

# RESTORATION OF THE LEGAL STATUS OF LAND CERTIFICATES DUE TO THE PPAT'S NEGLIGENCE IN APPLYING THE PRINCIPLE OF PRUDENCE

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## Abstract

This study examines the mechanism for restoring the legal status of land certificates that are legally flawed due to the negligence of Land Deed Officials (PPAT) in applying the principle of prudence in carrying out their duties. The urgency of this research is based on the increasing number of land disputes triggered by the lack of careful verification by PPATs, resulting in legally flawed deeds and certificates. This study uses a normative legal method by applying a statute approach and a case approach, focusing on an analysis of the Tangerang District Court Decision Number 1401/Pdt.G/2021/PN Tng as the object of study that has obtained permanent legal force. The results show that the PPAT's negligence in verifying the identity of the parties and the authenticity of the documents resulted in the creation of fictitious Sale and Purchase Deeds (AJB), which have implications for the unlawful transfer of rights. This negligence not only affects the validity of the deed but also invalidates the legal status of land certificates issued based on the legally flawed deed. The process of restoring the legal status of land certificates is carried out through the implementation of court decisions that have permanent legal force, accompanied by administrative steps by the National Land Agency (BPN) in accordance with the provisions of Government Regulation Number 24 of 1997 concerning Land Registration and Regulation of the Minister of ATR/BPN Number 21 of 2020 concerning Handling and Settlement of Land Cases. The novelty of this research lies in the in-depth analysis of the synergy between judicial and administrative authorities in the process of restoring the legal status of land certificates damaged due to negligence of PPAT. This research emphasizes the urgency of implementing the principle of prudence by PPAT as an important instrument in ensuring legal certainty and preventing the emergence of land disputes in the future.

**Keywords:** *Administrative Law; Legal Certainty; PPAT Negligence; Precautionary Principle; Land Disputes*

## 1. Introduction

Land is a natural asset that plays a fundamental role in human life, both as a place to live and as a source of livelihood.(Tarfı & Amri, 2021)As a vital resource, land plays a crucial role in sustaining life, both in the agricultural and non-agricultural sectors. As population growth increases, the need for land increases, not only for residential development but also for economic purposes. Therefore, the state is obliged to provide legal protection in the form of guaranteed certainty in obtaining, controlling, and enjoying land rights, to avoid conflicts and ownership disputes.(Baharudin, 2014). The strategic value of land in human life often gives rise to legal issues. To ensure legal certainty, the state implements a land registration system. This system encompasses the collection of physical and legal data, the management and storage of information, the issuance of certificates as proof of rights, and the ongoing maintenance of the data..This system is important so that the rights of land owners are legally protected, while also preventing disputes arising from unclear ownership status.(Jehubyanan et al., 2022).

In practice, the implementation of land registration falls under the authority of the Minister of Agrarian Affairs/Head of the National Land Agency (BPN). Based on Article 6 paragraph (2) of Government Regulation Number 24 of 1997 concerning Land Registration, the Head of the Land Office may be assisted by a Land Deed Making Officer (PPAT) and other appointed officials. PPAT has a central role in land registration, particularly regarding the recording of changes to legal data through the creation of authentic deeds.(Wibhawa & Dewi, 2022). Thus, PPAT is not only a partner of BPN in carrying out land registration, but also a public official who bridges the validity of legal actions of the community regarding land.(Arba, 2018).The authority of the Land Deed Official (PPAT) is regulated in Article 2 of Government Regulation Number 37 of 1998 concerning the Position of Land Deed Official (PP Number 37 of 1998). This article confirms that the PPAT carries out some land registration

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activities by creating authentic deeds as the basis for changing registration data. Legal acts that fall under the authority of the PPAT include: buying and selling, exchanging, granting, inbreng, sharing joint rights, granting building use rights or use rights over land ownership rights, granting mortgage rights, and granting authority to encumber mortgage rights. With this authority, PPATs are responsible for ensuring the validity and validity of legal actions outlined in the deed. This responsibility includes verifying the identities of the parties and examining administrative documents before rights are transferred. The principle of prudence is a primary guideline for PPATs to avoid future legal issues. This principle requires every action to be carried out with full vigilance and consideration of its consequences, both now and in the future.(Isnaini & Wanda, 2017).

The precautionary principle is relevant in the digital era, when access to information is increasingly easy but the risk of document forgery or data misuse is also increasing. Therefore, regulations governing the transfer of land rights, such as Government Regulation Number 37 of 1998, which was updated through Government Regulation Number 24 of 2016, Regulations on the Position of Land Deed Officials, and Regulation of the Head of the National Land Agency Number 1 of 2006 concerning the provisions for implementing Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Officials, emphasize the importance of this principle in every action of Land Deed Officials (PPAT). By implementing the precautionary principle, it is hoped that legal certainty and protection of landowners' rights can be guaranteed, while preventing legal disputes. Land disputes basically often arise due to injustice, legal vacuum, or inadequate legal products due to the tug of war of various interests.(Limbong, 2012) This condition shows that the resolution of land issues remains a central issue in efforts to achieve one of the goals of the state, namely the creation of a just and prosperous society, as well as in order to realize one of the goals of law according to the perspective of positive legal science which emphasizes the importance of legal certainty.(Ali, 2008).

However, in practice, not all Land Deed Officials (PPAT) consistently apply this principle. This is evident in the case involving Land Deed Official H in Tangerang City, as decided in Civil Case Number 1401/Pdt.G/2021/PN.Tng, which has obtained permanent legal force. A court decision that has permanent legal force (inkracht van gewijsde) should be implemented voluntarily by the sentenced party to maintain the credibility of the judicial institution. However, in practice, parties are often reluctant to implement the decision voluntarily, necessitating execution. Essentially, a judge's decision that can be executed is condemnatory, namely a decision containing a punishment, such as an order to surrender an item, vacate a certain land, pay a sum of money, or perform a specific action.(Mulyadi, 2009). The case began in 2004 when the plaintiffs' parents, the late Iin Kurniasih, entered into a loan agreement for Rp 300 million with Defendant I, Tonny Lim, secured by a Land Ownership Certificate (SHM) No. 2941/Cipondoh covering 1,200 m<sup>2</sup>. However, only Rp 60 million of the promised loan was disbursed, while the remainder was never disbursed.

Without the knowledge of the legal owner, Defendant I committed an unlawful act by creating a fictitious Deed of Sale and Purchase (AJB) using another party as a figure who appeared to be the land owner. The deed was made before Defendant II, PPAT H, and was used to change the name of the certificate to be in the name of Defendant I. Furthermore, the SHM was used as collateral for a loan of IDR 1.74 billion to PT Bank Mandiri (Defendant III). This act was only revealed after a police report was filed, which then caused deep trauma that led to the death of the plaintiffs' parents. An article written by Azwardi and Meysita Arum (2022) discusses the application of the principle of prudence in the preparation of authentic deeds by Land Deed Officials (PPAT) in general. This study emphasizes the PPAT's obligation to verify the authenticity of the certificate, present the parties and witnesses, and read the deed before signing. The legal consequences of not applying the principle of prudence include the possibility of the deed being revoked or even dishonorably dismissed.(Azwardi, 2022) However, this study has not yet explored how the legal status of land certificates can be restored when the negligence of the Land Deed Official (PPAT) leads to a dispute. Furthermore, research conducted by Darwin, Hamid, and Samosir (2024) more specifically highlights the application of the precautionary principle in land sale and purchase deeds, using the case study of Decision Number 248/Pid.B/2022/PN Jkt.Brt.

This study emphasizes the need for PPATs to not only adhere to formal truth but also ensure material truth.(Darwin & Hamid, 2024) However, this study stops at the aspect of dispute prevention and does not yet provide an analysis of the mechanism for restoring the legal status of land certificates if the negligence of the Land Deed Official (PPAT) is proven to have caused losses to certain parties. Meanwhile, research by Utomo and Wanda (2018) focused on the transfer of uncertified land. PPATs were deemed passive, relying on formal data without substantial verification.(Isnaini & Wanda, 2017) The author suggests that PPATs refuse to issue deeds if the data is incomplete. However, this research is limited to the transfer process for uncertified land, without discussing how the legal status of the certificate can be restored following negligence by the PPAT. Based on the above description, the research problem formulation is "How is the legal status of land certificates restored due to the negligence of PPATs in applying the precautionary principle?". Therefore, the appropriate title for this research is "Restoration of the Legal

Status of Land Certificates Due to the Negligence of PPATs in Applying the Prudential Principle." This research is important to fill the gap in studies regarding legal remedies that can provide legal certainty for land rights holders. The purpose of this research is to analyze and determine the form of restoration of the legal status of land title certificates due to the non-application of the precautionary principle by PPATs, as stated in Decision Number 1401/Pdt.G/2021/PN Tangerang.

## **2. Research Methods**

The legal research method applied in this paper is normative legal research, which focuses on the analysis of statutory regulations, including Law Number 5 of 1960 concerning Basic Agrarian Principles, Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration, and Regulation of the Head of the National Land Agency Number 3 of 2011. on the Management of Land Case Studies and Handling. Furthermore, this research also examines legal doctrine and Court Decision Number 1401/Pdt.G/2021/PN Tangerang, relevant to the issue under study. This research is prescriptive in nature, aiming to provide legal arguments for the issues at hand. The approach used includes a statute approach through a review of various relevant regulations, as well as a case approach through an analysis of court decisions that have obtained permanent legal force. The legal materials used include primary, secondary, and tertiary legal materials. The collection of legal materials was carried out through library research, while data analysis was conducted using the deductive syllogism method, namely drawing conclusions based on a major premise in the form of a legal norm and a minor premise in the form of legal facts relevant to the research problem.

## **3. Results and Discussion**

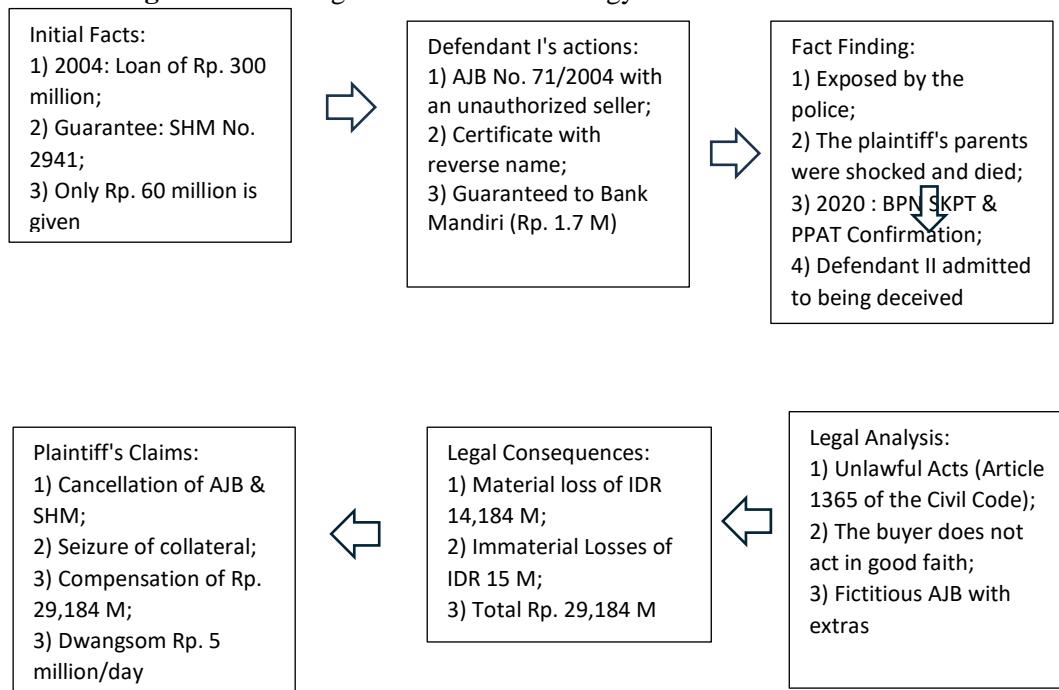
### **3.1. Case Position of Tangerang District Court Decision Number: 1401/Pdt.G/2021/PN Tng.**

This case began in 2004, the Plaintiffs' parents intended to borrow Rp300,000,000 from Defendant I with a guarantee of Freehold Certificate (SHM) No. 2941/Cipondoh in the name of Iin Kurniasih. The certificate covers an area of 1,200 m<sup>2</sup>, purchased from customary land in 1998. After the handover of the certificate, Defendant I only provided Rp60,000,000 as a down payment, while the remaining Rp240,000,000 was never given on the grounds of waiting for the bank loan disbursement. Without the owner's knowledge, the certificate was actually used as collateral by Defendant I at Bank Mandiri. On May 11, 2004, Defendant I and Defendant II as Land Deed Officials (PPAT) made a Deed of Sale and Purchase (AJB) No. 71/2004 so that the certificate was transferred to the name of Defendant I. Subsequently, the certificate was pledged to Bank Mandiri for more than IDR 1.7 billion. The Plaintiffs' parents only learned of this after being summoned as witnesses to the police, which caused shock to the point of death. In 2020, the Plaintiffs investigated the case through the Tangerang Land Agency's (BPN) SKPT and discovered abuse of authority. Defendant II even admitted to being lied to by Defendant I, who used a figurehead to pose as the legitimate owner. As of 2021, Defendant II remained cooperative and willing to assist in the cancellation of the Deed of Sale and Purchase. The Plaintiffs have also requested mediation with the BPN several times, but this has not yet been achieved. Defendant I's actions are considered unlawful, categorized as a bad faith purchaser. As a result, the Plaintiffs suffered material losses of IDR 14.18 billion and immaterial losses of IDR 15 billion, totaling IDR 29.18 billion. Therefore, the Plaintiffs request the seizure of collateral and an order for the Defendants to pay the losses, a daily fine of IDR 5 million, and all court costs. The following table presents a framework for the chronological stages of the case, Decision Number 1401/Pdt.G/2021/PN Tng.

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Figure 1. Thinking Framework Chronology of Case Decision Number: 1401/Pdt.G/2021/PN Tng



## 3.2. Restoration of the Legal Status of Land Title Certificates

Restoration of the legal status of a certificate of title to land that is defective due to the negligence of the PPAT in applying the principle of caution is a form of implementation of the supremacy of law and protection of constitutional rights to land as guaranteed in Article 33 paragraph (3) of the 1945 Constitution and Article 2 Law Number 5 of 1960 concerning Basic Agrarian Regulations. In the context of a state based on the rule of law, every court decision that has permanent legal force (inkracht) must be respected and implemented, including by the National Land Agency (BPN) as the executive organ authorized in the land sector. From a constitutional perspective, there should be no hesitation or reluctance on the part of authorized officials at the National Land Agency (BPN) to implement court decisions that have obtained permanent legal force. This is because, legally, the implementation of court decisions regarding land registration is part of the executive function, based on and in collaboration with the judiciary (court decisions). Therefore, such actions are accountable, demonstrate the implementation of the rule of law, and are considered constitutional. Likewise, if the law enforcer (judge) knows that the object of the case has had a decision with permanent legal force and has been registered through the registration of rights based on a court decision, either in the form of a record in the land book or a certificate, then for the sake of legal certainty and upholding the supremacy of law, the case regarding the object should be declared inadmissible and not continued. The Land Deed Official's (PPAT) negligence in verifying the identities and documents of the parties, as evident in Decision Number 1401/Pdt.G/2021/PN Tangerang, has resulted in legal defects in the deed of sale and purchase (AJB) and the certificate issued. Therefore, restoring the legal status of the certificate is not only interpreted as implementing the court's decision, but also as correcting the negligence of public officials, which has implications for protecting the rights of the injured landowners.

In general, provisions regarding land registration based on court decisions are regulated in Article 55 of Government Regulation Number 24 of 1997 concerning Land Registration, which states as follows:

- The Court Clerk is obligated to notify the Head of the Land Office of the contents of all court decisions that have obtained permanent legal force and the determination of the Chief Justice that results in changes to the data on registered land parcels or apartment units. This notification is made to be recorded in the relevant land register and, to the extent possible, on certificates and other lists.
- The recording as referred to in paragraph (1) can also be carried out at the request of the interested party, by attaching an official copy of the court decision which has permanent legal force or a copy of the decision of the Chief Justice which is submitted to the Head of the Land Office.
- The recording of the deletion of land rights, management rights or ownership rights to apartment units based on a court decision is carried out after obtaining a decision letter regarding the deletion of rights from the Minister or an official appointed by him, as regulated in Article 52 paragraph (1).

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In general, the legal basis for registration based on a court decision is regulated in Article 55 of Government Regulation Number 24 of 1997 concerning Land Registration. This demonstrates that one element of the BPN's authority within the framework of a state based on the rule of law has been fulfilled. According to Simorangkir, the state, including the government and other state institutions, must be based on law and be legally accountable in carrying out all its activities.(Djafar, 2016). Law here is interpreted broadly, not limited to statutes alone but also encompassing unwritten law. The concept of the Indonesian rule of law is not merely formal but also material, affirming that the state not only protects all Indonesians but also has an obligation to advance the general welfare and enhance the nation's intellectual life. Thus, a legal basis is crucial for every action in Indonesia, a country governed by the rule of law. As a nation governed by the rule of law, governance should be based on statutory regulations to prevent arbitrariness, uncertainty, and legal vacuum, and to ensure the smooth delivery of public services.

The legal basis for implementing this restoration is stipulated in Article 55 of Government Regulation Number 24 of 1997 concerning Land Registration, which requires the Court Clerk to notify the Head of the Land Office of the contents of a legally binding decision for recording in the land register and certificate. However, this provision still creates disharmony with the Head of the National Land Agency Regulation Number 3 of 2011.concerning the Management, Assessment, and Handling of Land Cases, which regulates in more detail the mechanism for registering rights based on court decisions. Differences in authority and the scope of land objects that can be recovered indicate regulatory confusion, which in practice often leads to "doubt" or "reluctance" among land officials to follow up on court decisions. A more detailed explanation of these differences can be seen in the following table.(Kurniaji, 2017)

**Table 1.** Comparison of PP No. 24 of 1997 and Head of BPN Regulation No. 3 of 2011 concerning Registration of Rights Based on Court Decisions.

No	Distinguishing Elements	Government Regulation No. 24 of 1997	Head of BPN Regulation No. 3 of 2011
1	The authority to carry out the rights registration process based on a court decision	The Head of the Land Office records changes in physical and legal data resulting from court decisions/determinations (Article 55 paragraph (1))	Head of BPN and can delegate to the Deputy or Head of the Provincial BPN Regional Office (Article 58)
2	Land status that can be registered based on a court decision	This is land that has been previously registered or has a certificate because it is recorded in the land book (Article 55 paragraph (1))	It can be land that is not yet registered (certified) because it is accommodated by issuing a certificate based on a court decision (Article 56 paragraph (1))
3	Classification of Rights Registration based on court decisions	It is part of the maintenance of land registration data (Article 55)	This can take the form of issuance, transfer of rights, and/or cancellation of land rights (Article 56 paragraph (1))
4	Types and rulings of court decisions that can be processed for land registration	It is emphasized that only court decisions that have permanent legal force without restrictions on the content/edition of the decision can be registered for rights (Article 55 paragraph (1))	It is emphasized that only court decisions that have permanent legal force and that have limitations on the wording of the decision can be registered for rights (Article 55 paragraphs (1) and (2)).
5	Rights registration mechanism (procedure)	It is simpler because it is in the form of recording changes in physical data and legal data in a book. land and certificates except for the recording of the deletion of rights, there must be a decree from the Minister (Article 55 paragraph (1), (2), and (3))	More specifically, it regulates registration based on court decisions in the form of issuance, transfer and cancellation of rights in a hierarchical manner, quality control is carried out by the Head of the BPN/Minister and finally by the Head of the Land Office (Articles 59 and 60)

**3.3. Mechanism for Restoring the Legal Status of Land Title Certificates Study Decision Number: 1401/Pdt.G/2021/PN Tangerang**

The cancellation of legal products in the form of land title certificates due to court decisions is regulated in 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 concerning the Handling and Settlement of Land Cases. Several provisions in this regulation that are relevant to this research are explained as follows. Article 29 paragraph (1) stipulates that land legal products can be cancelled by authorized officials if administrative and/or legal defects are found, or as an implementation of a court decision that has obtained permanent legal force. Furthermore, Article 30 explains that the Minister of Agrarian Affairs and Spatial Planning has the authority to issue a decision to cancel legal products issued by the Ministry or Regional Office if there is evidence of administrative or legal defects, or to implement a court decision that declares the legal product invalid. The Head of the BPN Regional Office, on the other hand, has the authority to cancel legal products issued by the Head of the Land Office, either for similar reasons or as a follow-up to a court decision. Under certain conditions, the Minister can also directly cancel legal products issued by the

Regional Office or Land Office if administrative defects, legal defects are found, or to implement a court decision. Based on Article 33 paragraph (2), an application for cancellation of a land law product based on a court decision is submitted by the party who wins the case through the Head of the Land Office. Furthermore, Article 37 paragraph (1) emphasizes that a court decision that has permanent legal force must be implemented. The implementation of the decision has several exceptions as regulated in paragraph (2), for example if there is another decision that is contradictory, the decision states that the lawsuit cannot be accepted, the object of the case is in confiscation status, the location of the land object is unclear, there is a difference between the decision and the physical condition of the land, the land object has become state land, or there are other legitimate reasons that hinder implementation. Article 38 stipulates that court decisions can be followed up through administrative action in the form of a decision to cancel a legal product if the decision declares a decision or certificate to be null and void, invalid, or no longer applicable.

Forms of legal products that can be canceled include, among others, the determination of land rights, initial registration of rights, maintenance of land registration data, issuance of replacement certificates, mortgage certificates, previous cancellation decisions, determination of abandoned land, ownership certificates for apartment units, land consolidation, confirmation of land reform land, compensation for former private land, cross-provincial location permits, and decisions issued by the state administrative court in the land sector. The cancellation decision is stated in a Decree of the Minister or Head of the Regional Office according to their respective authorities.

Article 40 stipulates that an application for cancellation submitted due to a court decision must be accompanied by supporting documents such as a letter of application, personal identification, power of attorney (if any), proof of land ownership, physical and legal data of the land, a copy of the court decision, and a report on the execution of the land. The report on the execution of the land may be exempted if the decision comes from a state administrative court or if the land has been controlled by the applicant with evidence of statements and witness statements known to the local village head or sub-district head.

The provisions in Article 41 state that if the right to land or a certificate is canceled and there is a mortgage right on it, then the mortgage right will also become void if it is declared so in a court decision, whether the holder of the mortgage right is a party to the case or not. Meanwhile, Article 42 regulates that if land rights are canceled but the mortgage rights are not declared void and the mortgage rights holder is not a party to the case, then the Ministry or BPN Regional Office is obliged to notify the mortgage rights holder of the decision. If the holder of the mortgage right does not take legal action within a certain period of time, then the cancellation of the land right and the mortgage right will still be implemented. Thus, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning the Handling and Settlement of Land Cases provides a comprehensive legal basis regarding the mechanisms, authorities, and procedures for the cancellation of land legal products, whether caused by administrative defects or the implementation of court decisions that have permanent legal force, in order to ensure legal certainty and order in the land sector.

The case in Decision Number 1401/Pdt.G/2021/PN Tangerang shows the abuse of authority and unlawful acts in the transfer of land rights that have serious impacts on the land's rightful owners. The case began when the Plaintiffs' parents in 2004 submitted the Ownership Certificate (SHM) Number 2941/Cipondoh as collateral for a loan to Defendant I with a value of Rp300,000,000, but only received Rp60,000,000. Without the owner's knowledge, the certificate was transferred through a Deed of Sale and Purchase (AJB) Number 71/2004 drawn up by Defendant II as PPAT, and then used as collateral for a loan at Bank Mandiri with a value of up to Rp1.7 billion. The trial evidence indicates that the Deed of Sale and Purchase (AJB) was drawn up based on manipulation, namely by presenting another party as the legitimate owner of the land. This resulted in the AJB being legally flawed because it did not meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code (KUHPerdata).

Therefore, this action clearly constitutes an unlawful act (onrechtmatige daad) as referred to in Article 1365 of the KUHPerdata. This legal construction leads to the conclusion that the land title certificate issued based on the AJB is legally flawed. In this context, the mechanism for restoring the legal status of the certificate is carried out through litigation and administrative channels. The cancellation of land title certificates containing legal defects is expressly regulated in 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 concerning the Handling and Settlement of Land Cases. Several important provisions relevant to this issue are explained below:

First, Articles 29 and 30 affirm that legal products in the land sector can be revoked by authorized officials if they are administratively and/or legally flawed, or as an implementation of a legally binding court decision. In the context of this case, the Deed of Sale and Purchase (AJB) and the land title certificate that are the subject of the dispute fall into the category of legally flawed legal products. Second, Article 33 paragraph (2) provides a legal basis for the winning party to file a request to cancel the certificate through the Head of the Land Office. This provision becomes relevant after the plaintiffs received a court ruling stating that the Deed of Sale and Purchase (AJB) was legally invalid. Third, Article 37 paragraph (1) emphasizes that every court decision that has permanent legal force must be implemented. Therefore, the National Land Agency (BPN) has a legal obligation to follow up on the decision to cancel the AJB by issuing an administrative decision in the form of canceling the land title certificate. Fourth, based on Article 38 paragraph (2), the cancellation of a land certificate as an implementation of a court decision can be carried out if the decision states that a deed or certificate is void, invalid, or has no legal force. Therefore, the Tangerang District Court Decision is a strong legal basis for the implementation of the cancellation of the land title certificate in this case.

Fifth, Articles 41 and 42 provide specific provisions regarding the existence of mortgage rights. If the revoked land title certificate has been pledged to a third party, such as a bank, then the mortgage is also revoked as long as the court decision states so. However, if the mortgage holder is not a party to the case, the Ministry of Agrarian Affairs and Spatial Planning/BPN is required to notify the person concerned of the decision. If no further legal action is taken after such notification, the cancellation of the land title and its mortgage rights will still be implemented. Thus, the provisions in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning the Handling and Settlement of Land Cases provide a clear normative basis for the implementation of the cancellation of problematic land certificates, whether due to administrative errors or based on court decisions that have permanent legal force.

#### 4. Conclusion

Answering the problem formulation regarding How to restore the legal status of land certificates due to the negligence of PPAT in applying the principle of prudence as in the example of the Case in the Tangerang District Court Decision Number 1401 / Pdt.G / 2021 / PN Tng shows that the negligence of PPAT in applying the principle of prudence, especially in verifying the identity of the parties and the authenticity of documents, has implications for the birth of fictitious Sale and Purchase Deeds and legally flawed certificates. As a result, land rights are transferred unlawfully and cause major losses to the legal owner. The restoration of the legal status of the certificate is carried out through a court decision with permanent legal force which must be implemented by the BPN in accordance with Article 55 of PP Number 24 of 1997 concerning Land Registration, and followed up with an administrative mechanism based on the Regulation of the Minister of ATR / BPN Number 21 of 2020 concerning Handling and Settlement of Land Cases. This analysis emphasizes the importance of synergy between judicial power and administrative authority to guarantee legal certainty, while also emphasizing that the principle of caution is a fundamental obligation for PPATs to avoid producing flawed land law products in the future.

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Kitab Undang-Undang Hukum Perdata

Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria

Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah

Peraturan Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 3 Tahun 2011 Tentang Pengelolaan Pengkajian Dan Penanganan Kasus Pertanahan

Peraturan Menteri Agraria dan Tata Ruang Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 21 Tahun 2020 tentang Penanganan dan Penyelesaian Kasus Pertanahan

Putusan Perdata Pengadilan Negeri Tangerang Nomor 1401/Pdt.G/2021/PN Tangerang