A COMPARISON OF THE STATE ADMINISTRATIVE COURT (PTUN) AND THE STATE COURT'S ABSOLUTE COMPETENCY RELATING TO DISPUTES ABOUT CANCELLATION OF LAND RIGHTS CERTIFICATES

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ABSTRACT

The purpose of this study is to clarify the distinction in absolute competence between the State Administrative Court (PTUN) and the District Court with respect to conflicts involving the cancellation of land rights certificates, as well as the legal ramifications of decisions made by the PTUN and the District Court in this regard. Normative juridical research methodology is used. Secondary data is the source of the data used. A conceptual approach as well as a statutory approach are employed. The qualitative data analysis approach is used, and the analysis's findings are given in a descriptive manner. The study's findings: When it comes to disputes involving the cancellation of certificates of land rights, the District Court's absolute competence is related to civil aspects, whereas the PTUN's is unique in that it pertains solely to administration. The State Administrative Court's authority is limited to land certificates. The General Court has jurisdiction over issues of ownership, the legality of the sale and purchase agreement, and the validity of the applicant's rights. It does not have jurisdiction over whether the issuance method complies with the relevant statutory provisions. Meanwhile, the legal consequences of canceling a certificate of land rights on the basis of a court decision, which has permanent legal force, whether a District Court Decision or a PTUN Decision, cannot necessarily be canceled immediately even if the decision states that a certificate of land rights is void, null and void by law, or is invalid, does not have binding legal force. An annulment must be requested by the party who wins the court decision obtained, as the authority to issue a decision to cancel a certificate of land rights is an administrative action of a government official, namely the BPN.

Keywords: Absolute Competence, Cancellation, District Court, Land Certificate, PTUN.

INTRODUCTION

In compliance with UUPA Articles 19, 23, 32, and 38, the government and right holders are required to register land across the Republic of Indonesia's territory. To obtain legal clarity and land rights protection, land registration is necessary. According to Law Number 5 of 1986's Article 1 Paragraph 6, an official of the Land Office who grants a land ownership certificate shall be responsible for the certificate's accuracy, legibility, and permanence. Nonetheless, there may be doubts about the certificate's legitimacy. A court ruling that is binding on all parties and has lasting legal force may result in the cancellation of a certificate. In addition, there are legal flaws in the way the land title certificate is administered, like incorrect data on the certificate. Among the problematic certificates is one that has administrative defects. One may apply for the certificate to be canceled if it is administratively flawed. The applicant or others who believe they have been harmed by the certificate's issuing may file for the revocation. Cases like this in the land sector need to be settled right away. In order to remedy this, an application for the cancellation of the land title certificate or the certificate's contents subject matter might be made. A certificate of land rights' cancellation can be understood as an annulment of the decision that granted a right to land; hence, when a certificate of land rights is revoked, the right to the land is likewise revoked.

Land Rights holders do not receive complete legal certainty or protection from Land Rights Certificates due to societal realities. The Land Rights Certificate may still be subject to legal action from someone claiming ownership of the land, in which case the certificate may be revoked upon legal proof establishing the owner's identity. Despite being a powerful piece of evidence in support of the right holder, the title certificate does not preclude competing claims concerning the property rights for which it was issued, which could lead to conflicts in the courts. The land title certificate may be canceled as a result of such claims made by other parties. The 1945 Constitution's Articles 28D and 28H, which essentially acknowledge and guarantee equal legal protection and certainty as well as the right to have property rights that cannot be taken over arbitrarily by anyone, and Article 33, which essentially has the state's right to control the land, water, and natural resources for the greatest prosperity people, are statutory regulations that are positive legal norms that still need to be taken into consideration in relation to the implementation of the cancellation of land title certificates.

According to Law Number 5 of 1986's Article 1 Paragraph 6, an official of the Land Office who grants a land ownership certificate to an individual or civil legal entity is subject to the State Administrative regime because their actions meet the requirements for a State Administrative Official's decision. A certificate of land rights that is concrete, unique, final, and enforceable against a person or civil legal entity, and was issued in accordance with applicable laws and regulations, namely one that satisfies the requirements for the object of a State Administration dispute. The right to launch a lawsuit in court is granted to individuals or legal entities who believe that the registration and issuance of land rights have adversely affected their interests.
A court ruling that has permanent legal force, which declares that the decision is void or has no legal effect, or which is almost the same as that, can be used to revoke land rights and/or certificates.

As a State Administrative Decree, a certificate of ownership rights to land serves as evidence of an individual's ownership rights, establishing the rights of a person or civil legal body through this document. In this particular context, it is evident that, conversely, a land certificate, or KTUN, also acknowledges the state's entitlements to citizens with respect to property ownership, so incorporating a civil law component. Thus, it is evident that the certificate in question is enforceable under both civil law and state administrative law. As a result, in the event that a disagreement emerges over a land certificate, the State Administrative Court or General Court may have the jurisdiction to decide the matter, based on their respective absolute authorities and the relevant laws and regulations.

Given that the District Court and the State Administrative Court (PTUN) have different jurisdiction to decide land disputes involving land rights certificates issued by the National Land Agency (BPN), there exists a duality of competence in resolving land disputes. Specifically, Regarding the District Court's and State Administrative Court's (PTUN) absolute jurisdiction over cases involving the cancellation of land title certificates, the author needs more research done. The researcher was interested in carrying out a study titled "Comparison of the Absolute Competency of District Courts and State Administrative Courts (PTUN) in Disputes on Cancellation of Land Rights Certificates" based on the background information provided.

**RESEARCH PROBLEM**

1. What is the difference in the State Administrative Court's (PTUN) and District Court's absolute competence when it comes to disputes involving the cancellation of land title certificates?
2. What legal ramifications do decisions made by State Administrative Courts (PTUN) and District Courts have when it comes to disputes involving the cancellation of land title certificates?

**RESEARCH METHOD**

The type of research used in this research is a normative judicial approach. The approach used is a statutory approach and a conceptual approach. The type of data used is secondary data consisting of primary legal materials and secondary legal materials. Meanwhile, the data analysis method is qualitative and the results of the analysis are presented descriptively.

**DISCUSSION**

**Differences in Absolute Competency Between District Courts and State Administrative Courts (PTUN) Regarding Land Rights Certificate Cancellation Disputes**

Based on the judicial environment, there are distinctions or divisions of jurisdiction that give birth to absolute power or authority for each judicial environment; this is also known as attributive competence (attributie van rechtsmacht). In order to guarantee that submissions to the court are accurate, the primary goal of addressing jurisdiction or adjudicatory authority is to clarify which court is actually and properly authorized to decide a dispute or case that arises. For in the event that the submission is incorrect, the claim will be rejected on the grounds that the court to which it is directed lacks jurisdiction to hear it. Stated otherwise, the filed lawsuit falls outside the court's jurisdiction. As is evident, one formal prerequisite for a lawsuit's legality is the question of jurisdiction to adjudicate. When a lawsuit is filed in error in a judicial setting or before an unofficial court, it is sent to the incorrect address, rendering it void and deemed inadmissible on the grounds that it does not fall under the absolute or relative jurisdiction of the relevant court.

Absolute authority of the judiciary/attributie van rechtsmacht is the division of authority between judicial bodies based on the type of court environment, for example the division between the authority of the State Administrative judiciary and the General Court. The authority to adjudicate between the State Administrative Court and the General Court often intersects in its implementation. On the one hand, the General Court hears a civil case in the land sector relating to aspects of land rights, where the land rights certificate is one of the pieces of evidence. Then, on the other hand, the State Administrative Court also examines, decides and resolves state administration disputes related to aspects of land registration procedures, where the certificate, Land Certificate (SKT) and Compensation Certificate (SKGR) are the objects of the dispute. according to Article 1 point 3 of Law no. 5 of 1986 jo. UU no. 9 of 2004 (Bunga, 2018).

The absolute competence of PTUN in Indonesia is to examine, adjudicate and decide on disputes that arise in the field of state administration between a person or civil legal entity and a state administration body or official, including personnel disputes and the failure to issue a decision that a person requests within the specified time limit in a statutory regulation even though this is the obligation of the relevant state administration body or official (Khairo, 2017). The State Administration Decision as outlined in UUPTUN Article 3 and Article 1 Number 3 is the subject of a state administration dispute. Supreme Court Decision No. 88 K/TUN/1993 contains practices pertaining to civil and administrative legal relations, from which the following legal norm can be inferred:

"Even though the dispute occurred as a result of an official's decision letter, if the case involves proving ownership rights to land, then a lawsuit regarding the dispute must be submitted first to the General Court because it is a civil dispute.”

In the Supreme Court Decision above, the two judicial bodies, namely the District Court and the PTUN, both have different absolute competencies. Even though in land disputes there are 2 (two) points of contact, namely the civil aspect and the administrative aspect, before the cancellation or invalidity of the procedure for issuing a land certificate from the relevant administrative official the ownership is first resolved in the District Court. After being decided by the District Court, it can then be submitted to the PTUN. If one looks at it from the standpoint of legal certainty, this can be done, but sometimes it is challenging to put into practice, particularly when it comes to the deadlines in the PTUN procedural legislation as outlined in Article 55 UUPTUN. MA Instruction No. 224/Td.TUN/X/1993, particularly point V, which says:
"If a land-related lawsuit is simultaneously filed with the State Administrative Court and the General Court, the State Administrative Court's jurisdiction is limited to the land certificate and whether the issuance procedure complies with applicable statutory provisions; the General Court has jurisdiction over ownership matters." Therefore, in the event that a land dispute arises with two (two) points of contact—civil law and administrative law—both judicial institutions, each with perfect competence, may bring a lawsuit. Therefore, it is not necessary to wait for a decision about who owns the land in order to resolve the dispute (Asimah, 2020).

Disputes over land ownership are included in the realm of civil law because property rights disputes include legal relationships between one person and another person as well as legal relationships between people and objects through control or possession. However, these views and rules need to be reviewed because the function of civil justice is adjudicates the legal relationship between one legal subject and other legal subjects or with other legal objects, the civil justice determine who has legally valid rights and authority, the authority to declare a land certificate as not having legal force, while canceling a land certificate is an administrative authority. This is so because the power in question pertains to determining the administrative legitimacy of a certificate that is being granted. In cases involving disputes over land ownership, the District Court has the ability to determine who is legally entitled to the subject land. The District Court in this case will closely review the land's historical significance, the civil rights associated with it, and the parties who are lawfully entitled to these rights. Therefore, in civil justice, particularly when resolving disputes over land ownership rights, the subject of legal entitlement to the ownership rights of the land in question is what matters, rather than the administrative procedure used to issue the certificate (Rodí, 2022).

Not all disputes whose object is a land rights certificate fall under the purview of the PTUN, depending on the circumstances surrounding the lawsuit. Only issues involving the issuance procedure fall under the purview of the PTUN, the land rights certificate being included in the formulation of the article which is the authority of the PTUN to adjudicate. The validity of the conditions for submitting a certificate, such as the validity of the deed of sale and purchase, the applicant's right base, and other conditions, are disputed matters that fall outside the purview of the state administrative court's adjudication. Consequently, these disputes must be settled to the civil court to determine the legitimacy of these conditions before proceeding. Such an opinion is conditioned upon the reasoning of the majority of state administrative judges addressing land disputes (Muslim & Gunawan, 2019). The District Court and the PTUN have different absolute jurisdiction when it comes to disputes involving the cancellation of land rights certificates. In this case, the PTUN's object of the case (objectum litis) is a ruling from the TUN issued by the TUN Official or the authorities, whereas the State Administrative Court's jurisdiction is limited to the land certificate. whether the procedure used for issuance complies with relevant statutes; in contrast, the District Court is considering the rights (pertaining to ownership) and interests of the community that have suffered because of the TUN decision's issuance (in this case, the Land Rights Certificate issued by BPN).

**Legal Consequences of District Court Decisions with State Administrative Court (PTUN) Decisions Regarding Land Rights Certificate Cancellation Disputes**

ATR/KaBPN Ministerial Regulation No. 11 of 2016 actually contained regulations for the cancellation of legal products, one of which is a certificate of land rights. This regulation was later replaced by Minister of ATR/KaBPN Regulation No. 21 of 2020. According to Article 1 number 14 of the ATR/KaBPN Ministerial Regulation No. 21 of 2020, cancellation is the act of putting into effect a court decision that has acquired permanent legal force or of canceling a legal product because of administrative or judicial flaws in its issuing. As a result, there are two (two) different reasons why legal goods can be canceled: those resulting from administrative, juridical, or both, and those resulting from the application of court rulings with perpetual legal effect (Muharam, 2015). Cancellation of a certificate of land rights causes the elimination of a person's rights to the land they control. This is as regulated in the UUPA. The removal of land rights does not necessarily result in the land becoming controlled by the state. Because cancellation can be done to eliminate the transfer of a person's rights, not extending to his or her first ownership.

A certificate of land rights may be revoked because it is carrying out a court ruling that is governed by Article 38 paragraph (2) of the Minister of ATR/KaBPN Regulation No. 21 of 2020. This means that the certificate may be revoked if the ruling indicates that it is void, null, or invalid, or that it lacks binding legal force, legal force, or evidentiary force, among other things (Fitria, Pattereng, & Makkawaru, 2021):

- Establishment of land rights;
- Registration of land rights for the first time;
- Maintaining land registration data;
- Certificate of replacement for land rights;
- Certificate of Mortgage Rights;
- Cancellation Decision;
- Decision to determine abandoned land;
- Certificate of ownership of the apartment unit;
- Determination of land consolidation;
- Confirmation of land for land reform objects;
- Determination of willingness to provide compensation for former private land;
- Decision on granting location permits covering cross-province areas;
- Determination of State Administrative Officials within the Ministry in the land sector which are concrete, individual and final.

The ownership of property rights is a more important factor in civil decisions involving the revocation of land certificates than taking over administrative authority. Stated differently, judgments that seek "to declare void or cancel the land certificate" should not be applied in civil cases. From what has been said, it can be inferred that in the event that a civil judge rules that a certificate is void, the successful party in the action needs to apply to the BPN to have the certificate revoked in accordance with the court's ruling. The authority to make corrections to a TUN decision in the land sector (certificate/Decree on Granting Land Rights), only rests with the Head of BPN. This is also in line with Supreme Court decision no. 716 K/Sip.1973 Dated 5-9-1973; the revocation and cancellation of certificates is solely the authority of the BPN office, not the authority of the District Court.
Meanwhile, in the Supreme Court decision no. 3838 K/Sip/1971 dated 11-3-1971 stated that the SHM issued by BPN was legally invalid solely as part of administrative authority. Therefore, it can be inferred that a civil judge's jurisdiction in land disputes pertaining to the issuing of a certificate as evidence of land rights is limited to reviewing the substantive components of the certificate. Judge Peratun, in the meantime, has the jurisdiction to assess substantive aspects to a certain extent as well as procedural aspects (Pramina, 2019).

Cancellation requests can be made in relation to land plots that are declared null and void, do not have binding legal force, and so forth, following the implementation of a court ruling that has permanent legal force. One of the powers that BPN has to ensure control, ownership, usage, and use of land as well as efficient land administration is the cancellation of land title certificates. Disagreements between people, between people and a community organization, between the community and the government, and so forth, give rise to legal action in the form of the revocation of land title certificates. In essence, Indonesia's Constitutional System grants courts the power to consider, rule on, and try cases without intervention from outside parties. Permanently enforceable court orders must be followed by all parties, including the parties involved in the case and any relevant authorities. In particular, BPN is obligated to follow and implement court decisions that have eternal legal force, even though it is not a party to the case and serves as an executive body in the land sector. This is required by ATR/BPN Ministerial Regulation No. 21 of 2020, Article 37, Paragraph 1, which states that "every court decision that has legal force must still be implemented."

In terms of the cancellation of a land ownership certificate based on a court ruling, even if the certificate is ruled to be null and void, this does not mean that the certificate is immediately canceled because the cancellation is a matter of government administrative procedure that requires submission by the winning party. An annulment must be requested by the party who wins the court decision obtained because the authority to issue a decision to cancel a certificate of land rights is an administrative action of a government official, namely the BPN. Therefore, the cancellation of a certificate of land rights based on a court decision which has permanent legal force, whether a District Court Decision or a PTUN Decision, cannot necessarily be canceled immediately even though the decision states that a certificate of land rights is void, null and void or invalid, does not have binding legal force.

Regulations pertaining to the revocation of land title certificates as a result of court rulings have evolved into more specific guidelines, and not all legally binding court decisions are still subject to BPN's implementation. The Minister of ATR/KaBPN Regulation No. 21 of 2020, which states that "Ministries or Regional Offices in accordance with their authority cannot cancel Legal Products either because of administrativelydefects and/or juridicaldefects or as implementation of court decisionsnthat have permanent legal force, in the following cases (Pratiwi & Resen, 2023):

a) Rights to the land object of the Dispute/Case have been transferred to a third party;

b) The third party as the final rights holder is not a party to the Case;

c) The third party obtained the rights to the land in good faith in accordance with the provisions of the legislation before the case occurred.

In addition to the aforementioned regulations, Minister of ATR/KaBPN Regulation No. 21 of 2020's Article 37 paragraph (2) regulates the exclusion or non-implementation of court decisions. These provisions are directed towards:

a) The object of the decision is against another conflicting decision;

b) The decision states that the lawsuit cannot be accepted;

c) The object of the decision is being confiscated;

d) The location of the land plot of the case object is unclear and there is no execution;

e) The location, area and boundaries of the land plot of the case object mentioned in the decision and/or legal considerations are in line with the location, area and boundaries of the land plot being executed;

f) The land subject to the case has been changed to State land or the rights thereto have been extinguished;

g) The decision is not at all related to the object requested for Cancellation;

h) Other valid reasons.

CONCLUSION

When it comes to disputes involving the cancellation of certificates of land rights, the District Court and the PTUN have different absolute competences. The PTUN's absolute competence is related to administration, whereas the District Court's is related to civil aspects. The State Administrative Court's authority is limited to land certificates; what are the procedures for issuing them, is in compliance with the relevant statutory provisions, but the General Court has jurisdiction over issues of ownership, the legality of the sale and purchase agreement, and the validity of the applicant's rights.

An annulment must be requested by the party who wins the court decision obtained because the authority to issue a decision to cancel a certificate of land rights is an administrative action of a government official, namely the BPN. The legal consequences of canceling a certificate of land rights based on a court decision which has permanent legal force, whether a District Court Decision or PTUN Decision, cannot necessarily be canceled immediately even though the decision states that a certificate of land rights is void, null and void, or invalid.

REFERENCES


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