



Double Certificate Cases in Indonesia: Absolute Jurisdiction of the Administrative Court or General Court?

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<http://dx.doi.org/10.18415/ijmmu.v10i12.5229>

Abstract

The issue of dual certificate issuance in Indonesia is a classic problem that remains unresolved, and one of the issues is whether the resolution of such cases falls under the jurisdiction of the Administrative Court (Pengadilan Tata Usaha Negara) or the general court. This research aims to thoroughly examine this issue. The research method used in this study is normative juridical, utilizing secondary data. The research results indicate that dual certificate cases in Indonesia constitute wrongful acts committed by government bodies or officials (Onrechtmatige Overheidsdaad). As such, these cases cannot be adjudicated in the general courts. Therefore, if such cases have already been filed in the general courts, they must be transferred to the Administrative Court by the provisions of the legal regulations. Hence, dual certificate cases fall under the absolute jurisdiction of the Administrative Court.

Keywords: *Jurisdiction; Administrative Court; General Court; Dual Certificates*

Introduction

The historical development of the concept of the rule of law is fundamentally divided into two types, namely the concept of the legal state, known as *Rechtsstaat* in Continental European Law, and the concept of the rule of law in Anglo-Saxon countries, known as *Rule of Law*. (Prasetyoningsih, 2020:57). The characteristics of the two concepts of the rule of law are fundamentally similar, as stated by Friedrich Julius Stahl. The characteristics of the rule of law in Continental European Law include the protection of human rights, the separation of powers to safeguard human rights, government conducted in accordance with regulations (*wetmatigheid van bestuur*), and the existence of administrative courts in disputes (Siallagan, 2016:122). In Anglo-Saxon countries, the rule of law is characterized by the supremacy of the law, meaning there should be no arbitrariness, and a person can only be punished if they commit a legal violation. There is an equal standing before the law for both ordinary citizens and officials (*equality before the law*), the guarantee of human rights by laws and court decisions (Ramli, Afzal, Ardika, 2019:132). The judicial power can be said to occupy a strategic position in the rule of law. This is in accordance with what is affirmed by the 1945 Constitution which states, "The Indonesian state is based on the law (*rechtsstaat*), and not based on arbitrary power alone." (*machtstaat*) (Busthami, 2017:336).

This is in line with the provision stating that judicial power is the power that encompasses the duty to implement legal principles through the judiciary. The judicial power is an independent authority to conduct trials in order to uphold the law and justice (Subiyanto, 2016:661). Achieving the enforcement of the law within the framework of the rule of law and democracy by establishing an independent and autonomous judicial power is one of the goals to be attained. This is universally affirmed in “*Basic Principles On The Independence Of Judiciary*” presented as United Nations General Assembly Resolution Number 40 on November 29, 1985. The resolution affirms that “an independent, impartial, and autonomous judicial power is a process of justice free from any restrictions, undue influence, incitement, and pressure or direct and indirect interference in the judicial process” (Fahmiron, 2016: 3467). Resolving disputes in court is one of the most favored methods by the majority of the public, even though alternative dispute resolution methods exist. This is because the court is an institution that is trusted to provide legally binding solutions for those seeking justice (Maksum, 2020:1).

Law No. 4 of 2004, as amended by Law No. 48 of 2009 concerning the Judicial Power in Indonesia, has provided the legal framework for the judicial power to uphold justice. However, the common legal reality often reflects a dilemma and a lack of public trust in the judicial power. One of the main factors is that court decisions are perceived as not fully reflecting the values of justice for those seeking it. This is evident in the practices of judges in both the Administrative Court and the District Court when adjudicating dual certificate disputes. There are two separate court jurisdictions responsible for dual certificate cases, with the General Court handling ownership matters, while the Administrative Court deals with certificate annulment issues (Astomo, 2017:42). This is evident in decision number 457 K/TUN/2017.

Related to the implementation of Articles 57 to 59 of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation No. 11 of 2016 concerning Land Case Resolution, which entails the execution of decisions to issue dual certificates. The parties involved will undoubtedly be affected by these regulations. Based on the background provided above, this research, in specific terms, will address the issue of the jurisdiction of general courts and administrative courts in the resolution of dual certificate cases in Indonesia.

Research Methodology

The research method employed in this study is normative juridical, based on its analysis of the prevailing legal regulations (Benuf & Azhar, 2020: 24). The research data used consists of secondary legal data, which includes primary legal materials such as the 1945 Constitution of the Republic of Indonesia, Law No. 5 of 1986 concerning Administrative Court Justice, Law No. 49 of 2009 Second Amendment to Law No. 2 of 1986 concerning General Court Justice, Administrative Law No. 30 of 2014 concerning Government Administration, Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation No. 11 of 2016 concerning Land Case Resolution, as well as decision 457 K/TUN/2017. This research also utilizes secondary legal materials, namely literature related to the research problem. The legal data was obtained through a literature review, which was subsequently analyzed in a descriptive-analytical manner to address the research issues (Soekanto & Mamudji, 2004: 35).

Discussion

1. Court and Land Certificate Issues in Indonesia

According to the Indonesian dictionary, both “pengadilan” and “peradilan” originate from the base word “adil,” where “pengadilan” is defined as a council or panel that judges a case, or the process of adjudication, or a court session, or the building where cases are adjudicated. On the other hand,

"peradilan" is defined as everything related to cases in the court (Nasution, 2014: 23). From the two descriptions above, it can be said that a "pengadilan" is an institution where legal subjects seek justice, while "peradilan" is a process aimed at upholding the law and justice or a process of seeking justice itself. The purpose of conducting "peradilan" is to provide access to justice for the disputing parties, with the hope that it can ultimately resolve the dispute (Nasution, 2014: 23).

The history of thought on justice is generally inseparable from the concept or characteristics of a rule of law state, which includes the recognition of Human Rights, *Equality Before the Law* (Equality before the law), and The government is based on legislation. The basis of the judiciary in the 1945 Constitution can be found in Article 24, which states: "The judicial power shall be vested in one Supreme Court and one or more judicial bodies as determined by law. The organization and authority of the judiciary shall be regulated by law." In the implementation of Article 24 of the 1945 Constitution, Law No. 14 of 1970 concerning the Basic Provisions on Judicial Affairs was enacted. Article 10, paragraph (1) of this law mentions that the judicial power is exercised by courts within the following domains: general courts, religious courts, military courts, and administrative courts.

Indonesia has a legal system that is reflected in a form of judicial administration carried out by independent judicial institutions. These judicial institutions undoubtedly perform their duties and authorities in accordance with the applicable legal regulations. The judicial power is one of the crucial elements in the constitutional structure of a state. In the concept of the rule of law, whether it's the concept of *rechtsstaat*, *the rule of law*, or Islamic Nomocracy, the judicial power serves as a vital pillar in how the rule of law state operates (Enggarani, 2019: 82). The assumption is that if the performance of the judicial power is poor, it will have implications for the quality of the rule of law in Indonesia. The Administrative Court (PTUN) is one of the judicial institutions with the authority to exercise judicial power and is under the supervision of the Supreme Court (MA). This is affirmed in Article 24 paragraph (2) of the 1945 Constitution, which states that the judicial power is exercised by a Supreme Court and subordinate judicial bodies within the general court jurisdiction, religious court jurisdiction, military court jurisdiction, administrative court jurisdiction, and by a Constitutional Court.

Administrative Court (hereinafter abbreviated as PERATUN) was established to provide protection to justice seekers who feel aggrieved due to a State Administrative Decision (hereinafter abbreviated as KTUN). Various types of KTUN can be challenged in the PTUN because various acts of state administrative officials, such as licensing (*vergunning*), exemptions, concessions, and the handling of documents are expressed in the form of decisions by officials (*beschikking*). The purpose of establishing the Administrative Court (PERATUN) The legal basis for the establishment of the Administrative Court is to realize a prosperous, safe, peaceful, and orderly national life and to ensure the position of citizens under the law while preserving harmonious, balanced, and harmonious relations between government officials in the field of state Administrative court (PERATUN) are :

- a. Presidential Decree of the Republic of Indonesia (Keppres) Number 2 of 1997 concerning the Establishment of Administrative Courts in Banda Aceh, Pekanbaru, Jambi, Bengkulu, Palangkaraya, Palu, Kendari, Yogyakarta, Mataram, and Dili.
- b. Law Number 5 of 1986, concerning Administrative Court Justice.
- c. Law Number 9 of 2004, Concerning Amendments to Law Number: 5 of 1986, concerning Administrative Court Justice.
- d. Law Number 51 of 2009, Concerning the Second Amendment to Law Number: 5 of 1986, concerning Administrative Court Justice.

After Indonesia gained independence, the policy pursued regarding the development of judicial power began to be based on the principle of "unification", as opposed to the "pluralistic" principle applied during the Dutch colonial government. The "unification" principle then emerged in Articles 6 and 7 of Law No. 19 of 1948. Article 6 states that within the Republic of Indonesia, there are only three court

jurisdictions, namely: (Nasution, 2014: 251) General Court, Administrative Court, and Military Court. Meanwhile, Article 7 of the law confirms that judicial power in the General Court is exercised by: the District Court, High Court, and the Supreme Court.

General Court is a judicial jurisdiction under the Supreme Court, and as stated in Article 2 of the Republic of Indonesia Law Number 2 of 1986 concerning General Court, it is mentioned that "General Court is one of the implementations of judicial power for justice seekers in general." Then, in Article 3 of the law, it is explained that the judicial power in the General Court jurisdiction is exercised by District Courts and High Courts.

The term "Sertipikat" essentially comes from the English word "certificate," which means a diploma or a document issued by an authorized official. The issuance of this certificate implies that the relevant official has provided a status regarding someone's condition. The term "Sertipikat Tanah" in the Indonesian language can also be interpreted as a certificate of evidence of land ownership and serves as a strong proof of ownership over a piece of land. (Dewi, 2014: 86).

Based on the provisions of Article 19 of the Basic Agrarian Law, particularly in paragraphs (1) and (2), it can be concluded that through land registration or registration of land rights, the legal consequence is that the holder of rights over a piece of land will be issued a land certificate, which serves as strong evidence for the landholder. This provides the landholder with legal certainty. The land certificate for ownership of a piece of land must contain two main parts: the Land Book and the Measurement Letter. To ensure security, certainty, and legal protection for landowners or certificate holders, the Land Office organizes land registration activities, including maintaining and preserving what is called the General Register. The General Register consists of six types of registers, which include: a list of names, a land register, a land book register, a measurement letter register, a floor plan of multi-story buildings register, and a copy of the certificate of ownership for a unit in a multi-story building. Based on this, it can be concluded that the content of a land certificate consists of a land book and a measurement letter combined into one book and covered (green outer cover, using legal-sized paper) and then compiled into a document titled "Certificate."

A certificate serves as authentic proof of land ownership for legal subjects. The term "legal subject" is chosen for a reason because a certificate can be issued in the name of an individual or in the name of legal entities such as Limited Liability Companies and Cooperatives, as well as other legal entities. The holder of a certificate in an individual's name must be an adult, and if the certificate is a Certificate of Ownership, the holder must be an Indonesian citizen (Warga Negara Indonesia or WNI). Certificates are very important because, in Indonesia, a strong proof of land ownership is the certificate, although it is possible for a certificate to have "legal defects." A legally defective certificate means that the process of issuance and acquisition of the certificate does not conform to the procedures established in the applicable legal regulations in Indonesia (Ghaniyyu, Pujiwati & Rubiati, 2022: 180). The issuance and acquisition of land certificates that do not comply with the applicable legal procedures are what will later lead to land issues.

The issuance of land certificates is the authority of the government, represented by the National Land Agency (BPN). The issuance of land certificates is intended to provide legal certainty to landowners and legal protection to all Indonesian citizens regarding their land. Land certificates that provide legal certainty and legal protection to certificate holders are those issued and acquired in accordance with the applicable legal procedures. This means that the certificate, from its issuance process to its acquisition by the public, truly follows legal procedures. When discussing the correct legal procedures for issuing land certificates, it cannot be separated from the aspect of *law enforcement*. The applicable legal regulations in Indonesia concerning the issuance and acquisition of land certificates are correct and already exist. However, in practice, many land disputes are still encountered in Indonesian society. Based on data from the National Land Agency (BPN), as disclosed by the Minister of ATR/BPN, Sofyan Djalil, there were

"8,000 (eight thousand) Land Dispute Cases" that occurred in Indonesia throughout the year 2022 (Yanwardhana, 2022). This data shows that law enforcement related to land matters in Indonesia is not yet effective. As a result, the legal function, which should serve as a tool to control society (*law as a tool of social control*) has not been functioning properly (Hoesein, 2012: 327). Considering how critical the state of agrarian law is in our country today, immediate efforts towards improvement and refinement are necessary. The land certificate, as the end product of land registration mandated by the law, namely the Basic Agrarian Law and Government Regulation No. 24 of 1997 on Land Registration, is binding on BPN officials for issuing certificates as strong evidence of land ownership (Sinaga, 2014: 33). Binding in this context means that it obligates the officials of the National Land Agency. If there are any mistakes or errors in issuing certificates, Government Regulation Mo.24 of 1997 instructs and obligates these officials to rectify them

Considering the numerous land issues in Indonesia, including disputes over certificates issued in violation of the law or contrary to the law, which ultimately harm the rightful landowners, the court is the last resort to seek the return of their land rights (Sinaga, 2014: 33). Hence, to resolve legal disputes in court, judges must make fair determinations based on the claims and responses of the parties involved. The court plays a role in realizing justice. Based on the theory of justice proposed by Aristotle, justice occurs when a person is given what rightfully belongs to them. A person is considered unjust when they take more than their fair share. Those who disregard the law are also unjust, as everything based on the law can be considered just. A person who disregards the law is also considered unjust because everything based on the law can be regarded as just (Sembiring, 2018:152). So, justice is an evaluation that involves treating everyone according to what is rightfully theirs, which means acting proportionally and not violating the law.

The resolution of a case must be made by the judge with complete objectivity after obtaining a clear understanding of the actual situation of the case as the basis for the decision. The decision should not be formulated a priori and then subsequently justified by constructing or reinterpreting the evidence. Instead, it must be based on whether the evidence has been proven or not, before arriving at the decision (Isnantiana, 2017:53). For this reason, in resolving land disputes, the role of the court is crucial in creating legal certainty and providing a sense of justice for the parties involved. The court serves as the determiner of who the rightful owner of the land is, as reflected in the certificate, from the land that is being disputed.

In general, a land certificate represents proof of ownership over the land. The validity and applicability of the land certificate have been reaffirmed in Article 19 paragraph (2) letter c and Article 32 paragraph (1) of Government Regulation No. 24 of 1997, which states that the certificate serves as a valid instrument of proof regarding physical and juridical data contained within it, as long as it conforms to the data in the survey report and the land book of the respective right. The land certificate proves that the holder has a right over a specific area of land. Physical data includes information about the location, boundaries, and size of the land. Juridical data encompasses information about the legal status of the land, the rights of the holder, and any other encumbrances. Physical and juridical data in the land book are described in the form of a Register, while physical data in the survey report is presented through maps and descriptions. In the survey report, the condition, location, size, and boundaries of the respective land are stated.

A land certificate that is not yet accompanied by a survey report is called a Temporary Certificate. In place of the survey report, a situational drawing is included in the Temporary Certificate. The function of the situational drawing in the Temporary Certificate is limited to identifying the subject of the registered right, rather than serving as evidence of physical data. The situational drawing is an excerpt from a situational map. Meanwhile, the situational map is the result of land measurement and mapping in a preparation area that has not been completed yet.

Since the land certificate serves as a strong proof of ownership, it ensures legal certainty for the person holding the right to the land, as well as legal certainty regarding the location, boundaries, and area of a specific land parcel (Kusuma, Rodliyah, & Sahnan: 2017:320). With such legal certainty, legal protection can be provided to the person whose name is stated in the certificate, ensuring safeguarding against interference from other parties and helping to avoid disputes with other parties. This assurance of legal certainty is not only directed towards the individual named in the certificate as the landowner but is also part of the government's policy in creating a land administration order that imposes an obligation on the government to carry out land registration for all lands throughout Indonesia. (Kusuma, Rodliyah, & Sahnan: 2017:320).

Many defective land certificates, such as forged certificates and duplicate certificates, are a result of the inconsistent and irresponsible implementation of the UUPA and its related regulations, as well as individuals seeking personal gain. Given the high value of land certificates in society, it is not surprising that there are numerous disputes over land certificates brought to court. In the event of a disputed land certificate, the court must determine the rightful landowner. The court's decision is a legal judgment from the moment it is issued until it is executed and has binding force on the parties involved, obligating them to recognize the existence of the decision. In obtaining a good court decision, the judge must find the law, which is the process of law formation, or other legal officers assigned to apply general regulations to specific legal events. The discovery of the law is carried out by the judge when examining and deciding a case. The discovery of the law is a process of concretizing the case that the judge is ruling on (Hidayat, 2013: 39).

Therefore, in cases that are examined and will be decided by the judge, legal interpretation of the provisions of the law must be done carefully and attentively, allowing the judge to incorporate the interpretation into their considerations and decisions. Legal gaps (due to the absence of regulation in legislation) should be addressed by the judge through a court decision (Hidayat, 2013: 39). Related to this, land certificates often become a subject of dispute, even leading to court hearings. This arises because land holds a crucial function in people's lives. To ensure legal certainty, individuals need to register their land to obtain a land certificate, which serves as proof of land ownership.

2. The Authority of the Administrative Court and General Court in Adjudicating Disputes over Issuance of Duplicate Land Certificates

A duplicate certificate is when there are two certificates for the same plot of land. In essence, there should not be two certificates for a single plot of land. If this situation occurs, one of the certificates is certainly incorrect. However, both certificates could be incorrect if there is another owner who occupies the land. After a thorough legal process, it can be determined which of the certificate holders is the rightful owner. Two certificates can't be valid for a single plot of land (Hartana, Suwitra, & Widiati, 2019: 297).

Duplicate certificates have complex consequences, including land ownership disputes, causing unrest in the community, undermining public trust in the BPN as an institution with poor administration, and creating legal uncertainty regarding land rights. This is why the Administrative Court plays a vital role, as it is empowered by the law to resolve disputes related to duplicate certificates and provide legal certainty to those seeking justice.

Duplicate certificates lead to disputes between the certificate holders who both claim that their ownership is valid, even though, in some cases, one of them possesses a counterfeit certificate where the described property on the certificate does not correspond to the actual property. The emergence of duplicate certificates is related to the jurisdiction of the Administrative Court, resulting from overlapping land certificates. The authority of a court to adjudicate a case is established in regulations regarding absolute competence, as stipulated in Article 47 of Law No. 5 of 1986, which states:

“The court is responsible and authorized to examine, adjudicate, and resolve administrative disputes.” (Khoirunnisa, Nurikah, & Jazuli, 2021: 42).

Administrative disputes in the field of land management arise due to a written decision issued by a State Administrative Body or Official containing administrative legal actions based on the prevailing regulations which are concrete, individual, and final in the form of land certificates regarding land ownership issued by the government (Bunga, 2018:4). The absolute authority of the Administrative Court according to Law No. 5 of 1986 on Administrative Court Justice is to examine, decide, and settle administrative disputes. The Administrative Court has the authority to adjudicate due to its intersection, which is in the aspects of administration and/or contested administrative decisions (Pramana, 2019:3). Therefore, the institution authorized to examine the validity of administrative decisions is the Administrative Court.

The existence of the judicial institution is established to resolve disputes among the parties involved in a lawsuit, thus creating a sense of justice. The disputes that arise can take various forms, including breach of contract disputes related to contracts (*breach of contract*), unlawful acts (*onrechtmatige daad*), intellectual property disputes (*property right*), bankruptcy disputes, divorce disputes, abuse of power disputes by authorities, et cetera (Politon, 2017: 8). All cases or disputes cannot be monopolized by one form of court. The existence of these disputes, when related to civil justice, for example, has the potential to become the monopoly of the General Court jurisdiction, of course, if not clearly regulated, it will cause issues of authority in adjudicating a legal case. One of the factors in the division of court jurisdiction is the judicial environment. A clear division of scope will create the power to adjudicate, or the absolute authority of each court, known as the attribution of judicial power (*attributivecompetentie or attributive jurisdiction*) (Subekti, 1977:28). Just as in the General Court jurisdiction and the Administrative Court jurisdiction, or in other judicial institutions. The legal basis for the establishment of the general court is Law No. 2 of 1986, which was later amended by Law No. 8 of 2004 concerning general courts. Subsequently, Law No. 8 of 2004 was amended to Law No. 49 of 2009 concerning general courts. General courts are one form of judicial authority for the general public. Judicial authority in the general court jurisdiction is exercised by the District Court as the first instance court and the High Court as the appellate court, then culminating in the Supreme Court as the highest court or the cassation level. As for the legal basis for the Administrative Court jurisdiction, it is Law No. 5 of 1986, which was later amended by Law No. 9 of 2004 concerning Administrative Courts. This law was subsequently amended to Law No. 51 of 2009 concerning Administrative Courts. In Article 4 of Law No. 51 of 2009, it is stated: "The Administrative Court is one of the implementers of the Judicial Power for citizens seeking justice in disputes related to Administrative Affairs."

The term "dispute in Administrative Affairs" refers to disputes arising in the field of Administrative Affairs between individuals or legal entities and government agencies or officials. Judicial authority within the Administrative Court jurisdiction is implemented hierarchically by the Administrative Court, the High Administrative Court, and the Supreme Court (MA) (Sugiarto, 2012:107). Kewenangan masing-masing lingkungan lembaga peradilan adalah sebagai berikut :

- a. The general judiciary, as outlined in Article 50 and Article 51 of Law No. 2 of 1986 concerning the general judiciary, only has the authority to adjudicate criminal cases (general and specific criminal cases) and civil cases (general civil and commercial cases);
- b. The religious judiciary, as stipulated in Article 49 of Law No. 7 of 1989 concerning the religious judiciary, only has the authority to adjudicate cases involving citizens who are Muslims, particularly in matters related to marriage, inheritance (including wills and gifts governed by Islamic law), endowments, and alms;
- c. The military judiciary, in accordance with the provisions of Article 40 of Law No. 31 of 1997, only has the authority to adjudicate criminal cases involving members of the Indonesian National Armed Forces (TNI) based on specific ranks.

d. Next is the State Administrative Court (PTUN), whose jurisdiction is limited to cases involving state institutions related to state administrative policies.

Considering the description above, in terms of the division of judicial powers, the law has defined the jurisdiction limits of each court institution. Disputes that can be brought to the District Court (PN) in this context are under its jurisdiction as a general court, limited to criminal cases and civil cases, within the civil field limited to General Civil Cases and Commercial Civil Cases. As for other civil cases related to marriages and inheritance for those of the Islamic faith, they fall under the absolute jurisdiction of the Religious Court. For Administrative Dispute Cases (TUN), they come under the jurisdiction of the State Administrative Court.

In PERMA Number 2 of 2019 on the first page, point (b) reads: "that unlawful acts by a Government Agency and/or Government Official (*Onrechtmatige Overheidsdaad*) constitutes a government action that falls within the authority of the State Administrative Court based on Law Number 30 of 2014 concerning Government Administration."

Article 1 paragraph (1), Article 1 paragraph (2), Article 1 paragraph (3), and Article 1 paragraph (4) of PERMA No. 2 of 2019 state:

- a. Government action is the act of government officials or other state organizers to perform and/or not perform specific concrete acts within the framework of government administration.
- b. Government officials are individuals who carry out government functions both within the government and other state organizers.
- c. Disputes involving government actions are disputes that arise in the field of government administration between members of the public and government officials or other state organizers as a result of government actions.
- d. A dispute over wrongful government actions (*Onrechtmatige Overheidsdaad*) is a dispute includes demands to declare an act by a government official as null and void or having no legally binding effect, along with compensation for damages as stipulated by statutory regulations.

Furthermore, the provisions regarding the authority to adjudicate State Administrative Court (PTUN) cases related to state administrative actions by government officials are explicitly detailed in PERMA Article (2) paragraph (1), paragraph (2), and paragraph (3) of Law No. 2 of 2019 states:

"The case of Unlawful Government Acts (*Onrechtmatige Overheidsdaad*) falls under the jurisdiction of the Administrative Court. The Administrative Court has the authority to adjudicate disputes over government actions after exhausting administrative remedies, as stipulated in Law No. 30 of 2014 regarding Government Administration and Supreme Court Regulation No. 6 of 2018 concerning administrative dispute resolution. In cases where the legislation specifically regulates administrative remedies, the authority to adjudicate Government Action Disputes belongs to the High Administrative Court as the first-level court.

The provisions regarding the absolute competence of judicial institutions in this case, between the District Court and the Administrative Court, are explicitly regulated in the Closing Provisions of PERMA No. 2 of 2009. The Closing Provisions are included in Chapter V of PERMA No. 2 of 2009, specifically in Article 10, Article 11, and Article 12, which read as follows:

- a. Article 10: "Upon the enactment of this Supreme Court Regulation, cases related to unlawful acts by Government Bodies and/or Officials (*Onrechtmatige Overheidsdaad*) that have been filed with the District Court but have not yet been examined, shall be transferred to the Administrative Court in accordance with the provisions of the prevailing regulations."

- b. Article 11: "In cases of Unlawful Acts by Government Bodies or Officials (*Onrechtmatige Overheidsdaad*) that are currently being examined by the District Court, the District Court shall declare its lack of jurisdiction to adjudicate."
- c. Article 12: "Government Officials or Unlawful Acts by Government Bodies (*Onrechtmatige Overheidsdaad*) as referred to in Article 10, for which specific administrative remedies have been established at the time the Supreme Court Regulation was enacted, if the case files have been transferred by the District Court to the Administrative Court and have not yet been examined by the Administrative Court, the case files shall be transferred to the High Administrative Court with jurisdiction, along with the remaining case fees."

In this research, it can be observed that the legal breakthrough taken by the Supreme Court with the issuance of PERMA No. 2 of 2019, which is expected to resolve legal impasses and promote progressive procedural law enforcement. With clear regulations in place, cases involving Government Bodies and/or Government Officials will no longer be examined by general courts (District Courts), as this falls under the absolute competence of the Administrative Court (PTUN).

Conclusion

Cases related to the issuance of duplicate certificates in Indonesia cannot be tried by District Courts as a whole due to the regulations specified in PERMA No. 2 of 2019. These provisions are outlined in Chapter V, specifically in Article 10, Article 11, and Article 12, which essentially govern that these rules apply to cases involving unlawful actions by government bodies and/or government officials (*Onrechtmatige Overheidsdaad*). Cases related to the issuance of duplicate certificates in Indonesia, which are submitted to the District Court but have not yet been examined, shall be transferred to the Administrative Court in accordance with the provisions of the laws and regulations. Furthermore, in cases of Unlawful Acts by Government Bodies or Government Officials (*Onrechtmatige Overheidsdaad*) that are currently under examination by the District Court, the District Court must declare that it does not have the authority to adjudicate. Whereas Government Officials or Unlawful Acts by Government officials or (*Onrechtmatige Overheidsdaad*) In cases where the administrative remedies have been specifically regulated at the time the Supreme Court Regulation was enacted, if the case files have been transferred from the District Court to the Administrative Court and have not yet been examined by the Administrative Court, the case files shall be transferred to the relevant High Administrative Court with jurisdiction, along with any remaining case fees. Therefore, the application of Articles 57 to 59 of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 11 of 2016 concerning the Resolution of Double Certificate Cases should ideally be resolved first in the Administrative Court because it falls within the jurisdiction of the PTUN. PTUN and General Courts need to coordinate when receiving complaints from the public regarding disputes related to the issuance of certificates to prevent overlapping certificates and decisions that may harm the parties involved.

Reference

Books

Sugiarto, Umar Said. *Pengantar Hukum Indonesia*, (Sinar Grafika 2012)

Subekti, *Hukum Acara perdata*, (Bina Cipta 1977)

Dewi, Eli Wuria, *Mudahnya Mengurus Sertipikat Tanah & Segala Perizinannya*, (Buku Pintar 2014)

Soekanto, Soerjono dan Sri Mamudji, *Penelitian Hukum Normatif : Suatu Tinjauan Singkat* (PT Raja Grafindo Persada 2004).

Journals

- Astomo, Putera. "Eksistensi peradilan administrasi dalam sistem negara hukum Indonesia." (2017) 1.(1) *Jurnal Yuridis*.
- Benuf, Kornelius dan Muhamad Azhar, 'Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer', (2020) 7.(1), *Gema Keadilan*.
- Bunga, Marten, "Kompetensi Peradilan Tata Usaha Negara Dalam Menyelesaikan Sengketa Tanah" (2018) 1 (4) *Gorontalo Law Review*.
- Busthami, Dachran. "Kekuasaan Kehakiman dalam Perspektif Negara Hukum di Indonesia." (2017) 46.(4) *Jurnal Masalah-Masalah Hukum*.
- Enggarani, Nuria Siswi. "Independensi Peradilan dan Negara Hukum." (2019) 3.(2) *Law and Justice*.
- Fahmiron, "Independensi Dan Akuntabilitas Hakim Dalam Penegakan Hukum Sebagai Wujud Independensi Dan Akuntabilitas Kekuasaan Kehakiman." (2016) 17.(2) *Jurnal Litigasi*.
- Ghaniyyu, Faris Faza., Yani Pujiwati, Betty Rubiati. "Jaminan Kepastian Hukum Konversi Sertipikat Menjadi Elektronik Serta Perlindungannya Sebagai Alat Pembuktian". (2022) 5. (1) *USM Law Journal*.
- Hartana, Herry Jaya, I. Made Suwitra, and Ida Ayu Putu Widiati. "Penyelesaian Sengketa Sertipikat Ganda di Pengadilan Tata Usaha Negara Denpasar." (2019) 1.(3) *Jurnal Analogi Hukum*.
- Hidayat, Arif. "Penemuan hukum melalui penafsiran hakim dalam putusan pengadilan." (2013) 8.(2) *Pandecta Research Law Journal*.
- Hoesein, Zainal Arifin. "Pembentukan Hukum dalam Perspektif Pembaruan Hukum." (2012) 1.(3) *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*.
- Isnantiana, Nur Iftitah. "Legal Reasoning Hakim dalam Pengambilan Putusan Perkara di Pengadilan." (2017) 18.(2) *Islamadina: Jurnal Pemikiran Islam*.
- Khoirunnisa, Siti Anis, Nurikah Nurikah, dan HE Rahmat Jazuli. "Kewenangan Pengadilan Tata Usaha Negara Serang dalam Menyelesaikan Sengketa Sertipikat Ganda Atas Tanah di Kabupaten Lebak (Studi Kasus Putusan Nomor: 5/G/2020/PTUN. SRG)." (2021) 1.(2) *Sultan Jurisprudence: Jurnal Riset Ilmu Hukum*.
- Kusuma, Dadi Arja, Rodliyah Rodliyah, and Sahnun Sahnun. "Sertipikat Hak Milik Atas Tanah Sebagai Alat Bukti Hak Yang Kuat." (2017) 5.(2) *Jurnal IUS Kajian Hukum dan Keadilan*.
- Maksum, Hairul, "Batas Kewenangan Mengadili Pengadilan Umum dalam Penyelesaian Sengketa Perbuatan Melawan Hukum Yang Melibatkan Badan Negara Atau Pejabat Pemerintah", (2020) 2.(1) *Jurnal Juridica*.
- Nasution, Bahder Johan. "Sejarah Perkembangan Kekuasaan Kehakiman Di Indonesia." (2014) 7.(3) *Inovatif: Jurnal Ilmu Hukum*.
- Politon, Reinhard. "Pemenuhan Hak Dan Kewajiban Sesuai Kesepakatan para pihak dalam kontrak Ditinjau dari kitab undang undang Hukum perdata." (2017) 6.(3) *Lex Crimen*.

- Pramana, Gade Aris Eka, "Kompetensi Absolut Peradilan Tata Usaha Negara Terkait Titik Singgung Antara Peradilan Tata Usaha Negara Dan Peradilan Umum Dalam Sengketa Pertanahan", (2019) 1. (2) *Jurnal Analogi Hukum*.
- Prasetyoningsih, Nanik. "Substansi Gagasan dalam Beberapa Konsep Negara Hukum." (2020) 3.(2) *Nurani Hukum : Jurnal Ilmu Hukum*.
- Ramli, Ramli, Muhammad Afzal, dan Gede Tusan Ardika. "Studi Kritis Terhadap Konsep Negara Hukum." (2019) 10.(2): *Media Keadilan: Jurnal Ilmu Hukum*.
- Sembiring, Riky. "Keadilan Pancasila dalam Persepektif Teori Keadilan Aristoteles." (2018) 3.(2) *Jurnal Aktual Justice*.
- Siallagan, Haposan. "Penerapan prinsip negara hukum di Indonesia." (2016) 18.(2) *Jurnal Sosiohumaniora*.
- Sinaga, Petrus RG. "Sertipikat hak atas tanah dan implikasi terhadap kepastian kepemilikan tanah." (2014) 2.(7) *Lex et Societatis*.
- Subiyanto, Achmad Edi. "Mendesain Kewenangan kekuasaan kehakiman setelah Perubahan UUD 1945." (2016) 9.(4) *Jurnal Konstitusi*.

Legislation

PERMA Nomor 2 tahun 2019.

Undang-undang Nomor 14 Tahun 1985 tentang Mahkamah Agung.

UU No. 5 Tahun 1960 Undang-Undang Pokok Agraria.

Website

Yanwardhana, Emir. "Menteri ATR : Ada 8.000 Kasus Sengketa Tanah!". (2022) *CNBC Indonesia*. Diakses dari <https://www.cnbcindonesia.com/news/20220224160041-4-318095/menteri-atr-ada-8000-kasus-sengketa-tanah>, diakses pada 3 Januari 2023.

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