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Juridical Ambiguity in Land Tenure: A Critical Analysis of Land Status Following Forest Area Relinquishment

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Abstract
Legal certainty in land tenure is fundamentally compromised by sectoral conflicts between agrarian and forestry law in Indonesia. A major issue is the juridical ambiguity of land status after a Forest Area Relinquishment Decree (Pelepasan Kawasan Hutan) is issued, often leading to disputes where these administrative decrees are contested by Certificates of Ownership (SHM). This research aims to analyze two key problems: 1) the essence and juridical status of land following a Forest Area Relinquishment Decree, and 2) the legal force of this Decree as land ownership evidence. This study employs a normative legal research methodology, which is qualitative, utilizing a statute approach and a descriptive-analytical specification based on library research of primary, secondary, and tertiary legal materials. The results demonstrate that land post-relinquishment becomes State Land within an Other Use Area (APL), and the Decree is legally recognized as a "basis of land control" (Dasar Penguasaan Atas Tanah). Court decision analysis reveals that the judiciary has, in practice, prioritized these Decrees over subsequently issued SHMs based on chronological priority and procedural challenges within the 5-year limit of Indonesia's negative publicity system. The study concludes that the Relinquishment Decree functions as a valid basis of control and has been judicially affirmed as superior proof of ownership over conflicting SHMs in the analyzed cases. Further research is suggested to analyze the legal status of management authority during the transition period and the impact of the new APL status on pre-existing community rights.

Keywords: Land Tenure; Land Status; Forest Area Relinquishment.

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Introduction

Legal certainty regarding land rights constitutes a primary pillar and a fundamental objective of the Indonesian agrarian legal system, as enshrined in Law No. 5 of 1960 concerning Basic Principles of Agrarian Law (UUPA). To materialize this objective, the state is mandated to organize a systematic land registration process, which serves as the bedrock for land administration and tenure security. The operational framework for this registration was originally stipulated in Government Regulation No. 24 of 1997, which has recently been refined and modernized by Government Regulation No. 18 of 2021. This regulatory evolution reflects the state's continuous effort to establish a registration system designed not only to ensure administrative order but also to provide robust legal protection and evidentiary weight for legitimate right holders.

However, the realization of this systemic ideal is frequently hindered by complex on-the-ground realities, particularly when the agrarian legal framework intersects with conflicting mandates from other sectoral regimes. The fragmented

nature of natural resource management has fostered a landscape of regulatory disharmony, where different state institutions operate under distinct, and often opposing, legal paradigms. Among these sectoral conflicts, the dichotomy between the Agrarian/Land Law regime and the Forestry Law regime emerges as the most critical and persistent challenge.[1] This jurisdictional friction creates a severe dualism in land administration, where rights recognized under the agrarian regime may be nullified or disregarded by the forestry regime, thereby undermining the very legal certainty the state aims to provide. The critical point of this conflict relates to the Forest Area Relinquishment.[2]

There are at least two issues that will be examined in this paper through a critical analysis. First, concerns the essence and juridical status of land following the issuance of a Forest Area Relinquishment Decree. A forest area that has been relinquished is no longer classified as a forest area; its status changes to an Other Use Area (APL).[3] At that moment, land rights are not automatically attached, as its status becomes State Land.[4] To determine the classification of State Land, it must also be considered whether the land is a forest area or not. Thus, if there are no land rights and the land is a forest area, it is classified as a State Forest; if it is not a forest area, it is classified as State Land.[5]

Second, the legal force of a Forest Area Relinquishment Decree as proof of land ownership. This research will focus on relinquished forest area land that has not yet been attached to a title deed or certificate but for which a Forest Area Relinquishment Decree (SK) has been issued. It will elaborate on this using a court case example concerning the relinquishment of a forest area for plantation cultivation. PT. Duta Swakarya Indah (Plaintiff) holds a Forest Area Relinquishment Permit No: 17/Kpts-II/1998 from the Minister of Forestry, covering 13,532 Ha. This permit was based on the approval of the Governor of Riau and other permits from related agencies (such as Location Permits and Plantation Business Permits). Then, in 2009, the permit area of PT. DSI was unlawfully occupied and planted with palm oil by PT. Karya Dayun (Defendant), without permission from the Plaintiff as the holder of the Forest Area Relinquishment

[1] Muchammad Chanif Chamdani, 'Masa Depan Penyelesaian Penguasaan Tanah Di Dalam Kawasan Hutan Pasca-Pengaturan Kembali Luas Kawasan Hutan Yang Harus Dipertahankan Dalam UU Cipta Kerja', *Jurnal Hukum Lingkungan Indonesia*, 7.2 (2021), 221–53 <https://doi.org/10.38011/jhli.v7i2.292>.
[2] M Nazir Salim and others, 'Menyoal Praktik Kebijakan Reforma Agraria Di Kawasan Hutan', *BHUMI: Jurnal Agraria Dan Pertanahan*, 7.2 (2021), 149–62 <https://doi.org/10.31292/bhumi.v7i2.476>.
[3] Yohanes Yoseph Rahawarin and others, 'Analisis Perubahan Fungsi Kawasan Hutan Di Kabupaten Manokwari', *Bioscientist : Jurnal Ilmiah Biologi*, 10.1 (2022), 290 <https://doi.org/10.33394/bioscientist.v10i1.4945>.
[4] Listyowati Sumanto, 'Dinamika Reforma Agraria Dalam Sejarah, Konsep Dan Implementasi', *Jurnal Hukum Nawasena Agraria*, 1.1 (2023), 39–48 <https://doi.org/10.25105/jhna.v1i1.16588>.
[5] Julius Sembiring, *Tanah Negara: Edisi Revisi* (Jakarta: Prenada Media Group, 2016).

Permit. This case was won by the Plaintiff up to a final and binding decision on Judicial Review (*Peninjauan Kembali*), with the court ruling that the land/object of the dispute was legally part of the Plaintiff's permit area based on the said Forest Area Relinquishment Decree. The dispute did not end there; it continued with the same object and the same Forest Area Relinquishment Decree belonging to PT. DSI being contested in a different case number by community members who felt they had a greater right to the disputed land.

This case exemplifies a current and future trend where demands for changes in the designation of forest areas through relinquishment for non-forestry purposes will continually occur, in line with national development dynamics, social changes, and technological advancements.[6] This trend, if not accompanied by clear policies—in this case, regulations regarding forest area relinquishment—will create various practical problems, namely inequalities in land permitting within relinquished forest areas,[7] as seen in the court case discussed in this research. Therefore, a more in-depth study is deemed necessary to analyze the legal issues mentioned above, in order to clarify the status of land post-forest area relinquishment and provide legal certainty.

In light of the systemic complexities and regulatory disharmony described above, it becomes imperative to conduct a rigorous academic inquiry to address these legal uncertainties. Consequently, the author initiates a study titled 'Juridical Ambiguity in Land Tenure: A Critical Analysis of Land Status Following Forest Area Relinquishment.' This research endeavors to conduct a comprehensive examination of the prevailing statutory framework, scrutinizing the coherence between agrarian and forestry regulations. Furthermore, the study will integrate critical perspectives from legal scholars and analyze judicial reasoning within relevant court decisions to map out how these normative conflicts are interpreted and resolved in the practice of adjudication.

Various studies discussing the issue of land status post-forest area relinquishment have been conducted. Ridwan Labatjo & Dri Sucipto (2020),[8] explained that the relinquishment of land from forest areas for community interests can be implemented if it meets specified criteria, requirements, and

[6] Dede Frastien, 'Perubuhan Peruntukan Kawasan Hutan Menjadi Bukan Kawasan Hutan Untuk Menajamin Hak Masyarakat Atas Tanah', *University Of Bengkulu Law Journal*, 2.2 (2017), 151–64 <https://doi.org/10.33369/ubelaj.2.2.151-164>.

[7] Festi Kurniawati, Sri Kistiyah, and Ahmad Nashih Luthfi, 'Faktor-Faktor Yang Memengaruhi Keberhasilan Pelaksanaan Redistribusi Tanah Bekas Kawasan Hutan', *Tunas Agraria*, 2.3 (2019), 1–23 <https://doi.org/10.31292/jta.v2i3.47>.

[8] Ridwan Labatjo and Dri Sucipto, 'Tanah Hak Milik Yang Diperoleh Melalui Pelepasan Kawasan Hutan Ditinjau Dari Perspektif Pelaksanaan Dan Permasalahannya', *Jurnal Yustisiabel*, 4.1 (2020), 68–81 <https://doi.org/10.32529/yustisiabel.v4i1.522>.

mechanisms, and is carried out by a verification and inventory team in coordination with the Regent/Mayor and Governor, guided by laws and regulations. Furthermore, the dissertation by Julius Sembiring (2016), discusses several examples of decrees on forest area relinquishment that include clauses obligating the applying party to release certain lands that have become settlements, rice fields, or have been occupied and cultivated by third parties, in accordance with applicable regulations. In land practice, these third-party rights are referred to as civil rights. Additionally, Rizaldi Eki Santoso (2014),[9] stated that former forest area land that has been relinquished by the Minister of Forestry, in terms of both rights and possession (*Bezit*), has the status of State Land, which is granted to the applicant who has been principally approved by the Minister of Forestry through several established processes.

The various studies described indicate that research related to the status of land post-forest area relinquishment is important and requires deeper examination. However, the dynamics of both regulatory and legal practice demand a more systematic and juridical study of the status and position of such land. This study differs from previous ones because it provides examples from court practices regarding the status of land and the position of the Forest Area Relinquishment Decree itself. Moreover, this study provides an in-depth analysis of the position of the Forest Area Relinquishment Decree when juxtaposed with other proofs of title, distinguishing it from the research of Ridwan Labatjo & Dri Sucipto (2020), Julius Sembiring (2016), and Rizaldi Eki Santoso (2014). This analysis remains firmly grounded in the laws and regulations in the fields of forestry and land tenure.

Research Problems

1. What is the essence and juridical status of land post-issuance of a Forest Area Relinquishment Decree?
2. What is the legal force of a Forest Area Relinquishment Decree as proof of land ownership?

Research Methods

This research is conducted as normative legal research, which is inherently qualitative, employing a statute approach to analyze the legal issues at hand.[10] The study adopts a descriptive-analytical specification, which involves a systematic

[9] Rizaldi Eki Santoso, 'Pemanfatan Tanah Bekas Kawasan Hutan Untuk Lahan Pertanian Pangan Berkelanjutan (Studi Tentang Pasal 29 Ayat (5) Undang Undang Nomor 41 Tahun 2009 Tentang Perlindungan Lahan Pertanian Pangan Berkelanjutan Dengan Peraturan Terkait Kawasan Hutan)' (Universitas Brawijaya, 2014).
[10] Tillar A, *Metodologi Penelitian Hukum: Pendekatan Kualitatif Dan Kuantitatif* (Jakarta: PT Raja Grafindo Persada, 2003).

exposition of prevailing statutory regulations, critically examined against the backdrop of established legal theories and the practical application of positive law to address the core research questions.[11] The methodology relies entirely on documentary and library-based research for data collection.[12] The data consists of secondary sources, which are further classified into three categories: primary, secondary, and tertiary legal materials. Primary legal materials include the corpus of relevant legislation, government regulations, and other official legal instruments. Secondary legal materials encompass a review of scholarly literature, including academic textbooks, peer-reviewed journal articles, and the published outcomes of recent symposia relevant to the inquiry.[13] Finally, tertiary legal materials, such as legal dictionaries and other encyclopedic sources, are utilized to provide definitional clarity and contextual explanation for the primary and secondary materials. The qualitative data utilized in this study comprised scholarly literature, reports, and statutory regulations pertaining to the release of forest areas. The collected data were subsequently analyzed to identify key themes regarding the cases within the court decisions.

Discussion

1. The Essence and Juridical Status of Land Post-Issuance of a Forest Area Relinquishment Decree

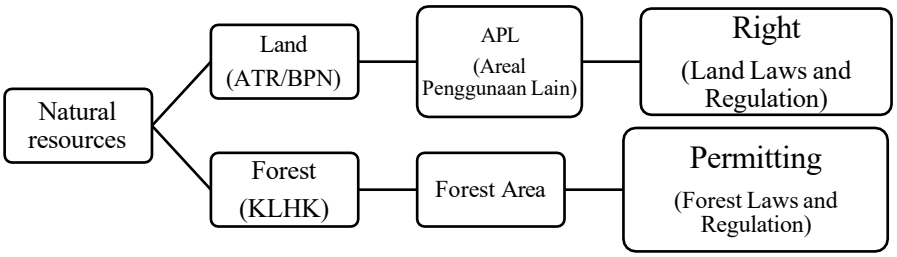
In the pursuit of national development, the utilization of forest areas for non-forestry purposes is legally permissible through strict mechanisms involving the alteration of forest area designation, most notably through the instrument of Forest Area Relinquishment (Pelepasan Kawasan Hutan). The statutory landscape governing this mechanism has undergone significant transformation to accommodate dynamic development needs. Historically, this procedure was primarily governed by Government Regulation (PP) No. 104 of 2015 concerning Procedures for Changing the Designation and Function of Forest Areas. On a technical level, this was further operationalized by Regulation of the Minister of Environment and Forestry (PermenLHK) No. P.96/2018, which was subsequently amended by P.50/2019 regarding Procedures for Relinquishment of Convertible Production Forest Areas. However, a major regulatory shift occurred with the enactment of recent structural reforms. Currently, the mechanism operates under the regime of Government Regulation No. 23 of 2021 concerning Forestry Management. To ensure implementation, this regulation is supported by the latest

[11] Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 2007).
[12] Bambang Sunggono, *Metode Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2003).
[13] J. Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Surabaya: Bayumedia, 2008).

executing regulation, PermenLHK No. 7 of 2021 concerning Forestry Planning. Changes in Forest Area Designation and Function, and Use of Forest Areas, which expressly revokes and supersedes the previous PermenLHK No. P.96/2018.

Forest area relinquishment for non-forestry interests can only be done for Convertible Production Forests (HPK). HPK is a production forest that is spatially reserved and used for development outside of forestry functions (non-forestry).[14] However, it is not entirely for non-forestry activities; it can also be used for forestry sector activities that can be converted from this HPK. For non-forestry activities, it is granted based on an application.[15] There is a dualism in the system of land control and management in Indonesia. Lands within forest areas fall under the authority of the Forestry Authority, in this case, the Ministry of Environment and Forestry (KLHK), and lands outside of it fall under the authority of the Land Authority, namely the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN).

Image 1: Sectoralization of Natural Resource Control over Land and Forests



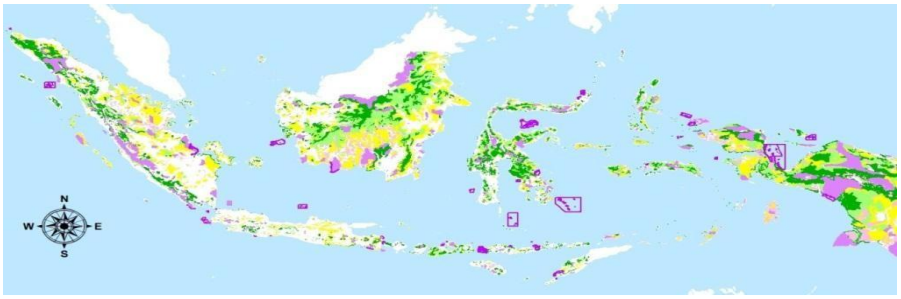
Source: processed by the author

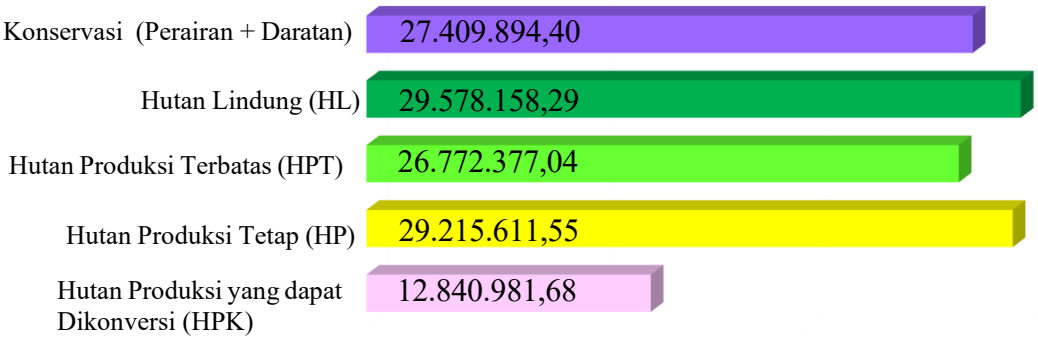
Normatively, land-related problems in Indonesia occur due to the sectoralization of natural resource control.[16] In Figure 1, it can be seen that the control of natural resources has become sectoral as a result of national development politics. It is undeniable that, according to Maria S.W. Sumardjono,[17] this occurs because the UUPA did not thoroughly regulate natural resources

[14] D Murdiyarso and others, *Carbon Storage in Mangrove and Peatland Ecosystems: A Preliminary Account from Plots in Indonesia*, 2010 <https://doi.org/10.17528/cifor/003233>.
[15] Dwi Desriyanti, 'The Relationship Of Community Access Capabilities To Production Forest Products With The Household Welfare Level', *Jurnal Sains Komunikasi Dan Pengembangan Masyarakat [JSKPM]*, 4.6 (2020), 824–36 <https://doi.org/10.29244/jskpm.v4i6.741>.
[16] Any Andjarwati, 'Asumsi Dasar Pembentukan Lingkungan Peradilan Agraria Dalam Pendekatan Sistem Hukum', *Jurnal Hukum & Pembangunan*, 53.4 (2023), 563–86 <https://doi.org/10.21143/jhp.vol53.no4.1543>.
[17] Sumardjono Maria, *Naskah Akademis Rancangan Undang-Undang Sumber Daya Agraria (Penyempurnaan Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria)*, 2004.

(SDA). Politically and juridically, the UUPA was intended to elaborate on Article 33, paragraph (3) of the 1945 Constitution, which implies that the objects to be regulated include the earth, water, and airspace, as well as the natural resources contained therein.[18] However, it turns out that the UUPA itself shows an inconsistency between its container and principles and its substantive elaboration, which emphasizes only land.[19] Consequently, the legal development of each sector is based on different mindsets and interests, developed by each agency vested with specific authority.

Image 2. Map of Forest Areas





Source: bps.co.id

Most of Indonesia's territory is classified as Forest Area, or specific regions that must be maintained as permanent forests.[20] The remainder is Other Use Areas (APL). Indonesia, the world's largest archipelagic country, allocates 64% or 120.4 million hectares of its landmass as Forest Area, while the remaining 37% is APL. Looking at Figure 2, APL is designated for non-forestry activities (in white), while

[18] Waldus Situmorang, Mella Ismelina F. R., and Rasji Rasji, 'Rupture in the Legal Hierarchy: Normative Conflicts and the Subversion of Agrarian Principles in Indonesia's Omnibus Law', *Indonesia Law Review*, 14.4 (2024), 89–102 <https://doi.org/10.15742/ilrev.v14n4.6>.
[19] Damianus Krismantoro, 'Exploring Agrarian Reform Laws in Indonesia', *Journal of Ecohumanism*, 3.8 (2024), 8894–8901 <https://doi.org/10.62754/joe.v3i8.5504>.
[20] Suyono Makruf, Iqbal Miftakhul Mujtahid, and Pardamean Daulay, 'Implementasi Kebijakan Perlindungan Hutan Di Indonesia', *Journal Publicuho*, 6.4 (2023), 1537–48 <https://doi.org/10.35817/publicuho.v6i4.298>.

the rest is forest area.[21] In the context of forest areas and APL, forest areas indicate regions controlled by the state, while APL tends to be controlled by village governments, communities, and the private sector.[22] The extent of forest areas is generally larger than that of APL. In Indonesia, all land is classified according to the applicable law based on its utilization: either as a forest area managed by a Forest Management Unit (KPH) under the KLHK in coordination with provincial governments, or as APL.

APL is formally managed under the Governor in accordance with the UUPA.[23] The Governor can propose the relinquishment of a forest area to become APL to the KLHK. This classification determines the eligibility of an area for the granting of rights and permits. This, in turn, determines the permissible use of the land. APL is an area outside the forest area, designated for non-forestry sectors such as settlements, agricultural land, etc.[24] As for forest areas, these are designated as forests and can be used for various purposes, both commercial and non-commercial (e.g., conservation areas, forestry concessions, etc.). The Directorate General (Ditjen) of Planology manages the classification of forest areas and carries out the relinquishment of areas from the forest estate. Once relinquished and becoming part of the APL area, the land falls under the management authority of the Ministry of ATR/BPN, and the KLHK no longer has authority over it (aside from river buffer zones and Essential Ecosystem Areas (KEE).[25]

2. The Legal Force of the Forest Area Relinquishment Decree as Proof of Land Ownership

Within the architecture of the Indonesian agrarian law, the ultimate objective of land registration is to guarantee legal certainty for landholders. According to the fundamental principles enshrined in the Basic Agrarian Law (UUPA) and further elucidated in Government Regulation (PP) No. 24 of 1997 concerning Land Registration, the certificate of land rights stands as the paramount instrument of evidence. It is imperative to note that under the Indonesian land registration system, a certificate functions as a 'strong evidentiary tool', rather than absolute evidence. This principle is explicitly articulated in Article 32 paragraph (1) of PP No. 24 of 1997, which stipulates: 'A certificate is a letter of proof of right that serves

[21] Ministry of Environment and Forestry Republic of Indonesia, *The State of Indonesia Forest Report 2024* (Jakarta: Ministry of Environment and Forestry Republic of Indonesia, 2024).
[22] Sitti Hadijah, 'Fungsi Kawasan Hutan Dalam Perkembangan Desa Dan Masyarakatnya Di Kecamatan Segah Kabupaten Berau' (Institut Pertanian Bogor, 2019).
[23] Hannah Timmins, *Opsi Legal Perlindungan Hutan Pada Lahan Zona Pertanian Di Indonesia*, 2017.
[24] Truly Santika and others, 'Community Forest Management in Indonesia: Avoided Deforestation in the Context of Anthropogenic and Climate Complexities', *Global Environmental Change*, 46 (2017), 60–71 <https://doi.org/10.1016/j.gloenvcha.2017.08.002>.
[25] Timmins.

as a strong evidentiary tool regarding the physical and juridical data contained therein, as long as the physical and juridical data correspond with the data in the measurement letter and the land book of the right concerned.' This provision implies that judges must accept the data presented in the certificate as true and valid, unless there is opposing evidence capable of proving otherwise, thereby placing the burden of proof on the challenging party.

Meanwhile, land tenure regulations indicate that control over land can be exercised without one of the types of land rights as regulated in Article 16 of the UUPA, meaning without possessing a certificate, but by presenting other documents. In this study, the focus is on the position of the Forest Area Relinquishment Decree as proof of land ownership. To this end, we refer to Government Regulation No. 20 of 2021 concerning the Control of Abandoned Areas and Land. In the Elucidation of Article 7 paragraph (5), it is stated that the Basis of Land Control (*Dasar Penguasaan Atas Tanah*) can be in the form of:

a. A deed of sale and purchase for a certified land right that has not yet been transferred;
b. A deed of sale and purchase for customary property rights for which a certificate has not been issued;
c. A residency permit; d. Auction minutes;
d. A forest area relinquishment decree; or
e. Other proof of control from an authorized official.

The basis of land control itself is a decision/letter from an authorized official that forms the basis for a person or legal entity to obtain, control, use, or utilize land. Furthermore, in Article 25 paragraph (1) of Government Regulation No. 19 of 2021 concerning the Implementation of Land Acquisition for Public Interest, it is stated that the holder of a basis of land control is the party who possesses evidence issued by an authorized official proving their control over the land in question. This PP on Land Acquisition also lists the parties entitled to compensation, one of which is the "holder of a basis of land control." The entitled parties, according to this PP, include individuals, legal entities, social bodies, religious bodies, the Central Government, Regional Governments, village governments, the Land Bank, state-owned enterprises, regional-owned enterprises, and village-owned enterprises that control or own the object of land acquisition in accordance with statutory provisions.

Returning to the PP on Control of Abandoned Areas and Land, it elaborates on the obligations of the holder of a basis of control, namely, they are "obliged to cultivate, use, utilize, and/or maintain the land owned or controlled." This cultivation, use, utilization, and/or maintenance must serve a social function. The

holder of the Basis of Land Control is obliged to report on the cultivation, use, utilization, and/or maintenance of the land periodically. This obligation is the same as that for Holders of Rights and Holders of Management Rights. From this PP, it can be said that a Forest Area Relinquishment Decree (SK) is proof of land ownership other than a certificate, and it falls into the category of a basis of land control. Next, we analyze the strength of the Minister of Forestry's Decree on Forest Area Relinquishment Permit as proof of land ownership, further detailed through a court case that has binding legal force, and analyze the judges' considerations in deciding the case. The two cases that are the focus of this discussion are related, as the disputed object is the same, and both decisions contest the same Forest Area Relinquishment Decree.

First, the Decision of the Siak District Court No. 07/Pdt.G/2012/PN-Siak *juncto* Pekanbaru High Court Decision No. 59/Pdt/2013/PTR *juncto* Supreme Court Cassation Decision No. 2848 K/Pdt/2013 *juncto* Supreme Court Judicial Review Decision No. 158 PK/Pdt/2015. Initially, PT DSI (Plaintiff) was the holder of a Forest Area Relinquishment Permit No: 17/Kpts-II/1998 from the Minister of Forestry, covering 13,532 Ha in Bengkalis Regency (now Siak Regency) for Plantation Cultivation. In managing its land, PT DSI had processed other permits from related agencies, such as a Location Permit and a Plantation Business Permit (IUP-B) from the Regent of Siak. However, PT Karya Dayun (Defendant) cultivated and occupied a portion of PT. DSI's Forest Area Relinquishment Permit land, covering approximately 1,300 Ha, by occupying it and planting palm oil, which PT DSI only discovered in 2009, without permission from PT DSI as the permit holder. Because PT DSI objected to PT. Karya Dayun's actions, PT DSI sued PT Karya Dayun in the Siak District Court in 2012. The case was won by the Plaintiff, and the judge declared that the land/object of the dispute was legally the permit area of the Plaintiff based on the Minister of Forestry's Decree and Declared Legally Defective and Having No Legal Force all titles, whether in the form of Certificates of Ownership (SHM).

Then, in 2016, the dispute continued between Mr. Jimmy as the Plaintiff against PT DSI as the Defendant (Siak District Court Decision No. 19/Pdt.G/2016/PN Sak *juncto* Pekanbaru High Court Decision No. 184/PDT/2017/PT PBR *juncto* Supreme Court Cassation Decision No. 2380 K/Pdt/2018 *juncto* Supreme Court Judicial Review Decision No. 933 PK/PDT/2020). In his lawsuit, the Plaintiff claimed to be the rightful owner of the disputed land, based on 42 parcels of Certificates of Ownership (SHM) located in Kampung Dayun, with a total area of approximately 81.4 ha. Meanwhile, as previously described, PT DSI had won the case against PT Karya Dayun, which was, in fact, the manager of the Plaintiff's (Jimmy's) palm oil plantation. PT DSI's victory was

inkracht or had final and binding legal force. The object of the dispute was then placed under executory seizure by the Siak District Court in December 2016. However, the community landowners were not involved in the case between the two companies. Thus, they filed a civil suit at the Siak District Court on June 13, 2016. The decision in this case ultimately upheld the previous ruling, reinforcing PT. DSI's Forest Area Relinquishment Decree.

From these court cases, the judges' considerations will be analyzed, focusing on the strength of PT. DSI's Forest Area Relinquishment Decree as proof of land ownership. The court decisions did not contest the procedure or substance of the Decree, but rather the fact that the disputed object, legally covered by the Forest Area Relinquishment Decree, was confronted with SHMs, which *notabene* possess strong evidentiary force. In the first dispute between PT. DSI and PT. Karya Dayun (Judicial Review Decision No. 158 PK/Pdt/2015), the judges' consideration regarding the Plaintiff as the holder of the Forest Area Relinquishment Permit—which was part of the Location Permit and IUP-B objects—resulted in a ruling that the disputed land was legally the Plaintiff's permit area based on the Minister of Forestry's Decree. This was deemed appropriate because the Plaintiff could prove the completeness of formal requirements, namely the acquisition of permits and the basis of control over the disputed object, i.e., having obtained the Forest Area Relinquishment Permit from the Minister of Forestry. During the trial, the KLHK provided testimony that PT. DSI's Relinquishment Decree had not been revoked and was still valid.

A basis of land control is a decision/letter from an authorized official that forms the basis for a person or legal entity to obtain, control, use, or utilize land. The Forest Area Relinquishment Decree is a decision/letter from the KLHK, an authorized official, and is included as a basis of land control. The holder of this basis of control has the same obligations as a right holder and a management right holder. This implies that the position of a holder of a basis of control is equal to that of a right holder and a management right holder in terms of obtaining, controlling, using, or utilizing land.

Furthermore, in the Regulation of the Minister of Agrarian Affairs No. 9 of 1999 concerning Procedures for Granting and Canceling State Land Rights and Management Rights, Article 18 states that an application for a Cultivation Rights Title (HGU) must include information about the land, covering juridical and physical data, in the form of a "deed of forest area relinquishment" as its basis of control. This article clarifies that a Forest Area Relinquishment Decree can also be considered proof of ownership or proof of land acquisition in the process of creating an HGU certificate. By recognizing the disputed object as part of PT. DSI's

relinquishment area, the panel of judges also recognized PT. DSI's Relinquishment Decree as proof of ownership to obtain its rights. This article, when linked to the court decision, results in the recognition of the Forest Area Relinquishment Decree as proof of ownership or proof of land acquisition. This opens a path for holders of such Decrees to apply for land rights, in this case, an HGU. Regarding the judges' consideration of the proof of the disputed land controlled by the Defendant (PT. Karya Dayun), the control was deemed an unlawful act. The resulting verdict declared legally defective and without legal force all titles, whether SHM or any other form, used by the Defendant as a basis to occupy and control the disputed land. This verdict was correct because the Defendant, in this case, could not explain the history of acquiring the disputed land.

In the second dispute, the Plaintiff (Mr. Jimmy) filed the lawsuit because he felt he had a greater right to the disputed object based on the SHMs he possessed. In the first case, PT Karya Dayun claimed only to be an "adoptive father" (patron) and could not prove the acquisition history of the SHMs, which is why in the second case, Mr. Jimmy, as the Plaintiff, claimed his rights and explained the origin history of his land acquisition. However, up to the final and binding Judicial Review Decision (No. 933 PK/PDT/2020), the Panel of Judges remained consistent with the first case's ruling. In this regard, the judges considered the chronological period of the decisions' issuance. Upon examination, the evidence of right acquisition held by PT. DSI was issued much earlier, in 1998, than Mr. Jimmy's SHM evidence, which was issued between 2008-2009. Therefore, the SHM ownership rights were issued over the rights of another party, namely PT. DSI's Forest Area Relinquishment Decree. Although the Plaintiff (Jimmy) successfully proved he was the legal owner of the 42 SHM parcels and could explain their acquisition history, the judges remained consistent by looking at the issuance dates of the two proofs.

Moreover, regarding the legal certainty of SHM in Article 32 of PP 24/1997 on Land Registration, paragraph (1) implies that a certificate is strong evidence, and as long as the contrary cannot be proven, the physical and juridical data listed in it must be accepted as correct. Paragraph (2) further reinforces the guarantee of legal certainty and protection for certificate holders, containing several conditions, including:

a. The land certificate was obtained in good faith;
b. The right holder must physically control the land for a specific period, i.e., five years since the certificate's issuance;
c. If there are no objections from third parties within five years of the certificate's receipt, the certificate's existence can no longer be challenged.

Based on this, the author concludes that before the 5-year period, a certificate can be canceled as long as ownership can be proven otherwise.[26] Although Mr. Jimmy's acquisition of the SHMs,[27] was legally sound (through sale and purchase) and procedurally correct (issued by the Siak Land Agency), an objection was filed by a third party (PT. DSI) within the five-year period. Counting from the issuance of the SHMs (2008-2009), PT. DSI, as the party that felt it had prior control, filed an objection via the court in 2012. This means an objection was filed before 5 years had passed.

Although Mr. Jimmy obtained his land rights through the land registration process to ensure legal certainty, this does not mean he possessed absolute proof, because Indonesia adheres to a negative publicity system with positive elements, not a pure positive publicity system.[28] The SHM evidence can be strong proof as long as no one challenges it, or the challenging party cannot prove the SHM was obtained unlawfully.[29] However, in this case, the SHM ownership was deemed to be from an unlawful act because, long before the SHM's issuance (in 1998), the disputed object was already attached to a basis of control by PT. DSI, and the judges in the *inkracht* decision acknowledged this. Thus, with the 1,300 ha disputed object being recognized as part of PT. DSI's Forest Area Relinquishment Decree area, Mr. Jimmy's claim, even though supported by SHMs, was rejected and declared legally defective and without legal force.

An analysis of this decision indicates a fundamental juridical anomaly. The SHM, in this case, did not operate as the ultimate and absolute proof of rights,[30] as mandated by the UUPA and PP No. 18 of 2021. This decision delegitimizes the evidentiary power of the SHM through three main argumentative pillars: First, the chronological consideration of issuance. The judge validated the Forest Area Relinquishment Decree as a legal fact that was issued *before* the SHM. This implies that the administrative status and control over the land had already been transferred via the Decree (as a primary administrative product) before the SHM

[26] Pingkan Dewi Kaunang, 'Juridical Review of The Cancellation of Electronic Land Title Certificates Based on The Regulation of The Minister of Agrarian Affairs and Spatial Planning/Head of The National Land Agency of The Republic of Indonesia Number 21 of 2020', *International Journal of Law and Society*, 2.2 (2025), 154–66 <https://doi.org/10.62951/ijls.v2i2.383>.

[27] I Nyoman Renaldi Mahardika, I Made Suwitra, and I Made Pira Dharsana, 'The Issuance of an Overlapping Certificate of Land Rights in Indonesia', *Journal of Public Administration, Finance and Law*, 23, 2022, 262–74 <https://doi.org/10.47743/jopafl-2022-23-23>.

[28] Agus Suhariono and others, 'Sistem Publikasi Pendaftaran Tanah (Kajian Sistem Publikasi Negatif Bertendensi Positif)', *Notaire*, 5.1 (2022), 17–30 <https://doi.org/10.20473/ntr.v5i1.21882>.

[29] Panji Utama Silva, Rene Descartes, and Debby Dwita Sari Daulay, 'Cancellation of Land Certificate Based on The Court Decision in Indonesian Legal System', *International Journal of Multicultural and Multireligious Understanding*, 6.5 (2019), 471–78 <https://doi.org/10.18415/ijmmu.v6i5.1114>.

[30] Sapto Wahyono, Sumriyah Sumriyah, and Linda Uril Khofifah, 'Analysis of Old Proof of Rights Holders According to Government Regulation Number 18 of 2021', *International Journal of Multidisciplinary Research and Analysis*, 06.09 (2023), 4094–99 <https://doi.org/10.47191/ijmra/v6-i9-21>.

was issued. In other words, the judge assessed that the subsequent SHM issuance process had ignored the pre-existing legal fact (the Decree), thus rendering the SHM potentially legally defective.[31]

Second, the procedural validity of the Decree. The judge believed the Forest Area Relinquishment Decree was obtained through a legitimate and substantively sound State Administrative Law procedure.[32] Because the Decree was considered a legitimate,[33] *beschikking* (State Administrative Decision) and had never been annulled by the Administrative Court (TUN), it was deemed to create a valid and binding legal situation for its holder. Third, an implicit critique of the land registration system.[34] This decision indirectly exposes a fundamental weakness in the national land registration system. The negative publicity system with a positive tendency (PP 18/2021 jo. PP 24/1997) proved not to be immune to historical-administrative claims (in this case, the Relinquishment Decree). This demonstrates that the "legal certainty" promised by a certificate is in fact relative, not absolute.[35] This ambiguity, where an administrative Decree can delegitimize a certificate, leads to an erosion of legal certainty.

Conclusion

The essence of the juridical status of land in Indonesia is rigidly divided into two regimes: Forest Areas, controlled by the KLHK, and Other Use Areas (APL), which are subject to Agrarian Law (UUPA) under the authority of ATR/BPN. The transition of status from Forest Area to APL can only occur through the administrative mechanism of Forest Area Relinquishment by the KLHK, which is essentially a final, translative act (transfer of authority). Thus, the juridical status of land post-issuance of a Relinquishment Decree is State Land within the APL domain, which is legally open and ready for the registration of agrarian rights thereon by ATR/BPN.

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[31] Marisyah Taher and Gunawan Djajaputra, 'Legal Review of Land Certificates Affected by Forest Areas in Indonesia', *Journal of Law, Politic and Humanities*, 5.2 (2024), 1058–66 <https://doi.org/10.38035/jlph.v5i2.1106>.

[32] Kadek Agus Sudiarawan and others, 'Discourses on Citizen Lawsuit as Administrative Dispute Object: Government Administration Law vs. Administrative Court Law', *Journal of Indonesian Legal Studies*, 7.2 (2022), 499–486 <https://doi.org/10.15294/jils.v7i2.60166>.

[33] Annisa Dwi Lestari, Taufiqurrohman Syahuri, and Ahmad Ahsin Thohari, 'Restrictions on Judicial Review Rights for State Administrative Officials: A Critical Perspective on Constitutional Court Deci-Sion No. 24/PUU-XXII/2024', *International Journal of Law, Crime and Justice*, 2.3 (2025), 01–14 <https://doi.org/10.62951/ijlcj.v2i3.688>.

[34] Jhonsen Ginting and Natangsa Surbakti, 'Problems of the Land Registration System in Indonesia (A Case Study of a Land Registration System That Does Not Guarantee Legal Certainty Over Land Rights)', *International Journal of LAw*, 8.3 (2022), 141–45.

[35] Suharyono Suharyono, 'Weaknesses of the Negative Publication System with Positive Elements in Agrarian Law in Indonesia', *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 21.2 (1970), 231–48 <https://doi.org/10.19109/nurani.v21i2.9765>.

The Forest Area Relinquishment Decree is included as one of the "bases of land control". In the court cases, the Panel of Judges examined whether the disputed object fell within the area of the Forest Area Relinquishment Decree. By acknowledging that the disputed object was part of the Decree's area, the court reinforced the position of the Forest Area Relinquishment Decree as proof of ownership. Consequently, third-party claims, even those supported by a certificate of ownership (SHM), were declared legally defective and without legal force.

Suggestion

This study identified an issue of management authority during the transition period. Further research is needed to analyse in-depth who possesses the management authority (administrative and physical) over APL land during the transition period, i.e., in the interval between the issuance of the Relinquishment Decree and the issuance of a new rights certificate by BPN.

Furthermore, when the status of an area changes to APL, it often contains pre-existing community rights (such as cultivation rights or communal ulayat rights). Subsequent research is essential to analyze the legal impact of this APL status on the protection and recognition of existing community rights in that location.

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