

UNLAWFUL ACT BY A CULTIVATOR OR SHARECROPPER CERTIFYING LAND THAT DOES NOT BELONG TO THEM

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Abstract

Land registration is an important step in the land administration system to reduce disputes, increase transparency, and ensure compliance with applicable laws and regulations. However, in practice, there are many cases where individuals or groups try to control or claim rights to land that do not belong to them personally, through various unlawful means, including unauthorized certification. This study aims to know and analyze in depth the conditions that must be met in the registration of inherited land and the legal consequences for cultivators/appointees who wrongfully certify land that does not belong to them. Specifically, this study focuses on the specific legal requirements for registering inherited property and the implications for individuals who attempt to register land illegitimately, highlighting the potential legal repercussions and the need for enforcement of property rights. The findings of this study can be used as a reference for policymakers and legal practitioners.

Keywords: Unlawful Acts, Cultivator/Occupier, Land Certificate

INTRODUCTION

Legal and well-documented land tenure is important to ensure legal certainty and prevent disputes (Edeh et al., 2022; Edwin et al., 2020; Haspada, 2023; Mintah et al., 2021; Putri & Gunarto, 2018). However, in practice, there are many cases where individuals or groups try to control or claim rights to land that do not belong to them personally, through various unlawful means, including unauthorized certification. Nowadays, there are still many people who violate the rights of others, especially related to land or property ownership. This often happens when someone tries to control or claim rights to land or yards that do not belong to them personally (Berger, 2022; Blandy et al., 2020; Pearce, 2012; Pierce et al., 2022; Ritter, 2009). This phenomenon often occurs in areas with weak land administration or in areas that have not been properly certified. This kind of practice not only harms the rightful landowners but also disrupts the land administration system as a whole.

Relevant laws and regulations in land management in Indonesia include Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), which is the main legal basis for the regulation of land rights, and Law No. 24 of 1992 concerning Land Determination, which regulates land administration and land certification. The land certification procedure is carried out by the National Land Agency (BPN, *Badan Pertanahan Nasional*) which involves the process of measuring, registering, and issuing certificates of ownership or business use rights to provide legal certainty (Joewono et al., 2023; Oktavia, 2023; Rachman et al., 2022; Sanniawati et al., 2023; Yubaidi et al., 2022).

Land ownership rights are regulated in Articles 20-27 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), which provides a legal basis for the control and regulation of land rights in Indonesia. Article 20 of the UUPA stipulates that property rights are the most complete rights to land and are private, which gives the owner the right to use, control, and transfer the land. Article 21 provides that property rights can be acquired through the transfer of rights, such as buying and selling, grants, or inheritances, and must be registered for legal recognition. Article 22 states that property

rights must not conflict with the public interest and must be subject to laws and regulations. Articles 23 and 24 regulate the rights and obligations of property owners, including the obligation to pay taxes and not to abuse these rights. Articles 25 to 27 explain the ownership of land located in forest areas or land previously controlled by the state (Sutedi, 2018).

Land plays an important role in human life, so it is not surprising that everyone wants to own or control it, which often leads to land problems and disputes (Adam, 2020; Gwaleba & Chigbu, 2020; Murad, 1991; Scheidel et al., 2020; Singer, 2022). One of the problems that often occurs is when someone controls land that is the property of someone else. The ownership of land belonging to another person is detrimental to the landowner, who can then ask for compensation for the losses he has experienced. Controlling someone else's land without permission is an unlawful act, where a person illegally enters someone else's land or allows a person or certain object to remain on the land.

The practice of cultivating or clearing land in Indonesia refers to the act of controlling and utilizing land by individuals or groups without having legal official rights according to the law. This definition includes activities such as cultivating, developing, or planting on land that does not yet have an official certificate of ownership or business use rights. In the context of Indonesia law, this land cultivation often occurs in areas that have not been formally registered or on state land that has not been divided. Land certification is a formal process carried out by the National Land Agency (BPN) to certify land rights through the issuance of certificates of ownership or business use rights. This process involves the measurement, inspection, and registration of land, which aims to provide legal certainty, protect the rights of owners, and prevent land disputes.

Land certification plays a crucial role in the legal and administrative systems of land as it ensures clarity of ownership, facilitates legal land transactions, and supports economic development and sustainable land use. In the case of illegal acts of land tenure that occurred in several districts of Bali Province, where the landowner or heirs who will register their land, have been registered by the cultivator/signer without the knowledge of the heirs or land owner.

Based on the above background, this study aims to know and analyze in depth the conditions that must be met in the registration of inherited land and the legal consequences for cultivators/appointees who certify land that does not belong to them. This study contributes to the legal field by focusing on two key aspects: the conditions required for the registration of inherited land and the legal consequences for individuals who wrongfully certify land that does not belong to them. By analyzing the specific legal requirements for registering inherited property, the research sheds light on the complexities and challenges associated with ensuring proper land registration processes. Additionally, it explores the implications for cultivators or appointees who attempt to register land illegitimately, highlighting the potential legal repercussions and the need for enforcement of property rights. Overall, this study enhances our understanding of both the procedural and legal dimensions of land registration, offering insights that could inform future reforms in this area.

RESEARCH METHOD

The research method applied in this study is a normative research method, which utilizes various types of primary legal materials, such as laws and regulations, as well as secondary legal materials in the form of literature related to the conditions for registration of inherited land and legal consequences for cultivators or sealers who register land that does not belong to them.

RESULT AND DISCUSSION

Issuance of Inherited Land Rights Certificate

The issuance of a certificate of inheritance land rights is an important legal process to ensure that land ownership is legally and officially inherited to the rightful heirs. This process begins with the submission of an application for an inheritance certificate by the heirs to the National Land Agency (BPN) or the local land office. This application usually requires important documents such as the heir's death certificate, an inheritance deed issued by a notary, and previous land ownership documents. By completing this document, the heirs can prove their right to obtain a certificate of inheritance land rights.

After the documents are received, BPN will verify and check the ownership and status of the land in question. This process includes re-measuring the land and matching the data with existing land registration records. BPN will also check the validity of the inheritance deed and ensure that there are no disputes or rights of third parties claiming the land. If all administrative and verification processes are completed, BPN will issue a certificate of ownership in the name of the legal heirs.

The issuance of a certificate of right to inherited land provides legal certainty and protection of property rights for heirs, as well as reduces the potential for disputes in the future. This certificate serves as official proof of legal ownership and facilitates future land administration processes, such as buying and selling or transferring rights. In addition, this certification helps maintain the clarity and accuracy of land data, thereby supporting better land governance and reducing the likelihood of land conflicts in the community.

According to Article 1 number 1 of Government Regulation Number 24 of 1997 concerning Land Registration, land registration is "a series of activities that include land measurement, mapping, and registration, as well as the issuance of land rights certificates." Land registration aims to create legal certainty for land rights owners by recording these rights in land books and issuing official certificates as proof of legal ownership. This process includes land measurement and mapping to accurately determine land boundaries and areas, as well as registration of property rights or other land rights to ensure that these rights are legally recognized and protected. Land registration is an important step in the land administration system to reduce disputes, increase transparency, and ensure compliance with applicable laws and regulations.

The transfer of inheritance rights in the form of land is evidenced through an inheritance certificate made by the heirs and known or legalized by the authorized officials. With the inheritance certificate, registration is carried out at the local Land Office so that the new right holder, namely the heirs, is recorded in the land book. This step is very important so that the heirs have legal force.

Legal Consequences for Certifying Land That Does Not Belong to Him

Certifying land that does not belong to him can have various significant legal consequences. This act can be considered an unlawful act, as the certificate issued for the unauthorized land becomes invalid and has no legal force. The original legal landowner has the right to file a lawsuit to cancel the wrongly issued certificate and request restoration of his ownership. This process often requires court intervention to resolve the dispute and return the land ownership status to the rightful owner.

Individuals or parties who certify land that does not belong to them can face legal and criminal consequences. If proven to have committed fraudulent or counterfeiting acts in the certification process, they may be subject to sanctions in accordance with applicable laws and regulations. This can include fines or jail time, depending on the severity of the offense and the impact caused. In addition, such actions can tarnish the reputation of the parties involved and result in substantial financial and legal losses.

Errors in the certification of land that does not belong to him can also have a negative impact on the land administration system as a whole. An inaccurate land registration process can lead to legal uncertainty and increase the risk of land disputes. This hampers the efficiency of land administration and can reduce public trust in the land system. To address this issue, there needs to be strict supervision and robust verification procedures in the certification process to ensure the accuracy and validity of land registration.

The grabbing of vacant land is included in the category of bezit. Bezit is a position of controlling or enjoying an item that is in someone's power, either directly or through an intermediary, as if the item were his own. An act can be considered unlawful if it meets all the elements regulated in Article 1365 of the Civil Code.

Unlawful acts related to unilateral land certification that result in losses for the landowner have legal consequences, namely null and void. Land certificates issued without agreement between related parties, contain errors, and do not provide legal certainty for the holder of the right to the land, are considered invalid.

Land issues are a very important issue for humans everywhere, especially related to land ownership. Civil disputes regarding land issues can be resolved through the National Land Agency (BPN) or through the courts. If the landowner feels aggrieved because his rights have been taken away by someone else, he can file a lawsuit in court based on the violation of Article 1335 and Article 1337 of the Civil Code, which stipulates that the material of the agreement must not be contrary to the law. Because the action causes losses, Article 1365 of the Civil Code can also be applied.

CONCLUSION

The act of certifying land that does not belong to a person is a serious unlawful act that significantly impacts land ownership, land administration, and the legal system. This action not only harms legitimate landowners through loss of title and potential disputes but also creates legal uncertainty and disrupts the integrity of the land administration system. Perpetrators of incorrect certification can face legal and criminal sanctions, highlighting the need for strict law enforcement and better verification procedures. The study emphasizes the importance of transparency and accuracy in the land certification process and the need for reforms to ensure clarity of ownership and reduce the risk of future disputes. Future research could explore the effectiveness of existing verification procedures and law enforcement mechanisms in preventing unlawful land certification, investigate the impact of proposed reforms on transparency and accuracy, and identify best practices for safeguarding land ownership.

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First publication right:

INJURITY: Journal of Interdisciplinary Studies



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