

Settlement of Multiple Land Certificate Disputes Concerning Ownership Rights over Land

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Abstract

The issuance of land title certificates often entails legal consequences not only for the titleholders but also for parties whose interests are adversely affected. Consequently, this study further examines the regulations governing the resolution of disputes involving multiple certificates for the same land ownership under Indonesian land law, as well as the specific resolution of such a dispute as adjudicated in District Court Decision Number 18/Pdt.G/2018/PN Nab. A normative-juridical research method was employed. In principle, land dispute resolution can be pursued through two avenues: litigation (court proceedings) or out-of-court settlement; the resolution of the multiple-certificate dispute in District Court Decision Number 18/Pdt.G/2018/PN Nab was found to be consistent with applicable legal principles and the facts established during the trial.

Keywords

Ownership Rights, Multiple Certificates, Dispute Resolution.



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INTRODUCTION

Land is a fundamental national asset in Indonesia because the state and society live, develop, and conduct economic activities on land. Indonesian society therefore places land in a very important position, particularly because land is closely connected with agricultural productivity, settlement, economic activity, and social welfare. The constitutional importance of land is reflected in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which provides that the earth, water, and natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people. This constitutional mandate became one of the foundations for Law Number 5 of 1960 concerning Basic Agrarian Regulations, commonly known as the Basic Agrarian Law.

The Basic Agrarian Law seeks to establish legal certainty concerning land rights throughout Indonesia. It recognizes individual and legal-entity rights over land, including ownership rights, cultivation rights, and building rights. Ownership is regarded as the strongest and fullest land right that a person may possess, while remaining subject to the social function of land. Article 20 paragraph (1) of Law

Number 5 of 1960 defines ownership as a hereditary, strongest, and fullest right that a person may have over land, subject to Article 6. Article 20 paragraph (2) further provides that ownership may be transferred or assigned to another party. The nature of ownership as a property right means that it operates against others and therefore requires registration to provide a reliable legal record (Gautama, 1993; Harsono, 2008).

Article 19 of the Basic Agrarian Law mandates the government to conduct land registration throughout the territory of Indonesia in order to provide legal certainty for land-right holders. This mandate was implemented through Government Regulation Number 24 of 1997 concerning Land Registration and subsequently complemented by Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. One important product of land registration is the land title certificate. Article 19 paragraph (2) letter c of the Basic Agrarian Law places the certificate as strong evidence of land rights. Accordingly, the information contained in a certificate is treated as correct until contrary evidence is established through a lawful mechanism, including judicial proceedings (Sumardjono, 2005).

Article 32 paragraph (1) of Government Regulation Number 24 of 1997 states that a certificate constitutes strong evidence concerning the physical and juridical data contained in it insofar as those data correspond with the survey document and the relevant land book. A certificate therefore provides certainty regarding the type of right, the subject of the right, and the object of the right. Legal certainty is not merely documentary certainty; it also concerns protection of the legal relationship and protection of the exercise of the authority attached to a land right. For this reason, certainty concerning the subject, object, and exercise of rights is an essential element of the land registration system (Sumardjono, 2005; Murad, 2007).

The practical situation, however, does not always correspond to the legal framework. Land disputes occur in various forms throughout Indonesia, including disputes caused by overlapping certificates. A multiple certificate occurs when the land office issues more than one certificate describing the same parcel, either wholly or partly, with different data or different holders. Such overlapping registration can arise from inaccurate identification of the location and boundaries during measurement, unreliable or false supporting documents, the absence of an adequate registration map, insufficient verification of applications, or limited competence and coordination among applicants, village officials, and land administration officers (Murad, 1999).

The issuance of a land certificate may consequently create legal effects not only for the registered holder but also for other parties who believe that their interests have been impaired. A certificate does not absolutely exclude the possibility of a claim by another person who can legally demonstrate a better right. This situation is particularly significant in multiple-certificate disputes because two or more state-issued documents may appear formally valid while referring to the same land. The dispute therefore concerns not merely administrative documentation but also the determination of the lawful owner, the validity of the underlying rights, and the protection of good-faith parties.

The problem is illustrated by District Court Decision Number 18/Pdt.G/2018/PN Nab, which concerned overlapping certificates over land in Jalan Frans Kaisepo, Nabarua, Nabire District, Nabire Regency. The case demonstrates the importance of examining the chronology of rights, the origin of the certificates, physical possession, documentary evidence, witness testimony, and expert evidence. It also raises a broader question concerning how Indonesian land law should reconcile the evidentiary strength of a certificate with the possibility that another certificate has been issued over the same object.

Based on this problem, the study addresses two principal questions: first, how are disputes concerning multiple certificates over ownership rights to land regulated under Indonesian land law; and second, how was the multiple-certificate dispute resolved in District Court Decision Number 18/Pdt.G/2018/PN Nab? The objective is to examine the applicable legal mechanisms and to analyze how the court applied those mechanisms to determine the lawful ownership of the disputed land. The study is expected to contribute to agrarian and civil-law scholarship and to provide practical understanding for legal practitioners, academics, land-right holders, and communities facing similar disputes.

METHODS

This study employs a normative juridical research method. The research examines legal norms, statutory provisions, legal principles, doctrinal writings, and a court decision relevant to the settlement of multiple land certificate disputes. Five approaches are used: the statute approach, by examining the Basic Agrarian Law, land-registration regulations, administrative-court legislation, and alternative dispute-resolution legislation; the case approach, by analyzing District Court Decision Number 18/Pdt.G/2018/PN Nab; the historical approach, by considering the development of land-registration regulation; the comparative approach, by comparing litigation and non-litigation mechanisms; and the conceptual approach,

by examining concepts such as legal certainty, ownership, certificate evidentiary strength, good faith, and prior in tempore potior in jure. The legal materials are processed selectively and systematically. The analysis uses deductive reasoning to derive specific conclusions from the applicable legal norms and the facts established in the case, without statistical formulas. The principal sources are legislation, legal books, journal articles, and the court decision contained in the research material.

FINDINGS AND DISCUSSION

Legal Framework for Multiple-Certificate Disputes under Indonesian Land Law

A land dispute arises from a conflict of interests concerning land and requires an effective legal mechanism to restore legal certainty and fairness. The causes of land disputes are diverse, including incomplete or imperfect regulation, inconsistency between legal rules and their implementation, insufficient responsiveness of land authorities, shifting boundaries, control of state land, inheritance, uncertainty of possession, inaccurate land data, inaccurate land transactions, and limited institutional resources. Multiple certificates represent one of the most complex forms because the state registration system itself produces competing documents concerning one object (Sukmawati, 2022; Surata, 2022).

Under the legal framework discussed in the research material, multiple-certificate disputes are addressed through the Basic Agrarian Law, Government Regulation Number 24 of 1997, Government Regulation Number 18 of 2021, and the relevant ATR/BPN regulatory framework on dispute settlement. Article 19 of the Basic Agrarian Law is central because land registration is designed to provide legal certainty. Article 32 of Government Regulation Number 24 of 1997 reinforces the evidentiary position of a certificate concerning physical and juridical data. At the same time, the certificate remains strong rather than absolutely conclusive evidence, so a competing party may challenge it through an appropriate legal mechanism when evidence demonstrates a better right.

Two broad settlement routes are available: litigation and non-litigation. Litigation provides a formal mechanism through which the parties can submit documentary evidence, witnesses, expert opinions, and arguments before a competent judicial institution. Non-litigation mechanisms seek to resolve the conflict through agreement, assisted negotiation, mediation, conciliation, or other alternative processes. The choice of mechanism depends on the nature of the dispute, the relief sought, the existence of administrative defects, the presence of criminal elements, and the willingness of the parties to reach an agreement.

Litigation through the General Court

One route is litigation before the courts. A civil claim may be filed before the District Court when a party alleges that another party has reduced or violated his or her civil land rights. Civil procedure functions to maintain and enforce substantive civil law. In the research material, civil claims are described as consisting of voluntary applications, contentious civil actions, and class actions. A multiple-certificate dispute generally has the characteristics of a contentious action because there are opposing parties, an actual dispute, and competing claims to the same parcel.

A contentious claim must identify the parties, explain the legal and factual basis of the claim (*fundamentum petendi*), and formulate the relief sought (*petitum*). The principal claim may be accompanied by a subsidiary claim, including a request for a decision according to justice (*ex aequo et bono*). When a party remains dissatisfied with a District Court decision, the available legal remedy may proceed to the High Court through an appeal. The judicial process provides an institutional mechanism for examining documents, witnesses, chronology of rights, physical possession, and other evidence.

Although litigation can provide a binding and enforceable determination, the research material notes that its length, cost, and complexity may burden parties and prolong uncertainty. Nevertheless, the court remains an important final avenue where mediation fails or where a definitive determination of ownership and the legal consequences of overlapping certificates is required (Syarief, 2012).

Administrative Litigation

A multiple-certificate dispute may also involve the Administrative Court when the dispute concerns the legality of an administrative decision issued by a public administrative body or official. Under the legislation discussed in the research material, an Administrative Court dispute arises from a written administrative determination that is concrete, individual, and final and produces legal consequences for an individual or civil legal entity. The research identifies six cumulative elements: the determination must be in writing; issued by an administrative body or official; contain an administrative legal act; be based on applicable legislation; be concrete, individual, and final; and produce legal consequences.

The land certificate issued by the National Land Agency (BPN) is treated in the research material as an administrative decision because it is issued in writing by a competent administrative authority, is based on legal rules, has concrete and final characteristics, and creates legal consequences for the certificate holder.

Consequently, an administrative challenge may be pursued through administrative remedies and, where appropriate, a claim before the Administrative Court. If the claim is granted, the issuing authority may be required to withdraw the relevant administrative decision. In a multiple-certificate case, this may result in the cancellation of a certificate affected by an administrative defect, such as an incorrect object.

The research material also emphasizes the role of administrative remedies before judicial review. Where the applicable administrative mechanism is available, the parties are expected to use it before the Administrative Court exercises its authority. If a party remains dissatisfied with the first-instance decision, an appeal may be filed within the applicable period. This route is particularly relevant when the central issue concerns the validity of the administrative act by which a certificate was issued.

Criminal Reporting where Criminal Elements Exist

Land disputes can also contain criminal elements. The research material explains that agrarian law and criminal law may operate together where the dispute involves conduct such as document forgery, unlawful occupation, or collective violence. The study refers to provisions of the former and new Criminal Codes concerning unlawful occupation, document forgery, and collective violence. Criminal proceedings have a different function from civil or administrative proceedings: in addition to protecting victims, they may serve a deterrent function against unlawful conduct in the agrarian sector. The existence of a criminal element must therefore be assessed separately from the civil question of who holds the stronger land right.

Non-Litigation Settlement

The second broad route is non-litigation settlement or alternative dispute resolution. The research material refers to consultation, negotiation, mediation, conciliation, and expert assessment as mechanisms that can be agreed upon by the parties outside court. Negotiation is generally the simplest form because the disputing parties meet directly without an intermediary. Mediation introduces a neutral third party who assists the parties in reaching an agreement; in land disputes, the BPN may act as mediator in connection with its land-administration responsibilities. Conciliation gives the third party a more active role in formulating a possible settlement, while arbitration resolves a civil dispute outside the general courts on the basis of a written arbitration agreement (Rosiana & Junaidi, 2022; Muktamar & Syahida, 2024).

For multiple certificates that have already been issued, the ATR/BPN dispute-settlement mechanism described in the research material provides a structured

mediation process. The stages include submission of a request for dispute handling, research and verification by a team, mediation, preparation of an agreement or mediation record, and implementation of the agreed result. If mediation fails, the parties may proceed to court. A final and binding judicial decision may subsequently serve as a basis for the land office to cancel one certificate and correct the relevant land-book data. This combination of administrative verification, mediation, and judicial determination reflects the need to reconcile documentary records with the substantive rights established by evidence.

Analysis of District Court Decision Number 18/Pdt.G/2018/PN Nab

District Court Decision Number 18/Pdt.G/2018/PN Nab concerns disputed land located on Jalan Frans Kaisepo, Nabarua, Nabire District, Nabire Regency. The court partially granted the plaintiff's claim and recognized the plaintiff as the lawful owner of Ownership Certificate Number 1035 covering 1,568 square meters and Ownership Certificate Number 1033 covering 12,777 square meters. The decision also declared Defendant I and Defendant II to have committed an unlawful act, ordered them to vacate and return the plaintiff's land to its original condition, prohibited further activities on the plaintiff's land, imposed a daily coercive fine of Rp100,000 for delay in complying with the final decision, rejected the remaining claims, and ordered the defendants jointly to pay court costs of Rp1,586,000.

The court's reasoning relied on the chronology and origin of the plaintiff's certificates, evidence of physical control, witness testimony, and expert evidence from the Nabire land authority. The research material explains that the disputed land had been filled and leveled in 1993 by PT Melati, which was associated with the plaintiff's husband, and that a house was subsequently occupied there. The plaintiff's Certificates of Ownership Numbers 1033 and 1035 originated from Building Use Rights that were later upgraded to ownership rights and were issued earlier than the certificates relied upon by the defendants. The two certificates had also been pledged as collateral to the Bank Pembangunan Daerah Papua, which the court regarded as supporting the strength of the plaintiff's registered rights.

The defendants acquired their respective interests later. Defendant I purchased land from M. Loukaki in 2014, who had purchased it from the Wate customary head in 2007, relying on Ownership Certificate Number 870 covering 625 square meters and issued on 22 June 2007. Defendant II purchased land from the Wate customary head in 2014 and relied on a copy of Ownership Certificate Number 01732 and a customary-rights release document; the certificate was issued on 11 November 2015 and concerned 1,106 square meters. The expert evidence indicated that when the

same land is covered by different certificates, the certificate issued earlier should prevail. The court therefore considered the plaintiff's earlier rights and physical control to be procedurally and substantively stronger.

The principle applied by the court was *prior in tempore potior in jure*: the party who acquired the right earlier has the stronger legal position. In the context of overlapping certificates, this principle provides a practical criterion for evaluating competing claims, but it must be read together with the evidence concerning the origin, validity, registration process, good faith, and physical control of the land. The decision also reflects the Indonesian registration system's negative-publication character with positive elements: a state-issued certificate has strong evidentiary force, but it can still be challenged by a party capable of proving a superior lawful right (Sutedi, 2010).

The case also demonstrates the legal consequences of multiple certificates for legal certainty. First, multiple certificates undermine objective legal certainty because two or more official state documents contradict one another concerning the same object. This conflicts with the purpose of land registration to provide certainty and legal protection. Second, multiple certificates create subjective uncertainty for holders who may each believe that their certificate is formally valid. The existence of another certificate over the same land generates anxiety and legal insecurity, particularly for good-faith holders. Third, overlapping certificates may indicate a failure to observe the *contradictoire delimitatie* principle, namely the requirement that boundary determination and measurement be conducted with appropriate participation and verification of adjoining land holders. A defect in this process may become a basis for administrative correction or cancellation.

The role of judges is consequently important in verifying the origin and validity of competing certificates. Judicial examination should not stop at the physical existence of a certificate but should investigate how the underlying right was acquired, whether the registration process followed applicable procedures, the chronology of the rights, the parties' good faith, and evidence of actual control. This approach enables the court to determine which party has the stronger lawful claim and to restore legal certainty after the administrative record has become contradictory.

CONCLUSION

The study concludes that the settlement of multiple land certificate disputes concerning ownership rights is supported by a combination of land-registration law, civil procedure, administrative law, criminal law where relevant, and alternative

dispute-resolution mechanisms. The dispute may be addressed through litigation before the District Court, the Administrative Court, or criminal authorities when criminal conduct is established, while non-litigation mechanisms include negotiation, mediation, conciliation, and arbitration. The structured mediation process described in the research material offers an opportunity to resolve disputes efficiently, but judicial proceedings remain important when the parties cannot reach agreement or when cancellation and definitive determination of competing rights require a binding judgment. In District Court Decision Number 18/Pdt.G/2018/PN Nab, the court recognized the plaintiff's ownership over Certificates of Ownership Numbers 1033 and 1035 after considering the chronology of the rights, documentary evidence, physical control, witness testimony, and expert evidence. The court applied *prior in tempore potior in jure* and considered the plaintiff's earlier and procedurally supported rights stronger than the later competing claims. The case confirms that a certificate is strong evidence but does not make an overlapping or defective registration immune from legal challenge. Preventive improvement is therefore necessary through stronger database management at BPN, more careful measurement and mapping, verification of boundary information, and clearer standards concerning good faith and due diligence for purchasers in multiple-certificate cases.

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