

Authority of the National Land Agency in Resolving Land Disputes Overlapping Certificates of Ownership



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ABSTRACT: The resolution of land disputes carried out by the National Land Agency is a new breakthrough in order to avoid the accumulation of cases in the judiciary, especially the State Administrative Court. This research aims to examine and analyze the process of resolving land disputes over overlapping property rights certificates carried out by the National Land Agency and to understand and analyze the form of authority of the National Land Agency in resolving land disputes over overlapping property rights certificates. The research method is normative juridical. The type of data used is secondary data. Data analysis techniques using deductive reasoning presented descriptively. From the research results, it can be stated that the land dispute resolution process in relation to certificate cancellation can be carried out through the State Administrative Court and outside the court. Settlement of disputes outside of court, in this case the cancellation authority is given to BPN which can be divided into two, namely through the authority of the ministry and outside the authority of the ministry. Meanwhile, BPN's form of authority in resolving land disputes can be in the form of attribution authority and delegation authority.

KEYWORDS: BPN Authority, Land Disputes, Overlapping Certificates.

I. INTRODUCTION

To ensure legal certainty regarding community rights to land, land registration is carried out. Land registration in the Basic Agrarian Law is regulated in Article 19 paragraphs (1) and (2), namely: (1). To ensure legal certainty, the government carries out land registration throughout the territory of the Republic of Indonesia according to the provisions stipulated in Government Regulations. (2). Land registration in paragraph 1 of this article includes: a. Measuring, mapping and bookkeeping of land; b. Registration of land rights and transfer of these rights; c. Providing letters of proof of rights, which act as strong evidence. As a result of the land registration process, the holder of rights to the registered land is given a letter of proof of rights called a certificate. The implementation of land registration makes it possible for holders of land rights to easily prove their rights to the land they control. However, related to certificates in social life, various problems are still found, such as: (1). Fake Certificate Land title certificate; (2). Asphalt Certificate (original but fake) Evidence letter as the basis/basis for the right to issue. The certificate turns out to be incorrect or forged; and (3). Multiple Certificates, namely: Certificates for which more than one certificate is issued for a plot of land whose land location overlaps in whole or in part (Chomzah, 2002).

The emergence of various land problems such as the issuance of legally flawed certificates needs to be resolved immediately, because legally flawed land title certificates can mean that the certificate cannot be used as proof of land ownership, because it cannot be legally justified. The implementation of Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 11 of 2016 concerning Settlement of Land Cases, can resolve cases in the land sector. Cancellation of certificates that are defective in administrative law is a legal effort to prevent, monitor and take action to prevent conflicts of interest in land rights that could cause losses to parties with an interest in land. The National Land Agency is a government agency that has been given authority by laws and regulations in the land sector to resolve land disputes or conflicts. BPN's authority is regulated in Article 24 paragraph (7) of the Regulation of the Head of the National Land Agency (BPN) Number 11 of 2016 which states that; "In the event that there are overlapping land title certificates on one plot of land, the Minister or Head of the BPN Regional Office, in accordance with their authority, issues a decision to cancel the overlapping certificates, so that on that plot of land there is only 1 (one) valid land title certificate. legitimate."

The authority to resolve disputes or conflicts carried out by the National Land Agency is a new breakthrough carried out by the government. This is intended by the BPN in resolving conflicts or disputes as regulated in Article 11 paragraph 3 of the Minister of ATR/Head of BPN number 11 of 2016 concerning the resolution of land cases. From the provisions above, there are 2 models of authority to resolve land disputes in canceling certificates, namely: (1). Through purely administrative efforts at BPN by not

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implementing court decisions: and (2) Legal cases in the land sector which are the authority of the Judicial Institution, especially the State Administrative Court, relate to determining the validity of a decision or certificate. In Article 53 of Law No. 5 of 1986, it is stated "A person or civil legal entity who feels that their interests have been harmed by a State Administrative Decision may submit a written lawsuit to the competent court containing a demand that the disputed State Administrative Decision be annulled or not legal, with or without claims for compensation and/or rehabilitation. So the provisions governing the resolution of land cases regarding the cancellation of double certificates give rise to a conflict of norms regarding authority. The occurrence of overlapping authority or existing regulations. Legal disputes in the land sector which fall under the authority of the State Administrative Court involve persons or civil legal entities and State Administrative Bodies or Officials as a result of the issuance of State Administrative decisions. , is included in the State Administrative Court environment, especially with regard to the cancellation of certificates as products of State Administrative bodies (Kurniati, 2016).

The authority regarding the cancellation of title certificates for overlapping land as described above, apart from the authority of the judiciary, is also the administrative authority at BPN as regulated in the regulation of the Head of the National Land Agency of the Republic of Indonesia Number 11 of 2016 concerning Settlement of Land Cases. Based on the explanation of the specifications of dispute resolution institutions, both litigation institutions and non-litigation institutions, up to now it is clear that all these methods cannot resolve land disputes completely in a short time, and instead tend to drag on due to conflicts of authority. BPN experiences problems in resolving land disputes, especially the issue of double certificates due to overlapping existing rules or regulations. Therefore, the author is interested in conducting research with the title "Authority of the National Land Agency in Resolving Land Disputes over Overlapping Certificates of Ownership".

II. RESEARCH METHOD

In this research, the author uses a normative juridical legal approach which is often called doctrinal research. Normative legal research is legal research carried out by examining library materials. Normative legal research or literature includes research on legal principles, legal systematics, levels of vertical and horizontal synchronization, legal comparisons, and legal history. (Soekanto & Sri Mamudji, 2013). The approaches used are the statutory approach and the conceptual approach. The type of data used is secondary data which includes primary, secondary and tertiary legal materials. The data collection method uses library research. The data analysis used is a data interpretation method using deductive reasoning which is presented descriptively. Analysis is carried out to build knowledge through understanding a phenomenon and discovering elements that do not yet exist in the applicable theory. The focus of qualitative analysis is a phenomenon that shows a gap between what should be and what is actually from a scientific perspective, so it requires photography, mapping and in-depth understanding that can be used to solve problems based on reliable and reliable data (Danim, 2002). Legal regulations are needed as the main premise. This must be linked to the related legal facts used as minor premises.

III. RESEARCH RESULT

Land Dispute Settlement Process over Overlapping Ownership Certificates Carried Out by the National Land Agency

Land disputes are a classic phenomenon that remains current and is always interesting to be studied by researchers. Disputes are a reflection of a situation where a sense of justice is not fulfilled for people who depend on the land sector for their livelihoods (Rohmad, 2008).

Borrowing the view of conflict theory to look at the disputes that occur today, disputes are a social phenomenon that will always be embedded in the life of every society, and therefore cannot be eliminated. Disputes that occur need to be managed well and seek resolution because otherwise they could become anarchic. Dispute resolution is not as easy as imagined, especially if you are not equipped with basic knowledge or understanding of how to manage disputes, of course the dispute will never reach the point of resolution. Therefore, the main priority that must be done now is to look for and find effective ways or techniques and strategies to manage disputes. The parties involved in the dispute must be willing to sit together and be willing to accept and give in to each other. Efforts to resolve disputes that occur in society can be done in two ways, namely: through formal courts and outside formal courts. Dispute resolution through formal courts is very slow and complicated, court costs are expensive, the judiciary is not responsive and resolution is generally unresponsive, court decisions do not resolve problems, the ability of judges is generalist (Harahap Y. , 1997).

It can be found that the decisions issued by the judiciary do not lead the parties to the dispute towards resolving the problem. Court institutions, like other formal legal institutions, do not have totality in handling disputes, because their decisions are only limited to small portions of the actual cases at hand. This can be understood, because every court decision is always based on normative norms and procedures that have been formulated normatively, without paying attention to the values or laws that live and develop in society, so that they do not touch society's sense of justice. the process is convoluted, and places the disputing parties in the position of someone losing and someone winning. This makes it seem like the world of justice is a place to fight, not a place to seek the truth.

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Resolving disputes outside of court will place the disputing parties in a win-win position. According to Timonity Lindsey, as quoted by Syahrizal Abbas, he stated that: Dispute resolution through methods outside the court has long been known and practiced in the lives of Indonesian society. Indonesian people feel that peaceful dispute resolution has led them to a harmonious, just, balanced life and maintained the values of togetherness (community) in society. Society strives to resolve its disputes quickly and precisely while upholding the value of togetherness and not taking away or suppressing individual freedom (Abbas, 2009).

Settlement of disputes related to certificate cancellation can be done through the State Administrative Court and outside the court. Dispute resolution through the State Administrative Court is resolved in two ways, namely: 1. Through administrative efforts, this method is used if a person or civil legal entity is not satisfied with a State Administrative decision. This effort can be carried out by means of administrative appeals and objections (see: Article 48 of Law Number 5 of 1986). 2. Through a lawsuit, there are two parties to the subject or parties involved in the case at the State Administrative Court, namely: the plaintiff and the defendant (Syarif, 2012).

In this case, dispute resolution outside of court is carried out by BPN itself through cancellation. BPN's authority to cancel is regulated in Law Number 30 of 2014 concerning Government Administration, Article 66, namely: regarding decisions made by authorized officials, they can only be canceled if there are defects in: authority, procedure and substance. The Cancellation Decision can only be made by: 10 a. Government Officials who make Decisions; b. Superior Officer who makes the Decision; c. Based on the Court's Decision. Then, more specifically, the basis for the authority to cancel certificates by BPN is regulated in Article 11 paragraph (3) of the Minister of ATR/Head of BPN Regulation Number 11 of 2016 concerning Settlement of Land Cases, namely regarding: a. Procedural errors in the process of measuring, mapping and/or calculating area; b. Procedural errors in the registration process; c. Procedural errors in the process of determining and/or registering land rights; d. Procedural errors in the process of determining abandoned land; e. Overlapping rights or certificates of title to land where one of the rights bases clearly contains an error; f. Procedural errors in the process of maintaining land registration data; g. Procedural errors in the process of issuing replacement certificates; h. Errors in providing land data information; i. Procedural errors in the permit granting process; j. Misuse of space; or k. Other errors in the application of statutory regulations.

Of all the authority to cancel certificates by BPN above, it can come from initiatives from the Ministry, and can come from complaints by the public, the resolution of which can be carried out by the ministry and outside the ministry. Disputes or conflicts that can be resolved through the ministry must have certain characteristics as intended in paragraph 1 letter b number 2 article 13 paragraph 3, namely: a. attract public attention; b. involving many parties; c. has high value in terms of: culture, economy, public interest, defense and security, and/or d. request from authorized agencies or law enforcement.

The dispute resolution process carried out by BPN in canceling certificates within the scope of the ministry's authority is as follows: 1. Ministerial initiative, meaning the Ministry, through the Head of the Land Office (Kakantah), the Head of the Regional Office of the National Land Agency (Kakanwil BPN), or the Directorate General (Ditjen), carry out monitoring to find out disputes and conflicts that occur in a certain area based on complaints or reports in newspapers. Furthermore, Kakantah reports the monitoring results to the Head of BPN Regional Office every 4 (four) months and copies them to the Minister. If the monitoring results need to be followed up, the Minister or Head of Regional Office of BPN orders Kakantah to carry out Dispute and Conflict resolution activities. Public Complaints means complaints submitted to Kakantah in writing via the complaint counter, mailbox or Ministry website. The complaint is submitted to the Regional Head of BPN and/or the Ministry, then the complaint file is forwarded to Kakantah. The complaint must at least contain the identity of the complainant and a brief description of the case; 2. Data collection. The data collected is: a. Physical data and juridical data; b. Judicial decisions, minutes of investigation from the Indonesian National Police, the Indonesian Attorney General's Office, the Corruption Eradication Commission or other documents issued by law enforcement institutions/agencies; c. Data issued or published by authorized officials; d. Other data that is related and can influence and clarify Dispute and Conflict issues; and/or e. witness statements; 3. After the data is collected, analysis is carried out. The purpose of the analysis is to determine whether the complaint is within the authority of the ministry or not.

The authority to resolve disputes or conflicts which is the authority of the ministry is regulated in Article 11 paragraph 3, including: a. Procedural errors in the process of measuring, mapping and/or calculating area; b Procedural errors in the registration process for confirmation and/or recognition of rights to former customary land; c. Procedural errors in the process of determining and/or registering land rights; d. Procedural errors in the process of determining abandoned land; f. Overlapping rights or certificates of title to land where one of the rights bases clearly contains an error; g. Procedural errors in the process of maintaining land registration data; h. Procedural errors in the process of issuing replacement certificates; i. Errors in providing land data information; j. Procedural errors in the permit granting process; k. misuse of space utilization; or l. Other errors in the application of statutory regulations. 4. If the dispute falls within the authority of the Ministry, the next process will be carried out, namely dispute resolution contained in section three. In handling this dispute, an assessment will be carried out on: a. Chronology of Dispute or Conflict; b. Juridical data, physical data and other supporting data. 5. Conduct an assessment, carry out field inspections. Field inspection activities include: a. Research on the suitability of data to conditions. b. Seek information from witnesses and/or related parties; c. Research on land parcel boundaries, measuring drawings, land plot maps, situation drawings/measuring letters, spatial planning maps; and/or d. Other necessary activities; 6. When the results of the assessment and field inspection results have been completed,

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the next stage can be carried out, namely: Presenting and discussing the results of the assessment and results of field inspections carried out by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency in the context of handling and/or resolving cases. Land. The results of the presentation are made in the Minutes of the Exposure which are signed by the presentation leader or presentation representative. The Minutes of Exposure as intended must contain: the presentation participants, the main issues of Disputes and Conflicts; and the results of the presentation. If the results of the presentation have been included in the Minutes of Presentation, then the official responsible for handling disputes, conflicts and cases or the dispute and conflict resolution team will make a Land Case Settlement report; 7. Furthermore, the land case settlement report is a summary of the results of dispute resolution activities. The land case resolution report is an integral part of the dispute and conflict resolution file starting from Complaints, Data Collection, Analysis, Assessment, Field Inspection and Exposure. This is stated in Article 23 paragraph 3 of the Regulation of the Minister of Agrarian Affairs/Head of BPN No. 11 of 2016 concerning Settlement of Land Cases. The Land Case Settlement Report is submitted to the Head of the BPN Regional Office or the Minister; 8. The final stage after receiving the land dispute and conflict resolution report to the Head of BPN Regional BPN or the Minister. The Head of BPN has the duty and authority to resolve land cases by issuing or publishing a decision, which can be in the form of: a. Decision to Cancel Land Rights b. Certificate Cancellation Decision c. Decision to Change Data on Certificates, Measurement Letters, Land Books and/or other General Registers d. Notification letter that there are no administrative errors as intended in Article 11 paragraph (3). The process of resolving certificate cancellation disputes carried out by BPN within the scope of the ministry includes stages starting from Complaints, Data Collection, Analysis, Assessment, Field Inspection, presentation and decision making containing as follows as stated in article 24 paragraph 1 are implemented by the Head of the Land Office.

The process of resolving disputes outside the ministry's authority is carried out by mediation. However, if one of the parties refuses to carry out mediation then the settlement is left to the parties in accordance with the provisions of the applicable laws and regulations (see Article 37 paragraph 2). However, if the parties are willing to resolve the dispute by means of mediation, then the mediation is carried out based on the principle of deliberation to reach a consensus (see Article 38 paragraph 1), and the implementation takes a maximum of 30 days (paragraph 2). Dispute resolution by mediation according to Gary Good Paster is a problem-solving negotiation process in which an impartial and neutral outside party works with the disputing parties to assist them in obtaining an agreement by deciding (Goodpaster, 1995).

According to Ahmad Santosa and Anton L.P. Hutapea stated that mediation is a negotiation attended by a neutral third party who does not have the authority to decide. The third party referred to here is a mediator whose function is to help the disputing parties to provide facilities for the parties in negotiations to reach an agreement (Hutapea, 1992).

From the definition above, it can illustrate that mediation is a method of resolving disputes by involving a third party as a neutralizer or mediator to help the disputing parties to resolve the dispute or problem by means of deliberation and consensus. In resolving disputes by means of mediation, according to Moore, as quoted by Jonathan G. Shailor, the presence of a third party must be acceptable to the disputing parties, fair and neutral, and not have the authority to make decisions. It is the disputing parties who volunteer to decide on a resolution of the problem that is beneficial to both (Shailor, 1994).

The mediator's authority is limited to providing advice to the parties to the dispute, and only the parties to the dispute have the authority to make decisions. In implementing dispute resolution through mediation at BPN, the parties involved are: a. Processing Team; b. Ministry officials, BPN Regional offices and/or Land Offices; c. Mediator from the Ministry, BPN Regional Office and/or Land Office; d. The parties and/or other related parties and/or; e. Experts and/or experts related to disputes and conflicts, related agencies, and elements of society, community/traditional/religious leaders, or observers/activists of agrarian and spatial planning, as well as other elements if necessary. Participants involved in the mediation process must receive an assignment from the ministry except for the parties to the dispute (Article 39 paragraph 2). The process for resolving disputes by mediation is as follows: 1. The mediator summons the disputing parties to hear their opinions; 2. If the parties or one of the parties is not present at the first summons, a second summons will be served; 3. If the parties to the dispute are not present at the second summons, a third summons will be served; 4. If at the third summons the parties to the dispute are not present, the mediation is canceled and the parties are invited to resolve the dispute in accordance with the provisions of the applicable laws and regulations (See Article 39 paragraph 4); 5. However, if mediation is carried out, the implementation of the mediation is recorded in the minutes and the results of its implementation are stated in the minutes which contain: a. At issue; b. Chronology; c. Problem description; and D. Mediation results (see article 40 paragraphs 1 and 2); 6. The mediation note is signed by the mediator and the reporter (Article 40 paragraph 3); 7. The mediation minutes are signed by ministry officials, the BPN Regional Office and/or the Land Office, the mediator and the parties to the dispute as well as representatives of the participants (see Article 40 paragraph 4); 8. However, if one of the parties is unwilling to sign the minutes, the unwillingness is recorded in the mediation minutes (see Article 40 paragraph 7); 9. In the event that mediation finds an agreement, a peace agreement is drawn up based on the mediation minutes which is binding on the parties (see Article 41 paragraph 1); 10. The peace agreement agreed upon by the parties is registered with the local District Court Registrar so that it has permanent legal force.

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The state's authority to manage matters relating to land has been regulated in statutory regulations. The authority of the state through the State's Right to Control to regulate the allocation of control and ownership of rights has been regulated in Article 2 paragraph 2 of the UUPA, namely: a. regulate and administer the allocation, use, supply and maintenance of the earth, water and space; b. determine and regulate legal relationships between people and earth, water and space; c. determine and regulate legal relationships between people and legal acts concerning earth, water and space.

Apart from the authority mentioned in article 2 paragraph 2 of the UUPA above, according to Boedi Harsono (Harsono B. 1999). The state has duties and authorities in other areas of public law, such as: 1. Regulating and administering the provision of evidence regarding legal relations and actions contained in article 2 paragraph 2 of the UUPA above by carrying out land registration covering the entire territory of the country. the regulations are contained in PP 24 of 1997 (LNRI 1997-50, TLNRI 3696). 2. Regulate the implementation of an integrated land information system and the provision of land data which includes physical data and juridical data as well as inventory data on capacity, designation and use as well as land value required for planning and implementing development by the state and society. 3. Regulate the resolution of legal disputes in the land sector, both civil and state administration. 4. Organize and establish institutions for carrying out these tasks at both central and regional government levels, as well as providing skilled and capable human resources through the provision of professional education and training.

The state's authority in the land sector, both in terms of issuance and in terms of resolving disputes in the cancellation of certificates, is carried out by the BPN, where the implementation of land registration is given to bodies/officials of the Regency/City Land Office (see: UUPA and PP 24 of 1997). In further provisions as regulated in Government Regulation no. 24 of 1997 concerning Land Registration confirms the authority to issue certificates by BPN for holders of land rights as regulated in Article 31, namely: (1) Certificates are issued for the benefit of the rights holders concerned in accordance with the physical data and juridical data that have been registered in the land book as intended in Article 30 paragraph (1). (2) If in the land book there are records as intended in Article 30 paragraph (1) letter b which concern juridical data, or notes as intended in Article 30 paragraph (1) letters c, d and e which concern physical data or Juridical data on certificate issuance is suspended until the relevant records are deleted. (3) The certificate may only be handed over to the party whose name is listed in the relevant land book as the right holder or to another party authorized by him. (4) Regarding land rights or ownership rights to apartment units jointly owned by several people or legal entities, one certificate is issued, which is given to one of the joint right holders upon written appointment of the other joint right holders. (5) Regarding land rights or ownership rights to jointly owned apartment units as intended in paragraph (4), certificates may be issued for the number of joint right holders to be given to each joint right holder concerned, containing the name and size of their respective shares. of these collective rights. (6) The form, contents, method of filling out and signing the certificate are determined by the Minister.

Based on the provisions of Article 31 above, BPN has the authority to issue certificates for applications from interested parties or those who submit applications for the issuance of certificates provided that the certificate can be issued if it is in accordance with the physical data and juridical data that have been registered in the land book as intended in Article 30 paragraph (1). Procedurally, after the certificate is issued, the BPN must hand over the certificate only to the party whose name is listed in the relevant land book as the right holder or to another party authorized by him. Apart from the authority to issue certificates, BPN also has the authority to suspend the issuance of certificates if there are records in the land book that involve legal data on physical data until the relevant records are deleted.

The smooth implementation of service duties regarding land rights in the land sector, BPN has the task and authority to determine and provide or issue a decision or in this case a certificate of ownership which is proof of strong and complete rights owned by the holder. right. Regarding the issuance of a certificate of ownership rights, it is regulated in the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1999 concerning Delegation of Authority to Grant and Cancellation of Decisions Granting Rights to State Land Article 3, namely: The Head of the Regency/City Land Office makes decisions regarding: 1. Granting Ownership rights to agricultural land whose area is not more than 2 ha (two hectares); 2. Granting of Ownership Rights to non-agricultural land with an area of not more than 2,000m² (two thousand square meters), except for land with former Cultivation Rights; 3. Granting ownership rights to land in the framework of program implementation; a. transmigration; b. land redistribution; c. land consolidation d. mass land registration either in the context of carrying out systematic or sporadic land registration. The BPN which has the duty and authority to provide or issue a certificate of ownership of land whose land specifications are in accordance with Article 3 is issued by the Regency/City BPN because the Regency/City BPN has the authority to provide or issue a certificate of ownership of land. This division of duties and authority in granting rights aims to ensure that everything that is BPN's business in the land sector is more focused on issuing a certificate in accordance with the specifications explained above.

BPN in granting a certificate of ownership rights to land which is the authority of the Regional Office (Kanwil) has its own authority relating to land specifications as regulated in Article 7, namely the Head of the Regional Office of the Provincial National Land Agency makes decisions regarding: 1. Granting ownership rights to agricultural land whose area is more than 2 ha (two hectares); 2. Granting ownership rights to non-agricultural land with an area of not more than 5,000 m² (five thousand square

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meters), except where the authority to grant has been delegated to the Head of the Regency/City Land Office as intended in article 3. The authority of the BPN in provincial and regency areas has duties and their respective authorities in issuing a land ownership certificate based on the land specifications mentioned in Article 3 and Article 7 in the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1999 concerning Delegation of Authority to Grant and Cancellation of Decisions to Grant Land Rights Country. Meanwhile, if we refer to the theory of authority, BPN's authority in resolving land disputes in relation to the cancellation of certificates comes from the attribution authority which has been mandated in statutory regulations to administer and manage all matters in the land sector, one of which is the task of issuing a land registration decision in the form of a certificate or issuance. decision in the form of cancellation of the certificate of ownership of land or land dispute resolution. Dispute resolution through cancellation of land certificates is based on whether the decision issued by BPN contains administrative defects or not. In the regulations contained in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN number 11 of 2016, it is stated that the administrative defects referred to are regulated in Article 11 paragraph 3. BPN's authority in resolving a land dispute, the dispute that arises is based on administrative defects which have been explained in Article 11 paragraph 3 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN Number 11 of 2016 concerning Settlement of Land Cases. Apart from the form of attribution authority given to BPN as stated above, there is also a form of authority given to it, namely delegation. Authority by delegation is a transfer of authority from a higher official to a lower one. The central government or central BPN can hand over authority to its subordinates, in this case the provincial BPN or the head of the district/city land office to resolve various existing problems or disputes.

The authority of BPN in Provincial and Regency/City areas to resolve disputes by making a decision in the form of canceling a certificate is based on the delegation's authority which has been regulated in the Minister of Agrarian Regulation No. 11 of 2016. The legal basis which firmly and clearly assigns BPN to cancel a certificate as regulated in Article 24 paragraph (7) Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN Number 11 of 2016 concerning Settlement of Land Cases, namely: "In the event that on one plot of land there are overlapping certificates of land rights, the Minister or Head of the Regional Office "BPN, in accordance with its authority, issues a decision to cancel overlapping certificates, so that on the plot of land there is only 1 (one) valid land title certificate."

The administrative defects mentioned in Article 11 paragraph 3, especially letter e, relating to overlapping certificates where one of the rights contains an error is the object of a dispute which falls under the authority of the BPN and is processed or resolved by the Provincial BPN. The Head of the BPN Regional Office or the Minister resolves disputes and conflicts by issuing a decision to cancel land rights, a decision to cancel a certificate whose legal basis is regulated in Article 24 of Ministerial Regulation No. 11 of 2016 concerning Settlement of Land Cases. BPN, which is given the task and authority to carry out affairs in the land sector, apart from issuing decisions regarding land registration, also has the authority to cancel certificates that have been issued which become legal products in the form of state administrative decisions.

Cancellation of a land ownership certificate is regulated in Article 12 of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1999 concerning Delegation of Authority to Grant and Cancellation of Decisions to Grant State Land Rights, namely: a. cancellation of the decision to grant land rights that has been issued by the Head of the Regency/Municipal Land Office which contains legal defects in its issuance; b. cancellation of the decision to grant land rights, the authority to grant which is delegated to the Head of the Regency/Municipal Land Office and to the Head of the Regional Office of the Provincial Land Agency, to implement the Court's decision which has obtained permanent legal force. The authority possessed by BPN in making a decision in the form of canceling the title certificate ownership of land in which there are administrative legal defects which have been issued by the Head of the Regency/City Land Office (Kakantah) whose authority has been delegated by the Head of the Regional Office (Kakanwil) as well as decisions in the form of cancellation of certificates issued by the Head of the Regional Office to implement court decisions that have been legally binding. This is also explained in Article 49 of the new regulations of the Minister of ATR/Head of BPN Regulation No. 11 of 2016 concerning the resolution of land cases, namely: 1. Implementation of court decisions is a follow-up to decisions of judicial institutions which have permanent legal force. 2. Court decisions that have permanent legal force, relating to the issuance, transfer, cancellation of land rights and/or cancellation of the determination of abandoned land, include: a. order to cancel land rights; b. declare void/invalid/not having legal force over land rights; c. declare proof of rights invalid/not legally enforceable; d. order to record or write off in the Land Book; e. order to issue land rights; f. order to cancel the designation of abandoned land; and g. a warning which means giving rise to the legal consequences of issuing a transfer of rights or canceling the transfer of rights.

The authority to resolve disputes in the event of certificate cancellation which contains an administrative defect can be exercised by BPN and/or its authority can be exercised in the form of delegation to the Head of the Regional BPN Office in canceling overlapping certificates. Settlement of certificate cancellation disputes is regulated in Minister of Agrarian Regulation No. 11 of 2016 concerning Settlement of Land Cases. Apart from the provisions above, to realize good governance, especially for government officials, Law on Government Administration No. 30 of 2014 can also be used as a legal basis to base decisions and/or actions of government officials to fulfill the legal needs of society in resolving disputes or problems that occur in society..

IV. CONCLUSION

Settlement of land disputes over overlapping property rights certificates can be done through the courts and outside the courts. The dispute resolution process in relation to certificate cancellation can be carried out through the State Administrative Court and outside the court. Settlement of disputes outside of court in this case the authority to cancel is given to BPN. The dispute resolution process in the event of cancellation of a certificate given to BPN can be divided into two, namely within the authority of the ministry and outside the authority of the ministry.

BPN's authority in resolving land disputes over overlapping property rights certificates can take the form of attribution authority and delegation authority. The authority to resolve disputes in the case of cancellation of certificates, in the form of administrative defects, can be exercised by the BPN and/or through a form of delegation from subordinates, in this case to the Head of the Regional BPN Office in canceling overlapping certificates. Settlement of certificate cancellation disputes is regulated in Minister of Agrarian Regulation No. 11 of 2016 concerning Settlement of Land Cases.

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