



(MUDIMA)



Legal Consequences of a Statement Letter for the Transfer and Acceptance of Disputed Land Rights

Sindy Sri Widyawati S. Brahmana^{1*}, Amelia Sri Kusumadewi², Dyah Aju Wisnuwardhani³
Brawijaya University

Corresponding Author: Sindy Sri Widyawati S. Brahmana sindysw@student.ub.ac.id

ARTICLE INFO

Keywords: Land Rights Transfer, Legal Statement Letter, Land Dispute, Normative Inconsistency, PPAT Authority

Received : 3 April
Revised : 19 May
Accepted : 19 June

©2025 Brahmana, Kusumadewi, Wisnuwardhani: This is an open-access article distributed under the terms of the [Creative Commons Attribution 4.0 International](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

The increasing public demand for land is closely linked to the transfer of land rights. Ideally, no legal action should be taken regarding the transfer of rights over land that is currently under dispute in court. However, normatively, such transfers are permitted under the revised ministerial regulation. Article 39 paragraph (1) letter F of Government Regulation No. 24 of 1997 concerning Land Registration states that "a Land Deed Official (PPAT) must refuse to draw up a deed if the object of the legal act is in dispute concerning its physical and/or juridical data." In contrast, Article 126 paragraph (2) of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 16 of 2021 allows the registration of land rights transfer under dispute, provided the parties involved issue a "statement letter" from both the transferor and transferee. This research addresses the issue of normative inconsistency between these two provisions. The study applies normative juridical research with statutory and conceptual approaches. The legal materials used include primary, secondary, tertiary sources, and interviews. Data were analyzed through legal interpretation, systematization, and evaluation, supported by literature review from various academic libraries and legal documentation centers

INTRODUCTION

As a state governed by the rule of law, any social phenomenon with the potential to trigger instability must be effectively anticipated and mitigated through law as an instrument of social control Wignjosoebroto (2013). In Roscoe Pound's perspective, the law functions as a tool of social engineering—serving to maintain societal stability and balance. Aligned with this view, a fundamental principle of the rule of law is the supremacy of law itself. As emphasized by Wicipto Setiadi in his work *Legal Development to Strengthen the Supremacy of Law*, legal supremacy aims to establish national stability, which is essential for the proper functioning of democratic mechanisms Setiadi (2012).

In line with that concept, the law should act as an effective instrument to resolve public disputes, particularly those involving access to and control over land Sutedi (2007). This principle is constitutionally reinforced in Article 28D(1) of the 1945 Constitution of the Republic of Indonesia, which guarantees every citizen the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law.

Historically, land registration activities have been normatively outlined in Article 19(1) of Law No. 5 of 1960 on the Basic Agrarian Law (UUPA), which mandates the state to conduct land registration throughout Indonesia to ensure legal certainty. The process involves sequential stages, starting with land measurement and mapping, recording transfers of rights and new rights, and finally the issuance of land certificates that serve as strong evidence of ownership or control.

In evidentiary law, a land certificate's legal strength must be tested against the principles of Indonesia's land registration system, which adopts a public notification model. This model determines whether certificates have strong or absolute evidentiary value based on the accuracy and validity of the data presented Tyesta (2020).

The positive publication system in land registration emphasizes registration as a source of legal recognition. Data recorded in land registers—both physical and juridical—are presumed accurate upon certification, and the registered holder is regarded as the lawful owner. However, unlike countries that adopt a pure positive or negative system, Indonesia implements a hybrid approach. While a certificate serves as strong evidence, it is not

absolute, as stipulated in Article 32(1) of Government Regulation No. 24 of 1997. Certificates are valid as long as the listed data correspond with the land book and survey documents.

Moreover, Article 32(2) sets a five-year period during which objections may be filed. If no objections are raised in writing to the certificate holder and Land Office within this period, the certificate becomes legally incontestable. This introduces a tension between administrative authorization and legal finality, especially when certificates are issued for land that remains in dispute.

A more problematic development arises with Article 126(2) of Ministerial Regulation No. 16 of 2021 by the Ministry of Agrarian Affairs/National Land Agency (ATR/BPN), which permits land rights transfers—despite ongoing disputes—provided that both parties sign a statement letter. Article 126(3) outlines the statement's minimum content: identity of both parties, acknowledgment of the dispute status, and consent to abide by final court decisions including all legal consequences.

Substantively, this introduces a *conditio resolutoria*—a conditional cancellation clause—implying that the transfer may be invalidated if a final court ruling dictates otherwise. This contradicts the core function of land registration: to ensure certainty in ownership. Hence, while administratively allowed, such transfers should be reconsidered from the standpoint of legal certainty and protection.

The statement letter provision implies a temporal limitation for legal objections to registered land rights. As observed by Yulianto (n.d.), such limitations uphold justice and certainty while encouraging timely legal responses. This underscores the importance of accurate and principled registration practices that reflect the legal and physical status of land.

Moreover, Article 1(12) of Government Regulation No. 24 of 1997 defines land data maintenance as the process of updating legal and physical data in the land register following any changes. Nevertheless, data from the Ministry of ATR/BPN (2024) indicates 5,973 unresolved land cases nationwide, including 1,664 disputes, 60 lawsuits, and 4,249 conflicts—highlighting ongoing challenges in ensuring legal certainty through registration.

The role of Land Deed Officials (PPAT) is critical in this context. Article 39(1)(f) of Government Regulation No. 24 of 1997 prohibits PPAT from drafting deeds when the land object is under dispute. This is a form of legal risk mitigation and reflects professional responsibility and due diligence in land administration.

The author argues that a normative inconsistency exists between statutory regulations: while PPAT is prohibited from acting in dispute cases under the 1997 Regulation, the 2021 Ministerial Regulation allows registration with a statement letter. This contradiction invites legal uncertainty and undermines the fundamental principle of secure land ownership.

Accordingly, this article investigates the legal consequences of statement letters used in the transfer and registration of disputed land rights, with a focus on their potential to generate legal conflicts and their implications for legal certainty and procedural consistency.

METHODS

This research adopts a normative juridical method, which is a type of legal research based on literature studies and analysis of positive legal norms. The study applies two main approaches: the statute approach and the conceptual approach. The statute approach is used to examine legal regulations relevant to the issue under investigation, while the conceptual approach analyzes legal doctrines and theoretical perspectives to reinforce juridical reasoning. The legal materials employed in this study consist of primary legal materials, such as statutory regulations that serve as the principal legal foundation; secondary legal materials, including legal literature, academic journals, scholarly articles, and opinions of legal experts; tertiary legal materials, such as legal dictionaries and encyclopedias; and additional legal materials obtained through informal interviews to enrich the practical dimensions of the research.

Data collection was conducted through library research by exploring various sources related to the legal position of statement letters in the transfer of land rights. This literature review was carried out at several institutions and platforms, including the Legal Documentation and Information Center (PDIH) of the Faculty of Law, Universitas Brawijaya, the Central Library of Universitas

Brawijaya, the Malang City Public Library, and online legal literature databases. The data analysis technique applied in this study is qualitative in nature, involving the processes of legal description to elaborate relevant legal provisions and factual contexts, legal interpretation with a focus on systematic interpretation within the legal system, legal systematization to structure legal norms coherently, and legal evaluation to assess the applicability and sufficiency of norms in addressing the identified legal issues. Through this methodological approach, the study aims to provide both theoretical insight and practical contributions in assessing the validity of land rights transfer registration amid ongoing disputes within the framework of Indonesia's positive law.

RESULTS AND DISCUSSION

The validity of the statement letter regarding the transfer and acceptance of land rights over land that is the object of a court dispute is determined by several key elements. To examine this matter, the author divides it into two main requirements: subjective and objective conditions.

First, from the perspective of subjective conditions, Article 126 paragraph (2) of the Minister of ATR/BPN Regulation No. 16 of 2021 stipulates that the agreement of the parties is reflected through joint signatures on the statement letter. This provision is in line with Article 1875 of the Indonesian Civil Code, which states that a private deed gains evidentiary strength if it is signed by the parties involved. Furthermore, regarding the legal capacity of the parties involved, reference is made to the Circular Letter of the Minister of ATR/Head of BPN No. 4/SE/I/2015 concerning the Legal Age Limit in Land Services, which considers this requirement fulfilled if the parties have reached the legal age as regulated.

Second, from the perspective of objective conditions, the validity of an agreement requires a lawful object and cause. In this context, the statement letter for the transfer of land rights that remains the subject of a legal dispute is considered invalid because it contradicts statutory regulations. This contradiction is based on the inconsistency between the provisions of Article 126 paragraph (3) letters b and c of the Minister of ATR/BPN Regulation No. 16 of 2021, which permits the transfer through a statement letter, and Article 39 paragraph (1) letter f

of Government Regulation No. 24 of 1997, which explicitly prohibits a Land Deed Official (PPAT) from executing a deed for land that is under dispute. Based on this normative contradiction, the statement letter can juridically be classified as a void agreement (void ab initio) due to its conflict with applicable legal provisions.

A State Administrative Decision (Keputusan Tata Usaha Negara or KTUN) is a legal concept explicitly regulated in Article 1 point 9 of Law of the Republic of Indonesia No. 51 of 2009 concerning the Second Amendment to Law No. 5 of 1986 on State Administrative Court. In that provision, a KTUN is defined as a written determination issued by a state administrative agency or official, containing state administrative legal actions, based on applicable laws and regulations, which is concrete, individual, and final in nature, and results in legal consequences for an individual or private legal entity.

From this formulation, several essential elements inherent in a KTUN can be identified:

1. A written determination, meaning there must be a form of decision that can be proven by documentation.
2. Issued by a state administrative agency or official, which is an entity performing governmental functions.
3. Based on laws and regulations, indicating the formal legality of the decision.
4. Concrete in nature, meaning the object of the decision is clear and real.
5. Individual in nature, referring to a specific legal subject, not general.
6. Final in nature, indicating that the decision is not temporary or subject to further approval.
7. Causes legal consequences, meaning the KTUN results in the establishment or

alteration of rights and/or obligations for a particular party.

Accordingly, the KTUN becomes the primary object in administrative court disputes, as its existence directly affects the legal standing of citizens or private legal entities in relation to the administrative actions of the state.

In a deeper analysis of the legal consequences of registering a transfer of land rights based on a statement letter for the transfer and acceptance of rights over land that is still being disputed in court, the author will conduct the discussion through the following sub-sections:

Registration of Land Rights Transfer as a State Administrative Decision (KTUN)

To address the legal consequences of registering the transfer of land rights based on a statement letter, the first step that must be taken is to analyze whether such registration can be classified as a State Administrative Decision (KTUN). This analysis is crucial to determine whether the administrative act in the form of registration by the land office officials fulfills the elements of a KTUN as stipulated in Article 1 point 9 of Law No. 51 of 2009. Therefore, a legal parameter or benchmark is needed to assess whether an administrative act by an official or government agency can be categorized as a KTUN.

The results of this assessment will form the basis for determining whether the registration action may produce lawful consequences and whether it may become the object of a claim within the jurisdiction of the administrative court. The differences in definition and new elements regarding KTUN after the enactment of Law No. 30 of 2014 on Government Administration are summarized in the table below Wahyunadi (n.d.):

Table 1. Comparison of KTUN Elements

Elements of KTUN (Article 1 point 9, Law No. 51 of 2009)	Interpretation of KTUN (Article 87, Law No. 30 of 2014)
a. Written determination.	a. Written determination including factual actions.
b. Issued by a state administrative agency or official.	b. Decision by a state agency or

<ul style="list-style-type: none"> c. Contains administrative legal action; d. Based on applicable regulations; e. Concrete, individual, and final in nature. f. Results in legal consequences for a person or entity. 	<ul style="list-style-type: none"> official in executive, legislative, judicial, or other public institutions. c. Based on legislation and the General Principles of Good Governance (AUPB). d. Final in a broader sense. e. Decision with the potential to cause legal consequences. f. Decision applicable to members of the public.
--	---

Decisions by State Administrative Agencies and/or Officials in the Executive, Legislative, Judicial, and Other Governmental Branches

Continuing with the next element, it is known that the scope of KTUN includes several branches of state administration. Related to the scope of this research, the author explains that the process of registering land rights transfers falls under the KTUN category within the executive domain. This is based on the authority outlined in Article 6 of Presidential Regulation of the Republic of Indonesia No. 176 of 2024 concerning the Ministry of Agrarian Affairs and Spatial Planning, which states:

"In carrying out the duties referred to in Article 5, the Ministry shall carry out functions including: formulation, determination, and implementation of policies in the field of spatial planning, land surveying and mapping, determination of rights and land registration, agrarian arrangement, land acquisition and land development, control and regulation of land and space, as well as the handling of land disputes and conflicts."

Based on this provision, it can be described that one of the functions and duties of the Ministry of ATR/BPN, as an institution implementing government affairs in land registration, clearly places it as a government organ executing state administrative decisions in land registration. According to Van der Pot, one of the determining factors of the validity of a state administrative decision is that it must be issued by an authorized body (bevoegd gezag) Afifah, Suhadi, & Irawaty (2024). Thus, the process of land rights transfer registration by the Ministry of ATR/BPN is a form of duty execution whose authority derives from the Presidential Regulation of the Republic of Indonesia.

Based on Legislation and General Principles of Good Governance (AUPB)

Continuing to the next benchmark for the validity of state administrative decisions, it can be explained that statutory provisions and the general principles of good governance influence the existence of a KTUN product (Rachmawati, Choirinnisa, & Latif (2021). Concerning the

registration process of land rights transfer as a KTUN, the author refers to the statutory provisions that form the normative basis for implementing such registration.

The concept of land rights transfer registration has existed since the enactment of Article 19 paragraph (2) of Basic Agrarian Law (UUPA), which states:

“(2) The registration referred to in paragraph (1) of this article includes:

- a. measurement, mapping, and recording of land.
- b. registration of land rights and the transfer of such rights.
- c. issuance of certificates of title, which serve as strong evidence.”

The registration of land rights transfer is thus a state administrative act carried out based on legal norms, especially those concerning land administration as formulated in the UUPA and Ministerial Regulations of ATR/BPN.

Legal Consequences of Land Rights Transfer Registration Based on Article 126 Paragraph (2) of Ministerial Regulation No. 16 of 2021

As for the binding nature of legislation, Marida Farida Indrati Soeprapto explains that a law, once enacted, only becomes valid and generally binding upon its promulgation in the State Gazette Soeprapto (2007). Further, Article III of the Ministerial Regulation No. 16 of 2021 states:

“This Ministerial Regulation shall take effect on the date of its promulgation.” This regulation was stipulated on 29 April 2021 and promulgated on 23 August 2021. Therefore, since its promulgation and until the time of writing this research, no regulation has repealed or rendered Article 126 paragraph (2) of the Ministerial Regulation No. 16 of 2021 inapplicable. Thus, the provision continues to be considered positive law and serves as the normative guideline for registering land rights transfers.

In connection with this statement, as a manifestation of the State which is established with the purpose, function, and duty to serve the public, the government is granted the authority to carry out administrative actions in performing its duties. The government is a legal subject with rights and obligations Phinesia (2024). Accordingly, if there is a request for land rights transfer registration over disputed land that follows the procedures stipulated in Article 126 paragraphs (2) and (3) of Ministerial

Regulation No. 16 of 2021, the Land Office administratively cannot refuse the request unless a regulation repeals the said provision. If the process of land rights transfer registration over disputed land refers to Article 126 paragraph (2) of Ministerial Regulation No. 16 of 2021, then in principle, such a transfer process may be considered legally valid until a court declares it otherwise.

CONCLUSION

The registration of the transfer of land rights over land that is the object of an ongoing court dispute retains legal force and is considered valid insofar as there is no final and binding court decision that explicitly annuls or declares it invalid. This provision is rooted in the principle of *praesumptio iustae causa* (the presumption of validity) in administrative law, which recognizes that every administrative action taken by a competent authority is presumed lawful until proven otherwise through a legal mechanism. Thus, the mere existence of a dispute does not automatically negate the validity of registration. Any party who feels disadvantaged by such administrative action is obliged to pursue legal remedies through the court system to obtain a formal judicial annulment. According to Article 126 paragraph (3) of the Ministerial Regulation of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency No. 16 of 2021, the legal consequence of registering a transfer of land rights based on a statement letter, even if the land is still subject to legal proceedings, remains valid until a court decision legally overturns the process.

REFERENCES

- Afifah, B., Suhadi, S., & Irawaty, I. (2024). Legal Security and Legal Protection in the First Time Land Registration Publication System in Indonesia. *International Journal of Research and Innovation in Social Science*, VIII(VIII), 4469–4477.
<https://doi.org/10.47772/IJRISS.2024.808034>
- 3
- Phinesia, E. L. (2024). Penerapan Asas Praduga Keabsahan (Vermoeden Van Rechtmatigheid Praesumptio Iustae Causa) Dalam Pengujian Penyalahgunaan Wewenang di Pengadilan

- Tata Usaha Negara. *Jurnal Darma Agung*, 32(5).
- Rachmawati, F. A., Choirinnisa, S. A., & Latif, L. (2021). Integrated Land Registration System: Between Legal Certainty and Challenges (Case of Semarang City). *Indonesian Journal of Advocacy and Legal Services*, 3(2), 217–232. <https://doi.org/10.15294/ijals.v3i2.45895>
- Setiadi, W. (2012). Pembangunan hukum dalam rangka peningkatan supremasi hukum. *Jurnal Rechtsvinding*, 1(1), 14.
- Soeprpto, M. F. I. (2007). *Ilmu Perundang-Undangan: Proses dan Teknik Pembentukannya*. Yogyakarta: Kanisius.
- Sutedi, A. (2007). *Peralihan hak atas tanah dan pendaftarannya*. Jakarta: Sinar Grafika.
- Tyesta, L. T. A. L. W. (2020). Akibat hukum penggunaan sistem publikasi negatif berunsur positif dalam pendaftaran tanah di Kota Semarang. *Jurnal Notarius*, 13(2), 790.
- Wahyunadi, Y. M. (n.d.). *Kompetensi absolut Pengadilan Tata Usaha Negara dalam konteks Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan*.
- Wignjosoebroto, S. (2013). *Pergeseran paradigma dalam kajian-kajian sosial dan hukum*. Malang: Setara Press.
- Yulianto, A. (n.d.). Penerapan pembatasan penuntutan hak atas tanah untuk menjamin kepastian hukum pemegang hak. *Jurnal Notarius*, 12(1), 481.