



TWO CERTIFICATES IN ONE FIELD ATR/BPN ADMINISTRATIVE ACCOUNTABILITY REFORM FOR THE RESTORATION OF LEGAL CERTAINTY

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Abstrak

The persistence of double land certificates in Indonesia undermines the fundamental principle of legal certainty in land ownership and reflects systemic weaknesses in the administration of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). Despite the adoption of a negative publication system, overlaps in registration continue to occur due to administrative malpractice, weak oversight, and archival mismanagement. This study employs a normative–empirical legal approach. The normative dimension examines statutory regulations, ministerial decrees, and comparative perspectives from Malaysia’s National Land Code. The empirical dimension draws on case studies of judicial decisions and administrative practices within ATR/BPN to reveal patterns of liability and institutional responses to duplicate certification. Findings indicate that the current regulatory framework inadequately addresses state liability for registry errors. Sanctions against officials are inconsistently applied, while remedies for victims remain fragmented across civil, criminal, and administrative litigation. Furthermore, the handling mechanism under Ministerial Regulation No. 21/2020 has yet to provide an effective deterrent. Comparative analysis shows that Malaysia’s integrated title assurance system offers valuable lessons in balancing efficiency and accountability. Reform is necessary to recalibrate ATR/BPN’s administrative liability through stricter sanctioning regimes, improved archival and digital registration systems, and clearer judicial guidelines on state responsibility. Such measures are crucial to restoring public trust and ensuring sustainable land governance. A reformed accountability model that integrates administrative, civil, and criminal sanctions, supported by digitalization and comparative insights, is imperative to mitigate duplicate certification and strengthen legal certainty in Indonesia’s land administration.

Keywords: Land Registration, Legal Certainty, Administrative Liability, Double Certification

Abstrak

Fenomena terbitnya sertifikat ganda atas satu bidang tanah di Indonesia melemahkan prinsip fundamental kepastian hukum kepemilikan tanah dan menunjukkan adanya kelemahan sistemik dalam administrasi Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional (ATR/BPN). Meskipun sistem publikasi negatif telah diadopsi, tumpang tindih pendaftaran masih terjadi akibat malpraktik administratif, lemahnya pengawasan, dan pengelolaan arsip yang tidak memadai. Penelitian ini menggunakan pendekatan hukum normatif–empiris. Aspek normatif menelaah peraturan perundang-undangan, peraturan menteri, serta perbandingan dengan *National Land Code* Malaysia. Aspek empiris didasarkan pada studi kasus putusan pengadilan dan praktik administratif ATR/BPN untuk mengungkap pola pertanggungjawaban dan respons kelembagaan terhadap sertifikasi ganda. Hasil penelitian menunjukkan bahwa kerangka regulasi yang ada belum mampu mengatur pertanggungjawaban negara atas kesalahan pendaftaran tanah secara memadai. Sanksi terhadap pejabat kerap diterapkan secara tidak konsisten, sementara pemulihan hak bagi korban masih terfragmentasi melalui jalur perdata, pidana, dan administrasi. Mekanisme penyelesaian berdasarkan Permen ATR/BPN No. 21 Tahun 2020 juga belum efektif sebagai instrumen pencegahan. Perbandingan dengan Malaysia menunjukkan bahwa sistem jaminan hak terintegrasi memberikan pelajaran berharga dalam menyeimbangkan efisiensi dan akuntabilitas. Reformasi diperlukan untuk merekonstruksi

pertanggungjawaban administratif ATR/BPN melalui penerapan sanksi yang lebih tegas, penguatan sistem arsip dan digitalisasi pendaftaran tanah, serta kejelasan pedoman peradilan mengenai tanggung jawab negara. Langkah ini penting untuk memulihkan kepercayaan publik dan mewujudkan tata kelola pertanahan yang berkelanjutan. Model akuntabilitas baru yang mengintegrasikan sanksi administratif, perdata, dan pidana, didukung digitalisasi dan pembelajaran komparatif, merupakan langkah mendesak guna meminimalisir sertifikasi ganda serta memperkuat kepastian hukum dalam administrasi pertanahan di Indonesia.

Kata Kunci: Pendaftaran Tanah, Kepastian Hukum, Pertanggungjawaban Administratif, Sertifikat Ganda

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INTRODUCTION

Legal certainty is one of the fundamental principles in the modern legal system, including in the field of land. In Indonesia, land is not only seen as an economic asset, but also has social, political, and cultural dimensions.¹ Therefore, good land administration management is an absolute requirement to ensure the certainty of ownership rights and prevent disputes. However, in practice, legal certainty on land is often threatened by the phenomenon of the issuance of double certificates on one plot of land, which actually weakens public trust in state institutions that are supposed to be guarantors of the legality of ownership.²

The issuance of two or more certificates on one plot of land raises serious problems in the Indonesian land system. Certificates that should be strong evidence have turned into a source of conflict. This condition not only creates legal uncertainty for the community, but also raises the potential for prolonged disputes in the civil, criminal, and administrative realms of the state.³ It is in this context that the weakness of Indonesia's negative publication system is in the spotlight, because the state's responsibility for administrative errors is not adequately emphasized in existing regulations.

The Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN) as the authorized institution in land administration should ensure that the certificates issued do not cause overlap.⁴ However, reality shows that there are maladministrative practices, weak supervision, and indiscipline in archive management that open up opportunities for double certificates. This problem is often exacerbated by alleged corrupt practices

¹ Gregorius Rianggi Gusmara, Rahayu Subekti, and Andina Puri Elok Maharani. "Legal Certainty of Land Rights Holders in Indonesia on the Opportunity to Implement the Land Registration System Positive Publication." In *Proceedings of Conference on Law and Social Studies*, vol. 4, no. 1. 2023.

² Abdul Malik Mufty, and Dwight Nusawakan. "Legal Liability for the Issuance of Multiple Certificates in One Land and Building Object." *Law Journal* 6, no. 1 (2025): 57-70.

³ Saifuddin, Sendy Salsabila, and Yulia Qamariyanti. "Legal certainty of land title certificates for the issuance of land certificates on the same land object." *Notary Law Journal* 1, no. 1 (2022): 31-48.

⁴ Zaenal, Ashar Asy'ari, Sufirman Rahman, and Askari Razak. "The Authority of the National Land Agency in the Settlement of Land Disputes." *Journal of Lex Theory (JLT)* 5, no. 1 (2024): 318-336.

involving land officials, thereby adding to the complexity of the problem and increasing the losses experienced by the community.⁵

In terms of regulations, the negative publication system with positive elements embraced by Indonesia gives flexibility to parties with bad intentions to take advantage of legal loopholes. Certificates do have the power as evidence, but they do not necessarily guarantee the material correctness of land registration data. This is different from the positive publication system implemented in some countries, where the state guarantees the correctness of the data and bears the risk in the event of administrative errors. This gap makes the people holding dual certificates often the most disadvantaged without a clear guarantee of compensation from the state.

The problem is even more complex when sanctions against ATR/BPN officials who are proven to be negligent or commit violations are often not applied consistently. There are cases where officials are only subject to light administrative sanctions, while communities have to bear heavy losses due to the loss of land rights. The fragmentation of law enforcement, whether through administrative, civil, or criminal channels, also does not provide a comprehensive solution. As a result, landowners in good faith often suffer double losses: loss of rights and face a long and exhausting legal process.⁶

To respond to these various problems, the government through ATR/BPN issued Ministerial Regulation of ATR/BPN No. 21 of 2020 which aims to accelerate the resolution of land disputes, including double certificate cases. This regulation is expected to be a faster administrative solution than litigation mechanisms. However, preliminary evaluation shows that this regulation still emphasizes more on procedural technical aspects and has not touched on the substance of state responsibility comprehensively. The compensation mechanism for victims and the application of strict sanctions against negligent officials have not been clearly regulated, so the effectiveness of this regulation is still in doubt.⁷

In addition to regulatory weaknesses, administrative governance factors are also the main cause of the emergence of double certificates. Manual filing systems that are vulnerable to damage, loss, or manipulation are still the dominant practice in many land offices. The government's efforts to digitize land registration are indeed a positive step, but its implementation still faces many obstacles, both in terms of infrastructure, human resources, and data security. In fact, digitalization integrated with a technology-based

⁵ Djohan Oe. "Duties and functions of the national land agency in land registration." *Legal Institutions* 10, no. 1 (2015): 26777.

⁶ Ardani, Mira Novana. "Implementation of Orderly Land Sector Administration to Support the Implementation of Authority, Duties and Functions of the National Land Agency." *Administrative Law and Governance Journal* 2, no. 3 (2019): 476-492.

⁷ Arizki, Lalu Muhammad Wira, Arief Rahman, and M. Yazid Fathoni. "The Application of the Regulation of the Minister of Agrarian Affairs/Head of the Land Agency Number 21 of 2020 in the Settlement of Land Disputes through Mediation: (Study at BPN Central Lombok)." *Private Law* 3, no. 2 (2023): 489-500.

supervision system can minimize the risk of duplicate certificates while increasing the transparency of public services.⁸

In an international context, the Malaysian experience can be an important reference. The country has developed a *National Land Code* that adheres to a positive publication system with state guarantees of the correctness of land data.⁹ Thus, communities gain stronger protections, while public officials are more encouraged to act carefully in managing land registration data. This comparison shows that Indonesia can learn valuable lessons in strengthening the land registration system while reforming the land administration accountability model.

From this description, it can be seen that the problem of double certificates is not only related to administrative technical problems, but also related to regulatory weaknesses, inconsistency in law enforcement, and weak bureaucratic governance. Therefore, solving this problem requires a multidimensional approach that involves regulatory reconstruction, stricter sanctions enforcement, strengthening the supervisory system, and accelerating land digitalization. Comprehensive reform is needed so that ATR/BPN can carry out public service functions effectively while restoring public trust in land institutions.

Based on this background, this article aims to analyze the weaknesses of ATR/BPN's accountability regulations and practices for the issuance of double certificates, evaluate the effectiveness of the Ministerial Regulation of ATR/BPN No. 21 of 2020, and examine the challenges of administrative governance in land registration in the digital era. In addition, this article also offers a model of administrative accountability reform by referring to comparative learnings from Malaysia. It is hoped that this research can make an academic and practical contribution in an effort to build a land system that is more transparent, accountable, and guarantees legal certainty.

RESEARCH METHODS

This study uses a normative-empirical legal approach to obtain a comprehensive picture of the problem of double certificates. The normative aspect is carried out through the study of various legal instruments, both general and special, that regulate land administration in Indonesia. The analysis includes the Basic Agrarian Law, Government Regulations on Land Registration, and relevant ministerial regulations, including the Minister of ATR/BPN Regulation No. 21 of 2020. In addition, this study also adopts a comparative perspective by examining the *National Land Code* of Malaysia, as one of the land systems that adheres to positive publications. This comparative approach aims to

⁸ Kolinug, Petrik PE. "The authority of the National Land Agency in granting rights to state land according to Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles." *Lex et Societatis* 5, no. 7 (2017).

⁹ Syahputra, M. F., Putra, B. T., & Arianto, A. D. (2025). Differences in Land Registration Policies in Indonesia, Malaysia and Singapore: Effectiveness and Challenges. *Journal of Multidisciplinary Academic Sciences*, 2(1), 348-361.

assess the extent to which Indonesia can learn from the best practices of other countries in strengthening the certainty of land law.

On the other hand, the empirical aspect of this research is carried out by analyzing concrete case data that has been decided by the courts, both civil, criminal, and state administration, related to double certificates. These decisions are reviewed to identify the judge's consideration patterns, the tendency of the decision, and the extent to which the court places ATR/BPN as the responsible party. In addition, this study also pays attention to administrative practices that develop within ATR/BPN, including dispute handling patterns and resolution mechanisms taken based on regulations. Thus, the combination of normative and empirical approaches allows this research to be not only theoretical, but also rooted in the reality of legal practice and land administration in Indonesia.

DISCUSSION

The Problem of Double Certificates and Implications for Legal Certainty

Land certificates are basically intended as authentic evidence that guarantees the certainty of a person's rights and ownership of a particular piece of land. In the Indonesian legal system, a certificate is a legal document that has strong evidentiary power and is recognized by the court.¹⁰ However, reality shows that land certificates do not always guarantee legal certainty. The issuance of two or more certificates on one plot of land actually raises doubts about the function of the certificate itself as an instrument of legality and protection of rights.¹¹

The phenomenon of double certificates reflects the failure of the land administration system to accurately manage land ownership data and information. When two certificates are issued for the same plot of land, this creates an ambiguity in the status of ownership. The certificate holder loses certainty about his rights, while the other party feels entitled because he also holds documents issued by official state institutions. This situation creates a condition of *legal uncertainty* that is counterproductive to the principle of legal protection in the state of law.¹²

The implications of dual certificates not only stop at the uncertainty of ownership, but also give rise to protracted legal disputes. The parties who feel that they have legal rights to the land ultimately bring this issue to the court. This causes an increase in the judicial burden, both at the civil, criminal, and state administrative levels, because each party tries to prove the validity of the certificate it has. As a result, land disputes that

¹⁰ Taqiyyah, M. A., & Winanti, A. (2020). Legal Protection of Certificate Holders for Dual Land Based on Government Regulation No. 24 of 1997. *Journal of Justice: Journal of Law, Legislation and Social Institutions*, 5(1), 77-93.

¹¹ Irawan, Rastra Ardani, Fendi Setyawan, and Moh Ali. "The Authority of the National Land Agency in the Management and Utilization of Abandoned Lands." *HUKMY: Journal of Law* 3, no. 1 (2023): 308-329.

¹² Salim, A. (2019). Settlement of legal disputes against property rights certificate holders with the issuance of multiple certificates. *USM Law Review*, 2(2), 174-187.

should have been resolved through administration have transformed into complex litigation issues.¹³

Dual certificates also have an impact on declining public trust in ATR/BPN. As the institution responsible for land registration, ATR/BPN should be able to guarantee that one plot of land only has one official certificate. However, when there is a double certificate, the public views that ATR/BPN has failed to carry out its main functions. This condition weakens the legitimacy of ATR/BPN in the eyes of the public and casts doubt on the credibility of land services as a whole.¹⁴

Furthermore, the emergence of dual certificates also disrupts social stability. Land disputes often create tensions between individuals or community groups. Not infrequently, land ownership conflicts turn into horizontal conflicts that trigger physical disputes on the ground. In this context, double certificates are not just an administrative problem, but also have a social dimension that has the potential to cause disharmony in people's lives.¹⁵

From an economic aspect, double certificates cause significant losses. Land is one of the most important assets in economic activities, both as an object of investment, credit guarantee, and a source of production. When the status of land ownership is disputed due to the existence of a double certificate, the land loses its economic value as an asset that can be pledged or traded. This certainly has a negative impact on the investment climate and reduces business actors' confidence in legal certainty in Indonesia.¹⁶

The problem of double certificates also shows that there is a discrepancy between the theory and practice of land law in Indonesia. Normatively, land registration is intended to provide legal certainty. However, practice in the field shows that weak supervision, poor archive management, and possible abuse of authority actually create uncertainty. This inconsistency poses a juridical dilemma, since society on the one hand believes in the power of certificates, but on the other hand is disadvantaged by the weaknesses of the institutions that issue the certificates.¹⁷

Sociologically, the issuance of dual certificates reflects the weak legal protection for small communities that often do not have access to legal information and advocacy. Those who have good faith to register their land are often victims because the certificates obtained do not provide full protection. Meanwhile, those who have greater access to the

¹³ Dewandaru, P. A., Hastuti, N. T., & Wisnaeni, F. (2020). Settlement of land disputes against dual certificates at the national land agency. *Notary*, 13(1), 154-169.

¹⁴ Masese, Sri Intariani Dg, Sufirman Rahman, and Sri Lestari Poernomo. "The effectiveness of the function of the Banggai Regency Land Office in resolving disputes through mediation based on the Minister of ATR/BPN Number 21 of 2020." *Journal of Lex Generalis (JLG)* 4, no. 1 (2023): 74-90.

¹⁵ Karim, M. P., Dunga, W. A., & Mantali, A. R. Y. (2023). Legal consequences of the issuance of land certificates with dual ownership. *Journal of Comprehensive Science (JCS)*, 2(6).

¹⁶ Ayuningtyas, Annisa Shafarina. "Legal protection for land rights certificate holders in the case of double certificates." (2020).

¹⁷ Nasir, Siti Maryam. "The Responsibility of the National Land Agency in the Settlement of Dual Land Certificates in Gorontalo Regency." *SYNERGY: Journal of Scientific Research* 1.11 (2024): 1106-1116.

bureaucracy may take advantage of legal loopholes to obtain additional certificates. This condition exacerbates injustice in the distribution of land rights.¹⁸

The problem of double certificates also indicates that there is a gap between the principle of legal certainty and the principle of justice. On the one hand, land law seeks to provide certainty through certificates as proof of rights. However, when there are double certificates, courts often face a dilemma in determining which certificates are valid, so the outcome of the verdict does not always reflect a sense of justice for all parties. In many cases, the party in good faith is still harmed even though they have carried out the procedure according to the law.¹⁹

This condition shows that double certificates are not just administrative errors, but systemic problems that require comprehensive reform. This problem involves aspects of regulation, supervision, bureaucratic governance, and the integrity of land officials. Without serious overhaul, double certificates will continue to be a recurring phenomenon that undermines public trust in the law and the state. Thus, the urgency of ATR/BPN accountability reform is increasingly evident in the context of building a more accountable land system.²⁰

Considering the multidimensional impact of dual certificates—ranging from legal, social, economic, to public trust aspects—it can be affirmed that this issue is a serious threat to the certainty of land law in Indonesia.²¹ Therefore, solving this problem cannot be done partially, but must be through a comprehensive approach that touches the root of the problem. Regulatory reform, consistent enforcement of sanctions, and improved administrative governance are steps that need to be realized immediately to restore the function of land certificates as a legitimate and reliable instrument for protecting rights.

Regulatory Weaknesses and Inconsistencies in ATR/BPN Accountability

The legal framework of land in Indonesia basically still adheres to a negative publication system with positive elements. This means that land certificates issued by ATR/BPN do have the power as strong evidence, but they do not provide absolute guarantees of the correctness of the data listed in them. This system is different from positive publications, where the state is fully responsible for the validity of the data and

¹⁸ Marino, Emir Fabrian, and Roki Arnanda Saputra. "Dispute Resolution of Double Land Certificates and Forms of Legal Certainty." *Machinery: Journal of Law* 4.2 (2021): 555-573.

¹⁹ At the end of the day, Nuria is a student of Enggarani, and M. SH. "Legal Analysis of Land Ownership Rights in Land Ownership Disputes Cases Based on the Regulation of the Minister of Agrarian Affairs/National Land Agency Number 21 of 2020 concerning the Handling and Settlement of Land Dispute Cases." PhD diss., University of Muhammadiyah Surakarta, 2024.

²⁰ Zaenal, Ashar Asy'ari, Sufirman Rahman, and Askari Razak. "The Authority of the National Land Agency in the Settlement of Land Disputes." *Journal of Lex Theory (JLT)* 5, no. 1 (2024): 318-336.

²¹ Satin, Satino, and Satino. "Dispute Resolution of Dual Certified Land Ownership." *Journal of Juridical* 6.1 (2019): 147-173.

bears the risk in the event of an error. As a consequence, people in Indonesia continue to bear legal risks even though they have been in good faith in registering land.²²

The weakness of this negative publication system is one of the factors that cause the occurrence of double certificates. Existing regulations have not provided a clear legal basis regarding how the state is accountable when there is an administrative error that results in the issuance of double certificates. In many cases, the responsibility is imposed on the community to resolve through the court mechanism, while the state as the certificate issuer tends to get hands-off.²³

Unclear regulations regarding state accountability also create uncertainty in law enforcement. There are no firm rules governing the compensation mechanism for victims of double certificates. As a result, landlords in good faith often lose their rights without obtaining adequate replacement. This situation reflects the weak legal protection of the community and is contrary to the principle of the rule of law which is supposed to guarantee certainty and protection of rights.²⁴

In addition, sanctions against ATR/BPN officials who are negligent or involved in the issuance of double certificates are also often inconsistent. In some cases, officials are only given administrative sanctions in the form of reprimands or mutations of positions, even though the consequences of their negligence cause great losses to the community. The inconsistency in the application of these sanctions shows that existing regulations do not have sufficient coercive power to prevent the recurrence of similar mistakes.²⁵

Furthermore, the weak accountability mechanism causes fragmentation of the legal settlement process. Victims of double certificates often have to go through various paths at once: civil to demand ownership rights, criminal to ensnare individuals suspected of committing criminal acts, and state administration to sue the validity of certificates. This fragmentation is not only time-consuming and costly, but it also creates uncertainty in outcomes, as the decisions of individual paths are often out of sync.²⁶

The absence of clear accountability standards also has implications for the weak institutional accountability of ATR/BPN. As a state institution, ATR/BPN should be responsible for every administrative product it publishes. However, in practice, such

²² Masese, Sri Intariani Dg, Sufirman Rahman, and Sri Lestari Poernomo. "The effectiveness of the function of the Banggai Regency Land Office in resolving disputes through mediation based on the Minister of ATR/BPN Number 21 of 2020." *Journal of Lex Generalis (JLG)* 4, no. 1 (2023): 74-90.

²³ Arizki, Lalu Muhammad Wira, Arief Rahman, and M. Yazid Fathoni. "The Application of the Regulation of the Minister of Agrarian Affairs/Head of the Land Agency Number 21 of 2020 in the Settlement of Land Disputes through Mediation: (Study at BPN Central Lombok)." *Private Law* 3, no. 2 (2023): 489-500.

²⁴ Cholifa, Diyani. "Problems of Land Rights Ownership and the Authority of Land Office Supervision of Land Ownership Certificates Based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 18 of 2021." PhD diss., Bhayangkara University Surabaya, 2024.

²⁵ Aruan, Sarah Romauli, Muhammad Yamin, and Rosdinar Sembiring. "The Efforts of the Ministry of Agrarian Affairs and Spatial Planning of the National Land Agency as a Mediator in Handling Land Disputes: A Study of the Simalungun Regency Land Office." *Journal of Academic Media (JMA)* 2, no. 9 (2024).

²⁶ Mahfud, Muh Afif. "The Function and Role of the Court in the Cancellation of Overlapping Certificates against the Minister of Amaria / Head of BPN No. 21 of 2020 concerning the Handling and Settlement of Land Cases." *As-Syar'i: Journal of Family Guidance & Counseling* 6, no. 1 (2024): 1063-1072.

responsibility is often transferred to individual officials, while the institution as a whole is not held accountable. This is different from the principle of *state responsibility* that applies in many countries, where the state is responsible for the mistakes of its apparatus.²⁷

This phenomenon shows that there is an *accountability gap* between authority and accountability. The ATR/BPN is given full authority in land registration, but when administrative errors occur, state accountability is not adequately enforced. As a result, there is an imbalance between power and accountability, which ultimately harms society as a party that is supposed to be protected by law.²⁸

Inconsistency in accountability can also be traced at the level of implementation of laws and regulations. Some ministerial regulations do regulate land registration and dispute resolution procedures, but do not specifically regulate the form of sanctions or compensation mechanisms. This creates a wide space for interpretation among law enforcement officials and ATR/BPN officials, so that the handling of cases often varies from one region to another.²⁹

As a result, society faces uncertainty in seeking justice. There are cases where the holder of the certificate that was issued first still loses because it is considered less thorough in the registration process, while in other cases, negligent officials are never held accountable. This uncertainty exacerbates the public's climate of trust in the legal system and creates the impression that the law is not on the side of small communities.³⁰

On the other hand, weak regulations and inconsistency in sanctions also open up opportunities for corrupt practices within the ATR/BPN. Without strict accountability standards, officials have the potential to abuse their authority in issuing certificates, either due to negligence or economic motives. This situation further weakens the integrity of institutions and magnifies the potential for conflict in society.³¹

The problem of regulatory weaknesses has actually been realized for a long time, but reform steps have not been carried out significantly. The Minister of ATR/BPN Regulation No. 21 of 2020 is indeed one of the efforts to improve the dispute resolution system, but this regulation has not fully answered the problem of state accountability. Without clarity

²⁷ Prihastuti, Diane. "Accountability of the Ministry of ATR/BPN to the Certification of Community Land Ownership." *GLORIFICATION LAW* 3, no. 1 (2020): 33-42.

²⁸ Azzahra, Syavira, and Temmy Fitriah Alfiany. "The Existence Of ATR/BPN in The Implementation of Electronic Certificates in the 3T Area Based on the Minister of ATR/BPN Regulation Number 3 Of 2023." *ALADALAH: Journal of Politics, Social, Law and Humanities* 3, no. 3 (2025): 60-80.

²⁹ Savira, Jennyola, and Gunawan Djajaputra. "The Role of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) as a Government Institution Facilitating the Electronic Land Certificate Policy." *Journal of Law, Politics and Humanities* 4, no. 4 (2024): 717-722.

³⁰ Dewandaru, Prasetyo Aryo, Nanik Tri Hastuti, and Fifiana Wisnaeni. "Settlement of land disputes against dual certificates at the national land agency." *Notary* 13, no. 1 (2020): 154-169.

³¹ Wilfi, Vania, Amelia Sri Kusuma Dewi, and Dyah Widhiawati. "Analysis of the Implementation of ATR/BPN Regulation No. 3 of 2023 concerning the Issuance of Electronic Documents." *JUSTICE* 11, no. 3 (2025): 781-795.

on state responsibility for dual certificates, the regulation risks becoming only a procedural solution, not a substantive one.³²

Thus, the weakness of regulations and inconsistency in the accountability of ATR/BPN are one of the main factors that aggravate the problem of double certificates in Indonesia. To strengthen legal certainty, regulatory reforms are needed that explicitly regulate state accountability, compensation mechanisms for victims, and clear and consistent standards of sanctions for negligent officials. Without this reform step, double certificates will remain a latent problem that undermines the legitimacy of land law in Indonesia.³³

Evaluation of the Minister of ATR/BPN No. 21 of 2020 in the Completion of Dual Certificates

The issuance of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (Permen ATR/BPN) No. 21 of 2020 is a step by the government to respond to various land problems, especially land disputes and conflicts that are increasing. One of the focuses of this regulation is the settlement of dual certificates, which has been one of the main sources of legal uncertainty in land registration. The regulation is seen as an effort to speed up conflict resolution by providing a simpler administrative mechanism than litigation in court.³⁴

Although it was born in the spirit of reform, this regulation actually focuses more on administrative procedural aspects. The Minister of ATR/BPN No. 21 of 2020 does provide clearer instructions on how land offices should handle the findings of double certificates, including verification steps, validation, and follow-up on settlements. However, this regulation does not touch the root of the substantive problem, namely the responsibility of the state and ATR/BPN officials for the issuance of double certificates.³⁵

The Ministerial Regulation still places the community as the main burden in resolving ownership disputes. The administrative procedures offered can indeed speed up the resolution of some cases, but do not provide final certainty for the owner of the goodwill certificate. As a result, certificate holders often still have to go through litigation to obtain

³² Wilfi, Vania, Amelia Sri Kusuma Dewi, and Dyah Widhiawati. "Analysis of the Implementation of ATR/BPN Regulation No. 3 of 2023 concerning the Issuance of Electronic Documents." *JUSTICE* 11, no. 3 (2025): 781-795.

³³ Sadono, Awang Hardian. "Handling Land Problems Based on the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning the Handling and Settlement of Land Cases." *Rampai Jurnal Hukum (RJH)* 2, no. 1 (2023): 12-27.

³⁴ Retor, Zefanya Aprilya. "Juridical Review of the Handling and Settlement of Land Cases According to the Regulation of the Minister of Agrarian and Spatial Planning/National Land Agency Number 21 of 2020." *Lex Administratum* 12.5 (2024).

³⁵ Arizki, L. M. W., Rahman, A., & Fathoni, M. Y. (2023). Implementation of Regulation of the Minister of Agrarian Affairs/Head of the Land Agency Number 21 of 2020 in the Settlement of Land Disputes through Mediation: (Study at BPN Central Lombok). *Private Law*, 3(2), 489-500.

legal certainty.³⁶ This shows that the regulation has not fully answered the public's need for comprehensive legal protection.

In terms of accountability, this regulation has also not established a strict sanction mechanism for ATR/BPN officials who are negligent or proven to be involved in the issuance of double certificates. In fact, without clear and consistent sanctions, the potential for the recurrence of administrative errors remains high. Regulations that are only oriented towards resolving disputes without enforcing official accountability tend to perpetuate the cycle of maladministration.³⁷

In addition, the Minister of ATR/BPN Regulation No. 21 of 2020 does not explicitly regulate the compensation mechanism for victims of double certificates. The aggrieved community must seek justice through a civil lawsuit or other avenues to obtain compensation. The absence of compensation provisions in this regulation shows a fundamental weakness, because the state is not fully present in protecting citizens who have good faith in registering their land.³⁸

The evaluation also shows that there are limitations in implementation at the regional level. Some land offices do not have adequate human resource and infrastructure capacity to effectively implement these regulatory instructions. Capacity inequality between regions causes the implementation of Ministerial Regulation No. 21 of 2020 to run non-uniformly, so that the results of the settlement of double certificate cases in the field still vary.³⁹

Another limitation found is the lack of transparency in the settlement process. The regulation does regulate administrative procedures, but it does not emphasize the disclosure of information to the public regarding the case of double certificates. As a result, the public often does not know clearly the development of cases or decisions taken. This condition strengthens the public's negative perception of ATR/BPN as an unaccountable institution.⁴⁰

From the perspective of administrative law, this Ministerial Regulation does not have enough coercive power to cause a deterrent effect. In the absence of explicit sanctions and compensation provisions, these regulations are seen more as an internal bureaucratic instrument than as a legal instrument that protects the public. In fact, in the context of the

³⁶ Rahmadhani, Muhammad Sultan, and Ansori Ansori. "Security and dispute resolution of regional property in the form of land controlled by third parties unilaterally." *LUTUR Law Journal* 5.2 (2024): 87-96.

³⁷ Khaerunnisa, H., Kurniati, N., & Artaji, A. (2024). The settlement of disputes related to local government land assets occupied by the community through mediation is reviewed in the perspective of Indonesian land law. *Palar (Pakuan Law Review)*, 10(4), 16-27.

³⁸ Sadono, Awang Hardian. "Handling Land Problems Based on the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning the Handling and Settlement of Land Cases." *Rampai Journal of Law (RJH)* 2.1 (2023): 12-27.

³⁹ Arizki, L. M. W., Rahman, A., & Fathoni, M. Y. (2023). Implementation of Regulation of the Minister of Agrarian Affairs/Head of the Land Agency Number 21 of 2020 in the Settlement of Land Disputes through Mediation: (Study at BPN Central Lombok). *Private Law*, 3(2), 489-500.

⁴⁰ Azzahra, Syavira, and Temmy Fitriah Alfiany. "The Existence Of ATR/BPN in The Implementation of Electronic Certificates in the 3T Area Based on the Minister of ATR/BPN Regulation Number 3 Of 2023." *ALADALAH: Journal of Politics, Social, Law and Humanities* 3.3 (2025): 60-80.

state of law, administrative regulations should be able to provide guarantees for the protection of citizens' rights, not just regulate the internal mechanisms of the institution.⁴¹

When compared to practices in other countries, similar regulations typically include three main aspects: a speedy dispute resolution mechanism, a compensation mechanism for victims, and clear sanctions for negligent officials. The absence of the last two aspects in the Ministerial Regulation of ATR/BPN No. 21 of 2020 shows that this regulation is still far from the ideal legal protection standard.⁴² This also shows that the regulation is more oriented to the administrative interests of the institution than to the protection of people's rights.

However, the Minister of ATR/BPN Regulation No. 21 of 2020 still has a positive value as the first step in improving land governance. This regulation reflects the government's awareness to present a faster non-litigation settlement mechanism.⁴³ However, without strengthening the substantive accountability aspect, this regulation risks only being a short-term solution that does not touch the root of the problem.

Thus, an evaluation of the Minister of ATR/BPN Regulation No. 21 of 2020 shows that although this regulation is a progressive step, it still leaves fundamental weaknesses. To make it an effective instrument, it is necessary to make revisions that add provisions on state accountability, sanctions for negligent officials, and compensation mechanisms for victims of double certificates.⁴⁴ Without this substantive update, the existence of this Ministerial Regulation is not enough to be a *deterrent effect* for maladministration practices within ATR/BPN.

Challenges of Administrative Governance and the Urgency of Digitizing Land Registration

Weak administrative governance is one of the main factors that led to the emergence of dual certificates in Indonesia. Although regulations have regulated the principles of land registration, practice on the ground shows irregularities in data management and archives. The manual system that is still predominantly used makes land data vulnerable to recording errors, loss, and manipulation. This condition further exacerbates legal uncertainty and lowers the credibility of land institutions in the eyes of the public.

One of the most prominent weaknesses is the poorly organized management of archives. Many land offices still rely on physical documents that are easily damaged, lost,

⁴¹ Zulfikar, Moch Dinur, Yani Pujiwati, and Sari Wahjuni. "The position of management rights in the national land law is associated with the ownership of state/regional property." *LITRA: Journal of Environmental, Spatial and Agrarian Law* 1.2 (2022): 229-245.

⁴² Ladzuardi, Iqbal, Sudiman Sihotang, and R. Yuniar Anisa Ilyanawati. "Analysis of Dispute Resolution of Overlapping Land Rights Ownership in Bogor City Based on the Regulation of the Minister of Atr/BPN Number 21 of 2020." *Karimah Taubid* 3.6 (2024): 6300-6313.

⁴³ Wijaya, Tarma, Efa Laela Fakhriah, and Deny Haspada. "Land Dispute Resolution in Indonesia: An Analysis of the Regulation of the Head of BPN Number 21 of 2020." *Iustitia Omnibus: Journal of Legal Sciences* 6.1 (2024): 36-43.

⁴⁴ Dewi, Nabila Nastiti, and Herma Setiasih. "Settlement of Land Disputes Through Mediation Based on the Regulation of the Minister of Atr/BPN Number 21 of 2020: (Case Study at the Surabaya City Land Office)." *DECREE (Journal of Master of Law)* (2024): 67-86.

or illegally modified. As a result, data verification becomes difficult to do and opens up opportunities for the issuance of multiple certificates. The absence of a secure and integrated storage system also complicates the internal oversight process of certificate issuance.⁴⁵

In addition to the archive factor, resistance to the use of digital technology is also a significant obstacle. A number of officials and employees within ATR/BPN are still reluctant to switch from manual to digital systems due to limited technical skills and due to certain interests that benefit from loopholes in the manual system. This resistance slows down the modernization process and leaves Indonesia behind other countries that have fully adopted the digitization of land registration.⁴⁶

Maladministrative practices and potential corruption also worsen administrative governance. The weak internal supervision system makes the issuance of certificates often abused by individuals who have access to land data. In some cases, double certificates arise not only as a result of negligence, but also due to the practice of abuse of authority for the benefit of a particular individual or group.⁴⁷ Without transparent and accountable governance, this practice is difficult to eradicate.

In response to these weaknesses, the government has begun to implement the digitization of land registration through the *electronic land registration* program. Digitalization is expected to improve accuracy, minimize data manipulation, and accelerate public services. With electronic databases, each plot of land can be tracked in real-time, so the risk of the issuance of double certificates can be reduced.⁴⁸ However, the implementation of digitalization still faces significant challenges.

Limited infrastructure is the main obstacle in digitizing land registration. Not all land offices have adequate information technology facilities. The gap in internet access, especially in remote areas, also hinders the effectiveness of digitalization. As a result, the implementation of digitalization is only optimal in large cities, while rural areas still rely on manual systems that are prone to errors.

In addition to infrastructure, the gap in human resources is also a crucial challenge. Many land employees are not yet skilled in using information technology-based systems. The lack of training and technical support makes the implementation of digitalization slow. In fact, the success of digitalization is highly dependent on the ability of human resources to manage and maintain the security of land data.

⁴⁵ Suharto, Bambang, and Supadno Supadno. "Obstacles in the Implementation of the Complete Systematic Land Registration Program (PTSL)." *The Indonesian Journal of Public Administration (IJPA)* 9.1 (2023).

⁴⁶ KAROMIAH, Vixda Qianqi; Scott, D.C.; AYU, Isdiyana Kusuma. The Role of the National Land Agency (BPN) in Resolving Disputes of Dual Certificate Ownership (Study at the Malang Regency Land Office). *Dynamics*, 2024, 30.1: 8870-8881.

⁴⁷ Nesi Mongeri, Nesi. *The Role of the Office of the Ministry of Agrarian and Spatial Planning/BPN of Padang City in Solving the Problem of Dual Ownership Certificates in Padang City*. Diss. Andalas University, 2018.

⁴⁸ Musmuliadi, Musmuliadi, Djumardin Djumardin, and Aris Munandar. "Juridical Analysis of Land Dispute Resolution Due to Dual Certificates (Study at the Ministry of ATR/BPN Central Lombok Regency)." *Journal of Notary Treatises* 4.1 (2023).

Concerns about data security are also an issue that often arises in the implementation of digitalization. Electronic systems do offer efficiency and transparency, but on the other hand they also pose new risks in the form of cyberattacks and data leaks. If not handled properly, these security weaknesses can actually cause new problems that are no less serious than manual systems.⁴⁹ Therefore, strengthening the digital security system is a must in the digitalization agenda.

Despite these obstacles, digitalization is still seen as an important instrument to improve land governance. With digitalization, the certificate issuance process can be more closely supervised, public access to land information becomes more transparent, and maladministration practices can be minimized. Digitalization can also strengthen the accountability of ATR/BPN by providing an electronic audit trail that is difficult to manipulate.⁵⁰

Thus, the challenges of administrative governance and digitization of land registration are not only technical problems, but also structural problems related to changes in bureaucratic culture, strengthening regulations, and increasing the capacity of human resources. The urgency of digitalization cannot be postponed, because only with an integrated and transparent electronic system, Indonesia can overcome the problem of double certificates in a sustainable manner. Without serious steps to improve administration and accelerate digitalization, the phenomenon of double certificates will continue to recur and weaken public trust in the land law system.

Comparison with Malaysia and the Direction of Administrative Accountability Reform ATR/BPN

Comparative studies in the study of law are often an important instrument for assessing the weaknesses and advantages of a country's legal system. In the context of land administration, Malaysia is often used as a reference because it has succeeded in building a more stable system with minimal conflicts. *The National Land Code* (NLC) in force in Malaysia adheres to a positive publication system, where the state is fully responsible for the validity of recorded land data. This model is fundamentally different from the negative publication system adopted by Indonesia, so it is relevant as a material for reflection.⁵¹

The positive publication system in Malaysia ensures that any entry in the land register is considered valid and binding, unless fraud can be proven. This means that when people obtain land certificates, they get full guarantees that the state guarantees the validity of

⁴⁹ Zaenal, Ashar Asy'ari, Sufirman Rahman, and Askari Razak. "The Authority of the National Land Agency in the Settlement of Land Disputes." *Journal of Lex Theory (JLT)* 5, no. 1 (2024): 318-336.

⁵⁰ Gusmara, Gregorius Rianggi, Rahayu Subekti, and Andina Puri Elok Maharani. "Legal Certainty of Land Rights Holders in Indonesia on the Opportunity to Implement the Land Registration System Positive Publication." In *Proceedings of Conference on Law and Social Studies*, vol. 4, no. 1. 2023.

⁵¹ Syahputra, Mohammad Firdaus, Bintara Tamtama Putra, and Alvin Dwi Arianto. "Differences in Land Registration Policies in Indonesia, Malaysia and Singapore: Effectiveness and Challenges." *Journal of Multidisciplinary Academic Sciences* 2.1 (2025): 348-361.

the data. This guarantee reduces the potential for disputes, because the community is no longer burdened with risks to prove the correctness of land registration data as happened in Indonesia.⁵²

The superiority of the Malaysian system lies in the legal certainty it offers. People can transact land with the belief that the certificate they hold will not be questioned in the future. This has a positive impact on the investment climate, because land can be used as collateral or business objects with relatively little risk. In contrast to Indonesia, where dual certificates are often an obstacle in the banking and property investment process.⁵³

In addition to the state's guarantee of land data, NLC Malaysia also affirms the responsibility of public officials in maintaining the accuracy and integrity of the land system. Officials who are proven negligent can be held administratively or criminally accountable. Thus, the Malaysian legal system not only provides protection to the public, but also creates a strict oversight mechanism for bureaucratic apparatus.⁵⁴

An important lesson from Malaysia is that legal certainty in the field of land cannot depend solely on administrative regulations, but must be supported by the state's commitment to guarantee the correctness of data. The state must dare to take responsibility for every mistake that occurs in land institutions, either through compensation mechanisms for the community or through the enforcement of sanctions against negligent officials.

When compared to Indonesia's conditions, there is an *accountability gap* in the ATR/BPN system. Although the ATR/BPN has full authority to issue certificates, the institution's responsibility for administrative errors is not strictly regulated. As a result, victims of double certificates have to fight on their own to seek justice through litigation.⁵⁵ This creates structural injustice, because people with good intentions do not get optimal protection from the state.

The direction of reform in Indonesia must be directed at a clearer and more firm reconstruction of the ATR/BPN administrative accountability model. Land regulations need to be updated to affirm state responsibility for administrative errors, so that the community is no longer the most disadvantaged. This reconstruction can be done by adopting the principles of positive publication gradually, without having to completely abandon the system of negative publications that are already running.

In addition to regulations, reform also needs to touch on the aspect of sanctions. The accountability of ATR/BPN officials must be consistently enforced through administrative,

⁵² Hilmi, Syaiful Ihsan, Maulana Akhyar, and Aprila Niravita. "Juridical Analysis of the Settlement of the Pulau Batu Dispute Between Malaysia and Singapore in the Perspective of International Law." *Journal of Multidisciplinary Academic Sciences* 2.1 (2025): 150-169.

⁵³ Putra, Reza Andriansyah, and Atik Winanti. "Urgency and Obstacles in the Issuance of Electronic Land Certificate Documents after the Regulation of the Minister of ATR/BPN Number 3 of 2023." *Journal of Usm Law Review* 7.2 (2024): 835-852.

⁵⁴ Yusof, Muhammad Fathi. "Land law in Malaysia." *Mus' ab E-book Publication* 6 (2016).

⁵⁵ Amir, Muhammad Azri, Mohd Zaidi Daud, and Siti Aisyah Samudin. "The Application of Section 340 of the National Land Code in Accordance with Islamic Law in Malaysia." *Journal of Mumafaqat* 6.1 (2023): 14-42.

civil, and criminal sanctions. This sanction is important not only as a form of punishment, but also as a *deterrent effect* to prevent the recurrence of maladministration practices. With firm and consistent sanctions, it is hoped that the integrity of the land apparatus can be improved.

Digitization of land registration is also an integral part of land reform in Indonesia. With an integrated digital system, the chance of double certificates can be significantly minimized. However, digitalization should not only be seen as a technology project, but must be accompanied by institutional reforms that ensure transparency, accountability, and public involvement.⁵⁶

In the long term, the direction of ATR/BPN accountability reform should integrate three main components: strengthening regulations, implementing consistent sanctions, and digitizing land registration. These three components must complement each other in order to be able to create a more credible land system. Strengthening regulations provides a legal basis, the application of sanctions enforces accountability, while digitalization ensures efficiency and transparency.

By adopting lessons from Malaysia and carrying out comprehensive reforms, Indonesia has the opportunity to build a more credible land system. Public trust can be restored when the state is truly present in protecting the public from the impact of double certificates. In the end, the reform of ATR/BPN accountability is not only aimed at resolving administrative problems, but also building the foundation of sustainable legal certainty for national development.

CONCLUSIONS AND RECOMMENDATIONS

The phenomenon of double certificates in Indonesia reflects a fundamental weakness in the land law system that still adheres to negative publications with positive elements. Certificates that are supposed to guarantee legal certainty have turned into a source of uncertainty and conflict, thus harming people in good faith and reducing public trust in ATR/BPN. The results of the analysis show that this problem is not only related to regulatory weaknesses, but also inconsistencies in official accountability, weak administrative governance, and resistance to digitalization.

An evaluation of the Ministerial Regulation of ATR/BPN No. 21 of 2020 shows that although the regulation is a step forward, its substance is still limited to procedural aspects and has not touched on state accountability or victim compensation mechanisms. This makes the regulation not effective as a prevention or problem-solving instrument. On the other hand, comparative studies with Malaysia show that a positive publication system is able to bring stronger legal certainty, as the state guarantees the correctness of the data and bears the risk of administrative errors.

⁵⁶ Sari, Yusna Moon. "Legal Review of the Application of Electronic Land Title Certificates in the Indonesian Legal System." *Cerdika: Indonesian Scientific Journal* 4.8 (2024).

Thus, it can be concluded that improving Indonesia's land system requires comprehensive reform. This reform must affirm the administrative accountability of the ATR/BPN, establish consistent sanctions against negligent officials, provide compensation mechanisms for victims, and accelerate the implementation of digitization of land registration. These measures are not only to close the gap in the occurrence of double certificates, but also to restore public trust in land institutions and strengthen legal certainty as a pillar of national development.

Based on the findings of this study, there are several recommendations that can be proposed. First, land regulations need to be updated by including provisions that affirm state accountability for administrative errors, including a clear compensation mechanism for harmed communities. Second, the application of sanctions against ATR/BPN officials must be enforced consistently through administrative, civil, and criminal channels to create a deterrent effect and improve the integrity of the apparatus.

Third, the digitization of land registration must be accelerated by ensuring infrastructure readiness, increasing human resource capacity, and strengthening data security. This digitalization should be integrated with a technology-based supervision system to prevent duplication of certificates and increase transparency. Fourth, Indonesia can learn from Malaysia by adopting the principles of positive publication gradually, so that the state plays an active role in ensuring the certainty of land data.

Finally, comprehensive land reform must be seen not as a mere technical issue, but as a fundamental effort to build social justice, ensure the protection of people's rights, and support sustainable economic development. With a stronger accountability model and transparent governance, Indonesia's land system is expected to be able to meet the demands of the community while strengthening the position of the rule of law in the modern era.

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