

LEGAL CERTAINTY OF LAND OWNERSHIP RIGHTS BASED ON ELECTRONIC CERTIFICATES

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Abstract

Background - As a state governed by law, Indonesia has a legal system aimed at creating legal certainty in various aspects of life, including regulating land ownership. Land in Indonesia is one of the most vital and limited resources, as well as an essential element in society's social and economic life. Along with the rapid population growth, land-related issues, such as land disputes, have become increasingly complex and varied. In addressing these issues, the state plays a crucial role in regulating land ownership and control to create legal certainty for the public. Land registration in Indonesia is governed by the Basic Agrarian Law (Law Number 5 of 1960) and other regulations intended to provide legal proof of ownership and reduce land disputes. In this regard, land certificates serve as legitimate proof of ownership, recognized and protected by law, and act as collateral for the landowner's rights. However, with the advancement of time and technology, the land registration system in Indonesia has undergone significant transformation. One of the major changes is the implementation of electronic certificates. The regulation of electronic certificates began with the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 1 of 2021, which was later updated by Regulation No. 3 of 2023. The purpose of implementing electronic certificates is to increase land registration and management process efficiency, reduce the potential for document forgery, and provide the public with more accessible access to information about land ownership. Nevertheless, implementing electronic certificates in Indonesia is not without significant challenges. One of the main issues is the low level of technological understanding among the public, particularly in remote areas with limited access to information technology. People who are accustomed to the conventional system often feel hesitant and need more trust in the electronic certificate system because they are more familiar with the physical form of certificates that can be seen and touched. Additionally, data security is a primary concern. Although digital systems offer various conveniences, the risk of hacking and data breaches remains a real threat. Ensuring the security of data within electronic certificates is crucial, given the importance of the validity of documents as proof of land ownership. Threats to the digital security system, such as hacking and data manipulation, add to the challenges faced by the government and society. Therefore, it is essential to strengthen the security system by using encryption technology, digital signatures, and stringent verification systems to ensure the validity of electronic certificates. The implementation of electronic certificates is being carried out gradually, considering the readiness of infrastructure and human resources in land offices across Indonesia. The implementation process started with the certification of state assets (BMN/BMD), legal entities, state-owned enterprises, and religious buildings and is expected to extend to the public, providing more comprehensive access to electronic certificates. As of July 2024, Indonesia has successfully issued approximately 269,572 electronic certificates, though the implementation process is still ongoing and has yet to be fully widespread across all regions. This electronic certificate system aims to reduce dependence on physical documents vulnerable to damage or loss while also providing landowners with a more efficient and secure way to access and manage their certificates. Despite this, several obstacles still need to be addressed, such as the need for more intensive socialization to inform the public about the benefits and validity of electronic certificates and enhance security systems to protect data within the system. Furthermore, there are cultural challenges in implementing electronic certificates, particularly in areas where conventional methods of land management still need to be deeply rooted. Communities accustomed to physical documents as legitimate proof of land ownership may need help to transition to the electronic system. Therefore, direct community engagement and increasing understanding of the benefits and legitimacy of electronic certificates are essential to ensure the smooth acceptance of this new system. This research aims to analyse how legal certainty in land ownership can be achieved through the implementation of electronic certificates in Indonesia. Additionally, the study seeks to identify the obstacles in implementing electronic certificates, including regulatory, infrastructure, and public acceptance issues. By understanding these challenges, the hope is to find solutions to improve the effectiveness of the electronic certificate system, making the land registration system in Indonesia more efficient, transparent, and secure for all layers of society.

Purpose - The objectives of this research are to identify the legal certainty that can be achieved through the implementation of electronic certificates in land ownership in Indonesia, analyze the challenges in their implementation—such as regulatory, infrastructure, and public acceptance issues—and propose solutions to improve the effectiveness of the electronic certificate system. These solutions aim to create a more efficient, transparent, and secure land registration system for all levels of society. The purpose of this study is to provide academic and practical contributions to support the transformation of Indonesia's land registration system through the digitalization of certificates. It also seeks to assist the government, stakeholders, and the public in understanding the importance of electronic certificates and resolving issues that arise during their implementation. Furthermore, it aligns with the state's goal of ensuring legal certainty regarding land rights, reducing land disputes, and enhancing public trust in electronic systems for land management. Through these efforts, the study underscores the significance of developing electronic certificates as an innovative solution to address Indonesia's complex and diverse land-related issues.

methodology - This research a normative juridical approach to analyse legal issues related to the legal certainty of electronic certificates as evidence of land ownership. This approach focuses on the study of applicable legislation, relevant legal theories, and the legal principles contained within the Indonesian legal system, particularly those related to the implementation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 3 of 2023 concerning electronic certificates. This normative juridical approach relies on secondary legal sources, which consist of primary, secondary, and tertiary legal materials. Through the analysis of legislation and other legal documents, this study aims to provide a deeper understanding of how regulations related to electronic certificates are applied and evaluate the effectiveness and consistency of their implementation in providing legal certainty. This type of research is normative legal research, which prioritizes studying library materials as the primary data source. Normative legal research is not focused on social or empirical aspects but instead on understanding and analyzing the legal norms contained in legislation and existing legal theories. In the scope of this research, several factors will be examined, including legal principles relevant to electronic certificates, the legal system underlying these regulations, and the synchronization of applicable laws vertically (between higher and lower regulations) and horizontally. Additionally, this research will discuss legal comparisons by examining similar regulations in other countries to provide a more comprehensive perspective on implementing electronic certificates as proof of land ownership rights. The data sources used in this research are secondary data, which includes various primary, secondary, and tertiary legal materials. Primary legal materials include regulations directly governing electronic certificates, such as the Basic Agrarian Law (Law No. 5 of 1960), the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 1 of 2021, and the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 3 of 2023. Secondary legal materials include books, journals, scholarly articles, theses, and other writings that discuss related topics and provide explanations or interpretations of primary legal materials. Additionally, tertiary legal materials enrich the understanding of relevant legal concepts, such as legal dictionaries that define and explain legal terms used in this research. Data collection is carried out using document study techniques, which involve searching for and collecting various legal materials from available physical and online sources. This document study aims to obtain valid and relevant data and identify regulations, theories, and legal principles that can answer the research problem formulation. The search is conducted through various channels, such as libraries, scholarly journal databases, and online legal portals, to ensure that the legal materials used are the most current and relevant to the research topic. This process also ensures that the collected data is sufficient to answer the research questions thoroughly. Furthermore, in analyzing the collected data, the author will use a qualitative analysis method to interpret the existing regulations and compare legal theories with the realities observed in practice. The results of this analysis will be used to provide constructive recommendations for improving the effectiveness of electronic certificate implementation, thereby ensuring better legal certainty in the management of land rights in Indonesia.

Findings - The findings of this study highlight several important points regarding the implementation of electronic certificates in Indonesia. First, electronic certificates play a crucial role in ensuring legal certainty in land ownership, addressing the increasingly complex issue of land disputes. The transformation of the land registration system through digitalization, regulated by Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 1 of 2021 (updated by No. 3 of 2023), has significantly enhanced efficiency and reduced the risk of document forgery. However, the implementation faces substantial challenges, including limited technological understanding among the public, particularly in remote areas, and concerns over data security in digital systems. Risks such as hacking and data manipulation highlight the need for robust security measures, including encryption technology, digital signatures, and stringent verification systems. Public acceptance remains limited due to a preference for conventional systems and the familiarity with physical certificates. Additionally, the gradual implementation process—starting with state assets, legal entities, state-owned enterprises, and religious buildings—has so far resulted in the issuance of 269,572 electronic certificates as of July 2024. However, comprehensive public outreach and education are necessary to increase understanding and trust in the benefits, validity, and security of electronic certificates. Cultural barriers in areas where conventional land management practices are deeply rooted also present challenges, emphasizing the need for effective community engagement and adaptation strategies. These findings underscore the importance of addressing these obstacles to achieve an efficient, transparent, and secure land registration system in Indonesia.

Originality - The originality or value of the paper lies in its comprehensive examination of the legal certainty of land ownership through the implementation of electronic certificates in Indonesia, a topic of increasing relevance due to the rapid digital transformation of land registration systems. The paper provides a critical analysis of the challenges in implementing electronic certificates, especially in a developing country with diverse cultural and technological landscapes like Indonesia. It highlights both the technical issues, such as data security concerns and the need for infrastructure improvement, and the social aspects, including public acceptance and trust in digital systems. Additionally, the paper contributes to the academic and practical discourse by addressing the regulatory framework governing electronic certificates, specifically focusing on recent changes in land registration laws. It also emphasizes the gradual nature of the implementation process and the ongoing efforts to reach full national coverage. By identifying the obstacles faced in remote and rural areas, it draws attention to the need for more intensive socialization and education campaigns to ensure wider acceptance. This research also offers practical recommendations for enhancing the system's effectiveness, ensuring data security, and addressing cultural challenges, making it valuable for policymakers, legal practitioners, and academics seeking to improve land registration systems in Indonesia and other similar jurisdictions.

Keywords: legal certainty, electronic certificates, land ownership
