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## IMPLEMENTATION OF ELECTRONIC LAND CERTIFICATES TO INCREASE LEGAL AWARENESS IN LAND REGISTRATION ACTIVITIES

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### Abstract:

Land registration activities produce a land certificate as proof of ownership of the land that is currently still physically published in book form. It is potentially misuse such as falsification of land certificates, double land certificate, overlapping land ownership, and lost or damaged land certification. In order to facilitate service to the public and to provide legal certainty and protection, the change in the form of land certificates from physical models to electronic land certificate is an activity undertaken by the Government. The method of approach used in this writing is normative jurisprudence through written legal study of various aspects that support the interpretation of material according to the formula of the problem. The results of this research are that with the existence of an electronic land certificate the needs of the community are expected to be met effectively and efficiently. By changing the physical form of the certificate to electronic, the aim is to raise public awareness to register their land, and to provide better legal certainty and protection. Therefore, in its use and use must be in accordance with the rules that have been established by the Government, the Government should also increasingly optimize the application of electronic land certificates.

### Keywords:

Electronic Land Certificate, Legal Awareness, Land Registration

## Introduction

As a developing country, Indonesia is developing not only in certain areas but also in all areas of life that are increasingly advanced. At the same time, development in all its aspects is also developing so that people need to gain legal certainty in every legal act that is committed. The guarantees of legal certainty include, among other things, order and protection of the law so that it creates a sense of security for every act of law committed.

One form of guarantee of legal certainty in the field of land is the presence of proof of ownership of the right to land or what is commonly called a certificate. The development of agricultural law in particular concerning the question of certainty of rights and subjects of upper right, can be seen in Article 19 of the Agrarian Tree Act (UUPA) which states that in order to guarantee certainty of right and legal certainty concerning land, then the government obliges the land rights holder to register his land. Land registration includes measurement, mapping, registration of land rights, the transfer of such rights to others and the issuance of a certificate of right which is a strong evidence as regulated in the UUPA.

A land certificate is a document proving ownership of land that is a product resulting from land registration activities. The land registration institute in Indonesia existed only in 1960 when it implemented Government Regulation No. 10 of 1961 regulating Land Registration. The institute was born as a result of an order from UUPA, that one of the purposes of the UUPAs (Act No. 5 of 1960 on the Basic Regulations of Agrarian Trees) was to provide legal certainty guarantees for the rights of Indonesian citizens to land.

Entering the era of reform, indirectly, has also driven the rapid development of the national legal system related to information and communication technology. One of them is in the field of agriculture. The case of falsification of land certificates, duplicate land certificate, or overlapping land certification, has led to the rise of a land mafia that has sparked a dispute to the detriment of the public.

As such, it means that the certificate of land rights can no longer provide legal certainty to the public. So the government should have made a new legal breakthrough, so that it can balance the dynamics of an increasingly complex society related to agriculture (Alimuiddin, 2021). If there is a change in society, then the law also has to undergo changes or additions both to the positive law theory and its legal institutions (Dhoni Yusra, 2013). If not, then the law will only run in places left behind in the development of the times (*het recht hink achter de feiten aan*).

In order to create modernization of agricultural services, electronic land services are being implemented, including the production of documents in the form of electronic documents or electronic land certificates, as stipulated in the Regulations of the Minister of Agriculture and Space Administration/Head of the National Farming Agency No. 1 of 2021 on Electronic Certificates (Silviana, 2021).

Electronic land certificates became a policy adopted by the government to ensure legal certainty in the field of land. The use of digital technology in this field of agriculture has become a special concern, namely the introduction of a new rule that states that all certificates of native land belonging to the community will be withdrawn from this year. That would then cause concerns and problems for the people, how about the existence of the certificate of land already owned. Because the provision of legal certainty on the rights of the landowner is very

important, it begins with the issuance of a legal product that is a certificate of land ownership by the National Welfare Agency (BPN) after doing the activity of land registration aimed at protecting the right of the people to own the land (Agnisya Putri & Gunarto, 2018).

The purpose of the change of land certificates into electronic certificates is one because there are still problems in terms of ownership of land, for example against land that has been in possession of the legal subject for many years has even been supplemented with the land certificate, still there are external parties claiming the right to the land, so it is very important to give a legal protection for the holder of the certificate of land ownership, especially for the parties who have been in favour of possessing the land effectively for years on the land he manages and controls from the objections and legal efforts made by the outside (Kusuma et al., 2017). So then the government adopted a policy of services in the field of agriculture that facilitates the granting of public rights to access public services, that is, through land services carried out with electronic digital systems.

The implementation of land registration throughout the territory of Indonesia appears to be largely not fully registered, besides the physical data and jurisdictional data for each area of land is also not fully available so it requires a serious attention to the problem. People actually need the facility to take care of the certificate of land rights themselves. For example, until now there is no definite timeframe on the management of land certificates, there are standard requirements and even different costs in each area. Other conditions that need to get the focus of BPN rather than just changing the physical form of the land certificate to electronic is also removing various issues related to land, for example, the issue of falsification of land certificates, double land Certificates, overlapping of land ownership, and land Certificate lost or damaged.

If a government policy that only works to change the form of a certificate from a book to an electronic one without anything to do with the needs of the public but not immediately can also raise awareness of the importance of land registration, then an electronic land certificate will not be of much use. On the contrary, it will be vulnerable to another issue because the certificate of land rights has many functions and connections with various aspects. But is it precisely with the presence of electronic certificates can minimize the occurrence of land disputes and suppress the mark of land mafia in Indonesia, so it should also require much consideration in changing land certificates from a book-shaped to an electronic land certificate. Based on the above exposure, how is the application of electronic land certificates in land registration activities? and how big are the chances of the e-land certificate to raise public awareness in land Registration?

## **Literature Review**

### ***Land Certificate***

A land certificate is a document proving ownership of land that is a product resulting from land registration activities. One form of guarantee of legal certainty in the field of land is the presence of proof of ownership of the right to land or what is commonly called a certificate. The development of agricultural law in particular concerning the question of certainty of rights and subjects of upper right, can be seen in Article 19 of the UUPA which states that in order to guarantee certaintys of right and legal certainty concerning land, then the government obliges the land rights holder to register his land. Land registration includes measurement,

mapping, registration of land rights, the transfer of such rights to others and the issuance of a certificate of right which is a strong evidence as regulated in the UUPA.

The public is obliged to have a certificate as proof of ownership of the land through the creation of a sale and purchase act and return the name of the certificate in the office of the Office of the Land Act Maker (PPAT). Creation of the sale and sale act of such land is attended by the seller as well as the buyer of land in the presence of the PPAT (Masriani, 2022) The publication of a land certificate is intended to give interest to the right holder based on physical data as well as legal data as it has been recorded in the land book. One of the means of proof of land ownership is a sign of evidence of the right of ownership of land recognized in Indonesia since the implementation of the land registration system. Land certificate differs depending on the land register. Land book is a document containing legal data and physical data containing a right, while the Certificate is evidence of property rights to the land which has been declared and is made one with the landbook recognized its truth as long as no one proves otherwise (Taqiyyah & Winanti, 2020)

Given the importance of human needs for land, there is a need for land certificates as a strong legal basis to avoid land use that often ends in the area of disputes such as land liberation, evictions, status of land rights and others that require serious attention to such legal cases. The purpose of land registration is to avoid legal problems in the future due to the uncertainty of land ownership. The transfer of ownership of the land can be done either for sale or for inheritance. It is important to return the name of the certificate because only a certificate of land can prove ownership, which contains the subject of the owner of the right to the land and all the complete data on the jurisdictional data and physical data of the field of land. When the ownership and possession of the ground can be proven through a certificate on the land, it can be assured that the land meets the legal aspects so that it is not possible for anyone other than the name listed in the certificate to own or make a claim on the property of the land for violation of the law.

In providing legal certainty to the rightholders of this land, it still requires confirmation of the extent to which the evidence force of the certificate is stated as a powerful means of proof, such as the presence of physical and jurisdictional data. In addition, landowners can also strengthen the status of such certificates by using other supporting data, such as proof of payment of land and building tax (UN), as evidence of the transfer of rights to current owners either through sale, grant, or inheritance (Rafi & Lukman, 2023)

As such, it means that the certificate of land rights can no longer provide legal certainty to the public. So the government should have made a new legal breakthrough, so that it can balance the dynamics of an increasingly complex society related to agriculture (Alimuddin, 2021) The legal certainty of national land regulations has been regulated in the UUPA which is the main reference, of course supported by the agency authorized to deal with land issues in Indonesia namely the Land Office or better known as the National Land Agency to realize the legal certitude of the right to land by issuing the certificate of land rights as proof of land ownership for the legal entity entitled to own (Sudiro & Putra, 2021)

### ***Land Electronic Sertificate***

UUPA was formed to be the basis for the drafting of national agrarian law to lay the foundations for unity and simplicity in land law, as well as lay the foundation for providing legal certainty

regarding land rights for all Indonesian people (Saifuddin & Qamariyanti, 2022) The land is needed for human resources to operate on it. The number of people who need the land is increasing every day while the size of the land has not changed at all. It is worthwhile to see people seeking to strengthen their right to land so that it is not interfered with by others by marking their land by using a rod as a boundary that distinguishes them from other people's land, making a pit as a border line or registering their land for the issuance of a certificate of ownership of land, which is called a Certificate of Land Rights (Mutalib Saranani, 2022)

In order to create modernization of agricultural services, electronic land services are being implemented, including the production of documents in the form of electronic documents or electronic land certificates, as stipulated in the Regulations of the Minister of Agriculture and Space Administration/Head of the National Farming Agency No. 1 of 2021 on Electronic Certificates (Silviana, 2021). Electronic land certificates became a policy adopted by the government to ensure legal certainty in the field of land. The use of digital technology in this field of agriculture has become a special concern, namely the introduction of a new rule that states that all certificates of native land belonging to the community will be withdrawn from this year.

During this time, the Ministry of ATR/BPN has developed a computerized system in land registration activities, namely the Farm Information System (SIP) for land-related deposits, which covers the recording of various aspects, from temporal aspects to legal aspects of the history of possession and ownership of land rights (Mustofa, 2020) The purpose of the change of land certificates into electronic certificates is one because there are still problems in terms of ownership of land, for example against land that has been in possession of the legal subject for many years has even been supplemented with the land certificate, still there are external parties claiming the right to the land, so it is very important to give a legal protection for the holder of the certificate of land ownership, especially for the parties who have been in favour of possessing the land effectively for years on the land he manages and controls from the objections and legal efforts made by the outside.

The implementation of electronic land registration in Indonesia will be implemented gradually based on the human resources and infrastructure readiness of the respective District/City Farm Office in accordance with the establishment of the Minister. The issuance of electronic certificates begins with land registration for the first time and then the implementation of maintenance of land registrations. The electronic document issued at the time of the first registration of land is an electronic certificate for unregistered land.

However, there are still a number of jurisdictional issues related to land in the community. Not a few cases of land disputes occurred up to agrarian conflicts between government and society related to land ownership and possession. Besides, the minimal role and awareness of the law of the people can also create problems and gaps for the mafia of the land. In addition to the process of conversion from a physical certificate to an electronic certificate, the proofing of the electronic Certificate itself can also pose problems because electronic evidence is a valid means of proof as an extension of the means of evidence in the court, so there is a possibility of misuse by certain documents. The validity of proof of electronic certificates as means of electronic proof is basically explained in Article 5 paragraph (1) and paragraph (2) of the ITE Act which states explicitly that what is referred to by electronic evidence as a means of valid proof as an



extension of valid evidence in accordance with the law of the event in force (Ghaniyyu et al., 2022)

### ***Legal Awareness***

The factors that influence the further awareness of the law are about public obedience to the law. Thus the whole interest of the people will depend on the provisions of the law itself. However, it is also believed that compliance with the law is precisely due to the fear of punishment or sanctions that will be obtained when breaking the law. A good conscience of the law is obedience to the law, and ignorance of the good law is disobedience. A declaration of obedience to the law must be regarded as the cause and consequence of consciousness and obedience to law. An attempt to instill a legal awareness in society. It is mandatory for all parties, so that the legal order can run smoothly. The law is made to regulate the norms and the lives of men, so that they do not harm each other. Besides, it's also about regulating what can and can't be done by society. A legal awareness can be understood as a consciousness of a person or a group of people to the rules or laws that apply. Legal awareness is essential to a society. It aims to ensure that order, peace, peace and justice can be realized in mutual harmony. Without a high level of legal awareness, the goal would be very difficult to (Rerung, 2023)

Maintenance of land registration will produce a final product that is a certificate as proof of ownership of the land. But in its implementation there must be obstacles both in the implementation of the administration and of the consciousness of the people themselves, especially for the general public who have not yet understood the importance of a land assignment. Then there is clearly an obligation to be performed by the owner of the right to the land to register the land that he possesses to obtain evidence. A land certificate issued by one of them is intended to obtain legal certainty and legal protection for the owner or holder of the right to a land. Besides, there is also the existence of the Farm Office as the primary authority needed by the public to provide important information related to land and to arrange for the order of all administrations to be recorded well and not to harm the public.

Currently, the government is continuing its efforts to carry out national land registration activities in a short, cheap, and successful time. In addition, land registration still has to be adapted to the socio-economic conditions of the community so that land registrations are accessible to all layers of society. The purpose of land registration is to establish administrative order, legal order, and meet the demands and expectations of the people. In using technology to provide services to the public, this electronic certificate program also has an opportunity to prevent collusion and corruption in any land certificate management and the emergence of double certificates.

Legal awareness is an understanding of the value of a person compared to the existing law. Consciousness comes from the word consciousness. It means to understand, to feel, to know or to understand. Awareness means awareness, state of understanding, something a person feels or experiences. Law consciousness can mean awareness, the state of a person who truly understands the law as well as the function and role of the law for himself and the community around him. Consciousness of the law also means a sense of law, a sense that the law is the protection of the interests of the people, a consciousness that the people have many interests that require protection by the law (Syamsarina et al., 2022)

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