



# Legal Certainty and Protection for Original Certificate Holders in Disputes Regarding the Issuance of Replacement Certificates

Dewani Kireina Tjitrasgoro<sup>1</sup>, Benny Djaja<sup>2</sup>

<sup>1,2</sup>Faculty of Law, Universitas Tarumanagara, Jakarta

**Abstract:** This study aims to examine the legal protections afforded to buyers under a Sales and Purchase Agreement (SPA) and the legal certainty afforded to holders of original certificates in cases of replacement certificate issuance. This research employed a qualitative method with a normative-empirical approach through a review of laws and regulations, analysis of land documents, and a review of relevant cases. The results indicate that SPA does not provide sufficient legal protection if the land does not meet administrative and material requirements, particularly when the certificate used as the basis for the transaction is proven to be administratively flawed or is in dispute. The issuance of replacement certificates, the application of the principles of legality, accuracy, and prudence, are crucial in preventing and mitigating these risks. This study emphasizes the need to strengthen verification mechanisms and administrative oversight to ensure legal protection and to avoid land disputes.

**Keywords:** Legal Certainty, Legal Protection, SPA

## 1. Introduction

Land is a necessary and fundamental element in every human role, used in various economic, social, and legal activities. However, the need for land will increase population growth, resulting in land use and acquisition (Rejekiningsih, 2016). Therefore, the increasing demand for land can result in the transfer of land rights. To avoid purchases ending in disputes and provide legal guarantees for land ownership, this is regulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). The Basic Agrarian Regulations Law stipulates that land, water, and airspace are controlled by the state and used to the greatest extent for the prosperity of the people. Therefore, the UUPA serves as the basis for agrarian regulations and land law. Thus, Ownership Rights, through Article 19 of the UUPA, require land registration to provide legal certainty for land rights owners, in the form of land certificates as proof of ownership in all legal proceedings related to land (Murni & Sulaiman, 2022).

Article 16 of the UUPA regulates the types of land rights that are recognized, namely ownership rights, use rights, building use rights, lease rights, land clearing rights, forest product collection rights, and other rights (Pratiwi & Najicha, 2023). These rights can be obtained through the registration and issuance of land certificates, but in practice, disputes often arise. The process does not comply with one of the regulations of the Minister of Agrarian Affairs/Head of BPN Number 3 of 1997 concerning Land Registration (Pratiwi & Najicha, 2023). This dispute resulted in two certificates for the same plot of land, creating legal uncertainty and harming the party holding the original certificate.

As the population's demand for land increases, so does the demand for land rights through sales and purchases (Tehupeiory, 2012). The increase in land transfers has prompted the creation of land acquisition regulations to prevent land disputes and related issues. However, data discrepancies, inaccurate administrative verification, and unclear procedures still frequently occur. These issues can lead to serious problems, such as the issuance of duplicate certificates, certificates with administrative defects, and re-

### Correspondence:

Name: Dewani Kireina Tjitrasgoro

Email: de-

wani.205220257@stu.untar.ac.id

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placement certificates issued without a strong legal basis. These incidents demonstrate that the land registration system regulated by the Basic Agrarian Law and its implementing regulations still face challenges in their implementation (Adrian Sutedi, 2023; Sihombing, 2022). Coordination between applicants, land officials, and village/sub-district officials is often suboptimal. It becomes even more complicated when the process is conducted through a Sales and Purchase Agreement (PJB), which is often used as a preliminary step before a Deed of Sale and Purchase (AJB). PJBs are used as a practical method when administrative requirements are incomplete, such as when the certificate is still in the process of being transferred, is still in the *roya* process (lien), or tax obligations are not yet settled (Ramadhon, 2022). However, PJB often creates legal vulnerabilities if the subject or object of the land does not meet the administrative and material requirements (Hapsari, 2018). Under civil law, a PJB is considered valid if it meets the requirements of an agreement, based on Article 1320 of the Civil Code (Karelina et al., 2025). However, under land law, a PJB cannot be considered a document that directly transfers full rights (Zula, 2024). The situation demonstrates a fundamental difference between civil law and land administration law in the process of transferring land rights. Civil law emphasizes the agreement of the parties, while land law focuses on administrative completeness as the primary requirement for issuing land rights. This difference often creates a loophole for disputes. Therefore, understanding the relationship between PJB, the validity of the original certificate, and the basis for issuing replacement certificates is crucial to clarify the legal position of good-faith rights holders (Fatoni, 2023a).

In this context, the present study contributes to clarifying the legal position of holders of valid original land certificates. It affirms that administrative recognition through land registration must prioritize factual and juridical continuity rather than relying solely on subsequent administrative actions. The holder of an original certificate is positioned not merely as a party possessing stronger evidentiary value, but as a legal subject whose rights are constitutionally protected and cannot be displaced by a procedurally defective replacement certificate. By examining the interaction between private agreements (Sale and Purchase Binding Agreements/PJB), administrative discretion, and judicial review, this study reinforces the doctrinal distinction between civil validity and administrative legality. Accordingly, it strengthens the legal argument that an original certificate retains superior legal force when it is issued in accordance with statutory procedures and in good faith.

Furthermore, this study develops a conceptual framework that situates legal certainty and legal protection as complementary principles within the land registration system. Legal certainty functions to ensure clarity, predictability, and stability of land rights through formal registration mechanisms, while legal protection operates as a corrective and safeguarding instrument when administrative processes fail or are abused. Rather than being in conflict, these principles operate synergistically: legal certainty provides the normative foundation, while legal protection ensures substantive justice for rights holders acting in good faith. This complementary construction is essential to preventing the misuse of replacement certificate mechanisms and to maintaining public trust in the integrity of land administration governed by the principles of good governance.

The issue of issuing replacement certificates cannot be separated from the state's responsibility in managing land administration. Law Number 30 of 2014 concerning State Administration requires government officials to act based on the principles of legality, prudence, transparency, and accountability. If the issuance of replacement certificates is carried out without complying with these principles, the administrative decision may be deemed legally flawed and subject to revocation through the state administrative court process (Lubis, 2022).

This research is crucial for understanding the legal aspects of PJB purchases, the legal implications for legal certainty for original certificate holders, and for providing references for research and the public. The research study also provides legal certainty and legal protection for rights holders acting in good faith.

However, a sound land registration system often fails to function as expected in the field. Land disputes remain common, including overlapping ownership, unilateral claims, and improper certificate issuance (Mulyadi & Satino, 2019). One of the most complex disputes involves the issuance of a replacement certificate for a plot of land that previously held a valid original certificate (Marino & Saputra, 2021). This situation not only creates a duality of proof of ownership but also violates citizens' right to legal certainty, as guaranteed by Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

Issuance through improper administrative processes results in legal defects and the nullification of administrative decisions, as they are legally invalid (Dotulung, 2018; Kellung & Binei, 2022). Therefore, the issuance of replacement certificates for holders of original ownership certificates has implications for the application of the theory of legal certainty, legal protection, and agreements.

Based on this description, it can be understood that the issue of PJB and the issuance of replacement certificates is not merely a technical administrative issue, but also a fundamental aspect of the legal protection and legal certainty system in the land sector. This study aims to understand the law related to the purchase of PJB, the legal implications of legal certainty for holders of original certificates, and to provide references for research and the public. Research studies give legal certainty and legal protection for rights holders in good faith.

## 2. Materials and Methods

This research employed a qualitative method with a normative-empirical approach, employing both a statutory and a case study approach. The data collected consisted of descriptions, narratives, and interpretations. This research focused on analyzing and in-depth studying one or several specific cases, as well as field findings related to decisions. This research was supported by secondary data, such as reference sources and related journals. This data served to complement and strengthen the analysis. The data collection technique utilized was document study, namely conducting research on related documents concerning the dispute over the issuance of replacement certificates for holders of original certificates. The results were presented descriptively, thus providing an overview of this research.

## 3. Results and Discussion

According to the Big Indonesian Dictionary (KBBI), a certificate is a written or printed sign or statement from an authorized person that can be used as proof of ownership or an event. Based on this, along with the growth of society and its activities regarding land, the need for land increases, along with an increase in the transfer of land rights in the form of certificates. According to the UUPA, certificates have the following functions: providing legal certainty regarding ownership rights, guaranteeing legal protection for rights holders, and providing valid and strong evidence.

### 3.1 *Legal Protection for Buyer on PJB*

A PJB is an agreement between a seller to sell their property to a buyer, made through a notarial deed (Hamonangan et al., 2021a). Previously, the PJB process was based on an agreement between the parties, who agreed to carry out a transaction in the form of a sale and purchase between the two parties (Baswedan & Baswedan, 2014). It was carried out before the Land Deed Official (PPAT) by making a deed of sale and purchase and a deed of power of attorney based on a statement of full payment. The statement of full payment for land rights is used to carry out the transfer of rights. However, the transfer of rights requires evidence to strengthen the deed of sale and purchase before the PPAT as authentic evidence that the land is legally owned through a proper process and based on a sale and purchase agreement. According to Article 1457 of the Civil Code, a sale and purchase is an agreement (contract) in which one party (the

seller) binds himself to deliver an item, and the other party (the buyer) binds himself to pay the promised price. Based on this, a sale and purchase create a reciprocal legal relationship between the seller and the buyer. According to R. Subekti, PJB is an agreement between the seller and the buyer before the sale and purchase is done due to the existence of causes that must be fulfilled for the sale and purchase, including the land title certificate not being registered in the name of the seller and still needing to be changed to the name, and the price of the object of sale and purchase not having been paid in full or the certificate is still being processed (Subekti, 2014). Thus, a PJB only creates a civil bond in the form of rights and obligations, but does not transfer land ownership rights. In practice, PJBs are divided into two types: first, an unpaid PJB, which is caused by several factors in the sale and purchase transaction, such as unpaid taxes. Therefore, such a PJB cannot be issued, while a PJB that has been paid will be issued. Second, a fully paid PJB, which completes the sale and purchase payment but cannot yet execute the Deed of Sale and Purchase (AJB), due to incomplete sales taxes and similar obligations.

Legal protection for buyers under PJBs is crucial, especially when land disputes arise involving duplicate certificates or the unauthorized issuance of replacement certificates (Fatoni, 2023b; Opmiati, 2025). It is reflected in District Court Decision 1107/Pdt.G/2022/PN Dps, where the customer (plaintiff) had already entered into the sale and purchase transaction and held the original certificate, but the heirs instead filed for an unauthorized replacement certificate and then sold the same land to a third party. In this situation, a buyer acting in good faith can be disadvantaged even if they have fulfilled their obligations.

Legal protection for buyers under a PJB is provided in two forms: preventive and repressive. Preventive protection is provided through the PJB's creation in the form of a notarial deed containing a protection clause. In addition, buyers can also request a certificate from the Land Office as an additional safeguard. Repressive protection, on the other hand, is provided when a dispute arises. In the case of land, the decision provides protection through the cancellation of the replacement certificate and the recognition of the original certificate as valid proof of ownership.

Therefore, even though a PJB does not directly transfer ownership rights, it remains an essential basis for protecting buyers' rights. The existence of a valid legal relationship between the parties provides the basis for claiming rights in the event of a dispute.

### ***3.2 Legal Certainty for the Original Certificate Holder on the Replacement Certificate***

Legal certainty is the legal basis for achieving justice by providing legal clarity and a component of efforts to achieve justice (Hamonangan et al., 2021b). Legal certainty provides clarity regarding the rights and obligations of the parties, thus serving as the basis for achieving justice. In the land context, legal certainty relates to the existence of certificates as evidence of valid land rights that are recognized administratively and legally (Purba & Primantari, 2025). Legal certainty for holders of original certificates is crucial when issuing replacement certificates. In general, certificates provide security of ownership protected by the Basic Agrarian Law (UUPA) (Syamsuri, 2025). This protection of legal certainty is reflected in several aspects, namely: (a) Certainty of Ownership Rights; (b) Dispute Resolution; (c) Protection from Third-Party Claims.

The issuance of a certificate is carried out through an examination and submission to the National Land Agency (BPN) for a lost certificate in accordance with the authority stipulated in the law (Hamenda, 2021). However, in practice, the issuance of replacement certificates has caused problems because it does not meet the standards of care and accuracy (Hamenda, 2021). This situation has the potential to disrupt legal certainty, especially for holders of legitimate original certificates. Law Number 30 of 2014 concerning State Administration stipulates the principles that must be met in the certificate issuance process, namely: (a) The Principle of Legality, namely that actions taken by the administration are based on legal provisions. If they are not based on law and do not comply with procedures, legal defects can arise. (b) The Principle of Legal Certainty, namely that the registration, issuance, and accountability processes serve as evidence of legitimate

rights; (c) The Principle of Accuracy and Care, namely that the administration rechecks physical and legal data before issuing certificates; (d) The Principle of Good Faith, namely the law that provides protection to certificate holders who act in good faith. However, in some cases where parties do not act in good faith or are not careful and thorough in issuing certificates, the process results in an invalid and unlawful process, resulting in the certificate being issued being legally defective.

If these principles are not adhered to, the issued replacement certificate may be declared legally invalid. Several cases have occurred due to negligence in adhering to the principle of prudence, such as the issuance of replacement certificates for land still held by the original certificate holder. It not only violates the principle of legal certainty but also harms the legitimate owner, potentially giving rise to disputes.

In dispute resolution, according to Article 49, Paragraph 2 of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 11 of 2016 concerning court decisions regarding the issuance, transfer, cancellation of land rights, and/or cancellation of land determinations, the following procedures apply: (a) Orders to cancel land rights; (b) Declaring land rights null/invalid/not having legal force; (c) Declaring evidence of rights invalid/not having legal force; (d) Orders to record or delete entries in the Land Book; (e) Orders to issue land rights; (f) Orders to cancel the determination of abandoned land; (g) Amar, which means giving rise to the legal consequences of issuing a transfer of rights or canceling the transfer of rights.

If a certificate is declared lost but not subject to issuance, transfer, cancellation of land rights, and/or cancellation of land determination, the provisions of Government Regulation No. 24 of 1997 concerning land registration must still be followed. The requirements for processing a lost certificate are as follows: (a) The applicant's identification for a replacement certificate, such as a National Identity Card (KTP) or the identity card or KTP of a person receiving power of attorney, accompanied by a private power of attorney or a notary; (b) The applicant must also attach proof of land and building tax. (c) A copy of the lost certificate (not required); (d) A statement from the local sub-district or village office stating that the property is free from disputes; (e) A letter stating that the land is not subject to collateral. (f) A loss report from the local police. (g) A land survey letter; (h) A statement regarding the land from the local sub-district or village office; (i) A sworn letter stating that the certificate is indeed lost. In accordance with PP No. 24 of 1997, this letter is made under oath before the Head of the Land Office or someone who has been appointed.

If these requirements are not met correctly and completely, the issuance of the replacement certificate is invalid. This is reflected in District Court Decision 1107/Pdt.G/2022/PN Dps, which declared the replacement certificate legally invalid because it was issued without clear verification, while the original certificate was still held by the rightful owner. This decision affirms that legal certainty for the original certificate holder has a stronger position than other parties who obtain rights from an invalid replacement certificate.

Therefore, legal certainty for the original certificate holder is a fundamental principle in the land registration system in Indonesia. The state, through the National Land Agency (BPN), is obliged to ensure that there are no overlapping certificates that could give rise to disputes. Therefore, the replacement certificate issuance process must be carried out carefully, based on the principles of good government administration. This is crucial to prevent losses for the original certificate holder in good faith and to maintain public trust in the land administration system.

#### **4. Conclusions**

Legal protection in the issuance of replacement certificates constitutes an integral part of safeguarding land rights holders and ensuring legal certainty within the land registration system. Although Government Regulation No. 24 of 1997 has provided a clear procedural framework, judicial practice particularly as reflected in District Court Decision No.

1107/Pdt.G/2022/PN Dps demonstrates persistent administrative failures in which replacement certificates are issued despite the continued possession of valid original certificates by rightful owners. Such practices result in duplicate certificates, undermine legal certainty, and harm parties acting in good faith. Therefore, the legal position of original certificate holders must be prioritized as the primary reference in land registration, and replacement certificates may only be recognized as valid when issued in strict compliance with the principles of legality, prudence, accuracy, and good faith. The findings of this research further indicate significant policy implications for the National Land Agency (BPN), particularly the need to strengthen verification and supervisory mechanisms through multi-layered administrative checks, integrated digital land data, and enhanced institutional accountability. In addition, future research should focus on developing an integrated protection framework that combines preventive measures such as digital land registration and administrative oversight with repressive mechanisms, including administrative sanctions and judicial remedies, to ensure comprehensive and sustainable protection of land rights.

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