



LEGAL CERTAINTY IN THE IMPLEMENTATION OF THE TRANSFER FROM ANALOG CERTIFICATE MEDIA TO ELECTRONIC CERTIFICATE

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Abstract

Analog certificates have traditionally served as physical proof of land ownership and proved a sufficient degree of legal certainty. However, with advance in technology and digitalization, the government through Regulation of the Minister of Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 1 of 2021, later replaced by Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 3 of 2023 concerning Issuance of Electronic Documents in Land Registration Activities has sought to provide easier access to the land registration and management process. E-certificates offer easier access to land registration and management processes. Nevertheless, this regulatory shift raises legal questions regarding the status of analog and electronic certificates, as well as the broader need for regulatory harmonization. This research adopts a normative legal approach examining legal literature and secondary data (library research). The finding indicate that electronic certificates offer significant advantages, including easier access, enhanced data security, and greater transparency in registration and data management. The process of media transfer involves verification of both physical and legal data by the National Land Agency, with the Land Deed Officials playing a crucial role in ensuring the validity and legality of such data. Ultimately, digital transformation is necessary to overcome long-standing issues within the land registration system. The transition from analog certificates to electronic certificates represents a strategic step toward modernizing land administration by integrating legal and technological dimensions, thereby creating an efficient, secure, and reliable system.

Keywords: Legal Certainty, Analog Certificate, Electronic Certificate

1. INTRODUCTION

Land is one of the basic human needs and cannot be separated from human life it serves an important function and is a valuable commodity that must be owned to ensure a prosperous life. As the demand for land in Indonesia continues to rise, while the supply of land remains fixed, the need to guarantee legal certainty for land rights holders has become increasingly urgent. In response, Law Number 5 of 1960 concerning Agrarian Law (Agrarian Law) along with Government Regulation Number 10 of 1961 in conjunction with Government Regulation Number 24 of 1997 concerning Land Registration were enacted. The process of land registration aims to provide landowners with certificates as official proof of ownership, issued by legally authorized institutions and agencies in accordance with the applicable laws and regulations.

Article 16 of the Agrarian Law explicitly states that land rights must be registered with the National Land Agency in order to obtain a certificate, which serves as legal proof and guarantees ownership of the land. A certificate is an official document as evidence of land ownership and represents the outcome of the land registration process. This registration may be carried out either by the government or by the rights holder.

In the early stages of land registration, analog certificates were introduced following the enactment of Agrarian Law and were manually stored at the National Land

**LEGAL CERTAINTY IN THE IMPLEMENTATION OF THE TRANSFER FROM
ANALOG CERTIFICATE MEDIA TO ELECTRONIC CERTIFICATE**

IRIANTORO

Agency. Analog certificates are considered sufficient and do not necessarily need to be entirely replaced by electronic certificates. However, overtime, as law is inherently dynamic and evolves to meet social needs, and advancements in technology have brought about significant changes. In the era of Society 5.0, technological development has led to the emergence of new legal frameworks. Modernization plays a key role in enhancing the efficiency and effectiveness of land ownership security services. This transformation is supported by the Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land

Agency Number 1 of 2021, ratified on January 12 year 2021, which was later replaced by Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 3 of 2023 concerning the issuance of Electronic Documents in Land Registration Activities. Electronic certificates function as a digital database containing all relevant land ownership documents. These certificates commonly referred to as certificates are stored sequentially in a database according to their issuance, forming a historical record of land registration in what is known as the electronic land book. The implementation of e-certificates has sparked both support and opposition within the community, leading to confusion, particularly because millions of analog certificates were recently issued through the Complete Systematic Land Registration Program, and now landowners are being asked to exchange them to e-certificates. Many people believe that e-certificates are unnecessary at this time. Especially given the persistent land disputes involving forged certificates, duplicate data and overlapping claims. The core issue with e-certificates does not lie in their format or appearance, but in ensuring the security and integrity of the containing data. Public concern primarily revolves around the potential for data breaches involving land rights information, which could be exploited by irresponsible parties. Fundamentally, a land certificate serves as legally valid evidence both in terms of physical and juridical data so it is essential to ensure the accuracy and consistency of information particularly regarding the identity of land right holders.

The purpose of this study is to examine the legal certainty surrounding the implementation of the transfer from analog certificate to electronic certificates, by reviewing relevant legal instruments such as Agrarian law, Law Number 11 of 2008 concerning Electronic Information and Transaction (Law Number 11 of 2008), Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 1 of 2021 concerning Electronic Certificates (Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 1 of 2021), and its replacements, Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 3 of 2023 concerning the Issuance of Electronic Documents (Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 3 of 2023.) this legal framework forms the basis for the author to conduct research under the title “Legal Certainty In The Implementation Of The Transfer From Analog Certificate Media To Electronic Certificate.” This research is guided by the following problem



formulations: 1. What is the legal position of analog certificates in providing legal certainty as evidence of land ownership rights. 2. How is the legal certainty of electronic certificate evidence evaluated from a normative approach?

This writing is conducted with the aim or urgency of analyzing the legal position of analog certificates in providing legal certainty as evidence of ownership rights, as well as examining the strength of analog certificates and electronic certificates from a normative legal approach.

To the best of the researcher's knowledge, there has been no prior study that specifically addresses the issues examined in this research. Several related studies have been identified but each focuses on different aspects of the topic. First, a journal article by Devi Elora titles "Problems of Implementing the conversion of Certificate Media to Electronic Certificates" published in the Journal of Law, Social and Humanities. Vol 2 No 3 (2024), discuss the regulation of land rights registrations under Regulation of The Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 1 of 2021 concerning Electronic Certificates and the issue arising in its implementation. Second, an article by Raden Ayu Rani Mutiara Dewi and Catherine Susantio titles "The use of Electronic Certificates to Increase the Efficiency of Land Registration in Efforts to

Prevent Land Mafia", published in the Journal of Syntax Demiration, Vol 5 No. 9 (September 2024), examines the problems and explores effective strategies for implementing electronic certificates within the broader context of land registration and anti-land mafia efforts. Third, a journal article written by Fikahati Prasetya and Muh. Afif Mahfud, entitled "First Time Electronic Land Registration in National Land Law," was published in the Unisulla law Journal, Vol 39, No., March 2020. The article discusses the stages and challenges encountered in the first time electronic land registration process under national land law. Based on the review of the aforementioned previous studies, it can be concluded that this research is relatively new.

This research is a normative legal study conducted by examining library materials or secondary data only. It relies on library sources consisting of three types of legal materials: (1) Primary legal materials, which are directly related to the issues examined in this research and have binding legal authority. These include the Agrarian Law, Government Regulation Number 10 of 1961 in conjunction with Government Regulation Number 24 of 1997 concerning Land Registration, as well as Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 1 of 2021, which has been replaced by Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 3 of 2023. Secondary legal materials, which provide explanations or commentary on primary legal materials. These were obtained from books, journals, opinions of legal scholars and practitioners and other research findings. Tertiary legal materials, which offer guidance or clarification of primary and secondary legal materials, such as the dictionary, legal dictionary, and encyclopedias. This research is descriptive in nature, with data presented in narrative form and analyzed using qualitative descriptive analysis techniques to address the research problem.



2. RESULTS AND DISCUSSION

1.1 THE POSITION OF ANALOG LAND CERTIFICATES IN PROVIDING LEGAL CERTAINTY AS PROOF OF LAND OWNERSHIP RIGHTS

Land registration is an essential activity that must be carried out by every individual who owns a plot of land, in order to ensure legal certainty and have the land officially registered as property rights at the National Land Agency, in accordance with Government Regulation Number 24 of 1997 concerning Land Registration (Government Regulation Number 24 of 1997). The Government implements land registration in a regular and continuous manner, encompassing the collection, processing, recording, presentation and maintenance of both physical and legal data related to land plots. According to Article 19 of the Agrarian Law, a land certificate is considered strong evidence of ownership as long as the physical and legal data contains correspond with the data recorded in the measurement letter and the land register book. Furthermore, Article 19 of the Agrarian Law established the fundamental legal basis for analog certificates within Indonesia's land registration system, which adopts a negative publication system. Land certificates provide legal certainty as binding *prima facie* evidence, yet they may still be contested if sufficient counter evidence is presented. In other words, analog certificates function as valid initial proof and carry authoritative weight in the process of establishing land ownership. Land registration initially results in the issuance of physical (analog) certificates. An analog certificate is a paper-based document issued by the National Land Agency as official proof of land ownership. The certificates issued to the public by the National Land Agency are copies of the land registers maintained by the agency. These certificates are intended to guarantee legal certainty and are required for anyone engaging in legal transactions involving land. Analog certificates contain several key identification numbers such as the land title number, measurement letter number, plot identification number, and map number, which collectively establish the legality and validity of the land rights.

Initial land registration is the process of registering land that has never been registered before or has not yet been registered. Initial land registration activities can be carried out sporadically or systematically. Land registration activities include initial land registration and data maintenance activities. Initial land registration includes:

1. Physical or "cadastral technical" areas;
2. Legal areas; and
3. Issuance of title documents.

The cadastral technical process is carried out to produce a registration map covering all land within the registration area that has been surveyed, along with measurement documents for each registered land parcel. Legal activities involve collecting data on land rights, identifying the rightful owners, and verifying whether other rights are attached using supporting evidence such as documents. This differs from the third activity,



namely the issuance of land title certificates. The registration procedures and their outcomes including the definition of a certificate of title, depend on the land registration system adopted by each country.

Physical land surveying involves collecting data on a land parcel's location, boundaries area, and any significant buildings and/or vegetation situated on it. Once the location of the land to be surveyed is determined, the process begins with boundary establishment and the placement of boundary markers to each corner. This is followed by measurement and mapping. Boundary determination is carried out by Boundary determination officer based on request from the land rights holder and must be approved by the holders of adjacent land rights (*contradictories delimitatie*). In conclusion, the process of issuing an analog certificate generally includes the submission of documents to the land official office, verification of physical legal data, land measurement and mapping, public announcement of ratification and the manual issuance of documents signed by authored officials.

Legally analog certificates are regulated under Article 5 of Government Regulation Number 24 of 1997, which stipulates that land registration is carried out by the National Land Agency. Furthermore, Article 6 paragraph (2) of the same regulation provides that, in its implementation, the Head of the land offices is assisted by the land deed official and other appointed officials assigned specific tasks in accordance with this and other regulations. In addition, Article 32 paragraph (1) affirms that certificates are not absolute but possess strong evidentiary power that in legal proceedings they serve as binding initial evidence. However, certificates may still be contested if sufficient counter-evidence is presented. This concept, known as a system of native publication with a positive tendency, ensures legal certainty while also allowing disputes to be resolved fairly.

Analog certificates are still considered to pose a potential risk for land conflicts and disputes. In 2024, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency recorded 2,161 land cases involving settlements, conflicts, and disputes related to analog certificates. These cases reflected varying levels of intensity, ranging from small-scale disputes between individuals to large-scale conflicts involving corporations and the government. The Minister of Ministry of Agrarian Affairs and Spatial Planning/National Land Agency further reported that approximately 48,000 land cases occurred throughout 2024, of which 79% were resolved through mediation and judicial processes. Additional concerns was raised by the Agrarian Reform Consortium, which highlighted the growing problem of duplicate certificates issued for the same parcel of land, describing the situation as having reached an “emergency” level in both urban and rural areas. This issue has largely been attributed to weak physical and legal verification by land officials during the registration process, leading to ownership disputes such as those reported in Bekasi.

With the advancement of technology, the land registration system has transitioned from paper based to electronic formats. New regulations have been introduced, including Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 3 of 2023. However, this development has created disharmony between



**LEGAL CERTAINTY IN THE IMPLEMENTATION OF THE TRANSFER FROM
ANALOG CERTIFICATE MEDIA TO ELECTRONIC CERTIFICATE**

IRIANTORO

higher-level legal provisions and the more technical and operational ministerial regulations. Regulatory interventions at the ministerial level often raise questions regarding the legal relationship between analog and electronic certificates, thereby necessitating adjustment and harmonization of regulatory frameworks. Such efforts are essential to ensure comprehensive legal certainty and to establish a modern land administration system, while at the same time maintaining the legal validity of existing analog certificates.

**2.2 THE STRENGTH OF LEGAL CERTAINTY IN ANALOG AND
ELECTRONIC CERTIFICATES FROM A NORMATIVE APPROACH.**

Digital and technological advancement in Indonesia are driving the transition from analog land certificates to electronic ones. The regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency of Republic of Indonesia Number 1 of 2021. This regulation is closely linked to Law Number 11 of 2008.

The Industrial Revolution 4.0, characterized by the integration of digital technology into all sectors, has compelled the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency to adopt various adaptation measures. These include implementing clean, effective, transparent, and accountable governance in the agrarian and spatial planning sectors, as well as enhancing the quality of public service through an electronic based government system.

Land registration services provided by the National Land Agency, which previously issued analog certificates in physical form, are now being transformed into electronic certificates issued through an electronic system in the form of digital documents. The definition of an electronic certificate is set out in Article 8 of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency Number 1 of 2021 which states "An electronic certificates, hereinafter referred to as an e-certificates, is a certificate issued through an electronic system in the form of an electronic document." Furthermore, the definition of an electronic certificate is also grounded in Law Number 11 of 2008, which defines that: "'An electronic certificate is an electronic certificate that contains an Electronic Signature and identity that shows the legal subject status of the parties in an Electronic Transaction issued by an Electronic Certification Organizer."

With the transition from analog to electronic certificates, an important issue to examine is their legal certainty. Regulation of the Minister of Affairs and Spatial Planning/National Land Agency Number 1 of 2021, together with Law Number 11 of 2008, stipulates that electronic documents may serve as legal evidence. Article 5 paragraphs 1 and 2, of both regulations affirms that electronic documents and the information they contain constitute valid evidence and are considered an extension of legally recognized evidence under Indonesian Law. Accordingly, if an electronic certificate is ever required as evidence, it can be accessed directly through an electronic system.

Land registration using electronic certificates covers two main aspects: initial land registration and the maintenance of land registration data. The registration process is



carried out through an electronic system, which must operate in a reliable, secure and accountable manner. This process includes data collection, processing and presentation. Initial registration of unregistered land, as well as the replacement of analog certificates with electronic certificates for already registered land, requires the collection and processing of physical data. The data collected during the activity is:

1. Measurement drawings
2. Land plot maps or spatial maps
3. Measurements Letters, Apartment Unit Floor Plans, and Space Measurements Letters
4. Other documents resulting from the collection and processing of physical data.

The result of electronic land registration will produce valid data, including information on rights holders, physical details and legal status of land parcels. This data is then stored in an electronic system. The outcome of land registration will be an electronic document, validated with an electronic signature and issued through an electronic system. This electronic certificate includes the verified identity of the certificate holder such as the Taxpayer Identification Number for taxpayers along with legal technical information that affirms the document's authenticity. Additionally, the certificate specifies a validity period, indicating the period during which it is legally recognized. A printed version of this electronic document is considered valid legal evidence.

Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 1 of 2021 allows the public to convert analog land certificates into electronic certificates by transferring the certificates data from physical form to digital legal data. This process can be carried out in stages. First the land rights holders must verify identity using an electronic ID card and ensure they have an active email address. Second, the analog land certificates can be submitted to the National Land Agency Office once the land rights holders confirm that all required data is complete. The document will then be stored and compiled with the existing land deed records. Third, the implementing committee will verify the legal and spatial data to ensure that the information in the analog certificate is valid and accurate. Once verified, the National Land Agency will issue the electronic certificate and send it via email to the registered domicile.

Land registration is also carried out electronically to prevent data entry errors and malicious intent. With the existence of electronic certificates, the government can more easily detect any misuse of data or changes in ownership identity. However, if forgery is suspected the verification can be conducted using the document's value. A hash value is a unique sequence of numbers and letters generated by processing the original document or data through a specific algorithm. This value is compared with the public key of the certificate holder who signed the document, or matched directly between the document and the electronic signature. This mechanism represents a fundamental distinction between an electronic signature and an electronic certificate, enabling the immediate detection of forgery.



LEGAL CERTAINTY IN THE IMPLEMENTATION OF THE TRANSFER FROM
ANALOG CERTIFICATE MEDIA TO ELECTRONIC CERTIFICATE

IRIANTORO

In this context the land deed official, plays a key role in ensuring transparency and accessibility of land services. Article 27 of Government Regulation Number 37 of 1998 states that the land deed official is responsible for carrying out certain land registration activities by drafting deeds as evidence of specific legal actions concerning land rights or ownership rights of Apartment Units. These deeds serve as the basis of registering changes in land registration data resulting from legal actions such as:

- a. Deed of sale and purchase;
- b. Deed of Exchange;
- c. Deed of Gift;
- d. Deed of Entry into a Company;
- e. Deed of Distribution of Joint Rights;
- f. Deed of Granting Building Use Rights on Land with Ownership Rights or Right to Use on Land with Ownership Rights;
- g. Deed of Grant of Mortgage Rights;
- h. Power of Attorney Imposing Mortgage Rights.

The role of the land deed official in the electronic data maintenance and registration system for the issuance of electronic certificates is distinguished as follows. First, transfer of rights through the land deed official deed's, such as the deed of sale and purchase, deed of exchange, deed of gift, deed of entry into a company, deed of distribution of joint rights, deed of grant of mortgage rights (already fully implemented electronically), deed of granting building use rights on land with ownership rights or right to use on land with ownership rights. Second, maintenance of other data, including auctions (extracts of auction minutes), inheritance, deeds of merger or amalgamation of companies or cooperatives, court decisions or rulings, blocking, confiscate, cases, other records approved by the Minister, changes in the name of right holder due to a legal name change, divisions granting extensions of the term of rights, and cancellation of land rights ownership rights of apartment units. Third, changes of rights such as conversion of building use rights to ownership rights or use rights based on MNA/Head of National Land Agency Decree No. 6 of 1998, conversion of right of ownership to building use rights or right of use based on MNA/Head of National Land Agency Decree No 16 of 1997, and conversion of building use rights (on Perumnas HPL) to building use rights based on MNA/Head of National Land Agency Decree. 15 of 1979. Fourth, changes in physical data, including subdivision of land plots, separation of one or more parts of a land plot, and consolidation of two or more land plots. In essence, the implementation of electronic certificates does not alter the fundamental role of the land deed official.

Electronic certificates are intended to ensure data validation for their users, as certificates in electronic form can directly identify their rightful owner. As digital documents that serve as proof of land ownership rights, electronic certificates have strong



legal standing within the framework of Law Number 11 of 2008. Article paragraph (1) of the Law Number 11 of 2008 stipulates that electronic information and/or electronic documents, including their printouts, constitute valid legal evidence in legal proceedings. Accordingly, electronic certificates issued by the National Land Agency, which incorporate electronic signatures and digital security systems in compliance with established standards, are legally recognized as having the same validity and strength as physical certificates.

The use of technology not only accelerates the process of providing access but also enhances security, transparency, and convenience, while reducing the risk of document forgery. Moreover, the implementation of electronic certificates, Land Deed Officials must comply with government mandated standards and integrate into the evolving land administration system. In practice, the role of the land deed official in issuing electronic certificates must align both legal and technical functions, as electronically issued deeds provide legal certainty, facilitate proof in court, and support the digitalization of the national land administration system. Supported by Law Number 11 of 2008, electronic certificates serve as a vital instrument in the modernization of the land sector, integrating legal and technological dimensions, ensuring the validity of deeds, and protecting landowners rights in a digital context.

However, since electronic certificates are still in the early stages of testing and implementation, further research is required to assess the system's validity, reliability and practical effectiveness. Such a review is essential to provide full legal certainty, anticipate potential technical challenges, ensure the protection of landowner data, and support the integration of the land administration system. The initial trial is planned for government owned lands, starting with the five land offices in Jakarta Province and two in Surabaya, before being gradually expanded to land offices across Indonesia.

3. CONCLUSION

The transition from analog to electronic certificates is a crucial step in modernizing land administration in Indonesia, aimed at improving the efficiency, security and transparency of public service. Electronic certificates carry the same legal standing as analog certificates in proving land rights, with safeguards such as digital signatures and verification systems that reduce the risk of forgery and enhance data accessibility. During this transition, the National Land Agency validates both the physical and legal data, which is essential to ensuring the validity and legitimacy of electronic certificates.

Although this digitalization program faces challenges such as public concerns about personal data security, the risk of data leaks, and resistance stemming from the perception that analog certificates are sufficient, this transformation is urgently needed to address long standing issues associated with analog certificates, including forgery and overlapping claims. Nevertheless, electronic certificates still require continuous protection of landowners' rights in the digital era. In this process, Land Deed Officials play a vital role in preparing deeds that serves as the basis for data updates and represents a key strategy in land reform, integrating legal and technological aspects to establish modern, secure and reliable land systems.



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