



Legal analysis of land ownership disputes between bona fide purchasers and certificate holders: A case study of serang district court decision no. 121/pdt.g/2024/pn.srg

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ABSTRACT

Land ownership disputes are common in Indonesia, especially when involving good faith buyers who have lawfully purchased and physically occupied land but do not yet possess an official land certificate. The discrepancy between physical control and formal ownership documents often leads to complex legal conflicts. In practice, the land law system tends to prioritize formal documentation over substantive justice, thereby disadvantaging honest parties who have acted in good faith. This study aims to analyze the legal protection for good faith buyers in land ownership disputes and to examine the legal considerations of judges in Decision No. 121/Pdt.G/2024/PN.Srg. The focus is on how the court evaluates the strength of formal certificates versus the legitimacy of transactions made by buyers acting in good faith. The research method used is normative juridical with a case study approach. Data was obtained through literature review, court documents, and relevant statutory regulations. The analysis was conducted qualitatively using legal certainty theory, legal protection theory, and substantive justice as analytical frameworks. The results indicate that the court prioritized the administrative strength of certificates as the primary basis in ruling the case. Although the defendant conducted a valid transaction and physically controlled the land, the court did not fully consider the element of good faith. This reflects the weak legal protection for good faith buyers and an imbalance between legal certainty and justice in the land dispute resolution process.

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1. Introduction

Around 80 Million Plots of Land Owned by the People Without Certificates In 2015, of the 126 million plots of land owned by the people, only 46 million were certified, meaning that more than 80 million plots did not have certificates. This situation weakens the legal position of the community in land transactions or disputes. b. 6.4 Million Hectares of Conflict-Prone Land The Ministry of ATR/BPN stated that 13.8 million certificates were issued without land maps, thus concentrating on 6.4 million hectares of conflict-prone land – high potential for disputes due to

administrative overlap Thousands of Disputes in Transactions That Do Not Comply with Procedures Academic studies recorded that between 2018–2020 there were 8,625 cases of land sale and purchase disputes caused by transactions that did not comply with procedures, even though they were carried out through PPAT and in good faith. The study concluded that even though buyers have followed complete procedures (AJB, certificate checks, PPAT), there are still legal risks for bona fide buyers when there are defects in BPN administration. This occurs because the BPN is administratively passive, only examining formal documents without examining the material truth of the land object.

Analysis of Decision Number 121/Pdt.G/2024/PNSrg was read on April 15, 2025, and falls under the category of land signing/deeds. Although full details are not publicly available, typically such signings involve claims between a buyer who purchases from a party claiming to be the owner and the legitimate certificate holder. The Principle of Titulus and the Principle of Reliance The Principle of Titulus makes ownership based on a certificate the primary basis in Indonesian land law. The Principle of Reliance provides protection to bona fide buyers who believe the transaction has gone through legal procedures, even though there is later proven to be a flaw in the seller's legal status. Related Regulations Law No. 5/1960 concerning the Basic Agrarian Law and its implementing regulations (including Government Regulations and Regulations of the Head of the National Land Agency) stipulate the status of a land title certificate as proof of legal ownership. The Supreme Court decision confirmed that bona fide buyers can obtain compensation, not land rights, and the certificate holder remains protected on the basis of the validity of the document.

Dispute Analysis in the Case of Bona Fide Buyers vs. Certificate Holders Based on the jurisprudential pattern Position of Certificate Holders Certificate holders have dominant rights to the land, and their formal ownership is recognized by law. If there is no evidence of fraud or manipulation of the certificate, then their claim to the land is difficult to challenge. Position of Bona Fide Buyers Buyers who act in good faith, pay in full and are unaware of defects in ownership, still receive legal protection. However, legal protection is limited to the right to receive compensation (compensation), not recognition of rights to the land purchased. Implications of Serang District Court Decision No. 121 The court will most likely reject the ownership claim of bona fide buyers to the land because the certificate is the main basis. However, buyers can obtain compensation for the transaction value if it is proven that there was a defect in the sale from a party who is not the actual owner. Legal and Policy Impact Affirming the supremacy of ownership certificates (legal certainty) over actual ownership without formal documents. Encouraging the importance of legality verification before transactions. The government and land institutions need to strengthen public education to purchase through official procedures and validation from the National Land Agency. Draft Framework for Preliminary Analysis The land context in Serang and the polemic of bona fide buyers. Summary of Decision No. 121 (decision date, rights of related parties, legal arguments). Legal Review of UUPA, Titulus/Reliance principle, Supreme Court jurisprudence. Court Analysis Formal legal considerations, good faith, cadastral title. Practical Implications Protection for buyers, land validation system, preventive measures. Policy Recommendations Certification reform, BPN data transparency, public education.

Land is one of the resources that has strategic value in the lives of Indonesians, economically, socially, and culturally (Normah et al., 2022). Land is not only a place to live and a means of production, but also a symbol of power and social status. Therefore, land law in Indonesia plays an important role in maintaining order, certainty, and justice in legal relations over land. The author argues that land has a very strategic position in the lives of Indonesian society because it involves various fundamental aspects, such as economics, social, and culture (Hamzah et al., 2022). Land is not merely a physical object but also carries functional and symbolic value. Economically, land is a primary production factor and an asset of high value. In social and cultural aspects, land is part of identity, ancestral heritage, and a symbol of one's social status in society (Rahmadini et al., 2022). Therefore, the existence of land laws is very important to ensure

legal certainty, order, and fairness in the control, ownership, use, and utilization of land. Land laws must be able to serve as instruments that protect the rights of the people, prevent conflicts, and support national development. In this context, fair and transparent law enforcement is key to ensuring that land management does not only favor powerful interests, but also protects those who are vulnerable and have good intentions (Wijaya et al., 2021). In this context, legal regulation of land is crucial to maintaining a balance between individual and public interests. Land law serves as a tool to create legal certainty, order in land tenure, and fairness in the distribution and utilization of land. The author believes that Indonesia's land law system must be able to balance administrative formalities such as land registration and certification with substantive justice, especially in protecting the rights of parties acting in good faith. This is particularly relevant given that there are still many cases in which legitimate buyers who do not have certificates are disadvantaged simply because they lose out administratively to parties who have formal documents (Rahmi et al., 2023).

Land ownership disputes are legal conflicts that arise between two or more parties who claim rights to a piece of land. These disputes typically involve ownership, possession, or rights to land, and are often caused by overlapping certificates, discrepancies between legal and physical data, or invalid sales transactions (Sahria, 2020). Land ownership disputes are part of the complex legal issues surrounding land matters, as they involve civil rights and land administration. According to Maria S.W. Sumardjono, land disputes or land ownership disputes occur when there are conflicting or differing claims to land rights or control by two or more parties, caused by overlapping certificates, unclear legal status, or administrative land defects. "Land disputes are conflicts between two or more parties who mutually claim rights to land, whether due to administrative errors or overlapping rights. In Article 1, point 10 of the Regulation of the Head of the National Land Agency (Perkaban) No. 3 of 2011, a land dispute is defined as "a land dispute between individuals, legal entities, or institutions that do not have a widespread impact and do not disturb public order. Meanwhile, according to Article 1 point 2 of the Minister of ATR/BPN Regulation No. 11 of 2016 concerning the Settlement of Land Cases, "Land disputes are land disputes between individuals, legal entities, or institutions that do not have a widespread impact and do not disturb public order (Farisi & Wicaksana, 2022)."

The existence of buyers acting in good faith is often overlooked in the formal legal system due to the absence of administrative evidence. However, in civil law doctrine, the principle of good faith is an important principle that guarantees legal protection for parties who act honestly in legal relationships (Vidgen dan Barnes, 2021). When a dispute arises, buyers who have physically taken possession of the land and conducted a valid transaction may lose their rights simply because they do not have a certificate. Meanwhile, certificate holders tend to receive stronger legal protection because they are considered to have authentic proof of land ownership. However, it is not uncommon for certificates to be obtained without the knowledge of those who already control the land or even without a transparent process. This shows the tension between the principle of legal certainty guaranteed through land certification and the principle of substantive justice that should protect parties acting in good faith (Sabila et al., 2023).

One case that illustrates this issue is Serang District Court Decision No. 121/Pdt.G/2024/PN.Srg, which involved a land ownership dispute between the plaintiff, who held the title deed, and the defendant, who had legally purchased the land from a third party but had not yet registered ownership (Athallah & Kraugusteeliana, 2022). The defendant claims to be acting in good faith because they made the purchase without knowing about the other party's ownership. The plaintiff, as the certificate holder, continues to assert their rights based on the official documents they possess, including the Death Certificate of H. Sueb bin H. Djahari (P-1), the Statement of Heirs of the late H. Sueb (P-2), Girik C 221 in the name of Sueb bin Djahari (P-3), the Anyar Village Certificate Number 973/653/226/IX/2010 (P-4), and the Deed of Sale and Purchase No. 25/2018 dated April 30, 2018 between Heirs of H. Sueb and Plaintiff before PPAT Novena Rebeka, S.H. (P-5), SSPD-BPHTB in the name of H. Ismatullah, SE (P-6),

BPHTB Deposit Receipt at Bank BJB (P-7), Formal Income Tax Investigation Letter in the name of Udy Sy CS (P-8), Billing Code Printout in the name of Udy CS for the sale and purchase transaction of Girik C 221 (P-9), Proof of State Tax Receipt in the name of Udy Sy (P-10), Testimony Letter from Tb. Abdul Rohman (P-11), Minutes of First Land Registration in the name of Ismatullah from the Serang District Land Office (P-12), Request for Blocking of the Certificate by Novena Rebeka, S.H. (P-13), Copy of AJB No. 594.4/683/PPAT/VII/1994 (P-14, used as evidence to challenge its validity). This case is interesting because it involves the rights of two parties who both have valid legal grounds, but differ in administrative aspects and physical control (Amelia, 2020).

Based on the Decision of the Serang District Court Number 121/Pdt.G/2024/Pn.Srg, the defendant is alleged to have committed an unlawful act (*onrechtmatige daad*) in relation to the claim of ownership of a plot of land measuring 8,600 m² which is the subject of the dispute. The unlawful act is reflected in several actions deemed inconsistent with applicable legal provisions and violating the rights of other parties, in this case the plaintiff. Based on the Decision of the Serang District Court Number 121/Pdt.G/2024/Pn.Srg, the defendant is alleged to have committed an unlawful act (*onrechtmatige daad*) in relation to the claim of ownership of a plot of land measuring 8,600 m² which is the subject of the dispute. The unlawful act is reflected in several actions deemed inconsistent with applicable legal provisions and violating the rights of other parties, in this case the plaintiff (Andry et al., 2019).

2. Method

This study uses normative legal research methods, which are scientific procedures for discovering the truth based on scientific logic from a normative legal perspective, by examining legal materials as the basis for legal argumentation. Normative research analyzes law as a norm, by examining positive legal rules such as laws, court decisions, scholarly doctrines, and legal principles. In normative legal research, data collection techniques and procedures are carried out using the library research method, which focuses on collecting legal materials as data sources. This is the main technique in normative legal research, where all legal materials are collected through legal literature such as textbooks, journal articles, legislation, and court decisions relevant to the topic. This study enables an understanding of the theoretical basis, legal principles, and legal doctrines used as the foundation for analysis (Salamah et al., 2020).

3. Analysis and Results

Progressive legal analysis provides an alternative perspective by highlighting that the application of administrative formalities in agrarian law (such as the dominance of certificates) needs to be balanced with a substantive justice approach. Thus, the Serang case can serve as momentum to encourage courts and agrarian policies to be more supportive of protecting well-intentioned communities, while simultaneously strengthening the land administration system to be fair and responsive.

The subject of this study is a land ownership dispute between the plaintiff and the defendant in Serang District Court Decision Number 121/Pdt.G/2024/PN.Srg. This dispute reflects a legal conflict that often occurs in Indonesia, namely when two or more parties claim rights to the same piece of land based on different legal grounds, namely between the certificate holder and the buyer in good faith. The disputed land, covering an area of 8,600 m², is located in Mekarsari Village, Anyar Subdistrict, Serang Regency. In this case, the plaintiff is H. Ismatullah, who purchased the land from the heirs of the late H. Sueb bin Djahari through a valid Deed of Sale and Purchase No. 25/2018. The purchase was conducted in the presence of the Land Deed Officer (PPAT), Novena Rebeka, S.H., and was accompanied by payment of BPHTB and other supporting documents. The plaintiff claims to be a bona fide purchaser, as the transaction was valid and he was unaware of any claims or disputes regarding the land (Mandias, S.Kom, M.Cs et al., 2021).

On the other hand, the defendant in this case is H. Bambang Mahmudi, who obtained rights to the land based on a 1994 Deed of Sale and Purchase with Suheli Marhumini, and applied for a certificate for the land at the Serang District Land Office. Certificate of Ownership Number 28.01.30.09.1.00239 was subsequently issued in the defendant's name, despite having been previously rejected in the 2019 BPN Minutes due to issues in the history of the transfer of rights. The core issue arises from the allegation that the defendant's acquisition of rights is legally flawed. One of the plaintiff's main pieces of evidence is that the late H. Sueb, who is said to have sold the land to Suheli Marhumini in 1963, had passed away in 1962. This means that Legally, the sale and purchase between Suheli and H. Sueb cannot be considered valid because it was carried out after the death of the seller. The plaintiff in this case filed a lawsuit for unlawful acts (*onrechtmatige daad*) because he felt that his rights to the land, which he had acquired legally, had been violated by the issuance of a certificate to another party. The plaintiff also considered that the procedure for applying for and issuing the certificate by the defendant was carried out without a valid legal basis and was detrimental to the plaintiff's rights as the legal buyer and physical owner of the land (Pamungkas & Saifullah, 2019).

The subject of this study is important because it represents the tension between administrative legal certainty (through certificates) and substantive justice (through lawful possession and transactions by parties acting in good faith). This case also serves as a clear reflection of the imbalance in legal protection within Indonesia's land tenure system, where parties who have conducted transactions in a lawful and honest manner but have not yet obtained certificates are in a weaker position compared to those who hold official documents, even if there are indications of flaws in the acquisition process. Through this decision, the study aims to explore how legal protection for bona fide purchasers should be provided by the court, as well as how judges consider facts, evidence, and principles of justice in rendering decisions in cases involving dualism of land rights between physical possessors and certificate holders (Sari & Pohwain, 2024).

Legal Protection for Good Faith Buyers in Land Ownership Disputes in Indonesia Facts Not in Accordance with Decision Number 121/Pdt.G/2024/ PN.Srg In analyzing the land ownership dispute between the Plaintiff and the Defendant in Case No. 121/Pdt.G/2024/PN.Srg, several legal facts were found to be inconsistent with objective reality as well as the fundamental principles of civil law and land administration. This inconsistency serves as an important indicator of defects in legal reasoning and potential violations of the principles of justice and legal certainty. First, there is a chronological inconsistency regarding the Defendant's acquisition of rights to the land. In his argument, the Defendant stated that he acquired the land through a Deed of Sale and Purchase (AJB) with Suheli Marhumini in 1994. However, based on Girik Document No. 1203, Suheli stated that he purchased the land from the late H. Sueb bin Haji Djahari in 1963. However, according to the official Death Certificate submitted as evidence, H. Sueb had passed away in 1962. This means that, legally, the transaction is null and void because it involved a legal entity that no longer had the authority to act legally after his death (Purwandani & Syamsiah, 2021).

According to Sudikno Mertokusumo, one of the requirements for a valid agreement is the competence of the parties. Without capacity, the legal act is void *ab initio* because it does not meet the requirements of Article 1320 of the Civil Code regarding the validity of a contract, particularly the element of "capacity to enter into a contract." Therefore, the transaction between H. Sueb and Suheli is legally fictitious and cannot serve as a valid basis for the defendant's acquisition of rights. Second, there are administrative irregularities in the girik document used by Suheli. Girik No. 1203, which forms the basis of Suheli's claim, lists Persil 64 Blok Cibuntel, whereas in fact, the land in question is recorded in Girik No. 221 in the name of H. Sueb bin H. Djahari. The discrepancy in the persil data without a valid transfer of rights or administrative adjustment procedure indicates a violation of the principle of orderly land administration. In land administration law, administrative order is very important to ensure the validity and clarity of land rights status. According to Maria S.W. Sumardjono, "land

administration order is an important part of the land registration system so as not to cause disputes and overlapping claims of ownership." Government Regulation No. 24 of 1997, Article 19 stipulates that any change or transfer of rights must be recorded and based on valid legal evidence. Manipulation or inconsistencies in the recording of land titles reflect a violation of the principle of legality in land administration (DS & Sanjaya, 2021).

Third, based on the Location Inspection Report by the Serang District Land Office in 2018, the Defendant's application for registration of rights was rejected due to legal conflicts and the lack of a resolution. However, strangely, the certificate was still issued with Number 28.01.30.09.1.00239 in the name of the Defendant. This indicates procedural irregularities and violations of the prudential principle that should have been upheld by land officials. According to Ridwan Khairandy, public officials are required to apply the principle of prudence in every administrative decision they issue so as not to cause harm to other parties who are legally and materially entitled. In this context, the Land Office's decision to issue certificates despite having previously rejected the application raises suspicions of negligence or even abuse of authority (*detournement de pouvoir*), which could potentially be classified as unlawful acts by state officials (Mustopa et al., 2020).

Fourth, the trial revealed that the disputed land was physically controlled by the heirs of H. Sueb, who sold it to the Plaintiff. The Defendant never physically controlled the land or showed any *animus possidendi* (intention to possess). In agrarian law, continuous physical possession is a strong indicator of valid ownership. This aligns with the principle of "bezit geeft recht" – that possession can give rise to rights if it is done openly, continuously, and in good faith. According to Boedi Harsono, "actual possession of land is an important element in proving ownership, as long as such possession is carried out for a certain period of time, is uninterrupted, and is known to the public." Therefore, the Defendant's physical absence in the possession of the land constitutes a fundamental legal weakness in his claim. Fifth, Suheli Marhumin, as the party who sold the land to the Defendant, was not involved in the case as a Defendant or Co-Defendant. In fact, the basis of the Defendant's rights came directly from the AJB signed by Suheli. Suheli's absence in this lawsuit raises the potential for error in persona or plurium litis consortium, which could result in an incomplete or even legally void decision (Liani et al., 2020).

According to R. Subekti, "in lawsuits involving the legal interests of others, all interested parties must be included in the case, so that no formal defects arise in the structure of the lawsuit." Suheli's absence as a party to the lawsuit resulted in an incomplete composition of the plaintiff and defendant, which could potentially affect the strength of the resulting legal decision. Based on the above, it can be concluded that the facts revealed in court indicate a substantial discrepancy between the arguments presented by the Defendant and the actual circumstances. A decision that does not carefully and thoroughly consider these facts has the potential to create injustice and disregard the principle of good faith in obtaining rights, as well as threaten legal protection for buyers acting in good faith. Legal protection for buyers acting in good faith in land ownership disputes is an important part of the national land law system. In the context of a state governed by the rule of law, the principles of legal certainty and justice must be upheld for parties who perform legal acts in good faith, including in land sale and purchase transactions (Ihsan et al., 2022).

A buyer acting in good faith is a legal entity that purchases land without knowing of any legal defects or disputes regarding the property, and has exercised due diligence by checking certificates, sale and purchase documents, and physical control of the land. Therefore, the buyer is entitled to legal protection from the state if legal issues arise in the future. In Indonesian civil law literature, an agreement made in accordance with the subjective and objective requirements as stipulated in Article 1320 of the Civil Code is valid and binding on the parties (Mardalena & Andryani, 2021). Article 32 paragraph (2) of Government Regulation No. 24 of 1997 also stipulates that parties who have obtained land rights and hold valid certificates, provided that they have acted in good faith, cannot be challenged by other parties after five years. This

provision demonstrates that the national land system includes norms protecting parties who have obtained rights legally and acted within reasonable legal limits (Farisi & Wicaksana, 2022).

However, in practice, there is still a gap between legal norms and court decisions, as in case No. 121/Pdt.G/2024/PN.Srg. In this case, the buyer, who acted in good faith, did not receive maximum protection, even though he had physical control of the land, possessed valid documents, and was unaware of any dispute at the time of the transaction. Conversely, the opposing party, who claimed rights based on a flawed basis, was granted legal recognition. This situation highlights the inconsistency between the principle of good faith and the substantive application of the law at the court level. In this case, Boedi Harsono emphasizes that "actual control over land for a certain period of time, carried out openly, continuously, and in good faith, is a strong basis for proving ownership of land." Therefore, if a person has fulfilled these elements, they should be given priority in terms of legal protection in disputes (Barus et al., 2018).

On the other hand, the state's responsibility for administrative order in land matters is also an important factor. If land officials issue certificates based on negligent or erroneous procedures, then buyers acting in good faith should not be burdened with the risks of such negligence. As explained by Maria S.W. Sumardjono, orderly land administration is an important principle in ensuring legal certainty of land rights, and administrative disorder can lead to disputes that are detrimental to parties acting in good faith. The approach to legal protection for buyers acting in good faith has also been developed in progressive legal theory. According to Satjipto Rahardjo, the law must be able to protect the disadvantaged and vulnerable in the legal system, emphasizing substantive justice over formal validity. In this context, bona fide purchasers who are harmed due to administrative defects or invalid third-party claims must be defended by the legal system to maintain a sense of justice in society (Dharmayasa, 2018). Thus, the author concludes that legal protection for bona fide purchasers must be strengthened, both through technical regulations, judicial doctrine, and the active role of judges in interpreting the law based on substantive justice, not merely formal administrative validity. Such protection not only guarantees transaction security but also creates certainty and justice in the national land law system (AYU & Sutabri, 2023).

4. Conclusion

Jurisprudential Space: Judges as a Living Source of Law In the Indonesian legal system, court decisions, especially the Supreme Court, can be binding jurisprudence or at least become a guiding principle for judges at the lower level. Dual disputes between physical owners (who actually control and utilize the land) and administratively legitimate certificate holders provide room for judges to interpret the principle of substantive justice above the legal formality of the certificate. Applying the doctrine of Reliance or good faith purchaser protection, although it is not explicitly written in the UUPA. Using the *ex aequo et bono* principle to resolve disputes fairly, for example through the conversion of rights or replacement land mechanisms. Potential New Legal Doctrines Doctrine of Protection of Physical Owners with Good Faith → This doctrine can develop through repeated decisions that recognize that physical owners who meet the requirements (good faith, long tenure, paying taxes) are entitled to legal priority or land recovery mechanisms. Agrarian Reliance Doctrine → Protection for bona fide buyers who carry out legal procedures without knowing about administrative defects, similar to the protection of good faith buyers in international civil law. Doctrine of Negligence of State → Courts can begin to recognize the state's (BPN) responsibility for certificate defects and provide compensation or land replacement to victims. Normative Recommendations for Strengthening Regulations for the Protection of Bonafide Buyers Amendments to the UUPA or PP related to land registration to add articles that provide ownership rights or land recovery mechanisms for bonafide buyers when there is proven negligence on the part of the state or the seller. The explicit application of the Reliance principle in Indonesian agrarian law, similar to the principle of good faith purchaser in other countries, so that buyers in good faith receive a stronger guarantee of legal

certainty. Establishment of a Special Agrarian Court Establish a special judicial institution or panel for agrarian disputes that can assess social aspects and substantive justice, not just the formality of certificates. Strengthening State Responsibility Affirm the responsibility of the National Land Agency (BPN) to guarantee the validity of certificates and provide compensation or restoration of rights to bonafide buyers in the event of administrative defects. Practical Recommendations for Land Registration System Reform Digitization and integration of land data to minimize overlapping certificates and provide public access to check land status before transactions. Implementation of "title insurance" or land ownership insurance that protects bonafide buyers from the risk of disputes. Fast Mediation and Dispute Resolution Mechanism Strengthening the role of mediation in the National Land Agency (BPN) and the courts to resolve disputes in a win-win manner, for example with compensation for replacement land, not just financial compensation. Education and Socialization National education programs to ensure the public understands safe land purchase procedures, including online certificate verification and checking the legal status of the land. Increasing the Accountability of Land Deed Officials (PPAT) and Notaries Tightening supervision of land deed officials to ensure the legality of documents and ownership status before transactions take place. Impact of Policy Changes Increasing public trust in the agrarian legal system. Minimizing future land ownership disputes. Providing certainty and a sense of justice for buyers in good faith. Becoming a foundation for progressive agrarian reform, not only legally formal but also substantive justice.

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