

Application of Electronic Certificate in Indonesia and the Adaptation of the Provision of Electronic Certification (Psre) Under the Menteri Agraria/BPN Nomor 1 Tahun 2021

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ABSTRACT: Technology that is growing rapidly affects all levels of society to keep up with existing technological advances. It is no exception with various government agencies in Indonesia which are now implementing the speed of technology. This also applied by the National Land Agency or BPN, which through the regulation of the Minister of Agrarian and Spatial Planning Head of the Republic of Indonesia Land Agency or commonly referred to as ATR / BPN Number 1 of 2021 concerning Electronic Certificates which has now taken effect in January 2021. The regulation states that Electronic Certificates will replace physical certificates that were previously in the form of books. However, the problem experienced is that the Indonesian people do not fully understand the performance and also the use of electronic certificates due to the uneven socialization carried out by ATR / BPN. In addition, what is feared by the public is the very easy theft of data that occurs in Indonesia because of the weak security system especially in the Indonesian government.

KEYWORDS: Electronic certificate, legal problem, legal certainty

INTRODUCTION

The accelerating era of technology greatly influenced all groups of people as well as government agencies to change every system that was originally run manually or convectively is now converted to electronic means. This is aimed at facilitating all steps taken by the government in serving the needs of the community. Of course, this is a government breakthrough that aims to make it easier for people to access data and also for administrative registration in the government, especially in Indonesia.

In January 2021, the Government through the Ministry of ATR/BPN will change the physicality of land certificates to electronic certificates or which can also be called EI-Certificates (electronic land certificates). The implementation of this Electronic Certificate has been regulated in the Regulation of the Minister of Agriculture and Space/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates which are now being implemented. The use of this Land Certificate as a powerful means of proof and is essential in matters of dispute resolution or land disputes. A certificate that is the primary instrument of evidence in determining the right to land ownership and also as a legally valid instrument of evidence as a sign of ownership in which it cannot be contested.

A person's possession of a right or a legal body must be legally proven, therefore, to prove the right to a land used by various means of evidence. However, among the various legitimate evidence tools, the land certificate is a very strong proof sign listed in Article 19 paragraph (2) letter c in the UUPA (Lawalata, S. H., Matuankotta, J. K., & Uktole table, N. (2021). According to the UUPA, land registration itself is a series of activities including: a. land measurement, mapping and bookkeeping; b. registration of rights to land and transition of rights c. the issuance of certificates of proof of rights, which apply as a powerful means of proof (de Rooy, (2021), 40-54) In the certificate, the provisions of physical data and juridical data relating to the land issue are stated. So that the existence of these data is considered correct as long as there is no other evidence such as another certificate of ownership or other legitimate evidence.

Based on data provided by the Ministry of Agriculture and the spatial arrangements agencies National Land or abbreviated as ATR/BPN until now there have been 72,315,659 registered land certificates with a total area of 30,960,765 hectares. The distribution of land certificates consists of a variety of certificates consisting of 66,011,341 certificates, Business Use Rights 15,770, Building Use Rights, 5,320,176 certificates, Usage Rights Certificates 800,246, Management rights 5767 certificates and representative land 162,338 certificates (<https://properti.kompas.com/read/2020/12/10/164926321/baru-82-juta-bidang-tanah-tersertifikasi>). Therefore, the government recognizes how important it is to take care of and also complete the registration of all land parcels in Indonesia. So in the process, the government launched the PTSL policy which is the first land

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registration process, which is done simultaneously and also includes all land registration objects that have not been registered in a village or village area. Through this program, the government guarantees legal certainty or rights to land owned by the community. This PTSL method is the government's latest step through the Ministry of ATR/BPN to meet the basic needs of the community, one of which is residence and asset ownership. The program was described in Ministerial Regulation No. 12 of 2017 on PTSL and Presidential Instruction No. 2 of 2018.

The issuance of electronic land certificates that have begun in 2021 with the issuance of ATR/BPN Regulation No. 1. 1 year 2021 on Electronic Certificates, with the aim that this electronic certificate is a government measure to implement a new system of land using digital technology. This electronic land certificate replaced the role of physical land certificates that were originally in the form of books that were so prone to disappearance and also damaged by natural disasters or even by negligence of owners. In article 4 (3) of the Ministerial Regulations on Electronic Certificates, it is stated that electronic land letters will replace physical certificates that are replacement of land books, measuring papers or also floor plans. Through these regulations, the launch of land registration that was originally done conventionally can be done electronically in accordance with the provisions stipulated in article 6. This also applies to land registration first by replacing the PTSL system or even data maintenance (Ministry of Agriculture and Spatial Planning/National Land Agency). Information on Land Registration Statistics. Available on. (Accessed 28 July 2023).

However, this proposed policy certainly reap the pros and cons of various groups of people. The group that supports the launch of electronic certificates and their application is considered to be more effective and able to provide ease and modernization in the land management renewal system. Meanwhile, at other levels of the community, it is worried that the policy will add to the problems that have occurred recently regarding data security systems and the readiness of technology infrastructure in several government areas. It is important for the government to consider various inputs from the public and ensure that the implementation of electronic land certificates by the government is carried out properly and also to pay attention from various aspects including security and privacy of owner data.

In analyzing this application of these land certificates, it is also necessary to pay attention from different perspectives, namely security as well as data protection, The use of digitalization technology poses a risk to data leakage or misuse of information that could threaten the interests of landowners as well as society as a whole. Therefore, there is a need for the government to ensure that optimal measures are adequate in protecting sensitive data such as the privacy of landowners. In addition, the application of this electronic certificate also needs to pay attention to the certainty of the technology infrastructure in the government itself by carrying out a security system that is so strict that it cannot be hacked by any party.

EXAMINATIONMETHOD

The research characteristic used by researchers in this legal research is to use normative legal research, in which researchers examine law from an internal perspective with the object of research, namely the object of law. The approach included in this study is the legislation approach used to discuss the issue of norm conflict. Legal materials in this study are primary, secondary and tertiary legal materials. In this writing, researchers use document studies or library materials as well as field studies or interviews. This technique of legal material analysis is descriptive, normative and also qualitative.

RESULTS AND DISCUSSION

Electronic evidence that is of a legal nature and is different from that of other evidence, and requires a different way of handling. In Indonesia itself, regulations related to electronic documents are spread across various laws. In some laws, it has been mentioned that electronic documents are tools of evidence, expansion of evidence and as guidance in court cases.

Electronic documents in the Ministerial Regulations of ATR/BPN, Electronic Certificates and their printouts are categorized as legitimate evidence from other evidence. In organizing the system, to do this land registration includes processing and presenting data. The result of operating an electronic system that is an electronic document through the system or a document that is transmitted over the media and becomes an electronic document that is eventually authorized using an electronic signature. Meanwhile, electronic documents resulting from media transfer are validated by authorities or appointed officials and given digital stemples through the electronic system.

Digitized and juridical results, and the final process is electronic certificates. The categories of physical data as electronic documents are: measurement drawings, landmaps or space maps, measurements, floor plan drawings of units of flats or space measurements. Meanwhile, juridical data in the form of various research treatises, news events, and decisions related to juridical data. Including proof of rights, certificates, Ministerial Decree, and PPAT certificates can also be made in the form of electronic documents. Meanwhile, the issuance of an electronic certificate for the first time, then the unregistered one or the replacement of a manual certificate becomes an electronic certificate for the land already registered. A land certificate is an electronic document as

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a proof of land ownership. As electronic documents must be through an electronic system, currently BPN uses the Land Activities Computerization (KKP) to carry out media/digitalization of physical data and juridical data in land registration.

The position of electronic information or electronic documents has basically been regulated in Law Number 11 of 2008 concerning Electronic Information and Transactions of article 1 number 4, article 5 paragraph 3. Articles 6 and 7 of electronic documents are categorized as formal and material requirements of electronic documents to have the most recent proof value. Some electronic information created, used, forwarded, accepted or even stored includes writings, sounds, images, and so on that has meaning or meaning or that can be understood by those who understand it. It is then stated that it is legal to use or come from an electronic system in accordance with the provisions stipulated in the applicable law. The third in the value of proof is considered valid if the information contained therein is accessible, displayed, guaranteed to be and accounted for so as to explain a situation.

From the hokum side, whether the court accepts electronic land certificates as evidence of the court in the event of a land dispute. As current regulations specifically relating to electronic documents are not yet available, thus giving rise to a wide range of interpretations. How to present the evidence to the court room, electronic documents that as evidence still need expert information to explain electronic documents, on the other hand, the ability of law enforcement is still very minimal about technology, therefore, specifically regulating electronic documents. Although the electronic certificate has perfect and intact proof power, based on Constitutional Court decision number 1 of 2016, it states that the electronic document print is considered to have not been a valid evidence in court.

According to the researcher, this electronic certificate cannot be applied if it is implemented in Indonesia, because there are many impacts that will occur in the future and so much if we look at some of the situations and conditions that occur in this country. It is true that the goal implemented by the government is not actually wrong and especially in the era of globalization that demands everything is fast, easy, and cheap. Moreover, he also added that along with the desired expectations, he has done it in several countries and is considered successful. According to the researcher's observation, there are three things why this electronic certificate must be postponed or should also be canceled in connection with the Minister's Regulations. Considering if it's for the common good. The three things are the first regarding data protection, and the second is related to the certainty of rights that have not been evenly distributed, and the last is related to land disputes that still occur very much. First related to data protection, it is known that data leakage or data selling are occurring through electronic networks. The data that is suspected to be spread is increasingly worrying, starting from a copy of personal information, the Resident Mark Card, even the latest leak of residents' selfies along with their citizenship identity. This data leak needs to be of particular concern. The work done must be so comprehensive to its roots. It is inconceivable that electronic land certificates that are important and tend to be classified would be leaked. Even worse if there is a change in the location, extent, and extent of the information. That is certainly not expected by the Government. Therefore, this delay is nothing but for the common good. As well as the wider good, the second reason is regarding the certainty of rights that have not been evenly distributed so far, we realize that there are still many people in Indonesia who do not have valid proof of ownership, namely land certificates. People who do not have the certificate have sometimes lived and even inhabited the land for more than thirty years with good etiquette (*rechtverwarking*). They, by living and inhabiting the land without ever being provided with information on the importance of certification rights, are those who are prone to substantial victims of injustice. The government should first focus on the method of resolving the issue of certainty of rights. This attention is being paid so that this electronic land certificate policy does not harm the people later. The essential side of justice that needs to be known, according to Cicero, is not to harm others. The fundamental *iustitiae primum est ne cui noceatur* or the main foundation of justice is not to harm others. The third is related to the land dispute, it should be noted that every policy born is bound to the principle. The principal principle is the principle of *lex posterior derogat alloy priori*. Where the new law sets aside another one. The advent of electronic land certificate candy can certainly change the perception of analog/covensional certificates. The change is also related to evidence in court. The Ministry of Agriculture and Spatial Planning (ATR) noted that there have been cases indicated as land mafia in Indonesia since 2018 reached 242 cases. Other data mentioned that the Ministry of Agriculture and Spatial Planning/State Land Agency (ATR/BPN) detailed the data until October 2020 there were conflict disputes and court cases regarding land were around 9,000 cases. The acceleration of the above conflict resolution according to researchers should take precedence over the establishment of electronic land certificate policies. With the conclusion of the conflict, the government will make it easier for the government to collect data and provide electronic certificates to the eligible.

CONCLUSIONS

Several issues related to electronic certificates that will be launched into this community and become a product of government hokum still have many drawbacks and are also not very effective in eradicating land mafia which is still prevalent. This can cause new problems, which are data misuse and vulnerable to hacking by hackers out there that will harm many parties including the owner of the electronic certificate. Based on the discussion of the injection, it can be concluded that the policy of launching

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electronic certificates that have not been reachable by this community has a potential negative impact because the government system, especially in Indonesia, has a low level of security. In addition, the results of printing electronic certificates are considered not to be valid evidence before the court.

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