

Legal Protection for Overlapping Certificate Holders in the Region of the South Tangerang Land Office

(Study of Administrative Court Decision No. 69/G/TUN/2019/PTUN.Srg combined with Jakarta Administrative Court Decision No. 194/B/2020/PTUN.Jkt)

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ABSTRACT

Land is something that is very valuable and so it is natural that it becomes a struggle between humans to fight to own and control it. Land issues that lead to conflict or land disputes will cause the State, in this case the Government, to experience social conflict. The method used is qualitative which refers to the legal issues that arise in this research. The results of this research are the principle of contradiction of delimitation which is applied in land registration activities in order to obtain legal certainty; The development of the Supreme Court in adjudicating disputes over overlapping certificates is very helpful in dealing with land disputes caused by overlapping certificates which both have authentic power; The legal considerations of the Serang State Administrative Court Number 69/G/TUN/2019/PTUN SRG are appropriate in providing legal protection to Sri Mulyani, the owner of the Ownership Certificate Number: 7556/Ex. Sawah issued on 15 October 2018, Measurement Letter Number: 3302/Sawah/2018 dated 25 September 2018 by granting the lawsuit; The legal consideration of the Jakarta State Administrative High Court Number 194/B/2022/PTTUN JKT is that there is an error regarding the time period for administrative efforts which has an impact on the assessment of Sri Mulyani's lawsuit. The panel of judges at the appellate level did not pay attention to the provisions of Article 1979 of the Civil Code.

Keywords: Land disputes, overlap, contradictory expectations

INTRODUCTION

The emergence of conflicts or disputes regarding land needs is an inevitable occurrence, as stated by Mochamad Tauchid: "Agrarian issues (land issues) are matters of life and livelihood for humans, as land is the origin and source of food for humans. The struggle for land implies a struggle for food, a struggle for the pillars of human life. For this, people are willing to shed blood, sacrifice everything they have to preserve life and its continuation." The renowned psychologist Freud stated that the fundamental issue in human life is to preserve life and descendants (zelfbehoud and soortbehoud). To sustain life, people fight to obtain food, and to preserve their offspring, they defend their family, children, and nation. The struggle for food and the defense of offspring constitute the struggle for human life in this world. From what Mochamad Tauchid said, it is clear that land is extremely valuable and, therefore, a subject of contention among humans who strive to possess and control it.

The insensitivity in addressing land issues leading to conflicts or land disputes will result in the country, in this case, the government, experiencing social conflict. It can be said that Indonesia is unable or failing to fulfill the constitutional mandate of Article 33 paragraph 3 of the 1945 Constitution, which states that "Land

and water and the natural wealth contained therein are controlled by the state and used for the greatest prosperity of the people.” From a socio-political perspective, if land issues are left unaddressed and not thoroughly handled in an agrarian country like Indonesia, it can become a primary source of increasing agrarian unrest, whether covert or overt. Agrarian unrest is often caused by a lack of social justice regarding land ownership, control, and cultivation, exacerbated by the unchanged agrarian structure since the colonial era and the less effective implementation of the law, often referred to as “law enforcement” compared to the state’s legal framework.

For various reasons leading to land conflicts or disputes, as outlined by the author above, this research focuses on conflicts or disputes related to civil matters concerning ownership of land with overlapping certificates. To resolve ownership disputes over land with overlapping certificates, the issue of legal certainty of proof of ownership, namely which overlapping certificate is valid and who has the right to the contested land, needs to be questioned.

In this study, the author found two overlapping certificates on the same piece of land, each held by different owners. The disputed land is located within the jurisdiction of the South Tangerang Land Office. The issue of overlapping certificates was resolved through the Administrative Court in Serang, the Administrative High Court in Jakarta, and the Supreme Court, with the object being the cancellation of Certificate of Ownership Number 07731/Sawah issued on November 9, 2018, covering an area of 540 square meters, in the names of Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, Krisdian, overlapping with Certificate of Ownership Number 7556/Sawah covering an area of 350 square meters, issued on October 15, 2018, in the name of Sri Mulyani. Certificate of Ownership Number 7556/Sawah in the name of Sri Mulyani was a subdivision of the parent certificate, Certificate of Ownership Number 637/Sawah issued on July 30, 1986, with a total area of 3,900 square meters.

Interestingly, the case of overlapping certificates went through a lengthy resolution process, starting with an unlawful act lawsuit with Case Register Number 103/Pdt.G/2019 filed by Supriyadi against Jawiyah, Sri Mulyani, Sundari, Hendawati, Eno Bowo Susilo, Linda Eviyanti, Haryanto Kurniawan, Athallaah Don Juan Surya Pratama, and Cleo Lakifarisha Suryaninda. Based on the brief description of these two cases, the author is enthusiastic about conducting further research for a thesis, considering the potential assistance to be provided as a Civil Servant in the Ministry of Agrarian and Spatial Planning/National Land Agency to address such disputes.

From the above background of the problem, the author formulates the research questions as follows:

1. How are the regulations governing the principle of contradictor delimitation as a form of legal protection for holders of overlapping certificate rights?
2. What is the development of addressing issues related to overlapping certificates through the legal principles of the Supreme Court?
3. What are the legal considerations from the Administrative Court in Serang and the Administrative High Court in Jakarta regarding the issue of overlapping certificates?
4. How does the Ministry of Agrarian and Spatial Planning/National Land Agency implement the court decisions?

RESEARCH METHOD

Solving a problem, particularly in legal studies, requires a method. The research method employed by the author must be based on the legal issues emerging in this study, as outlined in the research questions. Legal issues hold a central position in legal research, similar to the role of problems in other types of research, because it is these legal issues that need to be addressed in legal research, as opposed to non-legal issues.

RESULTS AND DISCUSSION

Resolution of Overlapping Certificate Cases Through Judicial Institutions

a. Development of the Supreme Court in Decisions Related to Overlapping Certificate Issues

In conducting research on overlapping certificates, the author deems it necessary to explore decisions from the Supreme Court or at the appellate level regarding how the law is applied to owners of certificated land rights when their certificates overlap. In the Jurisprudence of the Supreme Court Number 5/Yur/Pdt/2018, it is affirmed that if there are two authentic certificates for the same land, the strongest evidence of rights is the certificate issued first. Referring to this Jurisprudence, several Supreme Court Decisions were taken into account, as follows:

976 K/PDT/2015

In assessing the validity of one of the two authentic proof of rights, the principle applies that the certificate issued earlier is valid and legally binding. Based on the facts presented in the trial, Building Right Certificate (HGB) Number 1458, later extended with HGB Certificate Number 46 in the name of the Joint Defendant I (PT. Propelat), is the evidence of rights issued earlier on February 11, 1993, compared to Usage Right Certificate Number 18 issued on November 11, 1998. HGB Certificate Number 46 was sold by the Joint Defendant I to the Plaintiff/Appellant in front of the PPAT, making the Plaintiff/Appellant the rightful owner of the disputed object.

290K/PDT/2016

In the case of the emergence of duplicate land certificates, the strongest evidence of rights is the certificate issued earlier. In this case, Ownership Certificate Number 00412 in the name of Suhadi (Defendant V) and Ownership Certificate Number 00416 in the name of Afandi Wijaya (Defendant III) were issued earlier, making Ownership Certificate Number 00146 Lisnawati (Plaintiff) legally ineffective. Therefore, the decision of the High Court in Kendari in this case was correct and deserves to be upheld.

1318K/PDT/2017

The Ownership Certificate Number 19252/2013 in the name of Anak Agung Ngurah Jaya has been revoked by the National Land Agency, while Ownership Certificate Number 10772 in the name of A.A. NGR. Made Agung is valid because it was issued earlier.

170K/PDT/2017

The Judex Facti (Banten High Court) that upheld the Judex Facti (Serang District Court) did not err in applying the law; its considerations were accurate. By rejecting the entire claim of the Compensation Plaintiff and partially granting the Reconpensation Plaintiff's claim, the judgment was correct. This is because, according to the Ownership Certificate issued by the Joint Defendant III from 1993 to 1996 for the disputed object of the Reconpensation Plaintiff, they are the rightful owner. Meanwhile, Ownership Certificate Number 326 in the name of the Compensation Plaintiff was issued on April 25, 2012, with a Sale and Purchase Deed dated October 18, 2011. Therefore, the issuance of the Reconpensation Plaintiff's Ownership Certificate preceded the issuance of the Compensation Plaintiff's Ownership Certificate. Additionally, from the on-site examination, it was found that there is a duplicate certificate for the disputed land in this case owned by both the Plaintiff and the Defendants. Hence, Ownership Certificate Number 326 in the name of the Compensation Plaintiff is legally defective and lacks binding legal force.

Practice of Resolving Overlapping Certificate Issues Through Litigation

a. Lawsuit in Case Number 38/G/TUN/PTUN SRG

- The initial occurrence of the dispute over overlapping certificates in the Administrative High Court was due to a Lawsuit for Unlawful Act filed by Supriyadi, one of the heirs of Nasih Enah, to the Clerk's Office of Tangerang District Court with Case Number 103/Pdt.G/2019/PN Tng. In his capacity as the Plaintiff claiming ownership of land measuring 540 square meters located on Gelatik Street, Rt 006 Rw 001, Sawah Village, Ciputat Subdistrict, South Tangerang City, Banten. Supriyadi filed the lawsuit against the heirs of Toha Kardjono, namely Djawiyah (wife of Toha Kardjono), Sri Mulyani, Sundari, Hendawati, Eno Bowo Susilo, Haryanto Kurniawan, and Linda Eviyanti, who are the biological children of Toha Kardjono and Djawiyah, in their capacity as the Defendants.

In the case Number 103/Pdt.G/2019/PN Tng, the lawsuit filed by Supriyadi was decided based on facts and evidence by the Panel of Judges. It was determined that Supriyadi's lawsuit was not admissible because he, as the Plaintiff, did not involve the South Tangerang Land Office as a party, either as the Defendant or Co-Defendant in case Number 103/Pdt.G/2019/PN Tng. This decision was grounded in the fact that both Supriyadi and Sri Mulyani already had certified land, issued by the South Tangerang Land Office.

As a result of Supriyadi's lawsuit in case Number 103/Pdt.G/2019/PN Tng, Sri Mulyani became aware during the on-site examination with Supriyadi and the Panel of Judges that the disputed land, measuring 540 square meters, owned by Supriyadi, was situated on land measuring 350 square meters owned by Sri Mulyani. Upon learning about Ownership Certificate Number 07731/Sawah issued on November 9, 2018, and Survey Letter Number 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters in the name of Supriyadi, situated on land covered by Ownership Certificate Number 7556/Sawah issued on October 25, 2018, and Survey Letter Number 3302/Sawah/2018 dated September 25, 2018, in the name of Sri Mulyani, Sri Mulyani, as the rights holder, felt aggrieved by the South Tangerang Land Office. This was due to the issuance of Ownership Certificate Number 07731/Sawah on November 9, 2018, and Survey Letter Number 03480/Sawah/2018 dated November 4, 2018, in the name of Supriyadi on land owned by Sri Mulyani, as per Ownership Certificate Number 7556/Sawah issued on October 25, 2018, and Survey Letter Number 3302/Sawah/2018 dated September 25, 2018. In response, Sri Mulyani raised objections to the Head of the South Tangerang Land Office through Letter Number 059/S/AR&R/VII/2019 dated July 22, 2019, regarding the Objection and Cancellation of Certificate, receiving a response from the Head of the South Tangerang Land Office Number: MP.01.01/531-36.07/VII/2019 dated August 7, 2019, regarding the Objection and Cancellation of Ownership Certificate No. 07731/Sawah.

Considering the response letter from the Head of the South Tangerang Land Office rejecting Sri Mulyani's request, Sri Mulyani eventually filed a lawsuit with the Administrative Court in Serang, suing the Head of the South Tangerang Land Office as the Defendant and Supriyadi as the Second Intervening Defendant with Case Register Number 38/G/TUN/PTUN SRG. Sri Mulyani, the owner of Ownership Certificate Number: 7556/Kel. Sawah issued on October 15, 2018, and Survey Letter Number: 3302/Sawah/2018 dated September 25, 2018, covering an area of 350 square meters in the name of Sri Mulyani (Plaintiff), resulted from the separation of Ownership Certificate Number: 637/Sawah, Situational Drawing Number: 3479 dated May 3, 1986, covering an area of 3,900 square meters in the name of Sri Mulyani (Plaintiff), issued by the Tangerang District Land Office on July 30, 1986. The Plaintiff filed a Lawsuit to Cancel Ownership Certificate Number: 07731/Kelurahan Sawah issued on November 9, 2018, and Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters in the name of Supriyadi.

The issuance of Ownership Certificate Number: 07731/Kelurahan Sawah on November 9, 2018, and Survey

Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters in the name of Supriyadi, was issued by the South Tangerang City Land Office. The South Tangerang City Land Office, which issued Ownership Certificate Number: 07731/Kelurahan Sawah on November 9, 2018, and Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters, is considered to have violated the provisions of Government Regulation Number 24 of 1997. In addition to violating the mentioned regulations, the South Tangerang City Land Office has also breached the principles of good governance, namely the principles of legal certainty and precision.

Legal Considerations and Verdict

The lawsuit in Case 38/G/TUN/2019/PTUN SRG filed by Sri Mulyani, according to the Panel of Judges:

- a. That during the on-site examination
- b. Due to the issuance of 2 (two) ownership certificates for the same land location, a legal examination is necessary regarding the dualism of land ownership rights.

Because determining the civil ownership of the land still needs to undergo examination in the General Court, the Panel of Judges believes that the Exception of Absolute Authority presented by the Defendant and the Second Intervening Defendant is a legally acceptable exception. Based on the legal considerations above, Sri Mulyani's lawsuit is deemed inadmissible.

Lawsuit in Case Number 69/G/TUN/2019/PTUN SRG. Sri Mulyani's lawsuit to annul Ownership Certificate Number: 07731/Kelurahan Sawah issued on November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters in the name of Supriyadi in Case Number 38/G/TUN/2019/PTUN SRG is declared inadmissible. A new lawsuit to annul Ownership Certificate Number 07731/Sawah issued on November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters initially registered in the name of Supriyadi but later changed to Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hadi was then filed with the Administrative Court in Serang with Case Register Number 69/G/TUN/2019/PTUN SRG.

The subject matter regarding overlapping certificates at the Administrative High Court is the annulment of Ownership Certificate Number 07731/Sawah dated November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters initially registered in the name of Supriyadi but later changed to Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hadi, who are the heirs of Nasih Enah.

The lawsuit filed by Sri Mulyani is fully granted by the Panel of Judges with the following verdict:

- a. Accept the Plaintiff's lawsuit in its entirety
- b. Declare null and void the decision of the Head of the South Tangerang City Land Office in the form of Ownership Certificate Number 07731/Kelurahan Sawah, issued on November 9, 2018, Survey Letter Number 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters under the names of Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hardi.

Oblige the Head of the South Tangerang City Land Office to revoke and strike off from the Land Certificate Register the Ownership Certificate Number 07731/Kelurahan Sawah, issued on November 9, 2018, Survey

Letter Number 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters under the names of Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hardi.

Sentence the Defendant and the Intervening Second Defendant to jointly bear the costs of this case amounting to IDR 482,000.00 (four hundred eighty-two thousand rupiahs).

The approval of Sri Mulyani's lawsuit is based on legal considerations, namely: Ownership Certificate Number 7556/Sawah issued on October 25, 2018, Survey Letter Number: 3302/Sawah/2018 dated September 25, 2018, registered under the name of Sri Mulyani, which is a separation from the parent certificate, namely Ownership Certificate Number: 637/Sawah issued on July 30, 1986, Situation Map Number: 3479 dated May 3, 1986, covering an area of 3,900 square meters registered under the name of Sri Mulyani, issued earlier than Ownership Certificate Number 07731/Kelurahan Sawah, issued on November 9, 2018, Survey Letter Number 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters under the names of Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hardi.

The boundaries of the land owned by the Intervening Second Defendant, which is the subject of the dispute, are as follows: to the North bordered by Jawiyah; to the East bordered by Jawiyah; to the South bordered by Jamin; and to the West bordered by Handoko. However, in the Legal Research Data and Determination of NIB Boundaries 16472 dated September 7, 2018, under the name of the concerned party Supriyadi, et al., it is known that in column number 4, the Approval of Land Boundary for the Northern and Eastern sides is registered under the name of Jawiyah, with the column for the signature of the boundary approval being empty or not signed by the respective party.

The certificate of the disputed object by the Defendant has been in conflict with the prevailing laws and regulations, namely in violation of Article 14, Article 17 paragraph (2), and Article 18 paragraph (3) of Government Regulation Number 24 of 1997 concerning Land Registration, and is also contrary to the general principles of good governance, especially the principle of precision.

Legal Considerations of the Administrative High Court in Jakarta

The South Tangerang Land Office and Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hardi, owners of Certificate of Land Ownership Number: 07731/Kelurahan Sawah dated November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters, filed an appeal. The appellate panel in Decision Number 194/B/TUN/2020/PT.TUN JKT ruled with the following verdict.

- Accepting the Appeal from the Appellant/Defendant and the Appellant/Defendant II Intervention
- Nullifying the Decision of the Administrative High Court in Serang Number 69/G/2019/PTUN.SRG dated April 29, 2020, appealed against
- Declaring the lawsuit of the Appellee/Plaintiff not accepted
- Sentencing the Appellee/Plaintiff to pay the litigation costs at both court levels, with the appellate level set at Rp. 250,000 (two hundred and fifty thousand rupiahs).

Based on Decision Number 194/B/TUN/2020/PT.TUN JKT, it means that the Decision of the Administrative High Court in Serang Number 69/G/2019/PTUN SRG dated April 29, 2020, has been annulled. The legal rationale according to the appellate panel places more emphasis on formal aspects, where Sri Mulyani as the Appellee, in submitting objections as an administrative remedy, is not in line with the provisions of Article 77 paragraph 1 of Law Number 30 of 2014 concerning Administrative Governance.

Supreme Court Legal Considerations

Sri Mulyani, with the appellate decision, expresses objection to Decision Number 194/B/TUN/2020/PT.TUN JKT and files a cassation. The Supreme Court at the cassation level has its own legal opinion regarding the annulment of Certificate of Land Ownership Number: 07731/Kelurahan Sawah dated November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters, registered under the names of Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hardi, which factually overlaps with Certificate of Land Ownership Number 7556/Sawah issued on October 25, 2018, Survey Letter Number: 3302/Sawah/2018 dated September 25, 2018, registered under the name of Sri Mulyani, which is a separation from the parent certificate, Certificate of Land Ownership Number: 637/Sawah issued on July 30, 1986, Situation Picture Number: 3479 dated May 3, 1986, covering an area of 3,900 square meters, under the name of Sri Mulyani.

The Supreme Court addresses the issue of overlapping certificates in its legal considerations in Decision Number 96K/TUN/2021, stating that regarding the grounds for cassation, the Supreme Court is of the opinion that these grounds can be justified. This is because the *Judex Facti* of the Administrative High Court in Jakarta was mistaken and erred in applying the law with the following considerations: The delay in submitting administrative remedies by the Cassation Petitioner/Plaintiff cannot be equated with not submitting administrative remedies. Even though there was a delay in submitting administrative remedies by the Cassation Petitioner/Plaintiff, the Cassation Respondent/Defendant has responded to it, so it does not need to be questioned by the Judge; The Cassation Petitioner/Plaintiff has a certificate for the land that was issued earlier and overlaps with the certificate of the disputed object; In conducting measurement and mapping activities, especially in determining the boundaries of the disputed land, there was a failure to consider the boundaries or registered land areas and relevant survey documents. The Plaintiff, as the holder of rights to the adjacent land, was not asked for approval in measuring the land area of the disputed object. That in measuring the land area of the disputed object, no approval was sought from the adjacent landowner; Therefore, there is a procedural defect in issuing the decision on the disputed object, as considered by the *Judex Facti* of the State Administrative Court in Serang. Consequently, the decision on the disputed object *quo* must be declared null and void. District Court Decision Number 557/Pdi.B/2021/PN TNG.

The statement signed by Supriyadi contains false information, stating that the landowner adjacent to Supriyadi (delimitation contradiction) has given approval, yet there is no signature from the adjacent landowner. As a result of Supriyadi's actions, the Tangerang District Court issued a verdict with the following decree.

ADJUDICATING: Declares that Supriyadi Bin Mamad has been proven beyond a reasonable doubt guilty of using a forged or falsified document; Imposes a sentence of 1 (one) year imprisonment upon the Defendant Supriyadi Bin Mamad.

Juridical Analysis of the Legal Considerations of the Administrative Court of Serang, Administrative High Court of Jakarta Regarding the Cancellation of Overlapping Certificates

• Legal Considerations of the Administrative Court Number 69/G/TUN/2019/PTUN SRG

Legal protection in the context of land ownership for Sri Mulyani related to the determination of land boundaries should have respected her rights to inspect on the field whether to approve or not (delimitation contradiction), yet it was ignored by the officials of the Land Office as the state administrator. Consequently, in the land boundary determination process, Sri Mulyani did not receive legal protection. Therefore, Sri Mulyani formally sought legal protection by filing a Lawsuit to cancel Certificate of Ownership Number: 07731/Kelurahan Sawah dated November 9, 2018, Survey Letter Number: 03480/

Sawah/2018 dated November 4, 2018, covering an area of 540 square meters registered under the names of Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hardi.

• **Legal Considerations of the Decision of the Administrative High Court of Jakarta Number 194/B/TUN/2020/PTTUN JKT**

Taking into account the legal considerations of the appellate court, which focused on the issue of administrative remedies as a form of legal protection, emphasizing the objection of Sri Mulyani as the owner of Certificate of Ownership Number 7556/Sawah issued on October 25, 2018, Survey Letter Number: 3302/Sawah/2018 dated September 25, 2018, covering an area of 350 square meters, overlapping with Certificate of Ownership Number: 07731/Kelurahan Sawah dated November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters registered under the names of Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hardi. The canceled certificate object indicates a difference in the rights holder for Certificate of Ownership Number: 07731/Kelurahan Sawah dated November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018. One important thing noted by the author during the administrative remedy process is that Sri Mulyani raised objections to the Head of the South Tangerang Land Office, as evidenced by Letter Number 059/S/AR&R/VII/2019 dated July 22, 2019, Subject: Objection Request and Cancellation of Certificate of Ownership Number 7731/Sawah. Subsequently, the Head of the South Tangerang Land Office, as indicated in Letter Number MP.01.01/531-36.07/VII/2019 dated August 7, 2019, Subject: Objection and Cancellation of Certificate of Ownership Number 7731/Sawah, responded with the following content:

- That the South Tangerang Land Office (Defendant) DID INDEED issue Certificate of Ownership Number: 07731/Kelurahan Sawah on November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters under the name of Supriyadi (Disputed Object).
- That it is REASONABLE TO SUSPECT that Certificate of Ownership Number: 07731/Kelurahan Sawah issued on November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters under the name of Supriyadi OVERLAPS with Certificate of Ownership Number: 7556/Kel. Sawah issued on October 15, 2018, Survey Letter Number: 3302/Sawah/2018 dated September 25, 2018, under the name of Sri Mulyani.
- That the South Tangerang Land Office (Defendant) REFUSES TO CANCEL Certificate of Ownership Number: 07731/Kelurahan Sawah issued on November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters under the name of Supriyadi.

The State Administrative Decision, namely Certificate of Ownership Number: 07731/Kelurahan Sawah issued on November 9, 2018, Survey Letter Number: 03480/Sawah/2018 dated November 4, 2018, covering an area of 540 square meters under the names of Supriyadi, Ida, Dahliah, Tati Yanah, Sofian Hadi, Sukaesih, Eko Susanto, and Krisdian Hardi, in the legal process of Case Number 38/G/TUN/2019/PTUN SRG, the calculation to file a lawsuit in Case Number 69/G/TUN/2019/PTUN SRG uses the provisions of Article 5 of the Supreme Court Regulation Number 6 of 2018 concerning Guidelines for the Settlement of Administrative Disputes after Exhausting Administrative Remedies. With these provisions, according to the author, Sri Mulyani's lawsuit has expired. Additionally, in the author's opinion, the appellate judges should have used Supreme Court Circular Number 2 of 1991 because Sri Mulyani is not the party targeted by the State Administrative Decision, but her interests are adversely affected by the State Administrative Decision, namely.

- The calculation of the statutory period as referred to in Article 55 is suspended when the lawsuit is registered with the Registry of the competent State Administrative Court;

- In connection with Article 62 paragraph (6) and Article 63 paragraph (4), a new lawsuit can only be filed within the remaining statutory period as referred to in point 1;
- For those who are not the target of a State Administrative Decision but feel that their interests are adversely affected, the statutory period as referred to in Article 55 is calculated casuistically from the moment they feel their interests are adversely affected by the State Administrative Decision and become aware of the existence of the Decision.

CONCLUSION

The development of the Supreme Court in adjudicating overlapping certificate disputes has been very helpful in addressing land disputes caused by overlapping certificates that both have authentic power.

The legal considerations of the State Administrative Court in Serang, Case Number 69/G/TUN/2019/PTUN SRG, were accurate in providing legal protection to Sri Mulyani, the owner of Certificate of Ownership Number: 7556/Kel. Sawah issued on October 15, 2018, and Survey Letter Number: 3302/Sawah/2018 dated September 25, 2018. The court correctly granted her lawsuit, clearly indicating that the South Tangerang Land Office did not adhere to the principle of *contraditio delimitasi* when conducting land measurement and boundary determination.

In the legal considerations of the Jakarta State Administrative High Court, Case Number 194/B/2022/PTTUN JKT, there was an error regarding the timeframe for administrative remedies that influenced the assessment of Sri Mulyani's lawsuit. The appellate judges did not take into account the provisions of Article 1979 of the Civil Code.

REFERENCES

1. Achmad Ali, 2009, *Menguak Teori Hukum (legal theory) dan Teori Peradilan (Judicialprudence) termasuk interpretasi Undang-undang (legisprudence)*, (Jakarta, Kencana Prenada Media Group, 2009).
2. Adrian Sutedi, *Peralihan Hak atas Tanah dan Pendaftarannya*, (Jakarta : Sinar Grafika, 2018).
3. A.P.Parlindungan, *Pendaftaran Tanah Di Indonesia (Berdasarkan PP.No24/1997dilengkapi dengan Peraturan Jabatan Pembuat Akta Tanah PP. 37 Tahun 1998)*, Cetakan Pertama, (Bandung : CV.Mandar Maju, 1999).
4. Arie S. Hutagalung, *Tebaran Pemikiran Seputar Masalah Hukum Tanah*, cet. 1, (Jakarta: LPHI, 2005).
5. Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan UUPA, Isi dan Pelaksanaannya*, (Jakarta; Djambatan, 2005)
6. Boedi Harsono. *Hukum Agraria Indonesia : Sejarah Pembentukan Undang-undang Pokok Agraria, Isi, dan Pelaksanaannya. Jakarta: Djambatan, 2008)*
7. Eddy OS.Hiarieej, 2012, *Teori dan Hukum Pembuktian*, Penerbit Erlangga, Jakarta
8. Edi As'Adi, *Hukum Acara Perdata dalam Perspektif Mediasi di Indonesia*, (Yogyakarta : Graha Ilmu, 2000)
9. Effendi Perangin, *Hukum Agraria Di Indonesia Suatu Telaah Dari Sudut Pandang Praktisi Hukum*, cet. 1, (Jakarta: Rajawali, 1989)
10. Erna Dwi Safitri dan Nabitatus Saidah, *Penerapan Upaya Admministratif Dalam Sengketa Tata Usaha Negara, dalam Jurnal Pembangunan Hukum Indonesia*, Vol. 3 Nomor 1 Tahun 2021
11. Erni Herawati, *Kekuatan Pembuktian Sertipikat Hak ATas Tanah*, Jurnal Binus University, Juli 2016.
12. Fina Ayu Lestari et all. *Akibat Hukum Penggunaan Sistem Publikasi Negatif Berunsur Positif Dalam Pendaftaran Tanah di Kota Semarang*, dalam Jurnal Notarius, Volume 3 Nomor 2 Tahun 2020
13. Fuady, Munir, 2006, *Teori Hukum Pembuktian (Pidana dan Perdata)*, Penerbit PT Citra Aditya Bakty Bandung
14. F.X, *Hukum Pendaftaran Tanah*, (Bandar Lampung : Universitas Lampung, 2010)

15. I Gusti Nyoman Guntur, *Modul Pendaftaran Tanah*, (Yogyakarta : Kementerian Negara Agraria / Badan Pertanahan Nasional R.I – Sekolah Tinggi Pertanahan Nasional, 2014)
16. Irawan Soerodjo, 2003, *Kepastian Hukum Hak Atas Tanah di Indonesia*, (Surabaya : Arkola, 2003)
17. Lutfi I Nasoetion, *Konflik Pertanahan (Agraria) Menuju Keadilan Agraria*, (Bandung : AKATIGA, 2002)
18. Maria S.W.Sumardjono, *Kebijakan Pertanahan Antara Regulasi dan Implementasi*, (Jakarta : Kompas, 2009)
19. Maria, S.W.Sumardjono, *Pedoman Pembuatan Usulan Penelitian : Sebuah Panduan Dasar*, (Jakarta : Gramedia, 1996)
20. Muhammad Azhar, „Relevansi Asas-Asas Umum Pemerintahan Yang Baik Dalam“, Relevansi Asas-Asas Umum Pemerintahan Yang Baik Dalam Sistem Penyelenggaraan Administrasi Negara, 8.5 (2015), 274–87
21. Mochammad Tauchid, *Masalah Agraria : Sebagai Masalah Penghidupan dan Penghidupan Rakyat Indonesia* (Yogyakarta : STPN Press, 2009)
22. Nurnaningsih Amriani, *Mediasi Alternatif Penyelesaian Sengketa Perdata di Pengadilan*, (Jakarta : Rajagrafindo Persada, 2011)
23. Shidarta, *Moralitas Profesi Hukum Suatu Tawaran Kerangka Berfikir*, (Bandung : Refika Aditama, 2006)
24. Soerjono Soekanto dan Sri Mamuji, *Penelitian Hukum Normatif-Suatu Tinjauan Singkat*, (Jakarta: Rajawali Press, 1999)
25. Paulus Effendi Lotulung (Ed.), *Himpunan Makalah Asas–asas Umum Pemerintahan Yang Baik*, Cet. Pertama, Citra Aditya Bakti, Bandung, 1994
26. Peter F. Marzuki, *Penelitian Hukum*, Edisi Revisi, (Jakarta : Prenamedia, 2005)
27. Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, (Jakarta, Kencana Prenada Media Group,2008)
28. Samun Ismaya, *Hukum Administrasi Pertanahan*, (Yogyakarta : Suluh Media, 2018)
29. Satjipto Rahardjo, *Hukum dalam Jagat Ketertiban*, (Jakarta : Kompas, 2006)
30. Setyo Anggono, *Pelaksanaan Asas Kontradiktur Delimitasi Dalam Proses Pendaftaran Tanah Sistematis Lengkap (Studi Kasus Di Kantor Pertanahan Kabupaten Boyolali)*, dalam Jurnal Dinamika Hukum, Vol. 10 No. 1 Tahun 2019.
31. Soedikno Mertokusumo, 1988, *Hukum dan Politik Agraria*, (Jakarta : Karunika-Universitas Terbuka, 1988).
32. Solechan, *Asas-Asas Umum Pemerintahan yang Baik dalam Pelayanan Publik*, Administrative Law & Governance Journal. Volume 2 Issue 3, Fakultas Hukum, Universitas Diponegoro, 2019
33. Syamsul Arifin, *Pengantar Hukum Indonesia*. (Medan. Medan Area University Press. 2012), *undang – Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok – Pokok Agraria*
34. Tim Penelitian Masalah Pertanahan, *Masalah Pertanahan di Indonesia*, Cetakan Pertama, (Yogyakarta : STPN Press, 2020)
35. *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, (Jakarta : Sekretaris Jenderal dan Kepaniteraan Mahkamah Konstitusi Republik Indonesia, 2017)
36. *Undang – Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok – Pokok Agraria*, Lembaran Negara Nomor 1960 – 1964, di Undangkan tanggal 24 September 1960.
37. *Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan* Lembaran Negara Republik Indonesia Tahun 2014 Nomor 292.
38. Urip Santoso , *Pendaftaran dan Peralihan Hak atas Tanah*, (Jakarta : Kencana Prenamedia Grup,2010),
39. Urip Santoso, *Hukum Agraria Kajian Komprehensif*, (Jakarta : Kencana, 2012).
40. Yamin Lubis dan Rahim Lubis, *Hukum Pendaftaran Tanah*, (Bandung : Mandar Maju, 2008) <https://putusan3.mahkamahagung.go.id/yurisprudensi/detail/11e93a5e7f0f404eb246313430383334.html>.Diakses tanggal 6 Maret 2023.
41. Tidak Patuh Terhadap Putusan PTUN, Termasuk Maldministrasi, berita peradilan, <https://ptun-bandung.go.id/>, 29 Juli 2022

42. Topik Pemahaman Terkait “Kontradiktur Delimitasi” terdapat dalam <http://seksiskpantahkotatomohon.blogspot.co.id/2013/10/topik-pemahaman-terkaitkontradiktur.html>. diakses tanggal 6 November 2023