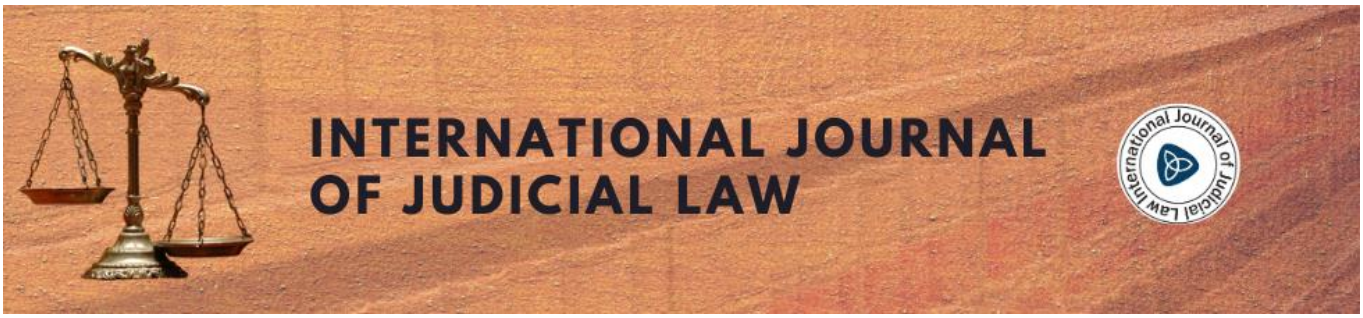




The Legal Status of Final and Binding Court Decisions as the Basis for Certificate Issuance at the National Land Agency

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Abstract

Land issues in Indonesia remain a complex challenge, particularly regarding land ownership disputes that lead to legal uncertainty and prolonged conflict. Court decisions that have reached final legal force (*inkracht van gewijsde*) normatively possess binding and final authority to provide legal certainty. Consequently, they should serve as the legal basis for the National Land Agency (BPN) to carry out administrative actions, specifically the revocation and issuance of land title certificates. This study aims to analyze the legal status of final and binding court decisions as the foundation for certificate issuance at BPN and to examine the underlying administrative procedures. This study employs a normative legal research method utilizing statutory, conceptual, and case approaches. The results indicate that final and binding court decisions play a crucial role in ensuring legal certainty and protecting land rights by conferring legitimacy upon the rightful legal subjects. However, their efficacy heavily depends on BPN's administrative implementation. The administrative procedure encompasses the submission of an application, verification of the court ruling, examination of physical and legal data, cancellation of the previous certificate, and issuance of a new certificate to the prevailing party. In practice, implementation encounters obstacles such as ambiguous court order dictums, resistance from losing parties, and discrepancies in field data. Therefore, enhanced synergy between judicial institutions and BPN is essential to ensure that court decisions provide optimal legal certainty and land rights protection for the public.

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Introduction

The Republic of Indonesia is currently undertaking national development aimed at enhancing the welfare of all its citizens. Given that the structure of national economic life remains predominantly agrarian, land, water, and spatial resources as blessings from Almighty God play an essential role in development to achieve these national objectives. ^[1]

One critical asset required for the success of Indonesia as a constitutional state (*rechtsstaat*) in the era of globalization is land. Land serves as a fundamental resource for human existence and continuity, accompanying individuals from birth to death. ^[2] It can be asserted that a nation's progress depends on its capacity to manage its real property. Consequently, land directly influences

¹ L. Nurchamidah, "Pengalih Fungsian Lahan Pertanian Ke Non Pertanian Di Kabupaten Tegal," *Jurnal Akta* 4, no. 4 (2017): 699–706, <https://doi.org/10.30659/akta.v4i4.2513>.

² Tuti Kelana Sembiring and Telaga Analin, "Penyelesaian Sengketa Jual Beli Hak Atas Tanah yang Sertifikat Kepemilikannya Belum Dibaliknamakan," *Jurnal Sakato Ekasakti Law Review* 1, no. 1 (2022).

the interactions and advancement of a nation, including Indonesia. Human demand for land continues to rise alongside population growth and urban expansion; however, this increase is not balanced by comprehensive land registration. This disparity triggers complex issues across legal, social, and policy domains. Given the present and future significance of land development, the current climate demands robust guarantees of legal certainty over land titles. Enhancing land administration is vital to resolving regional issues and serves as an indicator of economic development. In evaluating progress, attention must also be given to land accessibility for development. Land recognized or controlled by an individual is deemed a right protected by the state. Nevertheless, public law principles dictate that land rights are not absolute; rather, they are inherently limited by the public interest. Government Regulation No. 18 of 2021 on Land Registration—along with its implementing regulations—defines land registration as an ongoing, orderly, and interconnected series of activities conducted by the government. These activities comprise the collection, processing, recording, presentation, and maintenance of physical and legal data regarding land parcels and condominium units in the form of maps and registers. Land registration also includes the issuance of certificates as lawful proof of ownership for lands with established legal status.^[3] Land title certificates are crucial for rights holders because they serve as official proof of title, provide legal certainty, and enable third parties to obtain accurate information regarding the land.

When the transfer of land rights is not fully executed up to the title transfer (*balik nama*) stage at the land registry, subsequent legal complications may arise. For instance, former owners may still claim the land or challenge the validity of issued certificates. Buyers or transferees lacking valid legal title face the risk of losing their property rights. Given the paramount importance of land, ownership disputes frequently occur. As the supreme authority, the government must accord special attention to ensuring legal certainty. Land disputes have long posed legal challenges in both developed and developing countries. Over time, land disputes have become increasingly complex—such as when a former owner disappears or becomes untraceable, leaving the new occupant in legal uncertainty due to an unrecorded title transfer.^[4]

When purchasing land, the public must exercise due diligence to avoid disputes. Following a transaction, transferees should promptly register the rights transfer at the local Land Office to mitigate the risk of title challenges. Unupdated certificates inherently carry legal exposure. Prior to a transaction, buyers must verify that the Certificate of Ownership (*Sertifikat Hak Milik*) accurately corresponds to the seller's identity. For individuals who have not yet executed a title transfer, immediate registration is essential to avoid future legal issues. While sale and purchase transactions represent standard societal activities, land transactions frequently

trigger legal polemics particularly when agreements fail to comply with prevailing statutory regulations.

The prevalence of land disputes in Indonesia highlights persistent challenges in law enforcement. Ideally, the law should ensure that state institutions serve the public equitably without prejudice to any party.^[5] With the enactment of Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA), a national agrarian law framework was established to guarantee legal protection for the public. The UUPA aims to regulate the utilization of land, water, airspace, and natural resources in a just and peaceful manner. As the foundational pillar of national agrarian law, the UUPA lays down fundamental principles, while technical procedures are governed by implementing regulations. To guarantee legal certainty over land ownership, the UUPA mandates land registration throughout Indonesia.

This registration aims to clarify land rights, reduce potential disputes, and provide legal protection to rights holders. Acquisition of land rights typically occurs through various mechanisms, such as inheritance, direct possession (*occupatio*), grants/gifts (*hibah*), or property division. The UUPA regulates the mechanisms for acquiring ownership rights over land, initiating the land registration process with a formal title application to the state through the National Land Agency (BPN) in coordination with local government authorities.

However, public awareness regarding these administrative mechanisms remains limited. Land ownership acquired through official state application possesses stronger legal validity than informal transfers via inheritance or private transactions that lack recorded updates on title documents.^[6] To enhance legal certainty, the government promulgated Government Regulation No. 18 of 2021, updating Government Regulation No. 24 of 1997 on Land Registration. The final stage of land registration is the issuance of a title certificate, which serves as official and legally binding proof of ownership. Regarding land registration mechanisms as evidence of title, Article 1 paragraph (9) of Government Regulation No. 18 of 2021 provides:^[7]

"Land Registration is a series of activities carried out by the Government on a continuous, uninterrupted, and orderly basis, comprising the collection, processing, booking, and presentation as well as maintenance of physical data and legal data, in the form of maps and registers, concerning parcels of land and condominium units, including the issuance of certificates of rights for parcels of land with existing rights and ownership rights on condominium units as well as certain encumbering rights."

Land as an object of ownership may originate from grants, inheritance, exchanges, or purchase agreements. To prove that an individual holds valid title, a Land Ownership Certificate (*Sertifikat Hak*) is required. Article 13 paragraph (3) of Government Regulation No. 18 of 2021 states that "A copy of the land book and spatial measuring certificate, after

³ Yoseph James Palenewen and Manengkey, "Analisis Yuridis Pendaftaran Tanah Secara Sporadik pada Kantor Pertanahan Kabupaten Jayapura," *Jurnal Multidisiplin Ilmu* 1, no. 5 (2022).

⁴ Ibid.,

⁵ Yoseph James Palenewen, *Hukum Agraria dan Pendaftaran Tanah di Indonesia* (Bandung: Penerbit Media Karya, 2022).

⁶ Christiana Sri Murni and Sumirahayu Sulaiman, "Sertifikat Hak Milik Atas Tanah Merupakan Tanda Bukti Hak Kepemilikan Tanah," *Jurnal Ilmu Hukum* 8, no. 2 (2022).

⁷ Republic of Indonesia, *Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Condominium Units, and Land Registration*.

being bound together with a cover in a form prescribed by the Minister, shall be termed a certificate and issued to the entitled party."

Pursuant to Presidential Decree No. 26 of 1988 on the National Land Agency, BPN is the primary authority responsible for managing and developing land administration. One of its core functions is the issuance of land titles as official proof of ownership. In the land registration process, BPN or local Land Offices are assisted by Land Title Registrar Officials (*Pejabat Pembuat Akta Tanah / PPAT*). PPATs hold authorized jurisdiction over land transfers, responsible for executing land deeds (*akta tanah*) that serve as the legal basis for initial registration. These deeds are critical documents subsequently utilized to issue legal title certificates. While rights transfers may occur through grants, purchase, or lease agreements, many transfers lack robust legal evidence and rely solely on informal trust. Civil rights constitute an integral aspect of human rights that must be respected to maintain societal welfare and order. Law No. 5 of 1960 (UUPA) adopts a negative system of land registration with positive tendencies; information contained within a title certificate is presumed valid and holds legal force unless proven otherwise by superior evidence.

Consequently, it is imperative for landholders to ensure their ownership is officially recorded to prevent future disputes. When disputes arise, courts determine rights based on admissible evidence. Given the immense value of land, ownership disputes frequently emerge, generating systemic issues. Therefore, the government, as the supreme administrative authority, must provide special intervention to guarantee legal certainty and minimize potential disputes. Based on the background outlined above, this study addresses the following research questions:

1. What is the legal status of final and binding court decisions (*inkracht van gewijsde*) in providing legal certainty and land rights protection for the public?
2. What are the administrative procedures executed by the National Land Agency (BPN) regarding the cancellation and issuance of new land title certificates based on final court decisions?

Research Method

Legal research is a scientific activity based on specific methods, systems, and reflections aimed at studying one or several legal phenomena through systematic analysis.^[8] This study employs normative (doctrinal) legal research, which primarily examines library materials and secondary legal data as primary sources. In normative legal research, the inquiry centers on reviewing legislation and legal doctrines relevant to the issues under examination.^[9]

Because the object of research is law conceptualized as a system of norms or rules governing societal behavior, normative legal research focuses on analyzing the structure of legal norms, principles, and doctrines. It examines legal applications in specific cases, legal systems, degrees of legal

uniformity, comparative law, and legal history.^[10]

Furthermore, normative legal research utilizes a scientific inquiry process to discern legal truth based on legal logic from a normative perspective. The epistemology of normative legal research is built upon legal science itself, wherein the object of study is the internal structure and rules of law.^[11] Accordingly, this study analyzes issues regarding the legal status of final and binding court decisions as a basis for certificate issuance, aimed at formulating an ideal legal framework and ensuring legal protection for rights holders. To analyze the legal issues in this study, the following approaches are utilized:^[12]

1. **Statute Approach:** The statute approach is conducted by examining all laws and regulations relevant to the legal issues under study.^[13] Through this approach, the authors analyze potential statutory conflicts, ambiguities of norms (*kekaburan norma*), or legal voids (*kekosongan norma*) within the regulations governing land registration and court decision execution.
2. **Conceptual Approach:** The conceptual approach examines views, theories, and doctrines developed within legal science. These concepts provide a foundation for understanding legal principles, notions, and doctrines relevant to court decision enforcement and land title certification.^[14]

The technique for collecting legal materials in this study is library research (*studi kepustakaan*). Library research is conducted by gathering relevant statutes, judicial decisions, academic literature, and official documents pertinent to the legal issues analyzed. These legal materials are subsequently reviewed, analyzed, and interpreted to address the research questions posed.

The technique for analyzing legal materials involves legal interpretation (*hermeneutics*) applied to statutory provisions and relevant cases. The analytical techniques encompass grammatical interpretation and teleological interpretation:

- **Grammatical Interpretation:** This technique interprets legal provisions by analyzing the literal meaning of words, terms, and syntax contained within statutory texts.^[15]
- **Teleological Interpretation:** This technique interprets statutory provisions according to their objective purpose and social function, ensuring the application of law remains aligned with contemporary societal conditions and needs.

Discussion

1. The Legal Status of Final and Binding Court Decisions Regarding Legal Certainty and Land Rights Protection

The legal status of court decisions that have acquired final and binding legal force (*inkracht van gewijsde*) occupies a fundamental position in guaranteeing legal certainty and land rights protection within the Indonesian legal system. In the

⁸ Ani Purwati, *Metode Penelitian Hukum: Teori & Praktek*, ed. Tika Lestari, 1st ed. (Surabaya: CV. Jakad Media Publishing, 2020).

⁹ Komelius Benuf, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 3 (2020): 145–160, <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

¹⁰ Abdulkadir Muhammad, *Hukum Perdata Indonesia*, 1st ed. (Bandung: Citra Aditya Bakti, 2014).

¹¹ Johny Ibrahim, *Teori Dan Metode Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2005).

¹² Salim H.S. and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, 1st ed., 4th print (Jakarta: RajaGrafindo Persada, 2016), 17–18.

¹³ Peter Mahmud Marzuki, *Penelitian Hukum*, 12th print (Jakarta: Kencana Prenada Media Group, 2016), 133.

¹⁴ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), 67–68.

¹⁵ Afif Khalid, "Penafsiran Hukum Oleh Hakim Dalam Sistem Peradilan Di Indonesia," *Al 'Adl* 6, no. 11 (2014): 9–36.

framework of a modern constitutional state (*rechtsstaat*), as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, any legal dispute resolution must culminate in legal certainty that can be effectively enforced.^[16] A final court decision represents the definitive outcome of the adjudication process; it not only binds the litigating parties but also possesses executive force (*executabele kracht*) binding upon all legal subjects, including administrative bodies such as the National Land Agency (BPN). Consequently, such decisions cannot be viewed merely as judicial products, but rather as concrete norms that must be implemented in administrative land practice.^[17]

From the perspective of contemporary legal certainty theory, legal certainty is defined not merely as the existence of clear written rules, but also encompasses consistency in application and effectiveness in enforcement. According to Lon L. Fuller, a functional legal system must satisfy internal principles of legality, such as clarity, consistency, and enforceability (*the inner morality of law*). In this context, a final and binding court decision constitutes a concrete manifestation of legal certainty because it has undergone formal evidentiary proceedings resulting in a final determination of rights. However, if BPN fails to implement such decisions through administrative action, the principle of legal certainty becomes undermined, as the law no longer guarantees the realization of adjudicated rights.^[18]

Furthermore, modern legal theory posits that legal certainty must be balanced with substantive justice and utility. Robert Alexy emphasizes that law comprises a combination of rules and principles, wherein court decisions must reflect a balance between legal certainty and justice. In land disputes, a final court decision not only identifies the formally entitled party but must also provide substantive justice to aggrieved parties. Therefore, the administrative execution of such decisions by BPN is critical to ensure that judicial remedies are tangibly realized by the public.^[19]

Regarding legal protection, the conceptual framework developed by Philipus M. Hadjon remains highly relevant, provided it is contextualized within modern principles of good governance and human rights protection. Legal protection entails not only judicial dispute resolution (*repressive protection*), but also encompasses the state's positive obligation to ensure that judicial decisions are effectively executed (*preventive and corrective protection*).^[20] Within this scheme, a final court decision represents repressive legal protection, whereas subsequent administrative actions by BPN constitute preventive and corrective legal protection to prevent recurring infringements on land rights.^[21]

In the context of modern administrative law, BPN's duty to execute court decisions can be analyzed through good governance principles and the General Principles of Proper Administration (*Algemene Beginselen van Behoorlijk Bestuur* / AUPB)—specifically the principles of legal certainty, due care (*zorgvuldigheid*), and the prohibition of

abuse of authority (*détournement de pouvoir*). According to Ridwan HR, every administrative action must be grounded in law and may not disregard final judicial decisions. Consequently, administrative inaction or refusal by BPN to execute court decisions constitutes a violation of the principle of legality and the AUPB, directly prejudicing the rights holder.

Moreover, recent agrarian regulatory developments reinforce the status of judicial rulings as the legal foundation for administrative acts. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN No. 21 of 2020 on the Handling and Resolution of Land Cases explicitly establishes that final and binding court decisions serve as a primary basis for resolving land cases. This establishes normative recognition that *inkracht* decisions hold binding force both judicially and administratively. Accordingly, BPN carries a legal obligation to adjust land registry data in accordance with the operative court orders (*dictum*).

Nevertheless, a significant gap between norms and implementation persists in practice. Numerous court decisions are not promptly executed by BPN due to administrative hurdles, technical constraints, or local conflicts of interest. This disparity reflects the divide between *law in books* and *law in action*, which, as Soerjono Soekanto notes, is influenced by legal structure, legal substance, and legal culture. Although a court decision provides normative legal certainty, without effective administrative execution, such certainty remains illusory and fails to offer meaningful protection.^[22]

Under Indonesia's land registration system—which adopts a negative publication system with positive tendencies—a land title certificate serves as strong legal evidence of ownership, but it is not absolute (*indefeasible*). Therefore, a final and binding judicial decision holds superior legal standing in determining true ownership, as it results from a comprehensive and objective evidentiary process. Consequently, such decisions must serve as the primary legal basis for correcting land registry data to reflect the true legal status.

2. Procedures for Revocation and Reissuance of Certificates by BPN Based on Final Court Decisions

The administrative procedure for the revocation and reissuance of land title certificates by the National Land Agency (BPN) pursuant to final and binding court decisions (*inkracht van gewijsde*) constitutes a vital component of legal enforcement in land administration. In a modern constitutional state (*rechtsstaat*), judicial rulings must not remain mere formal determinations; they require concrete implementation through administrative actions by competent authorities. As a government agency possessing attributed authority in land administration, BPN bears a legal responsibility to execute final judicial rulings by revoking invalidated title certificates and issuing new certificates reflecting the court order (*dictum*).

From an administrative law perspective, BPN's authority to

¹⁶ Ridwan HR, *Hukum Administrasi Negara* (Jakarta: Rajawali Pers, 2020), 112–114.

¹⁷ Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia* (Yogyakarta: Cahaya Atma Pustaka, 2019), 215–217.

¹⁸ Ridwan HR, *Hukum Administrasi Negara* (Jakarta: Rajawali Pers, 2020), 118–120.

¹⁹ *Ibid.*, 125–127.

²⁰ Philipus M. Hadjon, *Pengantar Hukum Administrasi Indonesia* (Yogyakarta: Gadjah Mada University Press, 2002).

²¹ Riski Apriani and Abd. Rais Asmar, "Pelaksanaan Pembatalan Sertifikat Hak Milik Atas Tanah oleh Badan Pertanahan Nasional Berdasarkan Putusan Pengadilan Tata Usaha Negara," *Alauddin Law Development Journal* 4, no. 1 (2021): 45–47.

²² Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum* (Jakarta: Rajawali Pers, 2019), 8–10.

revoke and reissue land certificates must be grounded in the principle of legality (*wetmatigheid van bestuur*), requiring all administrative acts to possess explicit statutory authority. Ridwan HR notes that the principle of legality serves as the primary foundation of good governance, mandating that every administrative decision comply with prevailing laws and regulations.^[23] In this context, BPN's statutory grounds for certificate revocation include Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA), Government Regulation No. 24 of 1997 on Land Registration (as updated by Government Regulation No. 18 of 2021), and Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN No. 21 of 2020 on the Handling and Resolution of Land Cases. A final court decision provides valid legal authorization for BPN to perform these administrative acts.

Procedurally, certificate revocation based on a judicial decision initiates upon application by the prevailing party in the dispute. The application must be accompanied by official documentation, including an authenticated copy of the final court decision (*inkracht van gewijsde*). Subsequently, BPN conducts formal verification to confirm the legal force of the ruling and ensure that no extraordinary legal remedies (*peninjauan kembali*) are pending that stay execution. This verification stage is essential to ensure legal certainty and prevent administrative errors during execution.

Following verification, BPN examines the land's physical and legal data. This examination involves inspecting boundary lines, rights status, and verifying spatial records in the land book against field conditions.^[24] Within the framework of legal certainty theory, this step represents a concrete effort to align administrative records with legal reality. As Lon L. Fuller asserts, a functional legal system must operate consistently without generating ambiguity; thus, rigorous data verification ensures that certificate revocation proceeds accurately without spawning secondary disputes.^[25]

If data verification confirms that an existing certificate conflicts with a final court ruling, BPN issues an administrative decree revoking the title certificate. This decree constitutes an administrative decision (*beschikking*) with direct legal consequences for the land title status. In this context, revocation represents not merely a clerical act, but the administrative execution of a binding court decision. Consequently, revocation decrees must be executed with due prudence (*zorgvuldigheid*) to avoid prejudicing non-litigating third parties.

Following revocation, BPN issues a new title certificate to the entitled party designated in the court decision. This phase involves updating physical and legal data, conducting resurveys where necessary, and recording the new title in the land registry. Reissuing the certificate provides official administrative recognition of judicially affirmed rights, conferring heightened legal certainty upon the titleholder.

From the perspective of legal protection theory, this process represents post-adjudication protection, ensuring that rights affirmed by the judiciary are tangibly realized.^[26] In practice, however, administrative execution encounters frequent impediments. A primary obstacle arises when court rulings lack explicit orders (*dictum*) directing BPN to revoke a certificate or amend land records. This lack of specificity leads to divergent interpretations within BPN regarding the scope of required administrative action. Additionally, physical resistance or persistent legal maneuvers from losing parties further delay execution. These challenges demonstrate that executing judicial decisions depends not only on legal norms, but also on prevailing social dynamics and legal culture.

Under good governance theory, BPN's execution of court decisions must adhere to the General Principles of Proper Administration (*Algemene Beginselen van Behoorlijk Bestuur* / AUPB) including legal certainty, due care, transparency, and accountability.^[27] Jimly Asshiddiqie notes that good governance requires administrative acts to be conducted transparently and accountably in the public interest. Therefore, in revoking and reissuing certificates, BPN must ensure procedural transparency to prevent institutional distrust or renewed conflict.^[28]

Furthermore, applying Soerjono Soekanto's legal effectiveness theory reveals that executing judicial rulings depends on legal substance, legal structure, and legal culture.^[29] Although legal substance provides clear authority for BPN to execute court rulings, institutional deficiencies or low legal awareness among the public can impede effective execution. Enhancing BPN's institutional capacity and fostering public legal literacy remain necessary to ensure effective certificate revocation and reissuance procedures.

Thus, administrative revocation and reissuance of land title certificates by BPN based on final court decisions form an integral component of the land law system aimed at realizing legal certainty and protecting property rights. However, procedural efficacy relies heavily on BPN's consistent execution, clear judicial dictums, and supporting institutional frameworks. Strengthening regulations, improving inter-institutional coordination, and applying good governance principles are essential to ensure judicial decisions are effectively implemented in land administration.

In modern land law development, administrative revocation and reissuance procedures must also be viewed through the lens of bureaucratic reform and digitalization. This transformation demands transparent, accurate, and integrated land administrative systems to expedite court decision execution while minimizing administrative errors. Implementing electronic land registration systems is expected to reduce overlapping land titles and streamline data verification. However, digital transformation requires

²³ Philipus M. Hadjon *et al.*, *Pengantar Hukum Administrasi Indonesia* (Yogyakarta: Gadjah Mada University Press, 2024), 85–87.

Riski Apriani and Abd. Rais Asmar, "Pelaksanaan Pembatalan Sertifikat Hak Milik Atas Tanah oleh Badan Pertanahan Nasional Berdasarkan Putusan Pengadilan Tata Usaha Negara," *Alauddin Law Development Journal* 4, no. 1 (2021): 46–48.

^[31] *Ibid.*

²⁴ Muhammad Junaidi, "Efektivitas Pelaksanaan Putusan Pengadilan dalam Menjamin Kepastian Hukum," *Jurnal Hukum dan Peradilan* 11, no. 2 (2022): 158–160.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Philipus M. Hadjon *et al.*, *Pengantar Hukum Administrasi Indonesia* (Yogyakarta: Gadjah Mada University Press, 2024), 145–148.

²⁸ Arie Soelistyo, Wira Franciska, and Hedwig Adianto Mau, "Perlindungan Hukum terhadap Pihak yang Menang oleh Pengadilan Akibat Pelaksanaan Eksekusi yang Tidak Bisa Dilaksanakan Berdasarkan Putusan yang Sudah Inkrah," *ARMADA: Jurnal Penelitian Multidisiplin* 2, no. 8 (2024): 704–706.

²⁹ Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum* (Jakarta: Rajawali Pers, 2019), 7–9.

adequate human resources and technological infrastructure to avoid creating new administrative complications during execution.^[30]

On the other hand, certificate revocation procedures cannot be separated from protecting good-faith third parties (*derden ter tegoeder trouw*). Disputes occasionally arise where a third party acquires land rights in good faith based on valid administrative records, only for those rights to be subsequently revoked under a court decision. This situation creates a tension between legal certainty and third-party protection. Therefore, when executing revocations, BPN must carefully evaluate the legal impact, including potential compensation mechanisms or protective remedies for affected good-faith acquirers.^[31]

In modern administrative law, BPN's revocation actions must also conform to the principle of proportionality. Revocation acts must not be executed arbitrarily; rather, they must maintain a fair balance between private rights and the public interest. This principle prevents administrative abuse of authority (*détournement de pouvoir*) while ensuring that administrative acts remain necessary and proportional to their intended legal objectives.^[32]

Additionally, the efficacy of land dispute execution depends on inter-agency coordination. Relationships between judicial bodies and BPN should operate within a collaborative, synergistic framework. Administrative disconnects frequently cause execution delays and spark localized conflict. Establishing structured coordination mechanisms—such as joint Standard Operating Procedures (SOPs) or integrated digital networks between courts and BPN is essential.^[33]

In terms of legal enforcement, executing court rulings often requires support from law enforcement agencies, such as the police and local government authorities. Such inter-agency support is critical when facing physical resistance or social unrest during execution. Supporting enforcement mechanisms ensures that court decisions are executed safely and effectively without disrupting public order.^[34]

Finally, from a progressive jurisprudence perspective, executing court decisions in land matters should extend beyond formal procedural compliance to encompass substantive social justice. BPN serves not merely as a clerical administrator, but as a public institution bearing a moral duty to ensure land policies yield broader societal benefit. This approach is vital given that land carries immense economic, social, and cultural value within Indonesian society.^[35]

Procedural Framework for Issuing New Replacement Title Certificates

The procedure for issuing a new land title certificate by the National Land Agency (BPN) as a replacement for an invalidated certificate constitutes an administrative action to restore or adjust the legal status of land rights following the cancellation of a prior title certificate. Certificate revocation

may occur due to administrative defects, final and binding court decisions (*inkracht van gewijsde*), overlapping property rights, or procedural errors during the initial issuance.

1. Statutory Foundations

The issuance of new land certificates by BPN following administrative revocation rests upon a robust legal basis within the Indonesian land law system. This statutory framework serves as an authoritative guide for government officials, land officers, and the public to ensure legal certainty over real property rights. The primary legal instruments include:

- **Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA):** As the foundational pillar of national land law, the UUPA governs the control, ownership, use, and registration of land across Indonesia. The UUPA establishes state authority to regulate the allocation, utilization, and preservation of land, water, and spatial resources for the greatest prosperity of the people. Under Article 19 of the UUPA, the government is mandated to conduct nationwide land registration to guarantee legal certainty, resulting in the issuance of title certificates as strong evidence of rights (*alat pembuktian yang kuat*). When a certificate is invalidated due to administrative flaws, judicial rulings, or other legal grounds, the state—acting through BPN—holds the statutory authority to adjust land data and issue a new certificate to the rightful rights holder. Thus, the UUPA provides the philosophical and normative basis for certificate revocation and reissuance.
- **Government Regulation No. 24 of 1997 on Land Registration:** Technical mechanisms for land registration and administrative maintenance are governed by Government Regulation No. 24 of 1997 (as updated by Government Regulation No. 18 of 2021). While land certificates serve as strong evidence of physical and legal data, registration records may be amended or revoked upon discovering administrative errors, overlapping rights, legal defects, or final judicial rulings. This regulation grants explicit authority to local Land Offices (*Kantor Pertanahan*) to record changes in land data, invalidate unauthorized records, correct land books (*buku tanah*), and issue replacement certificates based on updated administrative data.
- **Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN No. 21 of 2020:** Specific administrative mechanisms regarding land case resolution and certificate revocation are detailed in Ministerial Regulation No. 21 of 2020. This regulation sets out procedures for handling land disputes, revoking land rights and certificates, and executing administrative follow-ups pursuant to judicial rulings or internal BPN audits. Certificate revocation is authorized in instances of administrative defects, procedural errors, final court

³⁰ Rina Shahriyani Shahrullah, "Digitalisasi Layanan Pertanahan dalam Mewujudkan Kepastian Hukum Hak Atas Tanah," *Jurnal Rechtsvinding* 12, no. 2 (2023): 215–217.

³¹ Dwi Putri Saraswati, "Perlindungan Hukum bagi Pihak Ketiga Beritikad Baik dalam Sengketa Pertanahan," *Jurnal Hukum Ius Quia Iustum* 30, no. 1 (2023): 89–91.

³² Ahmad Redi, "Prinsip Proporsionalitas dalam Hukum Administrasi Negara," *Jurnal Konstitusi* 19, no. 3 (2022): 412–414.

³³ M. Ilham Fajar, "Koordinasi Antar Lembaga dalam Pelaksanaan Putusan Pengadilan di Bidang Pertanahan," *Jurnal Hukum dan Pembangunan* 53, no. 1 (2023): 102–104.

³⁴ Siti Nurjanah, "Peran Aparat Penegak Hukum dalam Eksekusi Putusan Sengketa Tanah," *Jurnal Yudisial* 15, no. 2 (2022): 178–180.

³⁵ Satjipto Rahardjo, "Hukum Progresif sebagai Dasar Perlindungan Hak Masyarakat," *Jurnal Hukum Progresif* 10, no. 1 (2022): 5–7.

decisions, overlapping titles, or statutory violations. Following revocation, the local Land Office must adjust physical and legal data within the land registry and reissue a new title certificate to the judicially or administratively declared rights holder.

- **Administrative Authority of the Ministry of ATR/BPN:** Beyond statutory regulations, the authority to issue replacement certificates derives from the core institutional mandate of the Ministry of Agrarian Affairs and Spatial Planning/BPN. BPN possesses executive authority over land registration, registry data management, dispute resolution, and the revocation or issuance of land titles. Executed through Regency/Municipal Land Offices, Provincial Regional Offices, and the central Ministry, this administrative power allows BPN to invalidate legally defective titles and issue new certificates based on administrative audits, mediation settlements, or final court decisions.
- **Final Court Decisions as Judicial Imperatives:** Final judicial rulings—whether originating from State Administrative Courts (*PTUN*), District Courts, or the Supreme Court (*Mahkamah Agung*)—constitute an imperative legal basis for reissuing certificates. When a judicial ruling invalidates a land certificate, BPN is obligated to execute the decision by expunging prior entries, updating the land book, rectifying administrative records, and reissuing a replacement certificate to the entitled party, thereby upholding legal certainty and judicial authority.

2. Legal Definition and Implications of Certificate Revocation

Administrative certificate revocation (*pembatalan sertifikat*) is an official act performed by the Minister of ATR/BPN or authorized officials declaring a land title certificate devoid of legal force. Revocation may stem from final court rulings, procedural defects during issuance, discrepancies in physical or legal data, overlapping ownership, fraudulent documentation, or survey errors.

The legal consequences of revocation include:

1. Nullification of the prior certificate;
2. Formal closure or administrative correction of the corresponding land book;
3. Restoration of land rights to the lawful owner; and
4. Authorization to issue a new title certificate once statutory prerequisites are satisfied.

3. Administrative Procedures for Reissuing Replacement Certificates

The process of issuing a new title certificate to replace an invalidated document follows a structured, sequential administrative procedure:

[Legal Grounds Established]



[Land Registry Annotation & Closure]



[Application for New Certificate]



[Examination of Legal & Physical Data]



▼
[Stipulation of Land Right]



▼
[Issuance & Delivery of New Certificate]

- **Establishment of Legal Grounds:** The process begins with an authoritative legal basis, such as a final court decision (*inkracht van gewijsde*) or an administrative revocation decree issued by the Minister, Regional Head, or Land Office Chief (e.g., an order revoking a Certificate of Ownership invalidly issued over third-party land).
- **Land Registry Annotation and Closure:** Upon revocation, the local Land Office records the cancellation, withdraws or declares the prior certificate void, enters an official annotation in the land book, and updates physical and legal records. Correcting the land book is essential, as it forms the legal prerequisite for issuing a replacement title.
- **Application Submission:** The judicially or administratively declared rights holder submits a formal application for a new certificate to the local Land Office. Required supporting documentation includes applicant identification, underlying land title deeds (*alas hak*), certified court rulings or revocation decrees, spatial measuring certificates (*surat ukur*), proof of physical land possession (*penguasaan fisik*), a sworn statement of non-dispute, and proof of tax payments (BPHTB/PPh) where applicable.
- **Examination of Legal and Physical Data:** BPN conducts a comprehensive verification process comprising document authentication, title chain examination, field inspections, re-surveys (if needed), and public notice announcements to allow potential third-party claims. If a new conflict emerges during this stage, proceedings may be stayed pending resolution.
- **Stipulation of Land Right (*Penetapan Hak*):** Upon verifying that all statutory requirements are satisfied, the Head of the Land Office issues a formal decree stipulating the land right, opens a new land book, and registers the property right. This administrative act serves as the direct foundation for certificate reissuance.
- **Certificate Issuance and Delivery:** Following registration in the land book, BPN issues the new land title certificate (which may bear an updated title number). The prior certificate is formally rendered null and void, while the new certificate acquires full legal force as conclusive proof of ownership under national land law.

Conclusion

This study demonstrates that final and binding court decisions (*inkracht van gewijsde*) hold a paramount and irreplaceable legal status in establishing legal certainty and protecting land rights within Indonesia's agrarian law framework. As a concrete manifestation of judicial adjudication, an *inkracht* court ruling not only binds the litigating parties but also imposes an administrative obligation on the National Land Agency (BPN) to execute the judicial mandate. Within Indonesia's negative land registration system with positive tendencies, where land title certificates serve as strong yet non-absolute evidence, a final judicial decision serves as the ultimate authority to correct

inaccurate land registry data and restore rights to their lawful holders.

The administrative procedure for revoking invalidated certificates and reissuing new ones by BPN is a structured multi-stage process governed by Law No. 5 of 1960 (UUPA), Government Regulation No. 18 of 2021, and Ministerial Regulation ATR/BPN No. 21 of 2020. This process encompasses formal application by the prevailing party, verification of court rulings, physical and legal data re-examination, land book annotation and closure, formal title stipulation (*penetapan hak*), and the issuance of a new replacement certificate. However, the practical efficacy of this mechanism is frequently hindered by non-explicit court order dictums (*amar putusan*), administrative inertia, physical resistance from losing parties, and discrepancies between judicial rulings and field realities.

To bridge the gap between *law in books* and *law in action*, a stronger institutional synergy between the judicial system and BPN is essential. This can be achieved through standardized inter-agency operating procedures (SOPs), integrated digital land registries, strict adherence to the General Principles of Proper Administration (AUPB), and proportional safeguards for good-faith third parties. Ultimately, ensuring the seamless administrative execution of final court decisions is critical to transforming judicial remedies into tangible legal protection and social justice for the public.

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