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The nature and legal standing on the electronic integrated based land rights registration

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Abstract--With the development of the digital world today, especially in Indonesia, land registration has developed, which was initially analogue (manual) land registration then turned into electronic land registration. With these changes, this policy turned out to be reaping the pros and cons, especially on the problem of maintaining the data on electronic-based land rights registration. The purpose of this study is to understand the nature of the maintenance of electronic-based land rights registration data integrated at the South Sulawesi National Land Agency Regional Office; to understand how the position of land rights certificates whose registration data maintenance is carried out electronically is integrated. This research is normative research with a statutory approach, a case approach, a conceptual approach, an analytical approach, and a theoretical approach, and the legal materials used are primary legal materials and secondary legal materials and tertiary legal materials and non-legal materials with qualitative analysis using deductive and inductive methods. The study results indicate that the nature of maintaining electronic-based land rights registration data at the South Sulawesi National Land Agency Regional Office is an obligatory act in providing legal certainty, both manually and electronically. With the discovery of various problems in manual registration, electronic land registration can be the right solution in solving multiple problems in land registration. The position of the certificate of land rights whose registration data is maintained electronically is integrated as a legal product of the Regulation of the

Minister of Agrarian Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration, which is one of the technical implementing regulations of land registration which is a mandate from Article 19 of the Basic Agrarian Law and related Article 7 paragraph (1) of Law 12/2011 concerning the Establishment of Legislation, and this is an act of discretion.

Keywords---Land Rights Registration Law, Integrated Electronics.

Introduction

Land documents not found. It is difficult to store and retrieve land documents and takes a long time, even in some cases. The advance in information and communication technology with the advent of computers and the internet have encouraged computerization in the land registration process. The good side of implementing this technology is to increase productivity and efficiency because paper-based systems are still used in their operations, automatically costing a lot of money. An electronic system is necessary for today's modern era to guarantee the legal certainty of land rights. A comprehensive and holistic study of electronic certificates must be carried out, juridically and technically.¹

The transformation of technological advances shifts the land registration system, which was previously a paper-based process, to an electronic one. In Indonesia, the use of information and communication technology has progressively changed market transactions and public services that were initially analogue (manual) into electronic-based services, such as *e-commerce* (trade), *e-government* (government system), *e-Court* (judicial), *e-KTP* (population), *e-filing*, *e-SPT*, *e-Billing* (taxation), *OSS: Online Single Submission* (business licensing services), *e-money* (banking), *e-money* has also been carried out by startup companies, such as Grab-Pay and Go-Pay, and Electronic Fiduciary Registration. These services have been implemented in the government sector and private companies as efficiency, transparency and accountability in carrying out public services.²

In recent decades, land registration systems worldwide have been subject to a modernization process by applying information and communication technologies. Considerable achievements in modernizing land registration systems demonstrated by ensuring public access to *online* and introducing infrastructure for electronic registration processes Electronic land registration is an inevitable consequence of advances in information and communication technology, as shown by examples in several countries. In Ontario Canada, it is called POLARIS (*the Province of Ontario Land Registration Information System*); in New Zealand, it is called *Land Online*; in the UK, it is called *e-conveyancing* then developed into *e-lodgements*; in Singapore, it is called STARS *e-lodgment*; in Australia, it is called *the National Electronic Conveyancing System* (NECS); in Malaysia, it is called the

¹ Dian Aries Mujiburohman, *Transformasi Dari Kertas Ke Elektronik: Telaah Yuridis Dan Teknis Sertipikat Tanah Elektronik*, Bhumi: Jurnal Agraria dan Pertanahan, Volume 7, Number 1, 2021, p. 60.

² *Ibid.*, p. 58.

*Computerized Land Registration System (CLRS) and Electronic Land Administration System (ELAS).*³

The digital era is where all activities that support life are made easier by technology to make it more practical and modern. In Indonesia, the development of the digital era can no longer be prevented. It is indirectly at the request and desire of the people themselves who want everything to be more practical and efficient.⁴ At the beginning of 2021, a policy was issued by the Minister of ATR/Head of BPN to issue documents for proof of land ownership rights in electronic form or Electronic Certificates (E-Certificates). This policy is in order to carry out further the provisions of the Job Creation Law (Law Number 11 of 2020 in the Land Cluster, that land services are transferred, including proof of rights documents in electronic form).⁵

The policy was then set forth in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN No. 1 of 2021 concerning Electronic Certificates. The issuance of this Ministerial Regulation related to electronic certificates violates higher regulations, namely PP No. 24/1997 regarding Land Registration, PP No. 40/1996 regarding HGU, HGB and Use Rights and Law No. 5 of 1960 concerning Basic Agrarian Regulations. The day after the issuance of this regulation, the pros and cons of its presence emerged. Secretary-General of the Consortium for Agrarian Reform (KPA) Dewi Kartika considered that the regulation violated a higher regulation. According to Dewi, the priority is completing simultaneous and comprehensive land registration in all regions of Indonesia. In addition, Dewi said that the people have the right to keep land certificates that have been issued. This right cannot be removed. Electronic land certificates, land certificates and others in electronic form should only be a complementary system, and the aim is to facilitate *databases* in the Ministry. So digitalization is not a substitute for people's rights to original certificates.⁶

In the land sector, in the context of realizing the modernization of land services, starting to apply electronic-based land services, to the documents produced in the form of electronic documents. The policy of launching an electronic land certificate will begin in 2021 with the issuance of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 1 of 2021 concerning Electronic Certificates, which was signed by the Minister of Agrarian Affairs Sofyan Djalil on January 12, 2021. This policy turned out to be pros and cons.⁷ Cons of the community with e-certificates because they are still afraid and still do not believe in the accuracy of data in electronic certificates, fear of being hacked, data leaks, cannot be used as collateral for debts in banks, questioning the strength of evidence in court and culture of feeling comfortable withholding certificates in the form of paper (analogue), so various public anxiety with the emergence of the Government's desire to apply the certificate-el. Reports about electronic land certificates on social media, which tend to be very

³ *Ibid.*

⁴ *Ibid.*, p. 51

⁵ Ana Silviana, *Urgensi Sertipikat Tanah Elektronik Dalam Sistem Hukum Pendaftaran Tanah di Indonesia*, Jurnal Administrative Law & Governance Journal, Volume 4, Number 1, 2021, p. 56.

⁶ <https://nasional.tempo.co/read/1429983/kebijakan-sertifikat-tanah-elektronik-kpa-melanggar-aturan-lebih-tinggi/full&view=ok>, accessed Tempo Com, by Frisky Riana, Friday, June 18 2021 15:00 GMT+7.

⁷ Ana Silviana, *op.cit.*, p. 53.

damaging, have caused public panic about the news of the withdrawal of original land certificates by Land Office employees after the issuance of the policy.⁸

The existence of the Ministerial Regulation became a polemic, and the community was made uneasy because not long ago, the community had received millions of land certificates (analogues) through the Complete Systematic Land Registration (PTSL) program suddenly people were asked to exchange them with e-certificates. It is as if the policies made by the Government are contradictory, not well planned and systematic. The land registration program for the entire territory of Indonesia should be prioritized or completed first because the land certificate is proof of rights granted at the final stage. So after the lands have been registered, the land service modernization will be carried out, including the e-certificate. Various policies and programs for accelerating land registration have been carried out by the land authorities, such as the Land Administration Project (PAP), *Land Management and Policy Development Project* (LMPDP), Adjudication program, Larasita, and the National Agrarian Program (Prona) and PTSL. - Land in the Indonesian territory has not been registered in its entirety. Based on data from the performance report of the Ministry of ATR/BPN, the number of registered land parcels up to 2019 is 67,345,894.⁹

The concern that occurs in the community is in the event of data leakage (*hackers*). When viewed from various reviews from BPN officials either through *online*, virtual discussions, or webinar results, that the National Land Agency has prepared to anticipate data leaks through collaboration with the BSSN (National Cyber and Crypto Agency), namely the Government of the Republic of Indonesia which was established in 2017 the task of implementing *cyber* effectively and efficiently by utilizing, developing, and consolidating all elements related to *cyber*.¹⁰ The legal basis for the regulation of BSSN is regulated in Presidential Regulation (Perpres) Number 28 of 2021 concerning *Cyber* and state (BSSN). One of the tasks of the BSSN is in the context of realizing *cyber* as well as increasing national economic growth.¹¹ In electronic land registration, the security of electronic documents is stored in a database that is secured through the BSSN. Another effort made by BPN is Electronic Documents; electronic signatures are not stored on one server. When viewed from the efforts of BPN as the organizer of Electronic Land Registration, there is good faith so that the security and comfort of the community in ownership and legal protection of land rights are achieved.¹²

Erwin Kallo, a land law expert at the Indonesian Property Consumer Advocacy Institute, said that electronic land certificates could not be applied in Indonesia. Erwin continued electronic land certificates have two weaknesses, namely from a technical and legal perspective. From a technical point of view, electronic land certificates are very vulnerable and easily hacked by hackers. "By law, can you prove it through electronic means? You haven't. What if there is a land dispute and you continue to use electronics?" Erwin continued. According to Erwin, the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN) is

⁸ *Ibid.*, p. 65.

⁹ Dian Aries Mujiburohman, *op.cit.*, p. 58-59.

¹⁰ Ana Silviana, *op.cit.*, p. 65

¹¹ *Ibid.*

¹² *Ibid.*

fine if you want to apply an electronic certificate as long as it is a backup (backup) of the original. Meanwhile, the original (physical certificate) remains as evidence and is held by the owner in the event of a dispute in court.¹³

With the development of the digital world today, especially in Indonesia, land registration has developed, which was initially analogue (manual) land registration then turned into electronic land registration. Head of the National Land Agency No. 1 of 2021 concerning Electronic Certificates was signed by the Minister of Agrarian Affairs Sofyan Djalil on January 12, 2021. However, this policy turned out to be pro and contra because the community was still against maintaining electronic-based land rights registration data.

Research Method

The type of research used for this is "*doctrinal*" or "*normative legal research*".¹⁴ Normative research is legal research literature that is commonly called "*Legal Research*" or "*Legal Research Instruction*".¹⁵ It applies a *Statute Approach*, *Case Approach*, *Conceptual Approach*, *Approach Analytical (Analytical Approach)*, *Theoretical Approach (Theoretical Approach)*.¹⁶ Types and sources of legal materials, namely primary legal materials, are legal materials sourced from the Holy Scriptures as well as legal materials sourced from various laws and regulations, namely the 1945 Constitution of the Republic of Indonesia, Government Regulation Number 24 of 1997 concerning Land Registration, Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration, Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles, Law Number 1 of 2021 concerning Electronic Certificates, Law No. 19 of 2016 concerning amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions. Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, Law No. 11 of 2020 concerning job creation, PP no. 47 of 2020 concerning the Ministry of Agrarian Affairs and Spatial Planning, PP No. 48 of 2020 concerning the National Land Agency. Secondary legal materials, which are various references or scientific works in the legal field, in the form of legal books, legal articles, legal journals, speeches inaugurating professors of law, scientific orations in the area of law and academic texts in the field of law, legal texts from workshops and so on, tertiary legal materials, are complementary legal materials, namely complementing the other two materials, primary legal materials and secondary legal materials. Tertiary legal materials, such as general dictionaries, legal dictionaries, and legal terminology, are the basis for a researcher in the law field to explore the meaning and meaning of a word or sentence related to the area of law, including

¹³ <https://nasional.kontan.co.id/news/sertifikat-tanah-elektronik-tak-bisa-diterapkan-ini-2-kelemahannya>, accessed Kompas. Com, by Yudho Winarto, Monday, February 15 2021.

¹⁴ Syahrudin Nawi, *Penelitian Hukum Normatif Versus Penelitian Hukum Empiris*. Makassar: PT Umitoha Ukhuwah Grafika, 2018, p. 7.

¹⁵ Soerjono Soekanto, and Sri Mamudji, (*Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Rajawali Pers, 2015, p. 23.

¹⁶ Irwansyah. *Penelitian Hukum Pilihan Metode & Praktik Penulisan Artikel*. Yogyakarta: Mirra Buana Media, 2020, p. 133.

encyclopedias.¹⁷ In legal research for academic purposes, non-legal materials can also help. Included in this non-legal material are interviews with the Makassar City Land Agency. The technique of collecting legal materials used in this research is based on observation and careful investigation of various legal materials mentioned above, namely the search for primary legal materials, secondary legal materials and tertiary legal materials.¹⁸ The analysis of legal materials used in this study is qualitative. Qualitative analysis is primarily used in the type of legal research with the characteristics of normative legal research whose data comes from the literature, in legal materials, such as primary legal materials, secondary legal materials and tertiary legal materials.¹⁹ Regarding normative juridical analysis, in essence, it focuses on the deductive method as the main guide and the inductive method as a supporting work procedure. The normative analysis mainly uses library materials as a source of research data.²⁰

Discussion

The essence of maintaining electronic-based land rights registration data is integrated at the South Sulawesi National Land Agency Regional Office

The importance of land, for a long time, the Government of Indonesia has seriously considered land issues, including land registration as outlined in the law. Formally, the Government has the authority to regulate land parcels that grow and take root from Article 33 paragraph (3) of the 1945 Constitution, which stipulates that:²¹

"Earth, water, and the natural resources contained therein are controlled by the State to be used for as much as -great prosperity of the people".

One example of a limited and non-renewable natural resource island. The misalignment between the availability of land and the increasing human needs has led to the emergence of various land problems that exist today. Initially, the provisions regarding land were regulated in the 1945 Constitution of the Republic of Indonesia in Article 33 paragraph (3) concerning the Right to Control the State, where the article regulates the use of the earth, water and natural resources contained within the power of the Republic of Indonesia will be used for the greatest prosperity and welfare of the people.²²

The community's living conditions continue to develop by the dynamics of development and the demands of the times. As a result, community life activities related to land are increasing day by day and even more complex. If this complexity is not followed by efforts to control it, the community will burden itself

¹⁷ Syahrudin Nawi, *op.cit.*, p. 31

¹⁸ *Ibid.*, 251.

¹⁹ Nurul Qamar. *et al.*, *Metode Penelitian Hukum (Legal Research Methods)*. Makassar: CV. Social Political Genius (SIGn), 2017, p. 53.

²⁰ Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum*. Jakarta. RajaGrafindo Persada, 2004, p 166.

²¹ Reni Anggriani, et al, *Implementasi Keputusan Bersama Tiga Menteri Tentang Pembiayaan Persiapan Pendaftaran Tanah Sistematis Di Kabupaten Dompu*, Jurnal Education and development, Volume 7, Number 2, 2019, p. 288

²² Ayu Bimo Setyo Putri, *Itikad Baik Pada Pendaftaran Hak Atas Tanah Dalam Sistem Hukum Pertanahan*, Jurnal Cakrawala Hukum, Volume 8, Number 1, 2017, p. 13.

with increasingly complicated land problems.²³ The condition of the community is also still very dependent on activities and businesses, most of which are agrarian, so that land is the foundation of hope for the community so that they can carry out the principles and order of life.²⁴

Development to fulfil personal interests, for example, the construction of houses and housing. All of them, both for development to meet public and private needs, require land. The National Land Agency manages these lands in Indonesia.²⁵ Along with the progress of development in all areas of life, which is also followed by progress in education and technology, it indirectly forces everyone who commits a legal action to need a guarantee of legal certainty for his act. The guarantee of legal certainty in question includes order and legal protection to create a sense of security for every legal action carried out. One form of guarantee of legal certainty in the land sector is proof of ownership of land rights called certificates.²⁶ The Land Office has a very strategic role in providing services directly to the community, especially regarding land registration in realizing legal certainty for land rights holders.²⁷

The author's research shows that, in South Sulawesi, land disputes are still rife. It can be seen from the following cases:

In the first case, a case that occurred in Makassar City in 2016, which has obtained permanent legal force, the chronology of the case is that the Plaintiff's HA and HAN postulate ownership rights to the object of the lawsuit, that the plaintiffs have the land inherited from his late parents which was managed for generations by the Plaintiffs named SBT covering an area of approximately 0.06 Ha which was recorded on parcels No.19 DI, Kohir No. 933 CI, which is located in Barombong Village, Tamalate District, Ujung Pandang Municipality, now Makassar City, which is the object of the lawsuit. On October 28, 2015, the Plaintiffs arrived at the location of the object of the dispute to repair the zinc fence on their land, until at the site suddenly the Plaintiffs saw that there was a talking board standing on their land which read this land belongs to JW with a certificate of ownership rights Number: 20212/2008 from DBA's land that on October 28, 2015, the Plaintiffs just learned that on the land belonging to the Plaintiffs a certificate of ownership has been issued by the Defendant to the Head of the Makassar City Land Office which is the object of the case.²⁸

Based on the above case, Plaintiffs HA and HAN filed a lawsuit with the Decision of the State Administrative Court Number 10/G/2016/PTUN.Mks. Certificate of Ownership Number: 20212/Kelurahan Barombong dated June 9, 2008, Letter of Measurement Number: 00302/Barombong/2008 dated 12/05/2008 with an area

²³ Harris Yonatan Parmahan Sibuea, *Arti Penting Pendaftaran Tanah Untuk Pertama Kali*, *Jurnal Negara Hukum*, Volume 2, Number 2, 2011, p. 287-288.

²⁴ Reni Anggriani, et al, *Loc. Cit.*

²⁵ *Ibid.*

²⁶ Muhammad Ilham Arisaputra, et al, *Akuntabilitas Administrasi Pertanahan Dalam Penerbitan Sertifikat*, *Mimbar Hukum*, Volume 29, Number 2, 2017, p. 277. See Article 19 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (State Gazette of the Republic of Indonesia of 1960 Number 104, Supplement to the State Gazette of the Republic of Indonesia Number 2043).

²⁷ Muhammad Yamin and Zaidar, *Pendaftaran Tanah Dalam Mewujudkan Kepastian Hukum Atas Kepemilikan Tanah Dan Upaya Meminimalisir Konflik Pertanahan*, *Jurnal hukum samudra keadilan*, Volume 13, Number 2, 2018, p. 208.

²⁸ See Direktorat Putusan Mahkamah Agung Republik Indonesia.

of 574 M2 with the name JW, in which the Plaintiffs filed a claim for ownership of land rights, but the panel of judges stated The Plaintiffs' claim was not accepted and the Defendant's exception was accepted. Furthermore, the Supreme Court's Decision Number 122 K/TUN/2017 granted the Plaintiff's claim in its entirety; Declaring that the Certificate of Ownership is void Number: 20212/Kelurahan Barombong, dated June 9, 2008, Letter of Measurement Number: 00302/2008, dated 12/05/2008 with an area of 574 m² in the name of Jemmy Wijaya; Require the Defendant to revoke the Certificate of Ownership Number: 20212/Kelurahan Barombong, dated June 9, 2008, Letter of Measurement Number: 00302/2008, dated 12/05/2008 with an area of 574 m² on behalf of JW; Then the Judgment Review again: Reject PK.²⁹

In the second case, the case that occurred in Pinrang Regency in 2021, the chronology of the case is that the ex-husband as the Plaintiff on behalf of HMS and the ex-wife on behalf of the FRA there was a land dispute between the two, that the object of this State Administrative Dispute is the decision of the State Administration made by the Defendant in the form of Transfer of Ownership Certificate (SHM) number: 02803/Kel. Macorawalie published on October 4, 2007, with Measurement Letter number 00384/Macorawalie/2007 dated October 4, 2007, covering an area of 510 M2 (five hundred and ten square meters) last recorded in the name of the FRA (Defendant).³⁰

Whereas Plaintiff's claim is the cancellation of the Transfer of Ownership Certificate (SHM) Number: 02803/Kel. Macorawalie published on October 4, 2007, with Measurement Letter number 00384/Macorawalie/2007 dated October 4, 2007, covering an area of 510 M2 (five hundred and ten square meters) last recorded under the name of the FRA is related to the object in the form of a plot of land based on the Certificate of Ownership (SHM) number: 02803/Ex. Macorawalie published on October 4, 2007, with Measurement Letter number 00384/Macorawalie/2007 dated October 4, 2007, covering an area of 510 M2 (five hundred and ten square meters) which was purchased by the Plaintiff from Ms. HBD based on AJB (Deed of Sale and Purchase) Number 106/JB/01/WS/X/2007 dated October 10, 2007, was made before the Notary DMD, SH., PPAT Pinrang Regency. Then the replacement certificate number 02803 was reissued on June 14 2016, on behalf of the Plaintiff on behalf of HMS.

Then the FRA (Defendant) changed the name/transfer of SHM 02803 to the Head of the Land Office of Pinrang Regency, carried out by Defendant on November 8, 2018. Based on the chronology of the case above, the Court's Decision Number: 21/G/2021/P.TUN.Mks Granted the Plaintiff's claim in its entirety; Declaring void Transfer of Certificate of Ownership (SHM) Number: 02803/Kel. Macorawalie dated October 4, 2007, with Measurement Letter number 00384/Macorawalie/2007 dated October 4, 2007, covering an area of 510 M2 (five hundred and ten square meters) last registered under the name of the FRA; Require the Defendant to revoke the Defendant's Decision in the form of Transfer of Certificate of Ownership (SHM) Number: 02803/Kel. Macorawalie dated October 4, 2007, with Measurement Letter: Number 00384/Macorawalie/2007

²⁹ See Direktorat Putusan Mahkamah Agung Republik Indonesia.

³⁰ See Direktorat Putusan Mahkamah Agung Republik Indonesia.

dated October 4, 2007, covering an area of 510 M2 (five hundred and ten square meters) last registered under the name of the FRA; Sentencing Defendant and Defendant II Intervention to pay court fees of Rp. 416.000,- (Four Hundred Sixteen Thousand Rupiah).³¹

In the third case, the case that occurred in the City of Pare-Pare in 2020, the chronology of the case, namely Plaintiffs HM, SA, MI represented by their legal representatives HM and RW against the Defendant Head of the Land Office to cancel the Certificate of Ownership Number: 668/ Lumpue Village. March 31, 1997. Measurement Letter. Number: 229/1997. March 3, 1997, with an area of 528 M2 in the name of Nurbaya; Certificate of Ownership Number: 669/ Lumpue Village. March 31, 1997. Measurement Letter. Number: 230/1997. Dated March 3, 1997, with an area of 519 M2 in the name of Nursaenab and; Certificate of Ownership Number: 670/ Lumpue Village. March 31, 1997. Measurement Letter. Number: 231/1997. March 3, 1997, with an area of 513 M2 in the name of Nurweda. The Plaintiff argues that he is entitled to the land object and proposes that the Defendant's act of issuing the a quo disputed objects is contrary to Article 19 of Law Number 5 of 1960, Article 3 paragraph 2 letter (a), paragraph 5 and paragraph 6 of Government Regulation Number 10 1961 Concerning Land Registration, causing the Plaintiffs to file a lawsuit for the State Administrative Dispute to the Makassar State Administrative Court with an application to the court to declare the Defendant's decision void and/or invalid in the form of: Certificate of Ownership Number: 668/ Kelurahan Lumpur. March 31, 1997. Measurement Letter. Number: 229/1997. March 3, 1997 with an area of 528 M2 in the name of Nurbaya; Certificate of Ownership Number: 669/ Lumpue Village. March 31, 1997. Measurement Letter. Number: 230/1997. Dated March 3, 1997 with an area of 519 M2 in the name of Nursaenab and ; Certificate of Ownership Number: 670/ Lumpue Village. March 31, 1997. Measurement Letter. Number: 231/1997. March 3, 1997, with an area of 513 M2 in the name of Nurweda. Based on the trial process, the judge's decision to accept the Defendant's Exception regarding the Absolute Court's Authority; and Stated that the Plaintiffs' claim was not accepted.³²

Based on some of the cases above, it is found that inland registration, there are still legal problems, especially manual land registration (paper), so with the increasing number of cases, the National Land Agency should anticipate legal problems that often occur in the land sector. It is hoped that the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates will be a solution for the National Land Agency to prevent legal problems in the land sector.

The National Land Agency is a non-ministerial government agency that has duties in the land sector with its work unit, namely the Regional Office of the National Land Agency in each Province, Regency and City, which carries out land rights registration and maintains general registers of land registration. The institution was formed based on the Decree of the President of the Republic of Indonesia

³¹ See Direktorat Putusan Mahkamah Agung Republik Indonesia.

³² See Direktorat Putusan Mahkamah Agung Republik Indonesia.

Number 26 of 1988, which is tasked with assisting the President in managing and developing land administration, both based on the UUPA and other laws and regulations which include regulating the use, control and ownership of land, control of land rights, measuring and land registration and others related to land matters based on policies set by the President.³³

Land registration is an administrative act concerning recording land rights controlled or owned by a person and legal entity. The registration of land rights is intended so that each plot of land can be known who the owner is, how much area, location, boundaries and status of registered land rights commonly referred to as physical data and juridical data on land rights.

Ownership of these lands, of course, needs to be supported by orderly and orderly administration. The way that can be taken is by registering land in all parts of Indonesia. It is in accordance with the mandate contained in Article 9 paragraph (1) of the Basic Agrarian Law. To ensure legal certainty by the Government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions regulated Government Regulations.³⁴

According to the National Land Agency (BPN), several factors cause disputes, including limited land supplies, while the need for land occupations continues to increase; inequality in the structure of control, ownership, development and use of land; abandoned land and economic recession, pluralism of land law in the colonial era, perception and awareness of the "law" of the community towards land control and ownership; Government policy inconsistency in problem solving; reform; negligence of officers in the process of granting and registering land rights; the judicial system; weak land administration system; non-management of government agency assets.³⁵

The transformation of technological advances shifts the land registration system, which was previously a paper-based process, to an electronic one. With the advent of computers and the internet, advances in information and communication technology have encouraged computerization in the land registration process. In Indonesia, information and communication technology have progressively changed market transactions and public services that were initially analogue (manual) to electronic-based services.

Secretary-General (Sekjen) of the Ministry of Agrarian and Spatial Planning (ATR)/National Land Agency (BPN) Himawan Arief Sugoto said land registration is currently being carried out electronically in line with the development of the digital world. Certificates are also issued electronically so that if a certificate is damaged or lost, it can be easily reprinted. This method was carried out as a form of adjustment to the provisions of land registration in PP No. 24 of 1997

³³ Meita Djohan Oe, *Tugas Dan Fungsi Badan Pertanahan Nasional Dalam Pendaftaran Tanah*, *Pranata Hukum Jurnal Ilmu Hukum*, Volume 10, Number 1, 2015, p. 62.

³⁴ Mira Novana Ardani, *Peran Kantor Pertanahan dalam Kegiatan Pendaftaran Tanah Sistematis Lengkap*, *Jurnal Gema Keadilan*, Volume 6, No. 1, 2019, p. 47.

³⁵ Layyin Mahfiana, *Sengketa Kepemilikan Hak Atas Tanah Di Kabupaten Ponorogo*, *Jurnal Kodifikasi*, Volume 7, Number 1, 2013, p. 84-85.

concerning Land Registration.³⁶ A land certificate is proof of title in the form of a copy of the land book and a measuring document that has been put together. Certificates are the final product of all land registration processes. The most important thing is the electronic registration process from start to finish. Certificates can be issued in physical form/printed paper or digitally/electronically.³⁷

In Article 1 paragraph (7) Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates, regulates the meaning of certificates:

"Certificates are letters of proof of rights as referred to in Article 19 paragraph (2) letter c BAL for land rights, management rights, waqf land, property rights over flat units and mortgage rights, each of which has been recorded in the relevant land book.

Meanwhile, Article 1 paragraph (8) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates regulates the meaning of electronic certificates: in the form of Electronic Documents."

Then in Article 17 of the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates regulates the meaning of electronic certificates: Electronic Systems."

Table 1.
Differences in Electronic-based Land Certificates and Analog-based Land Certificates

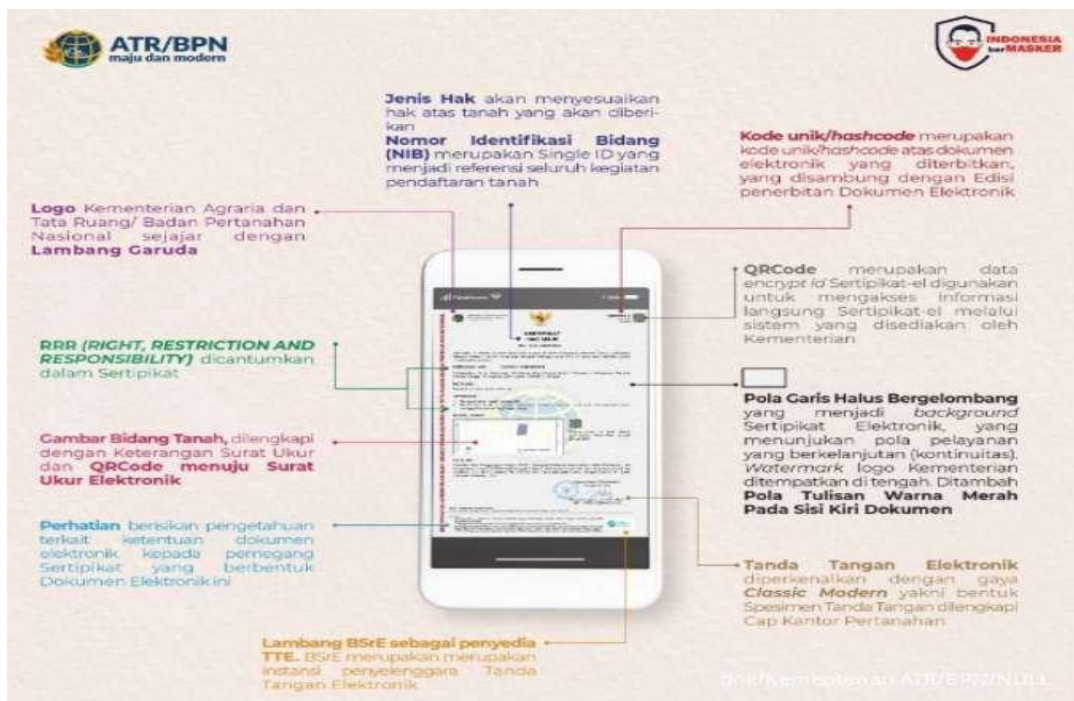
No	Differences	in Electronic	Certificates Analog Certificates
1.	Form of Electronic certificates	files	Book/Paper
2.	Types of	<i>Restriction and Responsibility:</i> provisions	Recorded in the instructions column, the application is not uniform depending on each land office.
3.	Security	<i>Hash Code and QR Code</i>	Blank Code and do not use <i>QR Code</i>

³⁶ <https://www.hukumonline.com/berita/baca/lt600a9075dfe79/melihat-aturan-pendaftaran-tanah-secara-elektronik/>, dikutip dari Rofid Hidayat, accessed by Hukum Online Com, , 22 January 2021.

³⁷ Dian Aries Mujiburohman, *op.cit.*, p. 57.

4.	Signature	Electronic	Manual
5.	form	electronic document	based
6.	Identity number	<i>Single identity</i> : using a field identification number	Using multiple numbers: entitlement number, measuring letter number, field identification number, field map number.

Source: extracted from several sources³⁸



Form of electronic land certificate³⁹

In addition to providing legal certainty and legal protection to land rights holders, land registration is also intended to create an orderly land administration, as stated in Article 19 paragraph (1) of the UUPA yo Article 3 of PP Number 24 of 1997. Article 19 paragraph (2) letter c yo Article 4 paragraph (1) of Government Regulation Number 24 of 1997, land registration activities include issuing certificates as a strong means of proof. The certificate is a strong piece of evidence. It means that what is stated in the certificate is considered correct as long as no evidence proves otherwise. It means that certificates are not the only evidence of ownership of land rights, according to the LoGA. Certificates as strong evidence are characteristic of negative land registrations. In a negative land registration system, certificates are strong evidence; what is stated in the

³⁸ Dian Aries Mujiburohman, *op.cit.*, p. 62.

³⁹ <https://nasional.kontan.co.id/news/sertifikat-tanah-elektronik-tak-bisa-diterapkan-ini-2-kelemahannya>, accessed by Yudho Winarto, by Kompas Com, Monday, February 15 2021.

certificate will be considered correct as long as it is not proven otherwise, so the certificate is not the only evidence of land ownership. The land registration officer will accept the information provided by the applicant. In this negative land registration system, the right holder whose name is listed on the certificate needs to be "alarmed" because, at any time, the certificate of land rights can be declared invalid. After all, it is based on incorrect information. The basis of this system is the principle of *Nemo plus Juris*, namely that people cannot transfer rights beyond the rights they have.⁴⁰

They are organizing land registration, providing proof of rights for a person. The open principle adopted in land registration allows prospective buyers and creditors to view and obtain the necessary information before committing a legal act. Thus, land rights holders can easily prove their control over the land.⁴¹

Although the implementation is gradual, building public awareness (*public awareness*) of landowners for media transfer and its benefits is still being improved, electronic land certificates are necessary because they provide more legal certainty of land ownership and minimize land mafia and land disputes. Electronic land registration services that produce electronic land certificates for storage at BPN will be safer from flooding, secure from fire or safe from acts of loss or theft from the landowner.⁴²

The land rights certificate whose registration data is maintained by an integrated electronic system

Secretary-General (Sekjen) of the Ministry of Agrarian and Spatial Planning (ATR)/National Land Agency (BPN) Himawan Arief Sugoto said land registration is currently being carried out electronically in line with the development of the digital world. This method was carried out as a form of adjustment to the provisions of land registration in PP No. 24 of 1997 concerning Land Registration. Issuance of certificates also electronically. So that if the certificate is damaged or lost, it can be quickly reprinted. Secretary-General (Secretary-General) of the Ministry of Agrarian and Spatial Planning (ATR)/National Land Agency (BPN) Himawan Arief Sugoto said that Indonesia, on January 20, 2021, had 126 million parcels of land. But in reality, only about 70 million fields have been registered. Unfortunately, only 30 per cent of land has been registered digitally in the digital age. Therefore, there are still many documents that must be transferred and digitized. It includes imperfect land maps.⁴³

The position of the regulation as the legal basis for the implementation of electronic land registration is deemed inappropriate because, in many cases, land disputes in the judiciary the Government loses because the regulation is too low. At a minimum, the law should be government regulation or the first revision of the PP on Land Registration. Then the technical regulations will be regulated in a

⁴⁰ Christiana Tri Budhayati, *Jaminan Kepastian Kepemilikan Bagi Pemegang Hak Atas Tanah Dalam Pendaftaran Tanah Menurut UUPA*, Refleksi Hukum Jurnal Ilmu Hukum, Volume 2, Number 2, 2018, p. 128.

⁴¹ I Dewa Ayu Widyani, *Kepastian Hukum Sistem Publikasi Dalam Pendaftaran Tanah Di Indonesia Menurut UU RI Nomor 5 Tahun 1960 Tentang Pokok-Pokok Agraria*, Jurnal Hukum tō-râ, Volume, 1, January 3, 2015, p. 204.

⁴² Ana Silviana, *op. cit.*, p. 67.

⁴³ <https://m.hukumonline.com/berita/baca/lt600e73174c985/begini-aturan-pendaftaran-dan-sertipikat-tanah-secara-elektronik?page=all>, accessed Hukum Online Com, by Rofiq Hidayat, 25 January 2021.

Ministerial Regulation. However, the e-certificate refers to the legal source of the ITE Law and the Job Creation Law, which is not a problem because it only regulates e-certificates. On the other hand, the primary source of law in land registration is the LoGA and its implementing regulations.⁴⁴

Revising PP Land Registration is a necessity that aims to synchronize and harmonize regulations regarding e-certificates, including First, land registration activities for the first time (unregistered land), such as “collection and processing of physical data, proof of rights and bookkeeping, issuance of certificates, presentation of physical data, juridical data, and storage of general lists and documents” by using an electronic system. Second, the maintenance of land registration data (for land that has been registered). If there is a change in physical or juridical data, it must be registered. Changes in juridical data such as "Auction: Excerpts of minutes of auction, inheritance, deed of merger or consolidation of companies or cooperatives, court decisions or judges' decisions, blocking, confiscation, cases, change of name of the right holder, the decision on granting an extension of the term of rights, nullification of land rights and HM Sarusun". Changes in physical data such as “separation, splitting, merging land parcels”. Then these changes are carried out by replacing the analogue certificate into an e-certificate into an electronic document. The analogue certificate is withdrawn to be combined with the land book and stored as a document, and media transfer/scan is carried out stored in the Database.⁴⁵

The Government understands the imperfection of the e-certificate Candy because of the legal sources it uses. The source of law is where the origin of legal regulations is taken or used as certain norms/values. Imperfections are shown by the recent publication of PP No. 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration. Article 84 of the PP regulates Electronic Land Registration. The choice of land registration arrangement by adding and combining with other objects is a short-term option to accommodate the ministerial regulation already issued. It should be for the long-term legal certainty of electronic land registration arrangements by changing/revising the PP on Land Registration.⁴⁶

The position of the Ministerial Regulation is one type of statutory regulation. Referring to the basis for consideration (consideration), The Ministerial Regulation refers to the UUPA and its implementing regulations and laws and regulations related to the ITE Law and the Job Creation Law. The existence of the Ministerial Regulation is recognized and has binding legal force with two conditions, namely "ordered by a higher statutory regulation or formed based on authority". Therefore, it can be said that the Permen e-certificate was formed based on a higher regulatory order, which shows the essential authority of the ministers as assistants to the President who have certain powers in the Government. The Ministry of ATR/BPN is in charge of government affairs in land and spatial planning. Therefore, it can be formulated that the Ministry of ATR/BPN has attributive authority, namely the authority that has been determined or follows

⁴⁴ Dian Aries Mujiburohman, *op.cit.*, p. 61.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*, p. 61-62.

the provisions as stated in the preamble and remembers in the Ministerial Certificate of E-Certificate.⁴⁷

The Government has issued a policy to replace conventional (paper) land certificates with electronic land certificates. It is as stated in Government Regulation (PP) Number 18 of 2021 concerning management rights, land rights, apartment units and land registration as regulated in Article 84.⁴⁸ This PP is a follow-up to the provisions of Article 142⁴⁹ and Article 185 letter (b)⁵⁰ of Law Number 11 of 2020 concerning Job Creation.⁵¹ Based on the above-mentioned legal rules, the implementation and implementation of land registration can be done electronically. Furthermore, the electronic data and information can then become valid legal evidence. However, it is also stated that this electronic land certificate does not erase the function of conventional land certificates, which can also be legal evidence of land ownership. Or it can be legally valid evidence. Both, both electronic and conventional certificates have the same position.⁵² Derived rules from Law 11/2020 in the form of a draft government regulation (RPP) on Management Rights, Land Rights, Flat Units and Land Registration. The Government is targeting all derivative regulations of the Job Creation Law to be completed as mandated by the Job Creation Law. The RPP, among other things, added the formulation of article norms in PP 24/1997, namely adding one article between Articles 6 and 7. It is Article 6A which regulates four paragraphs, namely,⁵³

Article 6A paragraph (1) states:

1. The administration and implementation of land registration can be done electronically.
2. The results of the implementation and implementation of electronic land registration, as referred to in paragraph (1), are in the form of data⁵⁴, Electronic Information⁵⁵ and/or Electronic Documents.⁵⁶

⁴⁷ *Ibid.*, p. 62.

⁴⁸ Article 84 of Government Regulation (PP) Number 18 of 2021 concerning management rights, land rights, apartment units, and land registration stipulates that:

1. The administration and implementation of Land Registration can be done electronically.
2. The results of the implementation and implementation of electronic Land Registration, as referred to in paragraph (1), are in the form of data, electronic information, and/or electronic documents.
3. Electronic data and information and/or their printed results are valid legal evidence.
4. Electronic data and information and/or their printed results, as referred to in paragraph (3), are extensions of valid evidence under procedural law in force in Indonesia.
5. The application of electronic Land Registration is carried out in stages by considering the readiness of the electronic system built by the Ministry.

⁴⁹ Article 142 of Law Number 11 of 2020 concerning Job Creation stipulates that:

“Further provisions regarding management rights are regulated in a Government Regulation.”

⁵⁰ Article 185 letter (b) of Law Number 11 of 2020 concerning Job Creation stipulates that:

“All implementing regulations of the Law that have been amended by this Law are declared to remain valid as long as they do not conflict with this Law and must be adjusted within a maximum of 3 (three) months.”

⁵¹ Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation Article 1 paragraph (1) stipulates that:

“Cipta Kerja is an effort to create jobs through facilitating, protecting, and empowering cooperatives and micro, small and medium enterprises, improving the investment ecosystem and making it easier to do business, and investing in the Central Government and accelerating national strategic projects.”

⁵² <https://www.kompas.com/properti/read/2021/02/24/140000421/menurut-pp-18-sertifikat-elektronik-dan-konvensional-punya-kedudukan?nomgid=0&page=all>, accessed by Kompas Com, by Ardianyah Fadli, , 24/02/2021, 14:00 GMT+7.

⁵³ <https://m.hukumonline.com/berita/baca/1t600e73174c985/begini-aturan-pendaftaran-dan-sertipikat-tanah-secara-elektronik?page=all>, accessed by Hukum Online Com, by Rofiq Hidayat, 25 January 2021.

⁵⁴ Article 1 paragraph (3) Permen ATR BPN Number 1 of 2021 stipulates that:

3. Electronic Data and Information and/or their printed results are valid legal evidence and an extension of legal evidence in accordance with the applicable procedural law in Indonesia.
4. The application of electronic land registration is carried out in stages by considering the readiness of the electronic system built by the Ministry.

Utilization of Electronic Certificates is mandated by Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE), and Government Regulation Number 71 of 2019 Article 42 paragraph (1) concerning the Implementation of Electronic Systems and Transactions states that Electronic Transaction Operations must use Electronic Certificates issued by Indonesian Electronic Certification Operators.⁵⁷ Electronic land registration results in the issuance of electronic proof of ownership of land rights. As stated in Article 147 of the Employment Copyright Law, which stipulates:

"Evidence of land rights, property rights to flat units, management rights, and mortgage rights, including deed of transfer of land rights and other documents related to land can be in electronic form".

The provisions of Article 147 above are also strengthened in Article 2 of the

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates stipulating that:

1. The implementation of land registration can be done electronically.
2. The implementation of electronic land registration, as referred to in paragraph (1), includes:
 - a. land registration for the first time; and
 - b. maintenance of land registration data.
3. land registration, as referred to in paragraph (2), is carried out through the Electronic System.
4. The implementation of electronic land registration is implemented in stages determined by the Minister.

Electronic Certificate Services are provided by the Electronic Certificate Center (BSE), which is a technical implementing unit at the National Cyber and Crypto Agency (BSSN) which has the task of providing issuance and management of

"Data is a description of something which includes but is not limited to writing, sound, pictures, maps, designs, photographs, electronic data interchange (EDI), electronic mail (electronic mail), telegram, telex, teletype or the like, letters, signs, numbers, Access codes, symbols, or perforations."

⁵⁵ Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions stipulates that:

"Electronic Information is one or a set of electronic data, including but not limited to writing, sound, pictures, maps, designs, photographs, electronic data interchange (EDI), electronic mail (electronic mail), telegram, telex, teletype or the like, letters, signs, numbers, Access Codes, symbols, or processed perforations that have meaning or can be understood by people who can understand them."

⁵⁶ Article 1 paragraph (2) Permen ATR BPN Number 1 of 2021 stipulates that:

"Electronic Document is any electronic information that is created, forwarded, sent, received, or stored in analogue, digital, electromagnetic, optical, or similar forms, which can be seen, displayed, and/or heard through a computer or Electronic System, including but not limited to writing, sound, pictures, maps, designs, photographs or the like, letters, signs, numbers, access codes, symbols or perforations that have meaning or meaning or can be understood by people who can understand them."

⁵⁷ <https://bssn.go.id/sertifikat-elektronik/>.

Electronic Certificates. The basis for the formation of the BSE is contained in the Regulation of the Head of the National Crypto Agency Number 15 of 2016 concerning the Organization and Work Procedure of the Electronic Certification Center. The services provided are:⁵⁸

1. Issuance of Electronic Certificates;
2. Socialization of the Application of Electronic Certificates;
3. Electronic Certificate Application Consultancy;
4. Technical Guidance for Application of Electronic Certificates;
5. Electronic Certificate System Setup and Integration;
6. Monitoring and Helpdesk.

The legal basis for the regulation of BSSN is regulated in Presidential Regulation (Perpres) Number 28 of 2021 concerning the National *Cyber* and Crypto Agency (BSSN). One of the tasks of the BSSN is in the context of realizing *cyber* and increasing national economic growth.⁵⁹ In electronic land registration, the security of electronic documents is stored in a database.⁶⁰ Another effort made by BPN is Electronic Documents; electronic signatures are not stored on one server, secured through the BSSN. When viewed from the efforts of BPN as the organizer of Electronic Land Registration, there is good faith so that the security and comfort of the community in ownership and legal protection of land rights are achieved.⁶¹ Based on Article 1 paragraph (5) of Law Number 1 of 2021 concerning Electronic Certificates stipulates that:

"Electronic signatures are signatures consisting of electronic information that is attached, associated or related to other electronic information used as a means of verification and authentication."

Referring to the Regulation of the Minister of ATR/Head of BPN Number 7 of 2016 concerning the form and content of the Land Certificate, it regulates this matter. As regulated in Article 2 states, "Land registration is carried out using a computerized system of land activities (KKP)". Now the KKP uses an electronic system in the form of a systemic, integrated application, and can be used with or without a network, and can be directly synchronized automatically.⁶²

In the General Elucidation of PP No. 24/1997, it is stated that to provide legal certainty to the holders of land rights, it is emphasized the extent to which the strength of proof of the certificate, which is declared as a vital evidentiary instrument by the LoGA, is given. For this reason, there is a provision that as long as it has not been proven otherwise, the physical data and juridical data listed in the certificate must be accepted as correct data. A person cannot claim land that has been certified on behalf of another party if, within 5 (five) years since the issuance of the certificate, he does not file a lawsuit to the court, while

⁵⁸ <https://bssn.go.id/sertifikat-elektronik/>.

⁵⁹ Ana Silviana, *op. cit.*, p. 65. Dikutip dalam, <http://bsss.go.id/tugas-dan-fungsi-bssn/>.

⁶⁰ Article 1 paragraph (4) of Law Number 1 of 2021 concerning Electronic Certificates stipulates that:

"Database is a collection of Data that is systematically integrated and stored in a large memory and can be accessed by one or more users from different terminals."

⁶¹ *Ibid.*

⁶² <https://m.hukumonline.com/berita/baca/lt600e73174c985/begini-aturan-pendaftaran-dan-sertipikat-tanah-secara-elektronik?page=all>, accessed by Hukum Online Com, by Rofiq Hidayat, 25 January 2021.

the other party obtains in good faith and controls the land in question.⁶³ The above explanation is also strengthened in Article 32 of PP Number 24 of 1977, which stipulates that:

- 1) The certificate is a proof of right that is valid as a vital means of evidence regarding the physical data and juridical data contained therein, as long as the physical and juridical data are in accordance with the data contained in the letter of measurement and the relevant land book.
- 2) If a certificate of land has been issued legally in the name of the person or legal entity that acquired the land in good faith and controls it, the other party who feels that he has rights to the land can no longer demand the exercise of that right if within 5 (five) years since the issuance of the certificate, he has not submitted a written objection to the certificate holder and the Head of the Land Office concerned or has not filed a lawsuit to the court regarding the control of the land or the issuance of the certificate.

In the explanation of Article 32 paragraph (2) of PP Number 24 of 1997, it is stated that the weakness of negative land registration is the possibility of a lawsuit by a party who feels he has land rights to a party whose name has been included in the certificate. Because the National Land Law is based on customary law, to overcome this weakness, the *Rechtsverwerking* institution is used, an institution for relinquishing rights known in customary law. In customary law, if a person for a certain period of time leaves his land uncultivated, then the land is worked on by someone else, who obtained it in good faith, then his right to claim the land is lost, in customary law known as *Rechtsverwerking*.⁶⁴

Regarding the legal position, the issued Land Rights Certificate is a legal product of the Regulation of the Minister of Agrarian Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration, which is one of the technical implementing regulations of land registration which is a mandate from the law. Article 19 of the Basic Agrarian Law is to ensure legal certainty for land rights throughout Indonesia. Likewise, in this case, the position of the certificate for the implementation of complete systematic land registration as described in the previous discussion is administratively legal and can be accounted for. Regarding the existence of different views regarding the announcement period that has been stipulated by the Regulation of the Minister of Agrarian Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration, this does not reduce the legality of the certificate issued in question because this refers to the principle "*lex superior derogate legi inferiori*" is related to Article 7 paragraph (1) of Law 12/2011 concerning the Establishment of Legislation, and this is an act of discretion. In addition, the basis for the issuance of the Regulation of the Minister of Agrarian Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration from the above rules is a technical rule. More specifically regarding Complete Systematic Land Registration (*Lex Specialist*) from Law Number 5 of 1960 concerning Agrarian Principles and Government Regulation Number 24 of 1997 concerning Land Registration. On this basis, the Minister of Agrarian and Spatial Planning/Head of the National Land Agency uses

⁶³ Christiana Tri Budhayati, *op.cit.*, p. 131.

⁶⁴ *Ibid.*, See Elucidation of Article 32 paragraph (2) of PP Number 24 of 1997.

his authority to accelerate the process of land registration throughout Indonesia. The use of discretion is used to follow developments in the dynamics of society that laws and regulations have not touched.⁶⁵

Conclusion

From the description above, it can be concluded that the essence of maintaining electronic-based land rights registration data at the South Sulawesi National Land Agency Regional Office is an obligatory act in providing legal certainty, both manually and electronically. With the discovery of various problems in manual registration, electronic land registration can be the right solution in solving various problems in land registration. The position of the certificate of land rights whose registration data is maintained electronically is integrated as a legal product of the Regulation of the Minister of Agrarian Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration, which is one of the technical implementing regulations of land registration which is a mandate from Article 19 of the Basic Agrarian Law and related Article 7 paragraph (1) of Law 12/2011 concerning the Establishment of Legislation, and this is an act of discretion.

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⁶⁵ Prama Widianugraha, *Tinjauan Normatif Pendaftaran Tanah Sistematis Lengkap Dikaitkan Pembentukan Aturan Peraturan Perundang-Undangan*, Jurnal Bina Mulia Hukum, Volume 3, Number 2, 2019, p. 220-221.

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- Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (State Gazette of the Republic of Indonesia of 2019 Number 185, Supplement to the State Gazette of the Republic of Indonesia Number 6400);
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- Presidential Regulation Number 48 of 2020 concerning the National Land Agency (State Gazette of the Republic of Indonesia of 2020 Number 84);
- Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates.
- Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration as amended several times, most recently by Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 7 of 2019 concerning the Second Amendment on the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration (State Gazette of the Republic of Indonesia of 2019 Number 722);
- Regulation of the Minister of Agrarian and Spatial Planning/Head of National Land Agency Number 2 of 2017 concerning Procedures for Registration of Waqf Land at the Ministry of Agrarian and Spatial Planning/National Land Agency (State Gazette of the Republic of Indonesia of 2017 Number 319);

Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 3 of 2019 concerning the Application of Electronic Signatures (State Gazette of the Republic of Indonesia of 2019 Number 401);
Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 5 of 2020 concerning Electronically Integrated Mortgage Services (State Gazette of the Republic of Indonesia of 2020 Number 349);
Regulation of the Minister of Agrarian and Spatial Planning/Head of National Land Agency Number 16 of 2020 concerning Organization and Work Procedure of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (State Gazette of the Republic of Indonesia of 2020 Number 985);