



The Ideal Role of the Land Office Bandar Lampung in Realizing the Legal Certificate of Lost Certificates

Sri Zanariah^(✉), Rendy Renaldy, Heru Setiyono, and Sigit Apriyanto

Law Faculty, Sang Bumi Ruwa Jurai University, Badan Pertanahan, Kota Bandar Lampung,
Lampung, Indonesia
sri.zanariah@gmail.com

Abstract. The issuance of a lost replacement certificate by the Bandar Lampung City Land Office ideally provides legal certainty that the land on which the replacement certificate is issued legally belongs to the applicant. Legal evidence can be justified before the law that the applicant legally owns the certificate. This can be applied in the field by verifying the land object. This is in line with Article 32 paragraph (1) of Government Regulation No. 24 of 1997 where the certificate is a certificate of evidence of rights that applies as strong evidence of physical and juridical data contained therein. Land administration constraints in the application for registration of a replacement certificate due to loss can occur due to the loss of the Letter of Measurement and Land Book against Certificate Number 1029/KD. It impacts the ineffectiveness of a series of land registration activities, resulting in the absence of certainty, benefit and legal justice for the community as holders of civil rights and legal administration. In addition, the absence of an attitude from the Land Office of Bandar Lampung City in responding to the loss of the letter of measurement and the land book should still be the Land Office's legal responsibility in the data maintenance series and in order to achieve orderly land administration .

Keywords: Land Office · Legal Assurance · certificate

1 Introduction

The increasing need for land when the availability of land in Indonesia is getting narrower, so arrangements to ensure legal certainty and protection for land rights holders so that there is order in land use is needed. Land registration is a series of activities carried out by the State continuously and regularly, in the form of collecting due or certain data regarding certain lands in certain areas, processing, storing and presenting for the benefit of the people, in the context of providing guarantees. For example, the issuance of Law Number 5 of 1960 concerning Basic Agrarian Regulations and Government Regulation Number 24 of 1997 concerns Land Registration [1].

This is stated in Article 19 of the Basic Agrarian Law, which contains: (1) To ensure legal certainty by the government, land registration is held throughout the territory of the Republic of Indonesia according to the provisions stipulated in Government Regulations. And (2) Land Registration in paragraph 1 of this article includes:

- a. Measurement, mapping and bookkeeping of land;
- b. Registration of land rights and the transfer of such rights;
- c. Provision of letters of evidence of rights, which act as strong evidence.

In addition, Article 32 paragraph (1) of Government Regulation 24 of 1997 explains that a certificate is a certificate of evidence of rights that applies as strong evidence of physical and juridical data contained therein. As long as the physical and legal data are following the data provided in the letter of measurement and the land book concerned.

As time goes by, ownership of land rights to land certificates often results in problems regarding their certificates. An example of a problem is the destruction of a certificate of land rights due to damage or carelessness, so the certificate cannot be used or read. In addition to the destruction of the certificate, another problem faced by the certificate holder is that it is lost, which is very detrimental to the holder of land rights. The issuance of a replacement certificate due to loss is not much different from that of a land title certificate or a replacement certificate due to damage. However, in issuing a replacement certificate due to loss, research must be carried out first by the local Land Office on the juridical data of the land parcel and announcements in the mass media.

In connection with this, in this case, the State provides a solution for people who experience loss of land rights certificates, namely the existence of a replacement certificate. A new certificate is issued as a replacement for a certificate that is damaged, lost, or still using a blank certificate that is no longer used or which is not submitted to the auction buyer in an execution auction. This is reflected in Article 57 paragraph (1) of Government Regulation 24 of 1997, which explains the request of the right holder.

Benefit and legal justice for the community as the holder of civil rights and legal administration. However, land administration obstacles in the application for registration of a replacement certificate due to loss can occur due to the loss of the Letter of Measurement and Land Book, for example the land registration process for Certificate Number 1029/KD. It has an impact on the non-running of a series of land registration activities, resulting in a lack of certainty. In addition, the weak attitude of the Land Office of Bandar Lampung City in responding to the loss of the Letter of Measurement and Land Book, which should still be the legal responsibility of the Land Office of Bandar Lampung in the series of data maintenance to achieve orderly land administration.

2 Research Method

Legal research is a scientific activity based on certain methods, systematic, and thinking. It aims to study one or several specific legal phenomena by analyzing them unless it also implements the legal facts in-depth and then strives for a solution to the problems that arise in the relevant symptoms.

The word socio in socio-legal studies reflects the interrelationship between the context in which the law is located. That is why when a socio-legal writer uses social theory

for analytical purposes, they are often not aiming to pay attention to sociology or other social sciences, but law and legal studies. The author will use the socio-legal Research approach, which is an alternative approach that tests doctrinal studies of law.

3 Findings and Discussion

Lost certificates can be interpreted for some reason, in the sense that land rights certificates are separated from physical control by the right holder. And the reasons are various, such as stolen, fired, and entrusted to people who were never returned. In addition to these things, a lost certificate can also mean that the certificate is still partially left but is no longer there or can no longer be known about its contents.

Before applying for the issuance of a certificate of replacement for land rights, the applicant must first meet the requirements determined by the legislation through the Land Office. After the applicant meets the requirements for a replacement certificate for land rights, the applicant can apply for the issuance of a certificate for the replacement of land rights at the Land Office in the following ways:

- 1) Applicants for land rights certificates come to the Land Office by bringing the documents explained at the time of the requirements and then submitting them to the Technical Officer.
- 2) The technical officer at the Land Office counter will examine the document, and if it is complete, a document receipt will be given.
- 3) After the document is recorded, it will be forwarded to the determining rights and registration section.
- 4) The Right Determination and Registration Section will study, disposition and submit to the implementing officer.
- 5) The implementing officer then makes an announcement based on documents from the Rights Determination and Registration section, which is then submitted back to the Rights Determination and Registration Section.
- 6) Furthermore, after examining the section on the determination of rights and registration, he strongly affixed the announcement concept and submitted it to the survey, measurement and mapping section.
- 7) Next, the survey, measurement and mapping section examines the concept of the announcement and gives initials, then sends it to the Head of Office.
- 8) After being examined by the Head of the Office, she/he as the Head of the Office signs the concept of the announcement. Then, the concept of the announcement is announced in the local mass media, the urban village office, and the Land Office itself. And if, within 30 working days of the announcement, there is an objection from another party or admits that he has the right to the land. The reason is quite reasonable after being investigated in the field by the land office officer, the application for a replacement certificate is postponed until there is a settlement through the decision of the local District Court.

Ideally, the issuance of a replacement certificate must contain 3 (three) legal principles as follows:

1. The principle of legal certainty (Rechtmatigheid).

In issuing a replacement certificate lost by the Land Office of Bandar Lampung City, it is to provide legal certainty that the land for which the replacement certificate is issued is legally the applicant's property. This principle is reviewed from a juridical point of view. What is proven legally, can be accounted for before the law that the applicant legally owns the certificate, it must be proven in the field by checking the existing physical directly. This must be in accordance with Article 32 paragraph (1) of Government Regulation No. 24 of 1997, which contains: "Certificate is a certificate of evidence of rights that applies as a strong evidence of physical data and juridical data contained therein, as long as physical data and juridical data This is under the data contained in the letter of measurement and the land book in question." In matters relating to legal certainty in the issuance of replacement certificates, it must be in accordance with Article 19 of the UUPA, which states that:

- 1) To ensure the legal certainty by the Government, land registration is held throughout the territory of the Republic of Indonesia according to the provisions stipulated by government regulations
- 2) The registration referred to in paragraph (1) of this Article includes:
- 3) Land measurement, mapping and bookkeeping;
- 4) Registration of land rights and the transfer of such rights;
- 5) Providing letters of evidence of rights, which act as tools
- 6) Strong evidence.
- 7) Land registration is carried out taking into account the state and community conditions, the need for socio-economic traffic and the possibility of its implementation, according to the consideration of the Minister of Agrarian Affairs.
- 8) The Government Regulation stipulates that the costs related to registration are included in paragraph (1) above, provided that the people who cannot afford them are exempted from paying these fees.

2. The principle of legal justice (gerechtigheid).

This principle is reviewed from a philosophical point of view, where justice is equal rights for all before the court. This means that if we relate it to the issuance of a replacement certificate due to loss, then in the procedure. It must be announced before issuing a replacement certificate either through the mass media or through a bulletin board in the village where the certificate was lost and posted on the bulletin board at the Land Office of Bandar Lampung City., if within 30 days there is no objection, a replacement certificate will be issued, but if there are parties who object to the certificate, the issuance of the replacement certificate will be postponed until a court decision is ready on who has the right to the land. This is in accordance with the theory of legal certainty because anyone who experiences this, whether official or not, must receive the same treatment and the same procedures in accordance with operational standards.

3. The principle of legal expediency (zwech matigheid or doelmatigheid or utility).

Suppose we relate to the issuance of a replacement certificate because it was lost by the land office of Bandar Lampung City. In that case, it has legal benefits, meaning that the issuance of a replacement certificate in addition to providing legal certainty also benefits the certificate holder, namely as evidence of ownership of a land right. Thus, issuing a replacement certificate because it is lost will benefit people who have rights so that they do not cause the loss of someone's rights in the eyes of the law and have legal certainty.

If we analyze the issuance of substitute certificates from the evidence side, then any right must be proven and accounted for. This will relate to the certainty of ownership of a right. From this legal opinion, it can be underlined that the issuance of a replacement certificate because it was lost by the land office of Bandar Lampung City if analyzed with legal certainty theory and evidence theory, it can be concluded that in issuing a replacement certificate it must meet the requirements and go through the procedures established by legislation. This is important because it concerns the legal certainty of a person's right in the ownership of land rights, which must be proven both legally and factually in the field, but the applicant is still disadvantaged both materially and temporally.

Holders of land rights certificates and holders of certificates of replacement rights to land clearly have legal certainty that remains as a manifestation of legal protection for holders of land rights, because in the ownership of land rights, there will be a certificate of evidence of rights, as well as holder of a certificate of replacement for land rights. Legal protection for land rights certificate holders and land rights replacement certificate holders in the Bandar Lampung City Land Office's jurisdiction is in accordance with the applicable laws and regulations in Indonesia, one of which is land registration by the Bandar Lampung City Land Office to ensure certainty law for land rights holders, who will later receive a land title certificate as evidence of ownership of rights.

Departing from the explanation above, the guarantee of legal certainty or protection for land rights owners is closely related to the publication system adopted by the Indonesian Basic Agrarian Law. Namely, a negative publication system that contains positive elements, because the system is not purely negative, as stated in Article 19 paragraph (2) letter c, that the registration of land rights will produce a certificate of evidence of rights that applies as strong evidence. The certificate of evidence of rights applies as evidence, it means that the information is deemed true as long as there is no other evidence that proves otherwise. In this case, if there is a dispute with the holder of land rights, the local District Court will decide which means of evidence is correct, and the certificate of land rights will be canceled, which is considered incorrect.

So in this system, the guarantee of legal certainty still considers the provision that the right holder can still defend his right to a lawsuit from another party if the claim is not proven. Vice versa, the party suing can have rights to the land as long as the claim is justified and the court decided that the land was proven to belong to the Plaintiff.

Although the publication system used is negative, all activities carried out regarding the manufacture of evidence or land rights certificates at the Land Office of Bandar Lampung City are carefully implemented and researched so that the data is presented as

far as possible justified. It's because to create an orderly administration in the field of land in Indonesia.

4 Conclusion

The ideal role of the Bandar Lampung Land Office in realizing legal certainty for a replacement certificate due to loss is that the National Land Agency (henceforth: BPN) / Land Office of Bandar Lampung city should carry out re-measurement activities to address the missing Letter of Measurement and Land Book, review the location and the applicant by the Determination Section Rights and Registration to ensure the correctness of the legal subject and object of the application for registration of a replacement certificate because it is lost for the sake of realizing the truth of the juridical and empirical data as well as issuing the Minutes of Loss of the Measurement Letter and Land Book against the Certificate of Property Rights Number 1029/KD, based on the Decree on the List of Project Proposals Region (SK DUPDA) of 1977, Serial Number 959, Box Lot 129, Map Sheet VI-D/8, area of 8,534 m² (eight thousand five hundred and thirty-four square meters) which has been registered and registered.

Reference

1. Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*, Djambatan, Jakarta, 2005, Cetakan 10, Edisi Revisi, hlm. 23.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

