

Juridical Analysis of the State Administrative Court of Surabaya's Decision No. 32/G/2023/PTUN.SBY on Land Ownership Certificate Overlapping

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DOI: [10.23917/jurisprudence.v14i2.6017](https://doi.org/10.23917/jurisprudence.v14i2.6017)

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| Submission Track: | ABSTRACT |
| Received: July 24, 2024 | <p>Purpose of the Study: This research aims to analyze the State Administrative Court of Surabaya City judges' basis of consideration in Decision No. 32/G/2023/PTUN.SBY in resolving the dispute of land ownership certificate overlapping through the litigation method and knowing the legal consequences of this decision.</p> <p>Methodology: This research employed the normative legal research method. The data were descriptively analyzed to obtain research results. It used applicable court decisions, legal regulations and the general principle of good governance as its basis of consideration.</p> <p>Results: In its relations with the Plaintiff's lawsuit, Judge Assembly stated that it had fulfilled the lawsuit's formal aspect on deadlines in issuing the certificate which is the Defendant's authority. However, in the issue of procedures and substances, there have been deviations that violate the applicable legal regulations and the general principle of good governance. Based on the author's analysis, these judges have given accurate considerations. The legal consequences of State Administrative Court of Surabaya City's Decision No. 32/G/2023/PTUN.SBY are that the two land tenure certificates owned by Defendant II Intervention were revoked by Surabaya City's State Administrative Court. Apart from that, the Defendant and Defendant II Intervention are burdened with paying for the case fees.</p> <p>Applications of this study: This research becomes a reference for National Land Agency Officers to be more careful when issuing certificates to prevent administrative and/or juridical errors.</p> <p>Novelty/Originality of this study: This research analyzed the decision of Surabaya City's State Administrative Court on the revocation of 2 (two) land ownership certificates issued by the Batu City Land Agency and the legal consequences of State Administrative Court of Surabaya City's Decision No. 32/G/2023/PTUN.SBY.</p> <p>Keywords: <i>Decision, overlapping, land tenure certificates, dispute resolution</i></p> |
| Final Revision: December 23, 2024 | |
| Available online: December 30, 2024 | |
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| | ABSTRAK |
| | <p>Tujuan Penelitian: Penelitian ini bertujuan untuk menganalisis dasar pertimbangan hakim Pengadilan Tata Usaha Negara Kota Surabaya dalam Putusan Nomor 32/G/2023/PTUN.SBY dalam menyelesaikan sengketa tumpang tindih sertifikat hak milik atas tanah melalui metode litigasi dan mengetahui akibat hukum dari putusan tersebut.</p> |

Metodologi: Penelitian ini menggunakan metode penelitian hukum normatif. Data dianalisis secara deskriptif untuk memperoleh hasil penelitian. Dasar pertimbangan yang digunakan adalah putusan pengadilan yang berlaku, peraturan perundang-undangan, dan asas umum pemerintahan yang baik.

Hasil: Terkait gugatan Penggugat, Majelis Hakim menyatakan telah memenuhi aspek formil gugatan mengenai batas waktu penerbitan sertifikat yang merupakan kewenangan Tergugat. Namun, dalam masalah prosedur dan substansi masih terdapat penyimpangan yang melanggar peraturan perundang-undangan yang berlaku dan asas umum pemerintahan yang baik. Berdasarkan analisis penulis, para hakim telah memberikan pertimbangan yang tepat. Akibat hukum dari Putusan PTUN Kota Surabaya Nomor 32/G/2023/PTUN.SBY adalah dua sertifikat hak milik atas tanah milik Tergugat II Intervensi dicabut oleh PTUN Kota Surabaya. Selain itu, Tergugat dan Tergugat II Intervensi dibebani biaya perkara.

Aplikasi penelitian ini: Penelitian ini menjadi acuan bagi Pejabat Badan Pertanahan Nasional agar lebih cermat dalam menerbitkan sertifikat untuk mencegah terjadinya kesalahan administratif dan/atau yuridis.

Kebaruan/Orisinalitas penelitian ini: Penelitian ini menganalisis putusan PTUN Kota Surabaya atas pencabutan 2 (dua) sertifikat hak milik atas tanah yang diterbitkan oleh Badan Pertanahan Kota Batu dan akibat hukum dari Putusan PTUN Kota Surabaya Nomor 32/G/2023/PTUN.SBY.

Kata kunci: Putusan, tumpang tindih, sertifikat hak milik atas tanah, penyelesaian sengketa

INTRODUCTION

In essence, a “right” is an authority given by the law to someone over something (an item/a prestation); thus, it creates a legal relationship between the two (a subject-object relationship) (Arwani, 2020). In Dutch, the right to land is called *inlands bezitrecht*, which means “its owner has full power over his/her land, as how he/she owns a house, cattle, bicycle, or other items that are of his/her possession” (Subadi, 2015). Therefore, the right to land can be defined as an authority which emerges from the legal relationship between a person and land, the space above that land and/or the space under the land to use that land, including its

underground, water, as well as the space above it that is needed for the interests that are directly related to its use (Subadi & Nugroho, 2016).

The above definition was in line with Article 4 of the Republic of Indonesia's Law No. 5 of 1960 on the Basic Agrarian Principles, which explained that the rights to land means giving a person the authority to use that aforementioned land, including its earth and water, as well as the space above it for the interests that are directly related to the use of that land in the limits stipulated in the Law on the Basic Agrarian Principles and other legal regulations of a higher hierarchy. There are several types of land rights that are written in Article 16 of the Law on the Basic Agrarian Principles.

As an independent state power, the judicial power cannot be mixed with legislative power, executive power, or other powers (Sibuea, 2006). But on the other hand, judicial power can interfere with the legislative and executive powers. This can be seen from the revocation of governmental decisions (*beschikking*) by the Administrative Justice (State Administrative Court). The establishment of the State Administrative Justice is part of the development of law. It is a national development that is applied with an integral character. It gradually and continuously implements the development of the State Administrative Justice (Sarjiyati, 2020). The existence of the State Administration of Justice is specifically set in the legislation, namely Law No. 5 of 1986 on the State Administrative Justice, which was then amended by Law No. 9 of 2004 on the Amendment of Law No. 5 of 1986 on the State Administrative Justice. Then, it was amended again with Law No. 51 of 2009 on the second amendment of Law No. 5 of 1986 on the State Administrative Justice.

Land mafia's actions have led to disputes over land ownership rights (Kurniati, 2023), such as in the case of land tenure rights in the State Administrative Court of Surabaya City's Decision No. 32/G/2023/PTUN.SBY on the overlapping of the land tenure certificate. The issue in this case started when Sri Wulandari (the Plaintiff) owned two land plots. These plots of land have long been under her ownership with Mulyohadi (the Plaintiff's legitimate husband). The two married on August 24th, 2003 and have two children: a daughter named Devi Callista Putri Mulyohadi and a son named Wirajaya Arya Satya Putra Mulyohadi.

In 2021, the Plaintiff and a notary checked the certificate in the Batu City Land Agency to know whether or not the certificates for those two land plots had been issued. They found out

that the certificate had not been issued. Then, the Plaintiff continued by registering the land with the available map through the Complete Systematic Land Registration. Then, on August 20th, 2021, two Land Ownership Certificates have been issued over those two land plots. The first certificate was Land Ownership Certificate No. 06471/Desa Junrejo, which was issued on August 20th, 2021, with a measurement letter No. 04087/Junrejo/2021. It stated that the area was 143 m², dated August 16th, 2021, under the name of Sri Wulandari, Devi Callista Putri Mulyohadi, and Wirajaya Arya Setya Putra Mulyohadi. It was located at Junrejo Village/Sub-District, Junrejo District, Batu City, East Java Province, Indonesia. The second certificate was Land Ownership Certificate No. 06472/ Desa Junrejo, which was issued on August 20th, 2021, with a measurement letter No. 04088/Junrejo/2021. It stated that the area was 143 m², dated August 16th, 2021, under the name of Sri Wulandari, Devi Callista Putri Mulyohadi, and Wirajaya Arya Setya Putra Mulyohadi. It was located at Junrejo Village/Sub-District, Junrejo District, Batu City, East Java Province.

There are several previous researches that are relevant to this study. The first one was conducted by Nurhaidah and Djaya (2022) entitled, “The Protection toward Canceled Ownership of Rights Certificates Holders with Girik Evidence in the Decision of the State Administrative Court Number 61/G/2021/PTUN.SRG.” In this decision, the judge canceled the intervening defendant’s land ownership rights (Nurhaidah & Djaya, 2022). The second research was conducted by Rahim et al. (2024) with the title of “State Administrative Disputes with the Object of Decision Number 9/G/2023/PTUN.SMD.” In his decision in this case, the judge canceled the building certificate of the land owned by the defendant because the administrative requirements of the related laws and regulations were not met (Rahim, Fatmawati, Irmadani, & Paselle, 2024). The last previous research was entitled, “Cancellation Ownership of Rights Certificates which were Upgraded from the Right to Build in the Decision of Serang State Administrative Court case Number 58/G/2019/PTUN.SRG” which was conducted by Permata and Tanawijaya (2022). In this case, the judge canceled the petition because the requirements were not met by the entitled individual (Permana & Tanawijaya, 2022).

Based on the background above, in this paper, the writer will analyze the State Administrative Court of Surabaya City judges’ basis of consideration in Decision No. 32/G/2023/PTUN.SBY in resolving the dispute of land tenure certificate overlapping through the litigation method. This research also aims to know the legal consequences of this decision.

RESEARCH METHOD

This was a type of normative legal research. In this type of research, authors carried out processes to find legal regulations, legal principles, as well as legal doctrines to answer legal issues (Marzuki, 2005). Normative legal research was the result of abstraction obtained through the process of induction of positive legal norms that apply (Sunggono, 2016).

This research employed the statute, case, conceptual, and analytical approaches (Marzuki, 2005). The statutory approach was used as the initial basis for analysis because it has a comprehensive, all-inclusive, and systematic nature (Ibrahim, 2007). Then, the conceptual approach was an approach that started from legislation and doctrines that developed in legal science. With this approach, the researcher found ideas that were relevant to the studied problem (Fajar & Achmad, 2010). Next, the analytical approach included the process of explaining and evaluating problems in an in-depth manner.

This research employed primary legal materials (judicial decisions and legal regulations), secondary legal materials (journals, scientific papers, etc.), and tertiary legal materials (non-legal books) (Soekanto & Mamudji, 2016). In normative legal research, the literary study technique was employed on primary, secondary, and tertiary legal materials (Nugroho, Haryani, & Farkhani, 2020).

After the legal materials were collected, it was analyzed using the descriptive technique, where the legal phenomenon was described as is (Diantha, 2016). The authors analyzed the primary data by reading, understanding, and applying the text of relevant laws and regulations. In this case, the legal phenomenon analyzed was the case of a lawsuit over the dispute of a land tenure certificate overlapping.

RESULTS & DISCUSSION

The State Administrative Court of Surabaya City Judges' Consideration in Decision No. 32/G/2023/PTUN.SBY to Resolve the Dispute of Land Tenure Certificate Overlapping

The Administrative Court is an institution that provides justice by enforcing the law in the administrative sector. The Administrative Court encompasses some elements, similar to other courts (Ridwan, 2019). Rueschemeyer stated that the judicial profession is understood as a service work that determines a systematic set of knowledge on the problems that are relevant to the main values in society (Margono, 2019).

The job of a judge is not merely a routine practical job, but it is also scientific. Thus, this job demands judges to dive into legal studies to strengthen their considerations as a basis for their decisions (Mertokusumo & Pitlo, 2020). In a decision, considerations include a consideration of the case's issue and legal considerations (Soetami, 1994). Considerations or reasons in making a decision have a crucial role in implementing a judge's task, i.e., making or deciding a verdict that leads to legal impacts on other parties. When giving a verdict, judges make efforts so that their decision may be accepted by society. Judges' considerations in Decision No. 32/G/2023/PTUN.SBY in resolving the dispute of land tenure certificate overlapping are as follows:

a. Judges' Considerations of Their Authority in Adjudicating a Trial

Regarding the exception filed by Defendant and Defendant II Intervention on the authority to adjudicate a trial, the Judge Assembly made a decision based on these considerations:

The Judge Assembly considered Article 1 number 9 of Law No. 51 of 2009 on the second amendment of Law No. 5 of 1986 on the State Administrative Justice, which regulates:

“The State Administrative Decision is a written decision issued by a state administrative agency or official which contains state administrative legal actions based on the applicable legal regulations, that is concrete, individual, final, and leads to legal impacts for the individual or civil law agency.”

The judge took the Article into consideration because the decision of a state administrative official, in this case, the head of the Land Agency, has legal consequences for the holders of the decision, namely the certificate of land ownership rights. The Land Ownership Certificates that became the object of dispute in the issue of Land Ownership Certificate overlapping of two plots of land (*a quo*) are:

- 1) A Land Ownership Certificate No. 05119/Desa Junrejo, which was issued on November 26th, 2019, with a measurement letter No. 02852/Junrejo/2019, an area of

1026 m², dated November 22nd, 2019, most recently under the name of I Made Artawan.

- 2) A Land Ownership Certificate No. 05120/Desa Junrejo, which was issued on November 26th, 2019, with a measurement letter No. 02853/Junrejo/2019, an area of 146 m², dated November 22nd, 2019, most recently under the name of I Made Artawan.

These two certificates were written determinations issued by the Defendant as a State Administrative Official as a form of governmental affair implementation in the land sector based on his authority as written in the Governmental Regulation No. 24 of 1997 on Land Registration (GR on Land Registration) which has concrete and individual characteristics. This is because these two certificates *a quo* do not have general characteristics. On the contrary, they were given to certain a certain person; as it was given to Defendant II Intervention. It is final as it no longer needs an agreement from other superiors or institutions.

The *a quo* dispute happened to Plaintiff against the Batu City Land Agency (Defendant) as a result of the issuing of two Land Ownership Certificates that became the *a quo* dispute object. It has also fulfilled the element of state administrative dispute based on Article 1 number 10 of Law No. 51 of 2009, namely a person or civil law agency with a state administrative agency or official.

The Judge Assembly considered Article 54 clause (1) of Law No. 5 of 1986 on the State Administrative Court which regulates:

“A lawsuit of state administrative dispute is filed to the court that is authorized in its legal area, which encompasses the Defendant’s location of residence”.

The *a quo* dispute object was issued by the Head of the Batu City Land Agency whose work area is in Batu City, East Java Province. Then, the legal area of the Surabaya City State Administrative Court encompasses all Regencies and Cities in East Java Province.

Therefore, based on the description of the legal considerations above, the exception argument of Defendant and Defendant II Intervention does not have legal bases. Thus, it must be deemed unacceptable. Apart from that, the Court both absolutely and relatively concludes that the Surabaya City State Administrative Court has the authority to examine and adjudicate the *a quo* case.

b. Judicial Considerations on Deadlines

The Judge Assembly considered that after examining the dispute object in this case, it was known that the position of the Plaintiff was as a party whose name was not referred to in the dispute object. In this case, the party that was directly referred to in the dispute object was I Made Artawan as Defendant II Intervention. Meanwhile, the Plaintiff was named Sri Wulandari. Concerning this, the Judge Assembly uses the Supreme Court's Circulation Letter No. 3 of 2015 on the Formulation of the State Administrative Room, number 1 on Deadlines of Filing a Lawsuit as a basis. This stipulation states:

“A deadline of 90 (ninety days) to file a lawsuit of the third party that was not referred to by the Decision of the State Administrative Court as stipulated in Article 55 of the Law on the State Administrative Court. It is initially counted since the aforementioned person feels that his/her interest was harmed by the Decision of the State Administrative Court was changed to be counted since the aforementioned person initially knows that the Decision of the State Administrative Court has harmed his/her interest”.

Concerning the stipulations on the deadline, what must priorly be known is the accurate truth on when the Plaintiff knew that the Decision Letter that became the dispute object in an *a quo* case harmed her interest. In this case, Plaintiff has already attended an invitation from Defendant on February 3rd, 2023 to carry out a mediation and discuss the *a quo* issue that became the dispute object in that case. In that meeting between Plaintiff and Defendant, Defendant described the Legal Procedures on the timeline of the issuing of the Land Ownership Certificate No. 5119/Junrejo and Land Ownership Certificate No. 5120/Junrejo. Thus, Defendant has shown the two land tenure certificates that became an *a quo* dispute object to Plaintiff and her legal authority. Therefore, the Court opines that the Plaintiff has clearly and certainly known of the existence of these two Land Ownership Certificates that became the disputed object in an *a quo* case on February 3rd, 2023 when the Plaintiff and her legal authority attended an invitation from the Defendant.

The Judge Assembly considered administrative laws, objections, and appeals as regulated in Article 75, Article 76, Article 77, and Article 78 of Law No. 30 of 2014 on State Administration which was amended into the Regulation of the Supreme Court No. 6 of 2018 on the Guidelines to Resolving State Administrative Disputes After Undergoing Administrative Efforts on the lawsuit filing procedures in the State Administrative Court. Regulation of the Supreme Court No. 6 of 2018 provides a condition that the court

examines, determines, and resolves lawsuits on governmental administrative disputes after undergoing administrative efforts.

The Judge Assembly considered that by seeing the aforementioned legal facts and linking them to Article 55 of Law No. 5 of 1986; Article 5 clause (1) of the Regulation of the Supreme Court No. 6 of 2018; and Article 77 Law No. 30 of 2014, the Plaintiff only clearly and certainly knew of the dispute object on February 3rd, 2023 and filed an objection on February 7th, 2023. She did not obtain a response from the Defendant. Thus, it was considered that since March 1st, 2023, the Plaintiff can file a lawsuit to the State Administrative Court. Then, the Court suggested that the date of March 1st, 2023 was the time when the lawsuit filing deadline was first counted. Then, the lawsuit was filed by the Plaintiff on March 28th, 2023 through the State Administrative Court of Surabaya City. Therefore, the Judge Assembly concluded that the Plaintiff's lawsuit did not pass the deadline of 90 (ninety days) to file a lawsuit. The Plaintiff's lawsuit has fulfilled the formal aspect of the lawsuit concerning the deadline for filing a lawsuit in the State Administrative Court of Surabaya City. Then, the exception of Defendant and Defendant II Intervention in the lawsuit of Plaintiff has passed the deadline and is declared unaccepted.

c. Judicial Considerations of the Main Case

1) The Aspect of Authority

The Judge Assembly stated that the Defendant's authority in issuing the *a quo* dispute object is regulated in stipulations of Article 5 and Article 4 clause (1) of the GR on Land Registration as well as Article 10 clause (1) letter a and b and Article 17 clause (1) of the Regulation of the Minister of Agrarian and Spatial Affairs/Head of the National Land Agency No. 16 of 2022. Apart from that, there was a consideration of the land location where the *a quo* dispute object was issued. This land was located in Junrejo Village, Junrejo District, Batu City. Thus, in terms of its jurisdiction, it is part of the Defendant's work area as the Head of the Batu City Land Agency. Thus, based on the legal considerations that the Court has described, it is stated that the Defendant has the authority to issue these two Land Ownership Certificates as the *a quo* dispute object.

2) Procedural and Substantial Aspects

The procedural and substantial aspects in the issuing of the *a quo* object must be according to the applicable legal regulations and the general principle of good governance. In this case, the Defendant was proven to have never made an announcement in the Junrejo Village Office on the location of where these aforementioned land plots were. This was proven from the fact that there was no information that showed that the Defendant has truly gave that announcement. Apart from that, there was no proof of delivery or receipt that was attached to that evidence. Then, in the Legal Procedures of Physical Data and Juridical Data Announcement Validation, it was shown that the announcement of Physical Data and Juridical Data examination results was only carried out in the Batu City Land Agency. Thus, it did not fulfill Article 26 of the GR on Land Registration.

According to the judges, this announcement was crucial to be carried out so that the issuing process of the *a quo* dispute object may be known by the public. This is according to the stipulations in Article 2 clause (1) of the GR on Land Registration. This Article regulates that land registration is carried out based on simple, safe, affordable, up-to-date, and transparent principles. To fulfill the transparent principle, an announcement must holistically be made by the Defendant, considering that this announcement has the function of giving an opportunity to the stakeholders to file an objection as a manifestation of legal certainty and legal protection for the rights holder of a land plot. This is according to the aim of land registration regulated in Article 3 letter a of the GR on Land Registration.

Based on the legal facts, it was known that the *a quo* dispute object that was originally issued under the name of Mulyohadi was shifted to I Made Artawan based on the Deed of Sales and Purchase No. 43/2021 and Deed of Sales and Purchase No. 44/2021. Based on this evidence, it was known that the issuing of the two Deeds of Sales and Purchase was carried out when Mulyohadi died. According to the Court, this Attorney's Deed of Power to Sell must be ignored as the party that gave the Power has died. Then, no available evidence supported the claim that the heirs of Mulyohadi have given approval and continued the granting of sales to Defendant II Intervention. Therefore, the right transfer process of these two Land Ownership Certificates of the *a quo* dispute object from Mulyohadi to Defendant II Intervention carried out by Defendant contains legal defects.

The Judge Assembly considered that from the Proof of Application for Rights Transfer over the Land Ownership Certificates No. 05119 (*vide* Evidence T-10), there was an Agricultural Land Ownership Statement Letter made by Defendant II Intervention which stated that this land was currently used for agriculture. Meanwhile, according to information from a witness named Solikin and a local examination by the Judge Assembly, it was found that the aforementioned land functioned as a plantation for orange plants. Therefore, there was a discrepancy in data between the Agricultural Land Ownership Statement Letter made by Defendant II Intervention and the data in the field.

Based on the description of these legal considerations above, it was proven that Defendant's actions in issuing the *a quo* dispute object under the name of Defendant II Intervention substantially contained a juridical defect due to Defendant's lack of thoroughness in processing physical data and juridical data. Thus, it issued the *a quo* dispute object that is not based on accurate data. Therefore, Defendant's actions have violated Article 2 and Article 3 letter a of the GR on Land Registration, as Defendant issued the *a quo* dispute object without paying attention to the principles of registration, especially the safety and up-to-date principles.

Therefore, based on the considerations related to the procedures and substances that were described above, the court regards that the argument of Defendant and Defendant II Intervention must be ignored based on Article 66 clause (1) of Law on Governmental Administration which states that a decision may only be revoked in case of the presence of a defect, either in its authority, procedural, and/or substantial aspects.

Legal Consequences of the State Administrative Court of Surabaya City's Decision No. 32/G/2023/PTUN.SBY

Legal consequences are impacts that occur due to a legal relationship, i.e., rights and obligations (Sulaiman, 2019). They are impacts that occur in the event of a decision or a verdict issued that brings disadvantages to a person or a civil law agency (Marpi, 2020). In line with the above definition, the State Administrative Court of Surabaya City's Decision No. 32/G/2023/PTUN.SBY contains the following points:

- a. Stating that the exception of Defendant and Defendant II Intervention is by all means rejected.
- b. Fully granting the lawsuit of the Plaintiff.
- c. Stating the rejection of the State Administrative Court Decision Letters issued by the Defendant which are:
 1. A Land Ownership Certificate No. 05119/Desa Junrejo, which was issued on November 26th, 2019, with a measurement letter No. 02852/Junrejo/2019, an area of 1026 m², dated November 22nd, 2019, most recently under the name of I Made Artawan.
 2. A Land Ownership Certificate No. 05120/Desa Junrejo, which was issued on November 26th, 2019, with a measurement letter No. 02853/Junrejo/2019, an area of 146 m², dated November 22nd, 2019, most recently under the name of I Made Artawan.
- d. Obliging the Defendant to revoke the following State Administrative Court Decision Letters:
 1. A Land Ownership Certificate No. 05119/Desa Junrejo, which was issued on November 26th, 2019, with a measurement letter No. 02852/Junrejo/2019, an area of 1026 m², dated November 22nd, 2019, most recently under the name of I Made Artawan.
 2. A Land Ownership Certificate No. 05120/Desa Junrejo, which was issued on November 26th, 2019, with a measurement letter No. 02853/Junrejo/2019, an area of 146 m², dated November 22nd, 2019, most recently under the name of I Made Artawan.
- e. Punishing Defendant and Defendant II Intervention to pay for the fees in the amount of Rp. 6,510,000.- (six million five hundred thousand rupiahs) in a joint manner.

Based on the Decision of the State Administrative Court of Surabaya City, the legal consequences are:

- a. For the Plaintiff, there is legal certainty over the two Land Ownership Certificates of the land plots she owns, namely:
 1. Land Ownership Certificate No.06471/Desa Junrejo, which was issued on August 20th, 2021, with a measurement letter No. 04087/Junrejo/2021, with an area of 143 m², dated August 16th, 2021, under the name of Sri Wulandari, Devi Callista Putri Mulyohadi, and Wirajaya Arya Setya Putra Mulyohadi, which was located at Junrejo Village/Sub-District, Junrejo District, Batu City, East Java Province.
 2. Land Ownership Certificate No. 06472/ Desa Junrejo, which was issued on August 20th, 2021, with a measurement letter No. 04088/Junrejo/2021, with an area of 143 m², dated

August 16th, 2021, under the name of Sri Wulandari, Devi Callista Putri Mulyohadi, and Wirajaya Arya Setya Putra Mulyohadi, which was located at Junrejo Village/Sub-District, Junrejo District, Batu City, East Java Province.

The rights over land owned by the Plaintiff were a shifting of rights through inheritance because the right holder has died. The legal basis which determines that an ownership right may be inherited is implicitly written in Article 20 of the Law on Basic Agrarian Principles (Santoso, 2011). Legal certainty demands the law to strictly be implemented and enforced in all concrete events. There must not be any deviations. The law must still be enforced even if the sky falls. Legal certainty gives justifiable protection from the arbitrary actions of other parties. This also relates to the efforts to uphold order in society.

- b. For the Defendant, in this case, the State Administration Official/Head of the Batu City Land Agency, he must revoke the aforementioned Decision Letters, i.e., Land Ownership Certificate No. 05119/ and Land Ownership Certificate No. 05120 under the name of I Made Artawan.

The Defendant must revoke the Decision that was issued because the court deemed that the Decision Letters of State Administration in the form of two Land Ownership Certificates issued by the Defendant were invalid. Judges decided the revocation of these State Administrative Decision legal products as they were deemed to contain administrative and/or juridical defects. It is a manifestation of the judicial decision implementation that has absolute legal power as regulated in Article 29 clause (1) and Article 30 clause (3) of the Regulation of the Minister of Agrarian and Spatial Affairs/Head of the National Land Agency No. 21 of 2020 on the Handling and Resolution of Land Cases. Apart from that, it is based on Article 35 of that Regulation of the Minister of Agrarian and Spatial Affairs/Head of the National Land Agency which explains the meaning of administrative and/or juridical defect as a cause for State Administrative Decision revocation in a more detailed manner.

Based on these stipulations, the revocation of these State Administrative Decision legal products (certificates that became the *a quo* dispute object was deemed to have administrative and/or juridical defects due to errors in the processes/procedures in issuing the rights for land, land registration, and the process of land registration data maintenance;

an overlapping happened; as well as errors in the process of granting permission to transfer rights.

Apart from that, Defendant must pay part of the case fees that are burdened to him jointly by the Defendant and Defendant II Intervention. Jointly means that the fees must jointly be paid by the Defendant and Defendant II Intervention.

- c. Defendant II Intervention must lose his rights over two plots of land because the two certificates he owned that were issued by the State Administration Official/Head of the Batu City Land Agency were revoked by the State Administrative Court of Surabaya City. Apart from that, Defendant II Intervention must pay part of the case fees that are burdened to him.

CONCLUSION

Based on the results of the research and the discussion described above, it can be concluded that the judicial considerations of the State Administrative Court of Surabaya City in Decision No. 32/G/2023/PTUN.SBY in resolving the dispute of land tenure certificate overlapping are the applicable legal regulations and the general principle of good governance. Thus, it resulted in judicial considerations with the main point that the State Administrative Court of Surabaya City has the authority to examine, adjudicate, and resolve the dispute. In its relations with the lawsuit of the Plaintiff, the Judge Assembly stated that it has fulfilled the formal aspect of a lawsuit on deadlines. Also, in the issuing of the certificate, the Defendant has the authority to do that. However, in the cases of procedures and substances, there were deviations that violated the applicable legal regulations and the general principle of good governance.

The legal consequences of State Administrative Court of Surabaya City's Decision No. 32/G/2023/PTUN.SBY are that: (a) The Plaintiff's legal certainty over the two land tenure certificates she owned by the Plaintiff was guaranteed; (b) the Defendant must revoke the issued Decision Letter, i.e., two Land Ownership Certificates of the land that have been issued (the *a quo* dispute object) and pay for the case fees; and (c) Defendant II Intervention loses his right over the land as these two certificates he owned was revoked by the State Administrative Court and he must pay for the case fees that were burdened on him.

REFERENCES

- Arwani, Z. (2020). *Sengketa Tanah Dengan Kepemilikan Ganda (Studi Kasus Di Pengadilan Tata Usaha Negara Jakarta)*. Universitas Islam Negeri Syarif Hidayatullah Jakarta.
- Diantha, I. M. P. (2016). *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum (Methodology of Normative Legal Research in the Legal Theory Justification)*. Jakarta: Prenada Media.
- Fajar, M., & Achmad, Y. (2010). *Dualisme Penelitian Hukum Normatif & Empiris (Dualism of Normative & Empirical Legal Research)*. Yogyakarta: Pustaka Pelajar.
- Ibrahim, J. (2007). *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing.
- Kurniati, N. (2023). Mafia Tanah dan Permasalahan Hukum yang Ditimbulkan. *Satu Jam Berbincang Ilmu (Sajabi)*. Bandung: Dewan Profesor Unpad. Retrieved from <https://www.unpad.ac.id/2023/03/pakar-unpad-jelaskan-soal-mafia-tanah-dan-upaya-menghindarinya/>
- Margono. (2019). *Asas keadilan, kemanfaatan, dan kepastian hukum dalam putusan hakim*. Jakarta: Sinar Grafika.
- Marpi, Y. (2020). *Ilmu Hukum Suatu Pengantar*. Tasikmalaya: PT. Zona Media Mandiri.
- Marzuki, P. M. (2005). *Penelitian Hukum (Legal Research)*. Jakarta: Prenada Media. Retrieved from <https://opac.perpusnas.go.id/DetailOpac.aspx?id=1409842>
- Mertokusumo, S., & Pitlo, A. (2020). *Bab-bab tentang Penemuan Hukum (Chapters on the Discovery of Laws)*. Bandung: Citra Adiya Bakti.
- Nugroho, S. S., Haryani, A. T., & Farkhani. (2020). *Metodologi Riset Hukum (Legal Research Methodology)*. Surakarta: Oase Pustaka.
- Nurhaidah, R., & Djaya, B. (2022). Perlindungan Terhadap Pemegang Sertipikat Hak Milik Yang Dibataln Dengan Bukti Girik Dalam Putusan Pengadilan Tata Usaha Negera Nomor 61/G/2021/OPTUN.SRG. *Jurnal Hukum Adigama*, 5(1).
- Permana, A. D., & Tanawijaya, H. (2022). Pembatalan Sertipikat Hak Milik Yang Ditingkatkan Dari Hak Bangunan (Contoh Kasus: Putusan Pengadilan Tata Usaha Negara Serang Nomor 58/G/2019/PTUN-SRG). *Jurnal Hukum Adigama*, 5(1).
- Rahim, M. N., Fatmawati, N., Irmadani, C., & Paselle, E. (2024). Kasus Sengketa Tata Usaha Negara Dengan Objek Putusan Nomor 9/G/2023/PTUN.SMD. *Jurnal Bina Mulia Hukum*, 13(1). <https://doi.org/10.37893/jbh.v1i1.671>
- Ridwan. (2019). *Urgensi Upaya Administratif di Indonesia*. Yogyakarta: FH UII Press.

- Santoso, U. (2011). *Pendaftaran dan Peralihan Hak atas Tanah*. Jakarta: Kencana.
- Sarjiyati. (2020). Sue for the State Administration of Justice in Indonesia. *Comparative Law System of Procurement of Goods and Service around Countries in Asia, Australia and Europe*.
- Sibuea, H. P. (2006). *Kekuasaan Kehakiman Indonesia*. Jakarta: Krakatau Book.
- Soekanto, S., & Mamudji, S. (2016). *Penelitian Hukum Normatif, Suatu Tinjauan Singkat (Normative Legal Research, A Short Review)*. Jakarta: Raja Grafindo Persada. Retrieved from <https://opac.perpusnas.go.id/DetailOpac.aspx?id=1174906>
- Soetami, A. S. (1994). *Hukum Acara Peradilan Tata Usaha Negara*. Bandung: PT. Eresco.
- Subadi. (2015). *Modul Pemberian Hak Atas Tanah, Modul Pelatihan Aspek Hukum Tanah Kawasan Hutan Angkatan III Bagi Wakil Administratur Rerum Perhutani Se Jawa Dan Madura*. Madiun: Fakultas Hukum Universitas Merdeka.
- Subadi, & Nugroho, R. W. (2016). Quo Vadis Politik Hukum Agraria Indonesia Di Era Reformasi (Suatu Tinjauan Kritis Terhadap Pembahasan Rancangan Undang-Undang (RUU) tentang Pertanahan). *Yustisia Merdeka*, 2(1).
- Sulaiman, A. (2019). *Pengantar Ilmu Hukum*. Jakarta: UIN Jakarta.
- Sunggono, B. (2016). *Metodologi Penelitian Hukum (Legal Research Methodology)*. Jakarta: PT Raja Grafindo Persada.