



Legal Protection for Land Rights Owners on Cancellation of Certificates by the Court Due to Overlapping

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ABSTRACT

This research examines the overlapping land ownership dispute between Certificate of Land Ownership (SHM) No. 39/Desa Pulau Sari of 1978, owned by the heirs of Rusdiansyah Bin Haji Sabri Razak, and SHM No. 748/Desa Bingkulu of 2010, owned by Sundariati, based on Decision No. 11/G/2021/PTUN.Bjm. The main issue discussed is the annulment of SHM No. 748 by the State Administrative Court of Banjarmasin and the legal protection available to the certificate holder whose certificate was annulled. This study uses a normative approach with qualitative analysis of secondary data, including laws, jurisprudence, and related literature. The main finding of this research shows that discrepancies in the land registration system, the transition to digital measurement, and administrative weaknesses led to overlapping land certificates. In this case, although the annulment of the certificate by the court provides legal certainty for the previous right holder, the holder of the annulled certificate, Sundariati, may seek protection through a tort claim based on Article 1365 of the Indonesian Civil Code. This research emphasizes the need for reforms in the land registration system to enhance protection for bona fide right holders and prevent future disputes.

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1. Introduction

The land is a strategic resource in national development, not only serving as a place of residence but also as a primary asset in economic activities, investment, and infrastructure development.¹ In Indonesia, the regulation regarding land rights and control is comprehensively regulated in the Basic Agrarian Law (UUPA), specifically Law No. 5 of 1960. This law emphasizes that all land rights are derived from the state's authority, which is to be used to the greatest extent possible for the prosperity of the people, as stated in Articles 1 paragraph (1) and 2 paragraphs (1) and (2) of the UUPA.²

The national land law system recognizes various forms of land rights, such as ownership rights, business use rights, building use rights, and usage rights, each of which has its own characteristics and legal protection.³ The acquisition of land rights depends on the land's status, whether it is State's land or private land. State's land can be requested through an administrative procedure. In contrast, private land can be transferred through sale, gift, exchange, or inheritance.⁴ To obtain formal legal protection, all transfers of land rights must be registered with the National Land Agency (BPN) to obtain proof of ownership (land certificate), as stipulated in Article 19 of the UUPA⁵ and Government Regulation No. 24 of 1997 concerning Land Registration.

However, although land certificates are authentic proof of land ownership intended to guarantee legal certainty, overlapping certificates are not uncommon in practice.⁶ This phenomenon highlights a gap between formal legal certainty and substantive protection for landowners. The causes include differences in measurement methods, inconsistencies in spatial data, and weaknesses in the registration system, including issues in the digitalization process through the TM-3° coordinate system in the Land Activity Computerization Program (KKP).

¹ King Faisal Sulaiman, "Polemik Fungsi Sosial Tanah dan Hak Menguasai Negara Pasca UU Nomor 12 Tahun 2012 dan Putusan Mahkamah Konstitusi Nomor 50/PUU-X/2012," *Jurnal Konstitusi* 18, no. 1 (2021): 091–111, <https://doi.org/10.31078/jk1815>.

² Arie S Hutagalung et al., *Hukum Pertanahan Di Belanda dan Indonesia, Pustaka Larasan*, 2012, 162.

³ Yustisia Setiarini Simarmata, "Kedudukan Hukum Pihak Yang Menguasai Objek Hak Atas Tanah Terkait Proses Peralihan Hak Yang Belum Sempurna," *Jurnal Indonesia Notary* 3, no. 2 (2021): 1–17.

⁴ Marthin Luther. Lambonan Rumokoy, Jonathan Marhien. Ramisan, Donald A., "Peralihan Hak Atas Tanah Negara Berdasarkan Prinsip Reforma Agraria Menurut Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria," *Lex Privatum* 7, no. Vol. 12 No. 3 (2023): Lex Privatum (2023): 1–19, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/52316>.

⁵ See Article 19 of Law Number 5 of 1960 concerning the Basic Agrarian Principles, which stipulates that land registration is carried out to guarantee legal certainty, including measurement, recording, and issuance of certificates of title, with a provision for fee exemptions for underprivileged communities.

⁶ Lia Malini Sari dan Lathifah Hanim, "Kepastian Hukum Dalam Penyelesaian Sengketa Timbulnya Tumpang Tindih Sertifikat Hak Milik (SHM) Atas Tanah (Studi Kasus Di Kantor Pertanahan/Agraria Dan Tata Ruang Kota Pontianak)," *Jurnal Akta* 4, no. 1 (2017): 33, <https://doi.org/10.30659/akta.v4i1.1552>; Rumokoy, Jonathan Marhien. Ramisan, Donald A., "Peralihan Hak Atas Tanah Negara Berdasarkan Prinsip Reforma Agraria Menurut Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria."

The issue of overlapping land rights has been a concern in previous studies from various perspectives. Utomo (2023) highlights the root problem in the national land registration system, which adopts a negative publication system with positive elements.⁷ In this system, land certificates issued by the National Land Agency (BPN) do not guarantee freedom from potential legal disputes in the future, thus making landowners, particularly those acting in good faith, vulnerable. Utomo suggests the need for reform in the land registration system to strengthen legal protection.

Meanwhile, Teguh (2023) examines the role of the Supreme Court in resolving disputes arising from the issuance of duplicate certificates. Data analyzed from the last four years indicates more than 31,000 land cases, with 37% disputed. Teguh emphasizes the importance of Supreme Court jurisprudence in providing legal certainty, primarily through the principle that the first-issued certificate holds more legal weight.⁸ However, this study also points to the limited research that deeply explores how the Supreme Court builds legal protection for those harmed by the existence of duplicate certificates.

Adding a more concrete juridical perspective, Rasyid and Winanti (2023) studied Supreme Court Decision No. 3061 K/Pdt/2022. This research revealed that the judge's considerations in the case leaned more towards procedural legal certainty rather than justice and utility principles.⁹ The dominance of a formalistic approach in this decision risks overlooking the social realities and losses experienced by the harmed parties. This finding reinforces the argument that Indonesia's land law system still requires a more holistic approach based not only on formal legality but also on substantive justice and the sociological impact of land conflicts.

Although several studies on overlapping land rights have been conducted, most still focus on administrative, technical, or procedural aspects. There is still a gap in research that comprehensively discusses the legal implications of the cancellation of certificates that have been legally registered, as well as the forms of legal protection for good-faith holders of such rights. This study aims to critically explore the forms of legal protection that should be available to holders of legitimate land rights in good faith, especially when the court cancels their certificates due to overlapping. This focus makes the issue of certificate cancellation not only an administrative problem but also a test of the legal system's commitment to substantial justice.

⁷ Setiyo Utomo, "Problematika Tumpang Tindih Status Kepemilikan Tanah," *Jurnal Hukum Bisnis Bonum Commune* 6 (2023): 53–61, <https://doi.org/10.30996/jhbbc.v6i2.8356>.

⁸ Pri Pambudi Teguh, "Role of The Supreme Court in Legal Dispute Settlement Against Property Certificate Holders With Multiple Certificate Issuance," *WSEAS Transactions on Business and Economics* 20 (2023): 1439–47, <https://doi.org/10.37394/23207.2023.20.127>.

⁹ Muhammad Ridwan Rasyid dan Atik Winanti, "Perlindungan Hukum Terkait Pemegang Hak Milik Atas Tanah dalam Kepemilikan Sertifikat Ganda (Studi Kasus Putusan Mahkamah Agung Nomor 3061 K/Pdt/2022)," *Al Qalam: Jurnal Ilmiah Keagamaan dan Kemasyarakatan* 17, no. 4 (2023): 2271, <https://doi.org/10.35931/aq.v17i4.2366>.

2. Legal Material and Methods

This study adopts a doctrinal legal research method with a descriptive-analytical character. The central objective is to systematically examine the legal norms regulating overlapping land ownership and identify the legal remedies available to parties who suffer losses due to certificate annulment. The research employs a statute-based approach to examine relevant regulatory frameworks, including laws on land registration, inheritance, and the legal validity of land deeds. In addition, a case-based approach is used to assess legal reasoning and judicial considerations in Decision No. 11/G/2021/PTUN.Bjm and other court rulings concerning cadastral mapping conflicts.

The data utilized in this study consists entirely of secondary legal sources. These include primary legal materials such as statutory regulations and court decisions—specifically the Basic Agrarian Law (Law No. 5 of 1960) and Government Regulation No. 24 of 1997 on Land Registration. Secondary legal materials include academic literature, journal articles, and other scholarly publications, while tertiary materials refer to legal dictionaries and encyclopedias. All sources were gathered through documentary research from official legal databases and reputable academic repositories.

The data are analyzed using a qualitative and interpretative approach, focusing on the contextual reading of legal norms. The analysis aims to identify the legal basis, administrative errors, and judicial reasoning in cases of overlapping land claims. Through this approach, the study seeks to construct a normative framework for the legal protection of legitimate landowners and offer normative and policy recommendations for enhancing land administration and dispute resolution mechanisms in the future.

3. Results and Discussion

3.1. Reconstruction of Legal Facts and Chronology of Ownership Conflict

The land dispute in Bingkulu Village, Tambang Ulang Sub-district, Tanah Laut Regency, South Kalimantan, reflects the complexity of land issues caused by overlapping land ownership certificates legally issued by authorized agencies. In this case, as referenced in the decision of the Banjarmasin Administrative Court in case No. 11/G/2021/PTUN.Bjm, there were two certificates at the center of the dispute:¹⁰

1. Certificate of Ownership (SHM) No. 39 of 1978, under the name of the heirs of Rusdiansyah Bin H. Sabri Razak—namely Hj. Mahanny, Hanura Ampriyadi, Irfan

¹⁰ Mahkamah Agung, “Putusan Nomor : 11/G/2021/PTUN.BJM,” *Direktorat Putusan Mahkamah Agung Republik Indonesia*, 2021, 50.

- Rusmadi, and Irma Rusyanti. This certificate covers an area of 40,000 m², with Situation Map No. 48/1978, issued on July 12, 1978.
2. Certificate of Ownership (SHM) No. 748 of 2010, under the name of Sundariati, with an area of 19,977 m², based on Deed of Sale and Purchase No. 1.092/2016 between Sundariati and Tajjudin Norman. This certificate was issued by the Tanah Laut Land Office on November 29, 2010, based on a Decision Letter of the Head of the Land Office and a Land Possession Statement from 1996.¹¹

The conflict began when the heirs claimed ownership of their inherited land, which they had physically occupied for a long time. However, it had not been re-registered or maintained administratively. On the other hand, Tajjudin Norman obtained the SHM based on physical possession and administrative documents from the village government, and later sold the land to Sundariati.

After SHM No. 748 was issued and rights were transferred, the heirs (plaintiffs) filed an administrative objection with the Land Office upon receiving a physical copy of the disputed object on August 16, 2021. The response from the defendant was conveyed through Letter No. 950.A/600.13-63.01/IX/2021 dated September 3, 2021, received by the plaintiffs on September 13, 2021. As this response failed to address the substantive issues, the plaintiffs filed an administrative appeal with the superior authority—the Head of the South Kalimantan Provincial Land Office—on September 14, 2021. However, the reply from the Provincial Land Office, Letter No. 1197/300.8/IX/2021 dated September 30, 2021, received on October 3, 2021, also did not provide a substantive solution. As a result, the plaintiffs pursued legal action through a lawsuit at the Banjarmasin Administrative Court.¹²

During the trial, it was found that SHM No. 748 geographically overlapped with SHM No. 39, which had been issued earlier. However, the older certificate was no longer recorded or digitally mapped in the national land administration system, which had transitioned from an analog system to the TM-3^o coordinate system under the Land Activities Computerization Program (KKP).¹³ Consequently, SHM No. 748 was technically recognized by the system as unclaimed land, although it had been historically owned and certified.

¹¹ Tajjudin Norman owns and controls the land sold to Sundariati based on the "Decision of the Head of the Land Office of Tanah Laut Regency No. 165-14.2.1-43.8-2010 regarding the Granting of Ownership Rights in the Name of Tajuddin Norman for Land in Bingkulu Village, Tambang Ulang District, Tanah Laut Regency, dated November 11, 2010," considering the right title in the form of a Land Control Certificate No. 593.2/02/Pem, issued by the Head of Bingkulu Village on March 20, 1996, and acknowledged by the Sub-district Head of Tambang Ulang with No. 593.2/16/1996.

¹² Agung, "Putusan Nomor : 11/G/2021/PTUN.BJM," 55–56.

¹³ Agung, 20.

Mapping via the "Sentuh Tanahku" application showed the existence of the land parcel registered under Sundariati but failed to display the parcel owned by Rusdiansyah's heirs. This highlights the indication that SHM No. 39 was not integrated into the digital system, leading to its omission during technical validation when issuing the new certificate. This illustrates a weakness in the land administration system, which has yet to accommodate historical data comprehensively.

The decision of the Banjarmasin Administrative Court in case No. 11/G/2021/PTUN.Bjm ruled that the issuance of SHM No. 748 was legally flawed as it violated the principle of legal certainty as stipulated in Article 1 paragraph (3) of the 1945 Constitution and the land registration principles outlined in Article 19 paragraph (2)(c) of Law No. 5 of 1960 and Article 32 paragraph (1) of Government Regulation No. 24 of 1997. Issuing a new certificate on land that already has legitimate legal rights constitutes a violation of the *lex prior* principle and the non-overlapping principle in the land rights system.

This case underlines the importance of integrating spatial and historical data in the digital land system and the need for map and document reconciliation before issuing new certificates. Administrative proof should be formal but also historical, and substantive, which is crucial in determining the legality of land certificates. Thus, land digitalization without thorough synchronization of historical data risks generating systemic legal uncertainty and harming parties who should be protected.

Overall, the reconstruction of legal facts, in this case, shows that although certificates may be issued by authorized institutions, administrative flaws, and failures in data validation can lead to the revocation of rights and undermine substantive justice in land dispute resolution.

3.2. *Juridical Analysis of Overlapping Land Certificates*

The issue of overlapping land certificates in Indonesia reflects fundamental problems within both normative and administrative aspects of land administration.¹⁴ Under the framework of national agrarian law, the land registration system, as stipulated in Article 19 of Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA) aims to ensure legal certainty over land ownership. This is further clarified in Article 4 paragraph (1) of Government Regulation No. 24 of 1997, which states that land rights holders shall be issued a land title certificate to provide legal certainty and protection. Furthermore,

¹⁴ Sahlan, Nurul Miqat, dan Susi Susilawati, "Realizing 'Deconstructional' Justice Through Agrarian Civil Law Reform: A Review Of Jacques Derrida's Theory," *Jurnal IUS Kajian Hukum dan Keadilan* 12, no. 3 (27 Desember 2024): 588–606, <https://doi.org/10.29303/ius.v12i3.1559>.

Article 32 paragraph (1) affirms that the certificate serves as strong evidence regarding the physical and legal data of the land unless proven otherwise in court.¹⁵

In this case, the Land Office of Tanah Laut Regency issued Land Title Certificate (SHM) No. 748 of 2010 over a parcel that was already historically registered under SHM No. 39 of 1978. Although SHM No. 748 was issued through formal administrative procedures, the failure to recognize prior rights indicates a lack of due diligence and a violation of general principles of good governance.

From an administrative law perspective, the action of the land official in issuing a new certificate over land that already has an existing registered title violates the principles of legal certainty, accuracy, and orderly administration, as stipulated in Article 10 of the Law on Government Administration¹⁶ Article 53 paragraph (2) of the Law on State's Administrative Court.¹⁷ The principle of legal certainty demands that every administrative decision should not cause ambiguity over land status. In contrast, the principle of accuracy obliges officials to verify data and documents before issuing administrative decisions.¹⁸ In this case, the land office should have ensured the absence of previously registered rights over the parcel. The failure to conduct this verification constitutes administrative negligence, leading to formal and substantive legal defects.

Furthermore, the *lex prior derogat legi posteriori* principle in land law requires that earlier registered rights take precedence. Thus, the issuance of SHM No. 748, which overlaps with and is issued later than SHM No. 39, constitutes a violation of the priority principle in land tenure. It also breaches the non-overlapping principle, which states that a single land parcel cannot be lawfully granted to two legal subjects.¹⁹ From a civil law perspective, such a situation potentially results in an object defect in legal acts due to competing claims of lawful ownership over the same land.

A key contributing factor to this overlap is the failure of the digital land administration system to integrate historical land data fully.²⁰ The application of the TM-3° coordinate system and digital land mapping under the Land Activity Computerization

¹⁵ Rezeki Aldila Rajab, Bambang Eko Turisno, dan Anggita Doramia Lumbanraja, "Sertifikat Hak Atas Tanah Dalam Kepastian Hukum Pendaftaran Tanah," *Notarius* 13, no. 2 (2020): 642–54, <https://doi.org/10.14710/nts.v13i2.31085>.

¹⁶ Presiden Republik Indonesia, "Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintah," (*Lembaran Negara Republik Indonesia Tahun 2014, Nomor 292, Penjelasan Dalam Tambahan Lembaran Negara Republik Indonesia Nomor 5601*), 2014.

¹⁷ Presiden Republik Indonesia, "Undang-Undang Nomor 9 Tahun 2004 tentang Perubahan Atas Undang-Undang Nomor 5 tahun 1986 tentang Peradilan Tata Usaha Negara," (*Lembaran Negara Republik Indonesia Tahun 2004, Nomor 35, Penjelasan Dalam Tambahan Lembaran Negara Republik Indonesia Nomor 4380*), 2004.

¹⁸ Desi Apriani dan Arifin Bur, "Kepastian Hukum Dan Perlindungan Hukum Dalam Sistem Publikasi Pendaftaran Tanah Di Indonesia," *Jurnal Bina Mulia Hukum* 5, no. 2 (2020): 220–39, <https://doi.org/10.23920/jbmh.v5i2.11>.

¹⁹ Teguh, "Role of The Supreme Court in Legal Dispute Settlement Against Property Certificate Holders With Multiple Certificate Issuance."

²⁰ Muhammad Ilham Arisaputra et al., "Akuntabilitas Administrasi Pertanahan Dalam Penerbitan Sertifikat," *Mimbar Hukum* 29, no. 2 (2017): 276, <https://doi.org/10.22146/jmh.16383>.

Program (KKP)—without validating prior analog data and documentation—poses significant administrative risks. In legal terms, a land certificate functions as administrative evidence and juridical assurance of a person's right over land. As established in Supreme Court jurisprudence, the validity of a land certificate is assessed not only based on its administrative process but also the material validity of the subject and object of land rights.²¹

Therefore, the issuance of SHM No. 748 in 2010, which overlaps with SHM No. 39 of 1978, is administratively flawed and substantively invalid. This situation highlights the urgent need for a thorough evaluation of the current land registration system, which still fails to fully embody the concept of *Recht Kadaster*—a registration system that guarantees complete legal certainty and protection for legitimate rights holders.²² Such a system must ensure that all registration data is transparent, accurate, and reliable as the primary reference for land transactions and dispute resolution.

This analysis confirms that legal protection within Indonesia's land system remains ineffective in overlapping certificates, especially when administrative supervision and document reconciliation are lacking. Future land policy must ensure systemic integration of regulation, information technology, and agrarian legal justice. Furthermore, it is essential to reassert that the role of the State's is not merely to provide land registration services, but also to guarantee the legal truth of the rights being registered, by Article 33 paragraph (3) of the 1945 Constitution, which states that land and natural resources shall be controlled by the State's and used for the most significant benefit of the people.²³

3.3. *Legal Awareness and the Subjective Conduct of the Parties*

In addition to systemic weaknesses in land administration, the legal awareness and conduct of the parties involved also play a significant role in land disputes. In this case, both parties demonstrated shortcomings in fulfilling their legal and administrative obligations over the disputed land.

The heirs of the holder of Land Certificate (SHM) No. 39 of 1978 failed to actively maintain the administrative status of their certificate despite physically occupying and

²¹ Mega Ratna Pratiwi, Nur Adhim, dan IGA Gangga Santi Dewi, "Kepastian Hukum Bagi Pemegang Sertipikat Hak Pakai Atas Tanah Dalam Hal Terdapat Pembatalan Sertipikat Melalui Putusan Pengadilan (Studi Kasus Putusan Mahkamah Agung Nomor : 427 K/TUN/2017)," *Diponegoro Law Journal* 9, no. 1 (2020): 2588–93, <https://doi.org/https://doi.org/10.14710/dlj.2020.26154>.

²² Suparjo Sujadi, "Status Tanda Pembayaran Pajak Hasil Bumi (Refleksi Ketidakharmonisan Sistem *Recht Kadaster* Dan *Fiscaal Kadaster* Memberlkan Keadilan)," *Jurnal Hukum & Pembangunan* 38, no. 2 (2008): 277, <https://doi.org/10.21143/jhp.vol38.no2.172>.

²³ Iwan Permadi dan Irham Azizi, "Agrarian Reform: Implementation and Exploration of Land Conflicts in Several Countries (A Bibliometric and Content Analysis of International Research on the Agrarian Reform Concept)," *WSEAS Transactions on Environment and Development* 20 (2024): 820–34, <https://doi.org/10.37394/232015.2024.20.77>.

maintaining the land for an extended period. According to Article 32 paragraph (2) of Government Regulation No. 24 of 1997, individuals who claim ownership of land but have not registered it or fail to preserve the validity and record of their rights may lose legal protection if another party in good faith acquires and occupies the land for more than five years without being challenged.²⁴ This highlights the importance of active administrative maintenance of land rights by previous right holders.

On the other hand, the land buyer, Sundariati, was also negligent in conducting due diligence before the sale and purchase transaction. Based on information from the previous discussion, there is no evidence that Sundariati verified the land status with the land office or confirmed the boundaries with adjacent landowners. Yet, under Article 23 paragraph (1) of the Basic Agrarian Law (UUPA) and Article 37 of Government Regulation No. 24 of 1997, the transfer of land rights must be recorded and carried out with due care to avoid disputes.

Negligence in verifying the land's legal status and physical condition constitutes legal fault (*culpa*), which may have implications in civil litigation. In civil law, particularly Articles 1320 and 1335 of the Indonesian Civil Code, the validity of a land sale agreement depends on the object being lawful and free of legal issues.²⁵ If it is later discovered that the object of the sale belongs to another party who holds a prior registered certificate, the agreement may be nullified or considered an unlawful act.

In this case, both parties also showed a lack of understanding of administrative mechanisms available to resolve conflicts before resorting to litigation. Indonesia's land law system provides for administrative objections and appeals to higher authorities before filing a claim in the administrative court. Although these mechanisms were eventually pursued, they were only initiated after the overlapping certificate was issued and the land had changed hands.

Moreover, public legal awareness regarding the obligation to maintain accurate juridical and physical land data—including any changes affecting ownership, such as inheritance, donation, or sale—is still relatively low. In the national land registration system, as stipulated in Article 36 of Government Regulation No. 24 of 1997, every change in data must be reported to prevent disharmony between physical and juridical data.

²⁴ Iwan Permadi, "Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda Dengan Cara Itikad Baik Demi Kepastian Hukum," *Yustisia Jurnal Hukum* 5, no. 2 (2016): 448–67, <https://doi.org/10.20961/yustisia.v95i0.2824>.

²⁵ Khairunnisa Khairunnisa dan Mohamad Fajri Mekka Putra, "Akibat Hukum Perjanjian Nominee Hak Atas Tanah Berkaitan Dengan Kepemilikan Warga Negara Asing," *Al-Adalah: Jurnal Hukum dan Politik Islam* 7, no. 2 (2022): 151–72, <https://doi.org/10.35673/ajmpi.v7i2.2655>.

Thus, beyond systemic flaws and administrative negligence by land officials, this case also highlights the need to enhance legal awareness among the public. Both elements must work in tandem to establish true legal certainty and prevent recurring land disputes in the future.

3.4. *Legal Remedies for Holders of Revoked Land Certificates*

The decision of the Banjarmasin Administrative Court (PTUN) in Case No. 11/G/2021/PTUN.Bjm annulled Land Certificate (SHM) No. 748/Bingkulu Village under the name of Sundariati on the grounds of legal defect. While this ruling legally strengthens the position of the previous right holder—in this case, the heirs of SHM No. 39 of 1978—it raises a new issue: what form of legal protection is available for the certificate holder whose title has been revoked, particularly if that person is a bona fide purchaser?

In civil law doctrine, a good faith purchaser who acquires land rights through a valid sale and purchase agreement under Article 1320 of the Indonesian Civil Code (KUHPerdata) retains the right to claim compensation if it is later discovered that the object of the transaction belongs to another party.²⁶ In this case, Sundariati holds a legal position as an injured party due to a defective object in the sale and purchase agreement with Tajjudin Norman. Therefore, the legal remedy available to her is to file a tort claim (*onrechtmatige daad*) under Article 1365 of the Civil Code, which states: "*Every unlawful act that causes harm to another person obliges the party at fault to compensate for the damage.*"

To invoke Article 1365, the claimant must prove four elements: (1) an unlawful act; (2) fault; (3) damage; and (4) a causal link between the act and the damage.²⁷ In this context, Tajjudin Norman, as the seller of land without valid ownership, committed an unlawful act—either by negligently failing to verify the land's status or by knowingly selling land that had already been registered under someone else's name. This constitutes a fault that caused Sundariati financial harm.

Furthermore, legal protection for holders of revoked certificates can also be examined from the perspective of substantive justice. In practice, the annulment of a land certificate by an administrative court only targets the legality of the public official's actions, not the validity of the civil transaction between buyer and seller. This is evident in Decision No. 11/G/2021/PTUN.Bjm, which annulled SHM No. 748/Bingkulu Village

²⁶ Andi Dimah Laila Nurfaiqah dan Tjempaka Tjempaka, "Legal Protection for Buyers of Joint Assets Sold Without Wife's Consent," *Substantive Justice International Journal of Law* 6, no. 2 (2023): 94–107, <https://doi.org/10.56087/substantivejustice.v6i2.256>.

²⁷ Jordy Herry Christian, "Kajian Yuridis Perbuatan Melawan Hukum Sebagai Faktor Pembatalan Lelang Atas Objek Jaminan," *Lex Scientia Law Review* 3, no. 2 (2019): 205–18, <https://doi.org/10.15294/lesrev.v3i2.35401>.

dated November 29, 2010, but did not annul the Sale and Purchase Deed (AJB) No. 1.092/2016 dated December 1, 2016, executed by Public Notary Mekar Hidayati, S.H. between Tajjudin Norman and Sundariati. Therefore, Sundariati still retains the right to demand fulfillment of obligations or reimbursement for the transaction, including material and immaterial losses, through a general court.

According to Philips M. Hadjon, legal protection for citizens can be divided into two forms: preventive and repressive legal protection. In this case, Sundariati's situation falls under repressive legal protection, as it arises after a State's official's decision revoked her rights and aims to restore the condition caused by the legal violation. Under this concept, the legal steps available to Sundariati include filing a tort claim to annul the Sale and Purchase Deed No. 1.092/2016 and seeking compensation in the District Court. Tort law serves as a set of legal principles designed to regulate harmful behavior, assign responsibility for damages arising from social interactions, and provide remedies for victims through appropriate legal claims.²⁸

From the perspective of land law principles, this case also underscores the need to strengthen protection mechanisms for third parties acting in good faith. The national land registration system should not merely serve as an administrative registry but must also provide substantive protection, in line with the spirit of Article 33 paragraph (3) of the 1945 Constitution and the principle of social justice for all Indonesians.

Therefore, although SHM No. 748/2010 was annulled to uphold legal certainty for the prior right holder, its former holder remains entitled to pursue further legal protection through civil litigation to obtain compensation for incurred losses. This reflects the principle that in resolving land disputes, both formal justice and substantive justice must operate in harmony to preserve the overall legitimacy of the legal system.

4. Conclusion

The overlapping land ownership dispute between SHM No. 39/Desa Pulau Sari (1978), held by the heirs of Rusdiansyah Bin Haji Sabri Razak, and SHM No. 748/Desa Bingkulu (2010), held by Sundariati, reveals systemic vulnerabilities in Indonesia's land administration system. This conflict stems from dual recognition of ownership: one rooted in lawful inheritance, and the other sanctioned through formal land office transactions. The complexity intensified with the technological transition from local mapping systems to the integrated digital cadastral system using TM-3° coordinates under the Land Administration Computerization Program (KKP). This shift exposed spatial mismatches previously undetectable, ultimately resulting in overlapping land certificates.

²⁸ Munir Faudi, *Perbuatan Melawan Hukum*, (Bandung: PT. Citra Aditya Bakti, 2002), hlm. 3.

The annulment of SHM No. 748 by the State's Administrative Court (Decision No. 11/G/2021/PTUN.Bjm) underscores the insufficient legal safeguards for bona fide landowners in a structurally flawed administrative system. The subsequent civil lawsuit based on tort (Article 1365 of the Indonesian Civil Code) highlights the reactive nature of current legal remedies—capable of providing compensation but not preventing future disputes or ensuring long-term legal certainty.

This case emphasizes the urgent need for a harmonized, centralized, and interoperable land data infrastructure to prevent the issuance of duplicate land certificates. Strengthening legal protections for good-faith purchasers and implementing automatic corrective procedures in cases of administrative error are critical steps forward. Reform efforts in the land sector must focus on enhancing cadastral data integrity and ensuring spatial-legal synchronization before the issuance of land rights.

Further research is necessary to evaluate the effectiveness of digital transformation in mitigating conflicts stemming from legacy data. Interdisciplinary studies—combining legal, technological, and public policy perspectives—are essential to designing predictive frameworks for dispute prevention. Legal scholarship should also explore alternative dispute resolution models that balance procedural justice with administrative efficiency, particularly within the agrarian law context.

5. References

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