



## Draft Completion Cancellation Certificate of Mortgage Rights by the Land Office Regency Sukabumi to Achieve Legal Certainty

Agus Satory; Iwan Darmawan; Yenny Febrianty; Mulyo Santoso

School Law Studies Program Postgraduate at Pakuan University, Bogor, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v11i1.5504>

---

### **Abstract**

Uncertainty law-related ownership of land Lots triggers disputes and conflicts with land in various regions in Indonesia. There is a certificate right canceled dependents Because exists decision court already canceled the certificate right already owned attached to rights dependents. So by canceling it certificate rights dependents become conflict land separately Because creditor holder rights dependents will feel at a loss with existing cancellation. This research aims to How the implementation of cancellation certificate rights depends on the decision the court annulled certificate rights owned by. Then How to draft a solution cancellation certificate right responsibility by the BPN or Land Office Regency Sukabumi to achieve certainty law? Type of study This is empirical legal research that is descriptive and qualitative. Primary data was obtained from the National Land Agency of Sukabumi Regency and the Cibadak District Court, then secondary data came from various documents, books, literature, magazines, newspapers, the internet, and legal regulations related to the research issue. Data collection methods used include interviews and literature study. The author applies qualitative data analysis techniques with an interactive model. From the results study and data analysis, it can be concluded that the process of making a deed of sale and purchase of land rights by the Land Deed Drafting Officer (PPAT) was carried out against the law, resulting in legal defects. Elimination of Mortgage Rights due to loss of land rights results in the creditor losing the ability to sell through auction, which is a characteristic of Mortgage Rights. Objections from creditors who hold mortgage rights are the reason for deletion. To strengthen the value of an authentic deed, such as a Deed of Granting Mortgage Rights, it is recommended to contain stronger promises to protect creditor rights during the registration process. Regulations regarding the cancellation of property rights certificates that are encumbered with mortgage rights need to be regulated to protect creditors holding mortgage rights in a preventive manner, namely preventive measures by the government based on freedom of action and methods of resolving disputes.

**Keywords:** *Cancellation; Mortgage Certificate; Land Office; Legal Certainty*

### **Introduction**

The land is a vital need for continuity of life man. Indonesia is a country based on law, for all line life is arranged by applicable law. <sup>1</sup>Including arrangement about law deep ground matter This is in Law

---

<sup>1</sup> Azhary , *Indonesian Legal State, Analysis Juridical about The Elements* , (Jakarta: FH UI, 1995) p. 97.

No.5 of 1960 concerning Basics Agrarian Affairs (UUPA). So that For ensure the right to land for every citizen, the UUPA states certificate is sign proof right to guarantee rights on land for each person<sup>2</sup>.

The Ministry of Agrarian Affairs and Spatial Planning is below leadership and responsibility answer President, led by a Minister. By provisions of Article 2, PP No. 17 of 2015 concerning the Ministry of Agrarian and Spatial Planning, the duties of the Ministry of Agrarian and Spatial Planning include maintenance affairs of government in the field of agrarian and spatial planning. Its function he; ah help the President run task state government.

The functions of the Ministry of Agrarian Affairs and Spatial Planning (ATR), according to Article 3 PP No. 17 of 2015, namely: Formulate, determine, and implement policies related to spatial planning, agrarian infrastructure, land legal relations, land management, land acquisition, control of space use, as well as resolution of agrarian/land problems, space and land use.

- 1.Coordinating the implementation of tasks, providing guidance, and providing administrative support to all elements of the organization under the auspices of the Ministry of ATR.
- 2.Manage state property/wealth so it is ATR's responsibility
- 3.Supervise the implementation of tasks within the Ministry of ATR.
- 4.Provide technical guidance and supervision in the implementation of the duties of the ATR Ministry.
- 5.Providing substantive support to all organizational elements within the Ministry of ATR. To carry it out BPN's duties and functions are coordinated minister who organized its affairs government in the field of ATR.

Orderly Administration is very important in the field land, esp seen in maintenance activity registration land. Activity This government does in a way continuous, involving collection, processing, bookkeeping, presentation, and maintenance of physical and juridical data about field land and units House arrange. Registration is like explained in Article 1 number 1 PP No. 24 of 1997 concerning Land Registration, which includes giving a letter sign proof of right For field existing land have right as well as right owned by on unit House arrangement and rights attached special.

Certificate right on land works as proof ownership right on land for holder right. Published For interest holder rights, by Article 31 paragraph 1 PP No.24 of 1997 concerning Land Registration. Article 32 of the PP on Land Registration says certificate right on land becomes a letter signing strong evidence regarding physical and juridical data, according to data in letter measure and book land the rights concerned. Giving rights on land is carried out by the Land Office, the Regional Office of the National Land Agency, and the Head of the National Land Agency of the Republic of Indonesia, depending on the type and area of requested land rights. This step is done To minimize the potency of disputed land.

Land disputes often occur not only between individuals but between groups. There are various ways to resolve land disputes, which are a common problem and difficult to avoid, especially in the current context. So, when carrying out a transaction, be it buying or selling land or a house, it is very important to check all related ownership documents and certificates. Settlement of land dispute cases is regulated by ATR Ministerial Regulation No. 21 of 2020 concerning Handling and Settlement of Land Cases.

The regulation explains that land cases include disputes, conflicts, or land cases that are reported to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regional Offices of the National Land Agency, as well as land offices by their authority to obtain handling and resolution by applicable legal provisions.

---

<sup>2</sup> Bahtiar Effendy, *Land Registration in Indonesia and Regulations Executor*. (Bandung: Alumni, 199). p 8

Legal uncertainty over land often triggers disputes and feuds over land in various regions in Indonesia. Land disputes are not only limited to conflicts between individuals or families but can also occur between stakeholders such as entrepreneurs, state-owned companies, and the government.

The holder of the mortgage right can fight and/or sue in court against the right holder (the debtor) as a Defendant or BPN Sukabumi Regency in civil or State Administration. So this is the focus of the research, where is the legal certainty for the holder of a mortgage certificate if the parent certificate has been canceled through a court decision and/or declared to no longer have binding legal force?

Daro's background behind This so the writer is interested in lifting the problem namely: How is implementation cancellation certificate rights dependent based on the decision court annulled certificate right owned by? As well as How do draft solution cancellation certificate rights responsibility by the BPN or Land Office Regency Sukabumi to achieve certainty law?

### **Research Methods**

This study focuses on stage identification, with the use of studies literature ( secondary data ) on rights dependent on land and its cancellation. Secondary data involve material primary law , materials law secondary , and materials law tertiary . Accessed primary legal materials cover legal regulations, such as the 1945 Constitution of the Republic of Indonesia, Law no. 5 of 1960 concerning Basics Agrarian, and related legal regulations. Legal materials secondary form publication that describes material primary law, such as books, results-related research, magazines, and journals \_ with the role of the Land Office in finishing dispute cancellation certificate rights dependents on land. Legal materials tertiary covers references like dictionaries and encyclopedias, with Black's Law Dictionary (13th ed.) as one of the sources. Apart from materials law, and research this also takes advantage non- non-legal materials, such as books about philosophy, economics, politics, and culture, to give support as well as enrich the discussion. Primary data in the study This is obtained in a way direct from society, involving empirical data in form behavior as well as non-empirical data that reflects meaning symbolic in thought informant.

Mining in research This was carried out at the Land Office Regency Sukabumi.

They also did studies field with research targets surveys, *in-depth interviews*, And inventory data. Surveys were done by Land Office Officials and Employees Regency Sukabumi with ~~teuse~~ technique of convenience, *in-depth interviews*.

The aspect studied is data collection. Primary data collection held past technique observations, FGDs, and interviews in depth (*in-depth interviews*) withinformant key (*key informant*) for deepening the role of the Land Office Regency Sukabumi in solution cancellation certificate right dependents.

Secondary data collection held past studies documents and interviews with informants who know related focus study. Studies document done past inventory regulation, consistency regulation, And clash between regulations as well as To understand underlying philosophy regulation. Besides It is also used in various ways text (document) law tradition custom marriage. Then data processing with target study data Already collected will analyzed so that withdrawn conclusion and findings novelty in the study This.

Technique processing data held To use determine data Which used from that's all Lotsdata Which obtained. With normal, information collected No direct can be analyzed. Researchers do several processes for creating field data to become results study ie proofreading, editing, and copy data which exists.

Data obtained past good data collection in the form of primary data and secondary data processed with techniques namely <sup>3</sup>:

1. Checking the completeness and suitability of data according to the research problem. When If there are any discrepancies and/or deficiencies then corrections and additions are made. Matter This done Keep going continuously until data is seen Enough for answer and explain research problems.
2. Transcribing interviews, scanning *material*, typing field data, selecting and compiling data That too in types Which are different depending on source information.

Analysis techniques applied in the study This initial nature of descriptive begins with the classification of similar data and information based on sub-aspects. Next, do it interpretation to give meaning to each sub-aspect and its relationship One each other. Then implemented analysis or interpretation whole aspect is implemented to understand the meaning connection between the aspect that is at the heart of the problem study. Approach This nature is inductive for giving description results in a way comprehensive.

## **Discussion**

### **A. Implementation Cancellation Mortgage Rights Certificate Based on Decision Overturning Court \_ Certificate of Ownership.**

Cancellation certificate right on land is essential The same with cancellation right on land because the consequence of cancellation certificate right on land is retraction right on land. The connection between the cancellation decision granting Land Rights and the cancellation Certificate of Land Rights arises Because both of them were caused by defects in Administrative Law and carried out To use do-it Decision Court already gets strength law. This matter happens because Rights holders do not fulfill existing conditions set. Land has a very vital role in life man. His presence influences almost all aspects of life, especially in Indonesia, which is not separated from the existing land. View of the ground Not only nature economics, however, covers all aspects of life and livelihood man. Function land nature strategic, involving aspect social, political, defense security, and natural resources, as well as mark economical. So, policy development land must considered as an integral part of policy development nationally<sup>4</sup>. On context juridical, land refers to the surface earth, meanwhile, rights on land are rights held in part certain from surface earth, limited by dimensions two with size length and width. Top rights land Can differentiated from facet origin into 2 groups , namely right on primary and rightful land on natural land secondary .<sup>5</sup>

Cancellation certificate right on land refers to deletion something right on land because recipient right No fulfill existing conditions \_ set in decision giving right or there is an error in the letter decision of the donor concerned. Cancellation certificate right on land arranged in Article 1 number 14 Regulation of the Minister of State for Agrarian Affairs/head of the National Defense Agency No. 9 of 1999 concerning How to Grant and Cancel Land Rights and Management Rights (Permen Agraria /BPN 9/1999), definition giving right on land is retraction decision something right or certificate on land Because decision That contains Administrative Law defects in its publication or To use do it decision court already have strength law still. Article 107 Regulation Agraria /BPN/9/1999 states Administrative Law defects, as described \_ in Article 106(1), can become base cancellation based on the decision court. So, the

<sup>3</sup>Creswell JW. Research design: qualitative, quantitative, quantitative and mixed methods approaches.4th ed. Thousand Oaks: SAGE Publications; 2014. 273 p.

<sup>4</sup>Lutfi Ibrahim Nasiotion, "Evaluation Implementation UUPA, Program Period Now And Upcoming," *Seminar Nasional* (Jakarta, 2005), h lm . 5.

<sup>5</sup> Urip Santoso, *Law Agrarian & Rights On Land* (Jakarta: Kencana Prenada Media Groups, 2008), p . 89.

cancellation right on land can also be done Because the implementation decision court already has strong laws.

The process of occurrence right on land based on the provisions of the law or PP To use prevent abuse process the way administration<sup>6</sup>. The right of ownership is explained in Articles 20-27 of Law no. 5 of 1960 concerning Basic Basic Rules Agrarian (next abbreviated as UUPA). Right of ownership is considered as available rights lowered in a way hereditary Because holder right can pass it on to experts his heirs, accordingly regulated provisions \_ in Article 8 paragraph (1) letter b Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency No. 9 of 1999 concerning Procedures for Granting and Cancellation of Rights to State Land and Management Rights.

It happened right owned by, Can Because (Chapter 22 UUPA):

1. Law custom, for example past opening land.
2. Determination government, ie past applications submitted by an agency That looks after the land.
3. Provision UU, ie on base provision conversion.

Case of Cancellation of Certificate of Ownership for Land 44/Neglasari published on 07 February 1990 in Neglasari Village Subdistrict Nyaprotekt Sukabumi Regency related with case in Court Country (PN) Cibadak, with No. Registration: 36/Pdt.G/1998/PN.Cbd dated April 8 1999 in conjunction with Bandung High Court Decision No. 47/Pdt/2000/PT.Bdg dated 10 May 2000 which has permanent legal force, Where do you call Hj. Wawah Wahyuningsih (expert RE's heir. Wijaya) happened winner of Land rights. The cancellation certificate right on land happened Because exists decision the court stated transition of the right on land was not valid. Meanwhile above land with a certificate canceled court That Already raised the certificate right dependents of Bank Mandiri.

Cancellation certificates can done via two mechanisms with different laws. First, cancellation right on land because disabled law administrative can be submitted past direct applications submitted to the Minister Appointed official, or past Head of the Land Office, such as the National Land Agency at the level of Regency/City ("Land Office"). Temporary, mechanism second is cancellation right on land because disabled law administrative without exists application from interested parties, carried out by authorized officials \_ if there is disabled law administrative in the publishing process decision giving right or certificate without exists application. Next, cancellation rights on land can also be done Because our decision court already gets a strong law fixed, which is published on the application interested party. Application That can submitted directly to the Minister, Head of Regional Office, or via the Land Office.<sup>7</sup>

Apart from the mechanisms previously explained, there is also a mechanism for canceling land rights based on a court decision that has permanent legal force. Decree on cancellation of land rights, as in Article 104 paragraph (2) Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 9 of 1999, issued when available:

1. Administrative law defects; and/or
2. Implement court decisions that have permanent legal force.

About the object of cancellation of land rights, Article 104 paragraph (1) Agrarian Ministerial Regulation/BPN 9/1999 states Things that can be objects of cancellation of land rights include:

1. Decree on Granting Land Rights.
2. Land Rights Certificate.

<sup>6</sup>Syriac Sappe, Adonijah Ivone Laturette , and Novyta Uktolseja , "Right Use On Land Right Owned by And CompletionDispute ," *Batulis Civil Law Reviews* 2, no. 1 (2021): 78–92, <https://doi.org/10.47268/ballrev.v2i1.560>.

<sup>7</sup>Maria SWSumardjono, 2001, *Land Policy between Regulation & Implementation*, Jakarta: Compass, p 182.

### 3. Decree on Granting Land Rights in the Context of Land Tenure Regulation.

From the above formulation, Cancellation and Canceling of Land Rights impulse n :<sup>8</sup>

1. Cancellation of land rights is a legal action that aims to sever, stop or erase the legal relationship between the holder of land rights and the land rights in question.
2. This cancellation activity includes the act of canceling the decision letter granting land rights and/or the land rights certificate.
3. The reasons for cancellation can come from administrative legal defects and/or to implementation of a court decision that has permanent legal force. This can happen because the rights holder does not fulfill the conditions stipulated in the decision letter granting land rights or because there is an error in the decision letter concerned.

From the description Here, there are 3 ways to use it cancel the land title certificate:

1. Request cancellation from the Minister of Agrarian Affairs and Spatial Planning/National Land Agency via the Land Office.

The reasons for canceling the land title certificate are: there are administrative legal defects, for example, errors in calculations and land area, then grabbing another land, overlapping land rights, procedural errors, or other acts, such as falsifying documents. This was requested in writing to the Minister of Agrarian Affairs and Spatial Planning past The Land Office whose working area covers the location of the land in question, please attach several files, such as :<sup>9</sup>

- a. Photocopy of proof of identity letter and proof of citizenship letter (for individual) or a Photocopy of the deed of establishment (for legal entity);
- b. Photocopy of the decision letter and/or certificate;
- c. Other documents regarding the cancellation request.

Cancellation of the certificate can be done by submitting a letter to the Minister/Head of BPN/Ministry of Agrarian Affairs and Spatial Planning. By Article 1 number 14 of the Minister of Agrarian and Spatial Planning Regulation no. 9 of 1999, cancellation of land rights refers to the cancellation of a decision to grant land rights or a land rights certificate because there are administrative legal defects in its issuance or to comply with a court decision that has received permanent legal force. If there are administrative legal defects in the process, the ownership certificate can be canceled.

Cancellation of land certificates that contain administrative legal defects, such as errors in calculating land area that causes encroachment on other land, overlapping land rights, or procedural errors such as falsifying documents, can be submitted through a written request to the Minister. The application is submitted through the Head of the Land Office whose working area covers the location of the land in question.

2. Lawsuit to the State Administrative Court (PTUN).

Based on Article 1 number 7 of Law no. 30 of 2014 concerning Government Administration ( " UU 30/2014"), State Administrative Decrees ("KTUN " ) are written decisions issued by government bodies and/or officials in the context of administering government. Land title certificates are a form of KTUN. Another thing that needs to be noted is the time limit for filing a lawsuit to the State Administrative Court (PTUN), which is no later than 90 days from the receipt or announcement of the

<sup>8</sup>Hasan Basri Nata Menggala & Sarjita. *Cancellation and Canceling of Land Rights* . (Yogyakarta: Tugujogja Pustaka, 2004). page 27.

<sup>9</sup> Regulation of the Minister of State for Agrarian Affairs / Head of the National Land Agency No. 9 of 1999 concerning Procedures for Granting and Cancellation of Rights to State Land and Management Rights .

decision by the state administrative agency or official, by the provisions of Article 55 of Law no. 5 of 1986 concerning State Administrative Courts.

### 3. Lawsuit to District Court

Every individual who wishes to file a claim for an unlawful act, as regulated in Article 1365 of the Civil Code, must be accompanied by grounds and reasons that are considered detrimental based on the plaintiff's assessment. For example, someone sells a plot of land to a buyer, but the buyer has not paid the seller in full, even though he has submitted a process to change the name of the land certificate. However, you need to remember that there is a certain time limit because a request for cancellation or a lawsuit in court can only be submitted within a maximum of 5 years from the time the certificate is issued, as in Article 32 paragraph (2) PP No. 24 of 1997 concerning Land Registration which reads:

" If a land certificate has been legally issued in the name of a person or legal entity who acquired the land in good faith and controls it, then other parties who believe they have rights to the land can no longer demand the implementation of their rights. This is valid for 5 years from the time the certificate is issued, and during that period, the party who feels they have the right does not submit written objections to the certificate holder and the Head of the relevant Land Office, or does not submit a lawsuit to the Court regarding control of the land or the issuance of the certificate. . "

However, the expiration date is not absolute as long as it can be proven that the land was acquired and not done in good faith.

Although the Land Ownership Certificate is strong proof of rights, it is related to physical data and juridical data as long as the data matches the information recorded in the land book and measuring certificate in question. The data was taken from the land book and measuring certificate. The evidentiary reliability of the certificate can be tested by comparing the data contained in the land book and measuring certificate stored at the Land Office, to ascertain whether the physical data and juridical data listed are in accordance with the data in the land book and measuring certificate. Even though the Certificate of Ownership has strong evidentiary power, testing the veracity of the data is carried out through a negative publication system, where the state does not guarantee the veracity of the disabled data. This is in line with Article 32 paragraph 2 in conjunction with Minister of Home Affairs Regulation no. 5 of 1973 which states that land registration carried out by the UUPA does not use a positive publication system. However, the cancellation of a certificate by the Court can be justified if it is based on strong evidence regarding the legal basis for issuing the certificate, either in terms of procedures or violations of material law which could result in the cancellation of the deed on which the certificate was issued.

The legal consequences of canceling the title certificate underlie the plaintiff to submit a request for cancellation to the Sukabumi Regency Land Agency. Another legal impact of the cancellation of the ownership certificate occurred because the Cibadak District Court's decision stated that the debtor was not the legal owner of the land. As a result, the debtor's rights to the land were removed, and this had an impact on Bank Mandiri as a creditor because the land which was the object of property rights was guaranteed by the debtor with a mortgage being imposed on the debtor's debts.

Cancellation of land rights that are encumbered with mortgage rights results in the removal of mortgage rights, but it should be noted that mortgage rights are part of the debt and receivable agreement between creditors and debtors. So, even though the title certificate which is currently encumbered with a mortgage is canceled and results in the deletion of the mortgage, this does not make the debtor's debt paid off. The removal of Mortgage Rights due to the loss of land rights means that creditors cannot sell it at auction, which is a characteristic of Mortgage Rights.

Mortgage rights arise from the main agreement between the creditor and the debtor. So, if the debtor cannot fulfill his obligations according to the debt and receivable agreement, the debtor's assets become collateral to pay off all his debts to creditors, as in Article 1131 of the Civil Code which states that all objects, whether movable or immovable, become responsibilities for the entire agreement.

### **B. Draft Completion Cancellation Mortgage Rights Certificate from BPN or Land Office Regency Sukabumi to Achieve Legal certainty**

UU no. 5 of 1960 (UUPA) Not yet fully encompass and overcome aspects related to land. P This manifested in an enhancement amount disputes, conflicts, and cases land. Related problems with land, esp in context agriculture, became very important for quick overcome. This matter because land is base main in development, and instability in matrix base This can hinder acceleration development. Enhancement amount disputes, conflicts, and cases land reflect the challenge real, consistent with the result data validation issued by BPN.<sup>10</sup>

Disputes land happen completely Because injustice, emptiness law or product the law is not adequate consequence tug various interests<sup>11</sup>. This shows solution problem land possibility big will still become a focus in reaching state goals, viz a just and prosperous society. This is part of the business To use reach objective law, esp in context knowledge law positive that emphasizes achievement certainty law.<sup>12</sup>

Through regulations latest Here, Candy Agrarian No. 21 of 2020 concerning Handling and Resolution Case, expected solution problem land can help with more efficient. From the results interview, the author identified several important aspects of regulations this is a must notice the moment somebody faces case land in the future.<sup>13</sup>

First, differences fundamental in case land involve disputes, conflicts, and cases of land. Dispute land refers to disputes between individuals, legal entities, or institutions without significant impact. Conflict land, on the other hand, is disputed land involving individuals, groups, organizations, or legal entities with potency or Already affects more areas wide. Then, matter land covers dispute-settled land \_ through the judicial process.

Second, regulations differentiate handling solution disputes and conflicts depending on the method of report submitted. Minister of Agrarian Regulation No. 21 of 2020 concerning Handling and Resolution Case make difference between type submitted report \_ in a way initiatives by ministries and complaints public. Administrative and recording processes handling incoming complaints are differentiated depending on two mechanisms report that, but No There is a difference in mechanism after findings and complaints are registered.

In the case of cancellation certificate, such as Decree No. 55/ Pbt /BPN.32.02.600/IX/2018 dated 24 September 2018 concerning Cancellation Transition Certificate of Ownership No. 44/ Neglasari published on 07 February 1990, analysis deep done to evaluate What case land That is at in scope authority Ministry. Article 11 paragraph (3) Ministerial Regulation Agrarian No. 11 of 2016 in conjunction with Minister of Agrarian Regulation no. 21 of 2020 concerning Handling and Resolution Case set dispute or the conflict that occurs authority ministries, especially the Ministry of Agrarian Affairs and Spatial Planning, include error procedure measurement, mapping , and/ or calculation wide

<sup>10</sup> Syarief , Elza. *Complete Land Disputes Through Court Special Land*. (Jakarta: PT. Gramedia, 2012)., p. 120.

<sup>11</sup> Limbong , Bernhard. *National Agrarian Law*. (Jakarta: Margaretha Pustaka, 2012), p. 337.

<sup>12</sup> Ahmad Ali. *Revealing the Legal Veil*. (Bogor: Ghalia Indonesia, 2008)., p. 60.

<sup>13</sup> Badrianur. *Interview result*, Stylist Land Office Land Regency Sukabum, October 13 2023, at 10.30 WIB.



land , registration and/ or confession right on land used owned by custom , determination and/ or registration right land , determination land abandoned , as well overlapping overlap right or certificate right on containing soil error on the basis of his rights .

Apart from handling dispute or conflict\, the Ministry of Agrarian Affairs and Spatial Planning is not authorized to handle case land. However, the Ministry of Agrarian Affairs and Spatial Planning can take the initiative to use facilitation solutions to disputes or conflicts past mediation. In the rules This is mediation can applied Good For dispute that arises from the authority Ministry or what does not become the authority Ministry.

The completion process past mediation can be done by involving the Creditor's holder's right dependents when all parties agree to do negotiations with principal discussion to reach a profitable deal for all parties. If there is rejection from one party, then the solution is done in accordance provision of the applicable law. By technical, mediation takes place for a maximum of 30 days, with the originating mediator from the ministry, BPN Regional Office, or Land Office.

If achieved agreement on mediation, then make it an agreement peace based on binding mediation minutes all parties, including creditor holder rights dependents and debtors, for replacing goods equivalent guarantee. Next, the agreement peace is registered at the Registrar's Office local District Court To get strength binding law. Need noted mediation considered canceled if, after three times a proper invitation, one or a second disputing party No present. So, the parties can finish disputes or conflicts in accordance provision applicable legal regulations.

Third, related to implementation cancellation as stated in Decree No. 55/ Pbt /BPN.32.02.600/IX/2018 dated 24 September 2018 concerning Cancellation Transition Certificate of Ownership No. 44 / Neglasari published on 07 February 1990. Completion \_dispute or conflict handled by the Head of the Land Office and decisions That must implemented, except when there is a valid reason for postponing its implementation. Article 33 paragraph (2) Ministerial Regulation Agrarian No. 11 of 2016 in conjunction with Minister of Agrarian Regulation No. 21 of 2020 concerning Handling and Resolution Case Land include three valid reasons for postponing implementation, namely certificate that will confiscated by the police, prosecutor's office, court, or institution enforcer law other; the land that became object cancellation is object right dependents; as well as land already transferred to the party other.

Fourth, related to handling matters. In context, this, handling cases done in Justice civil or TUN, of which the Ministry of Agrarian Affairs and Spatial Planning is one party. If the Ministry experiences a defeat in case, the Ministry can do effort law, like resistance (verzet), appeal, cassation, and review return.

Litigating parties can also request information expert or witness expert from the Ministry passed by the Head of Land Office, Head of BPN Regional Office, or Minister. In case it doesn't involve the Ministry as a party but concerning the interests of the Ministry, the Ministry can intervene.

Implementation decision courts already \_ have strength law still must implemented, except if There is a valid reason For put it off, like exists other conflicting rulings, object decision in blocked status or confiscated by the police, prosecutor's office, court, or institution enforcer law others, as well other regulated reasons in statutory regulations. This matter must guarded with Good Because certainty law is a fundamental legal objective, and implementing Decree No. 55/ Pbt /BPN.32.02.600/IX/2018 dated 24 September 2018 as implementation Decision Cibadak District Court and cancellation certificate right dependents according to UUHT, namely an integral part of reach objective certainty law.

Article 18 paragraph (1) number (4) UUHT states, "rights dependents will erase when right on collateralized land with right dependents are also wiped out". Principle This can understood easily Because the right dependents are considered as the right material, and if the object is the right material That is lost, guarantees the right material that's also a loss of meaning. Removal of rights on land often happens Because of the expiration of the validity period right, especially in case more rights are low like the right to use a building or the right to use one that has a time limit certain. Although physique land is still Yes, right on land That ends and returns to the owner, or when the right That granted by the state, land That returns becomes state property.

Cancellation right on land, though certificate right dependents published by the National Land Agency (BPN) as an agency or State Administration officials (KTUN), which includes in KTUN category, no need submission cancellation special for certificate right dependents. If the certificate right on land is canceled past the decision court, the certificate right dependents will automatically be canceled. It means with the cancellation certificate right on land, certificate rights dependents will too have cancelled in an way automatic without need submission cancellation separately in court, but rather Can submit the cancellation directly to BPN. The cancellation certificate will result in the abolition of mortgage rights by provisions of Article 18 UUHT.

Arrangements about cancellation certificate, though Already according to the Mortgage Rights Law, it is necessary to strengthen especially in matter protection law. Protection This refers to action-based government freedom act, including method solution dispute. Additionally, to strengthen the mark deed authenticity like a Deed Providing mortgage rights is necessary to clarify more promises strong to use protect the right creditor in the registration process.

Article 10 Law no. 4 of 1996 confirms the agreement that gave rise to its debt- receivable relationship can made with the deed below hand or deed authentic, depending on the governing law material agreement. Apart from that, Article 11 paragraph (2) of Law no. 4 of 1996 stipulates mandatory promises to be included in the Deed Providing mortgage rights, which should be given protection for creditors.

Important for noted inclusion element or mandatory content \_ There is in Deed Granting Mortgage Rights must complete and characteristic cumulative, for fulfill element specialty from Mortgage Rights. Negligence lists one fill-in deed That can cause cancellation null and void, which can also be worn fine or threatening punishment criminal when there is an element deliberate.

Party banking is also necessary to understand notary, as officials in agreement credit, must treated as working partners The same for ensuring aspect law and completeness other. Although the Notary Public plays an role important, party banking still must actively inspect every aspect and equipment required in something agreement credit. Besides, it's important to take notes of error or negligence in agreement credit made by a notary Still Possibly happens, so party banking needs to operate a role active in evaluating documents That. On the other hand, PPAT must also be more consistent in applying existing rules and avoid element possible intentions detrimental to the parties or party third.

## **Conclusion**

From the description, the conclusions in the study this, namely:

1. The implementation of the cancellation of the mortgage certificate is based on a court decision canceling the mortgage certificate.

The judge considers the cancellation of Certificate of Ownership No. 44/Neglasari, published on 07 February 1990, which is burdened with mortgage rights, based on the Decision of the Cibadak District Court No.36/Pdt.G/1998/PN.Cbd dated 8 April 1999 in conjunction with the Decision of the Bandung High Court No. 47/Pdt/2000/PT.Bdg dated 10 May 2000. This consideration refers to the process of making a sale and purchase deed of land rights carried out by the Land Deed Making Officer (PPAT) unlawfully. This process is considered legally flawed because it was carried out with engineering by the defendant, involving a Notary/PPAT, and the defendant did not have the authority to bind collateral for mortgage rights over land rights objects. This error resulted in the cancellation of the deed of sale and purchase of land rights in a court decision. The Cibadak District Court stated that this unlawful act had harmed the plaintiff, so the entire sale and purchase deed process was canceled.

2. The concept of resolving the cancellation of mortgage certificates by BPN or the Sukabumi Regency Land Office to achieve legal certainty, namely that regulations regarding the cancellation of property title certificates that are encumbered with mortgage rights should focus on preventive legal protection for creditors holding mortgage rights. Preventive action is a government effort that is free to act and a way to resolve disputes. Strengthening can be done on the value of authentic deeds, especially Deeds of Granting Mortgage Rights which contain stronger promises to protect creditor rights during registration and guarantee the implementation of mortgage rights. In Article 11 paragraph (2), it is regulated regarding promises that must be contained in the Deed of Granting Mortgage Rights. It is important to note that not all promises protect creditors, but only part of them. So, the integrity of the contents needs to be included to fulfill the special elements of the Mortgage Rights. Failure to include any of the contents in the deed can result in the cancellation of the Deed of Granting Mortgage Rights as null and void by law. However, the cancellation can be subject to large fines or the threat of criminal penalties due to intentional elements. Regulations also need to regulate the legal consequences of cancellations caused by administrative defects. In the context of dispute resolution, the provision of collateral with compensation and legal protection to creditors must be regulated so that creditors are not harmed in the cancellation process.

## References

- Ali, Ahmad. *Revealing the Legal Veil*. Bogor: Ghalia Indonesia, 2008.
- Azhary, *Indonesian Legal State, Analysis Juridical about The Elements*, Jakarta: FH UI, 1995.
- Basri, Hasan, Nata Menggala & Sarjita. *Cancellation and Canceling of Land Rights.*, Yogyakarta: Tugujogja Pustaka, 2004.
- Bernhard, Limbong. *National Agrarian Law*. Jakarta: Margaretha Pustaka, 2012.
- Effendy, Bahtiar, *Land Registration in Indonesia and Regulations Executor*. Bandung: Alumni, 1999.
- Ivone Laturette, Adonia, "Completion Disputes over Land Rights of Customary Law Communities," *SASI* 22, no. 2 (2016).
- Ibrahim Nasiotion, Lutfi, "Evaluation Implementation UUPA, Program Period Now and Upcoming," *Seminar Nasional*, Jakarta, 2005.
- JW. Research, Creswell, *design: qualitative, quantitative, quantitative and mixed methods approache s*. 4th ed. Thousand Oaks: SAGE Publications; 2014.

Jundiani, *Local Wisdom in the Environmental Protection and Management*, IOP ConfSer: Earth Environ Sci. 2018.

Regulation Head of the Indonesian National Land Agency No. 2 of 2013 Concerning Delegation Authority Granting Rights to Land and Activities Land Registration.

Santoso, Urip, *Law Agrarian & Rights On Land*, Jakarta: Kencana Prenada Media Groups, 2008.

Sappe, Syriac, Adonijah Ivone Laturette, and Novyta Uktolseja, "Right Use On Land Right Owned by and CompletionDispute," *Batulis Civil Law Reviews* 2, no. 1, 2021.

S. W. Sumardjono, Maria, 2001, *Policy Land between Regulations & Implementation*, Jakarta: Compass.

Syarief, Elza. *Complete Land Disputes Through Court Special Land*. Jakarta: PT. Scholastic, 2012.

Interview, Ai Rustinah. General Administration of the Land Office Regency Sukabum, October 11, 2023, at 10.30 WIB.

Interview, Badrianur, Stylist Land Office Land Regency Sukabumi, dated October 13, 2023.

## Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).