



# LEGAL PROTECTION OF OWNERSHIP CERTIFICATE HOLDERS AGAINST THE VALIDITY OF LAND CERTIFICATES IN A NEGATIVE PUBLICATION SYSTEM

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## Article Info

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## ABSTRACT

This study aims to analyze the legal status and evidentiary strength of the Land Ownership Statement (SKT) in relation to the Certificate of Ownership (SHM), as well as the legal protection and certainty afforded to certificate holders. The research employs normative legal research methods using statutory, conceptual, and case approaches. The findings indicate that the SKT merely functions as an administrative basis of title, whereas the Certificate of Ownership constitutes a strong form of evidence of land rights, although it is not absolute under the negative publication system and may still be challenged if juridical or administrative defects are proven. The main issue addressed in this study is the lack of clear regulation regarding the legal status and limits of the evidentiary value of the SKT vis-à-vis the Certificate of Ownership. This study concludes that the land registration system based on negative publication has not yet fully ensured legal certainty and protection for holders of Certificates of Ownership, thus necessitating clearer regulation of the legal standing of the SKT and the strengthening of the land registration system.

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## 1. INTRODUCTION

Land plays a strategic role in the lives of Indonesian society because it is closely related to economic, social, and cultural aspects. To prevent conflicts over land control and ownership, the state, as a rule of law, is obliged to ensure legal certainty as stipulated in Article 28D paragraph (1) of the 1945 Constitution. This provision serves as the normative basis for land law administration in Indonesia.

To ensure legal certainty, Article 19 of Law Number 5 of 1960 on the Basic Agrarian Law (UUPA) mandates the implementation of land registration throughout Indonesia. Thru this registration, the right holder obtains a certificate as a valid proof of rights containing physical and juridical data of the land parcel. In addition to providing legal certainty, land registration also aims to establish orderly land administration and prevent disputes.

Although land registration aims to achieve legal certainty thru the issuance of certificates, in practice, the use of non-certificate documents as evidence of land possession is still found, such as the Land History Certificate (SKRT) or the Land Ownership Certificate (SKT). Both documents serve as written evidence showing the history and status of land possession before the certification process is carried out.

The Land Certificate contains information regarding the condition, location, boundaries, and identity of the landowner. The Land Ownership Certificate (SKT) serves as one of the components of legal data in the land registration process to obtain a certificate. While the certification is not yet complete, the SKT can be used as evidence of land control and utilization and contains the administrative information required in the land registration process.

Based on the Circular Letter of the Minister of ATR/BPN Number 1756.15.IV/2016, in the event that the applicant does not possess or cannot provide evidence of land control and/or ownership, proof can be made thru a written statement regarding the physical control of the land plot in good faith. Thus, the requirement for land registration that previously mandated a Land Certificate (SKT) issued by the Village Head/Urban Village Head can be replaced with a Statement of Physical Control.

The issuance of the Minister of ATR/BPN Circular Letter Number 1756.15.IV/2016 and the ATR/BPN Regulation Number 35 of 2016 aims to simplify and expedite the land registration process, particularly because the management of SKT is considered to require a long time and complicated procedures. The circular also includes a declaration form that serves as administrative proof of land control or ownership for applicants who do not have complete supporting documents.

In this mechanism, land officials process the registration based on the applicant's statement without the obligation to legally prove who the actual landowner is. This policy aligns with the principle of negative publication with a positive tendency, where the issued certificate has strong evidentiary power but is not absolute and can still be challenged if there are objections or disputes.

However, the land registration system adopted by Indonesia is a negative publication system with a positive tendency, where the physical and juridical data in land registration are considered correct as long as no other party raises an objection.

The certificate functions as a strong piece of evidence, based on what is stated in the measurement letter and land book in accordance with Article 32 Paragraph (1) of Government Regulation Number 24 of 1997, which states: "The certificate is a certificate of rights that serves as strong evidence regarding the physical and juridical data contained therein, as long as the physical and juridical data correspond with the data in the measurement letter and the land book of the concerned rights." However, it is not absolute and can still be contested if there are legal or administrative defects in the issuance process.

This condition raises questions about the extent of legal protection provided to holders of Ownership Certificates in a land registration system based on negative publication, especially when faced with claims based on Land Certificates. Therefore, this research becomes relevant and important to be examined juridically.

## **2. RESEARCH METHODS**

This research is a normative legal study that positions law as an applicable norm or rule. The approach used is the statute approach thru the examination of related regulations, as well as the conceptual approach by studying relevant legal doctrines and theories. The legal materials used include primary legal sources consisting of regulations and laws related to land, secondary legal sources such as writings and research, and tertiary legal sources that encompass legal dictionaries and encyclopedias. The analysis was conducted qualitatively with prescriptive legal reasoning to construct a logical and systematic argumentation in addressing the research problems.

## **3. RESULT AND ANALYSIS**

### **Land Registration in Indonesia within the Framework of the Negative Publication System**

Post-independence, Indonesia faced a dualistic agrarian legal situation, characterized by the continuation of Dutch colonial law in one part and customary law as the indigenous law of the Indonesian people in the other part. To end this dualism and achieve legal certainty in the field of land, the government enacted Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA) as the national legal basis that comprehensively regulates the relationship between humans and land.

As the implementation of UUPA, the government then issued Government Regulation Number 10 of 1961 concerning Land Registration, which was subsequently revoked and improved thru Government Regulation Number 24 of 1997 concerning Land Registration. This regulation became the main foundation in the administration of land affairs and the granting of land rights in Indonesia.

In accordance with Government Regulation Number 24 of 1997, land registration is intended to provide guaranties and legal protection for the rights holders to easily prove their ownership status, and to present land data for interested parties, including the state, to support the smooth management of land and the execution of legal actions on registered land and vertical housing units.

Acquisition of land rights in Indonesia can be carried out thru several mechanisms, namely based on statutory regulations thru the land registration process as regulated in Government Regulation Number 24 of

1997, thru government decrees in the form of decisions by authorized officials granting, extending, or renewing land rights, and based on customary law, where land rights, especially ownership rights, can arise naturally thru the opening and control of land by the community.

According to Muchsin et al., legal certainty in the field of land tenure is realized thru land registration that is rechtscadaster in nature, meaning registration that emphasizes proof of rights, as well as thru the conversion of land rights from the old agrarian legal system to the national agrarian law as regulated in the UUPA. Land registration is regulated in Article 19 of the UUPA, while the provisions for the conversion of rights are regulated in the Second Dictum of the UUPA. Article 19 of Law Number 5 of 1960 concerning the Basic Agrarian Law fundamentally regulates the implementation of land registration as an instrument to guaranty legal certainty. The regulation stipulates that the government must carry out land registration throughout the territory of the Republic of Indonesia in accordance with further requirements in government regulations. The land registration includes activities such as determining measurements, creating maps, and recording land documents, recording land ownership rights along with their transfers, as well as issuing certificates of rights that have very convincing evidentiary power.

According to Article 1 of Government Regulation Number 24 of 1997, land registration is a series of processes organized by the government continuously and systematically, including the collection, processing, recording, presentation, and maintenance of physical and legal information about land parcels and apartment units, including the issuance of documents proving land rights and ownership rights over apartment units along with other rights encumbering them.

In the registration process, the determination and maintenance of land boundaries become important aspects that must be considered by the rights holder. Before measurements are taken, the boundaries of the land must be marked by installing boundary stakes and agreed upon by the directly bordering parties. This provision reflects the application of the principle of *contradictio delimitatie*, which emphasizes mutual agreement in determining land boundaries to ensure the accuracy of physical data and prevent boundary disputes in the future.

Along with the rapid population growth, the demand for land continues to increase, while the availability of land is fixed and limited. The imbalance between the increasing demand and the limited availability of land often triggers various conflicts and land disputes, where land frequently becomes the object of contention, encroachment, or disputes over rights between individuals or groups.

In line with the provisions of Government Regulation Number 24 of 1997 concerning Land Registration, Boedi Harsono explains that the main objective of land registration is to create a situation where:

- a. "Individuals and legal entities who own land can easily prove that they are the rightful owners of the land, what rights they possess, and which land they own." This goal is achieved by providing a certificate of land rights to the relevant rights holder.
- b. Anyone who needs it can easily obtain reliable information regarding the lands located in the relevant registration area (whether they are prospective buyers or prospective creditors) who want to ascertain whether the information provided by the prospective seller or debtor is true. This objective is achieved by making the stored data publicly accessible.

The object of land registration as regulated in Government Regulation Number 24 of 1997 includes land parcels owned with Ownership Rights, Business Use Rights, Building Use Rights, and Use Rights, including Management Rights land and waqf land. Additionally, land registration also includes Ownership Rights over Strata Title Units and Mortgage Rights. Regarding state land, its registration is carried out thru the bookkeeping of the relevant land area in the land register book without the issuance of a certificate. Meanwhile, other land registration objects are recorded in the registration map and land book, and then a certificate is issued as proof of ownership rights.

The administration of land registration is carried out by the National Land Agency (BPN), which at the district or second-level regional level is conducted thru the Land Office. The implementation of land registration by BPN is a manifestation of the state's authority in the field of land, particularly in the executive power function.

Regarding the object of land registration where the certificate serves as proof of rights, there are various types of certificates issued according to the object of land rights as regulated in Government Regulation Number 40 of 1996 and Government Regulation Number 24 of 1997, namely: "Certificate of Ownership Rights, Right to Cultivate, Right to Build on State Land, Right to Build on Management Rights Land, Right to Use State Land, Right to Use Management Rights Land, Management Rights Land, Waqf Land, Ownership Rights on Strata Title Units, Ownership Rights on Non-Strata Title Units, and Mortgage Rights." If in the future there are lawsuits or legal claims against the certified land object, all the information contained in the certificate has strong evidentiary power, as long as there is no other evidence that can prove otherwise. In the resolution of civil cases, documentary evidence plays a central role in realizing truth, certainty, and legal justice. Land title certificates, as one form of written evidence, primarily serve as legitimate and strong proof for the holder of the rights. This is in line with Article 19 of Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA), which emphasizes that land ownership can be proven thru a certificate that clearly contains the identity of the rights holder. Things that can be proven in the land rights certificate are:

- a. "Types of land rights (whether ownership rights, building use rights, business use rights, or other land control rights).
- b. Rights holder
- c. Physical description of the land object
- d. Legal events occurring with the land"

In land registration practice, there are two publication systems adopted by various countries around the world, namely the positive publication system and the negative publication system. The difference between these two systems lies in the level of legal protection provided to bona fide right holders, especially when the registration data turns out to be incorrect.

In the positive publication system, the government guarantees the accuracy of the recorded data. This means that parties registered in the land book are legally recognized as legitimate and unassailable holders of rights, except in cases of forgery. In this system, the state as the registration authority is fully responsible for the validity of the presented data. The positive publication system is usually used in countries with well-organized land governance, such as Australia, Singapore, Germany, and Switzerland.

On the other hand, the negative publication system does not provide an absolute guaranty of the accuracy of the data listed in the land register. The land registration officer only records based on the information provided by the registrant without conducting substantial verification. Thus, registration does not automatically grant legitimate ownership rights to the party recorded in the certificate if there is an error in the recording. In this system, the rightful party can still demand data correction or certificate cancelation, because the recording is not absolute.

Both the negative publication system and the positive publication system in land registration have their own advantages and disadvantages.

In the positive publication system, the advantages include a high degree of legal certainty for certificate holders, the active role of land registration officials, and public accessibility to land data. However, this system also has weaknesses, such as the loss of rights for the actual owner if the land has been registered under someone else's name and cannot be changed, high implementation costs, and the limited role of the judiciary because authority is more in the administrative realm.

Meanwhile, the negative publication system has the advantage of protecting the actual landowners, as their rights can still be claimed even if the land is registered under someone else's name, and there is a review of the land's history before the certificate is issued. Additionally, there is no time limit for the rightful owner to file a lawsuit over land that has been registered by another party. The weaknesses include the lack of legal certainty regarding the certificate, as it can be sued or canceled at any time, the passive role of the registration officials, and the lack of transparency in the land registration mechanism.

According to Boedi Harsono, the land registration publication system operating in Indonesia is a negative publication system that includes positive elements, not a purely negative system. This is reflected in Article 19 paragraph (2) letter c, Article 23 paragraph (2), Article 32 paragraph (2), and Article 38 paragraph (2) of the UUPA, which state that certificates are strong evidence. Thus, the system adopted by Indonesia still provides room for legal protection for certificate holders, even tho the state does not guaranty the absolute accuracy of the data contained within it.

According to Elza Syarief, the negative publication system (*stelsel negatif*) used in land registration in Indonesia aims to provide legal protection for the actual landowners, because this system adheres to the principle of *nemo plus juris*, meaning that a person cannot transfer rights beyond what they possess. In this system, legal certainty is maintained thru the issuance of certificates based on verified land data. Land officers play an active role in verifying the accuracy of data before issuing certificates to applicants.

However, land certificates do not have absolute power, because the negative publication system still allows legitimate landowners to sue in court if their rights are harmed by the issuance of the certificate. Thus, the party who feels they have a stronger right can file a lawsuit in the District Court to prove their ownership in accordance with the principle of *actori incumbit probatio* (whoever claims a right must prove it).

Furthermore, Government Regulation Number 24 of 1997 adopts a negative publication system with a legal protection period of 5 years, which means that after this period, the certificate obtains more permanent legal force. However, the characteristics of this negative publication system also contribute to the emergence of land disputes, especially because administrative documents such as the Land Certificate (SKT) are still often used as evidence in court, even tho they are not legally recognized as proof of rights in the national land registration system.

### **The Legal Status of Land Certificates in the Indonesian Land Law System**

Regulations regarding the Land Certificate (SKT) issued by the Village Head have evolved in line with changes in land regulations in Indonesia. In addition to the Basic Agrarian Law (UUPA), these regulations are reflected in Government Regulation No. 10 of 1961 concerning Land Registration, Government Regulation No. 24 of 1997, and Government Regulation No. 18 of 2021 concerning Land Registration. In Government Regulation No. 10 of 1961, there is no provision that explicitly grants the Village Head the authority to issue a Land Certificate (SKT). However, the role of the Village Head is recognized as an administrative supporter in the land registration process, including as part of the land history investigation committee as regulated in Article 3 paragraph (3), and as a witness in the creation of unregistered land deeds as mentioned in Article 25 paragraph (2). In the practice of land administration during that period, village heads and government officials at the sub-district level often provided information regarding the history of community land ownership. The information is then known as a Land Certificate (SKT) or Land History Certificate, which serves as an administrative explanation regarding the status of land ownership.

In local government practice, the SKT is generally made by the Village Head or Lurah as the government officials most familiar with the social conditions and land tenure history in their area. In several regions, the letter is also acknowledged or endorsed by the Sub-District Head as a form of administrative reinforcement of the information provided by the village government. However, the involvement of the Sub-District Head in this matter does not grant the authority to issue land rights, but rather to endorse or acknowledge the information regarding the history of land control made by the village government. Therefore, both the Village Head and the Subdistrict Head essentially only play a role in providing administrative information regarding the history of land control, not as parties authorized to establish or legally certify land rights.

Furthermore, Government Regulation No. 24 of 1997, which replaced Government Regulation No. 10 of 1961, provides a more systematic regulation regarding land registration, including clarity on the legal status of SKT. In this regulation, SKT is viewed as supporting evidence that can be used to strengthen land control or ownership in the registration process, as long as it meets administrative requirements and is in accordance with applicable legal facts. Thus, Government Regulation Number 24 of 1997 and Government Regulation Number 18 of 2021 concerning Land Registration emphasize that the role of the Land Certificate (SKT) is not as an independent proof of rights, but rather as part of the juridical data in land registration.

Land Certificate (SKT) is one of the pieces of evidence used in the process of registering land rights certificates. The land being registered must be supported by authentic data and written evidence, which is ultimately recorded in the form of a land rights certificate. Legally, the state recognizes land ownership based on the name of the right holder as stated in the certificate, so other parties cannot challenge that ownership in principle.

Although the Land Certificate (SKT) is no longer explicitly regulated in Government Regulation Number 24 of 1997 and is not a primary requirement for land registration, its existence is still encountered in practice. Article 76A of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN Number 16 of 2021 emphasizes that written evidence of former customary land ownership is no longer valid after five years from the enactment of PP Number 18 of 2021. With the expiration of that period, written evidence of customary land, including SKT, in principle is no longer used as proof of rights. However, in social reality, many people still use SKT as proof of land possession, even in land sale transactions, although it is only supported by SKT issued by the Village Head or acknowledged by the Subdistrict Head.

SKT is relatively easy to obtain because its issuance only requires witness statements, RT administrators or village officials, and endorsement from the village head or village chief. In some village administrative practices, the letter is also acknowledged by the sub-district head as a form of administrative legitimacy at the sub-district level. This condition has caused various legal issues, especially after the issuance of the Minister of ATR/BPN Circular Letter Number 1756/15.IV/2016, which emphasizes that village heads or sub-district heads no longer have the authority to issue SKT as a preliminary requirement for land registration. Although the SKT is a written document under hand that does not have the same evidentiary power as a certificate, in practice, the SKT is still often positioned as a basis of rights and proof of land possession history in the land registration process at the National Land Agency.

SKT functions as a supporting administrative document that shows the history of ownership and physical control of the land, especially when there are deficiencies or incompleteness in other evidence. In various regions, such land ownership documents are known by different names, such as girik, letter C, petuk, sultan's grant, and other terms derived from customary law. In the research location, the land title is known as Surat Keterangan Tanah (SKT).

Article 24 paragraph (1) of Government Regulation Number 24 of 1997 states that land rights originating from the conversion of old rights can be registered using written evidence, witness statements, and/or declarations from the parties concerned, as long as deemed sufficient by the Adjudication Committee or the Head of the Land Office. This provision indicates that although a certificate is the only fully recognized proof of ownership, other evidence such as SKT still has a limited function in the administrative process of land registration.

Before the enactment of UUPA, SKT was still recognized as proof of land rights. However, after the enactment of UUPA, Government Regulation No. 10 of 1961, and subsequently Government Regulation No. 24 of 1997, this status changed, with land title certificates becoming the sole strong proof of ownership. Nevertheless, in social and legal practice, the community still views SKT as proof of land ownership, which has the potential to cause disputes and legal uncertainty.

### **Certificate of Ownership as a Strong Proof of Rights**

Within the framework of the UUPA, a Certificate is an official document proving legitimate land ownership, issued to guaranty legal certainty for the holder of the right. Certificates are issued by the National Land Agency thru the final results of the initial land registration stages and hold a position as a strong proof of evidence.

In order to realize legal certainty for the rights holder, a land certificate will be issued to the entitled party as authentic proof of their rights. Article 32 paragraphs (1) and (2) of Government Regulation Number 24 of 1997 concerning Land Registration emphasize that land title certificates serve as evidence with strong probative value against the physical and juridical data contained therein, as long as the data is consistent with the information in the measurement letter and the relevant land book. These provisions are in line with Article 19 of the Basic Agrarian Law (UUPA), which regulates land registration to ensure legal certainty, as well as Article 23 of the UUPA, which mandates the registration of ownership rights along with any transfers, extinguishments, and encumbrances of land rights.

Thus, according to the UUPA, Government Regulation No. 10 of 1961, and Government Regulation No. 24 of 1997, a land title certificate is not an absolute or perfect piece of evidence, but rather a strong piece of evidence that can still be challenged if there is other evidence showing a legal defect in its issuance process.

The development of regulations regarding the five-year period has been updated thru Article 64 paragraphs (1) and (2) of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. Article 64 paragraph (2) stipulates that changes to land certificates that are more than five years old are only possible if there are administrative defects. However, in judicial practice, there are still rulings that accept lawsuits outside the grounds of administrative defects, leading to legal uncertainty in the land registration system. This condition indicates that the function of legal certainty as a means of protection for the community from arbitrary actions in land administration is not yet optimal.

Article 4 of Government Regulation Number 24 of 1997 emphasizes that the issuance of certificates aims to provide certainty and legal protection for the rights holders. Legal protection for holders of Ownership Certificates (SHM) is divided into two categories, namely preventive or deterrent protection and repressive or enforcement protection. Preventive protection is carried out thru the land registration process and the issuance of certificates as strong evidence, while enforcement protection is provided thru the court system when disputes arise. However, in the negative publication system implemented in Indonesia, certificates can still be questioned and canceled, so their legal guaranty is not entirely certain.

Nevertheless, the strength of the certificate as evidence increases over time. This can be seen in the provisions of Article 32 paragraph (2) of Government Regulation Number 24 of 1997, which adopts the principle of *rechtsverwerking*. This provision states that if a certificate is lawfully granted to an individual who is acting in good faith and genuinely occupies the land, then other parties who believe they have rights will not be able to file a claim after five years from the issuance of the certificate, provided that no lawsuit or official objection is filed within that period. In other words, after that period ends, the status of the certificate increasingly resembles a positive publication system because it becomes difficult to contest.

### **Conflict of Proof between Land Certificates and Ownership Certificates**

In a negative publication system, the position of evidence does not always linearly determine the final outcome of a court decision. The research by Saifuddin, S. S., & Qamariyanti, Y. (2022) includes a decision from the District Court that shows that a Land Certificate (SKT), under certain conditions, can surpass the evidentiary strength of a Certificate of Ownership in resolving land disputes.

- a. In the Martapura District Court Decision Number 18/Pdt.G/2015/PN.MTP, the Plaintiff claims land rights based on a Land Certificate (SKT) issued in 1979, while the Defendant bases their ownership on a Certificate of Ownership Rights issued in 2001. Both pieces of evidence overlap on the same land object. In its decision, the panel of judges granted the Plaintiff's lawsuit and rejected the Defendant's exception, thus the Land Certificate (SKT) was deemed to have more convincing evidentiary power compared to the certificate in the case.
- b. In the Medan District Court Decision Number 482/Pdt.G/2016/PN.MDN, the Plaintiff based their land ownership claim on a Land Certificate (SKT) issued in 1973, while the Defendant submitted a Land Ownership Certificate issued in 2015, obtained based on the 1974 SKT and covering part (half)

of the same land object. The dispute shows an overlap of rights between the old administrative evidence and the subsequently issued certificate.

Based on the legal considerations in those rulings, there are several crucial points that need further examination, including the following:

- a. Decision No.18/Pdt.G/2015/PN.MTP:
  - 1) The Land Statement Letter (SKHMPUT) from 1978 issued by the Village Head is considered to have met the General Principles of Good Governance, particularly the principle of prudence, because it was issued in accordance with administrative procedures, namely signed by the Village Head and acknowledged by the Sub-District Head and the RT Chairman. Therefore, this document is deemed sufficient to prove ownership of the disputed land.
  - 2) The issuance of the Certificate of Ownership in 2001 by the Banjar Regency Land Office is deemed to contain elements of administrative negligence, as it is not supported by complete and verifiable land documents. As a result, the certificate is considered to lack a strong legal basis in its issuance process.
- b. Decision No.482/Pdt.G/2016/PN.MDN: That the Land Certificate (SKT) owned by the Plaintiff, issued in 1973, and the Ownership Certificate owned by the Defendant, issued in 2015 based on the 1974 SKT, are both not recorded in the land book of the Deli Serdang District Land Office. However, the Plaintiff's SKT is deemed valid because it was issued in January 1973, before the enactment of Article 2 letter d number 8, which designated the Tanjung Sari Village area as part of the Medan City area due to territorial expansion. Conversely, the 1974 SKT owned by the Defendant is considered invalid because it was issued after the change in the status of the area, thus lacking a valid legal basis. As a result, the SKT cannot be used as a valid basis for the issuance of the 2015 Certificate of Ownership.

According to the Study by Saifuddin, SS, & Qamariyanti, Y. (2022), there are several points that need to be explained, namely:

- a. That each party holds arguments in defending the evidence they present related to proof of land ownership;
- b. The legal basis used by the judge as a consideration, especially regarding SKT, does not refer to the valid positive legal regulations on land that are truly explicit as laws. Meanwhile, the issuance of the Land Ownership Certificate is based on Article 19 of the Basic Agrarian Law and Article 32 of Government Regulation No. 24 of 1997, which have certainly gone thru the standard operational procedures established in the regulations; c. The Land Agency is also obliged to be responsible by being able to present the land deed for the Land Ownership Certificate.

In that case, the Land Rights Certificate issued by the Land Office has essentially gone thru the land registration procedure and meets the formal and juridical requirements as stipulated in Article 19 paragraph (2) of the UUPA, including being supported by land documents stored at the Land Office. Thus, the certificate legally serves as a strong proof of rights. On the other hand, the Land Certificate (SKT) is not based on the UUPA or positive legal regulations as proof of ownership, but only serves as evidence of administrative control.

However, in judicial practice, the Land Certificate (SKT) is often considered and can even outweigh the certificate, which indicates that the principle of legal certainty as intended by Article 19 of the UUPA has not yet been fully implemented in the judges' considerations. This condition is not solely caused by the judges' consideration, which lacks emphasis on the position of the certificate, but is also influenced by external factors, namely the inability of the Land Office to fully prove the certificate issuance process, including the completeness of land documents. This ultimately weakens the position of the certificate as a strong piece of evidence and undermines the "dignity" of the Land Rights Certificate as referred to in Article 19 of the UUPA.

Based on the Martapura District Court Decision Number 18/Pdt.G/2015/PN.MTP and the Medan District Court Decision Number 482/Pdt.G/2016/PN.MDN, the panel of judges stated that the Land Rights Certificates owned by the defendants do not have legal force. Legally, the ruling implies the annulment of the validity of the certificate as evidence of land ownership, rendering the certificate no longer usable as valid proof of ownership of the disputed land object. This condition is a consequence of the application of the land registration system with a negative publication system that contains a positive element, as adopted in the UUPA.

The decisions of the Martapura and Medan District Courts show that legal protection for holders of Ownership Certificates is not yet optimal in the negative publication-based land registration system. Although normatively the Certificate of Ownership Rights is a strong piece of evidence, in practice, the certificate can still be defeated by the Land Ownership Certificate (SKT) if the certificate holder is unable to prove the validity of the legal data and the basis for its issuance. This creates legal uncertainty for certificate holders who have obtained their rights thru the land registration procedure, as these rights can still be challenged by other parties who base their claims solely on village administrative documents.

The cancellation of the certificate results in legal consequences in the form of the loss of ownership and control over the land specified in the certificate. However, the legal consequences only become effective if the certificate is declared invalid thru a court decision that has permanent legal force (*inkracht van gewijsde*) and

followed up by the National Land Agency as the authorized institution, including the deletion of the certificate from the land book register. In the case under review, although there has been a court decision, the execution of the land object has not yet been carried out, so the legal consequences of the certificate cancelation have not been fully realized. On the other hand, if the certificate was issued based on clear physical and legal data, and the holder meets the criteria of a good faith buyer as stipulated in SEMA Number 7 of 2012, then in principle, the land rights should receive legal protection and not be easily contested.

Based on that analysis, it can be concluded that ownership of a Land Title Certificate does not automatically guaranty absolute validity in court. This emphasizes that in the negative publication system adopted by Indonesia, a certificate is indeed a strong piece of evidence, but not an absolute one, so it can still be annulled if it is proven that there are legal defects in its issuance process.

#### **4. CONCLUSION**

Based on the research titled "Legal Protection for Certificate of Ownership Holders Against the Validity of Land Certificates in a Negative Publication System," the following conclusions can be drawn:

- a. Juridically, a Land Certificate (SKT) is not proof of land rights, but rather an administrative basis that explains the control or history of the land. In contrast, a Certificate of Ownership (SHM) is the result of land registration that has strong evidentiary power.
- b. Legal protection for SHM holders has not yet fully provided optimal legal certainty. Preventively, land registration and the issuance of certificates are intended as instruments of legal protection thru official recording and the issuance of SHM as strong evidence. Repressively, legal protection is pursued thru the judiciary, but its effectiveness heavily depends on proving the validity of the basis of rights and the certificate issuance procedure.

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