

MINISTRY OF LAND RESPONSIBILITY FOR MORTGAGE RIGHTS ON CERTIFICATES BURDENED BY LAND AND BUILDING DUTY

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Abstrak

Penelitian ini membahas efektivitas penerapan Undang-Undang Nomor 2 Tahun 2014 tentang Jabatan Notaris yang mewajibkan notaris memberikan layanan pembuatan akta autentik secara cuma-cuma kepada masyarakat tidak mampu. Tujuan penelitian adalah mengevaluasi sejauh mana aturan tersebut diterapkan serta mengidentifikasi kendala yang dihadapi dalam praktik pelaksanaannya di Kabupaten Lombok Utara. Metode yang digunakan adalah yuridis empiris dengan pendekatan peraturan perundang-undangan serta wawancara dengan notaris dan tokoh masyarakat. Data dianalisis secara deskriptif kualitatif untuk menemukan faktor-faktor yang memengaruhi efektivitas penerapan Pasal 37 Ayat (1) UU Jabatan Notaris. Hasil penelitian menunjukkan bahwa meskipun notaris memahami kewajiban tersebut, implementasi masih terbatas akibat kurangnya kepastian hukum terkait kriteria penerima layanan, minimnya pengawasan, serta fasilitas pendukung. Selain itu, rendahnya pemahaman masyarakat terhadap hak atas layanan gratis ini juga menjadi hambatan utama. Kesimpulannya, perbaikan regulasi, penguatan pengawasan, dan edukasi hukum kepada masyarakat diperlukan untuk meningkatkan efektivitas pelaksanaan ketentuan ini.

Kata Kunci: *Layanan Hukum Gratis, Notaris, Kepastian Hukum, Edukasi Masyarakat, Pengawasan.*

Abstract

This study examines the effectiveness of implementing Law Number 2 of 2014 on the Notary Position, which obliges notaries to provide free authentic deed services to underprivileged communities. The study aims to evaluate the extent of this regulation's application and identify obstacles encountered in practice in North Lombok Regency. The research employs

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an empirical juridical method with a legislative approach and interviews with notaries and community leaders. Data were analyzed using qualitative descriptive methods to identify factors affecting the effectiveness of Article 37 Paragraph (1) of the Notary Position Law. Findings reveal that although notaries understand their obligations, implementation remains limited due to legal uncertainty regarding recipient criteria, lack of supervision, and insufficient supporting facilities. Additionally, low public awareness of their rights to free services is a major barrier. The study concludes that regulatory improvements, strengthened supervision, and legal education for the public are necessary to enhance the effectiveness of this provision.

Keywords: Free Legal Services, Notary, Legal Certainty, Public Education, Supervision.

INTRODUCTION

Indonesia is a country rich in maritime resources, comprising numerous islands and abundant agrarian wealth. One of the most crucial agrarian aspects of the nation is land, which holds economic, political, and social significance. Due to the importance of land in state affairs, landowners are required to register their land at the land office. This registration ensures legal control over the land, granting the owner a land certificate (Putri, 2020). The certificate serves as proof of occupancy, control, and ownership of the land. The Ministry of Land Affairs holds a crucial responsibility in managing security rights over land certificates subject to Land and Building Tax. A security right is a proprietary guarantee that grants priority rights to creditors to execute the collateralised asset in the event of debtor default. In this context, the Ministry of Land Affairs plays a vital role in ensuring that registered security rights have a strong legal basis and do not conflict with the tax obligations attached to the land (Sukananda, 2020).

One of the key responsibilities of the Ministry of Land Affairs is to ensure that every registration of security rights complies with administrative requirements and that there are no outstanding Land and Building Tax liabilities that may affect the validity of the guarantee (Intifada, 2019). This is intended to prevent potential disputes between



security right holders, landowners, and tax authorities. In some cases, land with outstanding Land and Building Tax liabilities can lead to complex legal issues, particularly when security rights are to be enforced through auction (Liu, 2019). Furthermore, the Ministry of Land Affairs is responsible for providing legal certainty regarding the ownership status of land that serves as the object of security rights (Ningrum, 2020). When land is used as collateral, the ministry must ensure that the land certificate is correctly recorded and does not have other legal complications that could hinder the execution of security rights. This legal certainty is essential for banks or financial institutions that require valid guarantees for credit disbursement (Ahita, 2023)

In relation to the Land and Building Tax, the Ministry of Land Affairs must also coordinate with the Directorate General of Taxes to ensure that landowners have fulfilled their tax obligations before security rights are registered. PBB is an obligation attached to land ownership, and its payment status must be part of the verification process in the registration of security rights. This is crucial to prevent future legal risks, particularly concerning tax dispute resolution. Additionally, the responsibility of the Ministry of Land Affairs includes educating land rights holders to understand their tax obligations before applying for security rights. Public awareness campaigns on the importance of timely Land and Building Tax payments can help reduce the risk of cancellation or delays in registering security rights due to tax arrears. In this way, the ministry actively contributes to maintaining order in land administration and taxation (Julianti, 2021). Overall, the Ministry of Land Affairs' responsibilities concerning security rights over land certificates subject to Land and Building Tax encompass administrative oversight, legal certainty, inter-agency coordination, and education for land rights holders. By ensuring that security rights do not conflict with tax obligations, the ministry can contribute to the development of a transparent and fair land system, ultimately providing protection for all stakeholders involved.

The author has identified an issue concerning electronic mortgage rights, particularly in cases where a mortgage certificate is issued on land titles still burdened by the unpaid Land and Building Acquisition Duty under the Complete Systematic Land Registration programme. The key problem observed is the registration of mortgage rights without first



settling the outstanding tax obligations recorded in the certificate. Land and Building Acquisition Duty itself is a tax collection system where the primary object is the acquisition of land rights by an owner or a party controlling the land or building subject to taxation, including any structures or vegetation on the land. This is regulated under Law Number 20 of 2000, which amends Law Number 21 of 1997 on Land and Building Acquisition Duty.

The land parcels registered through this programme are intended to provide legal certainty and protection in accordance with the principle of publicity, which is assessed from both physical and juridical aspects to achieve an orderly land administration system. To enhance the implementation of land registration and expedite the issuance of land ownership certificates for Indonesian citizens, the government introduced the Complete Systematic Land Registration programme, regulated under Ministerial Regulation of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration (Pipit Mulyah, Dyah Aminatun, Sukma Septian Nasution, Tommy Hastomo, Setiana Sri Wahyuni Sitepu, 2020). This programme aims to ensure that all land parcels in Indonesia are systematically mapped and certified to facilitate land ownership and legal security.

LITERATURE REVIEW

In this study, the author uses 2 main theories, namely the theory of legal certainty and theory of legal responsibility.

Theory of Legal Certainty

The theory of legal certainty is one of the fundamental pillars of a legal system, ensuring clarity, order, and protection of the rights of individuals and legal entities. According to Gustav Radbruch, legal certainty is one of the three fundamental values of law, alongside justice and expediency. In the context of land law and the imposition of mortgage rights, legal certainty is crucial to ensuring that every legal action concerning land has a clear legal basis, including the imposition of Land and Building Duty (Ruckmana et al., 2022). When a land certificate is encumbered with a mortgage, legal certainty guarantees that the status of the land is clearly documented, preventing potential disputes in the future.



The principle of Land and Building Acquisition Duty stipulates that the tax liability must be settled at the time of the acquisition of rights, as outlined in Article 9(2) of Law Number 20 of 2000 , which states that “the tax payable must be settled at the time of the acquisition of rights as referred to in paragraph (1).” However, under the Complete Systematic Land Registration programme, land certificates are issued even if Land and Building Acquisition Duty obligations remain unpaid. This inconsistency between tax regulations and land registration practices raises concerns regarding the validity of property transactions and mortgage rights registered on such properties.

The issuance of certificates still burdened by outstanding Land and Building Acquisition Duty contradicts the fundamental principle that land acquisition tax must be settled upon the transfer of rights. This situation creates a legal discrepancy where mortgage rights can be imposed on properties that technically do not meet tax compliance requirements (Vidyattama et al., 2023) Consequently, this issue introduces potential legal uncertainty in the imposition of mortgage rights on land titles issued under the Complete Systematic Land Registration programme. This could lead to disputes involving landowners, financial institutions, and the tax authorities, given that the legal status of the mortgage rights remains unclear due to the outstanding tax burden. To address this issue, a more synchronised approach is required between land registration authorities and tax offices to ensure that all Land and Building Acquisition Duty liabilities are settled before the issuance of land certificates. Strengthening the administrative verification process for tax compliance in land registration would prevent inconsistencies and uphold legal certainty in mortgage rights. Ensuring that Land and Building Acquisition Duty obligations are fully paid before granting land certificates would align with tax regulations and provide stronger legal protection for all parties involved in land transactions.

Theory of Legal Responsibility

Meanwhile, the theory of legal responsibility emphasises the legal consequences that individuals or legal entities must bear due to their actions or negligence. In a legal system, responsibility can be civil, criminal, or administrative, depending on the type of violation or negligence committed. In the context of the Ministry of Land’s responsibility for



mortgage rights on certificates burdened by Land and Building Duty, this theory is relevant in determining the extent to which the government is accountable for ensuring that property transactions and mortgage encumbrances comply with tax obligations (Santosa, 2020). If there is an administrative error or negligence in recording Land and Building Duty, the ministry may be held accountable for any discrepancies that could disadvantage the rights holders or related parties.

The relevance of these two theories in relation to the ministry's responsibility for mortgage rights on land certificates burdened by Land and Building Duty lies in protecting landowners' rights and ensuring legal certainty regarding the status of the land. If the ministry fails to properly record Land and Building Duty or does not enforce relevant provisions, legal certainty regarding the mortgage rights may be compromised, potentially leading to legal disputes. Therefore, the ministry must ensure that all land administration processes are conducted transparently, accurately, and in accordance with applicable regulations to safeguard the rights and obligations of the parties involved.

Additionally, the ministry's responsibility includes oversight and guidance in implementing Land and Building Duty on mortgage rights. This aims to prevent potential misuse or negligence in land administration processes. By balancing the principles of legal certainty and responsibility, the government can create a more credible and trustworthy land administration system. In practice, this requires an integration of strict regulations, a modern administrative system, and effective monitoring mechanisms to ensure that the rights and obligations arising from mortgage rights are enforced fairly and in compliance with the law.

Several previous studies have examined electronic mortgage rights, each with different focuses. Ahmad Alfatino's research from Universitas Islam Sultan Agung Semarang (Alfatino, 2021) discusses the implementation of electronic mortgage rights in Sukoharjo, sharing a similarity with this study in its analysis of mortgage rights. However, the key difference lies in the research object, as this study specifically examines the issuance of mortgage rights on certificates still burdened with the Land and Building Acquisition Duty under the Complete Systematic Land Registration programme at the Batu City Land Office. Similarly, Sandi Halim, Muhammad Yamin, Syaifuddin Kalo, and Rudi Haposan Siahaan



from Universitas Sumatera Utara (H. Salim HS, 2016) also explore the implementation of electronic mortgage rights, but their study does not focus on the issue of Land and Building Acquisition Duty obligations within the Complete Systematic Land Registration programme. Meanwhile, Putri Dharmawan Charles from Universitas Brawijaya (Charles, 1996) investigates the accountability of the Land Office regarding mortgage rights issued on fraudulent Building Use Rights certificates, sharing a common theme with this study in analysing the Land Office's responsibility but differing in its research object.

The novelty of this study lies in its focus on the contradiction between the principle of Land and Building Acquisition Duty obligations, which requires tax payment upon acquisition, as stipulated in Article 9 (2) of Law No. 20 of 2000, and the practice within the Complete Systematic Land Registration programme, where certificates are issued despite outstanding tax obligations. This discrepancy raises concerns about legal certainty and compliance, which are not the primary focus of previous studies. Thus, while the themes of previous research share similarities with this study, the findings and analyses presented are original, ensuring that this research contributes new insights to the discussion on mortgage rights, tax obligations, and land registration policies in Indonesia (Widianugraha, 2019)

The urgency of this research lies in addressing the legal uncertainty arising from the issuance of land certificates burdened with outstanding Land and Building Acquisition Duty under the Complete Systematic Land Registration programme. This issue is critical as it directly impacts the validity of mortgage rights imposed on such certificates, potentially leading to legal disputes between landowners, financial institutions, and tax authorities. The inconsistency between tax regulations and land registration practices raises concerns over compliance, legal certainty, and administrative efficiency. By analysing this issue, the research aims to highlight the necessity for synchronisation between land registration and tax enforcement authorities to ensure that Land and Building Acquisition Duty obligations are settled before the issuance of land certificates. Addressing this gap is essential to safeguarding the integrity of the land administration system, preventing future disputes, and ensuring that



landowners, creditors, and the government operate within a legally sound framework.

RESEARCH METHODS

This study employs Empirical Legal Research or Socio-Legal Research, which involves direct fieldwork at the National Land Office of Batu City to observe the practical implementation of legal regulations. The primary objective of this research is to obtain a clear and accurate understanding of the issues under investigation (Azhar, 2020) Given the nature of the research problem, the study adopts a socio-legal approach to analyse how the Ministry of Land Affairs executes its role in accordance with its legal authority. This approach allows for an in-depth examination of the interaction between legal norms and their application in practice. The study utilises primary, secondary, and tertiary legal data to ensure a comprehensive analysis of the subject matter. The data collection methods used in this study include in-depth interviews and document analysis (Risa Nur Sa'adah, 2020)

Interviews serve as the primary tool for obtaining field data, involving direct interaction and dialogue between the researcher and key informants to gain a thorough understanding of the issues being examined. In this study, interviews were conducted with notaries and BPN in Malang City (Imtihani & Nasser, 2024; Obrien Kaawoan et al., 2024; Pramadanty et al., 2024). These interviews allow the researcher to gather firsthand insights into the implementation of land regulations. In addition, document analysis is conducted to examine relevant legal and administrative documents, ensuring the acquisition of precise and essential facts related to the research topic. This combination of qualitative data collection methods enhances the validity of the findings and provides a well-rounded perspective on how land administration policies are enforced in practice.

RESULTS AND DISCUSSION

A. The Establishment, Registration, and Termination of Security Rights: Legal Framework and Practical Implications

At the stage of granting a Security Right through the Deed of Granting of Security Right by the grantor of the Security Right to the creditor, the Security Right in question has not yet come into existence (Setyaningsih &



Mashdurohatun, 2018) The Security Right is only established upon the issuance of the Land Book of Security Right by the Land Office, marked by the issuance of the Certificate of Security Right. The registration of the Security Right is of utmost importance for the creditor. The establishment of the Security Right is a critical moment as it gives rise to the creditor's preferential claim and determines the ranking of the creditor in relation to other creditors in the event of a security attachment (*conservatoir beslag*) on the secured object (Lutfiah et al., 2024).

In other words, the creditor whose APHT is first registered in the Land Book of Security Right at the Land Office shall be prioritised over other creditors. Once the APHT has been executed, in accordance with Article 15(1) of the Security Right Law, the granting of the Security Right must be registered with the Land Office. Furthermore, Articles 13(2) and (3) of the Security Right Law outline the procedures for registering the Security Right. The registration process is carried out by the Land Office by creating the Land Book of Security Right, recording the Security Right in the relevant Land Book of Land Title at the Land Office, and subsequently transcribing this record into the relevant Land Title Certificate.

Once the APHT and the necessary documents have been received by the Land Office and the Land Book of Security Right has been created, the book must be dated. The date of the Land Book of Security Right determines the creditor's ranking among other creditors of the same debtor (Articles 1132 and 1133 of the Indonesian Civil Code). The establishment of the Security Right grants the creditor a preferential status over concurrent creditors (Article 1 of the Security Right Law). Pursuant to Article 13(2) of the Security Right Law, the "date of the Land Book of Security Right is the seventh day after the complete submission of the required documents for its registration. If the seventh day falls on a public holiday, the date of the Land Book shall be set on the next working day." Furthermore, under Article 14(1) of the Security Right Law, as "proof of the existence of the Security Right, the Land Office issues a Certificate of Security Right. This certificate consists of a copy of the Land Book of Security Right and a certified copy of the relevant APHT, authenticated by the Head of the Land Office."

In accordance with Article 14(4) of the Security Right Law: "in principle, the Land Title Certificate, which has been endorsed with the



encumbrance record of the Security Right, is returned to the holder of the Land Title (the grantor of the Security Right). However, it is commonly agreed that the Land Title Certificate shall be retained by the holder of the Security Right in order to exercise the special rights conferred upon them." It is important to note that Article 13(4) of the Security Right Law does not state "no later than," but instead specifies "the seventh day." Therefore, even if the complete set of documents has been received by the Land Office and its officers have the opportunity to register the encumbrance immediately, the registration date that determines the establishment of the Security Right cannot be brought forward from the seventh day. Moreover, under Article 23(4) of the Security Right Law, "an official of the Land Office who violates the provisions of Article 13(4) by assigning an earlier or later date to the Land Book of Security Right may be subject to administrative sanctions."

In this context, the creditor, as the holder of the Security Right, has received an Electronic Certificate of Security Right for the APHT obtained through the Power of Attorney to Encumber Security Right. Encumber Security Right serves as an authorisation granted by the owner of the certificate to the creditor, enabling the creditor to encumber the Security Right over the land title certificate used as collateral. The issuance of the electronic certificate of Security Right for the security obtained from the debtor or collateral owner, however, does not include the settlement of the outstanding Land and Building Acquisition Duty tax obligation.

Furthermore, the termination of the Security Right, as stipulated in Article 18(1) of the Security Right Law , occurs under the following circumstances:

- a. The extinction of the debt secured by the Security Right;
- b. The release of the Security Right by the holder of the Security Right;
- c. The cancellation of the Security Right based on a ranking determination by the Head of the District Court;
- d. The extinction of the land title encumbered by the Security Right.

Referring to Article 2 of Law Number 5 of 1960, it is evident that there are three primary agrarian functions that must be carried out by the state, represented by the National Land Agency. These functions include: regulating and administering the allocation, use, availability, and maintenance of land, water, and outer space; determining and regulating



legal relationships between individuals and land, water, and outer space; and establishing and governing legal relationships between individuals and legal actions concerning land, water, and outer space.

B. State Authority in Land Control and Legal Responsibility in Mortgage Registration: Ensuring Legal Certainty and Compliance

The authority granted to the state in controlling land must be utilised to achieve the greatest prosperity for the people. This includes ensuring the well-being and happiness of the population, as well as liberating them from various forms of economic and social pressure. By exercising this authority responsibly, the state can create an equitable and sustainable land management system that benefits all members of society. Furthermore, the state's role in land governance aims to strengthen national sovereignty, uphold justice, and promote widespread prosperity. Effective land policies should not only secure land rights but also support economic growth, environmental sustainability, and social harmony. In doing so, the government ensures that land remains a fundamental asset for the nation's development while safeguarding the rights and welfare of its people.

The principle of responsibility based on fault (fault responsibility) is a fundamental principle that generally applies in both criminal and civil law and is often referred to as state liability. The legal responsibility of the state cannot be separated from its position as a "legal entity," meaning that the state, as a legal subject, possesses rights and obligations and can undertake legal actions. The state's position as a legal entity can be analogised to that of a corporation, wherein the state, as a legal subject, is capable of performing legal acts (juristic person). Naturally, the state exercises its legal actions through its organs, particularly the government, in accordance with its functions and authority (Rohman, 2021).

In this context, the state is represented by the Batu City Land Office, which issued a Certificate of Security Right upon the application for the registration of a Security Right. However, the certificate used as collateral for the Security Right had not undergone the process of clearing the outstanding Land and Building Acquisition Duty tax obligation. This situation raises legal concerns regarding the state's responsibility in ensuring that all legal and administrative requirements are met before granting such certificates, thereby preventing potential disputes and ensuring compliance with prevailing tax regulations (Permana, 2019). A



Mortgage is a form of security interest that provides legal certainty to creditors in credit agreements. The registration of a Mortgage is carried out at the local Land Office and documented in the Mortgage Certificate as authentic proof. However, in some cases, the Mortgage encumbered on a land certificate has not been accompanied by the settlement of the Land and Building Acquisition Duty by the debtor or landowner. This raises questions regarding the legal responsibility of the Ministry of Land Affairs in issuing certificates still burdened with outstanding Land and Building Acquisition Duty (Caecilia Noventia Hari Suriyono, 2022).

The Ministry of Land Affairs, through the Land Office, has the authority to register Mortgages as stipulated in Law Number 4 of 1996 on Mortgages. In the registration process, the Land Office acts as an administrative body that records the Mortgage encumbrance in the land register. Nevertheless, in carrying out its duties, the Land Office must also ensure that all administrative requirements, including the payment of Land and Building Acquisition Duty, (Stevany, 2023) have been fulfilled before the certificate is issued. Land and Building Acquisition Duty is a tax obligation imposed on the acquisition of rights over land and buildings, as regulated in Law Number 28 of 2009 on Regional Taxes and Levies. The obligation to pay Land and Building Acquisition Duty arises when there is a transfer of rights, such as sale and purchase, inheritance, or gifts. If Land and Building Acquisition Duty has not been paid, the status of land encumbered with a Mortgage may encounter legal issues, particularly concerning the validity of ownership and the execution of security in cases of debtor default. As part of land administration, the Land Office has the responsibility to ensure that land encumbered with a Mortgage does not have unresolved administrative issues, including Land and Building Acquisition Duty. Although the Land Office is not the authority responsible for tax collection, it still has an obligation to verify compliance before issuing certificates. If a certificate is issued without verifying the payment status of Land and Building Acquisition Duty, it may lead to legal disputes involving creditors, debtors, and local governments (Adolph, 2016)

If Land and Building Acquisition Duty remains unpaid, the land certificate used as collateral in a credit agreement may be considered legally invalid. Creditors risk losing their execution rights over the security if there are issues regarding land ownership status due to outstanding tax liabilities



(Altriara, 2019). Meanwhile, debtors may also face difficulties in the process of name transfer or subsequent rights transfer related to the land. Therefore, it is crucial for creditors to ensure that all tax obligations, including Land and Building Acquisition Duty, have been settled before accepting the certificate as collateral. To prevent potential legal disputes, the Land Office must conduct strict administrative checks before issuing Mortgage Certificates. One approach is to require applicants for Mortgage registration to submit proof of Land and Building Acquisition Duty payment as a mandatory administrative requirement. This ensures that the land subject to the Mortgage is free from unresolved tax obligations.(Dini Vriska Anggraini, 2024)

As the authority responsible for land administration, the Ministry of Land Affairs must implement an effective supervisory mechanism in Mortgage registration.(Sitompul et al., 2022) If negligence is found in issuing certificates still burdened with Land and Building Acquisition Duty, the responsible parties may be subject to administrative sanctions in accordance with prevailing regulations (Rahayu & Surata, 2016). Such accountability is vital to maintaining the credibility of the land administration system and providing legal certainty for all parties involved in property transactions. With technological advancements, integrating digital systems between the Ministry of Land Affairs and local governments could serve as a solution to avoid Land and Building Acquisition Duty related issues in Mortgage registration. Through an electronic system, the tax payment status could be automatically detected before a certificate is issued. The implementation of this system would enhance efficiency and accuracy in land administration while reducing the risk of future legal disputes.

To enhance legal certainty, the government needs to enforce stricter policies regarding Land and Building Acquisition Duty payment before Mortgage issuance. One measure would be tightening regulations on administrative requirements and imposing sanctions on those negligent in following procedures (Mauliddiyah, 2021). Additionally, public and business sector awareness regarding the importance of tax obligation settlement before property transactions must be improved through educational campaigns. The losses suffered by creditors result in legal responsibility for the Land Office that issued electronic. Mortgage



Certificates without settling the outstanding Land and Building Acquisition Duty (Choi, 2024). This responsibility arises from the element of negligence, particularly as stipulated in Article 1366 of the Civil Code, which states that everyone is responsible not only for damages caused by their actions but also for their negligence or lack of caution. Due to the Land Office's negligence in issuing electronic Mortgage Certificates without settling Land and Building Acquisition Duty, based on Article 1365 of the Civil Code, they may not yet be held liable for compensation

From a legal perspective, the implementation of comprehensive land registration may create legal uncertainty. This is because when land certificates are issued to rights holders under the comprehensive land registration programme, (Halim et al., 2022) the government still requires them to pay Land and Building Acquisition Duty, as stipulated in Article 33 paragraphs 1 and 2 of the Minister of Agrarian Affairs and Spatial Planning Regulation Number 6 of 2018 on Comprehensive Land Registration. Meanwhile, under Law Number 20 of 2000 on Land and Building Acquisition Duty, government-led development programmes may or may not be subject to Land and Building Acquisition Duty taxation (Aqmadea Eshafia et al., 2024; Vianney Bagus Raditya et al., 2024; Zaki Mahfuz Ridha et al., 2024).

Despite the noble intentions of the comprehensive land registration programme, it may also lead to legal uncertainty. This uncertainty arises because, under this programme, landowners are still required to pay Land and Building Acquisition Duty, as mentioned in Article 33 paragraphs 1 and 2 of Ministerial Regulation Number 6 of 2018. Conversely, Government Regulation Number 24 of 1997 on Land Registration stipulates that taxpayers must first settle their tax obligations related to rights transfer and/or rights upgrading before a certificate of ownership is issued.

Efforts to accelerate national development through land registration to establish legal certainty, legal protection, and harmonisation in land administration are necessary obligations of the government, in line with Article 33 paragraph 3 of the 1945 Constitution. However, several fundamental aspects must be considered in realising the national strategic development plan, particularly when the programme involves land and/or building rights management. This is because land rights management has historical complexities, as colonial powers left behind various Western land



rights that have yet to be converted. Therefore, accelerating development through land registration is highly anticipated by Indonesian society as part of agrarian reform (Indra Lestari, 2019).

The legal responsibility of the Ministry of Land Affairs in issuing Mortgage Certificates extends beyond mere administrative registration to include verification of other legal aspects, such as Land and Building Acquisition Duty payment status. If a certificate is issued without ensuring tax obligations are settled, it may create legal uncertainty that disadvantages multiple parties. Therefore, enhanced coordination between the Ministry of Land Affairs and local governments is required to manage Land and Building Acquisition Duty effectively, prevent legal issues, and establish a more transparent and accountable land administration system.

In closing, it is important to emphasize that legal certainty in the issuance of Mortgage Certificates must be a priority in the land administration system in Indonesia. Imperfections in the verification process, especially related to the obligation to pay Land and Building Acquisition Fees, can create legal risks that are detrimental to various parties, including creditors, debtors, and local governments. Therefore, closer coordination between the Ministry of National Land Affairs and local tax agencies needs to be improved to ensure that all legal requirements are met before certificates are issued. The principle of legal certainty as stated by Gustav Radbruch emphasizes that the law must be clear, predictable, and provide definite protection for the community. Without legal certainty in the registration of Mortgage Rights, the credit guarantee system can lose its credibility and trigger prolonged disputes.

CONCLUSION

The legal responsibility of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency in issuing Mortgage Certificates extends beyond mere administrative registration. It also includes verification of legal aspects, particularly the settlement of the Land and Building Acquisition Duty. Failure to ensure that Land and Building Acquisition Duty obligations have been fulfilled before issuing a Mortgage Certificate can lead to legal uncertainty, affecting creditors, debtors, and local governments. This issue aligns with the principle of legal certainty, which, according to Gustav Radbruch, requires laws to be clear, predictable, and enforceable. The absence of proper verification by the land office could



result in disputes over land ownership, making the mortgage guarantee legally questionable and weakening creditors' rights in cases of default. The government's program for systematic land registration aims to promote legal certainty. However, it paradoxically imposes Land and Building Acquisition Duty obligations on landowners even after issuing certificates, further complicating the legal standing of land ownership and increasing the risk of administrative irregularities. To enhance legal certainty and prevent future disputes, the government should implement stricter administrative regulations, ensuring that Land and Building Acquisition Duty obligations are fully settled before issuing Mortgage Certificates.

A comprehensive digital integration system between the Ministry of Agrarian Affairs and local governments should be developed to automate tax status verification before land certificates are granted. Additionally, public awareness campaigns should be intensified to educate property owners and financial institutions about the legal consequences of unsettled Land and Building Acquisition Duty. However, this study has certain limitations. It primarily focuses on the legal aspects of land administration but does not deeply analyse the economic or sociological impacts of these regulatory gaps. Further research should explore how delays in land certification due to unpaid Land and Building Acquisition Duty affect credit accessibility and economic development, providing a more holistic view of the problem. In the future, reforms in the land administration system need to be directed at implementing integrated digital technology to reduce the potential for administrative errors and ensure transparency in every process. The government must also prioritize legal education for the public and related parties so that they understand the importance of completing tax obligations before conducting land transactions.

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