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A LEGAL ANALYSIS OF THE RESPONSIBILITY OF THE NATIONAL LAND AGENCY FOR LOSSES SUFFERED BY CERTIFICATE HOLDERS ARISING FROM ADMINISTRATIVE DEFECTS IN THE ISSUANCE OF LAND CERTIFICATES

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ABSTRACT

This study analyzes the legal responsibility of the National Land Agency (Badan Pertanahan Nasional/BPN) for losses suffered by land certificate holders following cancellation of land rights certificates due to administrative defects. The cancellation is regulated by Law Number 5 of 1960 concerning Basic Agrarian Principles, Government Regulation Number 24 of 1997 concerning Land Registration, as amended by Government Regulation Number 18 of 2021, and relevant regulations. This normative legal research uses primary, secondary, and tertiary legal materials analyzed through statutory and conceptual approaches. The study finds that responsibility for an administratively defective certificate must be distinguished between BPN's institutional responsibility and the individual responsibility of the official exercising the relevant authority. An overlapping certificate does not automatically establish liability; responsibility depends on the authority exercised, the administrative defect, and the causal relationship between the administrative act and the loss. Legal protection depends on the certificate holder's legal status, particularly good faith and due diligence in acquiring land rights. Where the elements of an unlawful act under Article 1365 of the Indonesian Civil Code are fulfilled, the resulting loss may support a claim for compensation. Accordingly, the findings distinguish these consequences according to their respective legal bases.

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INTRODUCTION

In legal practice, inconsistencies among statutory provisions may give rise to different interpretations and applications of the law, particularly when two or more legal provisions regulate the same legal issue from different

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perspectives. Such inconsistencies may create uncertainty regarding the applicable legal norms and, consequently, affect the legal position and protection of parties subject to those provisions. This condition demonstrates that the operation of law cannot be viewed solely from the existence of individual legal rules, but also from the extent to which those rules function coherently within the broader legal system. As (Mertokusumo, 1986, p. 122) explains, legal certainty can be achieved when legal norms are applied harmoniously and consistently, while justice requires that their application does not produce conflicting or unequal outcomes. Therefore, identifying and examining inconsistencies among the relevant legal provisions is essential to ensure that the legal system provides certainty, order, security, and justice for society.

Land in Indonesia occupies an important position because it is associated not only with economic interests but also with social relations and the protection of legal rights. The strategic nature of land is reflected in the continued occurrence of disputes, conflicts, and legal cases arising from land administration. In 2024, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency recorded 5,973 land cases, comprising 1,664 disputes, 60 conflicts, and 4,249 cases brought before the courts. Of the total number, 3,056 cases had been resolved, while 2,917 cases were still being processed. These figures indicate that the administration and registration of land rights continue to face challenges in providing legal certainty and preventing disputes concerning land ownership and rights.

The government's efforts to address these problems are reflected in the development of policies emphasizing the prevention and resolution of land cases. One such measure is Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 15 of 2024 concerning the Prevention of Land Cases, which regulates the identification of potential cases and the preventive measures that may be undertaken by the relevant authorities. This regulatory framework is further complemented by Presidential Regulation Number 177 of 2024 concerning the National Land Agency, which assigns functions relating to land registration, the administration of land data and information, as well as the prevention and handling of land disputes, conflicts, and cases.

The significance of these arrangements is closely related to the dual character of land as both a social asset and a capital asset. From a social perspective, land is connected with community life, cultural values, and social relations, particularly in indigenous and local communities. At the same time, land has an economic dimension because it functions as an important production factor and an asset that supports economic activity and development. Consequently, the administration, ownership, and utilization of land require a careful balance between social and economic interests, while ensuring that every administrative action is carried out consistently with the principles of legal certainty and justice (Bahar, 2026, p. 124).

In order to achieve balance and continuity among legal instruments, effective cooperation between the government and society is required, one form of which involves regulatory interaction in the field of land affairs. Land constitutes a fundamental necessity in everyday life. In contemporary society, land is no longer merely used as a place to build a residence. Land has become an economic resource that is frequently regarded as an asset because its market value continues to increase significantly. Therefore, legal certainty concerning a person's control and ownership of land is necessary to guarantee certainty regarding such ownership. This objective can be realized through certificates issued by the National Land Agency (Badan Pertanahan Nasional/BPN).

Law Number 5 of 1960 concerning Basic Agrarian Principles constitutes the principal legal foundation for the regulation of land rights in Indonesia. The legislation recognizes various forms of rights that may be held and controlled by individuals and legal entities, including ownership rights, cultivation rights, building use rights, use rights, and lease rights, as well as other rights subsequently regulated by other legislation (Sutedi, 2023, p. 5). The regulation of these rights is closely related to the state's obligation to ensure certainty and protection over land ownership and utilization.

One of the principal instruments for achieving such certainty is land registration and the issuance of certificates as evidence of registered land rights. Proper land administration is essential to provide legal protection to rights holders and to minimize the occurrence of land disputes (Liong et al., 2022, p. 5). Government Regulation Number 24 of 1997 concerning Land Registration defines land registration as a continuous and systematic series of governmental activities involving the collection, processing, recording, presentation, and maintenance of physical and juridical data concerning land parcels and apartment units. The process also includes the issuance of certificates for registered land rights (Parsaulian & Sudjito, 2019, p. 130). Beyond its juridical function, land registration also has economic significance because it facilitates transactions,

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expands access to credit, increases the economic value of land, and contributes to public revenue (Kurniawan et al., 2018, p. 4). Conversely, weaknesses in the administration and documentation of land rights may generate overlapping claims and increase the potential for disputes, demonstrating that orderly land administration also functions as a preventive mechanism for maintaining legal certainty (Yarsina et al., 2026, p. 7)

Land registration may be conducted through systematic or sporadic registration. Systematic registration is initiated by the government for a designated area, whereas sporadic registration is undertaken on the basis of an application concerning a particular parcel of land. Both mechanisms are intended to provide legal certainty and protection through the registration of land rights in accordance with applicable legal provisions (Marryanti & Purbawa, 2018, p. 9). The registration process also involves legal acts concerning the creation, transfer, or encumbrance of rights, which are evidenced through deeds containing juridical information concerning the legal status of the land. Compliance with statutory requirements is therefore essential because defects in the preparation of such deeds may affect their legal validity (Avivah et al., 2022, p. 8)

The obligation to register land rights is expressly provided in Article 19 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Principles. Government Regulation Number 24 of 1997 concerning Land Registration further regulates the initial registration of land and the maintenance of registration data. Where changes occur in the physical or juridical data of registered land, such changes are required to be recorded with the relevant Land Office (Budhayati, 2018, p. 4). This requirement is important because the reliability of land certificates depends upon the accuracy and consistency of the physical and juridical data maintained within the land registration system.

The certificate constitutes strong evidence of a registered land right, although its evidentiary position does not make it absolute. Indonesia's land registration system is characterized as a negative publication system containing positive elements, under which the certificate provides strong evidence while remaining open to challenge under certain circumstances. Article 32 paragraph (2) of Government Regulation Number 24 of 1997 concerning Land Registration provides legal protection to parties who obtain land rights in good faith and physically control the land, subject to the conditions established by the provision (Budiono, 2013, p. 125). Accordingly, the accuracy of administrative data and the legality of the issuance process remain important because defects may affect the legal position of certificate holders.

In practice, land disputes may require administrative measures to preserve the legal status of a land object while the underlying issue is being resolved. One such measure is the recording of a block, which establishes a temporary *status quo* and suspends certain legal acts concerning the relevant land right until there is a legal basis for removing the block ((Sekarsari et al., 2019, p. 120). The existence of such administrative mechanisms demonstrates the importance of proper land administration in preventing the escalation of disputes and protecting the legal status of registered rights.

The resolution of land disputes should also provide effective access to justice. Prolonged proceedings and complicated administrative procedures may increase the losses suffered by the parties and hinder the realization of legal certainty (Mujiburohman, 2018, p. 6). These considerations become particularly relevant where an administrative defect in the issuance of a land certificate produces competing claims or overlapping rights over the same parcel of land.

Overlapping certificates therefore represent not merely a dispute between private parties but also a potential indication of deficiencies in land administration. Administrative errors in the registration and issuance of certificates may concern procedural compliance, the identification of the subject or object of rights, the accuracy of physical and juridical data, or other aspects of the registration process. Where such defects result in the issuance of certificates relating to the same parcel of land, the consequences may extend to the legal certainty of rights holders and their ability to perform legal acts involving the land.

The issue becomes particularly significant when a certificate holder has acted in good faith but subsequently suffers losses because the overlapping condition prevents the land from being transferred, sold, encumbered, or otherwise utilized. In such circumstances, the legal issue extends beyond the validity or cancellation of the certificate and concerns whether deficiencies in the administrative process can give rise to legal responsibility on the part of the authority responsible for land administration. This also raises the question of what form of legal protection should be available to affected certificate holders.

Accordingly, this research focuses on the legal responsibility of the National Land Agency for administrative defects in the issuance of overlapping land certificates and the legal protection available to certificate holders who suffer losses as a

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consequence of such defects. The analysis is directed not only toward the validity of the certificate and the resolution of the resulting dispute, but also toward the relationship between administrative action, governmental responsibility, legal certainty, and the protection of good-faith rights holders.

METHOD

This study employs normative legal research with a prescriptive nature. The research utilizes primary legal materials, secondary legal materials, and tertiary legal materials, supported by statutory and conceptual approaches. The collected legal materials are analyzed qualitatively to develop legal arguments concerning the responsibility of the National Land Agency for losses suffered by certificate holders as a consequence of administrative defects in the issuance of land certificates that result in the inability to conduct sale and purchase transactions or transfer land rights. The analysis also examines the legal implications of such administrative defects for the legal protection and legal certainty of land rights holders.

RESULT AND DISCUSSION

Responsibility of the National Land Agency for Losses Suffered by Certificate Holders Due to Administrative Defects in the Issuance of Land Certificates

A. The National Land Agency as a Government Administrative Institution

The National Land Agency (Badan Pertanahan Nasional/BPN) is a government institution that performs governmental functions in the land sector. Under Article 3 of Presidential Regulation Number 177 of 2024 concerning the National Land Agency, BPN is assigned the task of administering governmental affairs in the land sector in accordance with applicable laws and regulations. Article 4 further specifies its functions, including the formulation and implementation of policies concerning land surveying and mapping, the determination and registration of land rights, the management of land data and information, and the prevention and handling of land disputes, conflicts, and cases. Thus, land registration and the administration of land rights constitute part of the governmental functions entrusted to BPN.

The position of BPN in the administration of land registration can be understood within the framework of administrative law. Law Number 30 of 2014 concerning Government Administration defines government institutions and/or government officials as elements of government administration that perform governmental functions. Similarly, Law Number 5 of 1986 concerning the State Administrative Court, as amended by Law Number 51 of 2009, defines a State Administrative Agency or Official as an agency or official that performs governmental affairs on the basis of applicable statutory provisions. Accordingly, BPN, as a government institution exercising governmental functions in the land sector, falls within the scope of a State Administrative Agency. However, this institutional status must be distinguished from the position of an individual official who exercises specific authority within the land administration process.

This distinction is important in determining legal responsibility. Responsibility for an administrative action cannot automatically be attributed personally to every official involved in the land registration process. It is necessary to identify the legal authority underlying the action, the institution or official exercising that authority, and the nature of the resulting legal consequences. In this context, the Head of the Land Office or other authorized officials may act as government officials when exercising legally conferred authority, while BPN remains the governmental institution within which the land administration function is performed. Therefore, institutional responsibility, individual responsibility, and state responsibility must be analyzed separately rather than treated as identical concepts.

The concept of governmental authority provides the basis for determining whether an administrative action is legally attributable to a particular institution or official. In administrative law, authority represents the rights and obligations granted by law to a government institution or official to perform public-law actions (Fachruddin, 2004, p. 4). Such authority may arise through attribution, delegation, or mandate. Attribution constitutes the conferral of authority by the Constitution or statute; delegation involves the transfer of authority together with responsibility and legal accountability to the recipient; whereas mandate only transfers the exercise of authority while responsibility and legal accountability remain with the mandator

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(Koentjoro, 2004, p. 28). These distinctions are also reflected in Law Number 30 of 2014 concerning Government Administration.

The application of these concepts to land registration is important because the issuance of a land certificate constitutes an exercise of governmental authority rather than merely an administrative recording activity. Under the land registration framework, the relevant authority is exercised through the officials and institutional units authorized by the applicable regulations. Government Regulation Number 24 of 1997 concerning Land Registration remains in force but has been amended by Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. Therefore, the analysis of the authority underlying certificate issuance must refer to Government Regulation Number 24 of 1997 as amended by Government Regulation Number 18 of 2021, together with the applicable implementing regulations.

The current regulation on the delegation of authority likewise demonstrates that the authority to determine land rights and conduct land registration is exercised within a structured governmental framework. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 16 of 2022 regulates the delegation of authority concerning the determination of land rights and land registration, and was subsequently amended by Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 2 of 2025. This framework is relevant to determining which official exercises the authority and, consequently, where responsibility may arise when an administrative defect occurs in the registration process.

From the perspective of this research, therefore, the occurrence of overlapping certificates must first be connected to the exercise of governmental authority in the land registration process. If an overlapping certificate results from an error in the process or procedure of registration, measurement, application of statutory provisions, or maintenance of land registration data, the issue is not limited to the validity of the resulting certificate. It also raises the question of whether the administrative action was performed in accordance with the authority granted by law and whether the relevant institution or official fulfilled the applicable standards of proper administration. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 expressly recognizes overlapping land rights as one of the circumstances that may constitute an administrative and/or juridical defect and provides a mechanism for cancellation where such defects are established.

Accordingly, the legal position of BPN in this research should not be formulated simply as the position of a "State Administrative Official" that may be sued whenever a certificate cause loss. The more precise issue is to determine which governmental authority was exercised, by which institution or official, whether the exercise complied with the applicable legal requirements, and whether a resulting administrative defect can be attributed institutionally to BPN, personally to the official concerned, or potentially to the state under the applicable legal framework. This distinction forms the basis for the subsequent analysis of administrative, civil, and criminal responsibility.

B. Land Rights Certificates as State Administrative Decisions

The National Land Agency (Badan Pertanahan Nasional/BPN) is a government institution vested with the authority to administer governmental affairs in the land sector, including the issuance of land rights certificates through Regency/Municipality Land Offices. In its capacity as a State Administrative Agency or Official, every action undertaken by the National Land Agency constitutes part of the administration of government. According to Soehino, the actions of a State Administrative Agency or Official may be classified into three forms, namely issuing State Administrative Decisions (*beschikking*), establishing regulations (*regeling*), and carrying out actual acts or material actions (*materiele daad*) in the exercise of governmental functions (Soehino, 2018, p. 28).

Pursuant to Law Number 30 of 2014 concerning Government Administration, a Government Administration Decision or State Administrative Decision constitutes a written determination issued by a Government Agency and/or Official in the administration of government. Meanwhile, Law Number 5 of 1986 concerning the State Administrative Court, as lastly

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amended by Law Number 51 of 2009, provides that a State Administrative Decision (*beschikking*) is a written determination issued by a State Administrative Agency or Official based on statutory provisions, which is concrete, individual, and final, and which produces legal consequences for an individual or civil-law entity. In the study of administrative law, the term *beschikking* is understood as an administrative decision that produces legal consequences for a particular legal subject; therefore, its validity must comply with statutory provisions and the applicable principles of administrative law.

The State Administrative Court has jurisdiction to examine and adjudicate disputes concerning state administration. However, such jurisdiction is subject to limitations under Law Number 5 of 1986, as amended by Law Number 9 of 2004 and Law Number 51 of 2009. These limitations mean that not every action or decision of a State Administrative Agency and/or Official may serve as an object of a claim before the State Administrative Court. In practice, the State Administrative Court at the first instance has jurisdiction to adjudicate state administrative disputes, while the High State Administrative Court examines cases at the appellate level as well as certain disputes determined by law. The Supreme Court has jurisdiction at the cassation and judicial review levels, including certain specialized state administrative disputes, such as disputes concerning public information and land acquisition for public purposes (Simanjuntak, 2017, p. 12).

Pursuant to Article 1 point (9) of Law Number 5 of 1986 concerning the State Administrative Court, as lastly amended by Law Number 51 of 2009, a decision may be classified as a State Administrative Decision if it fulfills the elements prescribed by law. The fulfillment of these elements serves as the basis for determining whether a decision constitutes an object of a state administrative dispute that may be examined for its validity before the State Administrative Court. These elements are as follows (Simanjuntak, 2017, p. 12).

a. Written determination

The element of a written determination in a State Administrative Decision does not merely refer to the formal form of the decision, but rather emphasizes the substance or content of the decision. The written requirement is intended to provide certainty regarding the substance of the decision and to facilitate the evidentiary process where a dispute subsequently arises between a State Administrative Agency or Official and a party suffering loss as a result of the issuance of such decision.

b. Issued by a State Administrative Agency or Official

The decision must be issued by a State Administrative Agency or Official. A State Administrative Agency or Official refers to an agency or official, whether at the central or regional level, that performs governmental functions in the executive branch based on authority conferred by statutory provisions. Therefore, any decision issued in the exercise of governmental functions by such agency or official may be categorized as a State Administrative Decision provided that it fulfills the elements prescribed by law.

c. Contains a state administrative legal act

The decision must contain a state administrative legal act. A state administrative legal act constitutes a legal act performed by a State Administrative Agency or Official based on authority conferred by statutory provisions governing government administration. Such action produces legal consequences in the form of the creation, modification, or extinguishment of rights and obligations of individuals or legal entities.

d. Issued pursuant to applicable statutory provisions

A State Administrative Decision must also be issued based on applicable statutory provisions. Accordingly, every decision issued by a State Administrative Agency or Official must be based on lawful authority and have a clear legal basis. In essence, such a decision constitutes the implementation of a general legal norm; therefore, its issuance must be guided by statutory provisions governing both the source of authority and the decision-making process.

e. Concrete, individual, and final in nature

A State Administrative Decision must possess concrete, individual, and final characteristics. Concrete means that the decision is directed at a specific object or circumstance that can be clearly determined and is therefore not abstract. Individual means that the decision is addressed to a specific individual or legal entity rather than to the public at large. Final

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means that the decision is definitive, no longer requires approval from another institution, and has produced legal consequences for the intended recipient from the time it was issued.

f. Produces legal consequences

A State Administrative Decision must produce legal consequences for an individual or civil-law entity. Such legal consequences may take the form of the creation, modification, or extinguishment of legal rights and/or obligations as a consequence of the issuance of the decision. Accordingly, every decision fulfilling this element directly affects the legal position of the party subject to the decision.

Administrative determinations, as one form of State Administrative Decision, may take the form of permits, dispensations, and concessions. A dispensation essentially constitutes an exception or deviation from provisions established by statutory regulations. Meanwhile, permits and concessions constitute implementations of legal provisions in concrete circumstances. The distinction between them lies in their scope: permits are generally granted to individuals or for activities of a relatively limited scale, whereas concessions are granted for large-scale activities associated with public interests (Simanjuntak, 2017, p. 12).

Based on these characteristics, permits and concessions constitute specific forms of administrative determinations, whereas a dispensation represents an administrative action that provides an exception to applicable legal provisions. In the context of land administration, a land rights certificate issued by the National Land Agency constitutes a State

Administrative Decision because it fulfills the elements of a written determination issued by a State Administrative Agency or Official based on authority conferred by statutory provisions. In addition, a land rights certificate is concrete, individual, and final in nature and produces legal consequences in the form of the creation of rights and obligations for the rights holder and other interested parties. Therefore, where an administrative defect occurs in the issuance process, the validity of such decision may be challenged in accordance with the applicable legal mechanisms and may potentially give rise to legal responsibility on the part of the National Land Agency.

Legal Responsibility of the National Land Agency

The National Land Agency, as the institution responsible for land affairs, has an obligation to ensure that every certificate issued has undergone a process in accordance with the procedures prescribed by statutory regulations. Responsibility refers to an individual's awareness of the consequences of intentional conduct. Responsibility is inherent in human nature and constitutes an integral part of human life. Human beings are inevitably burdened with responsibility, whereby obligations must be borne as a consequence of actions performed by an individual (Mustamu, 2014, p. 16).

In cases involving the issuance of land rights certificates, the National Land Agency may be subject to several forms of legal responsibility, namely:

a. Administrative Responsibility

Administrative responsibility arises where the issuance of a certificate containing an administrative defect is caused by negligence or procedural errors in the implementation of land registration. Under such circumstances, a land official proven to have been negligent in exercising his or her authority may be subject to administrative sanctions in accordance with applicable statutory provisions, such as a warning, removal from office, or other forms of administrative sanctions. In addition, the National Land Agency, as the competent institution, is obligated to cancel or rectify certificates issued unlawfully and to undertake corrective measures in the administration of land affairs to prevent the recurrence of similar errors in the future. The state, as the duty bearer in fulfilling human rights in development, has a responsibility to ensure that development is carried out by emphasizing public participation, encouraging the contribution of all stakeholders, and ensuring transparency and accountability (Suntoro, 2019, p. 7).

Pursuant to Article 1 point 14 of Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for the Granting and Cancellation of Rights over State Land and Management Rights, the cancellation of land rights constitutes an administrative action in the form of revoking a decision

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granting land rights or a land rights certificate. Such cancellation is carried out where an error or administrative legal defect is found in the issuance process, or as an implementation of a court decision that has obtained permanent legal force (*inkracht*) (Hasan Basri, 1989, p. 13).

Pursuant to Article 106 of Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999, the cancellation of land rights due to an administrative legal defect in the issuance process may be carried out upon the request of an interested party or on the initiative of the competent official. An application for cancellation may be submitted to the Minister or an appointed official, either directly or through the Head of the Land Office.

Furthermore, Article 107 of Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 provides that administrative legal defects may consist of procedural errors, errors in the application of statutory provisions, errors concerning the subject or object of rights, errors concerning the type of rights, errors in calculating the area of land, overlapping land rights, discrepancies in physical or juridical data, and other forms of administrative errors affecting the validity of the issuance of land rights.

In current land administration practice, cases continue to arise involving the issuance of two or more land rights certificates referring to the same parcel of land. This condition is known as certificate overlap (*overlapping*) and constitutes one of the issues that may undermine legal certainty in the land sector. The existence of overlapping certificates has the potential to trigger disputes between parties claiming rights over the land and may cause losses to the party that actually possesses valid rights over the relevant land object (Parsaulian & Sudjito, 2019, p. 130).

It may be understood that although a land rights certificate possesses strong evidentiary value as proof of rights, its existence does not automatically provide absolute legal protection. A certificate may still become the subject of a lawsuit where another party considers its rights to have been harmed or where an administrative defect is discovered in the issuance process. Under such circumstances, the legal consequence is that the land rights certificate may be cancelled in accordance with the applicable statutory provisions.

b. Civil Liability

Civil liability may arise where an administrative error committed by the National Land Agency causes losses to another party. Under such circumstances, the injured party has the right to file a civil lawsuit to seek restoration of rights or compensation in accordance with applicable law. The basis of such liability is Article 1365 of the Indonesian Civil Code, which provides that every unlawful act causing loss to another person obliges the responsible party to compensate for such loss (Hasan Basri, 1989, p. 13).

Article 1365 of the Indonesian Civil Code does not distinguish between intentional and negligent forms of fault. Therefore, in determining the existence of an unlawful act, the judge must consider the degree of fault committed by the perpetrator and its causal relationship with the resulting loss. Such considerations form the basis for determining the appropriate form and amount of compensation for the injured party.

Legal Protection for Certificate Holders Suffering Losses Due to the Cancellation of Land Sale and Purchase Transactions Resulting from Administrative Defects

In a land sale and purchase transaction, the legal position of the buyer is closely related to the validity of the seller's right over the land object. A buyer generally relies on the land rights certificate registered in the seller's name as evidence of the registered legal status of the land. This reliance, however, does not by itself establish that the buyer has acted in good faith. Where the seller's certificate is subsequently found to overlap with another land right or to contain an administrative defect, the buyer may face legal uncertainty and potential losses, particularly where the transaction cannot be completed or the acquired right is subsequently affected by cancellation.

A buyer may be regarded as acting in good faith where the acquisition is conducted through a lawful mechanism and the buyer has no knowledge of any defect affecting the right being transferred (Subekti, 1995, p. 15). The buyer's good faith is therefore not merely a subjective belief concerning the validity of the transaction, but must also be assessed from the manner

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in which the transaction was conducted. Faisal emphasizes that a good-faith buyer acquires the object on the belief that the seller has the authority to transfer the relevant right and that the requirements for the transaction have been fulfilled (Faisal, 2015, p. 368).

The concept of good faith is also related to the manner in which possession or ownership is acquired. Article 584 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*) establishes that ownership may be acquired only through means determined by law. Meanwhile, Article 531 of the Indonesian Civil Code recognizes good-faith possession where the possessor acquires the object through a legally recognized mode of acquisition and, at the time of acquisition, is unaware of any defect in the right over the object. These provisions indicate that good faith must be assessed in relation to both the legality of the acquisition and the purchaser's knowledge concerning the legal condition of the object.

In the context of land transactions, good faith must further be demonstrated through the exercise of reasonable caution. A buyer cannot be regarded as acting in good faith merely because the seller possesses a land certificate. The buyer must also take reasonable steps to verify the legal and factual status of the land and the authority of the seller to transfer it (Faisal, 2015, p. 368). This approach is consistent with the criteria formulated by the Supreme Court in Supreme Court Circular Letter Number 7 of 2012 and further refined through Supreme Court Circular Letter Number 4 of 2016. The latter requires, among other matters, that the buyer conduct the transaction through lawful procedures and documents, examine the status of the land and the seller's ownership, and, in the case of registered land, obtain information from the National Land Agency concerning the land and the history of the legal relationship between the land and the certificate holder. Thus, the qualification of a good-faith buyer must be determined from the concrete circumstances surrounding the transaction rather than solely from the existence of a certificate in the seller's name.

Legal protection for a good-faith buyer is also reflected in the jurisprudential framework developed by the Supreme Court. The protection of a good-faith purchaser is intended to prevent a party who has complied with the applicable transaction procedures and exercised reasonable care from bearing consequences arising from circumstances that were not reasonably known to the purchaser at the time of the transaction. In circumstances where the seller is subsequently found not to have been entitled to transfer the land, the legal consequences must therefore distinguish between the position of the good-faith buyer and the liability of the party who transferred the land without the requisite legal authority (Sidik et al., 2025, p. 11). The Supreme Court's formulation likewise emphasizes that good faith includes not only the buyer's state of knowledge but also the buyer's compliance with proper procedures and exercise of due diligence.

Article 32 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration establishes that a land certificate constitutes strong evidence concerning the physical and juridical data contained in it, insofar as those data correspond with the survey document and land register. Paragraph (2) provides additional protection to a certificate holder who acquired the land in good faith and actually controls it, subject to the conditions stipulated in that provision (Sidik et al., 2025, p. 11). The five-year provision therefore provides a particular form of legal protection to a good-faith certificate holder, but it cannot be interpreted as making a certificate absolutely immune from challenge under every circumstance.

The current regulatory framework must also be considered in assessing cancellation due to administrative defects. Article 64 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration provides that cancellation of land rights because of administrative defects may be undertaken, among other circumstances, because of overlapping land rights. The provision separately regulates the five-year period applicable to certain certificates and expressly identifies overlapping land rights as an independent basis for cancellation. Therefore, the legal protection afforded by Article 32 paragraph (2) of Government Regulation Number 24 of 1997 must be read together with the current cancellation regime under Government Regulation Number 18 of 2021 when examining cases involving overlapping certificates.

The good-faith status of a buyer is consequently determined not only by the absence of knowledge concerning a defect, but also by whether the buyer has fulfilled the duty of care expected in a land transaction. A buyer who fails to examine

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the land status, the seller's authority, or other relevant juridical circumstances may not necessarily qualify for the legal protection afforded to a good-faith purchaser. Conversely, where the buyer has followed the prescribed procedure, examined the relevant documents and land status, and had no reasonable basis to suspect an administrative defect, the buyer's position as a good-faith purchaser becomes legally relevant in determining the scope of protection available to that party.

Where an administrative defect subsequently causes a land transaction to fail or a certificate to be cancelled, the injured party may also seek compensation where the requirements for an unlawful act under Article 1365 of the Indonesian Civil Code are satisfied. The existence of a loss alone, however, is insufficient. The claimant must establish the relevant unlawful act, fault, loss, and causal relationship between the unlawful act and the loss suffered. Compensation may therefore be sought for legally recognizable losses resulting from the unlawful act, including material losses arising from the inability to exercise or transfer the relevant land right (Chrisnawati et al., 2018, p. 6).

The issue of compensation must be distinguished from the mechanism of consignation (*konsinyasi*) in land acquisition. Consignation concerns the deposit of compensation funds with the court in circumstances provided for by land-acquisition regulations and therefore constitutes a different legal mechanism from a claim for damages based on Article 1365 of the Indonesian Civil Code. Consequently, the discussion of state expenditure and the evidentiary requirements applicable to consignation should not be used as the basis for determining compensation for losses arising from an administratively defective land certificate (Bahar, 2026, p. 143).

Accordingly, legal protection for a certificate holder affected by the cancellation of a land transaction should be determined by examining the holder's legal position and the source of the loss. A buyer who satisfies the criteria of good faith is entitled to protection based on the applicable land-registration rules and the Supreme Court's jurisprudential guidance. Where the loss results from an unlawful act and the elements of Article 1365 of the Indonesian Civil Code are fulfilled, a claim for compensation may also be pursued. The analysis must therefore distinguish between protection arising from the status of a good-faith buyer, protection arising from the land-registration system, and compensation arising from an unlawful act.

CONCLUSION

Based on the analysis, this research establishes four principal legal propositions. First, the legal responsibility arising from the issuance of an overlapping land certificate must be determined by distinguishing the responsibility of the National Land Agency as an institution from the responsibility of the individual government official who exercises the relevant authority. The occurrence of an overlapping certificate does not, by itself, establish personal liability of the official or institutional liability of the National Land Agency. Responsibility must be determined by examining the specific authority exercised, the administrative procedure followed, the existence of an administrative defect, and the causal relationship between the defect and the loss suffered by the affected party. This distinction is necessary because governmental authority and legal accountability are attached to the institution or official according to the legal basis and manner in which such authority is exercised.

Second, an overlapping land certificate constitutes a legally significant condition that may form an independent basis for cancellation of land rights because of an administrative defect. Article 64 paragraph (1) letter b of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration expressly provides that cancellation due to administrative defects may be undertaken because of overlapping land rights.

Thus, in cases of overlapping certificates, the assessment of responsibility cannot be separated from an examination of the administrative process that resulted in the issuance of more than one certificate concerning the same parcel of land.
Third, the legal protection afforded to a certificate holder or buyer depends upon the holder's legal status, particularly whether the acquisition was carried out in good faith and with the degree of care required in a land transaction. Article 32 paragraph (2) of Government Regulation Number 24 of 1997 provides protection to a certificate holder who acquired the land in good faith and exercises actual control over the land. However, good faith cannot be established solely from the existence of a certificate in the seller's name. The Supreme Court's formulation in Supreme Court Circular Letter Number 4 of 2016 requires,

among other matters, that the purchaser conduct the transaction through lawful procedures and documents, investigate the status of the land, and exercise due diligence concerning the seller's authority and the legal condition of the land.

Fourth, the existence of an administrative defect does not automatically give rise to an obligation to compensate the affected party under Article 1365 of the Indonesian Civil Code. A claim for compensation requires an examination of the elements of an unlawful act, including the unlawful conduct, fault, loss, and causal relationship between the conduct and the loss. Accordingly, where an overlapping certificate resulting from an administrative defect causes the affected certificate holder or good-faith buyer to suffer a concrete loss, the possibility of compensation must be assessed on the basis of those elements rather than inferred solely from the cancellation of the certificate. This finding also confirms that administrative responsibility, individual responsibility of an official, and civil liability for damages constitute distinct forms of responsibility with different legal bases and requirements.

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