

Authority of Land Right Holders on the Issuance of Certificates Not Recognized by the National Land Agency (Study of the Supreme Court Decision No: 423 PK/Pdt/2018)

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ABSTRACT

This research is about the authority of the holder of land rights that is not recognized by the National Land Agency, which is the subject of the problem is what is the position of the holder of land rights that is not recognized by the National Land Agency and how is the legal protection for holders of land rights not recognized by the National Land Agency The method used in this study is normative law, namely research that seeks to connect between applicable legal norms and the reality that exists in society. The sources of legal materials used are primary legal materials and secondary legal materials. The research specification used is descriptive analytical which is expected to be able to provide a detailed, systematic, and comprehensive description of all matters relating to land rights, building use rights and legal protection for land rights holders. The conclusion of this paper is that the Land Rights are not recognized by the National Land Agency based on the applicable laws and the existence of good faith.

Keywords: *government regulation, laws, regulations*

1. INTRODUCTION

Indonesia is a country based on law (rechstaat). This is as stated in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that "the State of Indonesia is a State of Law". Based on this provision, the consequence is that all actions of the government and the people must be in accordance with the applicable legal provisions. The law embodied in legislation serves to provide a basis, determine the direction and goals to be achieved, as well as how to act for the State and its apparatus.

Humans as social beings in the society of a country, basically always interact between one individual and another. Based on this, it can be said that the relationship between humans becomes a need such as a place to live. Relationships between humans can give birth to many things, one of which is an engagement, which can then produce what is known hereinafter as an agreement which can be in the form of a land agreement. Soil is the surface of the earth that cannot be separated in one's life and life, because humans come from the ground and will return to the ground.

Once the importance of the existence of this land makes humans fight each other only for their interests, either directly or indirectly or, as long as they can act for their

interests, the need for land is felt to be increasing and pressing, while the land supply is getting narrower and harder to own, then it is not impossible if the price of land from time to time increases, so that there is an imbalance between the supply of land and the need for the land.

Since ancient times, land has become a basic need needed by humans and its relationship with the implementation of human daily activities is very close. Humans live and carry out their activities on land which later in its development, land becomes an important factor not only in daily life, but also in the economic life of today's society. This then encourages humans to make various efforts to be able to control certain plots of land in order to maximize their use. In practice, land tenure has developed quite rapidly so that it tends to cause many problems that are closely related to political, cultural, security and defense issues.

Transferred or transfer of rights means the transfer of ownership rights to land from the owner to another party due to a legal act. Examples of legal actions are buying and selling, exchanging, grants, participation (income) in company capital, auctions. The transfer of land rights includes buying and selling, the procedure for which is regulated in Government Regulation Number 24 of 1997 concerning Land Registration.

Land is regulated in Law Number 5 of 1960 concerning Agrarian Principles, hereinafter referred to as the UUPA,

which is complemented by other regulations other than the BAL in order to regulate matters relating to land more specifically due to the impact of the times that have caused land issues are becoming more and more complex. One of the regulations that are useful to assist the UUPA is Government Regulation No. 24/1997 on Land Registration. The regulation has a function to regulate the transfer of land rights, making it easier for the community to take the correct legal process in transferring land rights and gaining control over land.

Soil is very important for humans to be able to carry out their life in the world. The higher the value of ownership of an object, the higher the award given to the object. Land is one of the most valuable property rights for mankind, as well as for the Indonesian nation.[1] For Indonesians, land is the most basic problem, which can be assessed from the number of civil and criminal cases that have been submitted to the court, namely inheritance disputes, debts and debts with land as collateral, state administrative disputes regarding the issuance of land certificates and other legal actions. Based on the many cases related to land, it can be seen that land plays a central role in the life and economy of Indonesia.[2]

Land has a very important value because it has 3 inherent components, namely:[3]

1. Land has benefits for the owner or use, land resources have hope in the future to generate income and satisfaction and have products and services.
2. The second important component is the lack of supply, meaning that on the one hand land has a very high value because of the demand, but on the other hand the amount of land does not match the supply.
3. The third component is that land has economic value, an item (in this case land) must be feasible to own and transfer.

In UUPA No. 5 of 1960 described the purpose of the establishment of the UUPA as a positive law in the land sector, one of the objectives is to lay the foundations to provide legal certainty regarding land rights for the whole people. In the Body of the UUPA, the purpose is then regulated in Article 19 Paragraph (1) of the UUPA, that "To ensure legal certainty by the Government, land registration is held throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulation".[4]

Honesty or good faith can be seen in two kinds, namely when a legal relationship comes into force or at the time of the implementation of the rights and obligations included in the legal relationship. Honesty, at the beginning, was in the heart of the person concerned, that all the conditions needed for the parties to come into effect, when the legal relationship came into force had all been fulfilled, while later it turned out that there were conditions that were not fulfilled.

In order to ensure legal certainty and order in the sale and purchase of land rights, formal requirements are required for the seller or owner of land rights. The formal requirements for the object of sale and purchase of land

rights are in the form of proof of land ownership related to land rights, and also related to the procedure for the transfer of land rights.

According to the Government Regulation No. 24 of 1997, it can be summarized that legal certainty regarding land rights as mandated by the UUPA contains two dimensions, namely certainty of objects of land rights and certainty of subjects of land rights. One indication of the certainty of the object of land rights is indicated by the certainty of the location of the land parcel with geo-reference coordinates in a land registration map, while the certainty of the subject is indicated by the name of the holder of land rights listed in the land registration book at the land agency. In short, copies of the maps and land registration books are known as Land Certificates. However, in practice, the legal certainty of land rights is sometimes not guaranteed as expected. In connection with the previous description, in the case that has been tried in the Supreme Court Court, namely the Supreme Court Review Decision Number 423 PK/Pdt/2018, as stated by the parties below:

"Therefore, the author would like to study more about Analysis of Land Rights Holders on Issuance of Certificates Not Recognized by the National Land Agency. based on this background, the author is interested in conducting further studies and putting it into a thesis proposal entitled "Authorities" Land Rights Holders Against the Issuance of Certificates Not Recognized by the National Land Agency".

1.1. Related Work

According to the generation type of assumptions, we divided the existed work into three categories.

1.1.1. Theory of Legal Purpose

The main purpose of the law is to create an orderly social order, to create order and balance. With the achievement of order in society, it is hoped that the interests of the community will be protected. In achieving the objectives of the law, the law must be able to determine which are the rights and which are the obligations of the citizens, share authority, and regulate how to resolve legal problems and maintain legal certainty.

Gustav Radbruch said the 3 (three) things above, namely justice, expediency, and legal certainty as three basic legal values, which means they can be equated as legal principles.[6]

a. Value of Justice

John Rawls offers the concept of what is considered fair. Rawls' definition of "fair" is simply explained in a concept called Justice as Fairness. That is, justice does not mean absolute equality in a society by means of being leveled by a fully sovereign authority. Justice for Rawls is justice that is wise to each individual in the original human condition when they are in the same starting line in a competition. Equal justice means

providing equal opportunities for each individual to give his best qualifications in society to produce the best results from a competition.[7]

The principles of justice are general if they cover all social justice issues that may arise. Universal in application means that its demands must apply to all members of society. Can be universalized in the sense that it must be a principle whose universality of acceptance can be developed by all members of society. If they can be developed and guide the actions of citizens, these principles must be promulgated and understood by everyone. Then because the problem of justice arises where different individuals are in conflict over the benefits generated by social cooperation, the principles of justice must be decisive, in the sense of providing means of settling the most conflicting demands. Finally, the principle of justice must be the principle that provides the determination of outcomes for disputes over justice issues.[8]

b. Benefit Value

In the value of expediency, the law functions as a tool to photograph the phenomenon of society or social reality in order to provide benefits or utility for the community. Adherents of the utility stream assume that the purpose of law is solely to provide the greatest benefit or happiness to as many citizens as possible.[9] Regarding the usefulness of this law, according to the utilitarian theory, it wants to guarantee the happiness that is impressed on humans in the greatest possible number. In essence, according to this theory, the purpose of law is the benefit in producing the greatest pleasure or happiness for a large number of people.

c. Value of Legal Certainty

The state of Indonesia is an adherent of the Continental European legal system which was derived from the colonial state in the colonial era. Written law is typical of Continental Europe with a groundnorm. Violation or action Crimes can be punished if there is already a written law or law. In contrast to the Anglo Saxon legal system which uses the rule of law from judges by digging in court, Continental Europe is very thick with elements of legal certainty. Legal certainty contains two meanings, namely first, the existence of general rules that make individuals know what actions may or may not be carried out, and second, in the form of legal security for individuals from government arbitrariness because with the existence of general rules individuals can know anything, that may be imposed or carried out by the state against individuals.[10]

The teaching of legal certainty comes from Juridical-Dogmatic teachings which are based on a positivist school of thought in the legal world, which tends to see law as something autonomous, independent, because for adherents of this thought, law is nothing but a collection of rules. Law by its nature which only makes a general rule of law. The general nature of the rule of law proves that the law does not aim to achieve justice or benefit, but solely for certainty.[11]

In the application and implementation in achieving the objectives of the law, it is then known as legal obedience. Brian H. Bix, a professor of law and philosophy at the University of Minnesota, explained about the obligation to obey the law, that an important issue that keeps recurring in law is whether or to the extent of whether there is an obligation to obey the law. (to obey the law). The legal obligation is then assumed to be a prima-facie obligation, which can be overcome if there is a stronger moral reason to act contrary to legal prescriptions.[12]

1.1.2. Legal Consequence Theory

The legal consequence is a consequence caused by the law, against an act committed by a legal subject. [14] The legal consequence is a result of the action taken, to obtain a result expected by the legal actor. The intended consequences are those regulated by law, while the actions taken are legal actions, namely actions that are in accordance with applicable law. [15] Legal consequences are the consequences caused by a legal event, which can take the form of:

- 1) Birth, change or disappearance of a legal situation. For example, legal consequences can change from legal incompetence to legal competence when a person turns 21 years old.
- 2) The birth, change or disappearance of a legal relationship between two or more legal subjects, where the rights and obligations of one party are in conflict with the rights and obligations of the other party. For example, X entered into a rental agreement - renting a house with Y, then a legal relationship was born between X and Y when the rent for the house ended, which was marked by the fulfillment of all the rental agreements, then the legal relationship disappeared.
- 3) The birth of sanctions if an action is taken against the law. For example, a thief being given a penalty is a legal consequence of the thief's actions, namely, taking other people's goods without rights and unlawfully.

Legal consequences are events caused by a cause, namely actions committed by legal subjects, both actions that are in accordance with the law, and actions that are not in accordance with the law.

1.1.3. Buying and Selling Land Rights

The sale and purchase of land as a legal action, is not explicitly and in detail regulated in the UUPA. In fact, until now there is no regulation that specifically regulates the implementation of buying and selling land. In Article 5 of the UUPA there is a statement that the National Land Law used in Indonesia is customary law, meaning we use the conceptions, principles, legal institutions and the customary law system. The customary law in question is of course the revised customary law which has its defects removed/improved. So, the meaning of buying and selling land according to the National Land Law is the meaning of buying and selling land according to Customary Law.[13]

In the sale and purchase of land according to customary law, there is one legal act, namely the right to land is transferred from the seller to the buyer when the land price is paid in cash (contant) by the buyer to the seller. The sale and purchase of land according to customary law is not an agreement as stated in Article 1457 of the Civil Code, but a legal act intended to transfer land rights from the right holder (the seller) to another party (the buyer) by paying a sum of money in cash (contant) and carried out in front of the village head/local customary head (clear).[14]

The sale and purchase of land rights is a legal act in the form of the transfer of land rights or property rights forever by the holder of the rights as a seller to another party as a buyer, and simultaneously the buyer submits an amount of money agreed upon by both parties as the price to the buyer. seller.

Basically, the object of the transfer of rights through buying and selling is the right to land or property rights to the apartment unit. In detail, the object of the transfer of rights through buying and selling can be explained as follows:

- a. Right of ownership
The legal basis that stipulates that property rights can be traded is implicitly contained in Article 20 Paragraph (2) of the UUPA, namely "Property Rights can be transferred and transferred to other parties".
- b. Cultivation Rights
The legal basis that stipulates that Cultivation Rights can be traded is implicitly contained in Article 28 Paragraph (2) of the UUPA, namely "Cultivation Rights" can be transferred and transferred to other parties".
- c. Building rights
The legal basis that stipulates that Building Use Rights can be traded is implicitly contained in Article 35 Paragraph (3) of the UUPA, namely "Building Use Rights can be transferred and transferred to other parties".
- d. Right of Use
The legal basis that stipulates that Use of Use Rights can be traded is implicitly contained in Article 43 of the UUPA, which states "As long as the land is directly controlled by the state, the Right of Use can only be transferred to another party with the permission of the authorized official. The use of land rights can only be transferred to another party, if it is possible in the agreement concerned.

There are two conditions for buying and selling land, namely material conditions and formal conditions. The material requirements will determine the validity of the sale and purchase of the land, including the following:

- a. The buyer has the right to purchase the land in question;
- b. The seller has the right to sell the land in question;
- c. The right of the land in question may be traded and is not in dispute.

After all material requirements are met, the PPAT will make a deed of sale and purchase. Before the deed of sale and purchase is made by PPAT, it is required for the

parties to submit the necessary documents to PPAT, namely: [

- a. If the land is already certified: the original land certificate and proof of payment of the registration fee;
- b. If the land is not certified: certificate that the land has not been certified, existing land certificates that require strengthening by the Village Head and Camat, accompanied by letters proving the identity of the seller and buyer which are required for land certificate after the sale and purchase is completed

1.2. Paper Structure

CHAPTER I: INTRODUCTION

This chapter, thoroughly explains the main issues to be discussed, namely the Background, Problem Formulation, Research Objectives and Uses, Conceptual Framework, Research Methods, and Writing Systematics.

In this chapter, the theories that will be used will be presented and explained, including the theory of legal objectives, the theory of legal consequences, the theory of land registration, the theory of buying and selling land rights, the theory of girik in national land law, the theory of Deed Making Officials. Land as a means to analyze and solve the problems that exist in the case.

CHAPTER II: RESEARCH RESULT DATA

This chapter contains the research results needed to describe the actual facts about information related to the selected case, legal literature, namely books or legal journals containing basic principles (legal principles), views of legal experts (doctrine) and faculty lecturers. law in the form of all publications on law and the Supreme Court, which will then be linked to the existing theories that have been put forward in this research.

CHAPTER III: CONCLUSION

This last chapter contains conclusions in the form of short answers to research problems based on the results of problem analysis and suggestions that are expected to help solve any problems or obstacles faced.

2. BACKGROUND

2.1. How's the position holders of Land Rights against the issuance of certificates that are not recognized by the National Land Agency?

Whereas in this case the position of the holder of land rights is in a weak position because the right to use the building whose rights have expired has already made a sale and purchase before the rights have been extended or renewed. In this case, there was an inaccuracy in checking the data by each party before the sale and purchase transaction took place. Under these conditions, if the certificate issued does not match the data as the physical land, namely location, land boundaries, land area and what is on the land, it is reasonable to suspect that the certificate is legally flawed in administration. Certificates of land

rights that contain administrative legal defects can be canceled or orders for recording changes to the maintenance of land registration data according to statutory regulations.

- a. includes procedural errors in the process of determining and/or registering land rights;
- b. procedural error in the registration process for the transfer of rights and/or replacement certificates;
- c. procedural error in the registration process of affirmation and/or recognition of rights to land that was formerly owned by adat;
- d. procedural error in the process of measuring, mapping and/or calculating the area;
- e. overlapping rights or certificates of land rights;
- f. error of subject and/or object of rights; and
- g. other errors in the application of laws and regulations

Occurrence of Legal Defect Certificate Proof of land rights in the form of land certificates, acts as a means of proof, on the other hand the physical data and juridical data listed in the certificate must be correct data, because it is very important in carrying out daily legal actions and in litigation in court. In general, legal defects in the existence of land certificates occur due to: Administrative defects, including procedural errors, wrong subject rights and calculation of the area, this occurs when the applicant wants to apply for the issuance of a certificate to the National Land Agency (BPN). The method or process of handling land administration legal actions against land rights certificates that are defective in administrative law is carried out by:

- a. Issuing a decision on cancellation; and/or
- b. Record keeping of land registration data

Based on the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2011 concerning Management of the Assessment and Handling of Land Cases, Article 67 paragraph (3) states that:

Land rights certificates with administrative legal defects, which have been transferred to other parties, the settlement process is as follows:

- a. Recording in the Land Book and other General Registers that the certificate has administrative legal defects in accordance with the results of the Minutes of Data Processing;
- b. Recording in the Land Book that certificates with administrative legal defects cannot be transferred again as long as the administrative law defects found have not been corrected;
- c. A special degree is conducted to determine whether or not a certificate with administrative law defects can be cancelled with a decision:
 - 1) The act of cancelling the certificate without waiting for a court decision;
 - 2) The act of cancelling the certificate is carried out after there is a court decision that has permanent legal force.
- d. In the event that there is a lawsuit to the court with a court decision confirming the existence of a defect in administrative law, BPN RI does not make an appeal or

cassation and immediately implements a court decision in the form of cancelling a certificate with a defect in administrative law.

2.2. How is the legal protection for Land Rights Holders against the issuance of certificates that are not recognized by the National Land Agency?

In accordance with the function of Article 6 of the Basic Agrarian Law which states "all land rights have social rights" which have the following meanings:

1. The right holder is obliged to use the land in accordance with the land designation, so if the Right to Build a building must be built on it and occupied by the right holder.
2. If there is a conflict between the public interest and individual interests, the public interest will surely win, but it should not necessarily ignore individual interests.

In terms of legal protection obtained for the owner of the building right to use a certificate is not obtained, because there is a defect in administrative law. What happens when the sale and purchase transaction of Building Use Rights has expired, In the event that the sale and purchase between PT Metropolitan Development and PT Meindo Elang Indah does not first renew the rights to the expired building rights, this causes administrative defects. Administrative law defects can result in the invalidity of a certificate of land rights, so that it cannot be used as evidence of ownership of land rights.

1. Procedural error in the process of determining and/or registering land rights;
2. Procedural error in the registration process for the transfer of rights and/or replacement certificates;
3. Procedural error in the registration process for affirmation and/or recognition of rights to land that was formerly owned by adat;
4. Procedural errors in the process of measuring, mapping and/or calculating the area;
5. Overlapping rights or certificates of land rights;
6. Error subject and/or object rights; and
7. Other errors in the application of laws and regulations.

In this case the protection that can be obtained for land rights holders is referring to the Supreme Court Judicial Review Decision Number 423 PK/Pdt/2018 which reads that there has been an apparent mistake or error in the decision of the District Court which granted the Plaintiff's claim and the cassation decision which rejected it. PT Meindo Elang Indah and Jemmy Chan appealed for not providing legal protection to PT Meindo Elang Indah and Jemmy Chan as land buyers with good intentions. The meeting of the Civil Chamber on March 14 - 16 2011 resulted in the following legal rules: "Protection must be given to a buyer with good intentions even if it is later discovered that the seller is a person who has no right to sell". "The original owner can only file a claim for compensation to the seller who is not entitled to it. The

formulation of the Civil Chamber dated March 14 – 16 2011 is also strengthened by the Formulation of the Civil Chamber dated October 9 – 11, 2014 which produces criteria for a buyer with good intentions, namely making a sale and purchase before the Land Deed Maker Officer, buying from the party whose name is mentioned in the ownership certificate in the case. This is a certificate of right to use a building, for a certified land requesting information from the National Land Agency. In this case, PT Meindo Elang Indah and Jemmy met the criteria as buyers in good faith based on facts. buy from the party whose name is mentioned in the certificate of ownership in this case a certificate of building use rights, against the certified land requesting information from the National Land Agency. In this case, PT Meindo Elang Indah and Jemmy met the criteria as buyers in good faith based on facts. buy from the party whose name is mentioned in the certificate of ownership in this case a certificate of building use rights, against the certified land requesting information from the National Land Agency. In this case, PT Meindo Elang Indah and Jemmy met the criteria as buyers in good faith based on facts.

Whereas PT Meindo Elang Indah obtained the disputed land, the status of the Building Use Rights Certificate Number 7381 by purchasing it from PT. Metropolitan Development based on the Deed of Sale and Purchase of the Official Making the Land Deed Number 220/2001 dated June 5, 2001. Prior to carrying out the deed of sale and purchase, Defendant II had examined the physical data and juridical data of the object of sale and purchase through the West Jakarta Land Office and had obtained confirmation of the suitability of the data. by registering at the West Jakarta Land Office. Defendant III also purchased part of the land with the status of Building Use Rights Certificate Number 7381 from Defendant I based on the Sale and Purchase Deed of the Land Deed Author Number 287/2001 dated July 4, 2001, then the land changed its status to Ownership Certificate Number 6120 on behalf of PT Meindo Elang Indah and Jimmy Chan.

That thus PT. Metropolitan Development and Jemmy Chan met the criteria as land buyers in good faith because they purchased land from the owner, namely Defendant I as stated in the Certificate of Building Use Rights Number 7381 and in the presence of the Land Deed Making Officer and had also carried out thorough checks at the National Land Agency Office which authorized. When the deed of sale and purchase of land, the object of sale and purchase is not in a disputed status and is confiscated;

Whereas the Plaintiff's lawsuit against Defendant I at the West Jakarta District Court occurred in 2006 while the sale and purchase between Defendant I as a seller and Defendant II and Defendant III as a buyer occurred in 2001. This the sale and purchase between Defendant I and PT Meindo Elang Indah and Jemmy occurred five years preceded the occurrence of a dispute between the Plaintiff and PT. Metropolitan Development. Therefore, the District Court Decision Number 447/Pdt/2006 in conjunction with the High Court Number 453/PDT/2008 in conjunction with Cassation Number 873 K/Pdt/2009 in conjunction with Judicial Review Number 31 PK/Pdt/2011 cannot be

considered or the basis for canceling the deed of sale. buy between PT. Metropolitan Development with PT Meindo Elang Indah and Jemmy Chan as well as certificates of building rights owned by PT Meindo Elang Indah and certificates of ownership rights of Jemmy Chan as a result of the sale and purchase deed. Accountability is only borne by Defendant I as an ineligible seller in accordance with the formulation of the Supreme Court's Civil Chamber Meeting on March 14-16, 2011;

Considering, whereas based on the above considerations, the Supreme Court is of the opinion that there are sufficient reasons to grant the petition for judicial review from the Petitioner for Judicial Review PT MEINDO ELANG INDAH and cancel the Decision of the Supreme Court of the Republic of Indonesia Number 375 K/PDT/2016 dated June 14, 2016 and the Supreme Court will retrial this case with a verdict as will be mentioned below; Considering, whereas, because the Respondent for Judicial Review I was on the losing side, he was sentenced to pay court fees at all levels of the judiciary;

Taking into account Law Number 48 of 2009 concerning Judicial Power, Law Number 14 of 1985 concerning the Supreme Court as amended and supplemented by Law Number 5 of 2004 and the second amendment to Law Number 3 of 2009 and other relevant laws and regulations; Granted the petition for reconsideration from the Petitioner for Judicial Review PT MEINDO ELANG INDAH Canceling the Decision of the Supreme Court of the Republic of Indonesia Number 375 K/PDT/2016 dated June 14, 2016 in conjunction with the Decision of the Jakarta High Court Number 212/PDT/2015/PT DKI. dated June 3, 2015 which affirmed the Decision of the West Jakarta District Court Number 355/Pdt.G/2013/PN Jkt.Bar. August 25, 2014. The identity of the seller and buyer which are required for land certificate after the sale and purchase is completed.

3. CONCLUSIONS

1. The position of the holder of land rights that is not recognized by the National Land Agency is weak because the right to use the building whose rights have expired has already made a sale and purchase before the rights are extended or renewed first. In this case, there was an inaccuracy in checking the data by each party before the sale and purchase transaction took place. But the sale and purchase of building use rights whose rights have expired is not something that is deviant in law because when viewed basically the land and the buildings on it whose rights have expired will return to the state and are no longer registered as land rights. at the Land Office until new rights are granted. The sale and purchase carried out on land whose rights have expired can be carried out before an authorized official, namely a Notary where the Notary makes an authentic deed in the form of a Sale and Purchase Agreement and the Transfer of Rights. If a right to use a building whose rights have expired will be

transferred to another party, the change of rights can be made through the application process for new rights at the local Land Office.

As for looking into the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2011 concerning Management of the Study and Handling of Land Cases, the process of handling requests for cancellation/correction of certificates of land rights issued by the Head of BPN RI or Kakanwil with administrative legal defects through the following procedures: the following: (a) research is carried out by the Regional Office of the National Land Agency through the stages referred to, until the stage of making Minutes of Data Processing; (b) sending proposals for land legal actions from the Head of Regional Offices to BPN RI attached with case handling files and Minutes of Data Processing, no later than 3 (three) months after receipt of the request for cancellation from the applicant; (c) processing the proposal file and the Minutes of Data Processing at BPN RI to decide whether or not a land legal action can be taken within 3 (three) months after the receipt of the proposal letter from the Regional Head of Regional Office through the stages as intended; (d) the issuance of a decision may be in the form of: a Decree on the cancellation of a defect in land rights; Order to the Land Office to make records in the Land Book and other General Registers; or Notification Letter to the Regional Office of the National Land Agency that the application/proposal cannot be granted. (d) before issuing the decision as referred to in letter d, the Deputy may ask for instructions from the Head of BPN RI by submitting the Minutes of Data Processing, no later than 3 (three) months after receiving the proposal from the Regional Head of Regional Office.

2. In terms of legal protection obtained for the owner of the right to use the building with a certificate is not obtained, because there is a defect in administrative law. What happens when the sale and purchase transaction of Building Use Rights has expired. In the event that the sale and purchase between PT Metropolitan Development and PT Meindo Elang Indah does not first renew the rights to the expired building rights, this causes administrative defects. Administrative law defects can result in the invalidity of a certificate of land rights, so that it cannot be used as evidence of ownership of land rights.

There are several things that cause administrative legal defects as regulated in the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2011 concerning Management of the Study and Handling of Land Cases, namely: 1) Procedural errors in the process of determining and/or registering land rights; 2) Procedural errors in the registration process for the transfer of rights and/or replacement certificates; 3) Procedural error in the registration process for affirmation and/or recognition of rights to land that was formerly owned by adat; 4) procedural error in the process of measuring, mapping

and/or calculating the area; 5) Overlapping rights or certificates of land rights; Error subject and/or object rights.

According to the author in this case, the protection that can be obtained for land rights holders is as a buyer with good intentions which refers to the Supreme Court Review Decision Number 423 PK / Pdt / 2018 which reads that there is indeed a real error in the analysis carried out. given in the decision of the District Court which granted the Plaintiff's claim and the decision in the cassation which rejected the cassation of PT Meindo Elang Indah and Jemmy Chan, for not providing legal protection to PT Meindo Elang Indah and Jemmy Chan as land buyers in good faith. As the results of the Civil Chamber Meeting on March 14-16, 2011 resulted in the following legal rules: "Protection must be given to buyers who have good intentions even if later it is found that the seller is a person who opens.

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