LITERACY : International Scientific Journals Of Social, Education and Humaniora
E-ISSN: 2829-3649
P-ISSN: 2829-3908
Vol. 2 No. 3 December 2023
http://jurnal-stiepari.ac.id/index.php/LITERACY
DOI: https://doi.org/10.56910/literacy.v2i3.1020

Ambiguity Of The Verdict On The Position Of Multiple Certificates On The Object Of Land Disputes

Veronika T
Universitas Pembangunan Panca Budi

Fitri Rafianti
Universitas Pembangunan Panca Budi

Alamat: Jl. Gatot Subroto Km.4,5 Sei Sikambing 20122 Kota Medan, Sumatera Utara

Abstract. *In Government Regulation Number 24 of 1997 concerning Land Registration Article 3 the purpose of land registration is to provide legal certainty and protection to holders of rights to a plot of land, apartment units and other rights registered in order to easily prove themselves as the holder of the rights concerned, to provide information to interested parties including the Government in order to easily obtain the necessary data in Conduct legal actions regarding land parcels and units of flats that have been registered and for the orderly implementation of land administration. The problem that often arises in the community is the existence of a Certificate of Land Rights issued on the same land object. In this case, the issuance of the Certificate of Land is the authority of the Ministry of Agrarian and Spatial Planning / National Land Agency of the Republic of Indonesia (hereinafter referred to as the Ministry of ATR / BPN RI). The issuance of more than 1Certificate of Land Rights on the same land object causes problems, so there is a need for the role of the judiciary to solve the problem. The object of the lawsuit is SHM Number. 531 Ds. Buluh Pancur covering an area of approximately 44,365.m^2 in 1983. The result of the decision states that the Inadmissible Lawsuit (niet ontvankelijke verklaard / NO) is a formal defective decision which means that the lawsuit is not followed up by the judge to be examined and tried so that there is no object of the lawsuit in the decision to be executed. While in the 2nd Judgment in the lawsuit to PT. TUN (High Administrative Court number 166/B/2020/PT..TUN-MDN). In the lawsuit it was inadmissible, so the plaintiff filed an appeal legal remedy which resulted in a Level 1 Judgment being canceled by the panel of judges and declared void and required the defendant, namely the National Land Agency (BPN). In the Supreme Court decision No. 610 k / tun 2020, the plaintiffs and intervening defendants filed cassation on the result, namely canceling the appeal decision, adjudicating itself, accepting the exception of the subject matter, stating that the lawsuit was not accepted so that overlapping overlaps could be resolved along with cancellation.*

Keywords: *Ambiguity, Verdict, Double Certificate, Land*

INTRODUCTION

Land has an important role and meaning for humans and the state. Where land is only seen from the physical aspect alone but also the social, cultural, political and legal aspects, both defense, security and aspects of land ownership rights. Which is a source of income and livelihood to carry out activities in building civilization at an increasing economic value and strategic value, thus making land vulnerable in disputes and conflicts that can involve various parties. Land, which is a part of the earth based on the concept of the Basic Agrarian Law (UUPA) Number 5 of 1960, is not intended here to regulate land in all its aspects, but only regulates one of its aspects, namely land in the juridical sense called land tenure rights. According to Aminuddin Salle and friends, the notion of control can be used in a physical

Received September 24, 2023; Revised October 23, 2023; Accepted November 14, 2023

sense, as well as in a juridical sense. Likewise, private aspects and public aspects. Formally, the government's authority to regulate the land sector grows and is rooted in Article 33 paragraph (3) of the 1945 Constitution, which emphasizes that the earth, water and wealth of the country are the property of the government.

Land issues have always been a complex legal issue and have broad dimensions in both developed and developing countries, so it is not easy to resolve quickly. The purpose of the implementation of land registration is to provide a guarantee of legal certainty in legal protection, but the reality is that holders of land rights certificates do not feel secure or certainty of their rights because there are often many disputes that cancel certificates through judicial institutions. Where the certificate of land rights, in other words it can be said that on a land there is more than one certificate of Land Rights while the land registration itself is held by the National Land Agency (BPN). This not only disturbs the community but also greatly affects the performance of the National Land Agency (BPN) as an institution that has the main task in carrying out land administration.

Tenure over land can be used in the physical sense, and juridical. land owned is leased to another party and the tenant has physical control or the land is controlled by another party without rights. In this case, the landowner, based on his juridical control rights, has the right to demand that the land in question be physically handed back to him. In addition, there is also juridical control over land that does not give the authority to physically control the land concerned, for example, creditors holding land security rights have juridical control over the land used as collateral, but physical control remains with the land owner. Regulations in terms of legal relationships in the granting and determination of clear land rights are the authority of the State carried out by the government (for now the authority bearer is the National Land Agency) with procedures determined based on statutory regulations. In accordance with Article 19 of the Basic Agrarian Law (UUPA), it is explained that there is an obligation that must be carried out by the government as the highest agency to carry out resistant registration in order to ensure legal certainty to land owners in terms of location, boundaries, and land area, land status, objects entitled to land and the provision of proof of rights in the form of certificates.

Based on the provisions of Article 19 of the Basic Agrarian Law (UUPA), ownership rights, business use rights, building use rights, including the transfer and elimination of rights and their encumbrance with other rights must be registered, as an obligation that must be carried out for holders of these rights to register the land they own in order to obtain legal certainty as the owner of the right, so that the owner of the right knows clearly about the condition, location, boundaries and area of the land he owns. For this reason, it is clear that the granting or

determination of land rights can only be carried out by the State through the government (in this case carried out by the agency of the National Land Agency of the Republic of Indonesia), for this reason, providing legal certainty guarantees for land rights for all people is one of the main objectives of the Basic Agrarian Law (UUPA) which is no longer negotiable, so the Law instructs the government to hold land registration throughout the territory of Indonesia which is rechtskadaster in nature which aims to ensure legal certainty and certainty of rights. Thus, the authority is given to the holder of land rights to be able to utilize the land in accordance with its designation.

Based on Law No. 5 of 1960 concerning Basic Regulations on Basic Agrarian Principles or what is often called UUPA (Basic Agrarian Law), tenure rights over land include: Cultivation Rights (Article 28 of UUPA); Building Rights (Article 35 of UUPA); Use Rights (Article 41); and other rights regulated by UUPA and other implementing regulations. These rights authorize and are granted by law to their holders to use land that does not belong to them, namely state land or land owned by others for a certain period of time and for certain purposes. The UUPA gives the government the responsibility to carry out land registration in accordance with Article 19 of the UUPA with the aim of ensuring certainty regarding land registration as stipulated in Government Regulation Number 24 of 1997 concerning Land Registration which is a replacement regulation for Government Regulation Number 10 of 1961 concerning Land Registration, hereinafter referred to as PP 24 of 1997 which became effective on 8 October 1997. Further implementing provisions are stipulated in the Regulation of the Minister of Agrarian Affairs Head of the National Land Agency Number 3 of 1997 on Provisions for the Implementation of Government Regulation Number 24 of 1997 on Land Registration, hereinafter referred to as PMNA/KBPN 3/1997.

The implementation of land registration will have legal consequences, namely the provision of proof of ownership of land rights by the government, called certificates. This certificate is a strong evidence tool which contains physical data and juridical data on the land, as long as the juridical data and physical data are in accordance with the data contained in the measurement certificate and land book of the right concerned and there is no claim from other parties who feel they have rights to the land within a period of 5 (five) years from the issuance of the certificate as stated in Article 32 paragraph (2) of Government Regulation No. 24 of 1997. The issuance of a certificate requires a process involving the applicant, adjoining landowners, village officials and the relevant agencies to obtain information and documents as the basis of the rights associated with the application for the certificate. Oral or written

explanations from the relevant parties have the possibility of falsification, expiration and sometimes even untruth or fictitiousness, resulting in a legally defective certificate.

This is directly stated in our constitution, the 1945 Constitution, and the Basic Agrarian Law No. 5 of 1960. The mandate is strengthened through MPR Decree No. IX of 2001 on Agrarian Reform and Natural Resources. Presidential Regulation No. 86/2018 on Agrarian Reform emphasizes asset management, access regulation, and land dispute resolution. The agrarian reform movement is worried that the agrarian reform implementation agenda will be neglected, more talkative and ceremonial without touching the real root of agrarian problems, even in the form of government political promises to the community. And it has great potential to deviate even further from the accuracy of the object and principal of Agrarian Reform, which is not my main goal. Presidential Regulation on Agrarian Reform No. 86/2018 is considered a political breakthrough. Land ownership in Indonesia itself, if traced from its history, can be divided into two periods of land ownership before and after the enactment of the Basic Agrarian Law (UUPA). Land ownership in the period before the enactment of the UUPA led to legal dualism governing land in Indonesia, on the one hand the Dutch colonial land law applied or obeyed the Western Civil Law system and on the other hand the Customary Law system that applied to bumiputera communities which did not have written evidence, which was often called customary land or ulayat land.

Then after Law Number 5 of 1960 concerning Basic Agrarian Regulations, the dualism of land law in Indonesia ended and land law in Indonesia experienced uniformity. Surely this UUPA provides a major change in a land arrangement in Indonesia which was so complex before the enactment of the Basic Agrarian Law (UUPA). Along with its development, now there are also problems regarding land registration in Indonesia considering that there was a dualism between the applicable laws, namely before the enactment of the Basic Agrarian Law (UUPA), this still leaves new problems, especially in terms of recording land ownership. Multiple land certificates are one of the problems of land law in Indonesia and something that must be of particular concern in order to create legal certainty of land in Indonesia.

However, along with the high value and benefits of land, many people try to obtain proof of land ownership by having fake certificates, where the data on the certificate does not match that in the land book. The number of fake certificates is quite large, causing vulnerability. Generally, fake certificates are made on land that is still empty and has a high value using old certificate blanks. Certificate forgery occurs because it is not based on the correct basis of rights, such as the issuance of certificates that are not based on the correct basis of rights, such

as the issuance of certificates that are based on falsified ownership certificates. other forms of BPN seals and land data forgery.

This raises many problems so that sometimes there are certificates where the object listed in the certificate is not what should be but land owned by others who are made by irresponsible people or there is negligence in the issuance of the letter, then there is also evidence of the same ownership of two certificates with one object which is often called a double certificate.

As for a double certificate that is a plot of land has more than one certificate, because it brings the effect of legal uncertainty for holders of land rights which is not expected in land registration in Indonesia. Double certificates often occur in South Sulawesi which results in disputes between certificate holders who accuse each other that what they have is true even though later one of the certificates is a fake where the object listed on the certificate. One example related to the existence of multiple certificates is the Decision of the State Administrative Court of the field Number 314/G/2019/- PTUN-MDN, PT. TUN (State Administrative High Court number 166/B/2020/PT.TUN-MDN, Decision Number 610/K/TUN/2021 between cassation petitioner I, namely the Head of the Karo Regency Land Office, and cassation petitioner II, namely Budiarti Br Meilala, Eric Nico Sitepu and Evan Randy Sitepu, related to the issue of the validity of the owner of a dual certified land certificate.

THEORETICAL STUDY

According to the Big Indonesian Dictionary, the meaning of legal certainty is the legal instruments of a country that are able to guarantee the rights and obligations of every citizen. The legal device is a rule that must be obeyed by every citizen so that the state must consider carefully so that the legal device is able to guarantee the rights and obligations of every citizen so that the existence of these citizens is protected. According to the opinion of Sudikno Mertokusumo in his book entitled Knowing the Law, "In enforcing the law there are three elements that must be considered, namely legal certainty, expediency and justice." Legal certainty is the foundation of a country in applying the laws or regulations that have been in force. Sudikno Mertokusumo's opinion also defines legal certainty as protection for justice seekers against arbitrary actions which means that someone will be able to get something that is expected in certain circumstances. In society, people expect legal certainty because with legal certainty, society will be more orderly.

RESEARCH METHODS

The legal research method is a scientific activity based on certain methods, systematics, and thoughts, which aims to study one or several certain legal symptoms by analyzing them, then an in-depth examination of the legal facts is also carried out to then try to find a solution to the problems that arise in the symptoms concerned. For this reason, a research is carried out which includes methods in research.

Research methods are needed to find out how to obtain data and information from an object under study. The method is defined as the logic of scientific research, the study of research procedures and techniques. Research is a series of scientific activities and therefore uses scientific methods to explore and solve problems, or to break down the truth of existing facts.This research is a normative-empirical research with a live-case study category based on empirical observations of the judge's decision No.610 / TUN / 2020 regarding multiple certificates on the object of land disputes.Normative legal research methods are focused on analyzing legal documents and applying a library research approach. While the empirical legal research method requires direct observation, so that research activities participate. The data in this study were collected using the library research method with the following data sources:

Researchers obtain data sources indirectly through intermediary media, which consists of primary legal materials, namely legal materials that are authoritative, meaning that they have authority and binding legal materials consisting of:

a) Basic norms or principles, namely the Preamble of the 1945 Constitution of the Republic of Indonesia.
b) Basic rules :
   (1) The Body of the 1945 Constitution
   (2) Decrees of the People's Consultative Assembly
c) Legislation :
   (1) Laws and equivalent regulations
   (2) Government Regulations and equivalent regulations
   (3) Presidential Decrees and equivalent regulations
   (4) Ministerial Decrees and equivalent regulations
   (5) Regional regulations
d) Legal materials that are not codified, such as customary law.
e) Jurisprudence.
f) Tracts

g) Legal materials from the colonial era that are still valid today, for example, the Civil Code (KUHPerdata).

In this journal, the author uses primary legal materials sourced from: 1945 Constitution of the Republic of Indonesia, Civil Code, Government Regulation No. 24 of 1997 on Government Land Registration, Law No. 5 of 1960 on Basic Agrarian Principles. Secondary legal materials, namely, legal materials that provide explanations of primary legal materials such as books, research results, or works from legal circles and draft laws. Tertiary legal materials, namely all publications on law and materials that provide guidance and explanation of primary and secondary legal materials such as the Big Indonesian Dictionary (KBBI), legal dictionaries, legal journals, encyclopedias, comments on court decisions and through internet searches. Results of seminars, workshops, symposiums, scientific papers, and other articles on land disputes and in the form of articles and scientific journals. Data analysis activities, as a form of key elements of data processing, are carried out by applying descriptive qualitative methods using a statutary approach, an analytical approach, and a normative-comparative approach. Data analysis used in this research is qualitative analysis. Qualitative analysis is discussing the results of research described comprehensively, by trying to see the factors behind certain programs, cultures and policies, such as the selection of principles, theories, norms, doctrines and articles contained in the Law that are relevant to the issues to be discussed in this study.

This research is descriptive analysis, descriptive analysis, namely research aimed at describing in detail, systematically and thoroughly about everything related to this research problem and also juridically empirical, namely research directly from the community based on legal facts that occur or research on primary data.The conclusion is drawn through the application of the systematic interpretation method, namely by interpreting a legal product and then building a correlation with other legal products that are relevant to the object of research. That way, the data collected can be analyzed and conclusions drawn.

RESULTS AND DISCUSSION

Ambiguity can generally be understood as a condition that is uncertain or unclear. In the Indonesian dictionary, the term ambiguity can be defined as a type of adjective that has more than one meaning or multiple meanings. This causes uncertainty, doubt and confusion in understanding a meaning or sentence. From some of the above opinions, it can be concluded that ambiguity is a word that can mean more than one, causing uncertainty in understanding something. Land issues are issues that concern the most basic rights of the people. The more

complex human interests in a civilization will be directly proportional to the higher potential for disputes that occur between individuals and between groups in a particular population. The emergence of disputes is difficult to avoid.

Controversy, dispute, and argumentative debate is one of the efforts made by humans to maintain recognition in the process of achieving an interest. Disputes occur because of conflicting interests, this condition can cause serious problems with the pattern of relations between humans and land, and relations between humans with land objects. Follow-up of land disputes arising in society certainly has efforts that can be resolved through a forum such as a State institution which is also equipped with various laws and regulations as guidelines for implementation. Therefore, it is necessary to have arrangements and state institutions that specifically regulate as well as authorized in the field of land and handle land issues. dapun double certificate is a plot of land that has more than one certificate with the same object.

A plot of land with multiple certificates can lead to legal uncertainty for parties holding land rights which is certainly not expected in land registration in Indonesia. Cases of multiple certificates still often occur in several regions in Indonesia which resulted in land certificate holders pointing the finger at each other that the certificate they have is true despite the fact that one of the multiple certificates is a fake where the object listed on the certificate is not the actual, so as to obtain legal certainty regarding the certificate of land rights, one of the dual certificate holders made a complaint to the National Land Agency as an authorized institution in the field of land.

In practice, the settlement of land disputes is not only carried out by the National Land Agency (BPN), but can also be resolved through the General Court, and the State Administrative Court (PTUN). The General Court focuses more on matters related to civil and criminal issues in land disputes, unlike the State Administrative Court (PTUN) which resolves land disputes related to Decrees issued by BPN or other officials related to land. If the proof process through the National Land Agency does not meet the bright spot, the authority to prove multiple certificates of land rights is continued to the realm of the Court which is considered to have the competence to provide legal certainty to the right holder and cancel one of the certificates so that only one certificate has a valid object and the other is not an object listed in the certificate. Dispute resolution, including land disputes, is regulated in Law Number 4 of 2004 concerning Judicial Power.

Article 1 of the Law states that judicial power is the independent power of the State to administer justice in order to uphold law and justice. In accordance with applicable regulations, dispute resolution related to ownership is submitted to the General Court, and disputes over land institution decisions are submitted to the realm of the State Administrative Court. Such as the problem of land disputes in the form of multiple certificates with the object of Certificate of Title Number 53 / Buluh Pancur Village, dated October 24, 2007 with the same land certificate, namely Measure Letter Number: 32 / Buluh Pancur / 2007, dated October 22, 2007, covering an area of 23. 236 M2 (twenty-three thousand two hundred thirty-six square meters), in the name of Jhon Sinarta Sitepu located in Buluh Pancur Village, Lau Baleng District, Karo Regency, North Sumatra Province. By the Plaintiff and the Defendant as per Certificate of Title No. 53/ Buluh Pancur Village, dated October 24, 2007, Measurement Letter No. 32/ Buluh Pancur/ 2007, dated October 22, 2007, covering an area of 23,236 M2 (twenty-three thousand two hundred thirty-six square meters), in the name of Jhon Sinarta Sitepu as well.

In Decision Number: 314 / G / 2019 / PTUN-MDN. The State Administrative Court examining, deciding and resolving land disputes in State Administrative disputes at the first instance by ordinary procedure, held at the building designated for that purpose at Jalan Bunga Raya No. 18, Asam Kumbang Village, Medan Selayang Sub-District, Medan City, has rendered the following decision below in the case between Alexander J Ginting, Gerda Vericke Ginting and Ryan Herbet Ginting as plaintiffs against the Kar District Land Office, Budiati Br. Meliala, Eric Nico Sitepu and Evan Randy Sitepu. As defendants. The judge of the defendant was granted by the panel of judges as for the exception of the defendant that absolute competence is accepted and there is no need to re-examine the lawsuit. That the above argument is in accordance with the Permanent Jurisprudence of the Supreme Court of the Republic of Indonesia (MARI) Register Number: 93 K/TUN/1996 dated February 24, 1998 which states "That the lawsuit regarding the physicality of the disputed land and its ownership is the authority of the Civil Court to examine and decide it, so it is not the authority of the State Administrative Court (PTUN);" and the Decision of the Supreme Court of the Republic of Indonesia (MARI) Register 20 PK/PTUN/2003 which states "The Plaintiff's lawsuit cannot be accepted, because the dispute regrets the Absolute Authority of the General Court (Civil), not the Authority of the State Administrative Court which concerns administration".

That if the ownership dispute is not resolved first, then the State Administrative Dispute Lawsuit filed by the Plaintiffs becomes Premature because there has not been a decision with permanent legal force regarding the legal owner of the land which according to the Plaintiffs is 44,365 M2 (forty-four thousand three hundred sixty-five square meters) in Buluh Pancur

Village, Kec. Lau Baleng, Kab. Karo, North Sumatra province, and if there is a legal decision with permanent legal force stating the legal owner of the land, then the Plaintiffs file a State Administrative Dispute lawsuit in the Aquo case. So that the State Administrative Court has no right and no authority to examine, hear and decide the aquo case is based on Article 47 of the PERATUN Law which states that: "The court has the duty and authority to examine, decide, and resolve State Administrative Disputes."

Because the case is an ownership dispute, and not a State Administration dispute, it is not appropriate for the State Administration Court to examine, hear and decide the case, because ownership disputes by law must be resolved in the General Court (District Court), thus it is very appropriate and reasonable and feasible for Defendant II Intervention to request the Panel of Judges who examine, hear and decide the case to reject the Administrative dispute lawsuit regarding the State Ownership Dispute filed by the Plaintiffs in its entirety and accept the exceptions filed by the Defendant II Intervention or at least declare the Plaintiffs' Lawsuit inadmissible (Niet Ontvankelijk verklaard) and the exception regarding the Plaintiffs' Premature Lawsuit (Exceptie Prematuur). That as described by Defendant II Intervention above, the lawsuit filed by the Plaintiffs is an ownership dispute, and there has been no decision from the General Court stating that the Plaintiffs are the legitimate owners or entitled to the Object of Dispute and legal decisions that have permanent legal force, then the State Administrative Dispute Lawsuit filed by the Plaintiffs becomes Prematuur.So the Judge accepts the defendant's exception and the absolute competence of the court.

Because the plaintiff was not satisfied with the results of the judge's decision to reject the plaintiff's exception, the plaintiff filed an appeal. In Decision Number. 166/B/2020/PT.TUN-MDN, in the decision that the Panel of Judges of the Medan State Administrative Court took over the sitting of the dispute as stated in the Medan State Administrative Court Decision Number 314/G/2019/- PTUN-MDN. In the exception of the defendant and the defendant II Intervention regarding the Absolute Competence of the Court. That the panel of judges rejected the exception of the defendant and the defendant II intervention for the whole. Due to the overlapping of land rights due to incorrect juridical data and physical data as well as the calculation of the area that is not appropriate, namely Defendant II Intervention / Respondent, the issuance of a Certificate of Title to the disputed object is an administrative legal defect, which is contrary to the procedure for issuing the disputed object in accordance with the provisions of laws and regulations as well as a defect in the substance of issuing property rights and cannot show the archives so that on what basis the Decision of the Head of the Karo Regency Land Office grants or processes the issuance of a Certificate of

Title to the disputed object cannot be proven. There is no relevant evidence in the legal considerations for making this decision, it remains attached and is an integral part of this case file. The lawsuit of the plaintiffs/appellants is not a vague lawsuit and thus the exception of the second defendant Intervention/appellant regarding the vague lawsuit is not legally grounded.

Therefore, it must be rejected in this case because the lawsuit has referred to Article 56 of Law Number 5 of 1986 concerning State Administrative Courts, last amended by Law Number 51 of 2009. And it is not proven that there is an error in the location of the object (object error) as argued by the defendant II Intervention of the Appellant, there is only a regional expansion, thus the defendant's exception must be rejected. So that the Panel of Judges accepted the appeal by the Plaintiffs / Appellants and canceled the Decision of the Medan State Administrative Court Number 314 / G / 2019 / PTUN.MDN dated June 8, 2020 and granted the plaintiff / appellant's claim in its entirety. The defendant/appellant filed a lawsuit again, namely cassation. Cassation is an ordinary legal remedy that can be requested by the parties or one of the litigants to a high court decision. Both the defendant and the public prosecutor can file a cassation if they are not satisfied with the decision handed down by the superior court. Cassation comes from the French word cassation which is derived from the verb casser and means to cancel or solve court decisions that are considered to contain errors in the application of the law. The Supreme Court has duties and authorities stipulated in the Law on Judicial Power, including examining and deciding cassation petitions.

Decision Number 610 K/TUN/2021, the Cassation Memorandum, the Cassation Respondents have submitted a Counter-Case Memorandum on November 06, 2020 which essentially rejects the cassation petition from Cassation Petitioner I and Cassation Petitioner II, the reasons for the cassation so that the Supreme Court is of the opinion that these reasons are justified, because the Judex Facti of the Medan State Administrative High Court has erred and misapplied the law with consideration: That although the certificate of the object in dispute fulfills the elements of a state administrative decision as stipulated in Article 1 number 9 of Law Number 51 of 2009 in conjunction with Article 87 of Law Number 30 of 2014 concerning Government Administration, and does not include one of the exceptions to the definition of a state administrative decision as stipulated in Article 2 of Law Number 9 of 2004, however, in the event that there is an overlap of judicial authority between the State Administrative Court and the District Court, the State Administrative Court has absolute authority to adjudicate on the administrative aspect based on the provisions of State Administrative Law, while the District Court has the authority to adjudicate on the validity of ownership of the land concerned based on the provisions of Civil Law. With this difference in authority, for the sake of legal

certainty, the settlement of disputes relating to the validity of the certificates of the disputed object should await the completion of the settlement of the ownership dispute by the civil judge at the General Court, based on the results of the local inspection, the parties pointed to the same land, so that there were overlapping certificates over some of the land of the Cassation Respondents / Plaintiffs, but there was no obvious control by one of the parties to the dispute, the certificates in the name of the Cassation Respondents / Plaintiffs were issued earlier than the certificates of the disputed object and based on the facts at trial. The Cassation Respondents/Plaintiffs and the Cassation Petitioners II/Intervention Defendants II acknowledge that there are differences in the location, boundaries and extent of their respective lands. Based on the aforementioned considerations, there are still ownership issues between the Cassation Respondents/Plaintiffs and the Cassation Petitioners II/Intervention Defendants II, so the process at the State Administrative Court must first delay exercising its authority to adjudicate the dispute until there is a decision from a civil judge that has permanent legal force.

Based on the above considerations, according to the Supreme Court, there are sufficient reasons to grant the cassation petition of Cassation Petitioner I and Cassation Petitioner II, therefore the Decision of the Medan State Administrative High Court Number 166/B/2020/PT.TUN-MDN. dated September 23, 2020, which annulled the Decision of the Medan State Administrative Court Number 314/G/2019/PTUN-MDN, dated June 08, 2020, cannot be upheld and must be annulled. Furthermore, the Supreme Court adjudicates this case itself. The Supreme Court Panel of Judges has read and studied the Reply to the Cassation Memorandum, but found nothing that could weaken the reasons for the cassation of Cassation Petitioner I and Cassation Petitioner II. That with the granting of the cassation petition, and as the losing party, the Cassation Respondents are ordered to pay court costs at all levels of court, Noting the articles in Law Number 48 of 2009 concerning Judicial Power, Law Number 14 of 1985 concerning the Supreme Court as amended by Law Number 5 of 2004 and the second amendment by Law Number 3 of 2009, Law Number 5 of 1986 concerning State Administrative Courts as amended by Law Number 9 of 2004 and the second amendment by Law Number 51 of 2009, as well as other relevant laws and regulations Granting the cassation petition of Cassation Petitioner I: Head of Karo District Land Office, Cassation Petitioners II namely Budiati Br Meliala, Eric Nico Sitepu and Evan Randy Sitepu. Canceling the Decision of the Medan State Administrative High Court Number 166/B/2020/PT.TUN-MDN, dated September 23, 2020, which canceled the Decision of the Medan State Administrative Court Number 314/G/2019/PTUN-MDN, dated June 08, 2020, Accepting the exception of the Defendant and the Intervening Defendants II regarding the Absolute Competence of the Court.

CONCLUSIONS AND SUGGESTIONS

Decision of the Medan State Administrative Court Number 314/G/2019/PTUN-MDN on behalf of the plaintiff, namely:

1. Alexander J Ginting,
2. Gerda Vericke Ginting dan
3. Ryan Herbet Ginting

On behalf of the first respondent: Karo District Land Office,

Second Defendant Intervention :

1. Budiati Br. Meliala
2. Eric Nico Sitepu
3. Evan Randy Sitepu

The object of the lawsuit is SHM No. 531 Ds. Buluh Pancur covering an area of approximately 44,365.m2 in 1983. The result of the decision states that the lawsuit is unacceptable (niet ontvankelijke verklaard / NO) is a formal defect decision which means that the lawsuit is not followed up by the judge to be examined and tried so that there is no object of lawsuit in the decision to be executed. Meanwhile, in the 2nd Decision in the lawsuit to the State Administrative High Court number 166/B/2020/PT.TUN-MDN. In the lawsuit could not be accepted, so the plaintiff filed an appeal, the result of which was that the Level 1 Decision was canceled by the panel of judges and declared void and obliged the defendant, namely the National Land Agency (BPN). In the Supreme Court decision No. 610 K / TUN 2020 the plaintiffs and the intervening defendants filed an appeal in the result, namely canceling the appeal decision, adjudicating itself accepting the exception of the subject matter of the case stating that the lawsuit was not accepted so that there was an overlap of the certificate and the overlapping certificate could be resolved by canceling the certificate.The plaintiff should have filed a lawsuit in the realm of district court in the form of a civil suit. National Defense Agency (BPN) by conducting internal blocking of the 2 SHM. So that the existence of overlapping certificates can be resolved by cancellation due to the absence of a legal certainty, in the decision (niet ontvankelijke verklaard / NO) so that there is no legal certainty in the decision because there is no order to cancel one of the certificates in the decision as well.

REFERENCES

Journal Article

Hidayati, S.N. (2016). Pengaruh Pendekatan Keras dan Lunak Pemimpin Organisasi terhadap Kepuasan Kerja dan Potensi Mogok Kerja Karyawan. *Jurnal Maksipreneur: Manajemen, Koperasi, dan Entrepreneurship*, *5*(2), 57-66. http://dx.doi.org/10.30588/SOSHUMDIK.v5i2.164.

Risdwiyanto, A. & Kurniyati, Y. (2015). Strategi Pemasaran Perguruan Tinggi Swasta di Kabupaten Sleman Yogyakarta Berbasis Rangsangan Pemasaran. *Jurnal Maksipreneur: Manajemen, Koperasi, dan Entrepreneurship*, *5*(1), 1-23. http://dx.doi.org/10.30588/SOSHUMDIK.v5i1.142.

Bator, R. J., Bryan, A. D., & Schultz, P. W. (2011). Who Gives a Hoot?: Intercept Surveys of Litterers and Disposers. *Environment and Behavior*, *43*(3), 295–315. https://doi.org/10.1177/0013916509356884.

Text Book

Abdul Kadir Muhammad, *Hukum dan Penelitian Hukum*, Bandar Lampung: PT. Citra Aditya Bakti, 2004.

Bahder Johan Nation (2019). *Metode Penelitian Ilmu Hukum*, Bandung: Penerbit Panca Kursistin Handayani.

Bambang Sunggono. (2003). *Metodologi Penelitian Hukum,* Jakarta: Raja Grafindo Persada.

Fenomena School of Crime dalam Kasus Tindak Pidana Berulang. *(2007). Studi Kasus di Lembaga Pemasyarakatan Kelas II A Jember*. Jember: Universitas Muhammadiyah Jember : Mandar Maju

G Susila, *Kejahatan Sertifikat Tanah Ganda*,(2014). *Dalam Persfektif Modus, Akibat Hukum, dan Solusi Kritis Penyelesaian Masalah*, Malang, Universitas Brawijaya Press (UB Press).

G. Kartasaputra. (2003). *Hukum Tanah Jaminan Bagi Keberhasilan Pendayagunaan Tanah*, Jakarta, PT Raja Grafindo Persada.

H.M Arba. (2019). *Hukum Agraria Indonesia*, Jakarta : Sinar Grafika.

Hadimulyo. (2005). *Mempertimbangkan ADR, Kajian Alternatif Penyelesaian Sengketa di Luar Pengadilan*. Jakarta: ELSAM.

Jejen Musfah. (2012). *Tips Menulis Karya Ilmiah,* Jakarta: Kencana.

Moleog, Lexi J. (2013). *Metode Penelitian Kualitati*f, Bandung: PT Remaja Rosdakarya.

Peter Mahmud Marzuki. (2008). *Pengantar Ilmu Hukum*. Jakarta: Kencana Pranada Media Group.

Peter Mahmud Marzuki. (2014). *Metode Penelitian Hukum*., Edisi Revisi, Jakarta: Kencana Prendamedia Group.

Riduan Syahrani. (2008). *Rangkuman Intisari Ilmu Hukum*. Bandung : PT. Citra Aditya Bakti, Cetakan Ke III.

Salim HS dan Erlies Septiana Nurbani. (2013). *Penerapan Teori Hukum Pada Penelitian Tesis DanDesertasi,* Jakarta: PT. Raja Grafindo Persada.

Sudikno Mertokusumo. (2014). *Mengenal Hukum Suatu Pengantar*, Yogyakarta: Cahaya Atma Pustaka.

Wahid Muchtar. (2008). *Memaknai Kepastian Hukum Hak Milik Atas Tanah*, Jakarta: Republika.