LEGAL CERTAINTY OF ELECTRONIC LAND TITLE CERTIFICATES

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ABSTRACT
The idea of launching electronic land certificates aims to increase efficiency in land registration, support the Ease of Doing Business (EoDB), reduce the number of land cases, and provide better legal certainty. Electronic land certificates, like conventional certificates, serve as proof of land ownership rights. However, the application of electronic certificates is still faced with public concerns regarding the security of digital data, although there are also those who consider it safer because it is free from the risk of damage or loss. Article 2 paragraph (1) states that the land registration process can be done digitally. This research uses a normative legal method with a conceptual approach, starting from an analysis of the vagueness of norms which is then discussed regarding legal certainty in land ownership with electronic certificates, which is supported by Law Number 6 of 2023 concerning Job Creation, Article 147. The determination of electronic certificates as valid evidence is also contained in Law Number 1 of 2024 concerning the second amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE), Article 5, which recognizes electronic information, electronic documents, and their printouts as valid legal evidence in accordance with applicable procedural law in Indonesia.

INTRODUCTION
As long as the data is in accordance with what is stated in the measurement letter and land book properly, the land rights holder is given legal certainty regarding the evidentiary power of the Certificate, which must be believed to be true both in routine legal actions and in court (Nafan, 2022). dispute. with Government Regulation Number 24 of 1997 Pasal 32 Ayat 1 which states: "A certificate is a valid proof of ownership rights as a strong evidentiary tool regarding the juridical and physical data contained therein, provided that the data is in accordance with reality. information contained in the land title book and measurement letter." Worried (Mujiburohman, 2018).

The government has made regulations to control land, such as Government Regulation No. 24 of 1997 on Land Registration and Law No. 5 of 1960 on Basic Agrarian Regulations. In addition to these two regulations, the Civil Code also places land and everything related to it in a very important place. Article 520 of the Civil Code states that the state owns yards and other immovable property that is not maintained and has no owner, such as property
belonging to a person who dies without leaving heirs or inherited property that is left behind (Desviastanti, 2010).

Paper or customary land certificates are still the community's land certificates. A customary land certificate is a paper document that is blank on one side and has pages that contain physical and legal information relating to the land parcel being registered. But since we live in the digital era when almost everything related to human activities is influenced by technology, things naturally become easier as technology makes things simpler and more useful (Prodjodikoro, 1966). Therefore, the land office services have started to implement computerized land services in the land sector as an attempt to balance between technology and today's development. The concept of implementing electronic certificates for effective land registration was designed with the aim of improving ease of doing business (EoDB) and lowering the number of land cases. Legal certainty, decreased volume of court cases, and increased value of property registration. Land ownership rights are evidenced by traditional and electronic land certificates (Fitri Novia Heriani, 2024). However, there are still many people who are confused about choosing to use electronic certificates or continue to use conventional certificates, because according to some people, this new rule is still reluctant to be accepted because it feels less safe to store important digital documents due to the rise of cyber cases, but there are also people who think otherwise, because it is free from the risk of damaged or lost certificates Article 2 paragraph (1) explains that a series of activities to register land can be carried out digitally.

METHOD RESEARCH

As the focus of the research shifted from norm ambiguity to conceptual approach, this study utilized normative legal research method. Qualitative analysis was used in the analysis of the study, while desk study procedures were used in the legal document search methodology. This method allows the researcher to explore and examine in depth relevant legal theories, doctrines, and legal principles, so as to obtain a comprehensive understanding of the legal issues under study.

RESULTS AND DISCUSSION

To prevent the misuse of land rights, the process of determining land rights is regulated by legislation and government regulations. The UUPA contains regulations on various land rights and ownership structures. Article 16 paragraph (1) of the UUPA regulates land rights, including property rights, business use rights, building use rights, use rights, rentals, and other rights that are temporary and determined by law, such as the right to clear land and collect forest products (Hukumonline, 2024). These rights can be obtained by grant, exchange, sale and purchase, inheritance, and other means. To obtain a certificate, the right must then be registered with the National Land Agency (BPN) (Soemiyati, 1986).

Provisions of the Electronic transaction information law or often referred to as ITE Number 11 of 2008 Electronic certificate: "Electronic certificates are all forms of things that contain and are contained in an electronic certificate and are reinforced by a signature in electronic form, especially showing data and identity to the status of the legal subject for the parties in it, which in this case is organized by a party authorized to carry out the implementation is a party or legal entity that is already an expert in validating to auditing.
electronic certificate data (Masri & Hirwansyah, 2023). Meanwhile, according to the Minister of Land Regulations, which in this case is about Certificates, the provisions of Permen ATR / BPN Number 1 of 2021 concerning Land Registration read: "Documents in electronic form commonly known as certificates are then referred to in this case as electronic certificates."

Today, electronic certificates play a very important role because the process of regulating land rights is inseparable from "passports in electronic form". There has recently been discussion about governments producing electronic certificates in an effort to reduce the amount of abuse of power that occurs when traditional certificates are issued. They take the form of land title books and measurement papers relating to land tenure rights; therefore, a number of institutions have been given the authority and right to obtain data which is then set out in the certificate so that there is no clear legal certainty (Hasima et al., 2023).

Secure Paper has been used by a number of other countries, including Malaysia and some areas in Australia, although they currently keep records electronically. As many other countries have incorporated electronics into land affairs, land services will evolve rapidly. As a result, Indonesia is adopting electronic implementation as this will increase the value of property registration. Regulations on proving land ownership are issued by the National Land Agency/Ministry of Agrarian Affairs and Spatial Planning. These land certificates are now available electronically, having previously been available in book or paper form. The Minister of Agrarian and Spatial Planning/Head of the National Land Agency (BPN) Regulation No. 1 contains guidelines on these electronic certificates.

Electronic certificates have advantages, including that land certificates can be printed independently, land document management is more practical and easier, and the public does not need to panic if the certificate is lost, because the certificate is stored electronically and can be accessed and downloaded through the Touch My Land application. Law No.11 of 2020 on Job Creation regulates the implementation of electronic certificates for the land sector (Alimuddin, 2021). The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Ministry of ATR/BPN) has also issued a derivative regulation related to electronic certificates, namely Permen ATR/Head of BPN No.1 of 2021 concerning Electronic Certificates.

The regulation states that an electronic certificate is a certificate issued through an electronic system in the form of an electronic document. Electronic certificates are issued for the first time for unregistered land and for replacing old certificates. In applying for an electronic certificate, electronic documents are required in the form of measurement drawings; field maps/space maps; measurement letters, SRS plan drawings, space SUs; and other documents. These electronic documents will then be stored in a database in sequence according to their contents as history. Electronic certificates are one of the consequences of land digitization which will provide convenience in proving and transferring land rights.

Although in practice it is not free from considerable challenges in the field of security, Irma assessed that electronic certificates have advantages, including land certificates can be printed independently, land document management is more practical and easier, and the public does not need to panic if the certificate is lost, because the certificate is stored electronically which can be accessed and downloaded through the Touch My Land application (Santoso, 2017).
The inconsistency between the process of converting physical certificates and the negative publication system adopted and the technical implementation that is concerned, when looking at the provisions in Article 14 (1) & (2) of the Regulation on Electronic Land Certificates, at least explains that basically the conversion of physical certificates into electronic ones is carried out on registered land and has been issued (previously) certificates such as SHM, SHGB, SHGU and certificates of use rights / management rights, SHMSRS or waqf land. For these physical certificates the conversion process is carried out through data maintenance, so this provision means that only existing certificates that have been maintained through land registration data will be replaced by electronic certificates. So far, maintenance of land registration data has been carried out only when there is a data adjustment or a change in data related to the juridical or physical land in the certificate. So, while maintenance of land registration data has so far been carried out only to change the content of the data in the certificate, when the electronic certificate conversion plan is implemented in the future it will not only be the content of the certificate that will be changed but also the form of the certificate itself so that the gateway from the conversion of physical certificates to electronic certificates occurs if there is data maintenance and if there is no data maintenance, then no certificate conversion will and cannot be carried out (Nelly & UNHAM, 2006).

Data maintenance activities are regulated from Article 36 to Article 56 of the Land Registration Regulation and Article 94 of PMNA 3/1997 mentions what circumstances can lead to the implementation of data maintenance, if in summary it is carried out if there are the following circumstances: changes in juridical and / or physical data, encumbrance of rights and registration of data changes / transfer of rights (Santoso, 2017). The conversion process will only take place if there is maintenance of land registration data as described above, so that the presence or absence of data maintenance is key to whether or not a conversion of a physical certificate into an electronic one is carried out.

Written evidence of former western land rights, such as gross title deeds, is void under Article 95 of GR 18/2021, which immediately transfers the status of land to state control. Written evidence of land rights in the western region is only relevant when it comes to land registration instructions. Meanwhile, within five years of the enactment of GR 18/2021, documentation of ownership of customary land by individuals as referred to in Article 96 of the law must be recorded. All evidence of ownership of former customary land must be recorded between February 2, 2021 and February 2, 2026. If the evidence is not registered by the specified deadline, it is only used as a guideline and it is clear that the legal certainty of land ownership with electronic certificate evidence can be seen from the current legal provisions, namely:

Law Number 6 of 2023 on Job Creation, Article 147, "Evidence of land rights, ownership rights to apartment units, management rights, and mortgage rights, including deeds of transfer and encumbrance of land rights and other documents related to land can be in electronic form.

PP No. 18 of 2021 concerning management rights, land rights, flat units, and land registration is found in:  
**Pasal 84:** The organization and implementation of Land Registration can be done electronically. The result is in the form of data, electronic information and/or electronic documents,

Pasal 85: The organization and implementation of Land Registration can be done electronically. The result is in the form of data, electronic information and/or electronic documents,

Pasal 86: Deed making by Land Deed Officials can be done electronically.

In ensuring legal certainty to be electronic documents as valid evidence, it is contained in the provisions of Law Number 1 of 2024 concerning the second amendment to Law Number 11 of 2008 concerning ITE Article 5 electronic information and/or electronic documents and/or their printouts are valid legal evidence electronic information and/or electronic documents and/or their printouts are an extension of valid evidence in accordance with the applicable procedural law in Indonesia. Electronic information and/or electronic documents are declared valid if they use Electronic Systems in accordance with the provisions stipulated in this Law.

1. The land registration process becomes more effective and efficient.
2. Electronic certificates protect documents from the risk of natural disasters, reducing the risk of losing important documents.
3. Digitization reduces errors in the issuance of land certificates, which means that interested parties such as banks can have greater confidence in the accuracy of the documents held.
4. Reducing physical interaction with the public in land services, which has implications for operational time and costs.
5. Limiting the space for the land mafia by providing more security against fraud and document manipulation.
6. The electronic land certificate security system uses block data that can be integrated with blockchain, ensuring the security of data stored and transmitted without the risk of hacking or manipulation.

CONCLUSION

Current legal provisions, especially Law Number 6 of 2023 on Job Creation, Article 147, "Evidence of land rights, ownership rights to apartment units, management rights, and mortgage rights, including deeds of transfer and encumbrance of land rights and other documents related to land that can be in electronic form," provide legal certainty regarding land ownership with electronic certificate evidence. Regarding article 5, the second amendment to Law No. 11/2008 states that printouts, electronic documents, and/or electronic information are evidence that can be accepted in court. In Indonesia, printouts, electronic paper, and/or electronic information are all admissible evidence based on the relevant procedural law. If the Electronic System is used in accordance with the guidelines, then electronic documents and/or information are considered valid.

REFERENCES


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