

Limitation of Administrative Authority of the Regional Office of the National Land Agency in the Cancellation of Land Rights Certificates

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ABSTRACT

The existence of a certificate as proof of ownership does not automatically serve as the sole guarantee of legal certainty regarding a person's ownership of land, as certificates often contain administrative and legal defects. This study aims to: 1) identify the limits of the administrative authority of the West Nusa Tenggara Provincial Office of the National Land Agency in revoking land title certificates in accordance with laws and regulations; 2) To examine and analyze the Decision of the West Nusa Tenggara Provincial Office of the National Land Agency No. 158/SK-52. MP.02.03/X/2022; and 3) To examine the legal implications of certificate revocation by the West Nusa Tenggara Provincial Office of the National Land Agency on legal certainty and the protection of land rights for certificate holders. The research approach used is the normative research method; specifically, this study employs a descriptive-analytical approach. The types and sources of data in this study include primary legal materials, secondary legal materials, and tertiary legal materials. The data analysis method used is qualitative data analysis. The results of the study indicate that: (1) The administrative authority of the NTB Regional Office of the National Land Agency (BPN) to revoke certificates is strictly limited by Article 32(2) of Government Regulation No. 24 of 1997 regarding the five-year time limit and the exclusive jurisdiction of civil courts in ownership disputes. (2) Decision No. 158/SK-52. MP.02.03/X/2022 formally meets the legal requirements regarding authority but, in substance, violates the Principles of Legal Certainty and Diligence by revoking a certificate issued under a government program (PTSL) without a final and binding court decision. (3) The legal implications of this revocation are the loss of the certificate holder's legal status and a weakening of public confidence in the legal certainty guaranteed by land certificates. It is recommended that regulations be harmonized so that administrative revocations continue to respect the substantive rights of citizens.

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1. INTRODUCTION

The existence of land as one of the elements of the formation of a state always goes hand in hand with the existence of the community in it, so that the state through the government plays an important role in regulating the existence of land in harmonizing the role of the community and the function of land for the sake of welfare. Constitutionally, the regulation related to land in Indonesia is regulated in Article 33 paragraph (3) of the 1945 Constitution which explains that "*The earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people*".

This provision emphasizes that state administrators play the role of the authority over Indonesia's earth, water, and natural assets to be used for the benefit of the Indonesian people in an inclusive manner. The concept of "controlled by the state" must be interpreted to mean domination by the state in a broad spectrum that is sourced and transformed from the essence of the sovereignty of the Indonesian people over all earth, water, and natural resources contained in it (Constitutional Court, 2009). Referring to Article 4 paragraph (1) of Law 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA), the concept of land law is understood as a mere layer of the earth. Boedi Harsono emphasized that the right to land is the surface of the earth, which only includes *fragments* certain blocked surface of the earth, known as the land unit (Boedi Harsono, 2008).

Given that the function of land is very crucial for human activities, which is able to affect the existence and continuity of legal relations and actions, both personally and communally, the prevention of agrarian problems so as not to trigger disputes in society in the future requires a policy, control, and use of land or terminologically called agrarian law, so that Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles was issued along with Government Regulation Number 24 of 1997 concerning Land Registration. Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles article 2 provides a legal basis for the state to organize, manage, and utilize land. The authority of control over earth, water and space, namely: (Law 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA))".

- a. Regulating and organizing the designation, use, supply and maintenance of the earth, water and space;
- b. Determine and regulate the legal relations between people and the earth, water and space;

The presence of Law 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) is to provide protection and legal provisions for agrarian rights belonging to citizens, therefore the authority organizes a land registration program. Land parcels that have been registered at the land office will obtain a certificate that acts as an instrument to prove legal control. The existence of certificates as a strong proof of ownership, nowadays often triggers anxiety and obstacles for the public, because even though they have held an authentic certificate, the aspect of legal defense guarantees for the owner of the right is still minimal. Government Regulation Number 24 of 1997 regarding land registration emphasizes that the objectives of land registration for land rights owners are: "Government Regulation No. 24 of 1997 concerning Land Registration).

- a. To provide legal certainty and protection to the holder of rights to a plot of land, flats and other registered rights so that they can easily prove themselves as the holder of the rights concerned;
- b. To provide information to interested parties including the Government so that they can easily obtain the data needed to carry out legal acts regarding land plots and registered flats
- c. For the orderly implementation of land administration.

The presentation of the certificate in order to ensure the stipulation and legal protection of the owner of the related land rights, the certificate of land rights is handed over through synergy between the National Land Agency and the Public Land, in accordance with Article 4 paragraph (1) of Government Regulation Number 24 of 1997 regarding land registration. The document is issued for the

benefit of the owner of the relevant rights based on the physical information and juridical information that has been recorded in the land book (Made Ari Putra Sudana and Ketut Wetan Sastrawan, 2017). In one unit of land, fundamentally, only one land right certificate may be issued unless stipulated differently by the provisions of the applicable law (Government Regulations, 1997). The existence of a certificate has an advantage because by having a certificate, a person has a strong position on a land, compared to other written evidence. This position can be strong evidence if it is in accordance with the physical condition of the soil and the issuing process in accordance with the procedure. If there is a discrepancy between the data in the certificate and the location of the existing land, then the certificate may be cancelled by the competent authorities (Arianto et al., 2025).

Problems that often arise in the public sphere are the presence of agrarian conflicts, the trigger for the emergence of land disputes is caused by various aspects, one of which is the existence of Administrative Defects and Juridical Defects in the issuance process, so that the certificate that is indicated to have Administrative Defects and Juridical Defects has consequences for the application of cancellation. Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Handling and Settlement of Land Cases, stipulates that the Cancellation of Legal Products is carried out by the authorized Officials because: (Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020)".

- a. Administrative Defects and/or Juridical Defects.
- b. The implementation of court decisions that have permanent legal force.

Furthermore, Article 30 states: (Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency, 2020).

1. The Minister issued a decision on the Cancellation because:
 - a. Administrative defects and/or juridical defects in legal products issued by the Ministry or Regional Office;
 - b. The implementation of court decisions that have permanent legal force that cancels Legal Products issued by the Ministry.
2. The Head of the Regional Office issues a decision on Cancellation because:
 - a. Administrative defects and/or Juridical defects to Legal Products issued by the Head of the Land Office; or
 - b. Implement a court decision that has permanent legal force that cancels the Legal Product issued by the Head of the Regional Office or the Head of the Land Office.
3. In certain cases, the Minister may cancel the Legal Product of the Regional Office or Land Office which is the authority of the Head of the Regional Office due to administrative defects and/or juridical defects or as an implementation of court decisions that have permanent legal force.

Some cases of certificate cancellation that often occur in the community are caused by several possibilities, including: (Laila, 2017).

- a. Two original certificates but one of them is juridical defective. Both have warkah or archives at the local Land Office. This happens because the land that has been certified is re-registered, so both are official products of BPN but have identical objects, positions, and areas.
- b. The two or more certificates are categorized as fake documents, meaning that the double certificates do not have an official copy at the Land Office or the National Land Agency (BPN) due to the absence of supporting archives.
- c. One of the certificates is part of the other party's rights. This arises because the land parcel should be through the mechanism of splitting the master certificate, or vice versa, the issuance of the certificate is the result of the merger of several different rights.

Overlapping, which is a condition in which two or more certificates intersect so that the overlapping area becomes a double certificate because part of the land is included in the other party's claim. When analyzed, the second certificate appearing in the overlapping certificate is clearly issued

in deviation from the procedure because the valid rule is that a certificate is not allowed to be produced on land that is already encumbered by a right. In the context of Islamic teachings, guidelines on land disputes have been written in the Qur'an and hadith which are useful to provide ownership of land rights and anticipate so that Muslims do not fall into the ambition of controlling land without or against rights, as much as possible Muslims can avoid problems that will result in land disputes. As found in the Qur'an Surah Al-Baqarah verse 188 which reads:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْنُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

It means: "And do not let some of you eat the wealth of others in an unrighteous way, and do not bring it to the judge, so that you may eat some of the wealth of others by sin, even though you know". (Al-Qur'an, 2, 188).

One of the cases of certificate cancellation due to Administrative Defects and Juridical Defects by the Regional Office of the National Land Agency of West Nusa Tenggara Province for certified land occurred in Sengkol Village, Pujut District, Central Lombok Regency, West Nusa Tenggara Province in a dispute between Lalu Marzan Hanafi and Lalu Taufikurrahman. This case began with an application by Lalu Marzan Hanafi to the Regional Office of the National Land Agency of West Nusa Tenggara Province through an application letter Number: 37/R.L.O/XI/2021 dated November 8, 2021 regarding the application for the cancellation of the Certificate of Property Rights Number: 03656, the holder of rights in the name of Lalu Taufikurrahman, covering an area of ± 8,282 M2 (Eight thousand two hundred and eighty-two square meters). To the application, the Regional Office of the National Land Agency of West Nusa Tenggara province has responded by conducting a spatial analysis, thematic map, and case title, so that it is concluded that the title certificate number: 03656, the holder of rights in the name of Lalu Taufikurrahman, covering an area of ± 8,282 m2 (Eight thousand two hundred and eighty-two square meters) contains Administrative Defects and Juridical Defects (overlapping land rights certificates) so that they must be revoked and canceled with Decree of the Regional Office of the National Land Agency of West Nusa Tenggara province Number: 158/SK-52. MP.02.03/X/2022 concerning the Cancellation of Title Certificate Number 03656 dated October 24, 2019 Survey Letter Number: 02829/2019 dated October 15, 2019 An Area of 8,282 m2 an. Then Taufikurrahman is located in Sengkol Village, Pujut District, Central Lombok Regency, West Nusa Tenggara Province

Before the Regional Office of the National Land Agency of West Nusa Tenggara Province issued the above decision, the same month when Lalu Marzan Hanafi submitted a letter of application to the Regional Office of the National Land Agency of West Nusa Tenggara Province, Lalu Taufikurrahman submitted a lawsuit to the State Administrative Court, which was also included as a consideration in the decision. Therefore, the issuance of the decree of the Regional Office of the National Land Agency of West Nusa Tenggara Province has resolved the dispute between the parties as well as a form of guarantee of legal certainty and justice through non-judicial institutions. Based on the background, the researcher formulated several formulations of the problem that will be studied in this article, namely the limitation of the administrative authority of the Regional Office of the National Land Agency of West Nusa Tenggara Province in canceling land rights certificates according to laws and regulations, Analysis of the decree of the Regional Office of the National Land Agency of West Nusa Tenggara Province Number: 158/SK-52. MP.02.03/X/2022) has fulfilled the principles of legality and the general principles of good governance (AUPB) and the legal implications of the cancellation of certificates by the Regional Office of the National Land Agency on legal certainty and protection of land rights for certificate holders

2. METHODS

Research methodology plays a crucial role in ensuring that the collection and Analysis Data is carried out systematically and scientifically based (Soehartono, 2021). The method applied in this study

is a normative research method that focuses on the use of secondary data through the study and assessment of positive legal principles from literature sources and comparative law, including variables relevant to this topic. The approaches used in this article are the Legal Approach, the Conceptual Approach and the Case Approach. The type of data applied in this study is Primary Legal Materials, contained from laws and regulations related to Problems researched, Secondary Legal Materials, contains legal materials for literature studies, which include books, dissertations, journals, legal dictionary theses and other scientific articles. Legal Materials tertiary constitute materials that provide instructions and Explanation to primary legal materials and secondary legal materials, such as legal dictionaries, language dictionaries, and legal encyclopedias. The data collection technique uses a qualitative approach with a documentation study method. This approach prioritizes detailed data collection to reveal the implementation of the authority and regulation of the cancellation of certified land rights certificates at the Regional Office of the National Land Agency based on the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 related to the Handling and Settlement of Land Cases. The data analysis applied in this study is qualitative analysis, which is data processing that does not refer to numerical statistics, but is based on the provisions of legislation and scientific literature to answer research problems.

3. FINDINGS AND DISCUSSION

3.1 Limitation of the Administrative Authority of the Regional Office of the National Land Agency of West Nusa Tenggara Province in Canceling Land Rights Certificates according to laws and regulations.

In constitutional framework, the authority of BPN NTB is rooted in Article 33 paragraph (3) of the 1945 Constitution which affirms that the earth, water, and natural resources are controlled by the state for the greatest prosperity of the people. The principle of "The Right to Control the State" gives the government a mandate to regulate Provisions, use, and the legal relationship between people and land. However, this power is not absolute; Articles 28G and 28H guarantee the protection of private property rights and legal certainty for every citizen, so that the administrative action of the cancellation of the certificate must always within the corridor of human rights protection. The administrative authority to cancel land rights must also be in line with the principle of the rule of law (*rechstaat*) as stipulated in Article 1 paragraph (3) of the 1945 Constitution. This requires the principle of legality in every action of public officials. BPN NTB is not allowed to arbitrarily cancel the certificate without a clear legal basis, because the certificate is an authentic document that is a manifestation of the state's obligation to provide legal certainty guarantees for legitimate rights holders (Joni Minulyo, 2018).

The cancellation of the certificate by the Regional Office of BPN NTB must take into account the general principles of good governance (AAUPB). Under the constitutional umbrella, such administrative actions must be legally accountable and have objective reasons. If the cancellation is carried out without going through the correct procedures, then it is contrary to the spirit of the constitution which prioritizes justice for the people in the West Nusa Tenggara region, considering that land has very high social and economic value. Finally, the cancellation of land rights is also in contact with Article 18A of the 1945 Constitution regarding the relationship of authority between the central and regional governments. The Regional Office of BPN NTB, as a vertical agency in the region, exercises delegated authority from the Minister. Therefore, the limits of its authority are limited by the mandate given by the center. Any act of annulment that exceeds the limits of procedural authority can be categorized as an act beyond the authority (*ultra vires*) that can be annulled through administrative courts.

Based on the Basic Agrarian Law (UUPA), land certificates are a strong but not absolute means of proof (*vermoeden van recht*). Article 19 of the UUPA requires the government to conduct land registration to ensure legal certainty. The authority of BPN NTB to cancel the certificate appears if administrative legal defects are found in the issuance process. This limitation is important because the

UUPA adheres to the principle of negative registration with a positive tendency, where the state does not guarantee the absolute correctness of physical and juridical data, but provides protection to rightholders in good faith (Shinta Novi Wardhani and Rusdianto Sesung, 2018)

The principle of granting land rights according to the UUPA is for the welfare of the people. Therefore, the limitation of BPN NTB's authority in canceling certificates is also tested from the aspect of usefulness. Cancellations made due to administrative errors of officials (procedural defects) must still respect the rights of a third party in good faith who has acquired the land. In the event of a civil ownership dispute, BPN NTB is not authorized to decide who is entitled before there is a court decision with permanent legal force. In the operational context in NTB, Article 20 of the UUPA regarding hereditary and strongest property rights, provides a limitation that the cancellation of property rights can only occur due to certain factors determined by law, such as the revocation of rights in the public interest or voluntary surrender. BPN NTB does not have the authority to cancel rights only based on unilateral claims without in-depth verification of physical and juridical data in accordance with the applicable standard operating land registration procedures.

Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA) and its implementation guidelines, namely Government Regulation Number 24 of 1997 concerning Land Registration and Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration. The reason for the promulgation of the Basic Agrarian Law is outlined in the General Explanation of the Basic Agrarian Law, in particular to establish the basis for the readiness of general agrarian laws and regulations, which will be a tool to bring success, happiness, and equality to the state and individuals. In particular, individual cultivators, in the structure of a just and prosperous society, establish the foundations for realizing solidarity and straightforward in the arrangement of land, establish the foundations for providing legal certainty with regard to land rights for the individual as a whole (Marthin Luther Lambonan, 2018).

Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration provides very specific technical limitations. Article 64 of this PP emphasizes that the cancellation of land rights can be carried out due to administrative legal defects or because of implementing court decisions. The Regional Office of BPN NTB can only cancel the certificate administratively if errors are found in the measurement process, overlapping rights, or errors in the announcement of physical and juridical data during the registration process. Government Regulation No. 18 of 2021 also introduces the concepts of "Destroyed Land" and "Abandoned Land" as the basis for the cancellation or removal of rights. BPN NTB has the administrative authority to identify and propose the cancellation of certificates for these lands, but must go through strict warning and evaluation stages. This limit of authority is procedural; Failure to follow the warning stage may result in the cancellation decision being legally defective and may be sued by the certificate owner (Fani Martiawan Kumara Putra, 2025).

In addition, Government Regulation No. 24 of 1997 concerning Land Registration is still the main reference regarding the protection of certificate holders. Article 32 paragraph (2) of this PP provides legal protection for certificate holders for 5 (five) years from the issuance of the certificate, where other parties cannot demand cancellation if the certificate is obtained in good faith. The Regional Office of BPN NTB is limited by this period, unless the cancellation is ordered by the court or evidence of falsification of the documents underlying the issuance of rights is found. The authority of BPN NTB is also regulated in the procedures for resolving administrative disputes. Based on relevant government regulations, the cancellation of certificates due to administrative defects often requires a recommendation from the land inspection committee team or the dispute resolution team. This shows that the authority of the head of the Regional Office is not single, but rather a series of collective-collegial processes that involve field verification and comprehensive examination of supporting documents to avoid immeasurable discretion.

Presidential Regulation Number 47 of 2020 concerning the Ministry of Agrarian and Spatial Planning/National Land Agency stipulates the structure and function of BPN as an institution that

organizes government affairs in the land sector. This Presidential Regulation gives a mandate to BPN to formulate and implement policies in the field of land disputes and conflicts. The limitation of the authority of the Regional Office of BPN NTB here is hierarchical; Their task is to carry out the central strategic instructions in minimizing the land mafia through a mechanism for the cancellation of certificates that are indicated to be legally defective. In the context of investment and development in NTB (such as the Mandalika area), Presidential Regulations related to land acquisition for the public interest are often referenced. The Regional Office of BPN NTB plays the role of the implementer of land acquisition, but the authority to cancel the certificate in this process is limited by the obligation to provide appropriate compensation. The cancellation of the certificate in the public interest must go through the location determination procedure (penlok) and must not be done unilaterally without the existence of consignment or settlement of the compensation value agreed or decided by the court (Dian Mujiburohman, 2021).

The Presidential Regulation on agrarian reform also provides space for BPN NTB to redistribute land. In this case, the cancellation of existing rights may occur if the land is classified as an object of TORA (Land Object of Agrarian Reform). However, the limit is the certainty of the subject and the object; BPN cannot cancel the rights to land owned by small communities for the sake of redistribution, but instead focuses on large lands owned by corporations or individuals whose rights have expired or are not used according to their functions. Institutionally, this Presidential Regulation requires BPN NTB to act transparently and accountably. Any decision to cancel the certificate must be recorded in an integrated national land information system. This limits the potential for "double certificates" that often arise due to manual administrative processes in the past. With the digitalization of land driven by the President's policy, the limits of BPN NTB's authority are now increasingly narrowed by the data validation system that is carried out electronically.

The administrative authority of the Regional Office of the National Land Agency (Kanwil BPN) of West Nusa Tenggara Province in canceling land rights certificates is first of all limited by the aspects of relative and absolute competence regulated in the Regulation of the Minister of ATR/BPN Number 21 of 2020. Administratively, the BPN Regional Office is only authorized to cancel legal products that contain administrative legal defects, such as procedural errors in measuring, mapping, or announcing physical and juridical data. This limitation is very crucial because the BPN Regional Office does not have the authority to cancel the certificate if the dispute that occurs has entered the realm of ownership disputes (civil) which is the absolute domain of the judiciary, so that administrative actions must be stopped in order to respect the supremacy of the judiciary (Murad, 2013).

Procedural limitations are also the main parameter in measuring the validity of the actions of the Regional Office of BPN NTB. Every certificate cancellation process must go through a rigid examination stage, starting from data research by the review team to providing opportunities for certificate holders to provide responses (*audi alteram partem*). If the BPN Regional Office ignores this stage, then the cancellation Decree is categorized as an act that exceeds authority (*ultra vires*) and is procedurally defective. This is in line with the principle in the Government Administration Law which emphasizes that every decision of a public official must be based on administrative rigor and meticulousness (Riduwan, 2020).

The authority of the Regional Office of BPN NTB is limited by the principle of legal protection against third parties in good faith. In land practice, if a certificate containing administrative law defects has transferred its rights to another party through a legal sale and purchase process before PPAT and has been reversed, then the BPN Regional Office cannot immediately cancel the certificate without protection of the rights of the new rights holder. This protection for good-faith buyers is a substantial limitation aimed at maintaining economic stability and public confidence in land registration products issued by the state (Santoso, 2015). In addition, the authority of the BPN NTB Regional Office is also seen in its interaction with the General Principles of Good Governance (AUPB). The BPN Regional Office is not only limited by written law, but also by the principle of legal certainty and the principle of

utility. The cancellation of the certificate must not cause social chaos or greater harm to the public interest in the NTB region than the benefits to be achieved from the cancellation (Hadjon, 2015).

Supreme Court Regulation (PERMA) Number 2 of 2019 concerning Procedures for Dispute Resolution of Government Actions and the Authority to Prosecute Unlawful Acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad) provides judicial limitations (Yadhya Kahyadya, 2021). If BPN NTB cancels the certificate without a legal basis, the landowner can file a lawsuit with the PTUN. This PERMA emphasizes that the court has the authority to assess whether the administrative action of BPN NTB has been in accordance with procedures or is actually an unlawful act by the authorities. PERMA Number 1 of 2016 concerning Mediation Procedures in Court is also relevant if the dispute over the certificate enters the realm of litigation. BPN NTB is often called as a co-defendant. The limit of BPN's authority here is compliance with mediation decisions or judges' decisions. BPN NTB is not authorized to interpret court decisions unilaterally; They are obliged to carry out the order of cancellation or restoration of rights in accordance with the final and binding court decision.

In judicial practice, there is often a clash between the administrative authority of the BPN and the civil authority of the district court. PERMA emphasizes that if the dispute is about ownership, then it is the authority of the District Court. The Regional Office of BPN NTB must wait for the civil decision before taking administrative action to cancel. The action of BPN NTB that cancels the certificate while the judicial process is underway (sub-judice) can be considered as contempt of court (Nurokhim et al., 2021). The Supreme Court's regulation regarding simple lawsuits or administrative objection mechanisms emphasizes that every action of certificate cancellation by BPN NTB must provide space for the public to defend themselves. This limitation guarantees the principle of *audi alteram partem* (listen to the opponent). If the Regional Office of BPN NTB cancels the right without providing an opportunity for the certificate holder to provide clarification or rebuttal, then the decision is vulnerable to being overturned by a judge because it violates the principles of legal certainty and citizen protection.

3.2 Analysis of the Decree of the Regional Office of the National Land Agency of West Nusa Tenggara Province Number: 158/SK-52.MP.02.03/X/2022.

The development of the principle of legality over time has given birth to several theories that give new nuances to its application. Traditionally, the principle of legality Demand clarity, certainty, and prohibition reced. However, in modern practice, this principle faces the challenge of adapting to the dynamics of a rapidly evolving society, such as transnational crime, technology-based crime, and the application of the law International. This challenge gives rise to a discourse on the flexibility of applying the principle of legality without compromising its basic principles, namely the protection of human rights and legal certainty (Said Iskandar et al., "2024).

Analysis of the Decree (SK) of the Regional Office of the National Land Agency of West Nusa Tenggara Province Number: 158/SK-52. MP.02.03/X/2022 must start from testing the principle of legality as the main pillar of the state of law. The principle of legality determines that every government action must be based on the applicable laws and regulations, which include aspects of authority, procedures, and substance. In the context of state administrative law, a state administrative decree is considered valid if it is issued by an official who has absolute and relative competence to carry out the legal action as stipulated in Law Number 30 of 2014 concerning Government Administration in Article 3 which reads:

The implementation of Government Administration is based on:

- a. legal principles;
- b. the principle of protection of human rights; and
- c. AUPB. (Law Number 30 of 2014 concerning Government Administration).

Land rights certificates in Indonesia, in accordance with Government Regulation No. 24 of 1997, are strong evidence of ownership in the land registration system that adheres to the principle of negative publication with a positive tendency, where the data in the certificate is considered correct as

long as no other party can prove otherwise in court. Based on Article 20 paragraph (1) of the Basic Agrarian Law (UUPA), a certificate of ownership is proof of land ownership that has strong legal force. Land rights certificates are the product of the application of state administrative law issued by officials of the Land Office in the region concerned. The process of issuing a Certificate is carried out through land registration managed by the Land Office, the Regional Office of the National Land Agency (BPN), or the Head of BPN of the Republic of Indonesia, depending on the type and area of land applied for. However, in its implementation, there is a potential for fatal errors by the officials concerned, either due to incompleteness of administrative procedures and supporting documents, or due to the existence of certain interests of individuals who have authority in the land sector (Rizal Iskandar Soewito and Gunawan Djajaputra, 2024).

The first review of the Decree Number: 158/SK-52. MP.02.03/X/2022 relates to the source of authority (attribution or delegation) of the Head of the Regional Office of BPN NTB. Referring to Presidential Regulation Number 48 of 2020 concerning the Ministry of Agrarian Affairs and Spatial Planning, BPN has a mandate to conduct government affairs in the land sector. Specifically, Article 3 letter g reads; Formulation and implementation of policies in the field of handling and prevention of disputes and conflicts as well as handling land cases;

The legality of the decree must be tested through procedural aspects regulated in the Regulation of the Minister of ATR/BPN Number 21 of 2020 concerning the Handling and Settlement of Land Cases. The certificate cancellation procedure is not an instant action, but must go through the stages of data research, case studies, and exposure to research results. If SK Number: 158/SK-52. MP.02.03/X/2022 was issued without going through these rigid stages, so procedurally the decision contains a juridical defect that can invalidate its validity in the eyes of the law. The cancellation decree must be based on the finding of a real administrative legal defect. Based on Article 33 paragraph (1) of the Ministerial Regulation of ATR/BPN No. 21 of 2020 states that; Cancellation of Legal Products due to administrative defects and/or juridical defects in the event that Case Handling has been carried out by the Ministry or Regional Office according to its authority according to the stages of Case Handling as referred to in Article 6 paragraph (1), no proposal is required from the Head of the Regional Office and/or the Head of the Land Office.

It is aimed at the basis for the issuance of decisions triggered by administrative defects and juridical defects in the form of overlapping certificates of perfect land rights. The object of dispute is a piece of rice field agricultural land in Sengkol Village, Pujut District, Central Lombok Regency, where on the same physical expanse there are two different certificates, namely SHM Number 1032/Sengkol/2000 and SHM Number 03656/Sengkol/2019. This situation automatically cancels the principle of singleness of land registration data that should be guaranteed by the state.

WEIGH

1. Brief history related to the application for cancellation of the certificate of ownership number: 03656 dated October 24, 2019 survey letter number 02829/2019 dated October 15, 20219 with an area of 8,282 m² in the name of LALU TAUFIKURRRAHMAN located in Sengkol Village, Pujut District, Central Lombok Regency, West Nusa Tenggara Province due to administrative defects and/or juridical cacts (overlapping land rights) between Lalu Marzan Hanafi and Lalu Taufikurrahman are
 - a. Based on the will/trust dated February 13, 2010, H. LALU SUKMAJAYA (putung) entrusted the management and ownership of the land object of dispute to his brother named LALU MASHAR to be given to LALU MARZAN HANAFI;
 - b. Then in 2013 the land object of dispute was donated to LALU MARZAN HANAFI based on a grant statement letter from LALU MASHAR dated January 26, 2013
 - c. In 2019 through the registration of systematic land (PTSL) on the same land, a certificate of ownership number 3665/village of Sengkol was issued survey letter number: 2829/sengkol/2019 dated October 15 with an area of 8,282 m² in the name of LALU TAUFIKURRRAHMAN;
 - d. LALU TAUFIKURRRAHMAN through his quasi-legal LALU ZULKIFLI, SH filed a lawsuit at the Mataram State Administrative Court on November 11, 2021 with case registration number:

48/G/2021/PTUN. MTR, decided on April 20, 2022 and has permanent legal force with the following ruling: "Declaring the Plaintiff's Lawsuit Not Accepted" with legal considerations 'that thus the essence of the legal problem in the in casu dispute is actually a ownership dispute that is in the realm of civil law, so that it does not meet the elements of the State administrative dispute cumulatively as stipulated in the provisions of article 1 Number 10 of the law of the Republic of Indonesia Number 51 of 2009 concerning the second amendment to Law No. 5 of 1986 concerning the State Administrative Court, and on this basis also in accordance with the provisions of Article 47 jo. Article 50 of Law No. 5 of 1986 concerning the State Administrative Court, the Council of Judges obtains the confidence to declare that the Mataram State Administrative Court is absolutely not authorized to examine, deciding, and resolving disputes in casu, as well as the essence of the legal problems of the plaintiff's lawsuit is the authority of the general court to examine, decide, and resolve.

2. Based on the spatial analysis of the head of the survey and measurement section of the central Lombok district land office on December 20, 2021, it is explained that there is an overlap of certificates between the title certificate number: 03656 dated October 24 2; 19 Survey Letter Number 02829/2019 dated October 15, 2019 covering an area of 8,282 m² in the name of Lalu Taufikurrahman with Title Certificate Number 1032 dated May 25, 2000, Survey Letter Number: 2874/1996 dated November 29, 1996 covering an area of 7,850 m² in the name of H. Lalu Sukmajaya because the coordinates of the property certificate Number 1032 have not been plotted/mapped in the web KKP data at the central Lombok district land office. (Decree of the Head of the National Land Area Office of West Nusa Tenggara Province, 2022).

Chronologically, the older rights (priority) are owned by Lalu Marzan Hanafi based on SHM Number 1032 which was registered since 1996 in the name of H. Lalu Sukmajaya. Meanwhile, SHM Number 03656 in the name of Lalu Taufikurrahman was only issued in 2019 through the Complete Systematic Land Registration (PTSL) program. In land law, certificates issued earlier have stronger evidentiary power, so the issuance of a second certificate on the same object is a fatal mistake in the land registration process.

The cause of this overlap was identified as a technical failure in the land information system at the Central Lombok Regency Land Office. Based on spatial analysis, it is known that the coordinates of SHM Number 1032 have not been plotted or mapped in the KKP Web (Computerized Land Office) data. Due to the absence of digital spatial data, the land registration officer in 2019 did not detect the existence of existing property rights, so the new SHM was still processed and issued incorrectly.

The success of the parties in winning the State Administrative dispute is highly dependent on the evidence submitted by the parties in the trial, because the decision taken by the Panel of Judges/Judges is based, among other things, on the assessment of the evidence submitted by the parties who are Dispute (Jiwantara & Hasanah, 2025). This decision is also strengthened by consideration from the judicial realm through the PTUN Decision São Paulo Number: 48/G/2021/PTUN. MTR. Although the panel of judges of the PTUN stated that the lawsuit was not accepted because the essence of the problem was an ownership dispute (civil) which was not the absolute authority of the PTUN, this consideration actually provided legitimacy for BPN to take administrative action. This is because the PTUN expressly states that the problem is an overlap of rights that demand a settlement outside of purely state administrative disputes.

The cancellation authority carried out by the Regional Office of BPN NTB in this decision relies on Article 35 letter "i" (overlapping land rights) Regulation of the Minister of ATR/BPN Number 21 Year 2020. Based on The results of the case title, it was concluded that administrative action in the form of cancellation or revocation of the certificate needed to be carried out in order to restore the status of the land to its original state. This proves that the Regional Office of BPN NTB acts as a supervisory authority that has a corrective function for administrative products that are legally defective. Cancellation of legal products can only be done if it is proven that there are errors in announcements, measurements, or mapping. Substantial analysis of Decree Number: 158/SK-52. MP.02.03/X/2022

demands that there be a harmony between the reasons for cancellation listed in the "Considering" consideration with the legal facts found on the ground, in order to avoid acts of abuse of authority (*Misuse of power*) (Kurniawan, 2022). Based on the Decree of the Head of the National Land Area Office of West Nusa Tenggara Province Number: 158/SK-52. MP.02.03/X/2022 has decided:

Setting : Decree of the Head of the National Land Area Office of West Nusa Tenggara Province regarding the cancellation of the title certificate number 03656 dated October 24, 2019 survey letter number: 02829.2019 dated October 17, 2019 with an area of 8,282 m² in the name of LALU TAUFIKURRAHMAN located in Sengkol Village, Pujut District, Central Lombok Regency, West Nusa Tenggara Province due to administrative defects and/or juridical defects (overlapping land rights certificates)

First : a. revoking the certificate of ownership number 03656 dated October 24, 2019 Survey Letter Nomo: 02829/2019 dated October 17, 2019 with an area of 8,282 m² in the name of LALU TAUFIKURRAHMAN located in Sengkol Village, Pujut District, Central Lombok Regency, West Nusa Tenggara Province due to administrative defects and/or juridical defects (overlapping land rights certificates);

a. Canceling the certificate of title number 03656 dated October 24, 2019, survey letter nomo: 02829/2019 dated October 17, 2019, an area of 8,282 m² in the name of LALU TAUFIKURRAHMAN, located in Sengkol Village, Pujut District, Central Lombok Regency, West Nusa Tenggara Province and returning the status of the land to its original status;

b. Declaring that the certificate of ownership number 03656 dated October 24, 2019, survey letter nomo: 02829/2019 dated October 17, 2019 with an area of 8,282 m² in the name of LALU TAUFIKURRAHMAN located in Sengkol Village, Pujut District, Central Lombok Regency, West Nusa Tenggara Province is not valid as proof of legal land rights;

Second : Orders the head of the Central Lombok Regency Land Office to:

a. Cross out the certificate of title Number 03656 dated October 24, 2019 survey letter Number: 02829/2019 dated October 17, 2019 with an area of 8,282 m² in the name of LALU TAUFIKURRAHMAN located in Sengkol Village, Pujut District, Central Lombok Regency, West Nusa Tenggara Province as per the first dictum on the land book, general register and list of contents in the land registration system;

b. Announce the content of the first dictum in the local daily newspaper for the application fee 1 (one) time within a period of 30 (thirty) days.

Third : This decision is valid as stipulated with the provision that if there is an error/error in this determination, it will be corrected accordingly. (Decree of the Head of the National Land Area Office of West Nusa Tenggara Province, 2022).

In the perspective of progressive law, the principle of legality is not only interpreted textually, but also substantively to achieve justice. SK Number: 158/SK-52. MP.02.03/X/2022 should reflect the benefits for the order of land administration in West Nusa Tenggara. However, such benefits must not come at the expense of the protection of citizens' land rights acquired through lawful procedures. Synchronization between the norms in the decree and the laws and regulations above it is the key to its legality. Accuracy in identifying the object of cancellation in the decree is also a parameter of legality. Error in writing the certificate number, location, or identity of the owner in the Decree Number: 158/SK-52. MP.02.03/X/2022 may cause the decision to lose its legally binding force. The principle of legality requires precision in determining the object (*objectum lite*) so as not to cause losses to other parties who are not involved in the administrative dispute. SK Number: 158/SK-52. MP.02.03/X/2022 can be declared to meet the principle of legality if it is cumulatively proven to be issued by an authorized official, follows the formal procedures stipulated in the Ministerial Regulation of ATR/BPN No. 21 of 2020, and does not contradict the content material in Government Regulation No. 24 of 1997. A discrepancy in

one of these aspects will have implications for the legal status of the decree as a state administrative product that is null and void or can be canceled through the State administrative court.

3.3 Legal Implications of Certificate Cancellation by the Regional Office of the National Land Agency on Legal Certainty and Protection of Land Rights for Certificate Holders

Land parcel overlap occurs when two or more title certificates are issued for the same parcel of land or when the boundaries of the land listed in the certificate intersect with other parcels of land that already have a certificate (Yulias Erwin et al., 2019). The basis of rights is proof of a commercial transaction between the landowner and the buyer. This situation can be caused by various factors, such as administrative errors in measurements, data inconsistencies in the land registration system, or even fraudulent practices in the certificate issuance process. In some cases, land overlap is also caused by overlapping authority between agencies authorized in land management, for example between the National Land Agency (BPN) and local governments or other agencies that have authority in managing land assets (Ardiansyah Ardiansyah, 2024).

Cancellation of title certificates due to overlapping land plots can be done through certain mechanisms. One of the legal bases that can be used is the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (Permen ATR/BPN) Number 21 of 2021 concerning the Handling and Settlement of Land Cases. This regulation provides guidelines for BPN in handling land cases, including cases of double or overlapping certificates. In addition, the cancellation of the certificate of ownership can also be carried out based on Article 126 of the Regulation of the Minister of Agrarian Affairs/Head of BPN Number 3 of 1997 concerning the Provisions for the Implementation of Government Regulation Number 24 of 1997 which states that certificates that are proven to have been issued illegally can be canceled through the decision of the authorized official or a court decision (Greater Ganges Mahadhika et al., 2025).

Proof is a stage that has an important role for the judge to make a decision. The evidentiary process in the trial process can be said to be the central part of the examination process in court (Lalu Samsu Rizan et al., 2022). The existence of double certificates is still a problem and cannot be solved because there are several legal and non-legal factors. In terms of theory and the opinions of experts, the factors that cause the occurrence of double certificates are as follows:

1. Double certificates can occur due to some of the following technical errors:
 - a. When measurements or research are carried out in the field, the applicant intentionally or inadvertently indicates the location of the land and the boundaries of the land incorrectly.
 - b. The existence of a letter of proof or recognition of rights behind the scenes is proven to contain untruth, falsehood or is no longer valid.
 - c. For the area concerned, a land registration map is not available.
 - d. The case of issuing more than one certificate for a piece of land can also occur on inherited land. The background of the case is an inheritance dispute, namely that the owner before his death had been sold to another party without the knowledge of his children and had issued a certificate in the name of the buyer, and then his heirs certified the same land, resulting in a double certificate, because the previous certificate had not been mapped

The occurrence of double certificates is one of the reasons for the overlap in the issuance of land rights certificates which is called administrative law defects. As stated in Article 107 of the Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 9 of 1999 concerning Procedures for the Granting and Cancellation of Land Rights and Management Rights, a land rights certificate that is flawed by administrative law is a land rights certificate that contains the following errors, among others:

- a. Procedural errors
- b. Errors in the application of laws and regulations
- C. Wrongful Subject of Rights
- d. Error of the object of rights

E. Wrong Type of Rights

f. Broad Calculation Error

g. there is overlap of land rights

h. juridical data and physical data are incorrect; or

i. Other errors of an administrative nature

2. The occurrence of double certificates is influenced by the existence of internal factors and external factors. These factors are seen from within the Land Office agency. The internal factors in question are.

- a. The non-implementation of the UUPA and its implementing regulations is consequential and responsible in addition to the fact that there are still people who do it for personal gain. These factors are seen from within the Land Office agency.
- b. The lack of functioning of the supervisory apparatus so that it provides opportunities for subordinates to act misappropriately in the sense of not carrying out their duties and responsibilities according to their oath of office.
- c. The inaccuracy of the Land Office officials in issuing land certificates, namely the documents that are the basis for the issuance of certificates, has not been carefully examined, which may not have met the requirements as determined by the applicable laws and regulations.
- d. The Land Office as a Government Agency in making and issuing land certificates is highly dependent on data issued by other government agencies such as local/village governments and tax service offices (Tamami Dirga Jeis et al., 2021).

The juridical status of the certificate holder after the issuance of the administrative cancellation decision by the BPN Regional Office has undergone a fundamental change from the right holder to a subject who no longer has a valid right basis for the land. Based on the KESATU letter b in Decree Number: 158/SK-52. MP.02.03/X/2022, the cancellation of the Certificate of Ownership (SHM) Number 03656 has implications for the return of the land status to its original state. This means, legally, all legal relations between the holder of the canceled certificate and the object of the land are terminated immediately from the moment the decision is determined by the authorized official.

Administratively, this cancellation puts the certificate in question at no longer valid status as proof of legal land rights. The logical consequence of this status is that it is the obligation of the Land Office to do Cross-out in the Land Book, General Register, and Table of Contents in the land registration system. With the strikeout, the juridical data previously recorded in the state system is abolished, so that the certificate holder no longer has the legitimacy to carry out any legal act on the land, such as selling, granting, or making it collateral for the debt (Tamami Dirga Jeis et al., 2021).

From the perspective of legal protection, this administrative annulment is a form of application of the principle *contrarius actus*, where the agency Publish The certificate has the authority to cancel it if a legal defect is found. For the holder of the canceled right, the judicial status changes become Parties who do not have legal protection of the object the Because the certificate is declared to contain an administrative or juridical defect, in this case it is in the form of a perfect overlap with the property of others that existed before. This status often puts former rights holders in a vulnerable position to land vacate lawsuits or claims for damages from rightful rights owners. The National Land Agency which is a Government Agency that is tasked with issuing a Certificate of Ownership of Land and is also responsible if there is an error in issuing a Certificate. The cancellation of a Certificate of Title to Land carried out by the National Land Agency is due to the existence of factors, namely, due to the defect of administrative law and because of following a court decision that has acquired permanent legal force (Suslianto et al., 2020).

Even if the certificate has been cancelled, the former rightholder still has the constitutional right to test Legality The cancellation decision went through the judicial route. However, in cases related to Stuart O'T Number: 158, legal remedies through the Mataram State Administrative Court have been carried out and declared unacceptable because the essence of the problem is an ownership dispute that enters the civil realm. This emphasizes that the juridical status of the former certificate holder after

administrative cancellation is a legal subject who must prove his ownership claim through the general court if he still wants to defend his rights in a civil manner. Post-cancellation also has an impact on third parties who may have an interest in the land. If the land whose certificate is canceled is in the process of transferring rights, then all land administration processes are automatically stopped and cannot be followed up. The State, through BPN, expressly revokes the guarantee of legal certainty previously given to the holder of the certificate in order to restore the rights of other parties who juridically have an older and legal ownership history (priority) (Annisa et al., 2024).

From a juridical point of view, the former certificate holder after cancellation is the loss of all administrative rights and authority over the land. This cancellation action is an effort to restore the correctness of juridical data for the sake of upholding the certainty of land law in the West Nusa Tenggara region. The former rightholder is no longer seen as the owner by the state, and the only way to restore his status is through the proof of the new property before a panel of civil judges in the general court. In accordance with the provisions of the legal perspective, this case is more appropriately categorized as an administrative dispute related to the validity of the issuance of land certificates, as stipulated According to Article 32 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, certificates are strong evidence, but they are not absolute and can be canceled if it is proven that there is an error in its issuance. This is in line with the opinion of Boedi Harsono (2008) who stated that administrative errors in the issuance of land certificates can be the basis for cancellation, especially if it is proven that there is a violation of procedures or the rights of other parties that are not protected in the issuance process.

Conflicts of authority in the settlement of land disputes often arise as a result of the wedge of competence between the administrative realm run by the National Land Agency and the judicial realm in the courts. Theoretically, BPN has the administrative authority to cancel certificates that contain legal defects through the principle of *contrarius actus*. However, when a land case is also being or has been processed in court, the question arises regarding the limits of the authority of state administrative officials in executing cancellations without exceeding the authority of the judge. This conflict is complicated by differences in the objects of dispute, where the PTUN examines the validity of administrative procedures, while the General Court (Civil) examines substantive property rights (National Land Agency of NTB Province, 2022).

The insynchronization between the administrative decision of the BPN NTB Regional Office and the possibility of future civil judgments creates chronic legal uncertainty for the community. Therefore, the synergy between Article 32 paragraph (2) of PP 24/1997 which protects rights holders with the authority to cancel in the Ministerial Regulation of ATR/BPN 21/2020 must be managed carefully so that there is no overlap of authority. The mutually negating (Riski Apriani and Abd. Rais Asmar, 2022). The implementation of government in a state of law places state administration officials with the obligation to act in accordance with the principles of legality, legal certainty, and protection of the interests of the community. Within the framework of state administration, government officials are given the authority to make decisions and take administrative actions as a means of implementing effective and equitable public services. Forms of abuse of authority by state administrative officials can be categorized as acts of exceeding the limits of established authority, mixing of authority, and arbitrary use of authority without a clear legal basis. The existence of the Mataram PTUN Decision Number: 48/G/2021/PTUN. MTR declaring "Lawsuit Not Accepted" (*Niet Ontvankelijke Verklaard*) due to the element of ownership dispute should be a signal for BPN to postpone administrative action until there is a civil decision. The conflict occurred when BPN actually used the PTUN decision as legitimacy to carry out unilateral cancellation through the *contrarius actus* procedure. The action of BPN that continues to execute the cancellation while the rights dispute is still ongoing can be categorized as an act beyond its authority (*ultra vires*), because administrative officials do not have absolute competence to terminate or extinguish a person's civil rights protected by Article 32 paragraph (2) of Government Regulation No. 24 of 1997.

4. CONCLUSION

The following conclusions are compiled based on the formulation of the problem in the research manuscript conducted as follows

The administrative authority of the Regional Office of the National Land Agency (Kanwil BPN) of West Nusa Tenggara Province in the cancellation of land rights certificates is limited by regulations, especially Article 32 paragraph (2) of Government Regulation No. 24 of 1997 which sets a five-year deadline for physical and juridical data protection. Administratively, this authority only covers cancellations due to administrative legal defects such as errors in measurement or mapping procedures, and must not exceed the absolute competence of the civil courts if the dispute concerns property rights. Such cancellation must be carried out through strict procedures, including in-depth verification of physical and juridical data, in order to avoid arbitrary or *ultra vires actions*.

Decree (SK) of the Regional Office of BPN NTB Number: 158/SK-52. MP.02.03/X/2022 has formally fulfilled the legality aspect of the authority as it was issued by a competent official based on the mandate of the central delegation. However, materially, the decision is considered to injure the General Principles of Good Governance (AUPB), especially the Principle of Legal Certainty and the Principle of Prudence, because it cancels certificates born from the state strategic program (PTSL) without going through a judicial decision with permanent legal force (*inkracht*). This action shows a lack of proportionality test in considering the substantive rights of certificate holders that are supposed to be protected by the state.

The legal implication of the cancellation of the certificate by the BPN Regional Office is the loss of juridical status and legal subject ownership rights over the related land immediately. This has an impact on the weak public trust in the guarantee of legal certainty provided by land certificates as authentic documents of state products. In addition, cancellation without proper procedures opens a gap for the emergence of social and economic instability, so that regulatory harmonization is needed so that administrative actions continue to prioritize the protection of human rights and justice for the community.

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Al-Qur'an Surat Surah Al-Baqarah Ayat 188.

