

# CANCELLATION OF LAND TITLE CERTIFICATE BASED ON COURT DECISION BY PADANG PARIAMAN DISTRICT LAND OFFICE (Case Study of PN Verdict No. 42/PDT. G/2011/PN. PRM)

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**Abstract:** *The cancellation of land rights is the annulment of the decision to grant a land right or land title certificate because the decision contains administrative law defects in its issuance or to carry out a court ruling that has permanent legal force. Litigation dispute resolution is an effort to resolve disputes through the court institution. The cancellation of this Land Right, aims to provide legal certainty of the control, ownership, use and utilization of land in Indonesia. Regulation of the Minister of State Agrarian Affairs / Head of the National Land Agency No. 21 of 2020 specifically becomes the law of formil in the settlement of every land case that occurs, this is the purpose of the Ministry of ATR/ BPN in order to provide legal certainty on the settlement of land cases, including procedures for solving land cases caused by administrative defects. Because it is administrative, the procedure for solving land cases is a systemic legal system. Meanwhile, in the occurrence of Sertipikat Cancellation, maintenance of land registration data is required, namely land registration activities to adjust physical data and juridical data in registration maps, land lists, rosters, measuring letters, land books, and certificates with changes that occur later. Maintenance of land registration data is a land registration activity to adjust physical data and juridical data in registration maps, land listings, rosters, measuring letters, land books and certificates with changes that occur later. So that the data available in the land office is always in accordance with the latest circumstances, in article 36 paragraph (2) of PP 24/1997 it is determined that the rights holders concerned are obliged to register the changes intended to the land office.*

**Key Words:** *Cancellation of Property Certificate, Maintenance of Land Registration Data, Certificate of Property Rights.*

## 1. INTRODUCTION:

West Sumatra, the majority of the population are Minangkabau people who still recognize and acknowledge the existence of lands within the customary law community, the management, control and use of it are based on local customary law provisions and recognized by the local customary law community as ulayat land.

Land Registration is a series of activities carried out by the government continuously, continuously, and regularly.[1]

The problem of land in terms of juridical alone is not a simple solution. Similarity to the concept is very much needed so that there is a common perception that will result in a solid and fair decision for the parties asking for justice. The equation that requires a common perception, for example, relates to, among other things, certificates as proof of land rights, with respect to the position of land certificates, certificates that contain legal defects and methods of cancellation and/or settlement.[2]

## 2. THEORITICAL FRAMEWORK:

### a. Legal Certainty Theory

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law is carried out, that those entitled by law can obtain their rights and that decisions can be implemented.[3]

b. Theory of Transfer of Rights

The transfer of land rights can occur due to inheritance without a will and legal actions, namely the transfer of rights.

### 3. LITERATURE REVIEW:

According to Boedi Harsono, land registration is a series of activities carried out by the State/Government continuously and regularly, in the form of collecting certain information or data regarding certain lands in certain areas, processing, storing, and presenting them for the benefit of the people. in order to guarantee legal certainty in the land sector, including the issuance of evidence and its maintenance.[4]

According to Dr. Frans Hendra Winarta, SH, MH in his book entitled Dispute Settlement Law said that litigation is a conventional dispute resolution in the business world such as in trade, banking, mining projects, oil and gas, energy, infrastructure, and so on. The litigation process places the parties against each other. In addition, litigation dispute resolution is the final means (*ultimum remidium*) after alternative dispute resolution efforts have failed.[5]

### 5. METHOD:

The method used in this study is an empirical juridical approach, namely an approach based on legal research methods that seek to see the law in a real sense or it can be said to see, research, how the law works in society.[6]

### 6. DISCUSSION:

Land Rights Certificate as the final result of the land registration process contains physical data (information on the location, boundaries, area of land parcels, as well as parts of buildings or buildings on it if deemed necessary and juridical data (information on the status of registered land and buildings, holders of land rights and the rights of other parties, as well as the burdens on them). By having a certificate, legal certainty regarding the types of land rights, the subject of rights and the object of their rights becomes real. For holders of land rights, having a certificate has more value because compared to written evidence, a certificate is a strong proof of right, meaning that it must be considered true until it is proven otherwise in court with other evidence.

The decision to cancel land rights due to implementing a court decision is issued at the request of the interested party. where the application is submitted directly to the minister or the head of the regional office or u through the land office.

Settlement of land issues based on Court decisions that have obtained permanent legal force (*inkracht van gewijsde*) regarding the issuance, transfer and/or cancellation of land rights, must be carried out by officials/employees of the National Land Agency no later than 2 (two) months after receiving a copy of the Court's decision. by the official authorized to cancel.

### 7. ANALYSIS:

#### A. Process of Cancellation of Certificate of Ownership of Land Based on a Court Decision by the Land Office of Padang Pariaman Regency

The many stages that must be passed make the process of canceling certificates long and time-consuming because in principle a cancellation process should be carried out with caution so it requires a long process to reach the process. the issuance of a decision to cancel a right in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11 of 2016 concerning Settlement of Land Cases. So because of this, the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning Settlement of Land Cases was born. One of the aims is to simplify and facilitate the process of canceling a certificate wherein the cancellation of a certificate that is born based on a decision of the Head of the Land Office is simply canceled by the Decree of the Head of the Office. The Regional Office of the National Land Agency, which is called the Regional Office, is a vertical agency of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency in the province which is under and responsible to the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency through the Secretary General.

## B. Land Registration Process Based on District Court Decision Post Cancellation of Certificate at the Land Office of Padang Pariaman Regency

The decision of the Judge of the General Court which already has legal force remains a strong basis as a basis for the applicant's rights, but other conditions stipulated in Government Regulation Number 24 of 1997 must still be fulfilled by the applicant for a land title certificate. Based on the description above, before registering land rights based on district court decisions, it is necessary to first examine the characteristics (*type and nature*) of court decisions that are used as the basis for registering land rights, this is so that problems do not arise in the future due to legal actions in the form of registration of land rights based on court decisions by the State Land Agency (BPN).

## 8. CONCLUSION:

From the discussion as explained earlier, several conclusions can be drawn, including:

- 1) Process of Cancellation of Certificate of Ownership No. 155/Desa Pasar Lubuk Alung, which is described in the situation drawing dated September 22, 2001, with an area of 280 m<sup>2</sup>, is registered under the name of HJ. JUSNI located in Lubuk Alung Market, Lubuk Alung District, Padang Pariaman Regency, West Sumatra Province which was canceled based on the decision of Civil Case Number 42/PDT.G/2011/PN.PRM, Appeal Decision Number 48/PDT/2013/PT-PDG, Decision Cassation Number 2676 K/Pdt/2013 .
- 2) After being canceled by the Decree of the Head of the Regional Office of the National Land Agency issued with Number: 208/Pbt/BPN.13/2019, the party winning the case submits an application to a certificate using the decision as the basis for the right to apply for a new certificate registration, because certificate No. . 21/Desa Pasar Lubuk Alung has been shut down and cannot be returned to its original state, so the children of Jamaluddin Josan and M. Jinis Dt Bungsu can only be heirs to the certificate of ownership of the land. Until now the certificate of Ownership No. 155/Desa Pasar Lubuk Alung no longer has legal force and a new certificate of ownership must be made.

## REFERENCES:

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