

## **THE ISSUANCE OF AN OVERLAPPING CERTIFICATE OF LAND RIGHTS IN INDONESIA**

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**Abstract:** *BPN as the agency in charge of land registration has an important role in preventing the existence of overlapping certificates. However, if an overlapping certificate has occurred, BPN can only become a consultant and witness who is asked for information until the overlapping certificate can be issued. The research method used is empirical legal research. The analysis used Is descriptive analysis, namely the data that has been collected is processed for the formulation of the research conclusions. Then the research data were analyzed in depth. The results showed that the emergence of multiple certificates was caused by many factors, one of which occurred in Denpasar City and Badung Regency due to irregular data after the expansion of the Regency so that many data were not found, besides that there were several certificates that existed before 1980 and the certificate, which was never transferred to be one of the triggers. Legal protection for ownership of land rights against the emergence of an overlapping certificate Is that the owner of the certificate can file a lawsuit due to the existence of the same certificate in the same field and carry out evidence in court for the disputing parties. The authority of BPN is to carry out land administrative activities ranging from land data collection to issuance of certificates. In addition, BPN also has a role as a mediator or witness when an overlapping certificate dispute occurs because BPN only issues 3 certificate after the data is truly valid. BPN will wait for a court decision with permanent legal force (inkrah) to further cancel the issuance of the certificate that is disputed in court.*

**Keywords:** *BPN, Overlapping certificate, Land Registration.*

### **Introduction**

The implementation of Article 33 Paragraph (3) of the 1945 Constitution is Law No. 5 of 1960 concerning Agrarian Principles (hereinafter abbreviated as UUPA) regulates that the Government holds land registration throughout the territory of Republic of Indonesia which aims to ensure legal certainty over land rights (Santoso, 2005). Article 19 UUPA Paragraph (1) guarantees legal certainty by the government that land registration is held throughout the territory of Republic of Indonesia according to the provisions of

government regulations. The Government Regulation referred to in Article 19 paragraph (1) UUPA is Government Regulation Number 24 of 1997 which began to be promulgated on July 8, 1997 in the State Gazette of the Republic of Indonesia Number 59 of 1997 which regulates land registration. Article 3 of the Republic of Indonesia Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter abbreviated to PP No. 24 of 1997) states the objectives of land registration include:

- To provide legal certainty and protection to holders of rights over a parcel of land and apartment units and other registered matters so that they can easily prove themselves as holders of the rights concerned.
- To provide information to interested parties, including the government, so that they can easily obtain the data needed to carry out legal actions regarding registered land parcels and apartment units.
- To maintain an orderly land administration.

A certificate of land rights as the final result of the land registration process contains physical data (information about the location, boundaries, area of land parcels, as well as the part of the building or building above it if deemed necessary and juridical data (information on the status of the land and buildings listed, holders of land rights and rights of other parties, as well as the burdens on them) (Parlindungan, 2009). The land registration process which results in a certificate of land rights consists of a copy of a land book containing juridical data, then a letter is attached. Measure which contains physical data, then bound together and given a green cover with a picture of an eagle. In land registration, it is also known as the publication system, namely the positive publication system and the negative publication system (Supriadi, 2012). A certificate is a certificate of proof of rights acts as a strong means of proof regarding the physical data and juridical data contained therein, as long as the physical data and data The *yuridis* is in accordance with the data contained in the measuring letter and the relevant land title book. In the event that a land parcel has been issued a certificate legally in the name of a person or legal entity who acquires the land in good faith and actually controls it, then the other party who feels that he has rights to the land can no longer demand the exercise of that right if within 5 years (five) years since the issuance of the certificate, the certificate holder has not submitted an objection to the certificate holder and the Head of the Land Office concerned or has not filed a lawsuit at the Court regarding control of the land or the issuance of the certificate (Permadi, 2016).

Indonesia itself adheres to the negative publication system but with positive elements that follow as outlined in Article 19 of the UUPA implicitly. Proof of certificate of land rights in Indonesia is strong. However, a land certificate can still be canceled based on the provisions of Article 32 PP No. 24 of 1997. This affects the number of disputes that occur due to the use of a negative publication system that has positive aspects in Indonesia. The weakness of implementing a negative publication system with positive aspects of Indonesia can trigger the emergence of overlapping certificates. An overlapping certificate is the issuance of more than one certificate on the same land object. This should not have happened because the issuance of a certificate can only be done by the National Land Agency (BPN) so that before the issuance of a land certificate, it is subject to double-checking the land master book. An overlapping certificate occurs when a plot of land has more than one certificate, there is a complete or partial overlap. Overlapping certificates occur because they are not mapped in land registrations or in maps of local situations. An

overlapping certificate can also be caused by external parties or because it has been published but has been reissued. The birth of an overlapping certificate is inseparable from the actions of the land office officials themselves, such as canceling old certificates and issuing certificates in the names of new people without the knowledge of the names listed (Sutedi, 2012). Overlapping certificates generally occur on land that is still vacant or not yet built. The phenomenon of overlapping certificates is nothing new in Bali.

One example of an overlapping certificate case that occurred in Denpasar City was rice fields that had been registered with a certificate of ownership right number 94/Sumerta Klod Village, East Denpasar District, Badung Level II District (now Denpasar City), Bali Province. 9 November 1983, Temporary Measurement Letter dated 29-9-1983, Number 1082/1983/1984, area 2330 m<sup>2</sup> in the name of the right holder: AA Ngurah Gde Astawa, SH., Ni Gusti Ayu Putu Oka, AA Sagung Mayun, AA Sagung Kartiningsih, AA Ngurah Mahendra, AA Sagung Ngurah, AA Sagung Putri K., AA Sagung Wife K, AA Ngurah Adhi Kusuma obtained based on the inheritance from the plaintiff's grandfather named Alm Gusti Ngurah Gede Togor through a conversion request on October 11, 1982 and a certificate of inheritance October 13, 1982. However, on July 31, 2007, BPN issued Freehold certificate Number 5640/Desa Sumerta Klod, East Denpasar District, Denpasar City, Bali Province, Surat Ukur dated 27/07/2007 Number 00748/2007, area of 2042 m<sup>2</sup> in the name of the right holder I Made Sena, SH. This case was won by the defendant by stating the land certificate in the name of the holder of I Made Sena, SH was legal and has permanent legal force in the Class IA Denpasar District Court Decision Number 263/Pdi.G/2016/PN.Dps dated February 21, 2017. Then at the level of appeal at the Denpasar High Court with Decision No: 67/Pdt/2017/PT.Dps dated 24 May 2017 stating that the appeal of the Appellant was rejected. Furthermore, at the cassation level with Civil Cassation Case Decision Number 3322K/PDT/2017 dated January 29, 2018, it states that the land certificate in the name of the holder of I Made Sena, SH remains valid and states the land certificate in the name of the holder of AA Ngurah Gde Astawa, SH., Ni Gusti Ayu Putu Oka, AA Sagung Mayun, AA Sagung Kartiningsih, AA Ngurah Mahendra, AA Sagung Ngurah, AA Sagung Putri K., AA Sagung Wife K, AA Ngurah Adhi Kusuma has changed ownership since the sale and purchase was carried out in front of Notary/PPAT Sri Andayani, SH.

The next overlapping certificate case occurred in Badung Regency. A Freehold Certificate (SHM) No. 1443 in the name of Pura Luhur/Jurit Uluwatu Pecatu which was forged into a double, namely Certificate of Ownership (SHM) No. 3231 covering an area of 38,650 square meters in the name of Pura Luhur/Jurit Uluwatu Pecatu. The certificate entrusted by the reporter Made Subakat with his friends the late Anak Agung Ngurah Gede Agung and I Made Rame at the Notary Office Ni Nyoman Sudjari, SH., MKn Jalan By Pass Ngurah Rai No. 2004 Kuta, Badung without the knowledge of the certificate reporter became a double and then the result of the certificate was sold by AA Ngurah Gde Agung by dragging the name of the former deputy governor of Bali, Drs. I Ketut Sudikerta to PT Marindo Gemilang for the sake of personal gain. In Decision Number 1006/Pid.B/2019/PN.DPS stated that Drs I Ketut Sudikerta was proven to have falsified documents so that an overlapping certificate was issued which was then sold to commit fraud. Drs I Ketut Sudikerta was sentenced to imprisonment for 12 (twelve) years and a fine of Rp. 5,000,000,000, - (Five billion rupiah).

The National Land Agency (BPN), which aims to carry out government tasks in accordance with applicable regulations, focuses on carrying out matters in the Indonesian agrarian and spatial scope as regulated in Presidential Regulation Number 20 of 2015 concerning National Land Agency. However, even though it has been established, there are still many land dispute cases that occur in the community, one of which is the existence of overlapping certificates. In this case, BPN itself cannot guarantee the certainty and legal strength of who is entitled to the object of a land if an overlapping certificate appears. This is because Indonesia adheres to a negative publication system that has a positive element so that as long as someone can prove it is different from a land certificate, the certificate can be sued (Safitri et al., 2020).

BPN will serve as a mediator as stipulated in Article 33 Paragraph (1) of BPN RI Regulation Number 3 of 2011 concerning Management of Assessment and Handling of Land Cases regarding “case titles as referred to in Article 27 Paragraph (1) letter c can be carried out through persuasive, facilitation. Mediation of the parties in the context of dispute resolution. If both parties cannot accept it, they can file a lawsuit at the District Court in the area concerned and the responsibility for proving ownership rights to land certificates must be resolved by both parties to the dispute. In the case of an invalid certificate cancellation, the certificate owner can legally submit it to the State Administrative Court and ask BPN to cancel the certificate's decision that has been issued. The author is of the opinion that BPN should also be involved in handling disputes over the emergence of overlapping certificates until completion because the issuance of overlapping certificates is carried out by BPN itself. Based on the cases that have occurred in Denpasar City and Badung Regency regarding the emergence of multiple certificates and the authority of BPN which can only be a mediator or a body that can cancel one of the decisions regarding land certificates in a dispute regarding the certificate of ownership of land rights while regarding the matter of proving the right to the certificate the land is only borne by each disputing party, if one of the parties wants to file an objection against BPN can sue through the State Administrative Court (PTUN) even though before issuing a decision on a BPN certificate must first check the existing data in order to avoid the emergence overlapping certificate. This will trigger problems regarding legal protection and legal certainty for the position of the certificate of land title. Apart from that, the responsibility of BPN is in charge of issuing the certificate it self.

## **Research method**

The research method used in empirical legal research. Empirical legal research is used to examine the main problems related to aspects of the values that live in society. In this case, it is the authority for BPN to check the validation of land objects prior to the issuance of a certificate as proof of ownership of land rights so that errors do not occur in the future. However, based on the facts in the field, especially the city of Denpasar regarding the emergence of 2 certificates in a plot of land, the focus of this research will lead to the accountability of BPN Kota Denpasar and Badung Regency for the existence of overlapping certificates. The types of approaches used are the statutory approach, the sociological approach and the case approach. The data source used is primary data and secondary data. The data collection techniques used were interviews and literature study techniques. The research locations chosen were BPN Denpasar City and BPN Badung

Regency. This research data is processed and analyzed qualitatively, namely the data presented not in the form of numbers but data in the form of descriptions which will be systematically compiled.

## **Result and discussion**

### *Legal Protection for Ownership of Land Rights Against the Emergence of Overlapping Certificates*

Land can be converted into property rights as defined in Article 20 of the Basic Agrarian Law, which states that "Property rights are hereditary, strongest and fullest rights that can be owned by people over land, taking into account the provisions in Article 6" as well as "rights. property can be transferred and transferred to another party ". Property rights are usually owned by a person from generation to generation from his family or obtained from the process of buying and selling land. The land registration process results in a certificate of land rights consisting of a copy of a land book containing juridical data, then a letter of measurement containing the physical data which is bound together and given a cover with a picture of an eagle. In land registration, it is also known as the publication system which is used to test the strength of a certificate, which is strong or not strong and absolute or not absolute. The publication system is divided into a positive publication system and a negative publication system. The positive publication system uses the rights registration system, so it must be a land register or book for storage and presentation of juridical data, while the certificate is a proof of right. Recording a person's name in the register as a right holder makes a person the contiguous land rights holder, not an act of transferring rights. If a country uses a positive publication system, then the certificate that is issued with the power of proof is absolute. The power of proof is absolute as a result of the certificate issued by the state where a lawsuit cannot be filed so that changes to the certificate of land title cannot be made.

In the case of transfer of property rights over land, problems often arise, one of which is an overlapping certificate. Multiple certificates are certificates describing the same plot of land. Thus, one plot of land is described with two or more certificates with different data (Wahid, 2003). Such a thing is also called an Overlapping Certificate, whether all parcels overlap or part of the land overlaps. According to Government Regulation Number 24 of 1997, a certificate is a certificate of proof of rights as referred to in Article 19 paragraph (2) letter c of the UUPA for land rights, management rights, waqf land, ownership rights to apartment units and mortgage rights, each of which has recorded in the relevant land book. If you look at Article 19 paragraph (2) letter c of the UUPA, then the certificate is a proof of right which is valid as strong evidence. The factors that cause an overlapping certificate are as follows (Limbong, 2012):

- The registration map is not yet formed or incomplete.
- Humans.
- The division or expansion of the territory.
- There is incorrect administration in the Ward.
- There is a change in spatial planning by the city government.

Certificate describing the same plot of land. In the event of multiple or overlapping certificates of land, one of them must be canceled. In the case of an overlapping certificate case that occurred in Badung Regency and Denpasar City, based on the results of an

interview with Mr. Kuncoro Hadi Saputra as Head of the Denpasar City National Land Agency (BPN) Administration Subdivision which was held on March 29, 2021 at the Head of Administration of BPN Denpasar. who had previously been assigned to the BPN, Badung Regency, emphasized that the occurrence of overlapping certificates in Denpasar City and Badung Regency usually occurred in the certificates before 1980 and these certificates had never been transferred so they were not recorded in the BPN data when transferring certificate recording data in the Regency. Badung. This happened because of the expansion of the Badung Regency and Denpasar City areas so that a lot of BPN data at that time was irregular so that the emergence of many multiple certificates. Regulation of the Minister of Agrarian Affairs Number 11 of 2016 concerning Settlement of Land Cases states, what is called a land case is a dispute, conflict, or land case to obtain a settlement in accordance with the provisions of the Legislation and/or land policy. In cases of multiple certified land disputes, BPN has the authority to negotiate, mediate, and facilitate the handling of the disputing parties and initiate an agreement between the parties. The factors that cause an overlapping certificate based on the author's analysis are as follows:

1. Registration of Land Rights

The land registration factor can be a major factor in the emergence of a land certificate, because at the time of land registration the BPN will only review the documents that are required for land registration submitted by the applicant. As long as the files submitted by the applicant are complete and meet the requirements, the certificate can be issued. This triggered an overlapping certificate because the BPN did not validate the land issuance.

2. The Irregularity of Data Owned by BPN

The irregular data held by the BPN results in an overlapping certificate. The invalidity of the data held by BPN causes a miss between one data and another, causing multiple certificates, especially certificates that never changed before the 1980s so that BPN does not have valid data from those certificates.

When registering land, what is first registered is the object, the second is the ownership which is attached to the title to the land. Someone who registers their land, usually wants to register their ownership. Apart from registering their ownership, there are also those who only register their land rights. Often ownership and rights to land are considered the same, even though they are two different things. Land rights can be removed for reasons that have been regulated in law or revoked by the Land Office for neglecting the land, while ownership cannot be immediately revoked. The main problem related to the use of this negative publication system is the lack of legal certainty for land owners, because even though they are listed as land owners in the certificate, landowners can still face the possibility of being sued by parties who have an interest in the land. Land registration in Indonesia uses a negative publication system, so that the state does not guarantee the correctness of the data presented, but it does not use a pure negative publication system, but a negative publication system with positive elements.

The strength of the validity of a certificate of land rights is very important at least firstly a certificate provides legal certainty to the land owner whose name is listed on the certificate, secondly, the granting of a certificate can prevent land ownership disputes and finally with ownership of a certificate the land owner can take any legal action as long as it does not conflict with law, public order and morality. Although the use of land title certificates as valid evidence and proof of transfer of rights and legal actions, there is also

evidence besides other land title certificates as additional evidence, for example an actan-register issued by the village government which states the location of the land. (Zaman, 2016).

The use of a certificate of ownership itself for holders of ownership rights is as evidence of legal ownership of land rights, which has been mentioned in Article 19 paragraph (2) of the Basic Agrarian Law, namely a certificate as proof of land rights which has permanent legal force which contains physical data and juridical data. Another use of a property title certificate is to provide legal protection to property rights holders. This legal certainty is related to several meanings that the law is positive, based on the facts and facts it must be formulated in a clear way and the positive law cannot be changed. In its implementation, it cannot be separated from other human actions. In addition to legal certainty, land owners also need legal protection, which means that the state guarantees every citizen who commits legal actions on the basis of property rights. National land law protection of individual rights to land is meant as legal protection through statutory regulations on the legal relationship between individuals and land which results in individual rights to land (Ginting, 2010).

When viewed from the theory of legal certainty, it is the applicable rules and what is desired rather than the law itself as a behavior guide in society, it has not guaranteed certainty about the rule of law. This is due to the inaccuracy of data and several things that have led to the emergence of Overlapping certificates that have lost public confidence in the legal certainty entrusted to BPN as the entity that issues certificates as proof of rights by a citizen. The phenomenon of An overlapping certificate in Decision No. 3322K/PDT/2017 between Anak Agung Ngurah Gde Astawa, SH, et al against I Made Sena, SH et al, in which BPN is a party that is also compared as an example of land disputes in the realm of the general court. One evidence is that there is an overlapping certificate case (overlapping) that was brought to court between the owner of the certificate against the BPN, where BPN Denpasar was represented by I Gusti Ngurah Pariatna Jaya as the Head of the Denpasar Land Office at that time. In practice, settlement of land disputes is not only carried out by BPN but can also be resolved through the General Courts, State Administrative Courts. In the case that the general court focuses more on matters concerning civil and criminal land disputes, it is different with the State Administrative Court which resolves land disputes related to decrees issued by BPN or other regional officials that are directly related to land.

In the case of the issuance of the certificate clearly stipulated in Government Regulation Number 24 of 1997 concerning Land Acquisition in Article 31, it is stated that the certificate is issued for the benefit of the right holder concerned in accordance with the physical data and juridical data that has been registered in the land book. If in the land book there are records relating to juridical data, or records relating to physical data or juridical data, the issuance of the certificate is deferred until the relevant records are deleted. The certificate may only be submitted to the party whose name is listed in the land book concerned as the right holder Or to another party who is authorized by him. Regarding land rights or ownership rights to apartment units belonging to several people or legal entities, a certificate is issued which is given to one of the joint rights holders upon the written appointment of the other joint rights holders (Hermit, 2004: 70). Mean while, with regard to land rights or ownership rights to apartment units belonging together, certificates can be issued as many as the number of joint rights holders to be given to each joint right holder

concerned, which contains the names and the size of each portion of the joint rights. In addition, the form, content, method of filling out and signing the certificate is determined by the Minister.

The concept of legal protection is often interpreted as a form of service that must be carried out by law enforcement officials to provide a sense of security, both physically and mentally to victims and witnesses from threats, disturbances, terror, and violence from any party given to the litigation process and/or non litigation. Legal protection is a protection given to legal subjects in the form of legal instruments, both preventive and repressive in nature, both written and unwritten. So it can be said that in every legal relationship, it certainly creates rights and obligations. Satijipto Raharjo stated that legal protection is to provide protection for human rights (HAM) that are harmed by others and that protection is given to the community so that they can enjoy all the rights provided by law (Raharjo, 2000: 53). Thus, legal protection is a protection provided to legal subjects, namely persons or legal entities in the form of instruments, both preventive and repressive in nature, both oral and written. On the other hand, Simanjuntak defines legal protection as all government effort is to ensure legal certainty to provide protection to its citizens so that their rights as citizens are not violated, and those who violate them will be subject to sanctions in accordance with applicable regulations. Therefore, a protection can be said to be legal protection if it contains the following elements:

- There is protection from the government for its citizens
- Guarantee of legal certainty.
- With regard to the rights of citizens.
- There are penalties for those who violate them.

In Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration contains electronic land registration. Article 84 PP No. 18 of 2021 states that:

- The administration and implementation of land registration can be done electronically.
- The results of the implementation and implementation of electronic land registration as referred to in paragraph (1) shall be in the form of data, electronic information and/or electronic documents.
- Electronic data and information and/or printouts thereof are valid evidence.
- Electronic data and information and/or printouts as referred to in paragraph (3) constitute an extension of valid evidence in accordance with the applicable procedural law in Indonesia.
- The application of electronic land registration is carried out in stages by considering the readiness of the electronic system built by the ministry.

In this regulation, the government provides an effort to prevent the emergence of overlapping certificates because data has been implemented electronically that can be synchronized with each other so that registered land data cannot be registered again because the registration has been recorded. This is according to the author's analysis, this action can minimize the existence of overlapping certificates. Findings in the Supreme Court Cassation Decision No. 3322K/PDT/2017 between Anak Agung Ngurah Gede Astawa, SH, et al and | Made Sena SH, et al which stated that the land acquisition of the defendant | Made Sena SH was based on a sale and purchase with proof of sale and purchase deed No. 148/2012 before the Notary Sri Handayani SH which is strong evidence of the

issuance of a certificate of land rights Number 5640/Desa Sumerta Klod, East Denpasar District, Denpasar City dated July 31, 2007, measuring letter dated 07/27/2007 Number 00748/2007, 2042 m<sup>2</sup>, NIB 22.09.02.09.01043 on behalf of I Made Sena, SH is one proof of legal protection from the government with existing evidence so that the ownership rights to the land are legally protected by the prevailing laws and regulations.

*Administrative Accountability Of The Denpasar City And Badung Regency BPN Against The Overlapping Certificate*

One of the duties of BPN is to carry out national land registration which is part of the stewardship of land, water, air and other natural resources that are exempt from regional autonomy. In the practice of land sector arrangement which becomes the authority of BPN, it can take the form of controlling the use and control of land through the stipulation of land rights which will lead to the issuance of land certificates. If this authority is handed over to a region without a strong legal basis, who can guarantee that the land certificate issued by the regional office is legal, because until now there has been no regulation regarding the delegation of certificate issuance to regional offices (Rahmi, 2011).

BPN in the case of the issuance of a certificate, according to Mr. Kuncoro's admission from BPN Denpasar, if the data provided regarding the conditions for land registration is valid, BPN will issue the certificate. The process of registering land for the first time is a physical activity to obtain data regarding the location, boundaries, area and buildings thereon, demarcation and giving clear boundary signs, based on the appointment by the land rights holder with the approval of the adjacent land owner. Furthermore, a measurement is carried out followed by a calculation of the area and making a map of the land area which is then issued as a measuring letter. The juridical field activities are aimed at obtaining data regarding the status of land and its owner as well as the presence or absence of rights of other parties, which burdens it necessary for the determination of a decree of rights either through the stipulation of conversion of recognition of rights or granting of rights. The next activity is land registration based on a decree on its rights by recording it in a land book and then issuing a land title certificate as a copy of the valid land book, as a strong proof of right, the land certificate contains data on the rights holder, type of right and is equipped with a measuring letter containing the location of the boundary. The limit of the land parcel concerned. Provisions regarding the procedure, collection, storage and presentation of physical data and juridical data as well as the issuance of certificates in Government Regulation Number 2 of 1997 concerning Land Registration. The concept of authority consists of three components, namely: influence, legal basis, and legal conformity. The purpose of the influence component is that the use of authority aims to control the behavior of legal subjects. Then the legal basis is defined as the authority that must be based on clear law, while the legal conformity component requires that the authority must have clear standards (for general authority), as well as special standards (for certain types of authority). Furthermore, juridically, authority can be said to be the ability given by statutory regulations to commit acts that have legal consequences.

In terms of authority is a study of the theory of authority, the information that the author obtains from the research is to study and analyze the power of government organs to exercise their authority both in the field of public law and private law, where BPN in this case is a representative of public law which also serves the needs. private someone who wants to defend his rights by making a certificate of ownership. Certificate (land

rights) is a legal product issued by BPN RI which is used as evidence and means of proving the rights of a person or legal entity (private or public) to have rights over a plot of land. Based on the results of an interview with Mr. Heryanto as the Head of Land Law of Badung Regency, it was stated that the emergence of the overlapping certificate phenomenon was not BPN's intention. BPN is only authorized to issue land certificates whose data and conditions for land registration have met the elements stipulated in the statutory regulations.

Legal remedies in land disputes can be carried out in several courts, namely the State Administrative Court, the Civil Public Court, and the General Criminal Court, resulting in several conflicting decisions. The result is that several court decisions have permanent legal force but their contents are contradictory, resulting in non executable decisions. Land dispute resolution can be resolved by means of deliberation by the parties, through general courts and through arbitration and alternatives. Land dispute resolution in this case is pursued through the judiciary. The preventive measures that must be taken by the Land Office of each Land Office must provide a map of land registration, do not wait for the budget from the Central National Land Agency. In terms of dispute resolution in the General Court, it focuses more on civil and criminal matters in land disputes. It is different with the State Administrative Courts which resolve land disputes related to decrees issued by BPN or other regional officials relating to land.

After a court decision is irrelevant or legally binding, it is certain that one of the certificates will be annulled by both parties. BPN will issue a decision to cancel the certificate which has been declared invalid by the court. Article 1 Number 14 Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Cancellation of Rights to State Land and Management Rights provides the meaning of cancellation of land rights as cancellation of the decision to grant a land right or certificate of land rights because the decision contains administrative legal flaws in its issuance or to enforce the court's decision which has been *inkracht*. Apart from administrative reasons, the cancellation of land title certificates can also occur in the event that there are other parties who can prove that a land parcel for which the certificate has been issued is legally and actually his and this is supported by a court ruling that has been *inkracht*. Cancellation of land rights can also occur because of implementing court decisions that have permanent legal force. Decree on the cancellation of land rights according to Article 104 paragraph (2) Permen Agraria/BPN 9/1999, is issued if there are:

- administrative law defects: and/or
- implement court decisions that have permanent legal force.

Based on the provisions of Article 104 paragraph (1) Permen Agraria/BPN 9/1999, the objects of cancellation of land rights include a decree granting land rights, land title certificate, and Decree granting land rights in the framework of land tenure arrangements. The problem of land has spread to complex social problems and requires a solution with a comprehensive approach. Development through the nature and substance of land dispute cases is no longer through administrative law but has spread to political, social, cultural and nationalism issues (Supriadi, 2013: 73). Article 1 Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the Land Agency Number 11 of 2016 Land cases are disputes, conflicts or land cases to obtain settlement handling in accordance with the provisions of laws and regulations and/or land policies and land disputes. Article 54

paragraph (1) and (2) Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2011 concerning Management of Assessment and Handling of Land Cases Article 54 states that:

- BPN RI is obliged to implement court decisions that have obtained permanent legal force, unless there is a valid reason not to carry it out.
- The valid reasons as referred to in paragraph (1) include:
- Against the object of the decision, there are other contradictory decisions.
- the object of the verdict is being put guarantee confiscation
- C. against the object of the judgment being the object of a lawsuit in other cases,
- Other reasons stipulated in statutory regulations.

The occurrence of land disputes between two parties, if it can be resolved amicably and the National Land Agency as the mediator, then this kind of settlement can be sure to satisfy both parties. If the settlement must go through legal channels in accordance with applicable provisions, it can be ascertained that the parties require additional fees, especially using the services of a legal advisor, the costs required are sometimes beyond the ability of the service user, while the expected results are not always in his favor. The decision of the Panel of Judges, both the Panel of Judges at the District Court, and the Panel of Judges at the State Administrative Court who have the authority to cancel the decision of a state official in this case cancels one of the certificates of property rights, it is impossible to win both parties, one of them is sure to lose and the losing party feels have already suffered losses, although there are still legal remedies that can be taken, the losers still feel disadvantaged. What if this loss is due to negligence, inaccuracy and/or because the measurement officer does not heed the applicable provisions in the measurement process, this is what needs to be discussed today through the selection of opinions of lecturers who can be held legally responsible, at least as a comparison of the author's opinion below. If the loss of the losing party is caused by negligence, carelessness and/or deliberation on the part of the National Land Agency, then the person responsible morally and materially is the National Land Agency itself. An application for compensation can be submitted by suing through the local District Court (Mulyadi, 2019: 234).

Then Article 7 paragraph (3) Government Regulation Number 24 of 1997 has been followed up by the Government by issuing Government Regulation Number 37 of 1997 concerning PPAT Position Regulations. In addition, 2 (two) laws and regulations relating to the PPAT position were issued, namely: Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 4 of 1999 concerning Provisions for the Implementation of Government Regulation Number 37 of 1997 concerning PPAT Position Regulations. Decree of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 4 of 1999 concerning Stipulation of the PPAT Formation. In Article 1 paragraph (1) Government Regulation Number 24 of 2007, explains the meaning of PPAT (Land Deed Making Official) is a Public Official who is given the authority to make authentic deeds regarding certain legal actions regarding Land Rights or Ownership Rights to Apartment Units. In accordance with Government Regulation Number 37 of 1998, Article 2 (1), PPAT has the main task of carrying out some land registration activities by making deeds as evidence of certain legal actions regarding Land Rights or Ownership Rights to Apartment Units, which will be used as the basis for registration of changes in land registration data resulting from said legal action. In order to guarantee legal certainty in the field of land tenure and ownership, the certainty of the

location and boundary of each plot of land cannot be ignored. From past experience there have been quite a number of land disputes arising as a result of the incorrect location and boundaries of land parcels. Therefore, the problem of measuring and mapping as well as providing large-scale maps for the purposes of conducting land registration is something that should not be ignored and is an important part that needs serious and thorough attention, not only in the context of collecting land tenure data but also in assessing concession data./ownership of land and storage of the data. In the Basic Agrarian Law No. 5/1960, there is never a mention of a land certificate, but as found in Article 19 paragraph (2) letter c, it is stated that "a certificate of proof of rights" is often interpreted as a land certificate.

The National Land Agency always strives for land dispute resolution solutions based on the prevailing laws and regulations by taking into account the sense of justice and respecting the rights and obligations of each party. The steps for resolving disputes that they or the BPN take are deliberation. Likewise in an overlapping certificate dispute, BPN is also authorized to negotiate, mediate and facilitate the disputing parties and initiate an agreement between the parties. BPN regional offices, namely in Provinces and Regencies 1 Municipalities, can only arrive at a decision to resolve the problem, while the follow-up of land administration is still carried out by the Central BPN. Various efforts have been made to prevent the emergence of overlapping certificates in society. BPN as the body that is authorized and responsible for issuing certificates every year is always improving for the better. Mr. Kuncoro as the representative of the Denpasar City BPN stated that currently BPN has a land ownership mapping image so that during registration or analysis before issuing a certificate, it will be checked online and the results will also be more accurate because each has been mapped. Then Mr. Heryanto as the representative of BPN Badung Regency emphasized that currently BPN is launching an online certificate for the entire community. This will certainly make it easier to collect certificate data and minimize the incidence of overlapping certificates.

## **Conclusion**

The phenomenon of the emergence of overlapping certificates is caused by many factors, one of which occurs in Denpasar City and Badung Regency due to irregular data after the expansion of the Regency so that a lot of data is not found, besides that there are several certificates that have existed before 1980 and these certificates are never been diverted to be one of the triggers. Legal protection for ownership of land rights against the emergence of an overlapping certificate is that the owner of the certificate can file a lawsuit due to the existence of the same certificate in the same field and carry out evidence in court for the disputing parties. BPN RI has the authority to carry out land administrative activities ranging from land data collection to issuance of certificates, in addition, BPN also has a role as a mediator or witness when an overlapping certificate dispute occurs because BPN only issues a certificate after the data is truly valid. Previously, BPN would testify to the dispute regarding the reasons for the issuance of the certificate. BPN will wait for a court decision with permanent legal force (*inkrah*) to further cancel the issuance of the certificate that is disputed in court.

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