

AUTHORITIES OF THE NATIONAL LAND AGENCY IN SETTLING LAND CASES AS A FORM OF LEGAL PROTECTION FOR LAND RIGHT HOLDERS Whose TRANSFER IS CANCELED (Study of Supreme Court Decision Number: 3542 K/Pdt/2021)

I Made Pria DHARSANA¹, I Putu Nyoman BUDIARTA², Dewa Ayu Trisna WAHYUNINGSIH³

^{1,2,3} Master of Notary, Postgraduate Warmadewa University Denpasar, Bali-Indonesia

Corresponding Author: I Made Pria Dharsana

E-mail: imadepriadharsana@gmail.com

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Abstract:

Disputes over the transfer of ownership rights to land through the sale and purchase of land that often occur in society are caused by the Indonesian land registration system, which adheres to a hostile system. Certificates of land rights that have been registered have many possibilities for legal defects to arise, and the consequences will cause problems that lead to requests for Cancellation. The problems of this research are, first, what is the authority of the Office of the National Land Agency in resolving land cases, and second, what is the form of legal protection for holders of land rights whose transfers are canceled. This research is a normative law-type research using a statutory and case approach. This study concludes that first, the authority of the National Land Agency Office in settlement of land cases has been regulated in Ministerial Regulation IATR/BPN No. 211 of 2020; IBPN has two alternative land dispute settlements, namely, the first is settlement through the judiciary to obtain a court decision. Second, dispute settlement through mediation seeks a win-win solution, and a peace agreement is drawn up. The second type of legal protection for holders of land rights whose transfer has been canceled, particularly for third parties as holders of ownership rights, can be given to parties whose certificates of ownership are repressively canceled. The aim is to achieve legal clarity, providing legal protection to all parties.

Keywords: BPN Authority, Legal Protection, Administrative Disabilities.

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INTRODUCTION

Indonesian law is founded on the Pancasila 1945 Constitution of the Republic of Indonesia (hereafter referred as the 1945 Constitution of the Republic of Indonesia), which gives order, certainty, and legal protection to Indonesian citizens (Fuady, M.; 2005).

Based on setting state authority in the agrarian or land sector, as stipulated 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states, "Earth, water, and resources contained therein controlled by the state to be used for the prosperity of the people."

Provision Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia is authority of the state in field economy, concerning the structure of the economy and the authority state to regulate economic activity, however also reflect the ideals of the nation and state, as a belief which fought for consistent by throughout the people Indonesia including the Government (Manan,



B.; 1995). Application of fundamentals of Article 33 paragraph (3) Constitution of the Republic of Indonesia can be seen from passed provisions Law Number 5 Year 1960 concerning Basic Agrarian Regulations (after this UUPA).

After the UUPA was passed, it was regulated again with provisions implemented in Government Regulation Number 10 Year 1961 concerning Land Registration. With the development law agrarian and the community's needs, the government regulation is improved and perfected Government Regulation Number 24 Year 1997 concerning Land Registration (after this referred to as PP Number 24 Year 1997). The provision in Government Regulation Number 24 of 1997 has experienced many changes and the more straightforward adjustment of previous rules related to administration registration grounds.

In order to provide certainty and law for applicant right on land exist written, clear, and complete legal instruments regulate land registration, as I PP No. 24 of 1997, which is instrument law manage me regarding on rights on land as stipulated in UUPA the contains two elements namely certainty over object right on land and certainty over subject the holder rights over ground. One of the indicators in certainty object rights over land can be identified from certainty location plot land based on point coordinates in map registration ground, while hits certainty subject rights holder on land can be identified from the name the holder rights either an individual or a legal entity which recorded somehow in book land on the land institution (Ismuhadi, S.: 1997). This is regulated and explained in Article 1 number 20 PP Number 24 Year 1997, which states that: "Certificate is a letter proof right as to in article 19 paragraph (2) letter c UUPA for land rights management rights, waqf land, rights to apartment units and mortgages of which has been recorded in of the land concerned".

The existence of certificate rights on land as tool evidence right the "strong," which means it must be deemed accurate throughout and cannot be demonstrated otherwise in Court, is dependent on other tool proof. The presence letter sign proof right applies and is considered a robust proof tool, meaning that the description contained and is written and interpreted by the Court as a statement which true, as long as and as long as is not proven otherwise by other tools proof other. So it is known that there are still opportunities for interested parties to initiate lawsuits against land rights holders or certificate holders; based on the topic, it can be understood that strength law certificate right on land is not absolute (Ismuhadi, S.: 1997).

Strength certificate rights land those which not absolute and can still be out demands law, makes sum amount dispute in field land in Indonesia. If we pay attention to data from Regional Office National Land Agency of Bali Province (BPN Province) from 2018 to 2023, 17 cases of land disputes in the area of Bali Province⁴. Based on data from the Regional Office of BPN Bali Province, many lawsuits (civil or effort country) against the BPN product are in the form of a certificate on the ground. Regarding the definition of land, disputes arise due to conflicts of interest in the land object (Lubis, M L. et al., 2008).

As an approaching case in research exists cancellation certificate rights on land by the Supreme Court the Republic of Indonesia through Cassation decision No.3542 K/PDT/2021 December 8 legally enforceable and which repealed Court Review Supreme Court the Republic of Indonesia No.401 PK/PDT/2018 dated August 10 which previously had legal force, which in decision stated action taken is the Cancellation of the transfer of right to the Certificate Right Ownership No. 710/Desa Kuta, Letter Ukur No.01691/1978 with a land area 810M² from in the of Mochamad Saleh who has transferred to Sony and finally switched to Ferick Setiawan, then transfer was canceled and restated became in the of Mochamad Saleh which was then transferred to Mustafa.



In connection with the issues described, the decision at the cassation level is binding on the parties in the decision. As for problems related to the transfer ownership rights to land that Mochamad Saleh has done to other parties, an act that has been by parties In connection The problems above, an agreement made with Mochamad Saleh with Sony, which later in the transfer of the right turned out had another party who had an interest and disputed the object of the agreement, where the object being traded is the object land which still in the stage of dispute effort made in settlement dispute land law regulated in more detail in Article 3 letter (g) Regulation President Number 48 Year National Land Agency (after this referred to as PERPRES Number 48 Year 2020) states that: "In carrying out task as referred to Article 2, BPN performs the following functions: g. Formulation and implementation of policies in handling and preventing disputes, conflicts, and handling land cases.

One of the efforts resolve disputes land in non-litigation with method mediation, as in Article 1 point (11) PERMEN ATR/BPN Number 21 2020 states: "Mediation is of resolving cases through the negotiation process to obtain agreement out by the parties facilitated by Ministry Agrarian and Spatial Planning Land Agency, Regional Office National Land Agency, Office Land under authority or mediator land."

Various disputes are settled by non-litigation methods such as mediation, which offers advantages over conflict resolution litigation (Court), which takes time, effort, and money. Efforts to resolve disputes land with mediation according to the Indonesian people's philosophy of life, namely solving problems with discussion consensus (Witanto, 2011).

In addition, a disbelief number society exists against the institution of Justice Indonesian and constraints administration which covered it makes solution dispute in Court the last choice for the disputing. Settlement of land disputes with attempt mediation is the most rational choice and right because the process of completi land dispute in a non-litigation (mediation) manner will provide principles that balance between the parties, that is, aligned and solutions that are win-win solutions. Mediation efforts effectively resolve disputes because they accommodate the parties' wishes.

From the description of the background of the problem that has been explained as a whole above, the Author intends to study, research, and put it into scientific research in the form of a thesis proposal research which takes the title, namely "Authority of the National Land Agency in Settlement of Land Cases as a Form of Legal Protection for Holders of Land Rights whose Transfers were Canceled (Study of Supreme Court Decision Number: 3542 K/Pdt/2021)".

Based on the background that has been described problems can be formulated as follows:

1. What is the authority of the Office of the Land Agency in resolving land cases?
2. What is the form of protection for holders of land rights transfer?

METHODS

This thesis proposal employs normative legal research, or legal study conducted by examining library materials or secondary data (Soekanto et al., S; 2019). This type of research is used to find a truth/statement iteratively to find regulations related to the authority of the National Land Agency in providing legal protection to holders of land rights as an effort to protect land cases related to land rights.

The research approach used in this is a conceptual approach carried out by examining several laws and regulations related to the legal issues studied and also using a case approach, namely an approach by examining and analyzing several legal cases related to the legal issues studied based on court decisions that have permanent legal force. i. The analysis used in this study

is data analysis, with the process of simplifying data to make it simpler to make it easier to understand. Data simplification is aimed at making a broader meaning of research results.

RESULT AND DISCUSSION

Authorities of the national land agency office in settlement of land cases in Indonesia There is authority to resolve disputes regarding land use by BPN is a breakthrough implemented by the Government because BPN is the only agency that can carry out land registration. In addition to dispute resolution, land use by BPN is to avoid accumulation and reduction of dispute land in Court (Sahnan et al., 2019).

BPN has its arrangement separate and specific to address disputes on existing land, one of which is by legalizing regulations regarding the handling and resolution of disputes in land affairs regulated in the 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 Handling and Settlement of Land Cases regulated in Article 2 letter b which states that: " The scope of this ministerial regulation includes: ... b. Handling and resolution of disputes and conflicts ...".

With this provision, the National Land Agency reinforces its authority by looking at one of its duties: handling and resolving disputes and conflicts under what has been regulated in the ATR/BPN Regulation above. In resolving land disputes/problems, the Ministry/National Land Agency first receives complaints from individuals/communities, community groups, legal entities, agencies/Government, and technical units of ministries/regional offices/land offices (Wowor, F, A; 2014).

In this regard, land cases that constitute disputes and conflicts have been divided into 3 (three) classifications which have been regulated in Article 5 of the 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 Handling and Settlement of Cases Land which classifies dispute and conflict land is classified into three namely: Severe case is case involving Number of parties, which has complex legal dimensions or has potential turmoil socially, economically and socially; Case is being the case between parties which dimension legal or administration sufficient clear which potentially raises turmoil socially, economically and social; and mild cases are cases in the form of complaints or requests that are technical in nature administration and resolution enough with letter instructions to the complainant or applicant. The case referred to in Permen ATR/BPN is a case which is a dispute and conflict which can be divided into severe case, moderate case, and mild case. In this case, of course, it can be seen through the potential that will become the impact of land disputes and conflicts, which can cause social turmoil that can disrupt the comfort and security of the community with the existence of this conflict.

There are several stages which done in solving land disputes systematically. If a disputed land is classified into moderate or mild cases, then handling it must be done without thorough process research because, by nature, it can be analyzed. However, if there is a case that classified case weight, then procedurally must carry out study case, title case, research, exposure of research result, coordination meeting, title final, and resolution of disputes. In a solution dispute case furious, it is not easy, as outlined in Permen ATR/ BPN, primarily if not provided by parties dealing with related knowledge or understanding of management dispute land (Sahnan et al.).

Based on the above, the top priority that can be done at this time is to seek or find techniques and strategies that are efficient and effective in resolving land disputes. From the legal theory perspective, land dispute resolution can be resolved by a legal system in conflict resolution. In the

theory of dispute law, it explains that the existence of a legal system within the framework of juridical conflict, which is the object of legal science, is none other than the activities of officials because disputes are no longer about regulations but what laws are decided by officials (Atmadja, I, D, G., & Budiarta, N, P.; 2018). Based on the above, the top priority that can be done at this time is to seek or find techniques and strategies that are efficient and effective in resolving land disputes. From the legal theory perspective, land dispute resolution can be resolved by a legal system in conflict resolution. The theory of dispute law explains that the existence of a legal system within the framework of juridical conflict, which is the object of legal science, is none other than the activities of officials because disputes are no longer about regulations but what laws are decided by officials. The parties related to the dispute must sit together and discuss with each other what is the best solution by reducing ego and personal subjective desires. Efforts to resolve disputes that occur in the community can be resolved in two ways, namely settlement through non-litigation or outside the Court and litigation or settlement through Court.

Dispute resolution efforts land use non-litigation system, namely through mediation carried out by BPN as the body that owns its authority for land registration. In mediation at the BPN Office, the parties are invited. In the mediation forum, the parties submit their wishes guided by the BPN officers in charge of each exposed document or reasons for objecting to land registration. With a non-litigation settlement, namely mediation dispute land use at low cost, more flexible and fast time. Suppose the parties to the dispute are unwilling or unable to mediate at the BPN Office. In that case, the parties can still take legal action through the local Court, either at the District Court with a civil lawsuit or the State Administrative Court with an administrative lawsuit (Dinata, I, G, A, M, et al.; 2021).

Dispute unfinished land the authority of the BPN Office is a dispute that has entered the realm of law, that is, in Court. Such a dispute land that has been prosecuted criminally, as is alleged criminal on usurpation land, then BPN is only a party providing information in the form of data such as land books and documents to investigators because of the dispute process this land has entered the realm law criminal. The same goes for disputes land has been attempted with a civil suit in the local District Court, many BPNs withdrawn as co-defendants to submit to the decision of the Civil Panel of Judges; the same thing also happened at the State Administrative Court (Dewi M S, K; 2018). Because each dispute land has been processed or examined in the field law otherwise, BPN is not authorized to finish the land actively but only as a party that conveys data related to the object dispute.

The authority of the National Land Agency regarding dispute resolution land affairs under what is stipulated in the ATR/BPN Ministerial Regulation, which states that the land agency national can complete dispute through non-litigation means (using a mediation facility) in which the Land Agency acts as a mediator from the two parties who are being disputed by mediating problem the until find agreement between the two parties if the mediation cannot reconcile the parties, then there is a problem is continued and processed through litigation (using means judiciary) to enforceable decision permanent law. BPN, as the sole authority holding land registration in Indonesia, functions in formulating and implementing policies related to land and dispute resolution land. However, BPN can currently only handle dispute grounds on fault administrative and procedural.

Model of legal protection for land right holders that have been canceled Land registration done Government through BPN must provide legal certainty and protection law on the petitioners



right on land by providing evidence right on land certificate ground. In Certificate intended to land with assurance and protection law for rights holders on land can be seen at (Maria R. Ruwastuti):

1. Certainty complies with the subject, certainty regarding a person or legal entity who holds rights on the ground. All deeds regarding land will raise legal consequences if it is carried out by a person who has the right on the land it corresponds to the listed in the proof of his rights;
2. Certainty about its object, the certainty that covers land which consists of lies, its boundaries and broad from the land such;
3. particular about rights, including rights to property, right of use business, rights To use buildings, or other rights;
4. Certainty regarding according to the law, that is, if I know the status of the land, then I can know the authority and obligation to which I am entitled over land.

In the elucidation of PP Number 24 of 1997 concerning Land Registration, it is emphasized that land registration in Indonesia adheres to a negative publication system but also contains positive system elements. Positive Stelsel is stated in terms of there is interference by PPAT and Land office in the transfers of land rights, which gives the guarantee that the name of the person registered is the one has the right to without closing the opportunity to those who are entitled actually for can still defend him. So, even though the Certificate is a vital evidence tool, its validity can still be sued by other parties, supported by solid evidence that can prove otherwise. As a potent means of proof, the Certificate must guarantee legal certainty regarding the person who is the holder of ownership rights to land, the location of land, boundaries, and land area, and legal certainty regarding rights to land owned by him.

Based on the facts that exist in the community, land title certificates still need to fully provide guarantees for legal certainty and legal protection for holders of land rights. The Certificate of right over the land still faces the possibility of a lawsuit from another party who feels he has the right over the land, so it can be legally proven that he is the actual owner, then the Certificate of right over the land can be canceled (Harsono, B; 2002). Even though having a certificate of rights is strong proof for rights holders, do not rule out the possibility of claims from other parties against land rights whose certificates have been issued, resulting in disputes in court institutions. If a dispute occurs in the Judicial Institution, the Judge first allows the parties to reconcile and negotiate, but if the parties do not meet the word, they agree. The Judge continues the proceedings in Court by remembering and based on the provisions and regulations that apply according to positive law norms. The existence of claims from third parties, as mentioned above, can cause the possibility of canceling certificates of land rights.

Regarding implementing the Cancellation of certificates of land rights, the regulation legislation, which is the norm positive law, must pay attention to according to its hierarchy. Namely, Article 28D paragraph 1 and Article 28H paragraph 4 UUD NRI 1945, which essentially recognize, guarantee, protection, and equal legal certainty and the right to have rights belong to that can not take over arbitrarily by anyone, and Article 33 paragraph 3 of the 1945 Constitution of the Republic of Indonesia, which essentially states the state's right to control land, water, and natural resources for the greatest possible prosperity of the people. Furthermore, in Article 19, paragraph 2, letter c of the UUPA, the point is, to guarantee legal certainty, a will be given a letter indicating proof of rights as an assertive means of proof, namely a certificate. Article 52 Paragraph 1 PP Number 24 of 1997, in essence, regulates the procedure for the abolition of land rights, while Article 55 PP Number 24 of 1997, in essence, regulates the procedure for changing land registration data based on a decision or a court decision. Cancellation of Certificate as referred to in Article 1 number 14 Regulation of the State Minister Agrarian/Head of Agency National Land Affairs Number 9 the Year 1999 concerning

Procedures for Granting and Cancellation of Rights over State Land and Management Rights (after this referred to as Minister ATR/BPN Number 9 the Year 1999), stipulates administrative law in its issuance or to implement a court decision which has permanent legal force.

As for Article 104, paragraph (1) Permen ATR/BPN Number 9 of 1999 stipulates, "Cancellation of right over land includes cancellation decision granting rights, Certificate of rights over land decision granting rights in the framework of land tenure arrangements. " This is in line with the definition of Cancellation according to Hasan Basri and Natasarjita, who concluded that: "Cancellation of land rights is a legal action which intends to decide, stop or delete a legal relationship between subject rights over land and objects rights over land." The type or type of activity includes the Cancellation of a letter decision to grant land rights or certificates of rights over land (Menggala, H, B, N., & Sarjita; 2004). The reason for Cancellation of the land certificate is due to defects in administrative law or to carry out a decision of a court which has permanent legal force because the holder of the right does not fulfill the conditions stipulated in the decree granting the right over land and because have an error in the letter of the decision granting the relevant right. Certificates that have been issued previously can be canceled. Regarding the process, certificate cancellation can be made in two ways, namely direct Cancellation and indirect Cancellation, as follows (Muadi, S; 2010):

1. Cancellation directly intended Because disabled law administrative without through the judicial process;
2. While the Cancellation did not directly base on a Court Decision with the force of law fixed (Eintracht), the based court decision, that is, the National Land Agency, does cancel on Certificate right on the land.

Cancellation of right over land due to administrative, legal defects can be made if the application for rights in question has administrative, legal defects, as stipulated in Article 29 paragraph 1 PERMEN ATR/BPN Number 21 of 2020, stipulates:

"The Cancellation of Product of Law is carried out by an authorized official because:

- a. Disabled administration or disabled juridical;
- b. Implementation of the decision court which has had strength statutory law".

This cancellation permission was obtained since BPN, as a State Administrative Officer as defined in Article 1 PP Number 24 of 1997, recognizes that land registration constitutes a government activity. In this sense, the process of registering land rights is under the authority of the Government, in this case, the Ministry of Agriculture and Spatial Planning/National Land Agency. BPNI, as specified in Article 5 of PPI Number 24 of 1997, is the executor of government tasks in land registration. This facilitates communication and understanding between the National Land Agency and State Administrative Officials.

(Putra F, M, K; 2015).

Is right to land because carried out the Court's decision. Implementing the first court decision is a follow-up on the judiciary's decision, which already has permanent legal force with the basis of implementation in PERMEN ATR/BPN Number 21 Year 2020. Article 37, paragraph 1 PERMEN ATR/BPN Number 21, the Year 2020, stipulates, "Every court decision which has permanent legal force must be implemented." The court decision, which has permanent legal force relating to the issuance, transfer, cancellation rights to land or Cancellation of the determination of Certificate abandoned land carried out based on a request interested party through the local land office, with attaching a decision to the Court District or Court Administrative State, as the district court in the realm of civil-related with disputes regarding ownership of rights. Meanwhile, the State



Administrative Court is related to the land administration process as a state administrative institution in Indonesia.

A certificate of right to land can be sued by other interested parties who feel they have been harmed. Regarding ownership of land rights, there will be an overlapping of uncertainties about who is entitled to hold land rights. In this way, there must be a form of legal protection in order to be sure who is the legal holder of a right to land that has been certified.

Legal protection, in general, is a form of service that law enforcement officers or security officers must carry out to provide a sense of physical and mental security to victims and sanctions from threats, harassment, terror, and violence. While the protection of the law in perspective is based on a sale and purchase agreement, both for a buyer with good intentions and for any party with good intentions, this is a principle in the legal system in Indonesia which originates from customary law, which is highly respected. Good faith in a sale-purchase agreement process has a value of point of view in consideration if there is a dispute at a later date.

Theory legal protection has the meaning of protection of dignity and dignity as well as recognition of human rights, which are generally classified as human rights which are owned by every subject of law in a legal country. This is based on legal provisions which apply in function, and the purpose is to prevent the occurrence of arbitrariness which rulers carry out. Legal protection, in general, is embodied in the form of written regulation that, in nature, is binding on every legal subject and has legal consequences for every legal subject that violates it (Philips et al., 1987).

According to Hadjon, preventive legal protection to the people can submit objections or opinions before a government decision gets *definitive* form (specific). Thus, preventive legal protection aims to prevent disputes from occurring. On the other hand, repressive legal protection aims to resolve disputes. Preventive legal protection is very significant for government actions that are not based on the provisions and rules that apply. With the existence of preventive legal protection, the Government is compelled to be careful in making decisions based on a policy that is taken.

Related to repressive legal protection, namely legal protection after a dispute occurs, repressive legal protection aims to resolve disputes. If a land dispute occurs, then repressive legal protection can be given in the form of returning the right of I to the original owner, meaning that what is protected by law is the legal owner of the disputed land. A path must pass to return actual rights to the original owner. The disputing party will settle a land dispute through litigation (Court) and non-litigation (outside Court). The Government must guarantee legal protection for third parties as holders of certificates of ownership rights against the issuance of certificates with administrative defects. Because a third party, as the holder of the Certificate of Rights, has made a sale and purchase of a plot of land from the party, both have carried out the process of issuing the Certificate with the appropriate procedure. Legal protection can be given to parties whose ownership certificates are canceled by judges can be preventive and repressive, which include:

- 1) The provisions of Article 32 paragraph (2) PP Number 24 the Year 1997 have provided protection, where a person which the listed name in Certificate no can submit a lawsuit by another party which has the right on land after five years and status as owner rights over land will Keep going protected throughout that land obtained with faith both and are controlled by the right holder the concerned;
- 2) The role of the Judge needed deep checking and confirming the correct information on the Certificate. The Judge must prove, examine and check the origin of the Certificate. It must be investigated that the person who submitted the registration of rights over land indeed has the



right to land; it means that he obtains rights over land legally from the competent authority that transfers rights over his land, and truth from other information listed in Certificate. So that later can be determined who is the legal holder rights to the land, and he can get legal certainty from ownership certificate rights over the land;

- 3) Every decision passed by Hakim yet, of course, can ensure truth juridical because the decision it does not free from mistakes and oversights, even if it is not impossible to take sides. To be mistaken and the glitch can be corrected, then for sake is upright truth and justice, towards decisions Judge possible to checked repeat. The right way to realize truth and justice is to carry out legal remedies. Legal remedies include legal action against (*verzet*), appeal, and cassation.

In the Cassation Decision No. 3542 K/PDT/2021 dated December 8, 2021, which decided to state that the action taken was the Cancellation of the transfer of rights to Certificate of Ownership No. 710/Desa Kuta, Measurement Letter No.01691/1978 with a land area of 810M2 from on behalf of Mochamad Saleh which had been transferred to Sony and finally transferred to Ferick Setiawan, then the transfer was canceled and stated again to be in the name of Mochamad Saleh which was then transferred to Mustafa.

Suppose you consider the Cassation Decision No. 3542 K/PDT/2021 dated December 8, 2021. In that case, the legal consequences if there is an administrative defect in the transfer of land rights, this administrative defect must be proven by a decision of the panel of judges. If the administrative defect is proven, the transfer of land rights can be canceled based on a decision of the panel of judges with permanent legal force. In the Cassation Decision No. 3542 K/PDT/2021 dated December 8, 2021, it is clear that the third party or the ultimate owner of Certificate of Property Rights No. 710/Desa Kuta, Measurement Letter No.01691/1978 with a land area of 810M2 is Ferick Setiawan. Whereas legal protection should be aimed at third parties as buyers with good intentions to achieve legal certainty regarding the issuance of decisions by state administration officials in the form of property rights certificates, in this case, the issuance of which has defects in administrative law. To achieve legal certainty that provides legal protection for all parties, state administration officials must be fully responsible for the decisions to be issued. Forms of legal protection for third parties as certificate holders who are administratively disabled or who should be held accountable for such responsibility include:

- 1) Based on the Civil Code governing defective products, more answers from the seller can be seen in Article 1504 to Article 1512 of the Civil Code. Article 1504 of the Civil Code determines that the seller must always be liable for defects. So if the buyer is getting the goods, there is a disabled hidden, two are given to it choice. The choice is under Article 1507 of the Civil Code, namely:
 - a. Returning items purchased with accept returns price (*refunds*) ;
 - b. Remain in possession of the goods purchased by receiving compensation from the seller.

The responsibility of the parties towards the presence of hidden defects can be delegated to the seller, depending on the conditions:

- a. If the party seller knows the defect from initially, However the seller fixed selling it, then the seller is obliged to return the price sale to the buyer and with payment of indemnity which consists of from cost, loss, and interest (Article 1508 of the Civil Code);
- b. It has a defect from the seller, and the buyer knows but still buys a product, then the seller is released from responsibilities answer (Article 1505 of the Civil Code);
- c. If disabling this is not known by the seller, then the seller is only obliged to return the price of sales as well as costs (costs incurred buyer when purchasing and delivering the goods);



d. If an item bought destroyed as due to which caused by defects that are hidden, then the seller remains obliged to return the price sale to the buyer (Article 1510 Civil Code).

Suppose there is a claim in the decision on the case of land ownership by a third party against issuing a Certificate with administrative defects that states that the Certificate is canceled in connection with a sale buy between a second party and a third party. In that case, the seller is obligated to return the purchase price received said to the party third as buyer and payment of compensation consisting of costs, losses, and interest.

2) Not enough answered BPN on Certificate, which was canceled on a court decision. The Certificate is a product law Officer Administration Business of the State, in this case, the Agency of Land Affairs National, by therefore BPN is the responsible answer for all the problems related to Certificate above ground. The Certificate is a sign of proof of proper ownership of the ground. Cancellation right on land based on provision Article 1 number 14 PERMEN ATR/BPN Number 21 Year 2020, regulates:

"Cancellation is a decision which cancels a Legal Product due to administrative defects or juridical defects in its issuance or to carry out a court decision that has obtained permanent legal force."

So the Cancellation of the Certificate is based on administrative, legal defects and implementing Court Decision which has legal force remains. Under the provisions of PERMEN ATR/BPN Number 21 Year 2020, Cancellation of land rights is carried out by the decision of the Head of the National Land Agency or delegate to the Regional Office or appointed official. The party harmed by the decision (Certificate) state administration (in this case is by I BPN) can apply for compensation by filing a lawsuit at the Administrative Court. Based on the above law, it can be understood that the implementation of court decisions by BPN is only limited to court decisions that have permanent legal force.

CONCLUSION

Based on the discussion of the problems as described in the previous chapters of this study, the following conclusions can be drawn:

Authority office land agency national in settlement of land cases have regulated in Permen ATR/ BPN No 21 of 2020, BPN has two alternatives settlement land dispute namely first solution through track judiciary viz solution that proposed to Court due to a dispute or conflict the concerns rights civil property/ownership a person or a group of people whose rights have been by people in this case related to rights on land or mediation considered failed, then dispute or conflict the filed for get a solution in the form issued court decision for to be the base right of possession disputed land and cancel the legal product in the form of Certificate rights on land that is considered overlaps ownership accordingly with a decision. The second settlement dispute through way mediation can be carried out above Initiative Ministry, office region, and office land under their authority and above initiative of parties which currently disputing both individuals and institution. The parties must attend a para party that did The dispute, and when it is in thing para party may not attend because reason health / other reasons legitimate then mediation got represented by a power granted by authority for disconnects with consent by the party being dispute and if the parties have been summoned 3 (three) times but not present, then the mediation will do stated fails and if mediation succeeds then will be made letter agreement peace.

Form protection law for holder rights on land which canceled the switch, especially protection law for third parties, in the decision of Cassation Decision No.3542 K/PDT/2021 dated



December 8, 2021, does not certainty law and protection law to third parties who actually must given protection law as a buyer in good faith. Because protection law is addressed to the party thirdly as a buyer with sound, so reached certainty law on issuance a decision administrative officer the in the form of Certificate the right of belongs in this matter to the issuer there is disability administration as holder certificate rights owned by to issuance of Certificate whom the Government must more guarantee disabled administration. Because parties as holders of Certificate ownership have made a sale and purchase plot land from the second party and did process issuance of Certificate with appropriate procedure Protection law which can be given to the party that canceled Certificate right belongs to him can be given by Judge can be preventive and by repressive. Nevert if Certificate has been published and Then canceled due to a defective administration on transition right on land, then disabled administratively said must be proven by a decision from a panel of judges. If disabled administration is proven, the switch right on land can be canceled based on the decision of the panel of judges already in force fixed law.

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