



## Unlawful Land Certificate Acquisition and its Implications for Legal Certainty of Land Rights in Indonesia

Riziq Abdul Aziz<sup>1\*</sup>, Annisaa Nurwahidah Afif<sup>2</sup>, Ridwan Ahmad Desyanto<sup>3</sup>, Arina Nur Afifah<sup>4</sup>, Agatha Jumiati<sup>5</sup>

<sup>1-5</sup> Fakultas Hukum Universitas Slamet Riyadi Surakarta, Indonesia

\*Author Correspondence: [riziqabdul16@gmail.com](mailto:riziqabdul16@gmail.com)<sup>1</sup>

**Abstract:** *The illegal acquisition of land certificates is a serious problem in Indonesia's land law system because it has the potential to eliminate legal certainty regarding land rights. Certificates that are supposed to serve as strong proof of rights can still be obtained thru unauthorized possession, manipulation of legal data, or deviations from administrative procedures. This research aims to analyze the acquisition of illegal land certificates from a land law perspective and its legal implications for legal certainty. The research method used is normative legal research with a statutory approach and a conceptual approach, examining Law Number 5 of 1960, Government Regulation Number 24 of 1997, and Government Regulation Number 18 of 2021. The research results indicate that land certificates obtained illegally contain legal defects and can be revoked, and also have administrative, civil, and criminal legal implications that directly disrupt legal certainty regarding land rights. Therefore, consistent law enforcement and strengthening the land registration system are needed to ensure legal protection and certainty of land rights in Indonesia.*

**Keywords:** *Invalid Land Certificate; Land Law; Land Registration; Land Rights; Legal Certainty.*

### 1. INTRODUCTION

Land is a resource of strategic value in the lives of Indonesian society. Beside its economic value, land also has very important social, political, and legal dimensions. Land ownership and control are often a source of conflict due to land scarcity and high societal needs. Therefore, the state plays a central role in regulating and ensuring legal certainty of land rights. The regulation aims to create order, justice, and legal certainty in the field of land. The Indonesian Constitution, thru Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, affirms that land, water, and natural resources are controlled by the state for the greatest possible prosperity of the people. This provision serves as the philosophical basis for the state's control over land. The state acts as the regulator, manager, and supervisor of land use. In carrying out these functions, the state is obliged to guaranty legal certainty for land rights holders. This legal certainty is a primary prerequisite for the realization of social justice.

As an implementation of the constitutional mandate, Law Number 5 of 1960 concerning Basic Agrarian Regulations was formed as the legal basis for national land ownership. The UUPA aims to end the dualism of agrarian law and create a national land law system. One of the main objectives of the UUPA is to provide legal certainty regarding land rights. Legal certainty is realized thru the implementation of land registration. With land registration, land rights receive legal recognition and protection. Land registration is further regulated in Government Regulation Number 24 of 1997 concerning Land Registration. Land

registration aims to guaranty legal certainty and legal protection for right holders. The result of land registration is the issuance of a certificate of land rights. The certificate contains physical and legal data that has been verified by the state. Therefore, the certificate is positioned as a strong tool for proving rights.

Article 32 paragraph (1) of Government Regulation Number 24 of 1997 states that a certificate is strong evidence of physical and legal data. The purpose of this evidentiary strength is to protect land rights holders. However, the strength of the certificate is not absolute. The certificate can still be challenged and revoked if it is proven to have been obtained illegally. This shows that a certificate does not always reflect the validity of the right in substance. In practice, there are still many instances of illegal land certificate acquisition. This invalidity can be caused by procedural errors, data manipulation, document forgery, or abuse of authority. It is not uncommon for certificates to be issued on land that is still disputed or land that does not belong to the applicant. This condition renders the certificate legally defective. As a result, the goal of land registration to create legal certainty was not achieved.

The acquisition of illegal land certificates often stems from the occupation of land without a valid legal basis. Physical control of the land is often used as a basis for applying for a certificate. In fact, national agrarian law does not recognize mere physical possession as the basis for acquiring land rights. Land rights can only be obtained thru mechanisms determined by law. Thus, legalizing possession without right thru a certificate is a legal deviation. Land certificates obtained illegally lead to conflicts between legal ownership and actual possession. The conflict often leads to prolonged land disputes. This dispute not only harms the rightful landowners but also disrupts social order. Additionally, land disputes hinder development and investment. This condition indicates that invalid certificates have broad legal implications.

Government Regulation Number 18 of 2021 was introduced to strengthen the land registration system and prevent the issuance of legally flawed certificates. This regulation emphasizes the importance of accuracy in the examination of physical and legal data. The principle of prudence becomes an obligation for land officials in exercising their authority. However, in practice, this provision has not been fully effective. Certificates issued without adequate verification are still being found. The illegal acquisition of land certificates has legal implications in various fields. From an administrative law perspective, a legally defective certificate can be revoked by the competent official or thru a court decision. From a civil law perspective, the certificate cannot be used as a basis for recognizing rights. In fact, under certain conditions, obtaining an invalid certificate can contain criminal elements. Thus, this issue is multidimensional.

The existence of invalid land certificates also impacts the disruption of legal certainty regarding land rights. Legal certainty is a fundamental principle in a state governed by law. Without legal certainty, landowners do not receive optimal protection. This condition lowers public trust in the land law system. Therefore, invalid land certificates pose a serious threat to the national agrarian legal system. Research on the illegal acquisition of land certificates is important to conduct academically. Normative legal research is needed to analyze the legal provisions governing the validity of land certificates. Additionally, this research can examine the legal implications for legal certainty. Normative analysis also allows for the identification of regulatory and implementation weaknesses. Thus, this research has both theoretical and practical value.

Based on the description, the acquisition of illegal land certificates is a complex and far-reaching legal issue. A certificate that is supposed to be a tool for legal protection can actually become a source of dispute if it is issued with legal defects. Therefore, an in-depth study is needed on the acquisition of illegal land certificates and their implications for legal certainty of land rights. This research is expected to contribute to strengthening the land law system. With guarantyd legal certainty, the goals of national agrarian law can be optimally realized.

## **2. RESEARCH METHOD**

This research is normative legal research that examines the acquisition of illegal land certificates and its implications for legal certainty of land rights based on applicable legal norms. The approach used includes a statutory approach, examining Law Number 5 of 1960 concerning Basic Agrarian Regulations, Government Regulation Number 24 of 1997 concerning Land Registration, and Government Regulation Number 18 of 2021 as the legal basis for land registration and certificate issuance. Additionally, a conceptual approach was used to analyze the concepts of land certificate validity, legal certainty, and land administration authority. The legal materials used consist of primary legal materials such as legislation and court decisions related to land certificate disputes, as well as secondary legal materials such as textbooks and scientific journals in the field of agrarian law. The legal material analysis was conducted qualitatively using the deductive reasoning method to draw conclusions regarding the legal status of invalid land certificates and their legal implications within the national land law system.

### **3. RESULTS AND DISCUSSION**

#### **Illegal Land Certificate Transfer in the Perspective of Land Law**

A land title certificate is a product of state administrative law issued through the land registration process. In the Indonesian land law system, a certificate is intended as proof of right that provides legal certainty. However, certificates do not always reflect the validity of rights in material terms. The invalidity of a certificate can occur if the process of obtaining it does not comply with applicable legal provisions. The acquisition of land certificates must be analyzed not only from a formal aspect but also from a substantive one. Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles serves as the main foundation for regulating land rights in Indonesia. The UUPA emphasizes that the right to land can only be obtained through means determined by law. Any acquisition of rights that contradicts these provisions is considered invalid. The principle of legality is the main basis for assessing the validity of land certificate acquisition. Therefore, certificates issued from a process that violates the UUPA are legally flawed.

Land registration as a mechanism for obtaining certificates is detailed in Government Regulation Number 24 of 1997 concerning Land Registration. This regulation requires the truth of physical and legal data as the basis for issuing certificates. If the submitted data is incorrect or obtained unlawfully, the issued certificate becomes invalid. The obligation of land officials to research data is part of the principle of administrative due diligence. Negligence at this stage could result in a legally defective certificate. Land title certificates have strong evidentiary power as stipulated in Article 32 paragraph (1) of Government Regulation Number 24 of 1997. However, this strength is relative because the Indonesian land registration system adopts a negative publication system that contains positive elements. The state does not fully guarantee the material truth of the certificate. Therefore, a certificate can still be challenged and revoked if it is proven to have been obtained illegally. This confirms that certificates are not evidence immune to legal correction.

The acquisition of illegal land certificates is often caused by the unlawful possession of land. Mere physical possession alone cannot be the basis for acquiring land rights under national agrarian law. Land rights must be based on a legitimate legal relationship between the subject and the object of the land. When unlawful possession is legalized through a certificate, it deviates from the principle of legal certainty. This condition indicates a conflict between social reality and legal norms. Besides unauthorized possession, the invalidity of a certificate can also arise from document forgery or manipulation of legal data. This practice contradicts the principles of honesty and good faith in acquiring land rights. Certificates

issued based on forged documents have no legal validity. From a land law perspective, this kind of acquisition is a form of abuse of the state administration system. As a result, the certificate can be canceled by law.

Government Regulation Number 18 of 2021 emphasizes the importance of accuracy and precision in the implementation of land registration. This regulation governs the obligation to verify and validate data before issuing certificates. The goal is to prevent the issuance of invalid certificates. However, in practice, this provision still faces various implementation challenges. Weak supervision is one of the main factors leading to the issuance of legally defective certificates. The invalidity of land certificates can also be caused by overlapping land rights. Overlapping often occurs due to the lack of integration of land data and a weak administrative system. In this condition, two or more certificates can be issued for the same land object. Certificates issued later could potentially be declared invalid. This reflects the failure of the land registration system to guaranty legal certainty.

From an administrative law perspective, a land certificate is a state administrative decision. If the decision is published in violation of the law, it can be overturned. The purpose of certificate cancelation is to restore the legal situation to its correct position. This principle aligns with the principles of legality and good governance. An invalid certificate cannot be maintained even if it has been issued for a long time. The illegal acquisition of land certificates is also related to the responsibility of land officials. Officials who are negligent or abuse their authority can be held administratively accountable. Under certain conditions, this liability can extend to civil or criminal domains. This shows that obtaining an invalid certificate not only affects the certificate holder. The state, as the administrator of land administration, also has legal responsibilities.

The invalidity of land certificates reflects the weak implementation of the principle of legal certainty. Legal certainty is the primary goal of land registration, as stated in the UUPA and Government Regulation Number 24 of 1997. When a certificate can be obtained illegally, the function of the certificate as a tool for legal protection is degraded. This condition leads to public distrust of the land law system. As a result, the potential for land disputes is increasing. In judicial practice, invalid land certificates are often the subject of disputes. The court assesses the validity of the certificate not only from a formal aspect but also from a material aspect. The judge considered the origin of the right and the process of obtaining it. Certificates obtained thru unlawful acts can be declared legally invalid. This confirms that the validity of a certificate is highly dependent on the process by which it was obtained.

The illegal acquisition of land certificates is contrary to the objectives of national agrarian law. These goals include justice, utility, and legal certainty. Certificates that are legally flawed actually create injustice and social conflict. Therefore, strengthening regulations and supervision has become an urgent need. The state must ensure that every certificate issued truly reflects legitimate rights. The illegal acquisition of land certificates is a fundamental issue in Indonesian land law. Certificates cannot be viewed solely as administrative documents, but must be seen as legal products born from a legitimate process. Any deviation in the process would invalidate the certificate. Land law analysis emphasizes the importance of the integrity of the land registration system. Only thru a legitimate process can a certificate serve as a tool to guaranty legal certainty of land rights.

### **Legal Implications of Illegally Obtained Land Certificates**

The illegal acquisition of land certificates has serious legal implications for the national land system. The certificate that was supposed to provide legal certainty has instead become a source of uncertainty. This contradicts the purpose of land registration as stipulated in the UUPA and PP Number 24 of 1997. The invalidity of the certificate creates a conflict between legal ownership and factual reality. As a result, legal protection for legitimate rights holders is disrupted. The first legal implication arises in the realm of administrative law. A land title certificate is an administrative decision whose validity can be challenged. If its publication violates legal procedures or substance, the certificate can be revoked. Cancellation can be done by the land agency or thru a court decision. This is in line with the principles of legality and good governance.

Government Regulation Number 18 of 2021 provides the legal basis for canceling administratively flawed certificates. Certificates obtained thru incorrect data or a flawed process may be declared invalid. This cancellation aims to restore the legal situation to its rightful state. Thus, an invalid certificate cannot be upheld simply because it has been issued. The state is obligated to make administrative corrections for the sake of legal certainty. From a civil law perspective, an invalid land certificate cannot be used as a basis for perfect proof of rights. The certificate loses its probative force if it is proven to have been obtained unlawfully. Affected landowners can file a civil lawsuit in court. The lawsuit can be based on a violation of rights or an unlawful act. Therefore, an invalid certificate does not provide legal protection to its holder. Article 1365 of the Civil Code is an important basis for assessing the civil implications of an invalid certificate. The issuance of a certificate that harms another party constitutes an unlawful act. These elements include the existence of an act, fault, damage, and a causal relationship. The legal consequences can include the return

of rights, compensation, or the eviction from the land object. This confirms that an invalid certificate gives rise to legal liability. Legal implications can also extend into the realm of criminal law. If obtaining the certificate involves forging documents or providing false information, criminal sanctions may be imposed. Such actions are contrary to the provisions of criminal law that protect the validity of state documents. Criminal law serves as the ultimate remedy in land disputes. Thus, an invalid certificate can have criminal consequences for the parties involved.

Land officials involved in issuing invalid certificates can also be held legally accountable. Negligence or abuse of authority can lead to administrative sanctions. Under certain conditions, this liability can evolve into civil or criminal responsibility. This indicates that the legal implications of invalid certificates are systemic. The state must ensure the accountability of land administration apparatus. The legal implications of obtaining an invalid certificate also affect the legitimate landowner. Their rights are threatened by the existence of legally defective certificates. Disputes that arise are often lengthy and costly. This condition contradicts the principle of legal protection that the state is supposed to provide. Therefore, an invalid certificate genuinely harms the good-faith party.

Beside impacting individuals, invalid land certificates also affect the public interest. Land disputes can hinder development and investment. Legal uncertainty reduces business actors' trust in the land system. This has a negative impact on national economic growth. Thus, the legal implications of an invalid certificate are broad and multidimensional. In the context of legal certainty, an invalid certificate undermines the principle of the rule of law. Legal certainty is a fundamental element in the national legal system. Without legal certainty, the law loses its regulatory and protective functions. Invalid certificates indicate weak land law enforcement. This condition demands serious improvements in the land registration system.

Another legal implication is the increasing burden on the judiciary due to land certificate disputes. The court must resolve conflicts that could have been prevented administratively. This indicates that the illegitimate acquisition of certificates reflects a failure of the prevention system. Prevention should be the main focus in land administration. With a strong system, disputes can be minimized. To address these legal implications, it is necessary to strengthen regulations and law enforcement. Supervision of the land registration process must be tightened. The principles of prudence and transparency must be consistently upheld. Digitalization and integration of land data can be a preventive

solution. This step is important to prevent the issuance of invalid certificates in the future. The legal implications of obtaining an invalid land certificate are very complex and far-reaching. Invalid certificates not only lead to individual disputes but also disrupt the entire land law system. Legal protection and legal certainty become difficult to achieve if legally defective certificates are allowed to remain. Therefore, strict and consistent law enforcement is a necessity. Only in this way can legal certainty regarding land rights in Indonesia be guaranteed.

#### **4. CONCLUSION**

The acquisition of an invalid land certificate is a consequence of not meeting the formal and/or material requirements in the land registration process as stipulated in the UUPA, PP Number 24 of 1997, and PP Number 18 of 2021. Certificates obtained thru unlawful possession, incorrect legal data, or deviations from administrative procedures lack legal legitimacy, even if formally issued by the state. This condition indicates that a land ownership certificate is not an absolute form of evidence, but can be revoked if proven to be legally defective. Thus, the validity of the certificate is highly dependent on the acquisition process, which must comply with land law provisions. This confirms the importance of the principle of legality and due diligence in the administration of land registration. The legal implications of obtaining an invalid land certificate are far-reaching and have a direct impact on the legal certainty of land rights in Indonesia. Invalid certificates have legal consequences in the administrative, civil, and criminal domains, as well as harming the rightful landowners and undermining public trust in the land system. The invalidity of certificates also triggers an increase in land disputes and hinders the achievement of the goals of national agrarian law. Therefore, strict law enforcement, strengthening administrative oversight, and improving the professionalism of land administration officials are necessary. With these steps, legal certainty and the protection of land rights can be realized sustainably.

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