

Legal Issues in Cases of Land Disputes Without Certificates (Study of Decision No. 18/Pdt/2022/Ptptk Juncto No. 30/Pdt.G/2021/PnKtp)

Permasalahan Hukum Dalam Kasus Sengketa Tanah Garapan Tanpa Sertipikat (Studi Putusan No. 18/Pdt/2022/Ptptk Juncto No. 30/Pdt.G/2021/PnKtp)

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Abstract

Land disputes, especially related to uncertified cultivated land, are still a complex problem in Indonesia. Case Decision Number 18/Pdt/2022/Ptptk juncto Number 30/Pdt.G/2021/PnKtp describes a situation where physical control of land without a certificate is legally disputed by another party claiming ownership rights. This study examines the legal issues in the dispute, considers the judge's decision, and examines the legal protection provided to the parties. The normative legal method with case studies was used to analyze the court decision. The



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results show that a land certificate is the strongest evidence of ownership, but continuous and open physical control can be the basis for a claim under certain conditions. However, without a certificate, the legal position of the cultivator becomes weak when faced with formal evidence from another party. The judge's consideration is very important in assessing evidence, good faith, and the history of land control. This decision reflects an effort to balance legal certainty, justice, and protection for all parties to the dispute.

KEYWORDS: *land disputes, cultivated land, certificates, legal protection, court decision*

Sengketa tanah, khususnya terkait tanah garapan tanpa sertifikat, masih menjadi persoalan kompleks di Indonesia. Kasus Putusan Nomor 18/Pdt/2022/Ptptk juncto Nomor 30/Pdt.G/2021/PnKtp menggambarkan situasi di mana penguasaan fisik tanah tanpa sertifikat dipersengketakan secara hukum oleh pihak lain yang mengklaim hak kepemilikan. Penelitian ini mengkaji permasalahan hukum dalam sengketa tersebut, mempertimbangkan putusan hakim, dan menelaah perlindungan hukum yang diberikan kepada para pihak. Metode yuridis normatif dengan studi kasus digunakan untuk menganalisis putusan pengadilan. Hasilnya menunjukkan bahwa sertifikat tanah merupakan bukti paling kuat dalam kepemilikan, namun penguasaan fisik yang terus-menerus dan terbuka dapat menjadi dasar klaim dalam kondisi tertentu. Meski demikian, tanpa sertifikat, posisi hukum penggarap menjadi lemah bila berhadapan dengan bukti formal pihak lain. Pertimbangan hakim sangat penting dalam menilai bukti, itikad baik, dan sejarah penguasaan tanah. Putusan ini mencerminkan upaya menyeimbangkan kepastian hukum, keadilan, dan perlindungan bagi semua pihak yang bersengketa.

KATA KUNCI: *sengketa tanah, tanah garapan, sertifikat, perlindungan hukum, putusan pengadilan*

Introduction

Land is one of the vital assets in human life, because it has a very broad function, both as a place to live (settlement), agricultural land, business location, to being the main element in development activities. Ownership and control of land are not only related to economic aspects, but also include social, political, and legal dimensions. Therefore, land regulation is a very important part of the national legal system.

The Constitution of the Republic of Indonesia, namely the 1945 Constitution of the Republic of Indonesia Article 33 paragraph (3), emphasizes that the earth and land are controlled by the state and used as much as possible for the prosperity of the people.¹ This provision is the basis of the state's philosophy in managing agrarian resources. To realize this, the Basic Agrarian Law (UUPA) Number 5 of 1960 was enacted which provides a legal framework for the regulation of land rights and guarantees of certainty and legal protection for land owners.²

However, in daily practice, land sale and purchase transactions are still often found to be carried out unofficially by sellers and buyers without the involvement of the Land Deed Making Officer (PPAT).³ People often do not realize the importance of land certification, so that their ownership status becomes weak from a legal perspective. As a result, many residents only rely on evidence of hereditary ownership or a certificate from the village apparatus. Basically, land disputes arise because of differences in perception regarding the legal status and ownership of a plot of land, as well as differences in views regarding various matters relating to the land.⁴ In this

¹ MKN, "UNDANG-UNDANG DASAR NEGARA REPUBLIK INDONESIA 1945."

² Pemerintah Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria."

³ Agus Sofian, Andi Tira and Abdurrafai "AKIBAT HUKUM PERJANJIAN JUAL BELI TANAH YANG TIDAK DILAKUKAN DI HADAPAN PEJABAT PEMBUAT AKTA TANAH DI KABUPATEN BIMA", *Clavia: Journal of Law*, 23 No. 1 (2025), pp. 10–20.

⁴ Slamet Yusuf Hasan, Weny Almoravid Dunga, and Suwitno Yutye Imran, "PENYEBAB TIMBULNYA SENGKETA TANAH", *AT-TAWASSUTH: Jurnal Ekonomi Islam*, VIII.1 (2023), pp. 1–19.

context, cases of disputes over uncertified cultivated land, such as those that occurred in Decision Number 18/Pdt/2022/Ptptk in conjunction with Number 30/Pdt.G/2021/PnKtp, are very relevant to study in order to understand the legal problems that arise and find solutions to the weak legal protection for land cultivators without certificates.

Overlapping claims over land ownership often occur due to weak coordination between government agencies that have authority in the agrarian sector.⁵ Given the importance of legal certainty in land ownership, especially in the context of national life, the agrarian legal system in Indonesia stipulates provisions regarding land registration as an effort to provide legal certainty for land rights holders.⁶ From a normative perspective, protection of land rights has actually been guaranteed in Article 19 of the Basic Agrarian Law (UUPA), which emphasizes the importance of land registration to guarantee legal certainty. This is reaffirmed in Article 32 of Government Regulation Number 24 of 1997 which states that a certificate is strong evidence in proving land rights.⁷

However, in a number of Supreme Court decisions, including those related to cultivated land, it is also recognized that non-certificate evidence such as village certificates or ongoing physical control can still be considered in the judge's assessment, even though its legal force is relatively weaker. Thus, the study of Decision Number 18/Pdt/2022/Ptptk in conjunction with Number 30/Pdt.G/2021/PnKtp is important to understand how agrarian law is applied concretely in resolving land disputes without certificates and how the legal positions of the parties are considered by the court.

Based on these problems, the formulation of the problem in this book chapter is: What is the legal force of land ownership

⁵ Sasikirana Anastasia, Rifki Nurohman, Daffa Tegar Nabil Zaidan, and Asnawi Mubarak, "Implikasi Hukum Agraria Terhadap Konflik Pertanahan Indonesia", *Arus Jurnal Sosial Dan Humaniora (AJSH)*, Vol.1.2 (2021), pp. 545–53.

⁶ Apriani and Bur, "Kepastian Hukum Dan Perlindungan Hukum Dalam Sistem Publikasi Pendaftaran Tanah Di Indonesia."

⁷ Republik Indonesia, "PP No. 24 Tahun 1997 Tentang Pendaftaran Tanah", *lcassp*, 21.3 (1997), pp. 295–316.

without a certificate in land disputes? What are the legal considerations of the judge in Decision Number 18/Pdt/2022/Ptptk in conjunction with Number 30/Pdt.G/2021/PnKtp regarding proof of rights to cultivated land? The purpose of this writing is to analyze the legal force of administrative evidence in land disputes without certificates; and provide recommendations to improve legal protection for traditional cultivators.

This topic has high urgency and relevance in the context of agrarian reform and improving public services in the land sector. The findings in this study are expected to provide constructive input for the National Land Agency (BPN), judicial institutions, and the community in understanding potential risks and preventive steps to avoid land disputes in the future.

Method

This study uses a normative legal approach, namely a method that relies on the study of written legal norms and applicable legal principles. The main objective is to examine laws and court decisions as the main legal materials in understanding the application of law, both theoretically and practically, to disputes over cultivated land without certificates. The focus of the research is directed at the analysis of Decision Number 18/Pdt/2022/Ptptk in conjunction with Number 30/Pdt.G/2021/PnKtp, especially regarding the basis for the judge's considerations, the strength of evidence, and legal protection for the parties. Several approaches are used in this study. The statutory approach is used to examine relevant written legal regulations, such as UUPA No. 5 of 1960 and PP No. 24 of 1997, which regulate land rights, registration, and legal protection. Land registration in Indonesia aims to guarantee legal certainty (*rechts kadaster*) regarding land ownership rights and provide legal protection for the owner.⁸ This approach helps understand the importance of certificates as proof of legal ownership. The case approach is used by

⁸ Ana Silviana, "Urgensi Sertipikat Tanah Elektronik Dalam Sistem Hukum Pendaftaran Tanah Di Indonesia", *Administrative Law and Governance Journal*, 4.1 (2021), pp. 51–68.

directly analyzing court decisions to see how judges assess evidence in land disputes without certificates, where in such cases administrative documents such as village certificates become important evidence even without official certificates.

Furthermore, a comparative approach is used to compare the prevailing agrarian law theory with practices in the field. This approach reveals a gap between ideal law and social reality, where people often rely on non-formal administrative evidence because they do not yet have land certificates. Although this normatively weakens ownership claims, judges still consider administrative documents in their decisions. The data collection technique is carried out through legal literature studies, analysis of court decision documents, land history letters, deeds of sale and purchase, and various scientific publications and agrarian law journals. This technique aims to build a theoretical framework and support the legal analysis of the case. All data obtained are analyzed descriptively and critically by evaluating the strength of non-certificate evidence and the conformity of court decisions with the principles of justice and legal certainty in the national agrarian system.

Result & Discussion

A. Legal Power of Land Ownership Without a Certificate in Land Disputes

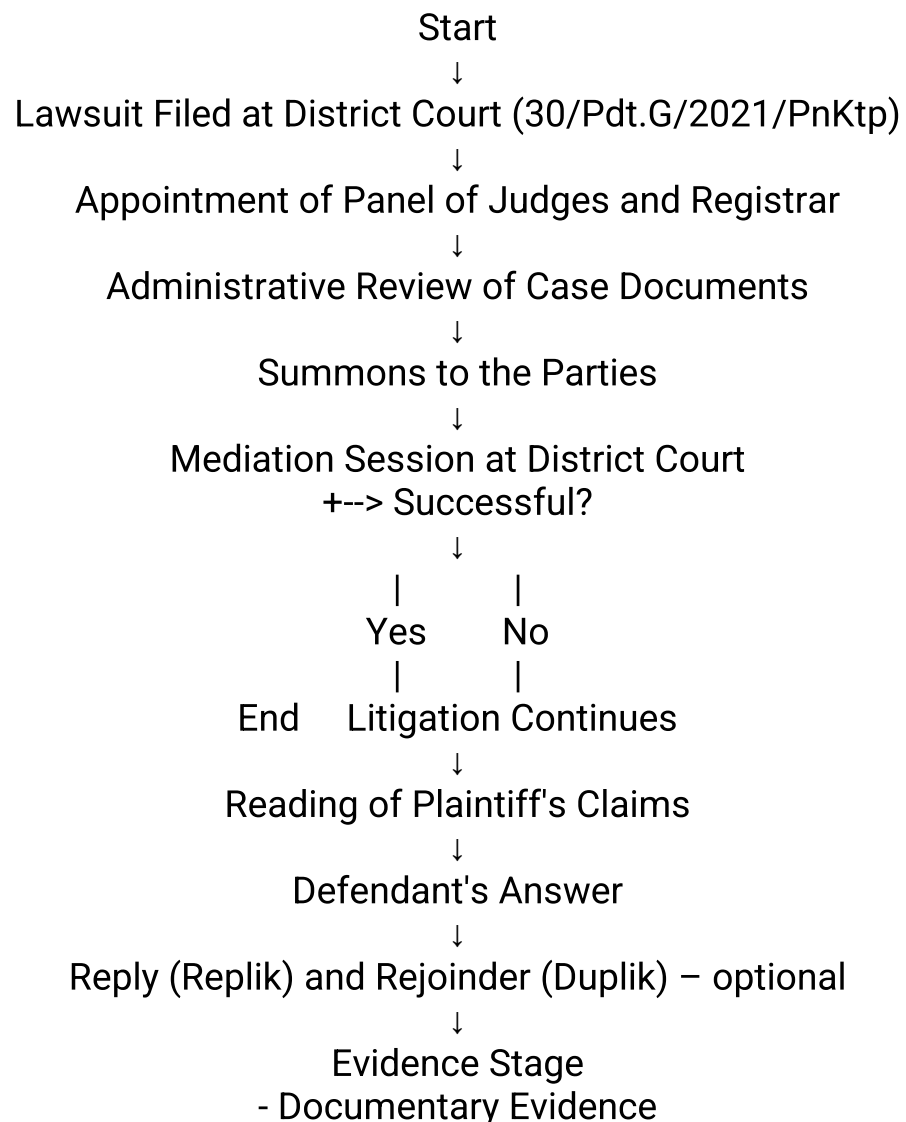
In the Indonesian agrarian legal system, land certificates issued by the National Land Agency (BPN) are valid and strong written evidence of land ownership rights, as regulated in Article 19 paragraph (2) of the UUPA and reinforced in Article 32 of Government Regulation Number 24 of 1997.⁹ However, the existence of uncertified land is still very dominant, especially in rural areas, so that in practice, many land disputes occur without evidence in the form of certificates. Court decisions in land disputes without certificates generally carefully assess two main aspects: the completeness and validity of administrative

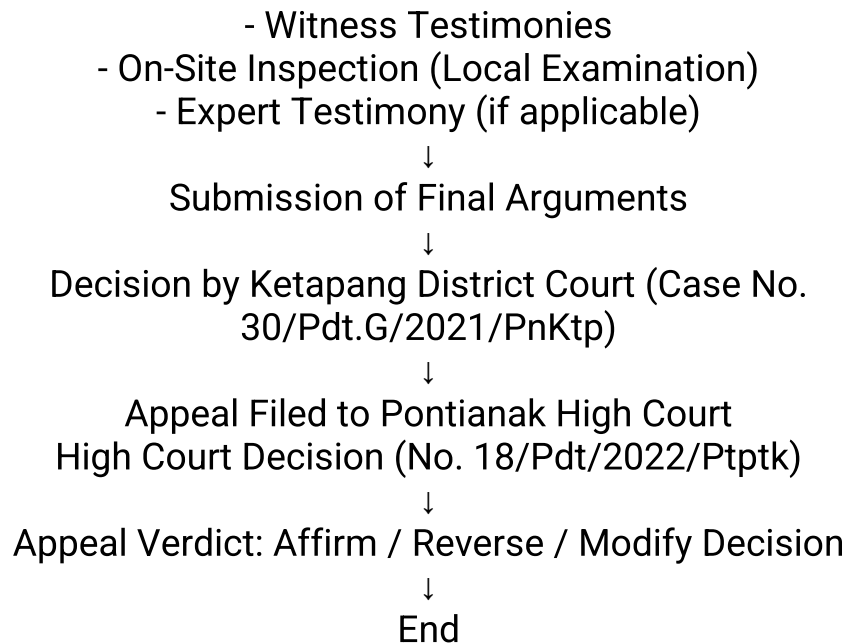
⁹ Noor Atikah, "Kedudukan Surat Keterangan Tanah Sebagai Bukti Kepemilikan", *Notary Law Journal Vol*, 1.3 (2022), pp. 263–89.

documents, and physical control that is carried out in a real, continuous, and good faith manner.

The Supreme Court in several jurisprudence, for example Decision No. 3075 K/Pdt/1984 and Decision No. 3363 K/Pdt/1985, states that although land ownership without a certificate is not absolutely recognized, long-standing and undisputed physical control can be a basis for consideration for legal protection as long as it is accompanied by other supporting evidence.

The following is the land dispute resolution process in the study of decision No. 18/Pdt/2022/Ptptk Juncto No. 30/Pdt.G/2021/PnKtp:





Thus, the legal force of land ownership without a certificate depends on the totality of evidence in the litigation process. The judge will consider the integrity of administrative documents, conformity with the history of control, and the owner's good faith in controlling and maintaining the land. Although not as strong as a certificate, this evidence is still relevant to obtain legal recognition, especially in the context of communities that historically have not been touched by the formal land certification process.

1. Basic Concept of Certificates as Evidence of Land Rights

Land certificates are administrative legal products issued by the state through the National Land Agency (BPN) as authentic evidence of land rights owned by an individual or legal entity. In the Indonesian agrarian legal system, certificates have an important position as valid and strong evidence that provides legal certainty regarding the status and position of a plot of land. Certificates are not only administrative documents, but also symbols of state recognition of citizens' subjective rights to certain land.

In the context of land disputes, the existence of certificates is crucial because it functions as the main evidence in the

judicial process.

If written evidence is not available, then proof can be carried out through witness statements or statements from the relevant parties, as long as it is considered to have an adequate level of truth.¹⁰ Article 19 paragraph (2) letter c of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) states that:

"Land registration aims to provide legal certainty and legal protection to holders of land rights, ownership rights to apartment units, and mortgage rights so that they can easily prove themselves as the holders of the rights concerned."

From these provisions, it can be concluded that a land certificate is formal legal evidence that officially states a person's rights to land. The state through the BPN records, measures, and issues certificates as the final result of the land registration process. Thus, a person who has a certificate is legally recognized as the holder of the legitimate land rights. Government Regulation Number 24 of 1997 concerning Land Registration clarifies and strengthens the legal framework of Article 19 of the UUPA. Article 32 of this PP explains that:

"A certificate is a strong means of proof, as long as it cannot be proven otherwise in court."

This means that a person who holds a certificate is legally assumed to be the legitimate owner of the land, unless there is another party who can prove their rights in a legitimate manner in court. Then, Regulation of the Minister of State for Agrarian Affairs/Head of BPN No. 3 of 1997 as the implementing regulation of PP No. 24 of 1997 provides technical guidelines for the implementation of land registration. This regulation provides a mechanism on how the land registration process is carried out, including the form and requirements of documents that must be met so that land rights can be registered and a

¹⁰ Muhammad Ilham Arisaputra and Sri Wildan Ainun Wardiah, "Kedudukan Hukum Tanah Adat Dalam Pengembangan Administrasi Pertanahan Di Indonesia: Studi Komparatif", *Amanna Gappa*, Volume 27.2 (2019), pp. 67–87 <<https://journal.unhas.ac.id/index.php/agjl/article/view/8338>>.

certificate issued. In practice, there are important differences between physical control of land (de facto) and legal or legal ownership (de jure). These differences include:

- a) Physical control (de facto) means that someone actually controls and utilizes the land, for example for farming, constructing buildings, or paying Land and Building Tax (PBB). However, this control is not necessarily legally protected if it is not supported by formal documents such as certificates or valid proof of ownership.
- b) Legal ownership (de jure) is ownership that is based on applicable legal provisions, namely through official registration and issuance of certificates by the BPN. This ownership provides strong legal protection and can be defended in court in the event of a dispute.

In the context of Decision Number 18/Pdt/2022/Ptptk in conjunction with Number 30/Pdt.G/2021/PnKtp, it appears that the plaintiff only relies on physical control and proof of PBB payment. Meanwhile, the defendant has administrative documents such as land history letters and proof of sale and purchase transactions, which although not certificates, are considered to fulfill the formal elements of proof. This reflects the importance of understanding the difference between factual control and legal ownership, especially in dealing with potential disputes.

2. The Power of Non-Certificate Evidence in Agrarian Disputes

In agrarian disputes, one of the fundamental issues that often arises is the absence of a certificate as valid and strong legal evidence. However, the reality on the ground shows that many communities, especially in rural areas, control and manage land without ever officially registering their rights. In conditions like this, the proof process in court relies on non-certificate evidence, such as village certificates, girik, petok D, letter C, letters of release of rights, to proof of tax payments such as SPPT PBB. Although administrative in nature, these evidences still have certain legal value in the judicial process.

Administrative letters such as village certificates or land history, girik or petok D, letter C, and SPPT PBB are often used as evidence of land ownership and origin. These documents are generally issued by village or sub-district officials and reflect the status of ownership or transfer of land rights before the land certification system was widely implemented.

- a) Land Certificates from the village often include the history of land ownership, transfer of rights, and physical boundaries of the land.
- b) Girik, petok D, letter C are documents inherited from the colonial era which were initially more for tax administration purposes, but in practice are used as proof of land ownership.
- c) SPPT PBB (Land and Building Tax Payable Notification Letter) although only proof of tax payment, is often used to show that someone actively and continuously controls land.

The Supreme Court in a number of its jurisprudence has emphasized that certificates are not the only valid evidence in land disputes. In Supreme Court case Number 1794 K/Pdt/2006, for example, it was stated that continuous and good faith control of land with sufficient administrative evidence can be the basis for proving land rights. The Supreme Court has also stated that a land certificate from a village official, if accompanied by physical control facts and strong witness support, can be used as the basis for a judge's consideration in deciding a case. However, the strength of non-certificate evidence remains relative, depending on the context of the case, the quality of supporting evidence, and the assessment of the panel of judges.

Decision No. 18/Pdt/2022/Ptptk juncto No. 30/Pdt.G/2021/PnKtp itself reflects the judiciary's cautious attitude in assessing non-certificate evidence. The judge sided more with the defendant who had more complete administrative documents, even though both did not have a certificate. In civil and agrarian law, land ownership in good

faith and without legal interference for a certain period of time can strengthen a person's claim to the land. In several decisions, the court considered that peaceful, open, and continuous land ownership for years could indicate social and administrative recognition of the ownership. Continuous possession supported by documents such as evidence of private sales, annual PBB SPPT, and land history certificates can be considered in evidence, as long as no other party has a valid certificate for the same land. The following is an infographic comparing the evidentiary strength between certificates, village certificates, and PBB SPPT:

PICTURE 1. Evidentiary Strength

COMPARISON OF EVIDENTIARY STRENGTH			
Type of Document	Nature of Evidence	Evidentiary Strength	Remarks
Land Certificate	Authentic evidence	Very strong (conclusive)	Serves as valid proof of legal ownership recognized by the state
Village Statement Letter	Non-authentic evidence	Weak	Only indicates physical possession or cultivation, not ownership
SPPT PBB (Land and Building Tax Notification Letter)	Tax administrative record	Very weak	Indicates tax payment, but does not prove ownership rights

From the case examined in Decision No. 18/Pdt/2022/Ptptk in conjunction with No. 30/Pdt.G/2021/PN.Ktp, it can be concluded that:

- a) A land certificate holds the highest evidentiary value as it is an official document issued by the National Land Agency (BPN), providing full legal certainty and serving as conclusive evidence of ownership.
- b) A village statement letter, although issued by a local authority (village head), only serves as preliminary evidence of land possession or use, and cannot override the legal force of a certificate.
- c) The SPPT PBB merely shows that someone is paying

taxes on the land, which may be the case even for non-owners such as tenants or cultivators. Therefore, it holds the weakest evidentiary value and does not constitute proof of ownership.

This hierarchy of evidentiary strength was affirmed by the panel of judges, who ruled in favor of the certificate holder, rejecting claims based solely on possession and tax payment.

However, it is important to emphasize that physical possession is not immediately recognized as a legal right (*de jure*) without a formal process. Therefore, in the context of agrarian legal protection, non-certificate evidence must be considered as initial evidence (*prima facie*), and land owners are still advised to register their land to obtain a certificate.

3. *Cultivator Rights and Legal Protection*

According to Article 1 of BPN Regulation Number 21 of 2020, land disputes are defined as conflicts over land ownership or control that occur between individuals, legal entities, or institutions, the impact of which is not broad.¹¹ In cases of land disputes without certificates as reflected in Decision Number 18/Pdt/2022/Ptptk in conjunction with Number 30/Pdt.G/2021/PnKtp, the concept of cultivated land is the main focus. Cultivated land in Indonesian agrarian law is land that is controlled and utilized by someone, usually a farmer or local community, for farming or gardening without having proof of legal ownership such as a certificate.

According to Philipus M. Hadjon's theory of legal protection, there are two forms of legal protection: preventive and repressive.¹² Preventive protection should be present through government policies such as the systematic land

¹¹ Hendri Jayadi and others, "Penyelesaian Sengketa Tanah Berdasarkan Hukum Positif Tentang Penyelesaian Sengketa Di Indonesia", *JURNAL ComunitÃ Servizio: Jurnal Terkait Kegiatan Pengabdian Kepada Masyarakat, Terkhusus Bidang Teknologi, Kewirausahaan Dan Sosial Kemasyarakatan*, 5.1 (2023), pp. 1050–69, doi:10.33541/cs.v5i1.4287.

¹² Iwan Permadi, "Perlindungan Hukum Terhadap Pembeli Tanah Bersertifikat Ganda Dengan Cara Itikad Baik Demi Kepastian Hukum", *Yustisia Jurnal Hukum*, 95.2 (2016), pp. 448–67, doi:10.20961/yustisia.v95i0.2824.

registration program (PTSL) so that cultivators obtain legal certainty. Meanwhile, repressive protection occurs when the dispute enters the judicial realm, where the judge must consider the principle of substantive justice even though there is no formal evidence in the form of a certificate.

In this case, even though the plaintiff physically controlled the land and paid PBB, he lost because he was unable to show legally recognized administrative evidence. This shows that protection for cultivators, especially from indigenous or traditional communities, is still weak if it only relies on a legalistic approach. Therefore, legal protection for cultivators must be more adaptive to existing social realities.

4. Impact of Negative Publication System on Land Ownership

In the context of land dispute cases without certificates as in Decision Number 18/Pdt/2022/Ptptk in conjunction with Number 30/Pdt.G/2021/PnKtp, the negative publication system in land registration in Indonesia has a significant impact on the legal certainty of ownership. This system does not provide absolute guarantees of the accuracy of data in land certificates, even though the land was obtained in good faith.¹³

This weakness opens up the possibility of multiple certificates or overlapping land rights, especially in areas that are largely controlled by inheritance without official registration. In the case discussed, both parties did not have certificates, and this exacerbated the unclear legal status of the disputed land.

As a result, the negative publication system also contributes to the potential for horizontal conflict in society, when claims of ownership clash without solid legal certainty. When the conflict reaches the courts, the decision becomes very dependent on the relative strength of the administrative evidence submitted, rather than on absolute ownership, thus giving rise to dissatisfaction and distrust in the land law system.

To obtain legal protection, a certificate for a plot of land

¹³ Harvini Wulansari, Rochmat Junarto, and Dian Aries Mujiburohman, "Mewujudkan Sistem Pendaftaran Tanah Publikasi Positif", *Riau Law Journal*, 5.1 (2025), pp. 61–74.

must have been officially issued and have been valid for at least five years. This provision is explicitly stated in Article 32 paragraph (2) of the Government Regulation on Land Registration. This regulation is a form of state effort in realizing orderly land administration in society. This provision is also in line with the theory of legal certainty, which contains the following elements:

- a) There are applicable legal regulations;
- b) The role of the government in determining and regulating the law;
- c) The presence of a society that obeys the law;
- d) The role of judges in enforcing and implementing the law;
- e) The implementation of every judge's decision in real terms.

B. Legal Considerations of the Judge in Decision Number 18/Pdt/2022/Ptptk Juncto Number 30/Pdt.G/2021/PnKtp Regarding Proof of Rights to Cultivated Land

Dispute resolution through the courts is carried out by filing a lawsuit in accordance with the provisions of Article 118 HIR or Article 142 RBg.¹⁴ In District Court Decision Number 18/Pdt/2022/Ptptk in conjunction with Number 30/Pdt.G/2021/PN Ktp, the panel of judges faced a dispute over ownership of uncertified cultivated land. The plaintiff, Abdurrasyid Bin Zainudin, claimed ownership based on hereditary control of a plot of land measuring $\pm 21,300 \text{ m}^2$ in Nipah Malang Hamlet, Sei Awan Kanan Village, Muara Pawan District, Ketapang Regency.

The judge considered relevant legal principles, including Articles 1865–1868 of the Civil Code regarding the burden of proof, as well as the principles of good faith and actual control. In addition, there are also specific principles inherent in each type of evidence, which need to be used as a reference in

¹⁴ Kurniati, “Mediasi-Arbitrase” Untuk Penyelesaian Sengketa Tanah.”

applying the evidentiary system.¹⁵ The following is the evidentiary force between village decrees, sales and purchase letters, PBB SPPT, girik/petok:

TABLE 1. Comparison of Evidentiary Strength of Land Documents (Non-Certified)

Type of Document	Evidentiary Strength	Legal Status	Issued By	Judicial Consideration in the Decision
Village Statement Letter	Weak	Evidence of physical possession or land use, not ownership	Village Head	Not strong enough to override a land certificate. Only indicates control or usage, not legal title.
Private Sale and Purchase Letter	Weak	Proof of private transaction, but not formally registered or recognized	Private individuals	Unregistered, non-authentic, and not binding on third parties. Weak as proof of ownership.
SPPT PBB (Land and Building Tax Notice)	Very Weak	Evidence of tax payment, not of ownership	Tax Office (or Village Office)	Anyone can pay land tax. Does not prove ownership—merely administrative in nature.

¹⁵ Usep Saepullah and Firda Nisa Safitri, *Pemikiran Hukum Hakim Tentang Warist Penerapan Hasil Descente Putusan Pengadilan Tinggi Agama DKI Jakarta Nomor : 123/Pdt.G/2019/PTA.JK, Sustainability (Switzerland)*, 2019, XI
http://scioteca.caf.com/bitstream/handle/123456789/1091/RED2017-Eng-8ene.pdf?sequence=12&isAllowed=y%0Ahttp://dx.doi.org/10.1016/j.regsciurbeco.2008.06.005%0Ahttps://www.researchgate.net/publication/305320484_SISTEM_PEMBETUNGAN_TERPUSAT_STRATEGI_MELESTARI>.

Girik / Petok D	Weak to Moderate (historical)	Historical document of customary or state land use	Village/Cam at (Subdistrict Head)	Has historical value but must be converted into a land certificate. Cannot independently prove ownership.
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In this case, the defendant is deemed to have controlled the land in good faith and has valid evidence, while the plaintiff cannot prove his claim legally. This ruling emphasizes the importance of having legal and officially registered proof of ownership to avoid disputes in the future.

1. Case Overview

This case involves a dispute over ownership of a plot of cultivated land that does not yet have an official certificate. The plaintiff in this case is Abdurrasyid bin Zainudin, while the defendant is Marhaen. The disputed land is located in Nipah Malang Hamlet, Sei Awan Kanan Village, Muara Pawan District, Ketapang Regency, with an area of $\pm 21,300 \text{ m}^2$.

The plaintiff claims that the land has been owned by his family for generations and has been used for agricultural activities. He also routinely pays Land and Building Tax (PBB) on the land as a form of recognition and responsibility for land ownership. However, during the trial, the plaintiff was unable to show official documents of land ownership, such as a certificate or proof of legal transfer of rights.

On the other hand, the defendant submitted a number of administrative documents to prove his claim of ownership. The defendant has a land history certificate from the village government explaining the origin and history of the transfer of the land. He also submitted a land sale and purchase agreement with the previous owner, and showed evidence of more real and dominant physical control over the disputed land. The panel of judges in this case considered that even though there was no land certificate, the administrative evidence submitted by the defendant was considered stronger and had more accountable legal validity than the control alone.

submitted by the plaintiff.

2. Considerations of the Panel of Judges

In assessing evidence, the judge cannot simply accept it as a basis for making a decision. The judge must be able to examine, consider, and select whether the evidence submitted by the parties in the dispute is worthy of being used as a basis for determining the verdict.¹⁶ The plaintiff based his claim on the basis of hereditary physical control, proven by the payment of Land and Building Tax (PBB) and long-term use of the land. However, the plaintiff was unable to show formal administrative evidence that supported his claim of ownership of the land in question.

On the other hand, the defendant submitted evidence in the form of a land history certificate issued by the village government, a sale and purchase agreement document showing the process of acquiring land from the previous owner, and evidence of actual physical control of the land. The land history certificate, although not a certificate of title, was assessed by the judge as a form of administrative documentation that factually informs the history of control and transfer of rights to the land.

The panel referred to the provisions of Article 1865 of the Civil Code, which emphasizes that every party filing a lawsuit is obliged to prove its arguments. In this context, because the plaintiff could not prove his ownership rights formally, his lawsuit was legally weak. The panel also considered Article 1866 of the Civil Code which regulates the forms of evidence that are legally valid, where official letters and private deeds have certain evidentiary power if not refuted by the opposing party.

Furthermore, in assessing the substance of the evidence, the judge applied the principle of good faith and real control as part of the sociological legal approach to agrarian cases. The

¹⁶ Anggun Lestari Suryamizon, "KEDUDUKAN AKTA OTENTIK SEBAGAI ALAT BUKTI DALAM PERKARA PERDATA", *Menara Ilmu*, X.70 (2016), pp. 142–50 <Penggunaan Media Gambar Untuk Meningkatkan Hasil Belajar Siswa Dalam Pembelajaran PKN Dengan Tema Kedisiplinan Di Kelas II SD Negeri 07 Kampung Jawa Pariama>.

defendant is considered to have obtained the land through a process that meets the principle of trust and without bad intentions, as reflected in the completeness of the documents and his involvement in legal transactions.

Therefore, to avoid conflicts of interest in the management and utilization of agrarian resources, including in resolving agrarian conflicts, the government—as the executor of state authority—has a role within its powers to regulate the management and use of agrarian resources in order to achieve the greatest possible welfare for the community.¹⁷ Thus, the legal considerations of the Panel of Judges show that in cases of land without a certificate, administrative evidence such as village letters and sales and purchase agreements can have significant legal weight if supported by elements of real control and good faith acquisition. This decision shows the balance between the legal-formal principle and the aspect of substantive justice in the context of agrarian disputes.

3. Legal Analysis of Court Decisions

This decision concerns a case of a dispute over uncertified cultivated land, which normatively needs to be analyzed within the framework of national agrarian law, especially the Basic Agrarian Law (UUPA) No. 5 of 1960 and Government Regulation (PP) No. 24 of 1997 concerning Land Registration. In terms of compliance with the provisions of UUPA and PP No. 24/1997, this decision shows an understanding of the concept of national agrarian law that provides space for the recognition of land rights not only based on certificates, but also through non-formal administrative evidence such as land history letters from the village, evidence of physical control, and private sale and purchase documents.

This is in line with Article 24 paragraph (2) of PP No. 24/1997 which states that the legal basis for the issuance of a Land Certificate refers to the article.¹⁸ However, if examined

¹⁷ Ramli, Asmarani, Aminuddin Salle, Marwati Riza, Farida Patittinggi. 2016. "The Nature of Justice to Implement Natinality Principle in the Agrarian Law". *Journal of law, Policy and Globalization*, Vol 46:80-86.

¹⁸ Sri Wahyuni Siagian, "Kedudukan Surat Keterangan Tanah Sebagai Syarat Kepemilikan Tanah Pascaterbitnya Undang-Undang Nomor 5 Tahun

further, the judge's decision in this case emphasizes more on the aspect of administrative formality, namely prioritizing written documents such as village certificates and sale and purchase agreements as the main basis for assessing proof of rights. Although the plaintiff claims hereditary control and payment of land and building tax (PBB), this is not given primary weight in legal considerations. This approach raises questions about the extent to which the principle of substantive justice has been upheld, considering that many agrarian communities, especially traditional farmers, do not have access to formal documents, even though they have actually controlled and managed the land for years.

When compared to several previous Supreme Court (MA) decisions, such as Decision No. 324 K/Pdt/2011 and Decision No. 1791 K/Pdt/2004, the MA has recognized long-standing physical control and good faith as a strong enough basis for recognizing land rights even without a certificate. In these decisions, the courts gave more space to material evidence and the socio-historical context of land control, and emphasized the importance of protecting the rights of indigenous peoples or small farmers.

Thus, although the Ketapang District Court Decision is in accordance with the formal structure of agrarian law, normatively it does not fully reflect the principle of agrarian justice outlined in the UUPA, namely social justice for all Indonesian people. This decision shows that the Indonesian agrarian legal system still faces challenges in bridging formal legality and substantial justice, especially in the context of unregistered cultivated land.

Conclusion

In the Indonesian agrarian legal system, land certificates are the strongest evidence that guarantees legal certainty over ownership rights. However, in the case of unregistered land, as in Decision Number 18/Pdt/2022/Ptptk in conjunction with Number 30/Pdt.G/2021/PnKtp, non-certificate evidence such as

1960 Tentang Pokok-Pokok Agraria Dan Peraturan Pemerintah Nomor 24 Tahun 1997", *Jurnal Notarius*, 1.2 (2022), pp. 347–57.

village certificates and ownership history still have evidentiary value, although weaker than official certificates. This decision shows that the justice system still prioritizes formal legality, and hereditary land ownership is not strong enough without the support of valid documents.

Agrarian legal protection requires the active role of all parties. The government and BPN need to expand socialization and facilitate access to land registration, especially through the PTSL program. Regulations must also accommodate local administrative evidence. On the other hand, the public must be aware of the importance of land documentation and registration. Judges are also expected to consider the balance between formal evidence and the fact of good faith ownership to realize substantive justice.

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DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

None

ACKNOWLEDGMENT

None

HISTORY OF ARTICLE

Submitted : February 21, 2025

Revised : June 10, 2025

Accepted : July 1, 2025

Published : July 25, 2025

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