

LEGAL CERTAINTY OF LAND CERTIFICATE VERIFICATION ONLINE

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Abstract

The agricultural services organized by the Ministry of ATR/BPN have entered the era of digitization of agriculture, including the inspection of certificates of land rights. However, there is still an inconsistency of the results of the online checks with the data stored in the Farm Office or the data may change. This article discusses on-line verification of land rights certificates and the role of PPAT and Notaries in supporting online verification in providing legal certainty and legal protection for the parties. The method used in this research is the descriptive method of analysis with a normative jurisprudential approach through a statute approach, a conceptual approach, and a case approach. (case approach). The results of the study show the importance of carrying out the verification of certificates not only as a fulfilment of formalities, but also as an application of the precautionary principle both for the parties as well as for the PPAT and notaries making the act. Online certificate verification can potentially provide better legal certainty and legal protection than manual certificate inspection depending on the available technology infrastructure, applicable regulations, the security of the systems implemented and the role of PPAT and Notaries inining legal trust in the context of digitalization.

Keywords: *Legal Certainty; Online Certification Checking ; Land rights*

I. INTRODUCTION

Certificate verification is an essential procedure that must be carried out before any transactions and legal actions related to land objects. With the advancing technology, the use of digital tools and the internet has enabled various human needs to be fulfilled electronically and online, such as trade transactions, service transactions, and even public services within the government system. In the field of land services, the Ministry of Agrarian and Spatial Planning (ATR) and the National Land Agency (BPN) have made significant progress by developing electronic-based land services. The electronically integrated facilities now available in the Land Office of Districts and Cities are expected to make it easier for the public to access land services.²

According to data from the Ministry of ATR/BPN, the number of Electronic Certificate Verification Land Services in the last 3 years was 1,437,783 in 2020, 2,867,569 in 2021, and 2,929,512 in 2022. Electronic certificate verification services, along with other electronic services such as electronic land registration certificates, electronic royalties, and electronic mortgages, make up 60% of the total service files. Certificate verification

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² Barkatullah, A. H. (2017). *Hukum Transaksi Elektronik di Indonesia: sebagai pedoman dalam menghadapi era digital Bisnis e-commerce di Indonesia*: Nusamedia, Bandung : Nusa Media.

services rank at the top among the top 10 land services.³ The standard processing time for certificate verification services according to the Standard Operating Procedure (SOP) is 1 working day. With electronic services, it is expected to streamline the process, increase transparency, reduce bureaucracy, and improve the corruption perception index, which currently stands at 70. However, electronic land services, especially electronic certificate verification, still face challenges and obstacles in implementation.⁴

In certificate verification, the Land Office checks both physical and juridical data. Physical data verification involves inspecting the land location specified in the certificate through direct field inspection, while juridical data verification involves cross-referencing data in the certificate with the land registry book at the BPN office. Ministerial Regulation No. 97 provides further details on certificate verification.⁵

Based on Article 20 of Ministerial Regulation No. 5 of 2020 on ATR/KBPN, the Land Office is not responsible for the accuracy of the certificate. However, the electronically integrated land services include online certificate verification conducted by PPAT (Land Deed Making Official) at the Land Office of Districts/Cities. The HT-el system is used by the Head of the Land Office or appointed officials to check the compliance of document requirements and the concept of the HT-el certificate.⁶

Regarding issues arising during online certificate checks, where duplicate certificates can still be manually observed, especially when done online without the need for the original certificate, this contradicts Article 97 of Ministerial Regulation No. 3 of 1997, which stipulates that a person must present the original certificate during certificate verification. Therefore, this article discusses electronic certificate verification and its legal implications.

This paper employs a descriptive analytical method with a normative juridical approach through a statutory approach, namely by examining and studying legislation related to land registration, PPAT (Land Deed Making Official), and certificate verification. It also utilizes a conceptual approach by reviewing the opinions of experts related to the discussed research and a case approach by examining issues and cases related to manual and online land certificate verification.⁷ The research employs deductive and/or inductive reasoning to obtain and discover objective truths. The collection of materials and data is conducted through literature studies, especially focusing on materials related to the research subject.

³ Runturambi, N. M. J., Katiandagho, T. M., & Rumagit, G. A. (2022). Efektivitas Pelayanan Publik Di Kantor Pertanahan Kota Manado. *AGRI-SOSIOEKONOMI*, 18(3), 823-834.

⁴ Rasyuddin, Rizal. (2022) Sosialisasi Kebijakan dan Peraturan ke-PPAT-an, Kepala Subdirektorat Pengelolaan PPAT Direktorat Pengaturan Tanah Komunal, Hubungan Kelembagaan dan PPAT Kementerian ATR/BPN RI disampaikan dalam rangka Kunjungan Mahasiswa Prodi Magister Kenotariatan Fakultas Hukum Universitas Sultan Agung Semarang.

⁵ Hasan, H., & Rusli, A. (2021). Keterlibatan Pemerintah dalam Penyelesaian Sertifikat Ganda di Kota Makassar. *Madika: Jurnal Politik dan Governance*, 1(1), 20-37.

⁶ Wibowo, S. G., Susanto, F., & Prihadyatama, A. (2023). Implikasi Hukum Pengecekan Sertifikat Tanah Secara Online. *Hakim*, 1(3), 339-348.

⁷ Prawira, I., & Yoga, G. B. (2016). Tanggung Jawab PPAT terhadap Akta Jual Beli Tanah. *Jurnal Ius*, 4(1), 64-78.

II. DISCUSSION

Law No. 5 of 1960 on Basic Agrarian Principles (UUPA) asserts that the state, as the highest organization of people's power, controls land for the greatest prosperity of the people through regulating legal relationships between individuals and land, managing legal actions of individuals towards land, and planning land allocation and usage for public interests. To ensure legal certainty, the government conducts land registration throughout the territory of the Republic of Indonesia. Land registration is organized by the National Land Agency (BPN) with the assistance of PPAT and other designated officials to carry out specific activities.

Land registration, according to Article 1 paragraph 9 of Government Regulation No. 18 of 2021, is a continuous, systematic, and orderly series of activities conducted by the government, including the collection, processing, recording, presentation, and maintenance of physical and juridical data in the form of maps and lists regarding land areas, airspace above land, underground space, and apartment units. It also includes issuing proof of land ownership for lands, airspace above land, and underground space with existing rights, as well as ownership rights to apartment units and specific encumbrances.⁸

Article 19 paragraph (1) of UUPA mandates the Ministry of Agrarian and Spatial Planning/National Land Agency to register land areas throughout the Republic of Indonesia to ensure legal certainty. Besides providing legal certainty and minimizing land disputes, the benefits of land registration include administrative order, support for development by promoting financial inclusion, increasing Non-Tax State Revenue, improving the Ease of Doing Business index, and contributing to the Large-Scale One Map Policy.⁹

Government Regulation No. 24 of 1997 on Land Registration, Article 2 explains several principles of land registration, including:

- a. The principle of simplicity, meaning that land registration must be easily understood by stakeholders, especially landowners;
- b. The principle of security, where land registration aims to make society feel secure, and landowners obtain legal certainty for their land;
- c. The principle of affordability, meaning that land registration must be accessible to low-income groups in society;
- d. The principle of currency, where existing land data must always be adjusted to the current state of the land;
- e. The principle of openness, meaning that the public should easily obtain information related to the physical or juridical data of their land.

A land certificate is valid proof of legitimate ownership because through land registration, information about the landowner, the transfer of land ownership, and the new owner, including any encumbrances, can be known. This was explained by Eny

⁸ Arrizal, N. Z., & Fauzi, M. A. (2023). Aspek Hukum Sertifikat Elektronik Dalam Sistem Pendaftaran Tanah Di Indonesia. *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum*, 9(1), 92-99.

⁹ Kesuma, D. (2022). *Reformasi Pelayanan Publik-Damera Press*: Damera Press.

Nurbaningsih, a Supreme Court Justice of the Constitutional Court of the Republic of Indonesia during the pronouncement of Constitutional Court Decision (MK) No. 12/PUU-XIX/2021 held on June 29, 2021. The certificate, a product of land registration, serves as strong evidence regarding the physical and juridical data it contains, as long as the physical and juridical data align with the data in the land survey and the relevant land book. The term "strong" here does not imply absolute; it means that everything stated in the certificate is considered correct unless proven otherwise.¹⁰ Owning a land certificate provides a sense of security for the owner with legal protection and legal certainty provided by the state.

One part of the land registration process is the maintenance of physical and juridical data, also presented in the form of maps and lists containing information about land areas and apartment units. The collected data essentially includes two types:

- a. Juridical data provides information about the legal status of land areas, including rights on the land, the subject holding the rights, the presence or absence of other parties, and legal status information about registered land areas and apartment units, the rights holder, and any other encumbrances. (Article 1 number 6 Government Regulation No. 24 of 1997)
- b. Physical data provides information about the legal status of registered land areas and apartment units, the rights holder, and any other encumbrances. Examples of physical data include land subdivision, separation of parts of land, or the combination of two or more land areas. Physical data also includes information about the location, boundaries, size, and the presence of buildings and/or vegetation on the land. (Article 94 Ministerial Regulation BPN No. 3 of 1997)

Before drafting deeds involving the transfer or encumbrance of certified land, parties involved must first verify the compliance of the land certificate at the local Land Office where the land is located. The Notary/Public Official in Land Deed Making (PPAT) is obligated to examine the preview with the original certificate. If the displayed data is accurate, the PPAT can then print the results of the land certificate verification, typically in the form of an electronic document (e-doc) or electronic archive. The term "electronic document" is defined in Article 1 number (2) of Ministerial Regulation ATR/BPN No. 5 of 2017.

The legal basis for the obligation to verify certificates before signing deeds related to land transactions is outlined in Ministerial Regulation Agraria/Head of BPN No. 3 of 1997 Article 97 paragraph (1) and in Head of BPN Regulation No. 1 of 2006 Article 54 paragraph (1) and paragraph (2), as well as Article 2 paragraph (2). According to Article 34 of Government Regulation No. 24 of 1997, BPN will check the authenticity of certificates based on registration maps, land lists, survey letters, and land books. Online certificate verification services are a tangible manifestation of the Ministry of Agrarian and Spatial Planning/National Land Agency's implementation of Head of the National Land Agency Regulation No. 1 of 2010 on Land Service Standards and Regulations and Ministerial Regulation Agraria and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia No. 5 of 2017 on Electronic Land Information Services conducted by Land Offices.¹¹

¹⁰ Ramadhani, R. (2021). Pendaftaran tanah sebagai langkah untuk mendapatkan kepastian hukum terhadap hak atas tanah. *SOSEK: Jurnal Sosial dan Ekonomi*, 2(1), 31-40.

¹¹ Nugraheni, R. Y., Priyadi, B. P., & Kismartini, K. (2021). Inovasi Pelayanan Pertanahan Pengecekan Sertifikat online. *PERSPEKTIF*, 10(1), 47-56.

The verification of land certificate compliance is essential to determine whether there have been changes to the land registration data for the land subject to transfer. If discrepancies are found in the electronic certificate verification, the PPAT must cancel and request corrections from the Land Office through the system. This process requires careful attention from the PPAT to align the physical certificate and the electronic verification results in the system to facilitate the deed-making process.

Circular Letter of the Supreme Court No. 4 of 2016 on the Implementation of the Results of the 2016 Supreme Court Plenary Meeting as Guidelines for Judicial Duties states that good-faith buyers must be protected. Article 1338 paragraph (3) of the Civil Code outlines the criteria for well-intentioned buyers, including adhering to legal procedures and documentation specified in regulations, conducting due diligence related to the promised land, ensuring the seller has the right or ownership of the land, and verifying the status of the land being sold. The Circular Letter emphasizes the importance of caution in ensuring legal protection for good-faith buyers.

One of the formalities that must be fulfilled before signing land transfer deeds or deeds of guarantee with encumbrance of mortgage rights is certificate verification. Certificate verification is an examination of the compliance of the certificate with the records at the Land Office. This reflects the cautious approach of Notaries/PPAT before proceeding with the deed-making process for land transfer or encumbrance registration at the Land Office.

According to the digital transformation roadmap of the Ministry of Agrarian and Spatial Planning/National Land Agency, 2019 marked the beginning of the digital era, introducing Electronic Mortgage Rights, digitization of documents, and electronic information, including certificate verification, Land Registration Certificate, and Land Value Zone. In 2020, electronic mortgage rights services and electronic land information services were implemented nationwide.

Article 5 of the ITE Law states that electronic information and/or electronic documents and/or their printouts are valid legal evidence. Article 147 of the Omnibus Law provides the opportunity for proof of land rights, ownership of apartment units, management rights, and mortgage rights, including deeds of land transfer and other related land documents, to be in electronic form. Even Article 86 of Government Regulation No. 18 of 2021 opens the possibility for PPAT deeds to be made electronically. Certificate verification for land rights can now be done online and is one of the services in the electronic land registration process conducted by Land Offices through electronic systems. This service is accessible to applicants, including PPAT, who are partners with the Land Office. The conformity of juridical and physical data can be directly observed in the system.

The implementation of electronic land registration, as mandated by Government Regulation No. 18 of 2021, generates electronic data, electronic information, and/or electronic documents. This electronic data, information, and printed results are considered valid legal evidence. The data is stored electronically in the database of the Ministry of Agrarian and Spatial Planning/National Land Agency.

Certificate Verification Services can be accessed by registered applicants through applications provided by the Ministry. PPATs, Legal Entities, and Government Institutions access it through the Ministry's Partner Application, while individual users can access it through the "Touch My Land" Application. Applicants not yet registered can request services directly through the Land Office.

In Technical Guidelines Number 3/Juknis-HK.02/IV/2022 dated April 25, 2022, from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency

(Kementerian ATR/BPN) regarding the Electronic Certificate Verification and Land Registration Information Letter Service, it is explained that individual users who can register on the application provided by the Ministry include individuals who meet the following requirements: a. Indonesian citizens consisting of individual rights holders, creditors, trustees, or parties with an interest in obtaining land information (WNI); or b. Foreign citizens residing in Indonesia whose presence benefits, conducts business, works, or invests in Indonesia and has immigration documents such as a visa, passport, or residence permit issued by the relevant authorized agency according to immigration regulations. Meanwhile, PPAT users are registered PPATs in the Ministry's Partner Application who have validated data and have been verified by the Land Office. Legal Entity Users are legal entities, creditors, trustees, or parties with an interest in obtaining land information, including:

- a. Legal entities established under Indonesian law and domiciled in Indonesia, such as State-Owned Enterprises/Regional-Owned Enterprises/Village-Owned Enterprises, State-Owned Legal Entities; or Private Legal Entities.
- b. Religious, social, foundation, or cooperative organizations;
- c. Foreign legal entities with representation in Indonesia;
- d. Foreign state representatives and representatives of international organizations.

Government Agency Users (Ministry/Institution, Non-Ministry/Institution Government Agencies, Regional Governments, and Village Governments) are institutions with an interest in obtaining land and spatial information in order to carry out their duties and functions, including the State Auction Office for auction implementation purposes. Other Users as stipulated by regulations.

Electronic certificate verification requests by PPAT for the purpose of making PPAT deeds are carried out through the Ministry's Partner Application, while individual applicants, owners of land certificate rights, can apply directly at the local Land Office. The Electronic Certificate Verification Service is carried out in stages: a. Verification of Completeness of Application Requirements through the Electronic System. b. Preview of the Results of Electronic Certificate Verification Services. c. Confirmation of the Results of Electronic Certificate Verification Services.¹²

Applications for Electronic Certificate Verification Services may be rejected/canceled if: a. The application does not meet the requirements set by regulations for further processing. b. There is a force majeure event that disrupts the Electronic System, resulting in the service results being unable to be issued, such as server blackout or malfunction, services provided by other agencies not functioning; or communication network to the server is disconnected, as declared by the Service Provider. For services closed due to force majeure, the Service Fee paid by the applicant will be refunded according to the Non-Tax State Revenue tariff provisions.

The Electronic System will automatically close the certificate verification file if: a. The file is not processed within a period of 3 (three) calendar days until the issuance of the deposit order letter; and/or b. The file, within a period of 5 (five) calendar days from receiving the deposit order letter, is not followed by PNPB payment.

As is known, certain formalities must be fulfilled by Land Deed Officials (PPAT) and Notaries before the signing of deeds related to transactions or guarantees of land rights with the burden of mortgage rights. For land as the object, the legal basis for the obligation to check certificates before signing deeds is as stipulated in Regulation of the

¹² Guntara, R. (2022). *Pelaksanaan Peralihan Pelayanan Pendaftaran Tanah Manual Menjadi Elektronik di Kabupaten Cirebon*. Universitas Islam Sultan Agung (Indonesia)

Minister of Agrarian Affairs/Head of BPN Number 3 of 1997 in Article 97 paragraph (1) and in Regulation of the Head of BPN Number 1 of 2006 in Article 54 paragraphs (1) and (2) and Article 2 paragraph (2). According to Article 34 of Government Regulation Number 24 of 1997, BPN will check the authenticity of certificates based on registration maps, land registers, survey letters, and land books.¹³

Certificate verification is one of the services provided by the Land Office, and it is now available online, representing one of the electronic land registration services offered by the Land Office. Certificate verification requests are submitted to the Land Office in the location of the land because certificate data is stored and managed by the local Land Office. Unlike manual verification, where the original certificate must physically be brought to the BPN, online verification eliminates the need to bring the original certificate to the BPN; instead, a scanned copy of the physical certificate is sufficient. While this brings convenience, it also eliminates the physical verification of the certificate, only matching the data in the scanned certificate with the data stored in the land book at the BPN. Certificate verification is performed to determine any changes in physical and juridical data.

Other changes or information that can be requested for registration at the Land Office include requests for recording purchase and sale agreements or lease agreements on land. This registration is done on the general list and/or the Certificate of Land Rights. Similarly, registration of rights to land or ownership of units in strata title buildings that are the subject of court cases, court orders for status quo by the examining judge, or objects of foreclosure. By attaching a copy of the lawsuit or status quo order by the examining judge or foreclosure judgment, the head of the Land Office will refuse to register the transfer of rights or the imposition of rights.¹⁴

In legal development, two types of law are known, namely private law and public law. Private law regulates relationships between individuals, while public law regulates relationships between the state and individuals. Legal development is closely related to societal development. Developments in society, such as rapid economic growth and development, lead to increased societal needs for law. The function of law, to create and maintain order and peace in society, is in line with societal development. However, legal development often lags behind societal development.¹⁵

According to Mochtar Kusumaatmadja, law is a means of renewing society based on the assumption that order or regularity in development is desired or even considered necessary.¹⁶ Law is expected to function not only to guarantee order and legal certainty but also as a tool for renewing society (law as a tool of social engineering).

Regarding transactions related to land, both the transfer of rights and the guarantee of land rights with the burden of mortgage, the role of Land Deed Officials (PPAT) and Notaries is crucial in authenticating deeds that contain the transfer or encumbrance of land rights and ownership of units in strata title buildings as written evidence of legal acts or legal events directly related to legal proof and is part of civil law. As stated in Article 1867 of the Civil Code, proof by writing is done with authentic writing or writing under hand, and furthermore, Article 1868 of the Civil Code states that an authentic deed

¹³ Ismail, P., Hasan, S., Syaflin, H., Karimuddin, K., Imam, A., Muhammad, F. I., ... & Desi, A. (2021). *Fiqh Mu'amalah Kontemporer*, Pidie: Penerbit Muhammad Zaini.

¹⁴ Zulfa, F. R. (2021). *Analisis Yuridis Tentang Pelayanan Hak Tanggungan Terintegrasi Secara Elektronik*. Universitas Islam Sultan Agung (Indonesia).

¹⁵ Etwiory, H. (2012). *Kajian Yuridis Kekerasan Dalam Rumah Tangga (Suatu Studi Tentang Hubungan Hukum Privat dan Hukum Publik)*. *Lex Crimen*, 1(3).

¹⁶ Kusumaatmadja, M. (2002). *Konsep-konsep hukum dalam Pembangunan*.

is a deed made in the form specified by law by or before a public official authorized to do so at the place where the deed is made.

The notion of Mortgage Rights according to Article 1 point 1 of the Mortgage Rights Law is: "Mortgage rights over land and related movable assets associated with the land, hereinafter referred to as mortgage rights, are security rights burdened on land rights as referred to in Law Number 5 of 1960 concerning Basic Agrarian Principles, along with or without other assets that are an integral part of the land, for the settlement of specific debts, providing priority status to specific creditors over other creditors."

Notaries are appointed by the government and given the authority as public officials obliged to maintain the government's credibility to create and maintain order in.

Notaries (and also PPAT) are public officials authorized to create authentic deeds. The benefits of authentic deeds, as they are known in English, include:

- a. Clearly determining rights and obligations.
- b. Ensuring legal certainty.
- c. Avoiding disputes.
- d. Being the strongest and most complete written evidence.
- e. Recording formal truth according to what the parties communicate to the Notary.¹⁷

Before the signing of deeds for the transfer of rights or the establishment of collateral, certain formalities must be fulfilled by Land Deed Officials (PPAT) and notaries for guarantees related to land. One of these formalities is the verification of certificates at the Land Office where the object of the encumbrance is located. The legal basis for the obligation to verify certificates before signing deeds is stipulated in the Minister of Agrarian Affairs/Head of the National Land Agency Regulation Number 3 of 1997 in Article 97 paragraph (1), as well as in the Head of the National Land Agency Regulation Number 1 of 2006 in Article 54 paragraphs (1) and (2), and Article 2 paragraph (2).

Certificate verification is an activity carried out to determine whether the certificate submitted corresponds to the lists in the Land Office, including both physical and juridical data stored in registration maps, land lists, survey letters, and land books.

In the Land Information Service, PPAT and Notaries act as Applicants based on the authority granted by the landowner or rights holder. According to Article 4 of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation Number 5 of 2017 concerning Electronic Land Information Services, PPAT must conduct Land Information Services by checking Land Certificates before creating deeds for specific legal acts on Land Rights/Ownership of condominium units.

The Land Information Service aims to enhance land information services that are easy, fast, and cost-effective, conducted electronically, and implementing land registration based on simple, safe, affordable, up-to-date, and open principles.

Article 97 paragraph (1) of the Minister of Agrarian Affairs/Head of the National Land Agency Regulation No. 3 of 1997 states that before creating deeds related to the transfer or encumbrance of land rights or Ownership of Condominium Units, Land Deed Officials (PPAT) must first examine the conformity of the land certificate or Ownership of Condominium Units with the lists in the local Land Office by presenting the original certificate.

Article 2 paragraph (2) of the Head of the National Land Agency Regulation No. 1 of 2006 mentions that legal acts as referred to in paragraph (1) include buying and selling, exchanging, gifting, inclusion in a company (inbbreng), joint ownership division, granting

¹⁷ HS, H. S., & SH, M. (2021). *Teknik Pembuatan Akta Badan Usaha di Era Digital*: Sinar Grafika.

HGB/Usage Rights over land Ownership, and granting Mortgage Rights. However, the granting of Mortgage Deed of Land Collateral does not require verification.

PPAT must perform certificate verification at the authorized BPN Office. Ownership documents provided as supporting data in the deed-making process must be checked for their truthfulness, authenticity, and merely viewing photocopies is insufficient, especially relying on statements like "according to the information provided by the applicant" in Notarial or PPAT deeds. This is emphasized in Article 54 paragraphs (1) and (2) of the Head of the National Land Agency Regulation No. 1 of 2006, which states: "(1) Before creating deeds related to legal acts as referred to in Article 2 letters a to g, PPAT must check the conformity/authenticity of certificates and other records at the local Land Office, explaining the purpose and intent. (2) In creating deeds as referred to in paragraph (1), PPAT is not allowed to include the words 'according to the statements of the parties' unless supported by formal data."

Certificate verification before deed creation by PPAT, in addition to being required by regulations, is an essential practice as it relates to the evidentiary nature of certificates as strong, not absolute, proof. While the UUJN does not explicitly state the obligation for verification, it is deemed necessary for Notaries/PPAT to secure the creation of Mortgage Deed of Land Collateral. For PPAT, the obligation to verify the accuracy of physical data on certificates is not mandatory. According to Article 34 of Government Regulation No. 24 of 1997, BPN will check the authenticity of certificates based on registration maps, land lists, survey letters, and land books.

Documents required for certificate verification at BPN include:

- a. Land certificate
- b. Power of Attorney or Assignment Letter
- c. Certificate verification request letter
- d. Copy of ID card and family card of the certificate owner
- e. PNBP fee of IDR 50,000 per certificate

BPN is not obligated to conduct substantive examinations (on registered data). BPN only ensures that the object is clean, meaning it is free from disputes, not blocked, and is subject to Mortgage Rights. BPN's function is passive, positioning itself as an administrative institution.¹⁸

In addition to verifying the conformity of data and the authenticity of certificates, it may be necessary to conduct on-site checks to ensure the accuracy and conformity of certificate data with the location of the land. GPS (Global Positioning System) can be used for on-site checking, allowing entry into the registration map.

As certificates serve as strong evidence, the physical and juridical data contained in certificates are considered correct unless proven otherwise with other evidence. The state does not guarantee the accuracy of physical and juridical data in certificates, and certificates issued can still be challenged by parties who feel aggrieved by their issuance.

If there are notes in the land book, BPN will issue a Land Registration Certificate (SKPT) explaining these notes. Notes, such as blocks, can be due to individuals for specific reasons or from police or court institutions. SKPT includes all physical and juridical data of Land Rights open to the public. Article 187 of the Minister of Agrarian Affairs Regulation Number 3 of 1997 states:

- a. Information about physical and juridical data on registration maps, land lists, Survey Letters, and Land Books is open to the public and can be provided to interested parties visually or in writing.

¹⁸ Yuliandi, S. S. T. (2021). *GAMPONG AGRARIA*: Media Nusa Creative (MNC Publishing).

b. Written information is issued in the form of SKPT.

Physical data includes changes such as subdivision, merger, or separation of certificates, while juridical data includes registered encumbrances, and transfers of rights.

In Article 39 paragraph (1) letter a of Government Regulation No. 24 of 1997, it is stated that PPAT refuses to create a deed if the original certificate of the related right or the submitted certificate does not match the lists in the Land Office for registered land or ownership of condominium units.¹⁹

The role of PPAT and Notaries in maintaining legal certainty and legal protection for the parties involves ensuring online certificate verification by meeting all requirements and procedures. Although the system only requests the original certificate scan, PPAT must ensure that the scan is genuinely from the certificate physically possessed by the Notary.²⁰

The authority of a notary, according to Article 15 of UUJN, is to create authentic deeds and provide legal counseling related to deeds. This legal counseling is done by the notary before deed creation, identifying the parties and the subject of the agreement. Ensuring the conformity of physical and juridical data through certificate verification is a principle of good faith for notaries in safeguarding the interests of the parties and providing legal protection.

PPAT's duties, as stated by A.P. Parlindungan, include conducting a recording of deed conveyance, which involves recording the creation of land deeds covering changes in rights, collateral agreements with land rights as collateral, establishing new rights on a piece of land (HGB on Ownership or Usage Rights on Ownership), and providing a power of attorney to encumber collateral rights.

In addition to serving as a recording of deed conveyance, obligated to confirm the will of the parties who have reached an agreement, Irawan Soerodjo states that the PPAT position is an independent profession. PPAT acts as a public official authorized by the government through the Minister of Agrarian Affairs/Head of the National Land Agency to create deeds of transfer and encumbrance of Mortgage Rights on land, serving as authentic evidence and validating legal acts among parties, including authenticating the signatures of the parties involved and ensuring the certainty of the signing date.

Certainty is an inherent characteristic of law, especially written legal norms. Social order is closely related to legal certainty. Orderliness allows people to live with certainty and carry out activities in life. Legal rules capable of creating legal certainty are those born and reflective of societal culture.

Issues of legal certainty in the implementation of the law cannot be separated from human behavior and are often associated with factors beyond the law. Judicial decisions serve as evidence that existing legal regulations are not always adequate to regulate or resolve all issues that may arise in society.

Certificates of land rights issued by the authorized institution, in this case, the National Land Agency, provide legal certainty and are considered the strongest evidence. Article 32 paragraph (1) of Government Regulation No. 24 of 1997 states:

"The certificate is proof of the right that serves as strong evidence regarding the physical and juridical data contained therein, as long as the physical and juridical

¹⁹ Prajitno, A. A. (2013). *Pengetahuan Praktis Tentang Apa dan Siapa PPAT*. Malang: Selaras.

²⁰ Parlindungan, A. P. (1999). *Pendaftaran tanah di Indonesia:(berdasarkan PP 24 Tahun 1997) dilengkapi dengan Peraturan Jabatan Pejabat Pembuat Akta Tanah (PP 37 Tahun 1998)*: Mandar Maju.

data is in accordance with the data in the survey letter and land book of the relevant right."²¹

The term "strong" here is not equated with the meaning of "absolute" or "not subject to challenge." Regarding the probative strength of land right certificates, Maria SW Sumardjono states that "strong" means "must be considered correct as long as it cannot be proven otherwise in court with other evidence." Based on this, it can be concluded that a certificate is strong evidence, but the legal strength of land right certificates is not absolute. This relates to the publication system adopted by Indonesian land law, namely the negative publication system that contains positive elements.²² The meaning of negative is that the information provided can still be changed and corrected if proven incorrect. The positive meaning is that registration officials are not passive; they do not just accept what is submitted and stated by the parties requesting registration. The legal certainty assurance from the issued certificates includes land boundaries, location, size, and registered owner.²³

Generally, as long as the formalities and procedures for creating credit agreement deeds and encumbering Mortgage Rights are fulfilled, both notaries and PPAT who create deeds, as well as parties involved in the agreement, namely the initial creditor, debtor, and new creditor, are considered acting in good faith and will be legally protected.

In the field of civil law, relationships among legal subjects of equal standing, namely among citizens, are regulated. In the field of public law, relationships between unequal legal subjects, namely between citizens and the state, are regulated. If the law that regulates the relationship between citizens and the state arises from the order of the state, the law regulating the relationship among citizens arises from agreements confirmed by contracts.²⁴

The Principle of Legal Certainty, according to Reinhold Zippelius, is a principle in both national and international legal realms that states that legal subjects have clarity about their rights and obligations in relation to other legal subjects. For legal subjects to obtain clarity, they need to have orientation certainty (*certitudo*) and realization certainty (*securitas*), meaning certainty that legal norms are understood, followed, and enforced.²⁵

The concepts of justice and legality in the field of security law in Indonesia interpret the UUHT as the legal umbrella for other national legal regulations according to their levels and degrees. UUHT has binding power on the contents (material content) of those legal regulations. This concept, when connected to the second principle of Pancasila as the source of national law for the Indonesian nation, essentially instructs maintaining

²¹ Nae, F. E. (2013). Kepastian Hukum Terhadap Hak Milik atas Tanah yang Sudah Bersertifikat. *Lex Privatum*, 1(5).

²² Victhori Harza, Nuzul Rahmayani, & Mahlil Adriaman. (2023). Kekuatan Hukum Atas Kontrak Sewa Beli Rumah Negara Golongan Iii Terhadap Tanah Di Wilayah Hukum Kantor Pertanahan Bukittinggi Berdasarkan Ketentuan Uu Nomor. 72 Tahun 1957: Universitas Muhammadiyah Sumatera Barat. *YUSTISI*, 10(3), 281–294. <https://doi.org/10.32832/yustisi.v10i3.15294>

²³ Prajitno, A. A. (2013). Pengetahuan Praktis Tentang Apa dan Siapa PPAT. *Malang: Selaras*.

²⁴ Marpi, Y. (2023). Perlindungan Hukum Profesionalitas Dosen Swasta Terhadap Hak Dan Kewajiban Menurut Undang-Undang Nomor 14 Tahun 2005 Tentang Guru Dan Dosen: Indonesia. *Jurnal Nalar Keadilan*, 3(1), 59-79.

²⁵ Kusumohamidjojo, B. (2019). *Teori Hukum: Dilema antara Hukum dan Kekuasaan (Edisi 2)*: Yrama Widya.

harmonious relations among individuals and groups to create a just and civilized society.²⁶

III. CONCLUSION

Based on the research, it can be concluded that certificate verification is important not only as a formality but also as the application of the precautionary principle, both for PPAT in carrying out their duties in creating deeds and for the land certificate owners in the community. For PPAT, certificate verification is conducted in accordance with legal regulations to ensure legal protection for all parties involved and for the PPAT creating the deed. Even though it may not be in preparation for a legal transfer of land rights or encumbrance of land rights, as a preventive measure, land certificate owners should periodically conduct checks on their certificates. This is done to ensure the conformity of physical and juridical data between the land certificate owned and the data stored in the local Land Office, aiming to establish legal certainty. The government is advised to enhance efforts to promote awareness of electronic certificate verification and the importance of regular electronic certificate checks by certificate owners as a preventive measure to detect potential violations of legitimate land rights by other parties.

REFERENCES

- Amalia, R., Arifin, M., & Mansar, A. (2021). Tanggung Jawab Notaris Yang Membatalkan Akta Atas Permintaan Penjual Secara Sepihak Dalam Perspektif Undang-Undang Jabatan Notaris. *Jurnal Yuridis*, 8(1), 102–119. <https://doi.org/10.35586/jyur.v8i1.2878>.
- Arrizal, N. Z., & Fauzi, M. A. (2023). Aspek Hukum Sertifikat Elektronik Dalam Sistem Pendaftaran Tanah Di Indonesia. *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum*, 9(1).
- Asyura, K., Bahri, S., Husna, N., & Ghina, F. (2019). Legality of Testament Cancellation Law and Property Ownership According to Fiqh Al-Syafi'iyah. *Britain International of Humanities and Social Sciences (BloHS) Journal*, 1(2).
- Etwiory, H. (2012). Kajian Yuridis Kekerasan Dalam Rumah Tangga (Suatu Studi Tentang Hubungan Hukum Privat dan Hukum Publik). *Lex Crimen*, 1(3).
- Friedman, W. (1971). *The State and the rule of Law in A Mixed economy*: Stevens & Sons.
- Guntara, R. (2022). *Pelaksanaan Peralihan Pelayanan Pendaftaran Tanah Manual Menjadi Elektronik di Kabupaten Cirebon*. Universitas Islam Sultan Agung (Indonesia).
- Hasan, H., & Rusli, A. (2021). Keterlibatan Pemerintah dalam Penyelesaian Sertifikat Ganda di Kota Makassar. *Madika: Jurnal Politik dan Governance*, 1(1).

²⁶ Suyatno, H. A., & Sh, M. (2018). *Kepastian Hukum Dalam Penyelesaian Kredit Macet: Melalui Eksekusi Jaminan Hak Tanggungan Tanpa Proses Gugatan Pengadilan*: Prenada Media.

- Hermansyah, S. (2020). *Hukum Perbankan Nasional Indonesia: Edisi 3*: Prenada Media.
- HS, H. S., & SH, M. (2021). *Teknik Pembuatan Akta Badan Usaha di Era Digital*: Sinar Grafika.
- Karimuddin, K. (2020). The History Of The King's Jurisdiction And The Right Of The King's Authority In Judging (An Interpretation of the Origins of Civil and Criminal Cases). *SYARIAH: Journal of Islamic Law*, 2(1).
- Kusumohamidjojo, B. (2019). *Teori Hukum: Dilema antara Hukum dan Kekuasaan (Edisi 2)*: Yrama Widya.
- Marpi, Y. (2023). Perlindungan Hukum Profesionalitas Dosen Swasta Terhadap Hak Dan Kewajiban Menurut Undang-Undang Nomor 14 Tahun 2005 Tentang Guru Dan Dosen: Indonesia. *Jurnal Nalar Keadilan*, 3(1).
- Nae, F. E. (2013). Kepastian Hukum Terhadap Hak Milik atas Tanah yang Sudah Bersertifikat. *Lex Privatum*, 1(5).
- Nugraheni, R. Y., Priyadi, B. P., & Kismartini, K. (2021). Inovasi Pelayanan Pertanahan Pengecekan Sertifikat online. *PERSPEKTIF*, 10(1).
- Prawira, I., & Yoga, G. B. (2016). Tanggung Jawab PPAT terhadap Akta Jual Beli Tanah. *Jurnal Ius*, 4(1).
- Prayitno, I. (2017). Telaah terhadap Pergeseran Kewenangan Notaris Setelah Terbitnya Peraturan Menteri Hukum Dan Ham Republik Indonesia Nomor 9 Tahun 2017 Tentang Penerapan Prinsip Mengenali Pengguna Jasa Bagi Notaris. *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 1(1).
- Putra, P. S., & SH, M. (2019). Reforma agraria hambatan dan tantangan di Kabupaten Karawang. *Jurnal Ilmiah Hukum DE'JURE: Kajian Ilmiah Hukum*, 4(1).
- Ramadhani, R. (2021). Pendaftaran tanah sebagai langkah untuk mendapatkan kepastian hukum terhadap hak atas tanah. *SOSEK: Jurnal Sosial dan Ekonomi*, 2(1).
- (2022). Kedudukan Hukum Perjanjian Perikatan Jual Beli (PPJB) dalam Kegiatan Pendaftaran Peralihan Hak Atas Tanah. *IURIS STUDIA: Jurnal Kajian Hukum*, 3(1).
- Runturambi, N. M. J., Katiandagho, T. M., & Rumagit, G. A. (2022). Efektivitas Pelayanan Publik Di Kantor Pertanahan Kota Manado. *AGRI-SOSIOEKONOMI*, 18(3).
- Sari, R. M. P., Purnama, S., & Gunarto, G. (2018). Peranan PPAT Dalam Pensertifikatan Tanah Akibat Jual Beli. *Jurnal Akta*, 5(1).
- Suriyani, M. (2015). Legalitas Kewenangan Notaris/PPAT Dalam Menahan Sertifikat Hak Milik Karena Adanya Pembatalan Jual Beli. *Jurnal Hukum Samudra Keadilan*, 10(2).

- Suyatno, H. A., & Sh, M. (2018). *Kepastian Hukum Dalam Penyelesaian Kredit Macet: Melalui Eksekusi Jaminan Hak Tanggungan Tanpa Proses Gugatan Pengadilan*: Prenada Media.
- Vichthori Harza, Nuzul Rahmayani, & Mahlil Adriaman. (2023). Kekuatan Hukum Atas Kontrak Sewa Beli Rumah Negara Golongan Iii Terhadap Tanah Di Wilayah Hukum Kantor Pertanahan Bukittinggi Berdasarkan Ketentuan Uu Nomor. 72 Tahun 1957: Universitas Muhammadiyah Sumatera Barat. *YUSTISI*, 10(3), 281–294. <https://doi.org/10.32832/yustisi.v10i3.15294>
- Wibowo, S. G., Susanto, F., & Prihadyatama, A. (2023). Implikasi Hukum Pengecekan Sertifikat Tanah Secara Online. *Hakim*, 1(3).
- Barkatullah, A. H. (2017). *Hukum Transaksi Elektronik di Indonesia: sebagai pedoman dalam menghadapi era digital Bisnis e-commerce di Indonesia*: Nusamedia, Bandung : Nusa Media.
- Ismail, P., Hasan, S., Syaflin, H., Karimuddin, K., Imam, A., Muhammad, F. I., ... & Desi, A. (2021). *Fiqh Mu'amalah Kontemporer*, Pidie: Penerbit Muhammad Zaini.
- Kesuma, D. (2022). *Reformasi Pelayanan Publik-Damera Press*: Damera Press.
- Kusumaatmadja, M. (2002). *Konsep-konsep hukum dalam Pembangunan*.
- Parlindungan, A. P. (1999). *Pendaftaran tanah di Indonesia:(berdasarkan PP 24 Tahun 1997) dilengkapi dengan Peraturan Jabatan Pejabat Pembuat Akta Tanah (PP 37 Tahun 1998)*: Mandar Maju.
- Prajitno, A. A. (2013). *Pengetahuan Praktis Tentang Apa dan Siapa PPAT. Malang: Selaras*.
- Yuliandi, S. S. T. (2021). *GAMPONG AGRARIA*: Media Nusa Creative (MNC Publishing).
- Zulfa, F. R. (2021). *Analisis Yuridis Tentang Pelayanan Hak Tanggungan Terintegrasi Secara Elektronik*. Universitas Islam Sultan Agung (Indonesia).
- Rasyuddin, Rizal. (2022) Sosialisasi Kebijakan dan Peraturan ke-PPAT-an, Kepala Subdirektorat Pengelolaan PPAT Direktorat Pengaturan Tanah Komunal, Hubungan Kelembagaan dan PPAT Kementerian ATR/BPN RI disampaikan dalam rangka Kunjungan Mahasiswa Prodi Magister Kenotariatan Fakultas Hukum Universitas Sultan Agung Semarang.