

LEGAL PROTECTION FOR THIRD PARTIES DUE TO VIOLATIONS OF ARTICLE 30 OF GOVERNMENT REGULATION NUMBER 24 OF 1997 CONCERNING LAND REGISTRATION

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ABSTRACT

Land registration is an important legal instrument in the Indonesian land law system aimed at providing legal certainty and legal protection for holders of land rights. Article 30 of Government Regulation No. 24 of 1997 regulates the obligation to announce physical data and juridical data in the land registration process in order to protect the interests of third parties. However, in practice, violations of this provision are still found, which harm third parties acting in good faith. This research employs a normative juridical method with a statutory approach and a case approach to analyze three main issues: the regulation of Article 30 of Government Regulation No. 24 of 1997, the forms of its violations, and the mechanisms of legal protection for disadvantaged third parties. The results show that violations of Article 30 may take the form of failure to carry out announcements, inadequate announcements, or fictitious announcements. Legal protection for third parties can be pursued through preventive mechanisms (supervision and participation in the announcement process) and repressive mechanisms (lawsuits for certificate cancellation, compensation, and administrative sanctions). This study recommends strengthening supervision, digitalizing the announcement system, and increasing public legal awareness.

Keywords : Legal Protection; Third Parties; Land Registration.

INTRODUCTION

Land holds strategic value in the lives of Indonesians, from economic, social, and legal perspectives. To guarantee legal certainty for land rights, the Indonesian government has implemented a land registration system as mandated by Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). This land registration system was further regulated in Government Regulation Number 24 of 1997 concerning Land Registration, which was updated by Government Regulation Number 18 of 2021.

Article 19 paragraph (1) of the UUPA states that to guarantee legal certainty, the government conducts land registration throughout the territory of the Republic of Indonesia in accordance with the provisions stipulated by Government Regulations. The objectives of land registration, as stipulated in Article 3 of Government Regulation No. 24 of 1997, are: 1). To provide legal certainty and legal protection to rights holders of land plots, apartment units, and other registered rights so that they can easily prove their rights; 2). To provide information to interested parties, including the government, so that they can easily obtain the data needed to conduct legal actions regarding registered land plots and apartment units; 3). To ensure orderly land administration.

One important instrument in ensuring the achievement of this objective is the provision of Article 30 of Government Regulation No. 24 of 1997, which regulates the announcement of physical and legal data in the land registration process. Article 30 paragraph (1) of Government Regulation No. 24 of 1997 states: "Within 60 (sixty) days of the announcement of the physical and legal data of the land plot in question in sporadic land registration or the announcement made in systematic land registration, any person may submit an objection to the Adjudication Committee in systematic land registration or the Head of the Land Office in sporadic land registration, accompanied by evidence of their rights." This announcement provision embodies the principle of publicity in land law, which provides third parties with the opportunity to learn about the land registration process and file objections if they believe they have rights or interests in the land being registered.

In practice, various violations of Article 30 of Government Regulation No. 24 of 1997 are still found. These violations can include the failure to make announcements at all, inadequate or procedural announcements, or announcements that are fictitious or merely formal. As a result of these violations, third parties with rights or interests in the land are often unaware of the land registration process and lose the opportunity to file objections, thus incurring losses when the certificate is issued.

This problem becomes even more complex when it involves a well-intentioned third party who then purchases land based on a legally flawed certificate because the issuance process violates Article 30. The resulting legal conflict questions the status and legal protection of these third parties, given that the Indonesian land law system adheres to the principle of publicity, which considers certificates to be strong evidence.

The Supreme Court of the Republic of Indonesia, through various decisions, has provided guidance on legal protection for third parties in cases of violations of land registration procedures. For example, in Supreme Court Decision No. 3200 K/Pdt/1984, the Supreme Court stated that a certificate issued with legal defects can be revoked even if it has been transferred to a third party, unless the third party can prove that they were the purchaser in good faith.

Research on legal protection for third parties in relation to violations of Article 30 of Government Regulation No. 24 of 1997 is important considering: The continuing high number of land disputes stemming from violations of announcement procedures in land registration; The need for legal certainty for good-faith third parties who are harmed by administrative violations in the issuance of certificates; The importance of harmonizing the principle of legal certainty with the principle of legal protection in the Indonesian land registration system; The need to evaluate the effectiveness of the implementation of Article 30 of Government Regulation No. 24 of 1997 in practice.

RESEARCH METHODS

1. Types and Nature of Research

This research approach is normative legal research, which aims to examine applicable positive legal norms, particularly those related to Legal Protection for Third Parties Due to Violations of Article 30 of Government Regulation No. 24 of 1997 concerning Land Registration. Normative legal research was chosen because the primary focus of this research is:

- a. To analyze the provisions of Article 30 of Government Regulation No. 24 of 1997 within the national land law system;

- b. To examine the forms of violations of these provisions in practice;
- c. To identify and formulate forms of legal protection for third parties based on statutory regulations and legal doctrine.

According to Soerjono Soekanto and Sri Mamudji, normative legal research is research conducted by examining library materials or secondary data as a basis for research by conducting searches of laws and literature related to the problem under study.

2. Types and Sources of Research Data

This research uses legal materials consisting of:

a. Primary Legal Materials

- 1) Primary legal materials are binding legal materials, including;
- 2) Law Number 5 of 1960 concerning Basic Agrarian Regulations;
- 3) Government Regulation Number 24 of 1997 concerning Land Registration;
- 4) Regulations of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) relating to land registration;
- 5) Court decisions (Supreme Court and State Administrative Court) relevant to third-party legal protection and land registration disputes.

b. Secondary Legal Materials

Secondary legal materials are legal materials that provide explanations of primary legal materials, including:

- 1) Textbooks on agrarian law and land law;
- 2) National legal scientific journals;
- 3) Relevant research results and theses;
- 4) Legal articles and opinions of legal experts.

c. Tertiary Legal Materials

Tertiary legal materials are legal materials that provide guidance or additional explanations, including:

- 1) Legal dictionaries;
- 2) Legal encyclopedia;
- 3) Statutory regulations index.

3. Data Collection Techniques

The techniques used in data collection are documentation studies and literature studies.

RESULTS AND DISCUSSION

Provisions of Article 30 of Government Regulation No. 24 of 1997 on the Land Registration Process

Article 30 of Government Regulation No. 24/1997 substantially regulates the registration of rights, physical and legal data, and recording in the land register as the initial process for issuing certificates. This provision is part of a series of land registration activities carried out by the National Land Agency (BPN) through the local Land Office.

At the normative level, the land registration process includes:

- a. Collection of physical data (e.g., land boundaries, location, shape, area).
- b. Collection of legal data (e.g., basis of rights, identity of rights holders, history of transfer of rights).
- c. Recording of this data in the land register and other documents that serve as the basis for issuing certificates.

This provision emphasizes that the data included in the land register must be accurate and complete because it serves as the basis for issuing valid certificates. The importance of this principle aligns with the principles of land registration, which aim to provide legal certainty to rights holders and other interested parties in a land object.

Violations of Article 30 of Government Regulation No. 24 of 1997 in Land Registration Practices

Violations frequently encountered in land registration practices related to Article 30 of Government Regulation No. 24/1997 include:

- a. Errors or Negligence in Collecting Physical and Legal Data.

Errors in measuring land boundaries, map discrepancies, or inaccurate legal data input can lead to the issuance of certificates that do not reflect the actual situation on the ground. This

occurs when the National Land Agency (BPN) or officers record incorrect or incomplete data. In legal research and real-life cases, inaccuracy in reviewing map archives or physical land boundaries can result in overlapping ownership, which is detrimental to other parties.

- b. Presentation of Invalid Legal Data. For example, when basic documents are incomplete or document manipulation occurs, rendering the recorded rights invalid or legally flawed. This can arise if deeds, measurement letters, or historical documents are not carefully examined.
- c. Negligence by Land Deed Officials (PPAT)/BPN Officers.
In some cases, Land Deed Officials (PPAT) or National Land Agency (BPN) officers who fail to comply with file inspection or data entry procedures can also result in land registration being based on inaccurate information, opening the door to future disputes.
- d. Negative Publication Registration System. This system results in certificates, even if evidentially strong, still allowing other parties who feel aggrieved to file objections during the waiting period or through court proceedings. Incomplete application of this principle can weaken the certainty of registered data.

When Article 30 is violated, land rights that should have been properly recorded can become invalid, giving rise to disputes, and becoming the basis for issuing incorrect or defective certificates.

Legal Protection for Injured Third Parties

Although Article 30 of Government Regulation 24/1997 does not explicitly mention third-party protection, several other provisions in the Indonesian land system provide legal protection:

- a. Land Title Certificates as Strong Evidence. Certificates issued based on proper registration procedures constitute strong evidence under Indonesian law. Based on the relevant article in Government Regulation 24/1997, as reinforced by the UUPA, certificates can serve as strong evidence of recorded physical and legal data, providing certainty to the holder and parties transacting in good faith.
- b. Legality (Article 32 Paragraph (2) of Government Regulation 24/1997). Article 32 Paragraph (2) of Government Regulation 24/1997 states that if a certificate has been legally issued and the holder has taken possession of the land in good faith, then another party cannot claim their rights unless an objection or lawsuit is filed within a specified period (e.g., 5 years). This provision provides a protection mechanism for good-faith third parties who have entrusted the registration data.
- c. Access to Information and Opportunity to File Objections. In the systematic registration process, physical and legal data are announced for a specified period so that interested parties can file objections or objections before the certificate is issued, as a form of protection for other parties and administrative certainty.
- d. Dispute Mechanism in Court
If the land registration or reported data is incorrect, the injured third party can still pursue legal action through the court process, such as a lawsuit for certificate cancellation or a lawsuit for unlawful acts based on the provisions of the Civil Code, the Basic Agrarian Law, and Government Regulation 24/1997.

CONCLUSION

Article 30 of Government Regulation No. 24 of 1997 regulates the obligation to record physical and legal data in the land registration process as the basis for issuing certificates, with the aim of providing legal certainty and protection for rights holders and interested parties. Violations of Article 30 include inaccurate or incomplete data, administrative errors in registration, and negligence by officials or Land Deed Officials (PPAT), which can lead to overlapping rights and land disputes. Legal protection for third parties is formulated through the principle of strong evidence for certificates, the application of legal due process (Article 32 paragraph (2) of Government Regulation No. 24/1997), access to registration information, and the use of judicial mechanisms to defend or claim their rights in the event of registration errors. Based on these conclusions, the author offers the following suggestions: For the Government/BPN, it is necessary to strengthen oversight of the land registration process, particularly at the physical and legal data recording stages, and to accelerate the digitization and integration of land data to prevent administrative errors and overlapping certificates. For Land Deed Officials (PPAT), apply the principle of prudence in verifying the validity of documents and land history and increase transparency of information to parties regarding the legal status of land and legal risks. For the Community/Third Parties, be more careful in checking certificates and land data

before transactions and promptly use objection or lawsuit mechanisms if harmed due to errors in land registration.

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