



## Negligence in Land Seizure Registration and Its Impact on Legal Certainty in Indonesian Land Law

Made Krisna Kanandha Harisuputra <sup>1\*</sup>, Dr. I Wayan Novy Purwanto SH M Kn <sup>2</sup>

<sup>1-2</sup> Faculty of Law, Udayana University, Indonesia

\* Corresponding Author: **Made Krisna Kanandha Harisuputra**

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### Abstract

Land seizure registration constitutes a fundamental component of the Indonesian land registration system, serving as a legal instrument to ensure legal certainty in land disputes. However, in practice, negligence in the registration of land seizure by Land Offices remains prevalent and undermines effective legal protection. This study is intended to examine the legal framework governing the registration of land seizure under Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 13 of 2017, as well as to assess the legal consequences that may arise when such registration is neglected. The research applies a normative juridical method with statutory and conceptual approaches, and the results demonstrate that, although the regulation provides a clear legal framework establishing seizure registration as a mechanism of legal publicity, its implementation remains ineffective due to the absence of explicit supervisory mechanisms and enforceable sanctions; as a result, failure to register land seizure creates legal uncertainty, allows the transfer of disputed land to bona fide third parties, and undermines the credibility of the land registration system. Accordingly, strengthening the regulatory framework, enhancing institutional coordination, and developing an integrated digital land administration system are necessary to ensure the effectiveness of seizure registration and to uphold legal certainty within the Indonesian land law system.

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### Introduction

Indonesia today, especially the city of Pontianak, is facing very worrying environmental problems and the number of environmental crimes that occur has resulted in increasingly worrying environmental conditions. Pontianak is one of the cities with an increasingly worrying problem of land fires. Forests are one of the natural resources and are a buffer for the community, therefore forest sustainability must be maintained and maintained optimally <sup>[1]</sup>.

Land fires can occur if there is heat, air, and fuel, climatic factors only partially occur if there is no cause and effect of an environmental crime that is common in Indonesia, especially in Pontianak <sup>[2]</sup>. The land can be in the form of a peat swamp which is very prone to fire, the method of burning is cheaper and the results obtained are quite satisfactory compared to the method of land clearing which is regulated by law. As a result, the arsonists, both individuals, and groups, prefer to burn the land as a prelude to further seeding.

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1. Marwan Efendy, 2004, Aspek Pidana Penyalahgunaan Sumber Daya Kehutanan Terkait Dengan Otonomi Daerah, Disampaikan Dalam Seminar "Keberadaan Sumber Daya Hutan Berdasarkan UU No.32 Tahun 2004, Jakarta, 7 Desember 2004

2. Qadriyatun SN. 2014. Kajian Singkat Terhadap Isu-isu Terkini Kebijakan Penanganan Kebakaran Hutan dan Lahan. Info Singkat Kesejahteraan Sosial 6(6):9-12

However, in practice, this obligation is not always effectively implemented<sup>[3]</sup>. There are instances where court-ordered seizures are not promptly recorded, thereby enabling the transfer of disputed land to third parties. This condition reveals a gap between legal norms and their implementation, which may result in legal uncertainty and further disputes.<sup>[4]</sup> The issue becomes more complex when viewed in light of the protection afforded to bona fide third parties. Under the principle of public reliance on land registration, third parties are entitled to rely on the accuracy of registered data. In the absence of seizure registration, third parties may acquire land rights without knowledge of an existing dispute, thereby creating a conflict between legal certainty and substantive justice.<sup>[5]</sup>

Previous studies have generally focused on procedural aspects of seizure or general legal protection in land disputes. However, studies specifically examining the relationship between administrative negligence in seizure registration and the failure of preventive legal protection within the land registration system remain limited. This study therefore offers novelty by analyzing the correlation between administrative obligations in seizure registration and their implications for legal certainty.

Based on the foregoing, this study addresses two main issues:

(1) how the legal framework for the registration of land seizure is regulated under Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 13 of 2017.; and (2) what legal implications arise from negligence in seizure registration with respect to legal certainty in land disputes.

### Problem Formulation

In light of the foregoing background, this study addresses the following research questions:

1. How is the obligation to register land seizure governed under Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 13 of 2017?
2. What legal consequences arise from negligence in registering land seizure, particularly with respect to legal certainty in land dispute cases?

### Purpose

The purpose of this study is to analyze the legal regulation of land seizure registration within the Indonesian land law system and to examine the legal implications of negligence in such registration on legal certainty in land disputes.

### Discussion

#### A. Legal Regulation of Land Seizure Registration

The legal framework governing the registration of land seizure under Regulation of the Minister of Agrarian Affairs

and Spatial Planning/Head of the National Land Agency Number 13 of 2017. Constitutes an integral component of the land administration system aimed at ensuring legal certainty over disputed land objects. This regulation establishes seizure registration as a mandatory administrative obligation, as it directly relates to the protection of the rights of disputing parties. Within the land registration system, registration serves as a mechanism of legal publicity that determines the enforceability of legal status against third parties, thereby ensuring transparency and reliability in land transactions.<sup>[6]</sup> Normatively, Article 32 paragraph (3) stipulates that seizure registration must be recorded by the Head of the Land Office in the Land Book and Measurement Letter. This provision reflects the principle of publicity in land law, which requires that any legal status of land be accessible to the public. Without such registration, the legal status of seizure lacks binding effect on third parties, thereby creating potential legal uncertainty and undermining the reliability of the land registration system.<sup>[7]</sup> From the perspective of state responsibility theory, the obligation to register seizure represents the function of the state in providing legal protection to its citizens. Through land administration authorities, the state is responsible for ensuring that court-ordered seizures are effectively implemented within the administrative system. Failure to carry out this obligation may be interpreted as a form of state negligence in fulfilling its protective function, particularly in ensuring the accuracy and integrity of public legal records.<sup>[8]</sup> Furthermore, according to Roscoe Pound's theory of law as a tool of social engineering, law must be capable of balancing competing interests within society through effective mechanisms.<sup>[9]</sup> In this context, seizure registration functions as a preventive instrument to avoid the unlawful transfer of disputed land during judicial proceedings, while simultaneously safeguarding the interests of third parties who rely on official land records.

The regulation also demonstrates a transformation of legal norms from procedural provisions in civil procedural law into operational administrative norms within the land system. This development aligns with modern land administration theory, which emphasizes that effective land registration systems must provide accurate, up-to-date, and accessible information to support legal certainty and economic activity.<sup>[10]</sup>

Within a broader legal system framework, seizure registration is closely related to the integration of legal systems between judicial institutions and land administration bodies. A lack of synchronization between court decisions and administrative records may result in systemic dysfunction, weakening the overall effectiveness of legal protection. Therefore, seizure registration must be understood as part of an integrated legal system rather than merely an isolated administrative obligation.<sup>[11]</sup>

<sup>3</sup> Boedi Harsono, *Hukum Agraria Indonesia*, Djambatan, Jakarta, 2016, p. 472.

<sup>4</sup> Adrian Sutedi, *Peralihan Hak atas Tanah dan Pendaftarannya*, Sinar Grafika, Jakarta, 2018, p. 134.

<sup>5</sup> Maria S.W. Sumardjono, *Tanah dalam Perspektif Hak Ekonomi Sosial dan Budaya*, Kompas, Jakarta, 2018, p. 112.

<sup>6</sup> Arruñada B. *Property Titling and Conveyancing: Understanding the Role of Notaries*. *European Journal of Law and Economics*. 2012;34(1):5.

<sup>7</sup> Santoso U. *Hukum Agraria dan Hak-Hak atas Tanah*, Kencana Jakarta, 2017. p. 89.

<sup>8</sup> Marzuki PM. *Penelitian Hukum*. Jakarta: Kencana; 2021. p. 112.

<sup>9</sup> Pound R. *An Introduction to the Philosophy of Law*. Yale University Press; 1954. p. 47.

<sup>10</sup> Dale P, McLaughlin J. *Land Administration Systems and Legal Certainty*. *Land Use Policy*. 1999;16(3):147.

<sup>11</sup> Rahardjo S. *Ilmu Hukum*, Citra Aditya Bakti, Bandung, 2014. p. 121.

However, the regulation still exhibits weaknesses, particularly in terms of supervision and sanctions. The absence of explicit provisions regarding legal consequences for negligence in registration creates a gap in enforcement. From the perspective of legal effectiveness theory, a legal norm cannot function optimally without adequate supervision and sanction mechanisms, as enforcement is a crucial element in ensuring compliance.<sup>[12]</sup>

In practice, various obstacles such as delays in registration, inconsistencies in data, and weak coordination between institutions demonstrate a gap between normative expectations (*das sollen*) and actual practice (*das sein*). This gap ultimately undermines the primary objective of the regulation, namely ensuring legal certainty in land disputes, and may also affect the credibility of the land administration system as a whole.<sup>[13]</sup>

### B. Legal Implications of Negligence in Seizure Registration

Negligence in land seizure registration gives rise to significant legal implications for legal certainty in land disputes. Within the land registration system, registration functions as a mechanism of legal publicity that determines whether a land object is legally free or subject to encumbrances. The absence of proper registration undermines the transparency and reliability of land records, which are essential elements in maintaining legal certainty and security of tenure.<sup>[14]</sup>

If seizure registration is not carried out, the land is administratively deemed unencumbered, thereby enabling its transfer to third parties. In such circumstances, third parties may claim bona fide purchaser status based on the information recorded in the land register. This situation creates a normative conflict between the protection of disputing parties and the protection afforded to third parties acting in good faith, which is a common issue in land law systems that rely on formal registration as the basis of legal validity.<sup>[15]</sup>

From the perspective of legal certainty theory, this condition reflects a discrepancy between the actual legal status (*das sein*) and the registered administrative data (*das sollen*). Legal certainty requires consistency between legal norms and their implementation in practice. When seizure registration is neglected, the legal system fails to provide predictability, stability, and fairness, thereby weakening the fundamental function of law as a guarantor of legal order.<sup>[16]</sup>

Moreover, such negligence may constitute an unlawful act under Article 1365 of the Indonesian Civil Code when it causes losses to another party. In these circumstances, public officials who do not properly carry out their administrative obligations may be subject to civil liability for the resulting damages. This indicates that negligence in registration does not merely constitute an administrative violation, but may also give rise to broader legal accountability, including liability for damages suffered by affected parties.<sup>[17]</sup>

Negligence in seizure registration also has broader systemic

implications, particularly in relation to the credibility of the land registration system. A reliable land administration system depends on the accuracy and integrity of its data. When registered information does not reflect the actual legal condition, public trust in the system is significantly undermined. This aligns with modern land administration theory, which emphasizes that secure land markets require trustworthy and transparent registration systems.<sup>[18]</sup> Additionally, negligence in registration adversely affects the enforceability of court decisions. Land that has already been transferred to third parties complicates execution processes and may lead to further disputes, including overlapping land titles or multiple claims over the same property. This demonstrates that administrative failures in land registration can have far-reaching implications for the effectiveness of law enforcement and dispute resolution mechanisms.<sup>[19]</sup> Accordingly, negligence in the registration of land seizure should not be viewed solely as a technical administrative oversight, but as a structural deficiency within the broader land administration system. Addressing this issue requires strengthening institutional coordination between judicial bodies and land administration authorities, enhancing the capacity and professionalism of public officials, and implementing integrated digital land administration systems to ensure accuracy, transparency, and accountability in land registration practices.<sup>[20]</sup>

### Closing Conclusion

Based on the analysis of the issues discussed in this study, the following conclusion can be drawn:

1. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 13 of 2017 establishes the legal basis for the administrative obligation of Land Offices to record land seizure as an integral part of the land registration system in order to safeguard legal certainty. Nevertheless, the regulation does not provide adequate supervisory arrangements or explicit sanctions for non-compliance, which has led to less than optimal implementation in practice.
2. Negligence in land seizure registration leads to legal uncertainty, as land objects are administratively deemed unencumbered and may be transferred to third parties. This creates a conflict between the protection of disputing parties and the rights of bona fide third parties, and may ultimately undermine the credibility of the land registration system.

### Suggestion

1. The regulatory framework on land seizure registration should be strengthened by introducing clear supervision mechanisms and enforceable sanctions to ensure effective implementation and legal certainty.

<sup>12</sup> Yuliantri. *Asas-Asas Pembentukan Peraturan Perundang-Undangan*. Rajawali Pers, Jakarta, 2020. p. 22.

<sup>13</sup> Wallace J, Williamson I. *Building Land Markets*. Land Use Policy. 2006;23(2):125.

<sup>14</sup> Zevenbergen J. *Systems of Land Registration: Aspects and Effects*. Nordic Journal of Surveying and Real Estate Research. 2002;1(1):25.

<sup>15</sup> Arruñada B. *Property Titling and Conveyancing: Understanding the Role of Notaries*. European Journal of Law and Economics. 2012;34(1):8.

<sup>16</sup> Radbruch G. *Legal Philosophy*. Oxford University Press; 2006. p. 107.

<sup>17</sup> Subekti. *Pokok-Pokok Hukum Perdata*, Intermasa, Jakarta, 2017. p. 136.

<sup>18</sup> De Soto H. *The Mystery of Capital and the Formalization of Property Rights*. World Development. 2000;28(1):3.

<sup>19</sup> Sutedi A. *Peralihan Hak atas Tanah*, Sinar Grafika, Jakarta, 2018. p. 134.

<sup>20</sup> Wallace J, Williamson I. *Building Land Markets*. Land Use Policy. 2006;23(2):125.

2. Coordination between judicial institutions and Land Offices should be enhanced, accompanied by the development of integrated digital land administration systems to prevent negligence and improve the accuracy and reliability of land registration data.

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