



## JUDICIAL REVIEW OF LAND DISPUTE SETTLEMENT (CASE STUDY OF DECISION NUMBER 9/G/2023/PTUN.SMD)

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Article	Abstract
<p><b>Keywords:</b></p> <p>Authority of the State Administrative Court; Certificate Return; Dispute.</p> <p><b>Article History</b> Received: June 19, 2025; Reviewed: June 20, 2025; Accepted: June 27, 2025; Published: June 30, 2025</p>	<p>This research explores conflicts related to ownership of building use right certificates in Sepinggan Baru, South Balikpapan. The main objective is to address administrative disputes between individuals or legal entities and state administrative bodies or officials. The key question in this study is whether there is a legal defect in the procedure and substance of the issuance of the object of dispute by the respondent. The research approach used is a normative legal approach with the method of statutory approach and case approach. The findings show that the State Administrative Court has absolute authority in resolving state administrative disputes, including conflicts over ownership of building use right certificates. The conclusion of this study is that the building use right certificate in the name of Saniyah is declared invalid and cancel, and the defendant must return the certificate to the plaintiff. This study is important because it can be used as a reference by policy makers and the public in resolving state administration disputes relating to land ownership and building use right certificates.</p>

### 1. INTRODUCTION

After Indonesia declared its independence on August 17, 1945, efforts were made to implement a comprehensive reform of agrarian or land law in line with the ideals of independence. However, the process of establishing a national land law was complicated and faced numerous challenges. To address land-related issues in the post-independence period, the old land laws continued to be applied temporarily, but their implementation was guided

by policies consistent with the principles of Pancasila and the objectives outlined in the nation's laws (Muhammad, 2019). Land is defined as a natural resource that comprises a mixture of mineral materials, organic substances, water, and air, forming the earth's surface, and serves as a medium for plant growth (Sarwono Hardjowigeno, 2010). It is an essential resource used for agriculture and settlement, and its demand has increased due to the development of Indonesia's economy, politics, and socio-cultural dynamics. This text aims to analyse a land dispute case in Balikpapan District, caused by overlapping claims.

According to the 1945 Constitution, every individual has full rights, which are guaranteed under the law. Article 33, paragraph (3) of the Constitution states that the State controls the earth, water, space, and the natural resources contained within, to be used for the welfare of the people. This principle aims to ensure that the functions of the earth, water, and space, as well as the natural resources, contribute to the prosperity of the population. In line with this, <sup>1</sup>Law No. 5 of 1960, the Basic Agrarian Law (UUPA), in Article 4, paragraph (1), defines land as the earth's surface that can be granted to and owned by individuals, groups, or legal entities. This right to land is subject to limitations set by the UUPA and other regulations.

Given these frameworks, it is important to examine the role of the State Administrative Court (PTUN) in ensuring justice and state law functions in resolving land disputes. To aid in addressing land ownership issues, Government Regulation No. 24 of 1997 concerning Land Registration was introduced, aiming to clarify land ownership statuses through certificates (Katrine Novia & Pieter Everhardus Latumeten, 2023). However, this issue has been escalating, causing unrest within the community and affecting the performance of the National Land Agency (BPN) in land administration. Disputed land cannot be managed by certificate holders or other parties, as it harms the rightful landowners. Irresponsible control of land not only prevents its use for economic purposes, such as collateral or production, but also disrupts the economic balance, as the rightful ownership is undermined by other parties' claims.

## **2. RESEARCH METHODS**

In this article, the approach used is a statue approach, namely the laws and regulations that are used as references, namely: Criminal Code, UUPA, PTUN Law, and Government

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<sup>1</sup> Naufal, M., Rio, A.A., and Reko, D.S, (2018) "Kepastian hukum bagi para pihak pemegang surat tanda bukti atas tanah berupa sertifikat hak milik ditinjau dari hukum agraria" *Journal of Progressive Law*.

Regulation No. 24 of 1997 concerning Land Registration. The use of the case approach aims at the application of legal norms and rules in legal practice.

### **3. RESEARCH RESULTS AND DISCUSSION**

Legal Measures Against Disputes on Building Rights Title Certificate in Sepinggan Baru Urban Village, South Balikpapan Subdistrict Administrative measures according to (Abdullah, 2009), is a process of conflict resolution in government administration that arises from adverse decisions or actions. It involves various actions or efforts in (Sugiharto, 2009). It involves various actions or efforts in the field of government administration to achieve certain goals by various means and methods available (Sugiharto, 2009).

These efforts can be in the form of administrative objection procedures and administrative appeal procedures, as explained by (Sugiharto, 2009). Procedures, as explained by (Yanti, 2017). For example, a person or legal entity who feels aggrieved by a State Administrative Decision can make administrative efforts before submitting a written lawsuit to the State Administrative Court. Efficiency and effectiveness in population administration services by village officials are important factors in achieving community satisfaction.

In accordance with Article 2 of PERMA No. 6/2018, administrative efforts must be made before the court can accept, examine, decide, and resolve government administration disputes (Supreme Court Regulation No. 6/2018). Resolve government administration disputes (Supreme Court Regulation Number 6 of 2022). In some cases, such as disputes related to building use right certificates issued by the Head of the Land Office of Balikpapan City for land in Sepinggan Baru, South Balikpapan Subdistrict, Balikpapan City, East Kalimantan Province, in the name of Saniyah, this action is deemed to be violated procedures and the law because it issued a certificate for land owned by the plaintiff.

A legal remedy is a step taken by an aggrieved individual or entity to seek justice through the court system. This can involve various forms of action, such as appeal, cassation, or judicial review. The main purpose of legal remedies is to ensure that justice is served, and legal rights are protected (Olivia, 2016). In civil cases, court decisions have three types of power, namely:

- a) Binding Power: A court judgment is binding on the parties involved in the case, the heirs of the parties, and those who obtain rights from the parties;

- b) Evidentiary Power: Court decisions have evidentiary power because they meet the criteria of being an authentic deed. An authentic deed is a document made in written form by an authorized official, signed, and intended for proof;
- c) Executorial Power: Court decisions can be executed by force if the judgment is not executed voluntarily. However, Dispute over ownership of Building Rights Title Certificate in Sepinggan Village Baru, South Balikpapan Subdistrict between Jahenap (Applicant) and the Head of the Balikpapan Land Office (Defendant) with the object of dispute.
- a) Building Rights Title Certificate Number 00684 with Measurement Letter Number 01111/Sepinggan Baru/2015 covering an area of 4,891m<sup>2</sup> in the name of Saniyah;
- b) Building Rights Title Certificate Number 00685 with Measurement Letter Number 01112/Sepinggan Baru/2015 covering an area of 5,129m<sup>2</sup> under the name of Saniyah;
- c) Building Rights Title Certificate Number 01432 with Measurement Letter Number 02779/Sepinggan Baru/2017 covering an area of 1,616m<sup>2</sup> under the name of Saniyah; and
- d) Building Rights Title Certificate Number 01433 with Measurement Letter Number 02778/Sepinggan Baru/2017 covering an area of 894m<sup>2</sup> in the name of Saniyah.

In the law-making process, legislators must find ways to realize the 'good'. They must consider the fact that actions they are preventing are bad or evil. A law is recognized as law if it aims to achieve objectives, such as: abundance, protection of property status and minimization of injustice (Mutiarany & Perdana, 2022).

In society, land issues often become cases that appear in court. In this case, land disputes are the responsibility of the general court if they relate to the ownership of land rights, or the State Administrative Court if they relate to the validity of land rights certificates. This information comes from the book, Settlement of Land Rights Disputes Through the State Administrative Court by Manan Suhadi (Suhadi, 2020). In the appeal, the plaintiff has filed an appeal by submitting evidence marked P.1 to P.12 which is then juxtaposed with the evidence submitted by the plaintiff. juxtaposed with the evidence submitted by the defendant marked T.1 to T.16, where during the electronic trial, the plaintiff submitted a written replication on June 21, 2023 and with the replica, the defendant submitted a written duplicates on July 5, 2023. In terms of the appellant's lawsuit, the Judge is of the opinion that the Samarinda State Administrative Court has the authority to examine, accept, adjudicate, and

provide solutions and resolve the dispute a quo. Provide solutions and resolve the dispute a quo. The defendant or respondent or state administrative body, which is obliged to pay compensation, after receiving an application or submission for compensation from the justice seeker/plaintiff, then notifies the justice seeker that the application has been accepted (i.e., that the application has been accepted).

Considering Regulation No. 51 of 2009 concerning the Second Amendment to Regulation No. 5 of 1986 concerning the State Administrative Court, in Article 47 regulates how the expertise of the State Administrative Court in the legal framework in Indonesia, where it has the obligation and position to see, choose, and resolve state regulatory issues (Febriana, 2022). The panel of judges is directed by the regulation of Article 77 paragraphs (1), (2), and (3), Regulation No. 5 of 1986 concerning the State Administrative Court, as revised by regulation No. 9 of 2004 and Regulation No. 51 of 2009 that stipulates that:

- a) An objection to the absolute jurisdiction of the tribunal may be raised at any time during the proceedings and even if the absolute jurisdiction of the tribunal is not challenged, the judge, if aware of it, must declare in his or her office that the tribunal has no jurisdiction to hear the dispute;
- b) A plea challenging the relative jurisdiction of the tribunal must be filed before the answer on the merits of the case is filed, and the plea must be decided before the merits of the case are heard;
- c) Other exceptions, other than those relating to the jurisdiction of the tribunal, may be decided only together with the merits of the case.

In prescriptive exceptions to absolute jurisdiction which may be raised at any time during the investigation can be raised at any time during the course of the investigation, Exceptions to jurisdiction do not exist, if the judge is aware of them, then he or she is obliged to state that the court is unable to hear the dispute. This means that a decision on the question of the court's absolute jurisdiction can be made at any time, including at the time of final judgment, then in other prescriptive exceptions can only be decided together with the merits of the case. Based on these considerations, the panel of judges will initially examine directly the ability of the PTUN in examining and adjudicating the case a quo. With regard to the merits of the dispute, the panel of judges found that the merits of the dispute meet the following criteria:

- a) A written decision that is specific, individual and final. That the object of dispute contains writings which are evidence of registration of property rights in the form of

Certificate of Building Rights of property rights in the form of Building Rights Title Certificate 00684, Building Rights Title Certificate Building Rights Certificate 00685, Building Rights Certificate 01432 and Building Rights Certificate 01433 on a plot of land. Building Rights Certificate 01433 on a piece of land located in Sepinggan Baru Administrative Village, South Balikpapan Subdistrict. Sepinggan Baru, South Balikpapan Subdistrict, Balikpapan City, East Kalimantan Province, in the name of Saniyah. East Kalimantan, in the name of Saniyah;

- b) Given by a state organizing body based on the prevailing regulations and guidelines. Applicable regulations and guidelines. That the litigant as an agency or state administrative body or official at the time of issuing the object of dispute were performing the function of government administration and not in the frame of mind to carry out the function of making regulations and guidelines (wetgeving) and the ability to resolve (rechtspraak); and
- c) Contains state managerial arrangements. That the arrangement that became the defendant's basis in providing the material in dispute are arrangements that are of a public regulatory nature and relate to activities of the state's governing ability and can deny, create or postpone a right or commitment, and or postpone a right or commitment, and that the activities of the litigants are thus a demonstration of the litigants' activities are thus a demonstration of the state's managerial activity of the state.

The object of the dispute gives rise to legal consequences. That looking at the subject matter of the dispute It is apparent that the actions of the Defendant in issuing the object of dispute which triggers a legal effect in the form of ownership of a piece of land located in Sepinggan Baru, South Balikpapan Sub-district, Balikpapan City, Balikpapan City. Located in Sepinggan Baru, South Balikpapan District, Balikpapan City, East Kalimantan Province, under the name of Saniyah.

### **3. LEGAL BASIS**

- 1) Article 33 paragraph (3) of the 1945 Constitution:  
States that "The earth, water, airspace and natural resources contained therein shall be under the control of the State and shall be used for the greatest prosperity of the people."
- 2) Article 4 paragraph (1) of Law No. 5 of 1960 (UUPA):

Stipulates that land is "the surface of the earth that can be given to and owned by people either alone or together with other people and legal entities."

3) Government Regulation No. 24 of 1997:

Deals with land registration to give clear status to land ownership.

4) Article 55 of Law No. 5 of 1986 on Administrative Court:

Explains that a lawsuit can be filed within 90 days of the receipt or announcement of a certain decision.

5) PERMA No. 6/2018:

Affirms that administrative efforts must be made before the court can accept, examine, decide, and resolve government administration disputes.

6) Regulation No. 51 of 2009 (Revision of Law No. 5 of 1986): Regulates the absolute authority and jurisdiction of the PTUN.<sup>2</sup> Article 77 paragraphs (1), (2), and (3), Regulation No. 5 of 1986 concerning the State Administrative Court, as revised by Regulation No. 9 of 2004 and Regulation No. 51 of 2009. stipulates that:

- a) Objections to the absolute jurisdiction of the tribunal may be raised at any time during the proceedings and even if the jurisdiction is absolute. During the trial and even if the absolute jurisdiction of the tribunal is not challenged, the judge, if aware of the matter, may raise it at any time during the trial challenged, the judge, if aware of it, must declare by virtue of his/her office that the tribunal does not have absolute jurisdiction. By virtue of his office that the tribunal has no jurisdiction to hear the dispute;
- b) An application challenging the relative jurisdiction of the tribunal must be filed before the answer on the merits of the case is filed. Filed before the answer on the merits of the case is filed, and the plea must be decided before the merits of the case are heard. Must be decided before the merits of the case are heard; and
- c) Other exceptions, other than those relating to the jurisdiction of the tribunal, may be decided only together with the merits of the case.

### **3.1. THE DATA STEP OF THE LAND**

#### **3.1.1 Legal Step Against Disputes Certificate Building Rights Title in Sepinggan Baru Village, South Balikpapan District**

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<sup>2</sup> Universitas Diponegoro. (2021). "Penerapan Upaya Administratif Dalam Sengketa Tata Usaha Negara." *Master of Law Science*, Volume 3, Number 1, pages 34-45.

Administrative efforts according to (Abdullah, 2009), are the process of resolving conflicts in government administration that arise due to detrimental decisions or actions. This involves various actions or efforts in the field of government administration to achieve specific goals using various means and methods available. (Sugiharto, 2009).

These efforts can take the form of administrative objection procedures and administrative appeal procedures, as explained by (Yanti, 2017). For example, an individual or legal entity who feels aggrieved by a State Administrative Decision (KTUN) can take administrative measures before filing a written lawsuit with the Administrative Court (PTUN). Efficiency and effectiveness in population administration services by village officials are important factors in achieving public satisfaction. In accordance with <sup>3</sup>Article 2 of PERMA Number 6 of 2018, administrative efforts must be made before the court can accept, examine, decide, and resolve administrative disputes. (Supreme Court Regulation Number 6 Year 2022).

In several cases, such as the dispute related to the building use rights certificate issued by the Head of the Balikpapan City Land Office for land in Sepinggan Baru, South Balikpapan District, Balikpapan City, East Kalimantan Province, in the name of Saniyah, this action is considered a violation of procedure and law because it issued a certificate for land owned by the plaintiff. Legal action is a step taken by individuals or entities who feel aggrieved to seek justice through the court system. This can involve various forms of action, such as appeals, cassation, or judicial review. The main objective of legal efforts is to ensure that justice is upheld and legal rights are protected. (Olivia, 2016). In civil cases, court rulings have three types of authority, namely:

- a) Binding Authority: Court rulings are binding on the parties involved in the case, the heirs of the parties, and those who acquire rights from the parties.
- b) Evidentiary Authority: Court rulings have evidentiary authority because they meet the criteria as authentic documents. An authentic document is a written document made by an authorized official, signed, and intended for proof; and
- c) Executory Authority: Court rulings can be enforced forcibly if the ruling is not voluntarily executed. However, not all court rulings can be enforced forcibly. Only court rulings that are condemnatory (punitive) in nature can be enforced forcibly. This

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<sup>3</sup> Arzhi Jiwantara, Firzhal, (2019) "Upaya Administratif Dan Penerapannya Dalam Penyelesaian Sengketa Administrasi". *JATISWARA* 34 (2):131-42. <https://doi.org/10.29303/jtsw.v34i2.203>.



information is derived from the book, "Textbook on Civil Procedure and Practice" by Nyoman A. Martana. (Martana, 2016).

The court, as a state institution, has the authority to resolve legal disputes and issue binding decisions for the parties involved in the dispute. The structure of the court includes several levels, including district courts, high courts, and the supreme court. One of the main duties and authorities of the court is to uphold the law and provide justice for the community. (Krisnha Wardhana dkk., 2021). If the resolution from the head is in English, the court is known as "court," while in Dutch it is called "rechtbank." The court is an entity tasked with conducting the judicial process, which includes examination, trial, and resolution of cases.

Meanwhile, court administration refers to a series of office activities carried out as part of the state's duty to uphold law and justice. This process involves the reception, examination, trial, resolution, and settlement of cases submitted to the court. (Ali, 1990). In Decision Number 9/G/2023/PTUN.SMD., the process of conflict resolution through legal channels or courts is referred to as judicial efforts. The Samarinda Administrative Court is tasked with examining, deciding, and resolving state administrative cases at the first level, using ordinary procedures, as occurred in the case of the issuance of a building use right certificate by the Head of the Balikpapan City Land Office, which resulted in legal consequences in the form of the emergence of ownership rights over a plot of land located in Sepinggan Baru, South Balikpapan District, Balikpapan City, East Kalimantan Province, in the name of Saniyah. The court has made administrative efforts before accepting, examining, deciding, and resolving the government administrative dispute. This is in accordance with Article 2 of PERMA Number 6 of 2018, which states that the court can resolve government administrative disputes after going through administrative efforts.

### **3.1.2 Analysis of Disputes over Use and Building Rights Certificates in Sepinggan Baru Village, South Balikpapan Subdistrict**

Conflict, derived from the Latin verb "configere" which means "to strike together." In the context of sociology, conflict is defined as a social process in which one party attempts to defeat the other by damaging or weakening them. According to the Great Dictionary of the Indonesian Language (KBBI), conflict is defined as a dispute or quarrel. Muchasan in Hambali Thalib (Thalib, 2012) defines conflict as a difference of opinion, a

disagreement, or a dispute between two parties regarding rights and obligations in the same situation and condition. Generally, conflict or disagreement, dispute, is defined as a difference of opinion between two parties about a specific issue in the same condition. Hambali Thalib added that the term "conflict" has a broader scope and is not only used in land cases related to criminal proceedings but also in civil proceedings and administrative state proceedings. This information comes from the book *Agrarian Law: A Comprehensive Study* by Isnaini Lubis and Anggreni A. (Isnaini & Lubis, 2022). Dispute over the ownership of Building Use Rights Certificates in Sepinggan Baru Village, South Balikpapan District between Jahenap (Applicant) and the Head of the Balikpapan Land Office (Defendant) with the disputed objects being:

- a) Building Use Rights Certificate Number 00684 with Measurement Letter Number 01111/Sepinggan Baru/2015 covering 4,891m<sup>2</sup> in the name of Saniyah;
- b) Building Use Rights Certificate Number 00685 with Measurement Letter Number 01112/Sepinggan Baru/2015 covering 5,129m<sup>2</sup> in the name of Saniyah;
- c) Building Use Rights Certificate Number 01432 with Measurement Letter Number 02779/Sepinggan Baru/2017 covering 1,616m<sup>2</sup> in the name of Saniyah; and
- d) Building Use Rights Certificate Number 01433 with Measurement Letter Number 02778/Sepinggan Baru/2017 covering 894m<sup>2</sup> in the name of Saniyah.

In the process of making laws, legislators must find ways to realize 'goodness'. They must consider the reality that the actions they prevent are evil or wrongdoing. Laws are recognized as legal if they aim to achieve goals such as: abundance, protection of ownership status, and minimization of injustice. (Mutiarany & Perdana, 2022).

In society, land issues often become cases that appear in court. In this case, land disputes become the responsibility of the general court if they relate to land ownership rights, or the Administrative Court if they relate to the validity of land ownership certificates. This information comes from the book, "Settlement of Land Rights Disputes Through the Administrative Court" by Manan Suhadi. (Suhadi, 2020). In the plaintiff's appeal, the plaintiff submitted an appeal by presenting evidence marked P.1 to P.12, which was then compared with the evidence submitted by the defendant marked T.1 to T.16.

During the electronic trial, the plaintiff submitted a written reply on June 21, 2023, and with the existence of this reply, the defendant submitted a written rejoinder on July 5,

2023. In the case of the appeal, the Judge opined that the Samarinda Administrative Court has the authority to conduct examinations, accept, adjudicate, and provide solutions as well as resolve the dispute in question. Therefore, the defense presented by the defendant to the legal panel does not adhere to the law and must be acknowledged as unacceptable. The defendant or respondent or state administrative body, who is ordered to pay compensation, after receiving the application or claim for compensation from the seeker of justice/plaintiff, subsequently informs the seeker of justice that their application has been accepted. (Mujiburohman, 2022).

Considering Regulation No. 51 of 2009 on the Second Amendment to Regulation No. 5 of 1986 on Administrative Courts, Article 47 regulates the jurisdiction of the Administrative Court within the legal framework in Indonesia, which has the obligation and position to observe, select, and resolve state regulation issues. (Febriana, 2022) The panel of judges is directed by the provisions of Article 77 paragraphs (1), (2), and (3) of Regulation No. 5 of 1986 concerning the Administrative Court, as amended by Regulation No. 9 of 2004 and Regulation No. 51 of 2009, which stipulates that: An objection to absolute jurisdiction can be raised at any time during the trial, and even if the absolute jurisdiction of the assembly is not challenged, the judge, upon becoming aware of it, must declare *ex officio* that the assembly does not have jurisdiction to adjudicate the dispute;

- a) An application questioning the relative jurisdiction of the assembly must be submitted before the substantive answer to the case is filed, and the application must be decided before the substantive case is heard;
- b) Other exceptions, aside from those related to the court's jurisdiction, can only be decided together with the main case.

In the prescriptive exception to absolute jurisdiction, which can be raised at any time during the investigation, and if the exception to jurisdiction does not exist, if the judge is aware of it, then he is obliged to state that the court cannot adjudicate the dispute. This means that a decision on the question of the court's absolute jurisdiction can be made at any time, including at the final judgment, while other prescriptive exceptions can only be decided together with the main case. Based on those considerations, the panel of judges will initially directly examine the ability of the Administrative Court to review and adjudicate the case at hand. Regarding the main dispute, the panel of judges found that the main dispute meets the following criteria:

- a) A written decision that is specific, individual, and final. That the object of the dispute contains writings that serve as evidence of property registration in the form of Building Use Rights Certificates 00684, Building Use Rights Certificates 00685, Building Use Rights Certificates 01432, and Building Use Rights Certificates 01433 for a plot of land located in Sepinggan Baru Village, South Balikpapan District, Balikpapan City, East Kalimantan Province, in the name of Saniyah;
- b) Issued by a state organizing body based on applicable regulations and guidelines. That the parties in the dispute, as state administrative bodies or officials, at the time of issuing the disputed object, were performing governmental administration functions and not within the framework of creating regulations and guidelines (*wetgeving*) or the ability to resolve (*rechtspraak*); and that it contains state managerial regulations.

That the regulations forming the basis for the defendant in providing the disputed material are public regulations related to the state's regulatory activities and can deny, create, or delay a right or commitment, and that the activities of the parties in the dispute thus demonstrate state managerial regulation. The object of the dispute has legal consequences. Considering the essence of the dispute, it is evident that the Defendant's action in issuing the object of the dispute has triggered legal consequences in the form of ownership of a plot of land located in Sepinggan Baru, Balikpapan Selatan District, Balikpapan City, East Kalimantan Province, in the name of Saniyah.

### **3.1.3 Analysis of Decision Case Number 9/G/2023/PTUN.SMD on Building Rights Title Certificate in Sepinggan Baru Village, South Balikpapan Subdistrict**

Resolving land disputes through non-litigation channels often fails to settle the contested issues, making it rarely used. Unfortunately, resolution through the courts also faces various challenges, including differences in rulings between general courts and administrative courts for the same land dispute cases. This is due to the general perception that district court judges lack an understanding of land dispute issues, as they also have to handle various other cases outside of land disputes. This information comes from the book, "Resolving Land Disputes Through Special Land Courts" by Elza Syarief. (Syarief, 2014). Decision Number 9/G/2023/PTUN.SMD from the Samarinda Administrative Court relates to the building use rights certificate in Sepinggan Baru Village, South Balikpapan District. The plaintiff filed a lawsuit based on authentic and accurate evidence because

they felt their interests were harmed. Meanwhile, the defendant denied the lawsuit and filed an exception.

In this legal case, the judge considers various factors including arguments from both parties, the evidence presented, and the conclusions drawn. The main issue in this dispute is whether the defendant's action in issuing the disputed object has legal defects in terms of both procedure and substance.

The legal basis for this decision is <sup>4</sup>Article 55 of Law No. 5 of 1986 concerning Administrative Courts, which states that a lawsuit can be filed within a short period, namely 90 (ninety) days from the receipt or announcement of a specific decision. The judge considered several factors in the ruling, namely: *First*, the building use rights certificate in the name of Saniyah cannot be upheld because it does not meet the administrative requirements; *Second*, the plaintiff has filed the lawsuit within the time limit set by Article 55 of Law No. 5 of 1986 concerning the Administrative Court; *Third*, the defendant cannot prove that the building use rights certificate in the name of Saniyah meets the administrative requirements; *Fourth*, the defendant has acted unlawfully in issuing the building use rights certificate in the name of Saniyah. The impact of this decision is:

- a) First, the building use rights certificate in the name of Saniyah is declared null and void;
- b) Second, the defendant, namely the Head of the Balikpapan Land Office, must return the building use rights certificate to the plaintiff;
- c) Third, the defendant cannot uphold the building use rights certificate in the name of Saniyah due to the failure to meet the administrative requirements stipulated in the law;
- d) Fourth, the plaintiff obtains legal certainty that the building use rights certificate in the name of Saniyah is invalid and cannot be upheld.

#### 4. CONCLUSIONS

The legal steps taken in this case are with the court on the basis of its authority to accept, examine, and decide government administration disputes. In the decision file number 9/G/2023/PTUN.SMD, the court effort made is the process of resolving disputes through State

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<sup>4</sup> Universitas Indonesia. (2021). "Third Party as the Manifest Legal Justice in a State Administrative Court Lawsuit: An Analysis of Decision Number 41/K/TUN/1994." *Master of Law Science*, Vol. 14 No. 3, December 2021.

Administrative Dispute Cases with Decision Objects (Muhammad Nur Rahim, et al.) legal or court channels. In the appeal, the plaintiff has filed an appeal by submitting evidence that each lawsuit has evidence P.1 to evidence P.12 and then juxtaposed with the evidence submitted by the defendant with a lawsuit that has evidence T.1 to T.16, in which the party filing the lawsuit was given the right to show a reply to the defendant's answer in the case in writing at the electronic trial on June 21, 2023 and also submitted against the replication of the party filing the lawsuit, then submitted a written dupliс by the defendant at the electronic trial on July 5, 2023.

The impacts of this decision are: *First*, the building use right certificate in the name of Saniyah is declared null and void; *Second*, the defendant, namely the Head of Balikpapan Land Office, must return the building use right certificate to the plaintiff; *third*, the defendant cannot defend the building use right certificate in the name of Saniyah due to the lack of fulfilment of administrative requirements in the content of laws and regulations; *Fourth*, the plaintiff obtains legal certainty that the building use right certificate in the name of Saniyah is invalid and cannot be defended.

In the context of ownership and dispute that occurred in Sepinggаn Baru Village, South Balikpapan Subdistrict, Jаhenap as the plaintiff filed a lawsuit against the Head of Balikpapan Land Office. The object of dispute is several Building Rights Title Certificates issued in the name of Saniyah. The certificates include Number 00684 issued on October 19, 2015, with Measurement Letter Number 01111/Sepinggаn Baru/2015 covering 4,891m<sup>2</sup>, Number 00685 issued on October 19, 2015, with Measurement Letter Number 01112/Sepinggаn Baru/2015 covering 5. 129m<sup>2</sup>, Number 01432 issued on July 31, 2017, with Measurement Letter Number 02779/Sepinggаn Baru/2017 covering an area of 1,616m<sup>2</sup>, and Number 01433 issued on July 31, 2017, with Measurement Letter Number 02778/Sepinggаn Baru/2017 covering an area of 894m<sup>2</sup>.

## REFERENCES

### Journals

Muhammad Nur Rahim, Nova, V., Cindy, I., & Enos P. (2024) *Kasus Sengketa Tata Usaha Negara dengan Objek Putusan Nomor 9/G/2023/PTUN.SMD*. *Journal of Social and Political Science Mulawarman University*.

Novia Tika Febriana, Murry Darmoko A. (2022). "Langkah Hukum Terhadap Sengketa Tumpang Tindih (Overlapping) atas Hak Sertifikat Tanah (Studi Kasus Putusan Nomor 181/B/2020/PT.TUN.SBY)." *Journal Yudiciary*, Vol. 11 No. 1.

Universitas Airlangga. (2018). "Penguasaan Hak atas Tanah dengan Hak Pengelolaan yang dikuasai oleh PT. Pertamina (Studi Kasus: Sengketa Komplek Militer antara TNI dengan PT. Pertamina di Kebon Jeruk)." *Levina Azaria Winantyo*, Volume 1 No. 2, November 2018.

BINUS University. (2014). "Studi Kasus Pembebasan Tanah dalam Proyek Normalisasi Waduk Pluit Ditinjau dari Perspektif Hukum Agraria." Iwan Irawan. *Humaniora* Volume.5 No.2 Oktober 2014:1168-1176.

Universitas Muhammadiyah Sukabumi. (2024). "Analisis dan Implementasi Sertifikat Ganda Hak Milik atas Tanah Berdasarkan Pasal 19 UUPA dalam Perspektif Hukum Perdata." Ranti Diva Nurmala, Temmy Fitriah Alfiany. *Indonesian Journal of Law and Justice*, Volume 2, Number 1, halaman 1-10.

Universitas Kuningan. (2024). "Penyelesaian Sengketa Konflik Kepemilikan Tanah dengan Pendekatan Litigasi di Pengadilan Tata Usaha Negara." Anggita. *Savana: Indonesian Journal of Natural Resources and Environmental Law*, Vol. 1, Nomor 01, halaman 24-38.