Apriani. "Sertifikat Sebagai Alat Pembuktian Yang Kuat Dalam Hubungannya Dengan Sistem Publikasi Pendaftaran Tanah", *UIR Law Review* 1, No. 2, (2017): 127-136.

¹¹ Basri Mulyani, et.al., "Pembangunan Kesadaran Hukum Masyarakat Melalui Desa Sadar Hukum Di Kabupaten Lembok Timur," *Jurnal Juridica* 2, no. 2 (2021): 104-115,

III. ELECTRONIC LAND CERTIFICATE AS PROOF OF LAND OWNERSHIP RIGHTS IN INDONESIA

The terminology of electronic certificates is standardized in the provisions of Law Number 11 of 2008 concerning Electronic Transaction Information, where an electronic certificate is "all forms of things that contain and are contained in an electronic certificate and are strengthened by a signature in electronic form, especially showing data and identity to the status of legal subjects for the parties therein which in this case is organized by the authorized party carrying out the organization, namely a party or legal entity that is already an expert in validating and auditing electronic certificate data.

Meanwhile, other terminology regarding electronic certificates is contained in the Regulation of the Minister of Land Affairs, in this case concerning Certificates, namely the provisions of the Regulation of the Minister of ATR/BPN Number 1 of 2021 concerning Land Registration, which reads: "Documents in Electronic form commonly known as Certificates are then referred to in this case as Electronic Certificates." Electronic certificates play a very large role like "passports in Electronic form" which cannot be separated from the process of controlling land rights. Recently, there has been talk that the government will issue Certificates in Electronic form which aims to reduce the level of abuse of authority in the process of issuing conventional Certificates in the form of land title books and measurement documents regarding land ownership rights, which means that there are several institutions that have been given authority and have the right to receive information then placed in the Certificate for and clear legal certainty.

The process of registering a piece of land owned for the first time must of course be based on what is determined and with written procedures where this is the beginning of the data collection process based on regulations regarding land registration, namely Article 12 PP 24/1997 concerning Land Registration, which mentions several procedures for registering land for the first time, including the following: (1) Activities and processing of physical data; (2) Proof of rights and their bookkeeping; (3) Issuance of Certificates; (4) Presentation of physical and legal data; (5) Storage of general lists and documents;

The various series of land registrations for the first time are certainly inseparable from the various supporting aspects that must be fulfilled when wanting to register land. The implementation of land registration for the first time is based on the provisions of Article 13 of PP 24/1997 concerning Land Registration, the implementation is as follows:

- a) Land registration for the first time through systematic land registration and sporadic land registration.
- b) Land registration is systematically based on a work plan and implemented in the regions designated by the Minister.
- c) In the event that a village or village has not been designated as a systematic land registration region as referred to in paragraph (2), systematic land registration as referred to in paragraph (2) is carried out through sporadic land registration.
- d) Land registration is carried out sporadically at the request of interested parties.

In some countries, for example Malaysia and Australia, they have used Secure Paper even though they have stored documents in electronic form. Several other countries have also implemented electronic land applications which will increase land services rapidly. Because of this, Indonesia has implemented electronic applications because it will increase the value of Registering Property. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency has issued regulations regarding proof of ownership of a plot of land. This land certificate, which was previously in the form of a book or paper, is now an electronic land certificate. The regulations regarding this electronic certificate are included in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) Number 1 of 2021 concerning Electronic Certificates. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency has launched a digital transformation policy, namely an electronic certificate as a form of new breakthrough in the legal field, especially land law in Indonesia.

Electronic certificates as part of electronic services that follow the electronic mortgage policy, certificate checking, land value zones and land registration certificates. Article 2 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates explains that the implementation of this land registration can be carried out electronically, where the implementation of this electronic land registration is registration: Land registration for the first time and maintenance of land registration data. The registration will be carried out and organized through an electronic system where the electronic system is a series of devices and procedures that have the function of preparing, collecting, processing, analyzing, storing and announcing electronic information. The implementation of the land registration in question will be implemented permanently which will be determined by the Minister.

Philosophically, land control and ownership is laden with values that underlie the birth of legal norms that regulate land control and ownership, which contain authority, rights, obligations and powers.¹² In 2021, the government, in this case the Ministry of ATR/BPN, issued provisions for the implementation of STE services through Permen ATR/KaBPN No.1/2021 concerning Electronic Certificates. The STE is one of the land service products through an electronic system in the form of electronic documents. The implementing regulations also describe the implementation of electronic land registration and the results of activities in the form of data, electronic documents, and electronic information. In line with the issuance of these regulations, issues and problems that arise in society have become uncontrolled.

The history of land ownership regulations in Indonesia has undergone various changes, this was done because the population was still small and the amount of land was unlimited, so land was merely a commodity that was processed and utilized for individual interests and was not traded. As the population increased, land began to be traded. There is a principle of supply and demand. The rapid development of the era in the era of globalization is marked by the increasing development of science, technology and information, so of course various aspects in the field of government need to make adjustments. There have been laws and regulations

¹² Rahman Hasima, et.al., "Penyuluhan Hukum Sertifikat Elektronik Sebagai Jaminan Kepastian Hukum Kepemilikan Hak Atas Tanah", *Jurnal Amal Ilmiah* 4, No. 2, (2023): 229-235.

that are the basis for accommodating these adjustment efforts, including Law of the Republic of Indonesia Number 19 of 2016 concerning Information and Electronic Transactions, the technical regulations of which are then regulated through Government Regulation of the Republic of Indonesia Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions.

Article 1 Numbers 4 and 5 of the regulation regulate electronic system organizers, where there are public electronic system organizers who are state organizing agencies or institutions appointed by state organizing agencies. So in this case, state administration based on electronic systems can be applied to various aspects of government, including in the land sector, and can even be specifically applied to the land registration system mechanism and its outputs. The mechanism for the land registration system based on the electronic system is then 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 1 of 2021 concerning Electronic Certificates.¹³

However, in reality, land title certificates which are the result of various government programs cannot be denied that they still leave gaps in terms of guaranteeing legal certainty that have the potential to harm the community, such as several cases that have occurred, namely cases of forgery of land certificates, cases of double land certificates or overlapping land certificates and the rise of land mafias are the causes of various land disputes which will ultimately harm the community. This means that land title certificates no longer provide legal certainty for the community.¹⁴

It should be noted that land certificates in physical form do not guarantee legal certainty. Then, along with the development of the times, in this technological era, the Government through the Ministry of Agrarian Affairs and the Head of the National Land Agency has made a new breakthrough that is able to keep up with the development of digital technology, more effective and efficient and more modern because when there is a change in society, of course the legal needs of the community also want a change, especially in the land sector and this cannot be prevented anymore. In addition, in order to realize the modernization of land services, the Government through the Ministry of Agrarian Affairs and the National Land Agency has implemented electronic-based land services, to the point that the documents produced are in the form of electronic documents.¹⁵

This policy is in order to further implement the provisions of the Job Creation Law (Law No. 11 of 2020 in the Land cluster, that land services are transferred to electronic form including electronic proof of rights documents).¹⁶ As we all know, the Land Registration Institution in Indonesia only emerged after the issuance of Government Regulation No. 10 of 1961 which regulates Land Registration. The regulation is an implementation of the contents of Article 19

¹³ Muhammad Fachri Herawza, et.al. "Efisiensi Sertifikat Tanah Elektronik dalam Sistem Hukum Pendaftaran Tanah", *Unes Law Review* 6, No. 1, (2023): 2330-2337.

¹⁴ Nur Hidayani Alimuddin, "Implementasi Sertifikat Elektronik Sebagai Jaminan Kepastian Hukum Kepemilikan Hak Atas Tanah di Indonesia", *Jurnal Sasi* 27, No. 3, (2021): 335-345.

¹⁵ Silviana, A. Loc Cit, p. 51-68.

¹⁶ Ni Luh Putu Tita Maya Upadani, et.al., "Keabsahan Sertifikat Elektronik Sebagai Alat Bukti Dalam Hukum Perdata Di Indonesia", *Jurnal Kertha Semaya* 11, No. 11, (2023): 2737-2745.

of the UUPA. The implementation of land registration is carried out through land registration for the first time and maintenance of land registration data. The first Land Registration is land registration for land plots that have never been registered according to PP 10 of 1961.

Meanwhile, related to the maintenance of land registration data, land registration aims to ensure that the data stored in the Land Office is in accordance with the data in the field, with the expectation of data accuracy. The norm in Article 19 paragraph (2) letter c states that the result of the land registration process is the issuance of a document as proof of rights which functions as a strong means of proof.¹⁷ While based on Article 13 paragraph (3) of PP No. 10 of 1961, the document as proof of land ownership rights is called a Certificate, which contains a copy of the Land Book and Measurement Letter sewn together with a cover paper whose form is determined by the Minister.

The provisions in PP 24 of 1997 stipulate that land title certificates, HPL and land Waqf can be in the form of one document containing the required physical and legal data. However, until now the analog certificate that is still valid is the land certificate as regulated in PP 10 of 1961. In fact, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency has implemented electronic services during 2019-2020. There are four services that have been integrated into electronic services such as Electronic Mortgage Rights, Land Registration Certificate, Land Certificate Checking and Land Value Zone Information.¹⁸

IV. LEGAL CERTAINTY OF ELECTRONIC CERTIFICATES BASED ON SECURITY PRINCIPLES

Legally, there are no provisions of laws and regulations that specifically regulate (lex specialist) the existence of land title certificates in a special regulation before 2021. However, since 2021, the government has issued new regulations through the ratification of the Regulation of the Minister of ATR/BPN No. 3 of 2023 concerning electronic certificates. Due to the rapid growth in this digital era, technology makes all activities easier, makes them more practical and modern, and makes it easier for the community and increases the efficiency of public services provided by the government. The issuance of this electronic certificate is also an effort by the government to help legal subjects in Indonesia store land information, view it, and administer it so that it will be more in the future.¹⁹

In accordance with the Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency of the Republic of Indonesia No. 27 of 2020 concerning the Strategic Plan of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency for 2020-2024, the vision of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency is "The realization of trusted and world-class spatial and land management in serving the community to support the achievement of an advanced Indonesia that is sovereign,

¹⁷ Dwi Wulan Titik Andari, et.al., "Aspek Hukum Layanan Sertifikat Tanah Elektronik", *Jurnal Al Adl* 15, No. 1, (2023): 154-170.

¹⁸ Fauzian, R. (2021). Sertifikat Elektronik Menjamin Kepastian Hukum. <https://www.medcom.id/>

¹⁹ Tiffany J. Monalu, "Kedudukan Yuridis Penerbitan Sertipikat Tanah Ke Sistem Elektronik Sebagai Janinan Keamanan", *Lex Privatum* 11, No. 2, (2023): 98-108

independent and has a personality based on mutual cooperation".²⁰ One way to realize this vision is by strengthening technology, information, and communication services in the land sector. The Ministry of Land Affairs has begun to manage web-based data and integrate complaints/registration with the local land office system in the Agrarian sector. The government has issued Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 3 of 2023 concerning Electronic Certificates through the Ministry of Agrarian Affairs and Administration Space. This regulation is a form of modernization of land services in order to increase business and community satisfaction and convenience.²¹

Furthermore, to realize the modernization of land services, the government through the Ministry of ATR/BPN implements electronic land services, up to the products produced in the form of electronic documents. The issuance of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 3 of 2023 concerning Electronic Certificates marks the start of the electronic land certificate policy.²² This policy is implemented in order to further implement the provisions of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, where the land cluster will provide services in the land sector in electronic form (including documentation proving rights in electronic form).²³

The provisions in the Ministerial Regulation explain that electronic land certificates will replace physical land certificates, including the replacement of land books, measurement letters or floor plans. Electronic Certificates, hereinafter referred to as e-Certificates, are issued through an electronic system in the form of Electronic Documents with an electronic signature as a verification tool.²⁴ The implementation of land registration which was previously carried out conventionally, can now be electronic, both for the first land registration for land that has not been registered, including the replacement of certificates with e-Certificates for land that has been registered. The implementation will be gradual and will be regulated by the Minister.²⁵

After validation is complete, the old land certificate is replaced with an electronic certificate and stored in the database electronically to each storage address. Later, landowners can print their certificates anytime and anywhere in accordance with the units regulated in Article 16 of the ATR Regulation Number 3/2023. The contents of the article are as follows:

²⁰ Kurnia Rheza Randy Adinegoro, "Tantangan Implementasi Sertipikat Tanah Elektronik di Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional Republik Indonesia", *Jurnal Ilmu Kenotariatan* 4, No. 2, (2023): 130-143.

²¹ Muhammad Chafi Sholeh, "Analisis Yuridis Resiko Pemalsuan Terhadap Pengadaan Sertipikat Elektronik Di Indonesia", *Jurnal Dinamika* 27, No. 10, (2021): 1517-1543.

²² Rahul Mukadar, et.a.l., "Kepastian Hukum Sertifikat Elektronik Sebagai Bukti Kepemilikan Tanah", *Pattimura Law Study Review* 1, No. 1, (2023): 190-200.

²³ Muhd. Nafan, "Kepastian Hukum Terhadap Penerapan Sertipikat Elektronik Sebagai Bukti Penguasaan Hak Atas Tanah Di Indonesia", *Jurnal Pendidikan Tambusai* 6, No. 1, (2022): 3342-3355..

²⁴ Reza Andriansyah Putra, and Atik Winanti, "Urgensi Dan Kendala Dalam Penerbitan Dokumen Sertifikat Tanah Elektronik Pasca Peraturan Menteri ATR/BPN Nomor 3 Tahun 2023", *USM Law Review* 7, No. 2, (2024): 835-852

²⁵ Vivin Astharyna Harysart, and Suyanto, "The Essence of Legal Certainty of Land Title Certificates In the Land Registration Publication System In Indonesia", *Journal of Law Science* 6, No. 1, (2024): 166-173

- a) Replacement of Certificates to e-Certificates including replacement of land books, measurement letters and/or floor plans of apartment units to Electronic Documents.
- b) Replacement of e-Certificates as referred to in paragraph (1) is recorded in the land book, measurement letters and/or floor plans of apartment units. Then,
- c) The Head of the Land Office withdraws the Certificate to be combined with the land book and stored as a document at the Land Office.
- d) All documents as referred to in paragraph (3) are transferred (scanned) and stored in the Database.

These provisions can be welcomed positively. However, the problem to be pondered is the extent to which the security of electronic data is guaranteed in terms of recognizing evidence of land ownership rights for the community. For that reason, there are still pros and cons in the assessment of electronic certificates managed by the BPN.²⁶ There are legal subjects who have an interest in electronic certificates other than the land office, namely the Land Deed Making Officer who has the obligation to provide electronic deeds. The obligations are divided into three parts, namely administrative responsibility, civil responsibility, and criminal responsibility. If the administrative responsibility conflicts with the job regulations, a written warning, temporary dismissal, honorable dismissal, or dishonorable dismissal can be given. Meanwhile, if you violate civil responsibility, a civil lawsuit can be filed. Finally, in terms of the criminal responsibility of a Notary, if you commit an act that leads to criminal activity, then the PPAT's obligation is an individual responsibility.²⁷

The process of replacing conventional certificates with electronic certificates for land that has been registered, but the implementation is through land registration data management services, for example at the time of transfer of rights with a Deed of Sale and Purchase. The deed is not yet in electronic form at the time of signing the deed. When registered for the name change process (in the name of the buyer) it is issued in e-certificate format. After the e-certificate is issued, the physical certificate is revoked by the Head of the Land Office and stored as a document (Article 16 paragraph (3) of the ATR/BPN Regulation No. 3/2023). This shows that rights holders are no longer issued with conventional certificates.²⁸

Positively, electronic certificate access can be easily used and known by every land rights interest and the interests of other parties. However, on the other hand negatively, proof is a very important factor, considering that IT system data (electronic systems) have not been accommodated in the Indonesian legal system, but in reality the data in question is also very vulnerable to being changed, tapped, falsified, and sent to various corners of the world in a matter of seconds (Crimes/crimes against legal data and physical data).

²⁶ Stevani Deska Suryani, and Jeane Neltje Saly, "Application of Electronic Land Certificates in The Indonesian Land System", *Interdisciplinary Journal and Humanity* 3, No. 1, (2024): 1-8.

²⁷ Bhim Prakoso, et.al., "Arrangement of Agrarian Reform as A Basis For Providing Legal Certainty For the Community", *Acten Journal Law Review* 1, No. 1, (2024): 1-16.

²⁸ Muhammad Farid Alwajdi, "Pengaturan Sertipikat Elektronik Dalam Sistem Hukum Pertanahan Dan Usaha Meningkatkan Indeks Kemudahan Berusaha Pada Masa Pandemi Covid-19", *Jurnal Pertanahan* 11, No. 1, (2021): 40-53.

Therefore, to ensure the security of electronic data, in terms of recognition of evidence of land ownership, namely by building a national land database and backing up data with the note that the information contained in electronic certificates and/or electronic documents is considered valid and can be accessed, displayed, guaranteed its integrity, and accounted for so as to explain a situation. So the security of data and electronic certificates is a priority for policy makers to think about, because:²⁹

- a) Proof of land ownership (electronic certificate) must be in the BPN database and must be applied by paying attention to the principle of caution and respect for land rights holders who have good intentions so that they can easily obtain data that can be trusted.
- b) Cooperation is needed between related parties by strengthening the commitment of law enforcement officers (BPN, police, prosecutors) to protect proof of land ownership in digital form which is very vulnerable to being changed, tapped and falsified, and to stop illegal levies on land services.
- c) It is necessary to create and sharpen legal synchronization between land law and information technology law and criminal law relating to the problem of proving ownership of land rights.
- d) Supervision is carried out by the community, by ensuring whether the policies of the Ministry of ATR/BPN in land services that have met the components in the service standards are in accordance with applicable provisions so that the community gets their rights.

Therefore, improvements to accurate land mapping and data collection throughout Indonesia must be carried out so that there is no overlapping of land ownership disputes.

V. CONCLUSION

The development of the digital world today, especially in Indonesia, has developed land registration, which was originally analog or manual land registration, then changed to electronic land registration. Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 3 of 2023 concerning Electronic Certificates is the latest regulation in an effort to provide services to the public related to electronic land certificates. However, this policy has turned out to have pros and cons because the public still rejects the maintenance of electronic letters. The implementation of electronic land certificates is a necessity in order to meet the needs of an increasingly modern society, especially for generation Z in Indonesia. Although the implementation is gradual, it is hoped that from public awareness or public awareness of land owners, electronic land certificates can provide more legal certainty of land ownership and minimize land mafia and land disputes.

Legal Certainty Regarding the Application of Electronic Certificates as Proof of Land Ownership in Indonesia is interpreted as: 1. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 3 of 2023 concerning land certificates is in the form of statutory regulations. 2. It has been based on facts that have been analyzed in the consideration section. 3. It has been formulated in a clear manner, where the ministerial regulation is structured in accordance with the rules for

²⁹ Andriana Rachmah, et.al., "Implementation of Electronic Land Certificates As Legal Land Ownership", *Policy, Law, Notary And Regulatory Issues* 3, No. 1, (2024): 1-8

compiling laws and regulations. 4. This Ministerial Regulation is not easily changed considering its relevance to current conditions. 5. Legal certainty is also related to proof, namely electronic/digital certificates as valid legal evidence and are an extension of valid evidence as regulated in the applicable procedural law in Indonesia.

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