

## Juridical Analysis of Electronic Certificates as Proof of Land Ownership



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**ABSTRACT:** In the current modern era, the government is showing the establishment of electronic certificate regulations to create services that make it easier for the community. Electronic certificates offer a more secure and efficient system, allowing landowners to access ownership information digitally. Regulation of the Minister of ATR/BPN Number 1 of 2021 concerning Electronic Certificates is present as an innovative solution to these problems. With the existence of the electronic-based land certificate regulation, the public is asked to be able to abandon the old habit of using analog certificates by switching to digital certificates. The formulation of the problem in this study is: How to Regulate Electronic Certificates as Evidence of Land Rights Ownership. The research method used is a normative research type with a type of legislative approach and a conceptual approach. With the results obtained from this study, namely, this electronic certificate is recognized as legally valid Based on the Regulation of the Minister of ATR/BPN Number 1 of 2021, the public can convert physical or analog land certificates into electronic certificates through clear and structured procedures. Electronic certificates are expected to be effective in national land management which can minimize the duplication of certificates, forgery and illegal land transactions by the land mafia and also reduce the risk of burning, rain and theft of physical documents.

**KEYWORDS:** Electronic Certificates, Land, Property Rights, Land Rights, Electronic Systems.

### INTRODUCTION

Land is a very urgent element of nature in the life of a community. No human being or group of people can be separated from the soil. Land is a place for various sources of life on which a person or group of people depends on their lives. Land can be used as a place to build buildings, open plantations, agriculture, fisheries and other activities. Land is also a place where humans are returned as the land is the beginning of the creation of humans (Hanafiah, 2007). Land is a natural wealth that is one of the sources of human life because there are many human activities carried out on land where its use and utilization are fundamentally carried out for the welfare of the community as contained in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Constitution of the Republic of Indonesia), that: "The earth and water and the natural resources contained in it are controlled by the state and used for as much as possible People's Prosperity "The existence of land has an important meaning to human life which makes the existence of land have 2 (two) functions, namely the main one as a capital asset and a social asset (Rejekiingsih, Triana, 2006)

Currently, the community is still very dependent on activities and businesses that are mostly agrarian so that land is one of the pillars of hope in order to be able to carry out the principles and system of life. One of the efforts so that the community can carry out their activities and avoid problems is to register land. Along with the development of human life and society, marked by the rapid increase in the number of population, the flow of modernization which is characterized by the sophistication of transportation, communication and information, the human need for land is also increasing. This phenomenon cannot be avoided or avoided, including by people living in the countryside. Humans compete to control land along with the increasing value of land economically (Bur, Arifin and Desi Apriani, 2017). This shows how important it is to collect data and register a plot of land in order to prove ownership rights to the land.

In the era of increasingly widespread globalization, Indonesia is not only a witness, but also the main protagonist in the shifting technological landscape. In response to the ever-evolving challenges and opportunities, the country has entered the Digitalization 5.0 phase, bringing with it technological developments that are changing the economic, social, and cultural paradigms. Along with the advancement of science and technology, we cannot resist the development of the times. It is appropriate for Indonesia to follow the development of progress in the world. Currently, in Indonesia, the use of information and communication technology is progressively changing market transactions and public services that were originally analog (manual)

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have changed to electronic-based services. One of them is in the land sector in order to realize the modernization of land services, starting to implement electronic-based services. Following the development of technology and the times, currently certificates are in the form of electronics. This is done to realize modernization by implementing electronic-based land services, to the point where the resulting documents are in the form of electronic documents. This came into effect at the time of the issuance of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 1 of 2021 concerning Electronic Certificates.

In the current modern era, the government is showing the establishment of electronic certificate regulations to create services that make it easier for the community. In 2021, the regulations on land registration have changed where in Law Number 5 of 1960, land certificates are given to land rights owners in the form of physical printed letters, while in the new regulations containing electronic certificates or E-certificates, namely in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 1 of 2021 concerning electronic certificates where documents proving their rights are given not physically but digitally (Putra, Reza Ardiansyah and Atik Winanti, 2024).

The launch of this Electronic Certificate is not a new regulation issued by the Ministry of ATR/BPN because previously the Ministry of ATR/BPN had enacted four electronic services, namely Land Registration Certificate, Certificate Checking and Electronic Dependent Rights Certificate. Regulation of the Minister of ATR/BPN Number 1 of 2021 concerning Electronic Certificates is present as an innovative solution to these problems.

With the existence of the electronic-based land certificate regulation, the public is asked to be able to abandon the old habit of using analog certificates by switching to digital certificates. Based on the previous background, there are several problem formulations that can be drawn from this study, including: How to Regulate Electronic Certificates as Evidence of Land Rights Ownership?

### **RESEARCH METHODS**

Method refers to the systematic methods or steps used to achieve goals, while research is a systematic process carried out to find, collect, and analyze information to solve a problem or answer a specific question. Therefore, research methods can be interpreted as systematic steps used by researchers to collect, analyze, and present materials/data to answer research questions or solve certain problems. The research method used is a type of normative legal research, namely research that focuses on the ambiguity of norms. Ambiguity of norms is a condition when the meaning of a norm is unclear or does not have a detailed explanation that can cause legal uncertainty.

The sources of legal materials to be used are divided into two categories, namely primary legal materials which are legal materials that have the authority to source from laws and regulations in accordance with their applicability in the hierarchy and secondary legal materials which are legal materials that provide explanations for primary legal materials, namely in the form of references, such as books, legal journals, and the internet.

### **RESULTS AND DISCUSSION**

#### **ARRANGEMENT OF ELECTRONIC CERTIFICATES AS PROOF OF LAND OWNERSHIP**

Land rights are rights that authorize a person to use or benefit from these rights (Boedi Harsono, 2007). In this regard, Article 2 paragraph (1) of the UUPA states that: "On the basis of the provisions of Article 33 paragraph (3) of the 1945 Constitution, the earth, water, space, including the natural resources contained therein are at the highest level controlled by the State, as the organization of power of all the people." The State's control over the earth, water, space, including the natural resources contained in it is known as the Right to Control the State. The authority of land rights is also regulated in Article 4 paragraph (2) of the UUPA which states that: The land rights referred to in paragraph (1) of this article give the authority to use the land concerned, as well as the body of the earth and water and the space that exists on it are only necessary for the interests directly related to this law and other higher legal regulations.

Based on Article 16 of the UUPA and Article 53 of the UUPA, land rights are grouped into 3 areas, namely: a. Land rights that are permanent. b. Land rights established by law. The right to land that will be born later will be determined by law. This kind of land right does not exist yet. c. Land rights are temporary. According to the provisions of Article 16 paragraph (1) of the Basic Agrarian Law (UUPA), several types of land rights are known, namely: a. Property Rights; b. Right of Use. c. Building Use Rights, d. Use Rights, e. Land Clearing and Collecting Forest Products.

Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) is the Basic Principles of the Basic Agrarian Law (UUPA) outlined in various articles that reflect the philosophical, social, and legal foundations of agrarian regulation in Indonesia. The main legal basis that governs agrarian governance in Indonesia. The industrial era 5.0 where all activities in the field of government and public services use electronic systems that are connected quickly, easily and effectively in accordance with the provisions of Government Regulation (PP) Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions for the government system in stages. In line with this system in the field of National Land which has used an electronic system in accordance with the beginning of the rules regarding electronic transactions, namely Law Number 11 of 2008

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has undergone changes in accordance with the provisions of Law Number 19 of 2016 concerning Electronic Transaction Information (ITE) and the second amendment determined by Law Number 1 of 2024 concerning Electronic Information and Transactions which already mentions the existence of electronic certificates Apart from conventional certificates that explain about electronic certificates, electronic certificates are electronic certificates that contain Electronic Signatures and identities that show the status of the legal subjects of the parties in Electronic Transactions issued by Electronic Certification Providers (Assidiqih Gandhi, 2023).

Minister of ATR/BPN Sofyan A. Djalil inaugurated the Ministerial Regulation of ATR/BPN Number 1 of 2021 concerning Electronic Certificates on January 12, 2021. Regulation of the Minister of Agrarian and Spatial Planning and Head of the National Land Agency Number 1 of 2021 concerning Electronic Certificates The regulation is published in the State Gazette of the Republic of Indonesia Number 12, which allows the public to access it. When the Regulation of the Minister of ATR/BPN Number 1 of 2021 concerning Electronic Certificates began to be inaugurated, the rules in the Regulation of the Minister of ATR/BPN Number 7 of 2019 concerning the Second Amendment to the Regulation of the Minister of ATR/BPN Number 3 of 1997 concerning the Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration, especially in Articles 163A, 178A, and Article 192A (State Gazette of the Republic of Indonesia Number 722 of 2019) were revoked and it is said to be no longer valid.

The implementation of the electronic certificate program is carried out in stages throughout Indonesia. The digitization of land certificates starts from government agencies, legal entities and is applied to regions that are ready with their infrastructure. Printed electronic documents are valid evidence based on the procedural law applicable in Indonesia. The need for proof can be accessed through an electronic system. In the Minister of ATR/Head of BPN Number 7 of 2019 concerning the second amendment to the Minister of Agrarian Affairs/Head of BPN Number 3 of 1997 concerning the Provisions for the Implementation of Government Regulation Number 24 of 1997 regulates that land books are stored electronically in the form of a database and can be printed using the Land Book Entry List. Electronic documents are also regulated in Article 1 number 2 of the Minister of Agrarian Spatial Planning/Head of BPN Number. 1 of 2021 and in Article 84 paragraph (3) of Government Regulation Number 18 of 2021 which states that electronic information and data and printed results are valid legal evidence (Esther Masri and Hirwansyah, 2024).

## CONCLUSION

Electronic certificates are regulated in the Regulation of the Minister of ATR/BPN Number 1 of 2021 which regulates electronic land registration and the issuance of electronic certificates. Then in 2023 the regulation has been officially revoked and replaced by the Regulation of the Minister of ATR/BPN Number 3 of 2023 concerning the Issuance of Electronic Documents in Land Registration Activities, This Regulation regulates the issuance of electronic documents in land registration activities by setting limits on the terms used in its regulation.

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