

The Construction of Criminal Liability of the National Land Agency in the Issuance of Duplicate Certificates

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Abstract: This study analyzes the construction of criminal liability for the National Land Agency (BPN) regarding the chronic issue of double land certificates in Indonesia. The central problem is the weak criminal law enforcement against BPN or its officials, as these cases are predominantly resolved only through administrative (PTUN) or civil channels. Using normative legal research with statutory and conceptual approaches, this study examines criminal law norms and liability doctrines. The analysis focuses on applying vicarious liability and identification theories to determine the extent to which BPN or its officials can be held criminally responsible for public losses. The results reveal that constructing BPN's criminal liability is hindered by a lack of regulatory synchronization between administrative and criminal law. There is a tendency to separate personal faults of officials (*fautes personnelles*) from organizational faults (*fautes de service*), which often obscures criminal liability in cases of land mafia or fatal negligence. In conclusion, this study emphasizes the urgency of strengthening BPN's criminal accountability as part of bureaucratic and agrarian reform. This is crucial to create a deterrent effect for internal actors, ensure land data integrity, and provide substantial legal protection for land rights holders.

Keywords: Criminal Accountability; National Land Agency; Double Certificate; Legal Certainty.

Introduction

The agrarian sector in Indonesia plays a vital role as the foundation of national life, where legal certainty over land ownership rights is a basic requirement for social-economic stability and sustainable development.¹ A land ownership certificate is the main legal instrument that gives certainty and protection to its owner, recognized as the strongest proof of rights that guarantees the accuracy of both physical and legal data.² In this context, the National Land Agency plays a central role as a non-departmental government institution responsible for the management of land at the national level, ranging from registration to the issuance of certificates. The duties and functions of the NLA are crucial in establishing orderly land administration and preventing disputes.³

¹Suharto, B. and Supadno, S. (2023). Hambatan-Hambatan dalam Pelaksanaan Program Pendaftaran Tanah Sistematis Lengkap (PTSL). *The Indonesian Journal of Public Administration (IJPA)*, 9(1). <https://doi.org/10.52447/ijpa.v9i1.6824>

²Nuraini, L. and Yunanto, Y. (2023). Transfer of Land Rights through Court Decisions: Juridical Implications and Challenges in Implementation. *SIGn Jurnal Hukum*, 5(1), 32. p. <https://doi.org/10.37276/sjh.v5i1.265> and Supriyanti, E., Supriyadi, S. and Arifin, Z. (2023). Pelaksanaan Pendaftaran Tanah Sistematis Lengkap di Kantor Pertanahan Kabupaten Pati. *Semarang Law Review (SLR)*, 4(2), 64. p. <https://doi.org/10.26623/slr.v4i2.7699>

³Manthovani, R. and Istiqomah, I. (2021). Pendaftaran Tanah Di Indonesia. *Jurnal Magister Ilmu Hukum*, 2(2), 23. p. <https://doi.org/10.36722/jmih.v2i2.744>

However, the phenomenon of double certificates has become a chronic problem that threatens legal certainty in agrarian matters in Indonesia.⁴ A double certificate is defined as two or more certificates issued for the same land object, with different data, which inherently causes legal uncertainty and losses for the rights holders.⁵ This issue not only reflects administrative weaknesses in the land registration process but also often involves allegations of negligence, abuse of authority, and even criminal acts by individuals involved in the issuance process.⁶ The impact of these double certificates is really complex, including prolonged land ownership disputes, public unrest, and eroding people's trust in the BPN institution.

This study identifies several core issues, including aspects of Criminal Law and Legislation: How does the applicable criminal law framework, including the Criminal Code and regulations related to land, shape the criminal liability of the National Land Agency (BPN), both as an institution and its officials, in cases of issuing double certificates? Are there legal gaps, overlapping regulations, or provisions that are insufficient to hold perpetrators within the BPN accountable?

Institutional and Administrative Factors at BPN: What internal factors at BPN contribute to the issuance of double certificates? Studies show that BPN's lack of thoroughness and care in the certificate issuance process is one of the contributing factors.⁷ This issue can include weaknesses in land registration procedures, a lack of data updates, gaps in the internal monitoring system, as well as potential abuse of power or corruption by certain officials.⁸

Implementation and Effectiveness of Law Enforcement: How does the criminal law enforcement process work against BPN or BPN officials involved in issuing double certificates? Have the investigation, inquiry, and trial processes been effective in uncovering and taking action against the perpetrators? What obstacles do law enforcers face in proving criminal elements and determining accountability, considering BPN's special characteristics as a public institution? In land mafia cases, the Ministry of Agrarian Affairs/National Land Agency (ATR/BPN) does not have the authority to impose criminal sanctions, so the role of the Police, Prosecutors, and Courts is very helpful.⁹

Social-Economic Impact and Victim Rights Recovery: What are the real impacts of double certificates on the community, especially the victims? What material and immaterial losses are borne

⁴ Agustina, E. (2021). Legal Due to Local Distribution Towards Land Registration Rights in Ogan Komering Ulu District. *Jurnal Bina Praja*, 125. p. <https://doi.org/10.21787/jbp.13.2021.125-134> and Anggraeni, S. Z. and Marwanto, M. (2020). Kewenangan dan Tanggung Jawab Hukum Pejabat Pembuat Akta Tanah Dalam Pelaksanaan Pendaftaran Hak Tanggungan Secara Elektronik. *Acta Comitas*, 5(2), 261. p. <https://doi.org/10.24843/ac.2020.v05.i02.p05>

⁵Agustina, E. (2021). Legal Due to Local Distribution Towards Land Registration Rights in Ogan Komering Ulu District. *Jurnal Bina Praja*, 125...and Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020). Perlindungan Hukum Bagi Pemegang Sertifikat Hak Atas Tanah Dalam Kasus Sertifikat Ganda. *Jurnal Discretie*, 1(1), 69. p. <https://doi.org/10.20961/jd.v1i1.50222> and Octarianti, A. I., Negara, S. P. and Maksum, F. A. (2023). Kekuatan Hukum Gugatan Ahli Waris Pemilik Sertifikat Ganda dan Akta Jual Beli Tanah. *Notaire*, 6(3), 325. p. <https://doi.org/10.20473/ntr.v6i3.48060>

⁶Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

⁷Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

⁸ Rato, D. (2023). Unlawful Acts Committed By Land Mafias On Customary Lands Of Indigenous People In Indonesia. *Journal of Southwest Jiaotong University*, 58(5). <https://doi.org/10.35741/issn.0258-2724.58.5.62> and Setyani, A. N., Hasana, D. and Adillah, S. U. (2022). The Issuance of Land Certificates from an Electronic System. *Sultan Agung Notary Law Review*, 4(3), 716. p. <https://doi.org/10.30659/sanlar.4.3.716-727>

⁹ Febrialma, A. A., Supriyadi, S. and Aryaputra, M. I. (2022). Tinjauan Yuridis Kebijakan Menteri Atr/Kepala Bpn Dalam Meminimalisir Praktik Mafia Tanah Berdasarkan Peraturan Menteri Atr/Kepala Bpn Nomor 1 Tahun 2021 Tentang Sertipikat Elektronik. *Semarang Law Review (SLR)*, 3(2), 113. p. <https://doi.org/10.26623/slr.v3i2.5402>

by the community? What legal protection mechanisms are provided for land rights holders who are harmed, including the cancellation or revocation of related documents?¹⁰ Besides that, what efforts are being made to restore justice for those who became victims?

Even though the issue of double certificates has been studied from various perspectives, there are still significant research gaps. Many studies tend to focus on civil or administrative aspects, as well as the accountability of individuals who forge documents from private parties.¹¹ However, research that specifically and in-depth examines the criminal liability of BPN, as an institution and its officials, in the context of issuing duplicate certificates is still limited.

The study of corporate or public body criminal liability, although it has started to develop in Indonesia¹², still requires further elaboration in the specific institutional context such as BPN in the field of land management. Often, there is a gap between the theory of corporate criminal liability and its implementation in practice. This study aims to fill that gap by offering an analysis focused on: How criminal law norms can be applied to construct BPN's accountability; identifying the most appropriate liability model (for example, through the theory of identification, vicarious liability, or strict liability)¹³; and provide concrete recommendations to prevent and take action against the practice of issuing double certificates in the future. This gap is also seen in the lack of thoroughness by the BPN and the updating of data, which became a trigger for double certificates.¹⁴

This research is highly urgent for several crucial reasons, namely ensuring legal certainty in agrarian matters, as the continuous issuance of double certificates keeps undermining the legal certainty of land rights, which is one of the key foundations for economic and social stability.¹⁵ This study aims to find legal solutions to ensure certainty and protection of land rights. Improving the Accountability and Integrity of BPN: This research is crucial for pushing BPN to become a more accountable and integrity-driven institution. By examining the construction of criminal liability, it is hoped that a more effective mechanism can be created to prevent maladministration and corruption practices within BPN.¹⁶ Protection of community rights, communities that become victims of double certificates often suffer significant losses. This research is important to find legal solutions to protect their rights and uphold justice, including through the process of certificate cancellation.¹⁷

¹⁰ Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

¹¹ Anggraeni, D., Widjajaatmadja, D. A. and Koto, Z. (2023)

¹² Afita, N. and Hartiwingsih, H. (2022). The Corporate Criminal Liability In The Management Of Oil Palm Plantation Land. *Jurnal Pembaharuan Hukum*, 9(1), 62. p. <https://doi.org/10.26532/jph.v9i1.20492> and Hiariej, E. O. S. (2020). Korupsi di sektor swasta dan tanggung jawab pidana korporasi. *Masalah-masalah hukum*, 49(4), 333. p. <https://doi.org/10.14710/mmh.49.4.2020.333-344> and Nasichin, M. and Nofita, N. P. (2021). Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Pencucian Uang. *Jurnal Pro Hukum Jurnal Penelitian Bidang Hukum Universitas Gresik*, 10(1), 36. p. <https://doi.org/10.55129/jph.v10i1.1434> and Sriwidodo, J. and Tumanggor, M. (2024). Regulation of Corporate Criminal Liability According To Law Number 1 Year 2023 On The Criminal Code. *KRTHA BHAYANGKARA*, 18(1), 197. p. <https://doi.org/10.31599/krtha.v18i1.1650>

¹³ Saragih, H. Y., Chandra, T. Y. and Paparang, S. T. (2025). Pertanggung Jawaban Pidana Korporasipelaku Tindak Pidana Korupsidalam Tata Kelola Niaga Komoditas di Indonesia. *SINERGI Jurnal Riset Ilmiah*, 2(8), 3705. p. <https://doi.org/10.62335/sinergi.v2i8.1639>

¹⁴ Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

¹⁵ Permadi, I. (2016). Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda Dengan Cara Itikad Baik Demi Kepastian Hukum. *Yustisia Jurnal Hukum*, 5(2). <https://doi.org/10.20961/yustisia.v5i2.8762> and Suharto, B. and Supadno, S. (2023).

¹⁶ Rato, D. *Unlawful Acts Committed By Land Mafias On Customary...* (2023) and Sudarmanto, K., Arifin, Z. and Tatara, T. (2023). Tindak Pidana Korupsi Bidang Pertanahan Terhadap Program Pendaftaran Tanah Sistematis Lengkap (PTSL). *JURNAL USM LAW REVIEW*, 6(1), 310. p. <https://doi.org/10.26623/julr.v6i1.6400>

¹⁷ Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

Development of Criminal Law: This study will contribute to the development of criminal law doctrine in Indonesia, especially regarding the criminal liability of public institutions and their officials in the context of complex land crimes. Supporting Agrarian Reform, the results of this research can serve as strategic input for policymakers to improve the land registration system, refine land regulations, and strengthen law enforcement to prevent the recurrence of double certificate cases. This aligns with agrarian reform efforts aimed at creating welfare and justice for all Indonesians.¹⁸

Method

To address this issue, this study uses a normative legal research method that focuses on analyzing the existing law (*ius constitutum*) and exploring the law that should be (*ius constituendum*).¹⁹ The approach used is a statutory approach to examine the consistency of land regulations with criminal law, as well as a conceptual approach to break down theories of criminal liability, such as the theory of identification and strict liability in the context of state institutions.²⁰

Primary legal materials include the Basic Agrarian Law (UUPA), the Criminal Code (KUHP), and the Minister of Agrarian Affairs/Head of BPN Regulation No. 21 of 2020 on Handling Land Cases. These materials were collected through literature studies and analyzed descriptively and qualitatively. The analysis was carried out through systematic interpretation to formulate a strong legal framework regarding the limits of criminal liability of BPN officials in carrying out their public functions, especially when abuse of authority results in material losses for the community.

Results and Discussion

Typology of Criminal Acts Against the Law in the Issuance of Double Certificates

Based on the analysis of various land cases, issuing double certificates is not just an administrative failure but often stems from unlawful acts that fall under criminal law. This type of violation includes document forgery (Article 263 of the Criminal Code) and forgery of authentic deeds (Article 264 of the Criminal Code), where basic documents like land certificates or deeds are forged to trigger a new land registration process on an object that is already registered.²¹

Besides forgery, the involvement of certain BPN officials often includes elements of abuse of power as regulated in Article 421 of the Criminal Code, which threatens civil servants who misuse their authority to force or allow something to be done.²² In a broader context, if there are elements of enriching oneself or others that harm the state's finances (like in the case of government assets), such actions can be categorized as corruption.²³ This misappropriation is supported by weak accuracy in investigating land title histories and proof analysis that hasn't been updated according to the physical data in the field.²⁴

¹⁸ Nurbaedah, N. (2023).

¹⁹ Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

²⁰ Roup, A. (2017). Pertanggungjawaban Pidana Koorporasi Lingkungan Hidup Pasca Peraturan Mahkamah Agung No. 13 Tahun 2016. *JUSTITIA JURNAL HUKUM*, 1(2). <https://doi.org/10.30651/justitia.v1i2.1163> and Saragih, H. Y., Chandra, T. Y. and Paparang, S. T. (2025).

²¹Febrialma, A. A., Supriyadi, S. and Aryaputra, M. I. (2022) and Setyani, A. N., Hasana, D. and Adillah, S. U. (2022).

²²Rato, D. *Unlawful Acts Committed By Land Mafias On Customary...* (2023)

²³Sudarmanto, K., Arifin, Z. and Tatara, T. (2023).

²⁴Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

BPN's negligence in verifying ownership data and conducting field checks before issuing certificates has become a crucial gap that allows overlapping land rights to happen.²⁵ The implication of this negligence is the emergence of legal uncertainty and land ownership disputes that harm people with legitimate ownership rights.²⁶ This is worsened by indications of bad intentions from the certificate applicant and the uneven coverage of a comprehensive land registration map, which leads to duplicate certificates that could potentially trigger disputes later on.²⁷ These factors contribute to legal uncertainty and the loss of protection for legitimate land rights holders.²⁸ Furthermore, the issuance of duplicate certificates is often caused by the inaccuracy and carelessness of the National Land Agency (BPN) in processing certificate applications, and it can even involve certain BPN officials in issuing certificates that are flawed both administratively and legally.²⁹ Problems in resolving disputes over double certificates are worsened by administrative court decisions that often don't clearly cancel legally flawed certificates, making the land status unclear and triggering long-running disputes in the community.³⁰

The National Land Agency's (BPN) severe negligence in failing to verify ownership data and conduct thorough field inspections has created a critical structural vulnerability, allowing overlapping land rights to proliferate. This bureaucratic carelessness is aggravated by bad-faith applicants who exploit the system, alongside the absence of a comprehensive, unified land registration map. Far from being simple administrative oversights, these duplicate certificates are frequently the product of gross inaccuracy, systemic carelessness, and, in more severe cases, the active complicity of corrupt BPN officials who deliberately process legally and administratively flawed documents. This toxic combination strips legitimate landowners of their state-guaranteed protections, plunging rightful holders into costly, distressing disputes while severely undermining the integrity of the country's land administration.

The crisis of overlapping titles is further compounded by the inadequacy of the judicial system to provide clean resolutions. When these disputes reach the State Administrative Court (PTUN), the resulting decisions frequently fail to explicitly or decisively cancel the legally flawed certificates. This judicial ambiguity leaves the land's actual legal status hanging in a perpetual gray area, rendering court rulings ineffective at restoring absolute clarity. Instead of resolving the conflict, these indecisive administrative judgments paralyze property utilization and trigger protracted, multi-generational legal battles within the community, ultimately trapping the rightful owners in a cycle of endless litigation without true legal certainty.

The pervasive issuance of duplicate land certificates stems from BPN's systemic negligence and passive stance during data verification and field mapping—a vulnerability routinely exploited

²⁵Mahardika, I. N. R., Suwitra, I. M. and Dharsana, I. M. P. (2022). The Issuance of an Overlapping Certificate of Land Rights In Indonesia. *Journal of Public Administration Finance and Law*, 23, 262. p. <https://doi.org/10.47743/jopaf1-2022-23-23>

²⁶Mul, M. and Satino, S. (2019). Penyelesaian Sengketa Kepemilikan Tanah Bersertifikat GANDA. *Jurnal Yuridis*, 6(1), 147. p. <https://doi.org/10.35586/jjur.v6i1.398>

²⁷alim, A. (2019). Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat Hak Milik Dengan Adanya Penerbitan Sertifikat Ganda. *JURNAL USM LAW REVIEW*, 2(2), 174. p. <https://doi.org/10.26623/julr.v2i2.2269>

²⁸Mubarak, K., Haerani, R. and Zain, I. I. (2024). Kedudukan Hukum Kepemilikan Tanah Bagi Pemegang Sertifikat Ganda (Analisis Putusan 5/Yur/Pdt/2018). *Unizar Recht Journal (URJ)*, 3(3), 348. p. <https://doi.org/10.36679/urj.v3i3.192>

²⁹Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

³⁰Salim, A., *Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat...* (2019)

by bad-faith actors and facilitated by compromised internal officials. The fallout of this administrative failure is severely compounded by ambiguous administrative court (PTUN) decisions that fail to decisively cancel flawed titles, trapping legitimate landowners in a state of perpetual legal limbo. Consequently, resolving this crisis requires a decisive shift away from treating it as a mere bureaucratic oversight; instead, the legal system must enforce corporate criminal liability and embrace the doctrine of strict liability to restore absolute legal certainty and fulfill the state's mandate to protect rightful property owners.

Criminal Liability Construction: Between Officials and Institutions

The legal construction of criminal liability in this study distinguishes between individual liability of the actor and the potential for institutional liability. Currently, Indonesia's legal system tends to focus on the personal faults of officials who commit intentional actions or serious negligence in the issuance process.³¹ However, there's an urgency to look at the role of BPN as a public body that has the duty to maintain the integrity of land data.³²

Therefore, an institutional criminal accountability framework is needed for BPN, considering that BPN is fully responsible for the certificates it issues.³³ This requires assigning responsibility not just administratively and civilly, but also the potential for corporate criminal liability if systemic negligence or internal policies that encourage the practice of issuing duplicate certificates are found.³⁴

The issuance of duplicate certificates by the National Land Agency creates complex legal consequences, including land ownership disputes, which disrupt public order and weaken public trust in the integrity of land administration. This is worsened by the fact that land certificates are strong proof of ownership in Indonesia, even though certificates with legal defects due to improper issuance procedures are not uncommon. This phenomenon significantly contributed to the 8,000 land dispute cases recorded in Indonesia in 2022, indicating the ineffectiveness of agrarian law enforcement.³⁵

The application of the Identification Theory in this case sees that the actions of senior officials or managers who have the authority to make decisions (directing mind) can be attributed to the institution itself.³⁶ If the issuance of double certificates happens because of systemic policies that allow land mafia practices, the institution can be considered to have mens rea (bad intent) in the form of negligence.³⁷ On the other hand, the Vicarious Liability theory can be applied in the context

³¹Anggraeni, S. Z. and Marwanto, M. (2020). Kewenangan dan Tanggung Jawab Hukum Pejabat Pembuat Akta Tanah Dalam Pelaksanaan Pendaftaran Hak Tanggungan Secara Elektronik. *Acta Comitas*, 5(2), 261. p. <https://doi.org/10.24843/ac.2020.v05.i02.p05>

³²Hirwansyah, *Pertanggungjawaban Hukum Badan Pertanahan...* (2021)

³³Hirwansyah, *Pertanggungjawaban Hukum Badan Pertanahan...* (2021)

³⁴Rois, B. Z., Hasana, D., Suwondo, D. and Maerani, I. A. (2022). Roles & Responsibilities of National Land Agency in Efforts to Settle Land Ownership Disputes Due to Overlapping Certificates. *Sultan Agung Notary Law Review*, 4(1), 22. p. <https://doi.org/10.30659/sanlar.4.1.22-35>

³⁵Thesia, E. H. (2023). Double Certificate Cases in Indonesia: Absolute Jurisdiction of the Administrative Court or General Court? *International Journal of Multicultural and Multireligious Understanding*, 10(12), 197. p. <https://doi.org/10.18415/ijmmu.v10i12.5229>

³⁶Hiariej, E. O. S., *Korupsi Di Sektor Swasta Dan Tanggung Jawab Pidana...* (2020) and Muslim, M., *Kejahatan Korporasi Dan Pertanggungjawaban Pidana...* (2021)

³⁷Saragih, H. Y., Chandra, T. Y. and Paparang, S. T. (2025).

of work relationships, where a boss or organization is responsible for criminal acts committed by subordinates within the scope of their duties.³⁸

However, strong evidence is needed to prove that the negligence or intentional acts of the subordinates are directly related to the oversight or instructions from the superior or the institution.³⁹ Even so, Indonesia's agrarian law system follows the principle of negative publicity with positive elements, which means a land certificate doesn't guarantee absolute legal certainty if other parties can legally prove their rights.⁴⁰ Therefore, the existence of duplicate certificates not only indicates maladministration but also opens up the possibility of legal action to cancel the certificate that was issued later or that is legally flawed, especially if there was negligence by the BPN in the data verification process.⁴¹

Cases of double certification often arise due to internal or external negligence, whether intentional or unintentional, and often involve document forgery backed by certain officials.⁴² Overlapping land certificates and boundary disputes are some of the challenges faced in implementing land policies in Indonesia, which are also worsened by the involvement of BPN officials in land mafia practices.⁴³ This problem is made worse by the lack of understanding of law enforcers about the substance of agrarian laws and the existence of sectoral regulations that are not in sync, like the difference between Law Number 41 of 1999 and Law Number 2 of 2012, regarding the use of forest land for land acquisition.⁴⁴ Therefore, resolving double certificate disputes requires a comprehensive approach that not only focuses on administrative aspects but also on criminal and civil dimensions to ensure legal certainty and protection of land rights.⁴⁵

Implementation of Legal Doctrine in Land Maladministration

Research results show that the National Land Agency often positions itself as a passive party that just receives data from land registration applicants.⁴⁶ This passive attitude becomes a loophole for bad-faith parties to deliberately show the wrong location or boundary of the land.⁴⁷ Criminally, allowing invalid data to exist can be seen as negligence that results in material losses for the rightful owner. This suggests that the issue of issuing duplicate certificates is not just an administrative mistake but could also involve intentional acts or gross negligence by the land agency, which can be considered unlawful behavior.⁴⁸

³⁸Fatimah, F., *Pertanggungjawaban Pengganti (Vicarious Liability)...* (2012) and Siswanto, H., *Pembangunan Penegakan Hukum Pidana...* (2016)

³⁹Mul, M. and Satino, S. (2019). Penyelesaian Sengketa Kepemilikan Tanah Bersertifikat Ganda. *Jurnal Yuridis*, 6(1), 147. p. <https://doi.org/10.35586/jyur.v6i1.398>

⁴⁰Mahardika, I. N. R., Suwitra, I. M. and Dharsana, I. M. P. (2022).

⁴¹Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

⁴²Permadi, I. (2023a). Potensi Sengketa Hak Atas Tanah di Indonesia. *JUSTISI*, 9(2), 201. p. <https://doi.org/10.33506/jurnaljustisi.v9i2.2345> and Permadi, I. (2023b). Jaminan Perlindungan Hukum Terhadap Pemilik Tanah Akibat Kejahatan Mafia Tanah. *Jurnal Ius Constituendum*, 8(2), 308. p. <https://doi.org/10.26623/jic.v8i2.6951>

⁴³Febrialma, A. A., Supriyadi, S. and Aryaputra, M. I. (2022)

⁴⁴Permadi I., *Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda...* (2016)

⁴⁵Salim, A., *Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat...* (2019)

⁴⁶Ayuningtyas, A. S., Candrakirana, R. and Najicha, F. U. (2020).

⁴⁷Salim, A., *Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat...* (2019), and Setyani, A. N., Hasana, D. and Adillah, S. U. (2022).

⁴⁸Salim, A., *Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat...* (2019)

In this context, the responsibility of BPN can arise as the defendant in cases of double certificate disputes, considering its role as a state administrative officer issuing State Administrative Decisions. This responsibility can extend to corporate criminal liability if a pattern of systematic negligence or internal policies indirectly supporting the issuance of legally flawed certificates is found, as regulated in Article 107 of the Minister of Agrarian Affairs/Head of the National Land Agency Regulation Number 9 of 1999.⁴⁹

The construction of criminal liability for BPN must be able to bridge the strict liability doctrine when it comes to protecting public interests.⁵⁰ Considering that land certificates are the strongest proof of rights guaranteed by the state, any failure that leads to the issuance of a double certificate must be followed by legal accountability, not just stopping at administrative cancellation in the PTUN, but also taking action against the individuals who facilitated the occurrence of such legal defects.⁵¹

The passive stance often adopted by the National Land Agency (BPN) – acting merely as a recipient of data submitted by land registration applicants – has created a dangerous legal loophole that is easily exploited by bad-faith actors. By failing to conduct rigorous material verification on the ground, the agency inadvertently allows itself to be fed fraudulent data regarding land locations and boundaries. In a criminal law context, permitting such invalid data to exist can no longer be dismissed as a minor procedural oversight. Instead, it constitutes clear negligence that directly inflicts severe material and financial losses upon the rightful property owners.

Consequently, the issuance of duplicate land certificates cannot be viewed simply as a clerical error or a benign bureaucratic mistake. This issue escalates into the realm of Unlawful Behavior (*Perbuatan Melawan Hukum*), driven either by intent (*dolus*) or gross negligence (*culpa lata*) by internal land officials. As state administrative officers responsible for issuing State Administrative Decisions (KTUN) in the form of land certificates, BPN bears full legal accountability. When the legal products they issue are inherently flawed, the agency naturally positions itself as a rightful defendant in double-certificate disputes.

The narrative progressively extends this accountability to the domain of corporate criminal liability. If investigations reveal a systematic pattern of negligence or internal institutional policies that indirectly facilitate the issuance of legally defective certificates, the liability shifts from isolated individual errors to the institution itself. This philosophical construction aligns with the spirit of Article 107 of the Minister of Agrarian Affairs/Head of the National Land Agency Regulation Number 9 of 1999, which dictates that administrative and legal defects in certificate issuance must carry strict juridical consequences.

To absolutely protect the public interest, the legal framework governing land administration must bridge and adopt the doctrine of strict liability. Given that land certificates serve as the strongest proof of ownership guaranteed by the state, any systemic failure resulting in a duplicate certificate must trigger automatic legal accountability. The resolution of such disputes must not stall at mere administrative cancellations in the State Administrative Court (PTUN). Instead, the law

⁴⁹ Permadi I., *Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda...* (2016)

⁵⁰ Saragih, H. Y., Chandra, T. Y. and Paparang, S. T. (2025).

⁵¹ Nuraini, L. and Yunanto, Y. *Transfer of Land Rights through Court Decisions...* (2023) and Thesia, E. H. *Double Certificate Cases in Indonesia: Absolute Jurisdiction...* (2023)

must take decisive punitive action against the specific individuals and enablers who facilitated the legal defects, thereby restoring public trust and legal certainty.

Law Enforcement Challenges and Sanction Synchronization

One of the main challenges in enforcing criminal law related to double certificates is the split between administrative and criminal authority. The National Land Agency (BPN) doesn't have the pro-justice authority to handle land crimes on its own, so it heavily relies on investigations by the police and the public prosecutor.⁵² Often, cases stop at PTUN rulings that only state the certificate is legally flawed without any follow-up on the person responsible.⁵³

Besides that, the lack of a comprehensive and digitally integrated land registration map (e-certificate) has become a technical obstacle that triggers overlapping ownership.⁵⁴ The mismatch between physical data and legal data creates uncertainty for people who are transacting in good faith.⁵⁵

Therefore, legal reform should aim at integrating administrative and criminal sanctions to strengthen protection for landowners and minimize land mafia practices.⁵⁶ Disputes related to dual certificates can involve the court system, either the District Court or the Administrative Court, especially if there's any element of corruption or negligence by the National Land Agency (BPN).⁵⁷

In this context, Article 34 of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation Number 21 of 2020 states that overlapping certificates must be canceled if any administrative or legal defects are found.⁵⁸ Criminal action can be taken if there are indications of document forgery, embezzlement, or fraud committed by individuals involved in the certificate issuance process.⁵⁹ Even so, the overlap in resolving land disputes between civil, criminal, and administrative courts often complicates the law enforcement process and ignores substantive justice values, instead focusing on legal formalities.⁶⁰

This highlights the urgency of reforming the agrarian legal framework to create an integrated and efficient dispute resolution mechanism, so that legal certainty for land rights holders can be achieved optimally. Moreover, the lack of comprehensive digital integration in the conventional BPN system worsens the accuracy of land data, which often leads to overlapping ownership boundaries and the issuance of duplicate certificates, triggering prolonged land rights disputes.⁶¹

⁵² Febrialma, A. A., Supriyadi, S. and Aryaputra, M. I. (2022)

⁵³ Salim, A., *Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat...* (2019)

⁵⁴ Salim, A., *Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat...* (2019), and Setyani, A. N., Hasana, D. and Adillah, S. U. (2022).

⁵⁵ Anggraeni, S. Z. and Marwanto, M. (2020), and Permadi I., *Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda...* (2016)

⁵⁶ Harianti, I., Sekarmadji, A., Lobubun, M., Moechthar, O., Anggoro, S. B. and Amri, A. I. (2024). *Indonesian Agrarian Reform in Legal Perspective: A Critical Analysis of Presidential Regulation No. 86/2018*. <https://doi.org/10.24857/rgsa.v18n1-159>

⁵⁷ Istiqamah, I. (2018). Tinjauan Hukum Legalisasi Aset Melalui Pendaftaran Tanah Sistematis Lengkap (Ptl) Terhadap Kepemilikan Tanah. *Jurisprudentie Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum*, 5(1), 226. p. <https://doi.org/10.24252/jurisprudentie.v5i2.5814> and Salim, A., *Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat...* (2019)

⁵⁸ Rato, D. *Unlawful Acts Committed By Land Mafias On Customary...* (2023)

⁵⁹ Febrialma, A. A., Supriyadi, S. and Aryaputra, M. I. (2022)

⁶⁰ Mul, M. and Satino, S. *Penyelesaian Sengketa Kepemilikan Tanah...* (2019)

⁶¹ Jagadhita, M. A. (2025). Transformasi Digital Sertifikat Tanah dan Respons Masyarakat Terhadap Penerapannya. *JURNAL USM LAW REVIEW*, 8(3), 1600. p. <https://doi.org/10.26623/julr.v8i3.12448>

Therefore, a comprehensive revitalization of the land administration system is needed, including online registration modernization to minimize the chances of duplicate certificates.⁶²

From the analysis of the issue of duplicate certificates involving the National Land Agency, it can be concluded that the complexity of this issue stems from administrative weaknesses, lack of regulatory synchronization, and law enforcement challenges. The causes of duplicate certificates can be due to intentional actions, unintentional mistakes, or administrative errors, which are often worsened by the lack of discipline among officials in carrying out their duties. Nevertheless, disputes over duplicate certificates can be resolved through BPN administrative channels, mediation, reconciliation, and alternative dispute resolution, which significantly contribute to resolving land conflicts. However, if an agreement can't be reached through discussion, the Land Office can take unilateral action to review and cancel duplicate certificates issued due to administrative errors or incorrect land location assignments. The role of the Head of the Provincial BPN Regional Office becomes crucial in proposing the cancellation or revocation of State Administrative Decisions related to land, which must be accompanied by relevant data on the land's subject and encumbrances.

Efforts to resolve double certificate disputes at the National Land Agency often face obstacles due to overlapping regulations and the absence of specific laws that effectively handle these issues. In fact, mediation processes carried out by BPN often fail to fully and quickly settle land disputes. This problem is made worse by the fact that the land database is not yet fully reliable, making it prone to overlapping certificates and land rights conflicts. Therefore, there is a need to revitalize the land administration system by implementing geospatial information technology to create accurate and digitally integrated land registration maps.⁶³ This effort is crucial to prevent certificate duplication in the future and provide legal certainty for the community.⁶⁴ Besides that, enforcing discipline for BPN officials involved in issuing double certificates is essential to restore public trust and ensure the integrity of the land administration system.⁶⁵

Optimizing the role of BPN in resolving double certificate disputes requires close coordination with the courts and updating the legal framework to adapt to the dynamics of land issues.⁶⁶ BPN's active involvement in resolving administrative disputes includes canceling or revoking certificates that are administratively flawed,⁶⁷ as well as providing solutions for resolving overlapping ownership disputes through problem identification and resolution recommendations.⁶⁸ BPN's responsibilities include resolving disputes through mediation, administrative corrections, and legal actions if negligence or maladministration is found.⁶⁹

⁶²Negara, C. U. K. K., Pratiwi, N. W. W. and Maylinda, P. D. (2021). Urgensi Sistem Pengamanan pada Sertifikat Tanah Digital. *Jurnal Hukum Lex Generalis*, 2(9), 832. p. <https://doi.org/10.56370/jhlg.v2i9.91> and Permadi I., *Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda...* (2016)

⁶³Salim, A., *Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat...* (2019)

⁶⁴Syah, M. I. (2014). Sertifikat tanah ganda akibat lemahnya data base pertanahan. *Jurnal ilmiah hukum dirgantara*, 4(2). <https://doi.org/10.35968/jh.v4i2.97>

⁶⁵ Mahardika, I. N. R., Suwitra, I. M. and Dharsana, I. M. P. (2022).

⁶⁶Mul, M. and Satino, S. (2019). Penyelesaian Sengketa Kepemilikan Tanah Bersertifikat Ganda. *Jurnal Yuridis*, 6(1), 147. p. <https://doi.org/10.35586/jyur.v6i1.398> and Syah, M. I., *Sertifikat Tanah Ganda Akibat Lemahnya Data...* (2014)

⁶⁷Rois, B. Z., Hasana, D., Suwondo, D. and Maerani, I. A. (2022).

⁶⁸Mul, M. and Satino, S. *Penyelesaian Sengketa Kepemilikan Tanah...* (2019)

⁶⁹Nasir, S. F. B. (2024). Tanggung Jawab Badan Pertanahan Nasional Dalam Penyelesaian Sertifikat Tanah Ganda Di Kabupaten Gorontalo. *SINERGI Jurnal Riset Ilmiah*, 1(11), 1106. p. <https://doi.org/10.62335/fehfr12>

The authority of the National Land Agency (BPN) to cancel duplicate certificates is explicitly regulated in the legislation, one of which is the Minister of Agrarian Affairs and Spatial Planning/Head of BPN Regulation Number 11 of 2016.⁷⁰ Thus, the National Land Agency plays a central role in ensuring legal certainty over land rights, even though it still faces challenges in achieving orderly and effective land administration.⁷¹ There's a need to improve human resource capacity and implement integrated information technology to strengthen BPN's role as the authority in managing land affairs at the national, regional, and sectoral levels.⁷² Therefore, strengthening an integrated information system, like the one proposed through SIMTA, becomes essential to facilitate access to accurate and verified land data.

Conclusion

The complexity of the double certificate issue stems from administrative weaknesses, overlapping regulations, and the less-than-optimal validity of the land database at the National Land Agency (BPN). This problem is triggered by factors like intentional actions, accidents, or mistakes in land designation, which are worsened by the lack of discipline among officials. Even though BPN has clear legal authority—like what's stated in the Minister of ATR/BPN Regulation Number 11 of 2016—to cancel certificates with administrative defects, the resolution process through mediation or administrative channels often moves slowly and remains incomplete.

To tackle these challenges, strategic steps are needed in the form of revitalizing the land administration system through the implementation of geospatial information technology and strengthening an integrated information system (like SIMTA). This digitalization effort is crucial for creating a land registration map that is accurate, integrated, and free from duplication risks in the future. In addition, optimizing the role of BPN must be accompanied by enhancing human resource capacity, strict enforcement of discipline for negligent officials, and close coordination with the judiciary to ensure legal certainty of land rights and restore public trust.

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⁷⁰Sahnan, S., Arba, M. and Suhartana, L. W. P. (2019). Kewenangan Badan Pertanahan Nasional Dalam Penyelesaian Sengketa Pertanahan. *Jurnal IUS Kajian Hukum Dan Keadilan*, 7(3), 436. p. <https://doi.org/10.29303/ius.v7i3.714>

⁷¹Permadi I., *Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda...* (2016) and Salim, A., *Penyelesaian Sengketa Hukum Terhadap Pemegang Sertifikat...* (2019)

⁷²Mul, M. and Satino, S. *Penyelesaian Sengketa Kepemilikan Tanah...*(2019)

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