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Conflict of Land Ownership Between Historical Possession and Land Title Certificates in the Perspective of Agrarian Law (Study of Decision Number 7/Pdt.G/2024/PN.Pkl)

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Abstract

Land ownership disputes in Indonesia remain complex, particularly when conflicts arise between long-standing factual land control and formal legal ownership evidenced by certificates, reflecting a tension between legal certainty and substantive justice within agrarian law. This study analyzes the juridical aspects of unlawful acts in land tenure disputes through Decision Number 7/Pdt.G/2024/PN Pkl, using a normative juridical method with empirical reinforcement, combining statutory, conceptual, and case approaches, supported by limited interviews. The findings reveal that courts tend to prioritize formal legality, especially land

certificates, as the primary basis for determining ownership, resulting in the rejection of claims based solely on factual control without formal evidence. Furthermore, the analysis shows that the elements of unlawful acts are closely linked to the validity of land rights, positioning legal ownership as a decisive factor in judicial reasoning. This condition illustrates an imbalance in the application of agrarian law, where legal certainty is upheld, yet substantive justice for parties with historical control over land is not always achieved. The study contributes to the development of agrarian law by emphasizing the need for a more balanced and inclusive approach that recognizes both formal legality and factual realities in land tenure. In this regard, improving access to land registration and strengthening mechanisms for legal recognition of long-term land control are essential steps to minimize agrarian conflicts and create a more equitable legal system.

Keywords

Land Dispute, Unlawful Act, Land Ownership, Legal Certainty, Agrarian Law, Land Registration.

A. Introduction

Land holds a strategic position within Indonesia's agrarian legal system, both as a source of livelihood and as a legal object whose certainty and protection must be guaranteed. Through the Basic Agrarian Law, the state affirms that every land right must be recognized, protected, and provided with legal certainty for its holders. This provision is reinforced through the land registration system as regulated in Government Regulation No. 24 of 1997 concerning Land Registration, which establishes land title certificates as strong evidence of ownership. Within this framework, agrarian law aims to create conditions where land ownership conflicts do not arise, as all physical and legal data have been systematically documented and integrated. Thus, legal certainty regarding land rights is one of the primary objectives in the administration of the national land system.

However, in practice, agrarian disputes are still frequently encountered, revealing a discrepancy between these ideal conditions and the reality on the ground. One common form of conflict is the clash between historical land tenure and ownership based on land title certificates. This phenomenon is reflected in Judgment No. 7/Pdt.G/2024/PN Pkl, in which the plaintiffs based their claims on a history of land control dating back to 1948, evidenced by tax records and the village's Book C, while the defendants presented proof of ownership in the form of land title certificates issued by the competent authority. The conflict is further complicated by the defendant's physical control of the land and the use of the land for specific purposes without the plaintiffs consent, thereby raising allegations of unlawful acts.

This case was originally filed by the Plaintiffs—Istianah (Plaintiff I), Solichin (Plaintiff II), and Budi Raharjo (Plaintiff III)—who, in essence, sued the Defendants: the Head of the Padukuhankraton Subdistrict (Defendant I), the Chairman of the Santo Bernardus Foundation (Defendant II), the Principal of Bernardus High School (Defendant III), and the Mayor of Pekalongan as a Co-Defendant. This dispute concerns a claim of ownership over a plot of land which, according to the Plaintiffs, belongs to them, but which is in fact controlled by or associated with the Defendants.

In the first instance at the Pekalongan District Court (Case No. 7/Pdt.G/2024/PN Pkl), the Plaintiffs asserted their right of ownership over the land based on a history of possession and administrative evidence in the form of tax receipts and Letter C data. To prove this claim, the Plaintiffs submitted evidence in the form of documents marked P-1 through P-24 and called three witnesses: Nur Hidayah, Zaenal Abidin, and Teguh Raharjo. The documentary evidence includes, among others, Exhibit P-1, a photocopy of a Doesoen Doekoeh letter or land sale and purchase agreement. This document records the land sale and purchase transaction from B.H. Kulsum and B.H. Aminah to B. Alijah, written in Javanese. The document indicates that B. Alijah purchased rice paddy land in Dukuh Pekalongan, , and simultaneously received the transfer of the land along with the stamp tax; this transaction was witnessed by the Lurah

(village head) and Tjarik (village secretary) of Dukuh Village. According to *the Dukuh Village Landrente Register*, the property in question is Parcel 18S II with 835 da, A photocopy of the PETOEK PADJEG TANAH of Dukuh Pekalongan No. 5 is registered in the name of Quannah (referred to elsewhere as Oewanah/Uwanah) with Ba No. 46 (P-2). A photocopy of the Letter from the Heirs of Kraton Lor Subdistrict No. 045.2/200/Kel/IV/2013 dated May 6, 2013 (P-3); letters of request and correspondence to the local government (P-4 through P-9); an excerpt from the Village Book C in the name of B. Uwanah (P-10), administrative data from the village office regarding land area (P-11), as well as various photocopied documents of the Padjak Peralihan Lingkungan Kota Besar Pekalongan Desa Dukuh Decree for the years 1951–1959 (P-16 through P-24) showing tax payments from 1951 to 1959.

On the other hand, the Defendants contested the Plaintiffs' claims and also submitted evidence. Defendant I submitted documentary evidence marked T.I-1 in the form of a photocopy of Certificate of Ownership (SHM) No. 00026/Dukuh Subdistrict in the name of the City Government of Pekalongan, while Defendants II and III submitted documentary evidence marked T.II.III-1 through T.II.III-17, which consist of photocopies of SHM Nos. 03017, 03015, 03016, and 03018 in the name of the rights holder, the Parish of St. Peter Pekalongan, as well as photocopies of the old certificates serving as the basis for the latest SHMs, namely SHM Nos. 00555, 00556, 00557, and 00558 in the name of Mgr. Pascalis Soedita Hardjasoemarta, photocopies of the Deposit Receipt (STTS) and Property Tax Notice (SPPT) for 2023, photocopies of the 2024 SPPT, and photocopies of the Map and Area Calculation using *the AutoCAD* method. As well as presenting witnesses to strengthen their defense arguments. In its deliberations, the first-instance panel of judges assessed that the evidence and witnesses submitted by the Plaintiffs were not sufficiently strong, particularly because the witness statements were *based on hearsay* (merely on hearsay) and were unable to prove a clear legal relationship between the Plaintiffs and the subject of the dispute. Based on this, the Pekalongan District Court issued a

ruling that, in essence: dismissed Defendant I's " " exception and, on the merits of the case, dismissed the Plaintiffs' entire claim and ordered the Plaintiffs to pay court costs in the amount of Rp1,670,000.00.



Image 1. The disputed object of Defendant II

During the trial, Imam Supriyono, as legal counsel for Defendants 2 and 3, explained that the legal facts revealed in court showed that Uwanah (listed as Chuanah), the parents of the plaintiffs, had legally relinquished their rights to the land through Deed of Sale (AJB) No. 2/PPAT/1974. This transaction was conducted in the presence of the Head of the Pekalongan Barat Subdistrict, acting as the Land Deed Officer (PPAT), which legally transferred ownership of the land from the heirs of Tajubi (including Uwanah) to Joseph Rachmat. With this valid transfer of rights, the plaintiffs' claim that their parents never transferred the disputed property to another party is legally unfounded. Although the plaintiffs hold a Letter C document (Exhibit P-10), the panel of judges affirmed that this evidence, including the Petoek Padjeg (Exhibit P-2), is merely of an administrative nature regarding taxes and does not constitute evidence of land ownership rights capable of invalidating the probative force of the deed of sale and the certificate that have been issued.¹

¹ Salmah, and Mohammad Hifni. 2026. "Kekuatan Hukum Sertifikat Hak Milik Dalam Penyelesaian Sengketa Tanah : (Studi Kasus PN Serang Nomor 124/PDT.G/2024/PN SRG)". *Al-Zayn : Jurnal Ilmu Sosial & Hukum* 4 (2):5085-99.

Dissatisfied with the decision, the Plaintiffs filed an appeal on August 14, 2024, accompanied by a brief of appeal which, in essence, stated that the District Court's decision was incorrect and contrary to the law. At the appellate level in the Semarang High Court (Case No. 458/PDT/2024/PT SMG), the Panel of Judges conducted a review of the entire case file, including the complaint, the first-instance decision, and the appellate brief.

In its deliberations, the appellate court actually found defects in the Plaintiffs' complaint, particularly regarding the lack of clarity concerning the legal relationship to the subject matter of the dispute and inconsistencies regarding the area and identity of the disputed land. Therefore, the complaint was deemed vague (*obscur libel*) and thus failed to meet the formal requirements.

Based on these considerations, the Semarang High Court, in its judgment, ruled as follows: to grant the appellants' appeal, to set aside the judgment of the Pekalongan District Court No. 7/Pdt.G/2024/PN Pkl dated July 31, 2024, and adjudicating the case itself by ruling to accept Defendant I's exception and declaring the Plaintiffs' lawsuit inadmissible (*niet ontvankelijke verklaard*), as well as ordering the Plaintiffs to pay the court costs at both levels of the court, with the costs at the appellate level amounting to Rp150,000.00. Thus, this case concluded at the appellate level with the result that the Plaintiffs' complaint was dismissed as inadmissible due to a procedural defect, without further examination of the merits of the case.

A number of previous studies have examined land disputes, particularly regarding the evidentiary weight of land title certificates within Indonesia's land registration system. Research conducted by Hengki Maulana in 2023 through a thesis titled *The Evidentiary Value of Land Titles (Analysis of Judgment No. 142/Pdt.G/2019/PN.Mtr)* shows that a certificate is a piece of evidence with strong legal force, but it is not absolute because it can still be annulled if it is proven to have legal defects, whether administrative or substantive; furthermore, in judicial practice, judges prioritize the proof of

<https://doi.org/10.61104/alz.v4i2.4983>.

material truth over mere formal evidence.²

In line with this, Felix Rocky Wibhawa and Anak Agung Istri Ari Atu Dewi (2022), in their article *"The Evidentiary Value of Land Ownership Certificates as Valid Proof of Ownership,"* assert that certificates hold a valid and strong legal standing under the law; however, they remain subject to challenge due to the negative publication system, unless they meet certain requirements as stipulated in Article 32(2) of the Government Regulation on Land Registration.³ On the other hand, research by Raja Agung Kusuma Arcaropeboka, Ratna Kumala Sari, and Toni Mahasan (2023) in the article *"The Legal Force of Land Title Certificates as Evidence in Proving Land Ownership Rights (A Study of the Decision of the Kota Agung District Court No. 12/Pdt.G/2014/PN.Kot)"* shows that the validity of a certificate must still be tested during the evidentiary process in court by considering other evidence and the facts revealed, so that the judge does not rely solely on the existence of the certificate as formal evidence.⁴ Furthermore, the research by Kadek Yogi Arya Agustama, Komang Febrinayanti Dantes, and Ni Luh Wayan Yasmiati (2026) through the article *Legal Analysis of the Evidentiary Value of Ownership Certificates as Evidence in Land Ownership Disputes (Study of Judgment No. 82/Pdt.G/2024/PN.Sgr)* states that although a certificate is an authentic deed with full probative force, its existence can still be set aside if there is evidence of actual, continuous, and in good faith physical possession (*bezit*); therefore, judges tend to prioritize substantive truth when adjudicating cases.⁵

² Hengki Maulana, "Kekuatan Sertifikat Sebagai Alat Bukti Hak Atas Tanah (Analisis Putusan Nomor : 142/Pdt.G/2019/Pn.Mtr) *Repository Universitas Mataram* (2023)

³ Felix Rocky Wibhawa, Et al. "Kekuatan Pembuktian Sertifikat Hak Milik atas Tanah sebagai Alat Bukti Kepemilikan yang Sah." *Acta Comitas Jurnal Hukum Kenotariatan*. Vol. 7 no.01 (2022) 94-103

⁴ Raja Agung Kusuma Arcaropeboka, Et al. "Kekuatan Hukum Sertifikat Hak Atas Tanah Sebagai Alat Bukti Terhadap Pembuktian Hak Milik Tanah (Studi Putusan Pengadilan Negeri Kota Agung Nomor: 12/Pdt.G/2014/Pn.Kot)" *Audi Et AP: Jurnal Penelitian Hukum*. Vol. 02 no. 02 (2023) 79-89

⁵ Kadek Yogi Arya Agustama, Et al. "Analisis Yuridis Kekuatan

In addition, Ati Yuniati (2017), in her article *"The Strength of Certificates as Evidence in Land Dispute Resolution,"* explains that certificates are strong evidence that must be considered valid as long as there is no other evidence to refute them; however, this strength is not absolute because legal defects such as forged certificates, duplicate certificates, or administrative errors that lead to disputes are still possible, so that resolution can be pursued through deliberation, mediation, or litigation in court.⁶ Furthermore, Abdul Mutalib Saranani (2022) in the article *"Legal Review on the Evidentiary Value of Certificates in Land Dispute Resolution"* emphasizes that certificates hold a very strong position as written evidence and serve as the primary indicator in providing legal certainty for land rights holders; however, it remains possible to present contrary evidence through other means of proof during judicial proceedings.⁷ Thus, these various studies generally indicate that land title certificates are recognized as strong evidence in Indonesia's land law system; however, they do not possess absolute authority as they can still be challenged and tested through evidentiary mechanisms in court, particularly within a land registration system that adheres to the principle of negative publication, and ultimately, it can be concluded that these studies still tend to focus on the normative aspects regarding the validity of certificates and have not yet thoroughly examined the conflict between the history of land possession and certificate evidence in the context of a judge's assessment of unlawful acts.

The findings of the study generally conclude that a certificate is a strong piece of evidence, although it can still

Pembuktian Sertifikat Hak Milik sebagai Alat Bukti dalam Sengketa Kepemilikan Hak Atas Tanah (Studi Putusan Nomor 82/Pdt.G/2024/Pn.Sgr)" *Al-Zayn: Jurnal Ilmu Sosial & Hukum*. Vol. 4 no.2 (2026) 2566-2573

⁶ Ati Yuniati "Kekuatan Sertifikat Sebagai Alat Bukti dalam Penyelesaian Sengketa Tanah" *Justicia Sains Jurnal Ilmu Hukum* Vol 2, no 1 (2017) 13-23

⁷ Abdul Mutalib Saranani "Tinjauan Hukum Tentang Pembuktian Sertifikat Dalam Penyelesaian Sengketa Tanah" *Sibatik Journal* Vol. 1 no. 3 (2022) 173-184

be challenged if another party has a legal interest. Meanwhile, according to Gustav Radbruch, legal certainty serves as the primary foundation for judges in assessing the validity of ownership. A land title certificate is regarded as a concrete manifestation of legal certainty because it contains physical and legal data that has been verified by the state. Therefore, when a conflict arises between factual control and formal ownership, judges tend to prioritize certificates as the basis for their decision, as they are considered to provide clarity and stability in legal relationships. This aims to prevent the uncertainty that could arise if every claim of control without formal evidence were widely recognized.

In addition, several studies have also highlighted weaknesses in the land registration system, which follows the principle of negative publication with positive elements, allowing disputes to arise even after a certificate has been issued. However, these studies tend to focus more on the normative aspects regarding the validity of certificates and have not yet thoroughly examined the conflict between the history of land tenure and certificates in the context of judicial practice, particularly in relation to judges' assessments of unlawful acts.

The limitations of previous research open the door for this study to make a more specific scientific contribution, namely by conducting a legal analysis of land ownership conflicts between historical claims of possession and land title certificates from an agrarian law perspective, as well as examining how judges assess the existence of unlawful acts in such disputes. The novelty of this study lies in an approach that integrates the analysis of agrarian conflict with the concept of unlawful acts, thereby examining the dispute not only from the perspective of ownership but also from the perspective of legal protection for the disputing parties.

Based on the above, the objective of this study is to conduct a legal analysis of the land ownership conflict between historical possession and land title certificates in Judgment No. 7/Pdt.G/2024/PN Pkl, as well as to examine how the concept of unlawful acts is applied in the resolution of land possession disputes. This study also aims to assess the extent to which the agrarian legal system is capable of

providing legal certainty and protection to the parties involved in land disputes. In line with these objectives, this study is formulated into several research questions, namely: what is the status of the history of land possession within the agrarian legal system; what is the evidentiary weight of land title certificates in disputes; and how do judges consider the existence of unlawful acts in the case *a quo*.

This study employs a normative legal research method using both a statutory approach and a case-based approach. The data used in this study were obtained through a literature review encompassing primary, secondary, and tertiary legal sources, including legislation, court decisions, and relevant legal literature. Data analysis was conducted qualitatively by examining and interpreting legal norms and the judges' reasoning in the decisions that were the subject of the study. Through this method, it is hoped that the study can provide a comprehensive overview of land ownership conflicts from an agrarian law perspective and contribute to the development of legal science, particularly in the field of land law.

B. Land Ownership Conflicts Between Historical Possession and Land Title Certificates

Land ownership in Indonesia's agrarian legal system holds a fundamental position because it determines the legal relationship between legal subjects and the object in the form of land. Within the national legal framework, regulations regarding land rights are based on Law No. 5 of 1960 on the Basic Agrarian Principles (UUPA), which affirms that the state grants recognition and protection of land rights through structured legal mechanisms, particularly through the land registration system.

This system aims to ensure legal certainty, legal protection, and orderly land administration. In this context, legal certainty (*rechtszekerheid*) is a fundamental instrument in agrarian law for protecting land rights holders from unfounded claims by other parties. According to Jan M. Otto, legal certainty is not merely understood as the existence of rules, but also as a condition in which legal norms are clearly structured, consistent, easily accessible, and consistently

applied by the competent authorities, so that the public can predict the legal consequences of every action taken.

Nevertheless, practice on the ground reveals a discrepancy between this normative framework and the evolving social reality within society. This is reflected in Decision No. 7/Pdt.G/2024/PN Pkl, where there is a conflict between claims of ownership based on a history of hereditary land tenure and claims based on land title certificates as formal evidence recognized by the state. The plaintiffs relied on evidence in the form of tax records and entries in the village's Book C as historical justification, while the defendant presented the certificate as the basis for formal legality.

In this context, a disconnect has emerged between the physical reality on the ground and the legal data recorded in the land administration system. The plaintiffs argue that de facto possession is sufficient to provide legal protection; however, Government Regulation No. 24 of 1997 requires land registration as a primary prerequisite for achieving legal certainty. This discrepancy between administrative compliance and the reality of possession indicates that without adequate integration, legal certainty risks becoming merely of a normative construct that has not yet fully succeeded in providing substantive legal protection to the public. This situation demonstrates that the agrarian legal system has not yet fully succeeded in effectively integrating historical administrative evidence into a modern legal framework.⁸

Furthermore, this phenomenon indicates the existence of a dual system for proving land rights, which ultimately has the potential to create legal uncertainty. A number of studies show that documents such as girik, petok, and Book C essentially no longer hold the force of proof of ownership, but rather serve only as supporting data in the land registration process.⁹ This situation underscores that the transition from

⁸ Apriliyanti et al., "Tinjauan Yuridis Pendaftaran Tanah berdasarkan Kepemilikan Girik dengan Berlakunya PP No. 18 Tahun 2021," *J-CEKI: Jurnal Cendekia Ilmiah* 5, no. 1 (2025), <https://doi.org/10.56799/jceki.v5i1.13049>

⁹ Ibid

a traditional system of land tenure to a legal-formal system has not yet been fully embraced by all segments of society.

Therefore, initial land registration is essential as the primary instrument for providing legal certainty and protection to land rights holders. This process is part of the land administration system aimed at collecting physical and legal data to issue land certificates as the strongest proof of ownership. For the public, land registration provides security against disputes, facilitates access to bank credit as collateral, and streamlines the process of transferring rights. Meanwhile, for the government, this registration is important for administrative order, accurate tax assessment, and as a basis for spatial planning and development.

Despite its high urgency, this study highlights the public's low interest in registering land due to various procedural barriers and negative perceptions. Many residents are reluctant because they view the land registration process as highly complex, convoluted, and time-consuming. Additionally, tax burdens such as the Land and Building Acquisition Tax (BPHTB) pose a significant financial obstacle.¹⁰ This issue is exacerbated by legal misconceptions, as the public still regards tax documents like girik or petuk as valid proof of ownership, whereas legally these documents are merely proof of tax payment and not land title certificates.

From a broader perspective, this issue is not merely a legal matter; it also reflects the challenges in establishing a fair and inclusive legal system. The limited ability of certain segments of society to access the process of legalizing land rights indicates the existence of structural barriers within the land administration system, which result in inequalities in legal protection.¹¹ This situation ultimately results in

¹⁰ Lisnadia Nur Avivah, et al. "The Importance of Initial Land Registration for the Protection of Land Certificate Ownership," *Jurnal Tunas Agraria*, 5 (3) (2022) 197–210

¹¹ M. N. Ardani, Y. Yusriyadi, and A. Silviana, "Issues of Land Administration Order Through Equitable Land Registration Activities," *Indonesian Journal of Legal Development*, vol. 4, no. 3, pp. 494–512, Sep. 2022. <https://doi.org/10.14710/jphi.v4i3.494-512>

suboptimal guarantees of legal certainty and unequal access to justice for all citizens, which, in the context of global development, is inconsistent with the values embodied in the Sustainable Development Goals (SDGs), particularly those related to strengthening justice and effective institutions.

1. The Role of Land Tenure History in the Agrarian Legal System

Land tenure history is a form of de facto control that developed long before the implementation of the modern land registration system. In social practice, evidence such as tax receipts and village Book C are still viewed as proof of ownership by the community, particularly in areas not yet fully covered by land certification programs. However, from a positive law perspective, such evidence lacks full probative value.

Several previous studies have shown that following the implementation of the latest land policy, administrative documents such as girik or petok serve only as preliminary evidence that must be converted through the land registration process to obtain legal force recognized by the state¹² because the status of the Land Certificate (SKT) in the Indonesian land law system is not as absolute proof of ownership, but rather functions only as a private deed that serves as a guide or “basis of title” in the land registration process.¹³ Pursuant to Article 19 of Law No. 5 of 1960 (UUPA), the government administers land registration throughout Indonesia to ensure legal certainty, with the final product being a certificate serving as a strong instrument of proof.

Although SKT are often regarded by the public as proof of ownership, from a formal legal standpoint, SKTs merely record physical data or taxable objects and do not provide the

¹² Indonesia, *Government Regulation No. 24 of 1997 on Land Registration*

¹³ “Issues of Ownership Disputes Based on Land History Certificates (SKT) and Their Consequences for Holders.” 2023. *UNES Law Review* 6 (2): 5956-65. <https://doi.org/10.31933/unesrev.v6i2.1433>.

same legal certainty as certificates issued by the National Land Agency (BPN).¹⁴

The legal force of SKT is currently increasingly limited following the issuance of Circular Letter of the Minister of ATR/BPN No. 1756/15.I/IV/2016, which states that SKT is no longer an absolute requirement in land registration and can be replaced with a written statement of physical possession made in good faith. This is reinforced in Article 97 of Government Regulation No. 18 of 2021, which stipulates that SKT, Compensation Certificates, or similar letters from the village head or sub-district head are only used as guidance in the context of land registration. In addition, Article 76A of Minister of Agrarian Regulation No. 16 of 2021 explains that written evidence of former customary land ownership (including SKT) is no longer valid after five years from the enactment of Government Regulation No. 18 of 2021.

Nevertheless, the SKT retains legal relevance in the process of presenting evidence in court because Indonesia follows a system of negative publication with a presumption of positive effect.¹⁵ Pursuant to Article 32(2) of Government Regulation No. 24 of 1997, a land certificate is indeed a strong piece of evidence; however, it may still be challenged or invalidated if another party can prove the accuracy of more precise physical and legal data through the courts. In this context, a land title certificate (SKT) supported by actual and continuous physical possession of the land for 20 years or more in good faith, as stipulated in Article 24(2) of Government Regulation No. 24 of 1997, can serve as a basis for a judge to revoke a certificate if legal defects are found in its issuance.

However, in court proceedings, the probative value of

¹⁴ Sitompul, Helena Albright T (2024) "Kedudukan Surat Keterangan Riwayat Tanah (SKT) Sebagai Alas Hak Kepemilikan dan Penguasaan Tanah yang Dikeluarkan Pada Saat Status Sengketa (Studi Putusan Mahkamah Agung Nomor 1606 K/Pdt/2022)," *Indonesian Notary*. Vol. 6: No. 4, Article 1.

¹⁵ Atikah, Noor. 2022. "The Status of the Land Certificate as Evidence of Land Ownership Rights in the Indonesian Land Law System." *Notary Law Journal* 1 (3):263-89. <https://doi.org/10.32801/nolaj.v1i3.29>.

SKTs and records of ownership—such as Letter C or tax payment receipts (petok/girik)—is often considered inferior to that of a certificate as formal evidence recognized by the state. This can be understood through the theory of legal certainty proposed by Gustav Radbruch, who stated that law contains three fundamental values: justice, utility, and legal certainty; however, in practice, legal certainty is often prioritized to maintain order. In Decision No. 7/Pdt.G/2024/PN Pkl, the Panel of Judges treated the history of possession merely as preliminary evidence whose probative value is subordinate to the certificate, thereby indicating a preference for formal legality to prevent uncertainty in the land tenure system.

Table 1. Comparison of Evidentiary Strength between Historical Possession and Land Certificate

Comparative Aspect	Claim Based on Possession History (Plaintiff)	Claim Based on Land Title Certificate (Defendant)
Legal Basis and Documents	Tax Petok Pajak (1951–1959). Village Letter C Book. Proof of Land Tax Payment.	Land Title Certificate issued by the National Land Agency (BPN) in accordance with Government Regulation No. 24 of 1997 on Land Registration.
Evidentiary Value in Agrarian Law	Private Documents (Underhand Evidence). Serve as Initial Indications (Prima Facie). Not Formally Binding.	Authentic Deed. Strong Evidence (sterk bewijsmiddel) of physical and juridical data (Article 19 of the Basic Agrarian Law/UUPA)
Land Registration Publication System	Not registered in the modern land registration system. Merely physical possession	Adopting a negative publication system with a positive tendency. Certificate is presumed valid until proven otherwise (rebuttable presumption)
District Court Consideration (First Instance)	Declared not sufficiently strong. Witness testimony is	Used as the primary basis to reject the lawsuit.

	testimonium de auditu No clear legal relationship.	Formal ownership is recognized as valid
Considerations of the High Court and Cassation	The lawsuit is declared obscure (obscuur libel) because the object is unclear. The subject matter is not further examined	The Defendant's ownership status remains valid. Has permanent legal force (inkracht van gewijsde)
Qualification of Elements of Unlawful Acts (Article 1365 Indonesian Civil Code)	Unable to prove legitimate rights. The element of 'unlawfulness' is not fulfilled.	Land possession constitutes the exercise of legitimate rights. It does not constitute an unlawful act.
Implications for Substantive Justice	"The potential for justice based on historical possession is not accommodated due to weak formal evidence.	Legal certainty is prioritized. Risk of neglecting the social reality of hereditary land possession.

Source: Decision Number 7/Pdt.G/2024/PN.PkI

As a result, plaintiffs who rely solely on evidence of factual possession fail to establish their legal rights because they lack formal evidence recognized within the land registration system. This situation underscores that, although a history of possession holds historical and social value, its legal force remains limited; consequently, the disparity between factual possession and legal recognition is one of the primary factors contributing to agrarian disputes.

In addition, the public's low level of legal awareness is another factor contributing to this problem. Several studies indicate that many people have not yet registered their land due to a lack of information, high costs, or limited access to land administration services.¹⁶

The low level of public interest in registering land is due to several factors, including a lack of understanding regarding the importance of land registration, concerns about procedures that are perceived as complicated—particularly

¹⁶ Sherly Oktaviani and Benny Djaja, "Sistem Publikasi Pertanahan yang Menjamin Kepastian Hukum Sertifikat Hak Atas Tanah," *Jurnal Muara Ilmu Sosial* 7, no. 2 (2023), <https://doi.org/10.24912/jmishumsen.v7i2.9949.2023>

when it comes to registering one's own land—and fears regarding the high costs involved. Furthermore, many people still mistakenly regard documents such as land tax receipts, girik, ketitir, and IPEDA as valid proof of land ownership, even though legally these documents serve only as proof of tax payment and not as evidence of land rights. Other issues also arise in the systematic implementation of initial land registration, such as time-consuming processes, convoluted procedures, and the requirement to pay certain taxes, which ultimately further reinforce the public's reluctance to register their land.¹⁷ These conditions ultimately weaken the public's legal standing in the face of disputes.

2. The Legal Force of Land Certificates as Evidence of Land Rights

Land title certificates are the primary instrument in Indonesia's agrarian legal system, serving to provide legal certainty and protection. Certificates are issued through a land registration process that involves verification of both physical and legal data, thereby ensuring a high level of credibility within the evidentiary system. This aligns with the view that certificates constitute a form of state guarantee regarding the accuracy of the data contained therein.¹⁸

The land title certificate held by Defendant II (Santo Bernadus Foundation) is a legal instrument that grants exclusive rights to its holder. The existence of this certificate is closely related to the principle of legal certainty as articulated by Lon L. Fuller in his work *The Morality of Law*, which emphasizes that law must satisfy the elements of *constancy* and clarity (*clarity*)¹⁹ in order to function effectively. In this context, the certificate serves as a concrete

¹⁷ Lisnadia Nur Avivah et al., "The Importance of Initial Land Registration for the Legal Protection of Land Title Certificate Ownership," *Tunas Agraria*, 5 (3) (2022): 197–210

¹⁸ Siti Nurhayati, "Perlindungan Hukum terhadap Pemegang Sertifikat Hak Atas Tanah," *Jurnal Ius Kajian Hukum dan Keadilan* 11, no. 1 (2023): 55–70.

¹⁹ Lon L. Fuller, *The Morality of Law*, Fredericksburg: Yale University, 1964, 79–91

manifestation of these principles, as it provides clarity regarding the identity of the rights holder, the location of the land, and the area of the land in question.

The application of Fuller's theory in this case demonstrates its crucial role in maintaining the consistency of the legal system. If courts were to readily invalidate certificates based solely on claims of physical possession that are not officially registered, the principle of legal certainty would be undermined. Such a situation has the potential to erode public confidence—including that of investors and institutions—in the legitimacy of documents issued by the state. Therefore, in this ruling, the judge provided strong protection for the defendant's ownership certificate as a form of respect for the integrity of the legal system, which demands certainty and consistency.

Meanwhile, the Letter C Book is essentially part of the land administration at the village level, serving as a record of the history of land control and ownership by the community prior to the implementation of the national land registration system. In practice, the Letter C contains information regarding the subject and object of the land, such as the owner's identity, area, and location of the land, thereby serving as preliminary evidence of a legal relationship between an individual and the land in question.²⁰ However, Letter C cannot be equated with a land title certificate because it does not provide full legal certainty. Based on the provisions of Government Regulation No. 24 of 1997 on Land Registration, the acquisition of land rights must be carried out through a registration process that includes the collection of physical and legal data, proof of rights, and the issuance of a certificate as a valid legal document.²¹ Thus, the existence of a Letter C serves primarily as a basis or initial title that must be followed up through the

²⁰ Fina Rohmatika, "The Legal Force of Letter C as Evidence of Land Ownership Rights," *KHIRANI: Journal of Early Childhood Education*, Vol. 1, no. 2 (2023): 64–76

²¹ Lintang Ratrisnanti "Legal Implications of Letter C, Patuk D, and Landrente Ownership Following the Enforcement of Government Regulation No. 18 of 2021" *Journal of Legal and Political Studies*, Vol. 3, No. 1 (2025)

land registration process in order to obtain stronger and more definitive legal recognition and protection.

According to Maria S.W. Sumardjono, land registration is a crucial instrument in the agrarian legal system aimed at providing legal certainty and legal protection to land rights holders. Land registration is not merely viewed as an administrative process, but as a means for the state to ensure clarity regarding the legal status of land both in terms of its subject and object while simultaneously establishing orderly land administration and preventing future disputes.²² Within this framework, the issuance of certificates serves as the concrete manifestation of the land registration process, providing legal legitimacy for land ownership.

In addition, the implementation of land registration is essentially aimed at ensuring legal certainty and providing protection to land rights holders. Land registration also serves to provide necessary information for interested parties, including the government, thereby facilitating access to data related to legal acts concerning land parcels. Furthermore, this activity plays a role in realizing orderly administration in the field of land affairs.²³ Thus, land registration becomes an important obligation that must be complied with by the community, because through this process a certificate will be issued as proof of land rights. The need for land registration is increasingly relevant considering that Indonesia adopts a negative publication system with a positive tendency, in which the certificate holds the position of strong evidence in providing assurance of legal certainty and protection for landowners.

In line with this, the probative value of a certificate as evidence of land rights cannot be separated from the quality

²² Sumardjono, Maria S.W. (2001). *Land from the Perspective of Economic, Social, and Cultural Rights*. Yogyakarta: Kompas Media Nusantara.

²³ Mary Grace Megumi Maran, Et al. "Penyuluhan Hukum tentang Pendaftaran Tanah Sistematis Lengkap untuk Meningkatkan Kesadaran Hukum Masyarakat di Kelurahan Manulai II Kota Kupang" *Journal of Human and Education*, Vol 4 no. 6 (2024) 627-631

of the land registration process itself. Certificates possess high probative value because they are based on verified physical and legal data; however, this value is not absolute. Its effectiveness remains dependent on data accuracy, procedural transparency, and the accessibility of the registration system to the entire public. Therefore, in practice, the dominance of certificates as the primary evidence reflects efforts to achieve legal certainty, but simultaneously indicates limitations in providing equal protection to parties not formally accommodated within the land registration system.

In Decision No. 7/Pdt.G/2024/PN Pkl, the judge relied on the certificate as the primary basis for assessing the validity of the defendant's land ownership. This approach is consistent with the prevailing view in agrarian law literature, which holds that a certificate constitutes strong evidence as long as no legal defects in its issuance can be proven.²⁴

Although land certificates have strong probative value, they are not absolute proof. Indonesia's land registration system still allows other parties to file lawsuits if there are indications of errors or irregularities in the certificate issuance process.²⁵ This indicates that legal certainty in the agrarian sector remains relative and depends on the validity of the underlying administrative process.

On the other hand, the dominance of land titles in the system of evidence also raises issues of fairness, particularly for communities that do not yet have access to land certification processes. This disparity reflects differences in people's ability to obtain legal protection, which, within the framework of global development, can be linked to the goal of reducing inequality, as reflected in the Sustainable Development Goals (SDGs), particularly regarding efforts to ensure equitable access to legal rights and protection.

Public legal awareness regarding the registration of land title transfers is a key factor in ensuring orderly land

²⁴ R. H. Hapsoro et al., "Evaluasi Kualitas Data Bidang Tanah dalam Rangka Kepastian Hukum," *Tunas Agraria* 7, no. 3 (2024), <https://doi.org/10.31292/jta.v7i3.336>

²⁵ Dian Aries Mujiburohman, "Problems with Land Disputes in Indonesia," *Jurnal Rechts Vinding* 10, no. 2 (2021): 245–260

administration and legal certainty. Low levels of legal awareness often result in the public failing to promptly register land title transfers, whether due to a lack of understanding, cost, or limited access to land administration services.²⁶ This situation leads to changes in ownership not being officially recorded, thereby potentially causing disputes in the future, particularly when there is a discrepancy between actual control and the legally registered data. In the context of the case analyzed, this situation indicates that administrative disorder in land affairs is not only caused by systemic weaknesses but also by the public's low legal awareness, which ultimately affects the legal standing of the parties in proving their land rights before the court.

3. The Conflict Between Legal Certainty and Justice in Land Ownership Disputes

The agrarian dispute resolution system in Indonesia must fundamentally implement three main principles of justice: distributive justice, legal justice, and commutative justice, which complement one another in achieving fair and sustainable resolutions. Distributive justice emphasizes the importance of the proportional distribution and redistribution of land to reduce social inequality and provide the public with more equitable access to agrarian resources. Legal justice requires legal certainty through the consistent enforcement of court rulings, free from intervention, and subject to applicable legal procedures, thereby ensuring trust in the judicial system.²⁷ Meanwhile, commutative justice focuses on providing fair compensation or restitution to the aggrieved party in a dispute, in order to create a balance between the rights and obligations of the parties.

The conflict between legal certainty and justice in land ownership disputes evidenced by land title certificates in this case essentially reflects the tension between two primary

²⁶ Fitriana Trinengsi et al., "Public Legal Awareness in the Registration of Land Rights Transfers," *Jurnal Tunas Agraria*, 7(1), (2024), 68–85

²⁷ Dziqry Irga Abisha, et al. "Legal Certainty in the Resolution of Agrarian Disputes" *Al-Sulthaniyah* Vol. 14 No. 2 (2025) 711–725

objectives of the law: legal certainty and justice. In Indonesia's agrarian legal system, legal certainty is achieved through a land registration mechanism that produces certificates as evidence possessing high legal force. Certificates are positioned as the primary instrument in ensuring clarity regarding land ownership status and providing legal protection to rights holders. However, in practice, the existence of certificates does not always resolve all issues related to land ownership, particularly when confronted with the social reality of hereditary land tenure that has not yet been accommodated within the land administration system.

Legal protection for holders of historical evidence in the form of a village Letter C regarding land rights is fundamentally recognized within Indonesia's agrarian legal system, although its status is not equivalent to a land title certificate. As part of village administration, the Letter C reflects the history of land possession and registration, serving as *prima facie* evidence of an individual's legal relationship with the land in question. In the context of evidence, the existence of a Letter C can serve as supporting evidence to demonstrate hereditary possession, especially when reinforced by witness testimony, evidence of payment of the " " tax, or other administrative data. However, the legal protection afforded to holders of a Letter C is limited, as this evidence does not provide full legal certainty until land registration is completed in accordance with statutory regulations.²⁸ Therefore, although legally a Letter C remains relevant in proving the origin of land possession, its probative value in disputes will depend heavily on the consistency of the data, the clarity of the subject matter, and its ability to be converted or upgraded into a registered right, thereby securing stronger and more definitive legal protection.

However, in this case, the conflict is clearly evident in the fundamental differences in the parties' claims. On the one hand, the defendant relies on the certificate as proof of

²⁸ Irsyadilla Hafizh Heru Sadjarwo. "The Validity of Old Evidence in the Form of Village Letter C in Land Rights Ownership" *Notaire*, 3(1), 107–128. 2020

ownership that is valid and recognized by the state, while on the other hand, the plaintiff bases his claim on a long history of land possession. This situation indicates that the land registration system has not yet been fully able to integrate formal data with the social realities developing within the community. Consequently, the legal certainty expected from the land certification system tends to be formalistic and does not yet fully reflect substantive justice.

Judges in this case tend to prioritize legal certainty by treating certificates as the primary basis for determining land ownership. This approach aligns with the normative objectives of the land registration system, namely to create legal certainty and protection. However, this approach also has the consequence that parties lacking formal evidence find themselves in a weaker position, even though they have a strong factual connection to the disputed land. This raises critical questions regarding the extent to which the law can deliver justice to all segments of society, particularly those who do not yet have access to the land certification system.

Furthermore, the tension between legal certainty and justice in this case became increasingly apparent as the dispute proceeded to the appellate and cassation levels. At the appellate level, the Semarang High Court no longer focused on the substance of land ownership but rather on the formal aspects of the lawsuit, and declared the lawsuit inadmissible (*niet ontvankelijke verklaard*). This approach demonstrates that before reaching an assessment of substantive justice, civil procedure law first requires the fulfillment of strict formal requirements. This was further emphasized at the cassation level, where the Supreme Court rejected the cassation petition on the grounds that the lawsuit contained formal defects, such as an unclear legal relationship and inconsistencies regarding the subject matter of the dispute.

From a broader perspective, land ownership conflicts, as reflected in this case, cannot be separated from the issue of agrarian justice, which is the primary objective of the establishment of national agrarian law. Agrarian law, which is based on the principle of nationality in the UUPA, positions the state as the party with the authority to regulate, manage,

and supervise the utilization of agrarian resources for the greatest possible prosperity of the people. However, in practice, regulatory inconsistencies and the suboptimal protection of community rights—including those based on factual control—actually have the potential to create inequality and conflict.²⁹ This situation indicates that justice in land control and utilization has not yet been fully realized, as there remains a gap between the normative objectives of agrarian law and the reality of its implementation on the ground.

In line with this, the issue of legal certainty in the agrarian sector is not only related to the existence of certificates but also concerns the quality of the land administration system as a whole. Discrepancies between physical and legal data, as well as weak data integration across institutions, have the potential to cause overlapping land ownership, which ultimately leads to legal disputes. Furthermore, the suboptimal incorporation of historical data that is still recognized by the community also serves as a factor exacerbating the emergence of conflicts, thereby highlighting that the implementation of a more integrated land administration system is an urgent necessity to achieve both legal certainty and justice in the agrarian sector.

Thus, the conflict in this case not only reflects individual issues between the parties but also highlights the need for reform within the land tenure system. A more integrative approach is required—one that does not merely emphasize formal legal certainty but is also capable of accommodating the evolving social realities within society. Through such an approach, it is hoped that the agrarian legal system will not only provide certainty but also be able to realize substantive and comprehensive justice.

4. Legal Implications of the Ruling on Land Ownership Status and Reinforcement through the Cassation Ruling

The ruling in this case has significant legal implications

²⁹ Asmarani Ramli et al. *"The Nature of Justice in Implementing the Nationality Principle in Agrarian Law"* *Journal of Law, Policy, and Globalization* Vol. 46 (2016) 80–86

for land ownership status. At the trial court level, the plaintiff's claim was dismissed because the plaintiff failed to prove the existence of a tort. However, on appeal, the focus shifted to procedural issues, and the claim was dismissed as inadmissible due to procedural defects.

This was subsequently reaffirmed by the Supreme Court in Decision No. 1858 K/Pdt/2025, which denied the petition for cassation and held that *the trial court's* reasoning was sound. The Supreme Court explicitly stated that the plaintiff's complaint was vague (*obscuur libel*), as it failed to clearly articulate the legal relationship and the subject matter of the dispute.

In addition, the Supreme Court also highlighted inconsistencies in the determination of the land area and a lack of clarity regarding the basis for the ownership claimed by the plaintiff. This indicates that the main weakness of the lawsuit lies not only in the evidentiary aspect, but also in a legal argument that is unsystematic and fails to meet the standards of civil procedure.

With the conclusion of the appeal, the appellate court's decision declaring the lawsuit inadmissible has become final and binding (*inkracht van gewijsde*). This status confirms that, legally, ownership of the disputed land remains with the defendant, who holds a valid title deed.

The implications of this ruling indicate that, within Indonesia's agrarian legal system, formal legality plays a dominant role in determining land ownership. Furthermore, this case underscores the importance of drafting a clear, systematic, and formally valid complaint, as failure to meet these requirements may result in the complaint being dismissed without further consideration.

From a broader perspective, this situation indicates that the issue of legal certainty in the agrarian sector is not only related to the existence of certificates but also concerns the quality of the land administration system as a whole. Discrepancies between physical and legal data, as well as weak data integration across institutions, have the potential to cause overlapping ownership claims that lead to legal disputes. Additionally, the suboptimal incorporation of historical data that is still recognized by the community also

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C. Legal Analysis of Unlawful Acts in Land Tenure Disputes

An unlawful act in a land dispute, or known as *an onrechtmatige daad*, occurs when there is an action that conflicts with the rights of others, violates legal obligations, or disregards societal norms of propriety. Legally, Article 1365 of the Civil Code stipulates that any unlawful act causing harm to another party obligates the perpetrator to pay compensation. In the context of land, the occupation of land without a valid permit by any party, including government agencies, is automatically categorized as an unlawful act.

Although the government has the authority to manage land for the public interest and public services, that authority is limited by legally recognized individual property rights. The use of land for public purposes without a fair and transparent compensation mechanism is considered a violation of legal procedures. The state has a responsibility to ensure that any intervention in citizens' property rights is based on a clear legal foundation and accompanied by the protection of constitutional rights.³⁰

An unlawful act in the Indonesian civil law system constitutes one of the grounds for filing a lawsuit, which has broad scope and high flexibility in its application. Article 1365

³⁰ Kadek Rio Teguh Adriyana. Et al, "Analisis Yuridis Perbuatan Melawan Hukum dalam Sengketa Kepemilikan Tanah Tanpa Hak oleh Pemerintah (Studi Putusan Nomor 83/Pdt.G/2017/Pn Sgr)" *e-Journal Komunikasi Yusticia*.

of the Indonesian Civil Code (KUHPerdata) stipulates that any act that violates the law and causes harm to another party obliges the perpetrator to compensate for such loss.³¹ In its development, the doctrine of unlawful acts (PMH) is no longer narrowly interpreted as merely a violation of statutory provisions, but has been expanded to include violations of another person's subjective rights, moral norms, as well as principles of propriety and prudence in social life. This expansion provides judges with room to make more contextual assessments, while at the same time demanding consistency so as not to create legal uncertainty.

Regarding the allegation of unlawful acts, during the trial, according to Imam Supriyono, the legal counsel for Defendants II and III, the panel of judges held that this element was not satisfied in the defendants' actions to take control of the disputed land. Based on a legal analysis, the defendants successfully proved that their physical control of the land for SMA Bernadus was based on valid and authentic legal grounds in the form of a Certificate of Ownership (SHM) and a Certificate of Use (SHP). The defendants' actions did not constitute an unlawful act because they had a clear legal relationship through valid sales and purchase agreements and valid grants. Conversely, the plaintiffs were deemed unable to prove that the defendants occupied the land without right, particularly because the evidence submitted by the plaintiffs was irrelevant to the origin of the valid ownership.

In the context of agrarian law, the application of the concept of PMH has its own distinct characteristics because it is closely related to the legal status of land as the subject of a dispute. Land is not only viewed as a private object but also possesses a public dimension, as stipulated in Law No. 5 of 1960 on the Basic Provisions of Agrarian Law (UUPA), which affirms that land has a social function and must be utilized to

³¹ Rahmawati, Puji, Syafira Rahmanian Arbi dan Mohammad Nuralify. *Perbuatan Melawan Hukum atas Penguasaan Hak Milik Tanah pada Sertifikat Ganda. Rewang Rencang : Jurnal Hukum Lex Generalis*. Vol.6. No.9 (2025).

the fullest extent for the prosperity of the people.³² Therefore, the assessment of tort liability in land disputes cannot be separated from the status of land rights as well as the process of their acquisition and use. Within this framework, the tort claim under Article 1365 of the Civil Code filed by the plaintiff, alleging a deprivation of rights by the defendant, must first prove the existence of a legally recognized right that has been violated. This is in line with the theory of legal certainty put forward by Hans Kelsen through *the Stufentheorie*, which views law as a system of norms arranged in a hierarchical structure, where the validity of an action is determined by its conformity with a higher norm established by a legitimate authority.

In Decision No. 7/Pdt.G/2024/PN Pkl, the judge adopted an approach that emphasized formal legality in determining the existence of an unlawful act. The plaintiffs argued that the defendant's act of taking possession of the land without consent constituted an unlawful act because it harmed their interests. However, the panel of judges did not immediately assess the elements of the tort but first examined the validity of the right to the disputed land. In this case, the defendant was able to prove ownership through a certificate obtained via a valid land registration procedure that had never been revoked by the competent authority. From Kelsen's perspective, as long as the legal norm in the form of that certificate remains in effect, the defendant's act of taking control of the land cannot be classified as an unlawful act, but rather constitutes the exercise of a right guaranteed by law. This approach demonstrates that in agrarian disputes, the proof of land rights is a fundamental aspect that determines whether an act can be categorized as an unlawful act.³³

³² Indonesia, *Law No. 5 of 1960 on the Basic Agrarian Law (UUPA)*, <https://peraturan.bpk.go.id/Details/51368/uu-no-5-tahun-1960>

³³ Ahmad Redi, "Penerapan Unsur PMH dalam Sengketa Pertanahan," *Jurnal Rechts Vinding* 11, no. 1 (2022): 45–60, https://rechtsvinding.bphn.go.id/jurnal_online

1. *Elements of a Tort in Agrarian Disputes*

Theoretically, an act can be classified as an unlawful act if it meets five elements, namely the existence of an act, unlawfulness, fault, damage, and a causal relationship between the act and the damage.³⁴ These five elements must be proven cumulatively. In agrarian disputes, the application of these elements cannot be done simply, because they must be adapted to the characteristics of land rights as the subject of the dispute.

In agrarian disputes, the element of “unlawfulness” is the most complex because it depends heavily on the existence of land rights. In land disputes, not all instances of possession by another party can be considered a violation of the law. The assessment of this element depends heavily on the existence of valid rights. If the party in possession of the land holds a certificate issued in accordance with proper procedures, then such action cannot, in principle, be considered unlawful. In this case, the defendant was able to prove their rights through a certificate, while the plaintiff could not present equivalent formal evidence. This resulted in the element of unlawfulness not being met.³⁵

In the case a quo, the defendant was able to present a certificate as valid proof of ownership, thereby rendering the possession carried out as legal. Conversely, the plaintiff was unable to formally prove his rights, despite submitting evidence in the form of possession history. This demonstrates that in judicial practice, formal proof of rights becomes the dominant factor in determining the fulfillment of the elements of an unlawful act.

Furthermore, the elements of damage and causation also hinge heavily on the existence of a valid right. Without legal recognition of the plaintiff’s right, the alleged damages

³⁴ Andriyawan et al., “Legal Analysis of Unlawful Acts in Land Disputes: Decision No. 76/Pdt.G/2022/Pn Tlg,” *Jurnal Ranah Research* Vol. 7, no. 1 (2024), 157–164

³⁵ Sherly Oktaviani & Benny Djaja, “Legal Certainty of Land Certificates,” *Muara Ilmu Sosial Journal* (2023), <https://journal.untar.ac.id/index.php/jmishumsen/article/view/9949>

cannot be classified as legal damages. Thus, proving tort liability in agrarian disputes depends heavily on the validity of land rights.

The elements of an unlawful act (PMH) in the land dispute addressed in the decision have essentially been met, namely the defendant's actions that actively prevented the plaintiff as the lawful owner of the land from taking possession of the disputed property; thus, such actions are contrary to the law and infringe upon the rights of others. Furthermore, there is an element of fault in the form of the defendant's intentional conduct, as the defendant was aware of the plaintiff's ownership status yet still committed the act without justifiable cause. This conduct also caused actual harm to the plaintiff, both materially in the form of the loss of potential economic benefits from the land, and harm resulting from the inability to use the disputed property. Furthermore, there is a clear causal relationship between the defendant's actions and the damages suffered by the plaintiff; thus, all elements of tort as stipulated in Article 1365 of the Civil Code namely, the existence of an act, unlawfulness, fault, damages, and a causal relationship can be proven in their entirety in this dispute.

Legal Analysis of Unlawful Acts (PMH) Regarding the allegation of Unlawful Acts (PMH), the Panel of Judges held that the Plaintiffs' argument that the Defendants were in unlawful possession of the land was erroneous and lacked a strong legal basis. Based on a legal analysis of the elements of an unlawful act under Article 1365 of the Civil Code, the actions of Defendants II and III (the Foundation/Bernardus High School) in occupying the land do not constitute an unlawful act because they are based on a valid and authentic legal title in the form of a Certificate of Ownership (SHM) that documents the sequential transfer of rights from Joseph Rachmat to the current rights holder, St. Peter's Parish of Pekalongan. Similarly, Defendant I (the Village Office) occupies the land based on a Right of Use Certificate (SHP) No. 00026 in the name of the City Government of Pekalongan. Conversely, the defendants' possession actually reflects legal certainty because the certificates are the highest form of evidence of ownership, the status of which cannot be

superseded by traditional land history documents such as *Letter C* or Petoek Padjeg (Evidence P-2), which the judge affirmed are merely evidence for tax administration and not evidence of ownership rights to the land. Since the physical control of the land for educational and governmental purposes was exercised based on rights acquired honestly and transparently (in good faith), the elements of fault and unlawful conduct are not satisfied.

The court ruled to reject the plaintiff's claim for material damages in the amount of Rp9 billion, as the claim lacked a strong legal basis. In accordance with the principle of Article 1365 of the Civil Code, the obligation to pay damages arises only if there is an unlawful act proven to have caused loss. Since, during the trial, according to Imam Supriyono, the legal counsel for Defendants II and III, the panel of judges stated that the defendants were not proven to have committed an unlawful act and that the land occupation was based on valid rights, there is automatically no legal basis to order the defendants to pay any compensation to the plaintiffs. The plaintiffs' failure to prove their lawful ownership renders their claim for loss of crop yields dating back to 1948 devoid of a legally acceptable factual basis.

Table 2. Analysis of the elements of unlawful act

Status of Evidence	Judge's Reasoning/Trial Facts
Not Examined	Court did not examine the subject matter because the lawsuit was declared formally defective (<i>obscuur libel</i>).
Not Proven	The Defendant holds a valid land title certificate as the legal basis for land possession.
Not Examined	No substantive examination because the lawsuit failed at the stage of formal objections
Not Examined	The Plaintiff cannot prove legal rights (legal standing) over the land claimed as the basis of loss
Not Examined	The object of dispute is unclear and the land area is inconsistent in the lawsuit claims

Source: Decision Number 7/Pdt.G/2024/PN.PkI

2. *The Dominance of Formal Legality in the Assessment of Unlawful Acts*

This ruling demonstrates the dominance of formal legality in the resolution of agrarian disputes. Land title certificates are used as the primary evidence in determining the validity of land tenure. This is in accordance with the provisions of Article 19 of the Basic Agrarian Law (UUPA), implemented through Government Regulation No. 24 of 1997 on Land Registration, which affirms that certificates constitute strong evidence regarding physical and legal data. This article affirms that land registration aims to provide legal certainty and legal protection to land rights holders.³⁶ The implementation of this provision is realized through the issuance of certificates as strong evidence of ownership.

Government Regulation No. 24 of 1997 on Land Registration stipulates that a land certificate serves as strong evidence regarding the physical and legal data contained therein.³⁷ Therefore, in practice, judges tend to rely on land certificates as the primary basis for assessing land rights, so that other evidence, such as a history of possession, receives less consideration if not supported by formal evidence. While this provides legal certainty, it also raises issues of fairness, particularly for communities that do not yet have access to land certification.

Research shows that a formalistic approach remains the dominant feature in the resolution of land disputes in Indonesia, where evidence with state legitimacy is prioritized over evidence of actual possession. This approach provides legal certainty, but it also risks disregarding substantive justice.

On the other hand, Indonesia's land registration system follows the principle of negative publication with positive elements, meaning that a certificate is not absolute and can still be challenged if there are legal defects. Therefore, judges

³⁶ Indonesia, *UUPA* Article 19, <https://peraturan.bpk.go.id/Details/51368/uu-no-5-tahun-1960>

³⁷ Indonesia, *Government Regulation No. 24 of 1997 on Land Registration*, <https://peraturan.bpk.go.id/Details/5716/pp-no-24-tahun-1997>

retain the authority to assess the validity of a certificate based on the facts revealed in court.

3. The Relationship Between Unlawful Acts and Land Rights

In agrarian disputes, the relationship between unlawful acts and land rights is closely intertwined. The assessment of unlawful acts cannot be separated from the validity of the rights held by the parties. In this case, the judge ruled that because the defendant possessed a valid certificate, the act of taking possession of the land could not be categorized as an unlawful act.

This approach reflects the use of a *rights-based approach*, in which the legality of rights serves as the primary basis for assessment. While this approach provides legal certainty, it also has the consequence that parties lacking formal evidence find themselves in a weaker position. In this case, the judge ruled that because the defendant held a valid right, the occupation of the land could not be considered an unlawful act. This demonstrates that the existence of a right is a determining factor in assessing an unlawful act.

4. Implications for Legal Protection and Agrarian Justice and Their Strengthening Through the Supreme Court

The ruling in this case not only provides insight into the application of the PMH in agrarian disputes but also highlights broader implications for legal protection. Parties holding certificates are in a stronger position because they receive formal recognition from the state, whereas those without certificates are in a more vulnerable position.

The dynamics of this case become increasingly clear when viewed through the lens of the entire judicial process, which proceeded all the way to the cassation level. At the first instance, the Pekalongan District Court dismissed the plaintiffs' claims in their entirety, indicating that the arguments presented could not be legally substantiated. However, at the appellate level, the Semarang High Court overturned that decision and declared the lawsuit inadmissible (*niet ontvankelijke verklaard*). This change in the ruling indicates that the main issue in the case lies not only in

the substantive aspects but also in the procedural aspects of the lawsuit.

In the appellate court's ruling, the complaint was found to contain procedural defects, particularly regarding the lack of clarity regarding the legal relationship between the plaintiff and the subject matter of the dispute, as well as inconsistencies in determining the area of the land in dispute. This lack of clarity rendered the complaint ineligible for further review, so the judge did not need to address the merits of the case.

The appellate decision was subsequently upheld by the Supreme Court in Decision No. 1858 K/Pdt/2025, which dismissed the petition for cassation filed by the plaintiffs. The Supreme Court held that the trial court's decision was proper and not contrary to the law. Furthermore, the Supreme Court also affirmed that the plaintiffs' complaint did indeed contain fundamental procedural defects, rendering it inadmissible.

The dismissal of this appeal has significant legal consequences, namely that the decision at the appellate level becomes final and binding (*inkracht van gewijsde*). This final and binding status signifies that the dispute has been legally resolved and can no longer be subject to ordinary legal remedies. Thus, there is legal certainty regarding the status of the case and the positions of the parties.

When viewed through the lens of tort law analysis, this Supreme Court decision indicates that the plaintiff's claim of tortious conduct was never actually examined on its merits, as the lawsuit was dismissed on procedural grounds. This underscores that, in judicial practice, procedural aspects play a crucial role and can be a key determinant in the resolution of disputes.

Ultimately, this case illustrates that agrarian disputes involve two inseparable aspects: the substantive aspect, which concerns the validity of land rights, and the procedural aspect, which concerns the admissibility of the claim. Failure to address either of these aspects may result in the failure to achieve legal objectives, whether in terms of legal certainty or justice. Therefore, drafting a clear, systematic lawsuit that complies with procedural law is a crucial factor in the successful resolution of agrarian disputes.

D. Conclusion

The conclusion of this study indicates that the resolution of the dispute in Decision No. 7/Pdt.G/2024/PN Pkl, which has become final and binding following the rejection of the appeal in Decision No. 1858 K/Pdt/2025, reaffirms that the determination of land ownership under Indonesian agrarian law relies heavily on formal legality. Land title certificates are treated as the primary evidence with high probative value, thereby capable of overriding claims based solely on factual possession. Furthermore, this case also demonstrates that formal aspects in civil procedure law play a decisive role, where weaknesses in the drafting of a complaint such as the lack of clarity regarding the legal relationship and the subject matter of the dispute can result in the complaint being dismissed without further examination of the merits of the case, including the allegation of unlawful acts.

These findings indicate that efforts to achieve legal certainty in the agrarian sector are still heavily influenced by the effectiveness of the land administration system and public access to land certification processes. Therefore, improving the quality of land data and better integrating administrative systems are necessary to minimize the potential for disputes. In addition, there is a need to expand access to land registration for communities that have so far relied solely on *de facto* control, so that legal protection can be felt more equitably. Equally important, the preparation of lawsuits in agrarian disputes must be carried out carefully and systematically so as not to be hindered by formal issues, thereby allowing the court to provide a more comprehensive assessment of the substance of the disputed rights.

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