

Legal Implications of the Use of Digitalization of Online Land Registration

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Abstract. Public perception of land services still needs improvement. In such conditions, changing the land administration system to electronic is necessary. The digitalisation of the land registration process can run well and adequately, so clear and consistent rules are needed both formally and materially. On the other hand, government agencies apply legal rules consistently to submit and obey the laws they make. So that certainty of land rights, subject rights, and objects of rights can be guaranteed. The type of research used is empirical, using statutory, conceptual, and legal sociology approaches. The sources of legal materials used are primary, secondary, and tertiary legal materials. The analysis used is qualitative. The research results show that digitised land registration will lead to a positive trend. It will significantly impact the community because it is time-efficient, transparent, and can be done independently without brokers. The community's obligation to visit the land office will reduce archival data. People don't need to fear being lost, burned, or flooded because an adequate system with an organised security system has stored it. Although the various obstacles that arise can undoubtedly be overcome through the development of human resources, the current technological development must continue when digital land registration is introduced.

Keywords: land, registration, digitalisation.

INTRODUCTION

Land is a gift from God Almighty to humanity on earth. From birth to death, humans need land. Land and humans cannot be separated; humans live, develop, and carry out daily activities on the land. Humans depend most of their lives on land because land is a source of livelihood and income for humans [1].

Land is a country's potential and is vital in supporting development. Land control rights reflect humans' views of themselves as humans in their relationship with land. Human relationships with land give rise to authority and responsibility for the prosperity of themselves and others. So, utilising the functions of the earth, water, and natural riches contained therein should achieve the greatest possible prosperity for all Indonesian people.

Facing this modern era, the Regency/City Land Office must remain committed to providing the best service to the community. In keeping with the current era, authorities can implement land registration services through digitalisation. This online service concerns validation, then data maintenance services include the transfer of rights services, changes in rights, Royalty and Mortgage Rights, land information services in the form of checks, land registration certificates (SKPT), and land value zones (ZNT) [2].

Digitalisation of land administration is one of the implementation of government tasks to realise national development goals. Land administration, which is still conventionally based, must be shifted towards digitally based land administration. Riswan Erfa explained that authorities must direct land administration services towards digitalisation, such as complete systematic land reg-

istration, especially in increasingly rapidly developing science and technology [3].

The National Land Agency provides several reliefs and conveniences in land management to help the community. Therefore, we need a modern land office that offers electronic land and spatial planning services, integrated and transparent services for the community, and reliable, trustworthy technological security. The National Land Agency has a vital role in land registration.

In this case, the Government in question is the Ministry of ATR/BPN, which oversees land and spatial planning affairs. ATR/BPN Ministerial Regulation No 1 of 2021 concerning Electronic Certificates is still relatively new. The position of ATR/BPN Ministerial Regulation No 1 of 2021 regarding Electronic Certificates is a type of statutory regulation. This regulation binds legally and exists under two conditions: higher statutory regulations order it, or authorities form it [4].

The meaning of land registration, according to the provisions of Article 1 No 1 PP No 24 of 1997, is a series of activities carried out by the Government continuously, continuously and regularly, including collecting, processing, bookkeeping, and presenting and maintaining physical data and juridical data, in the form of maps and lists, regarding land plots and units flats, including the provision of certificates of proof of title to plots of land to which there are already existing rights and ownership rights to flats as well as certain rights that encumber them [5].

Land registration is essential; this is as stated in Article 3 of Government Regulation No 24 of 1997 concerning Land Registration, which states that land registration aims, among other things:

1. To provide legal certainty and legal protection to land rights holders.
2. To provide information to interested parties, including the Government.
3. To maintain orderly administration.

Article 84 § 1 confirms the implementation of electronic land registration, stating: "The organisation and implementation of Land Registration can be carried out electronically." Previously, Government Regulation No 24 of 1997 concerning Land Registration, in Article 35 § 5, also explained that land registration data would gradually be stored and presented using electronic equipment and microfilm. In 2021, BPN will realise electronic-based land registration activities in

BPN ATR/Ka Ministerial Regulation No 1 of 2021, which took effect on January 12, 2021.

After the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No 1 of 2021, Government Regulation

No 18 of 2021 was issued regarding Management Rights, Land Rights, Flats, and Land Registration. These two regulations are the basis for the birth of the electronic land registration system, as stated in Articles 147 and 175 of the Job Creation Law [6]. The following reads Article 147: "Proof of land rights, ownership rights to apartment units, management rights, and mortgage rights, including deeds of transfer of land rights and other documents relating to land, can be in electronic form, and Article 175 of the Job Creation Law regarding the authority of Officials and/or Government Bodies to make Electronic Decisions".

Horizontally, we can observe the lack of synchronisation of regulations in two regulations governing land registration: PP No 18 of 2021 and PP No 24 of 1997. So, the omnibus law concept in the Job Creation Law, one of the aims of which is to reduce overlapping regulations and conflicting norms, has yet to be achieved and has even become a hassle at the level of implementation. For example, PP No 18 of 2021 there are seven terms determining regulations "in Ministerial Regulations," namely regulations regarding HPL (Article 18), HGU (Article 33), HGB (Article 48), HP (Article 63), Foreigner Home Ownership (Article 73), HPL, HGB, HP for underground and above ground space, and regulations regarding land registration (Article 99), as well as one regulatory clause "with Ministerial Regulation" namely regulations regarding destroyed land, Article 66 § 5.

In this case, the Government in question is the Ministry of ATR/BPN, which oversees land and spatial planning affairs. ATR/BPN Ministerial Regulation No 1 of 2021 concerning Electronic Certificates is still relatively new. The position of ATR/BPN Ministerial Regulation No 1 of 2021 regarding Electronic Certificates is a type of statutory regulation. This regulation is recognised for its existence and has binding legal force with two conditions: it orders it by a higher statutory regulation or forms it based on authority [4].

Thus, for the digitised land registration process to run well and adequately, clear and consistent rules are needed both formally and materially.

On the other hand, government agencies apply legal rules consistently to submit and obey the laws they make. So that certainty of land rights, subject rights, and objects of rights can be guaranteed. However, there is an excellent side to digitally regulating land registration, which can minimise fraud, brokers/land mafia, prevent corruption, prevent duplicate certificates, save costs, prevent disputes, conflicts, land cases, etc.

Based on the background described above, this research formulates the problem of Implementation Procedures and Barriers to Electronic Land Registration and the Legal Implications of Electronic Land Registration by PPAT and Rights Holders.

METHOD

The type of research used is empirical legal research, namely research to examine the application of statutory regulations using legal concepts and theories as a basis but focusing on directly observing realities in the field [7].

To examine the issues, this study uses the normative approach, which explores the norms, principles, and legal rules in a society that come from laws, books, and documents - documents and other sources by the author [8]. Experts carry out the conceptual approach by examining views/concepts relating to the discussed problem. This approach occurs when legal regulations do not or do not yet exist, making the experts' views one of the bases for strengthening the author's arguments authors [9]. The legal sociology approach is an approach that analyses how reactions and interactions occur when the norm system works in society. In this case, this is regarding electronic land registration the author [10].

The legal collection techniques used are Primary Legal Material binding legal material related to the studied problem [11]. Secondary Legal Materials are legal materials that can explain primary legal materials and help analyse and understand the core of the problem. Tertiary Legal Materials are legal materials that explain primary and secondary legal materials, namely legal dictionaries and general Indonesian dictionaries authors [7].

All legal materials obtained from the research were then analysed using qualitative analysis. This analysis involves selecting and evaluating legal materials collected in interviews and legal materials originating from library sources. The

authors then use these as primary sources in preparing this thesis. They will systematically organise and analyse the legal material in-depth to produce valid findings and conclusions.

RESULTS AND DISCUSSION

Implementation Procedures and Obstacles to Electronic Land Registration. Orderly administration in the defence sector is part of efforts to obtain legal certainty. The regulations have placed the task and authority on the Government to carry out data collection and registration of land in Indonesia and for communities holding rights to be able to register the land they control based on the applicable provisions, namely the UUPA. The provisions in UUPA, namely Article 19, regulate subjective legal certainty, namely provisions regarding legal entities and people who are holders of land rights (subjective requirements) and related objective certainty in the form of boundaries, length, location, and width in their control [12].

The implementation of land registration has two mechanisms, namely, the deed registration system and the rights registration system. Parties involved must prove every grant or development of new rights, encumbrances, and transfers to other rights through a deed. In Article 9 of Government Regulation No 24 of 1997 concerning Land Registration, the objects of land registration include, among others, ownership rights, business use rights, building use rights, use rights, land management rights, waqf land, ownership rights over apartment units, mortgage rights, and state land [13].

People who want to make a land certificate must first register the land. Land registration is a series of activities carried out by the state/government continuously and regularly, in the form of collecting information or specific data regarding certain land in certain areas, processing, bookkeeping, and presenting and maintaining physical data and juridical data, in the form of maps and lists regarding plots of land and flats, including the provision of certificates as evidence of rights for plots of land that already have rights and ownership rights over flats and certain rights encumbering them [14].

Land registration is also an administrative process by the Government to provide legal certainty and protection to land rights holders [15].

The implementation of Recht cadaster land registration aims to provide legal certainty and protection to land rights holders. Evidence is produced at the end of the land registration process in the form of a Land Book and Land Certificate consisting of a copy of the Land Book and Measurement Letter. When conducting electronic land registration, parties will transform all forms of original analogue turnover into electronic documents. This electronic certificate is to realise digitalisation and efficiency in services to the public, hoping to reduce land disputes.

The following is the legal basis for electronic services/digitalisation transformation of electronic land registration.

1. ATR/KBPN Ministerial Decree 19/2020 concerning electronic Land information services and Juknis No 3/Juknis-HK.02/IV/2022. The explanation regarding:

- a) The flow of checking requests and SPKT;
- b) The land office counter can also serve electronic information services;
- c) Preview and validation by land office officers;
- d) Delegation of TTE authority.

2. ATR/KBPN Ministerial Regulation 19/2019 concerning the implementation of electronic signatures. The explanation regarding:

- a) Electronic domicile;
- b) Electronic signature;
- c) The signer is obliged to maintain confidentiality and is responsible for creating an electronic signature;
- d) The signer must be responsible for the contents of the electronic document.

3. ATR/KBPN Ministerial Regulation No 7/2019. The explanation regarding:

- a) Registration of deeds;
- b) Deed code;
- c) The PPAT deed can be an electronic document;
- d) The electronic system can issue the deed cover letter;
- e) Electronic certificate.

4. ATR/KBPN Ministerial Regulation 9/2019 concerning electronic mortgage rights services. The explanation regarding:

- a) Electronic documents;
- b) Electronically integrated mortgage rights service mechanism;
- c) Service delays;

d) Validate all textual data and digital data in the KKP.

5. ATR/KBPN Ministerial Regulation No 3/2023 concerning electronic publishing in land registration activities. The explanation regarding:

- a) Use of electronic systems in land registration activities;
- b) Electronic documents in land registration activities;
- c) Electronic documents resulting from media transfer;
- d) E-certificate edition.

The author analyses the implementation of electronic land registration at the National Land Agency Office using the theories of legal certainty, protection, and effectiveness. These theories guarantee legal certainty, provide legal protection, and validate electronic certificates as legitimate evidence. You can register this electronic certificate with PPAT assistance via the site <https://loket.atrbpn.go.id>, log in with a PPAT account, or do it yourself via the Touch Tanahku application then fill in the file on the Loketku.atrbpn.go.id site. Applicants can immediately create a land service registration file and upload all the required documents into the system. After they upload the service registration and documents, the land office staff will validate the applicants' files online. If the staff verifies everything successfully, they will print a deposit order, and the applicants must pay according to the applicable regulations. After making the payment, the land office will process the file immediately. Collection is done by coming to the BPN Office according to the specified schedule. All the steps above have ensured legal effectiveness, enabling BPN to effectively implement digital land registration with the assistance of PPAT as a BPN partner. PPAT can assist with the electronic land registration process.

Legal Implications of Electronic Land Registration by PPAT and Rights Holders. As recipients of quality public services from the Government, the community cannot separate themselves from services. Service quality is a comparison between the reality of the service received and the expectations of the service you want to receive. As society experiences economic growth, the Government must maximise effective, efficient, fair, transparent, and accountable public services. Implementing good government functions requires working professionally and aspirationally

and having high responsiveness to the demands of the people served so that they feel satisfied. The benchmark for satisfaction with service quality is not only from the party serving but also from the party enjoying the service. Community satisfaction is a determining factor in the quality of service; this means that to create public satisfaction with public services, the Government needs to improve the quality of services to be better, more advanced, and modern to reflect excellent service.

Public services aim to serve the community without complicating administration and bureaucracy. The Land Office has a large number of services.

1. First land registration service
2. land registration data maintenance services
3. land registration and information services
4. land plot measurement services
5. land management and management services.

Each of these services has different requirements and procedures. Services provided by the Land Office often receive a negative impression from service recipients. Processing land certificates takes a lot of time, is complicated and convoluted, has high costs, and some individuals are looking for profit.

Land problems in Indonesia, especially regarding land data from the National Land Agency, currently there are 126 million lands. According to data from 2020, authorities have registered 82 million lands, leaving only 30 % unregistered and without certificates. Many lands have double certificates, so the Government should resolve this first to get the amount of land because there are many differences in the field with the certificates, whether they don't match the size or some still need to be in dispute. Five hundred twenty villages have land disputes, with 665 thousand hectares of land spread across 20 provinces throughout Indonesia. And many more are currently disputing in court.

In a letter of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia No 1 of 2021 concerning Electronic Certificates, it explains, "To realise the modernisation of land services to improve indicators of ease of doing business and public services to the community, it is necessary to optimise the use of information and communication technology by implementing electronic-based land services."

The legal implications of the issuance of ATR/BPN Ministerial Regulation No 1 of 2021 concerning Electronic Certificates refer to the primary considerations (considerations), namely the UUPA and its Implementing Regulations as well as Legislation related to the ITE Law and the Job Creation Law. So, these government regulations are based on orders through higher regulations that indicate the primary authority of ministers as assistants to the president, who has specific jurisdiction in the Government. In this case, the Government in question is the Ministry of ATR/BPN, which oversees land and spatial planning affairs. ATR/BPN Ministerial Regulation No 1 of 2021 concerning Electronic Certificates is still relatively new. The position of ATR/BPN Ministerial Regulation No 1 of 2021 concerning Electronic Certificates is a type of statutory regulation. This regulation holds recognised existence and binding legal force under two conditions: a higher statutory regulation orders it or is formed based on authority [4].

Since the issuance of ATR/BPN Ministerial Regulation No 1 of 2021 concerning Electronic Certificates, the authorities have carried out land registration electronically. As a legal umbrella, electronic systems can gradually carry out land registration. The Ministry of ATR/BPN has prepared strategic steps in the 2020 - 2024 strategic plan so that the Land Office can work in a directed and transparent manner and resolve complaints from recipients of land services. The land service modernisation program implements this strategic step, including the electronic land registration rights service.

The mechanism for the land registration system based on an electronic system is then regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia No 1 of 2021 concerning Electronic Certificates. The output of this system is in the form of electronic documents. The meaning of electronic documents as regulated in Article 1 No 2 of the Ministerial Regulation is any electronic information created, forwarded, sent, received, or stored in analogue, digital, electromagnetic, optical, or similar form, which users can see, displayed and/or heard via a computer or electronic system, including but not limited to voice writing, images, maps, plans, photos or the like, letters, signs, numbers, access codes, symbols or perforations that have meaning or meaning or can be understood by capable people under-

stand it. In this case, the electronic document in question is an electronic certificate or e-certificate. Data, electronic information, and/or electronic documents are rights holder data, physical data, and juridical data on land plots that are valid and whose authenticity is maintained and stored in an electronic system database.

The implementation of this rule will then have direct legal implications for land parcels that will be and have registered as regulated in Article 12 of Government Regulation No 24 of 1997 as amended by Government Regulation No 18 of 2021 concerning Management Rights, Land Rights, Apartment units and land registration registered via an electronic system and an e-certificate is issued. Then, as proof of ownership of rights, the rights holder/nazir is given an e-certificate and access to the e-certificate in the electronic system. However, there are exceptions to granting this e-certificate if the physical or juridical data still needs to be completed or is still under dispute. For registered land, the relevant authority will replace the certificate with an e-certificate upon request for land registration data maintenance services, provided that the physical and juridical data in the land book and certificate match the electronic system's data. At the level of statutory regulations, the land registration system via an electronic system has a concrete and comprehensive legal basis. However, the meaning of implementing a rule depends not only on the concreteness and comprehensiveness of the rule but also on the readiness of the various parties who will then be involved. Both are about the organisers of the electronic land registration system, namely the Ministry of ATR/BPN and the general public, who will then register or replace their land certificates.

The author can analyse the legal implications of electronic land registration, where land with a manual certificate will converted into an electronic certificate without taking the existing certificate. Still, a certificate will be issued by checking and collecting data and validating the data from the manual certificate. Electronics, of course, require time to process. In the process, if the land already has a certificate, there is no need to register anymore except for land that does not yet have a manual certificate; registration will carried out for the first time; if you already have a manual certificate, the land office will make data adjustments, according to the manual certificate. Then, the community, as the rights holder, will not have to go back and forth in arranging the

certificate because just once you first register, the data can be accessed and completed at home. If there is a need for more data, this online service will provide convenience to all parties, including the rights holder, PPAT, or BPN.

So, the law must apply firmly in society and be open so that anyone can understand the meaning of a legal provision. One law must not contradict another so that it does not become a source of doubt. The position of electronic information and/or electronic documents is regulated in Law No 19 of 2016 concerning Amendments to Law No 11 of 2008 concerning Electronic Information and Transactions.

The Electronic Certificate will not be issued if there is still a dispute over the land plot. The relevant authority issues e-certificates for unregistered land through the first land registration. The replacement of an analogue certificate with an e-certificate for already registered land is carried out based on a land registration data maintenance services request by the land owner.

An electronic certificate can considered authentic evidence if it enters the realm of civil law and even the judicial process if a dispute occurs. Apart from that, the delivery of information and communication in electronic transactions, in this case in the form of electronic certificates, is in the process of proving its strength as valid or authentic evidence. The aim is to determine the extent of electronic certificates' strength in establishing control of land rights.

Based on the experience of several institutions, several conditions for realising electronic or online services include:

- a) Change in mindset (mindset).
- b) Human resources need an ICT (information and computer technology) base.
- c) It requires the availability of infrastructure that supports online systems.
- d) A significant investment is necessary to implement online services.
- e) A legal basis is a binding rule for implementing online services.

The Director General of the Department of Land Titling and Registration of the Ministry of ATR/BPN said that the protection of electronic certificates implemented:

- a) They are implementing the ISO 27001, 2013 standard for Information Security Management Systems, which ensures that all processes are

carried out based on risk analysis and mitigation based on International Best Practices.

b) The ATR/BPN System uses Encryption methods for all data stored, transferred, or processed.

c) We are using an Electronic Signature/digital signature, which shows the identity of the signer of the electronic document, and the BSRe logo, which provides information that the Electronic Signature uses Root Certificate Authority by BSRE.

d) Electronic certificates with 2FA (2-factor authentication) should ensure that only the certificate owner can open the digital document.

e) Digital data storage with an encryption model is backed up regularly in the Data Center and DRC.

The relevant authority will ensure that landowner or rights holder data conforms to a personal data protection approach, allowing only specific data to be accessed publicly. In contrast to analogue land certificates, we issue them in printed paper form equipped with a hologram featuring the BPN logo. The analogue form is easy to fake and duplicate, but in contrast to the electronic form, it is relatively more difficult to fake because of specific codes in its use.

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CONCLUSIONS

Electronic land registration begins with data collection, processing, and presentation. The results are divided into two parts: electronic documents issued through an electronic system with validation using an electronic signature and documents transferred by media into electronic records validated by an authorised official or appointed official and given a digital stamp through an electronic system. However, in its implementation, several obstacles and problems can give rise to legal consequences.

Legal implications are things that arise with digitised land registration, which will have a positive trend in the process because it has a significant impact on the community because it is time efficient, transparent, and can done by yourself without the need for intermediaries, the obligation of the community to come to the land office will reduce community archive data. There is no need to fear that the land plot may be lost, burned, or flooded because the data is stored in an adequate system with an organised security system. Even though the various obstacles that arise will undoubtedly be able to be overcome by the development of human resources when the implementation of digital land registration is implemented as a whole in the future, of course, current technological developments cannot be stopped.

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