

Research Article

Implications of the Use of Electronic Certificates in Proving Land Rights According to the Civil Procedure Law

Aslan Noor, Bekawita Wassir*, Ira Anggraini, Erlin Rahmaniah

Department of Notary, Universitas Pasundan, Kota Bandung, Indonesia, 40116

*Corresponding Author: bekawita86@gmail.com | Phone Number: +6281399497779

ABSTRACT

The development of digital technology has encouraged reforms in land administration in Indonesia, one of which is the application of electronic certificates as evidence of land rights. The use of electronic certificates aims to increase efficiency, transparency, and legal certainty in the process of proving in court. This study aims to analyse the legal validity and practical aspects of the use of electronic certificates in the process of proving land rights according to civil procedural law. The study is based on several key regulations, including the Basic Agrarian Law (UUPA), Government Regulation (PP) No. 24 of 1997, PP No. 18 of 2021, Minister of Agrarian and Spatial Planning/National Land Agency Regulation (Permen ATR/BPN) No. 1 of 2021, and the Electronic Information and Transaction Law (UU ITE). The results show that electronic certificates are legally recognised as valid evidence in court. These certificates have the same evidentiary power as physical certificates and can be used as a strong evidentiary tool in land rights disputes. In addition, the electronic land registration process enables more effective recording and management of land data, reduces the potential for certificate forgery, and increases the efficiency and security of the evidentiary process in court. However, in practice, the use of electronic certificates still faces several challenges, such as limited digital infrastructure, protection of personal data, and resistance from people who are used to physical certificates. Another obstacle is the doubt of some parties regarding the evidentiary power of electronic certificates in court. Therefore, socialisation efforts, strengthening regulations, and increasing technological and infrastructure capacity are needed to support the optimal implementation of electronic certificates.

Keywords: Evidence; Certificate; Electronic; Title; Land

1. INTRODUCTION

The rapid development of information technology has encouraged various government sectors to adapt to the digitalisation era. One concrete implementation of this transformation is the introduction of Electronic Certificates as part of efforts to modernise land administration in Indonesia (Assidiqih & Susilowati, 2021). Electronic Certificates are regulated in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency No. 1 of 2021 on Electronic Certificates. The use of Electronic Certificates aims to improve the efficiency, transparency, and accuracy of land data management, as well as provide guarantees of legal certainty over land rights (Article 8 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency No. 1 of 2021). As one of the valid evidence tools, electronic certificates make it easier for landowners to access land information and strengthen their legal position in land disputes. The electronic land registration process, as stipulated in Article 84 of Government Regulation No. 18 of 2021, allows electronic data and information and printouts to be recognised as valid legal evidence. This is in line with the provisions of Article 32, paragraph 1, of Government Regulation No. 24 of 1997, which stipulates that certificates are proof of rights that serve as strong evidence (Article 84, Government Regulation of the Republic of Indonesia No. 18 of 2021 on Management Rights, Land Rights, Flat Units, And Land Registration).

However, although regulations have recognised the use of electronic certificates, there are legal and practical challenges in the field. In the process of proving in court, the validity of electronic certificates as evidence is often questioned (Fakhriah & SH, 2023). Article 1865 of the Civil Code (KUHPer) states that the party claiming a right must prove the existence of that right. In this case, written evidence, as stipulated in Article 1866 of the Civil Code, includes letters, witnesses, testimony, confessions, and oaths. Similar arrangements are also found in Article 164 HIR and Article 284 RBg. Given that the electronic certificate is in the form of a digital document, there is a debate regarding its compatibility with the notion of 'written evidence' in civil procedural law (Nasyiah & Ulum, 2024).

Furthermore, Law Number 11/2008 on Electronic Information and Transactions (UU ITE) and its amendment through Law Number 19/2016 provide a legal basis for the recognition of electronic documents as valid evidence. Article 5 paragraph (1) of ITE Law stipulates that electronic information and/or electronic documents and their printouts are valid legal evidence. Article 6 of the ITE Law also confirms that electronic information is considered valid if it can be accessed, displayed, its integrity is guaranteed, and it can be accounted for. The implications of these arrangements indicate two main dimensions in the use of electronic certificates as evidence in proving land rights. First, the legal dimension, which includes normative arrangements regarding the validity of electronic certificates as evidence in the Civil Code, HIR, RBg, and ITE Law. Second, the practical dimension, which includes challenges in the application of electronic certificates in court. Some parties, including judges and legal experts, still debate the evidentiary power of digital documents in court, especially when they conflict with conventional written evidence (Romadhon, 2024). Therefore, this study aims to analyse the legal arrangements regarding the use of electronic certificates as evidence in proving land rights according to the Civil Procedure Code as well as the legal implications and practices in protecting land rights in court. Through this research, it is hoped that a more comprehensive understanding of the legal position of electronic certificates in the civil evidence system in Indonesia can be obtained, as well as identifying the obstacles faced and their solutions.

2. RESEARCH METHOD

This type of research is a type of normative legal research (normative legal research), which tends to descriptive analysis, which of course comes from collecting existing data, qualitative research in the way the analysis is carried out inductively for the benefit of evidence looking for diverse facts to be further analysed and examined to make a meaningful conclusion (Anggito & Setiawan, 2018). As for the data collection method in this study, using the literature research method is a research method taken by the author, which is carried out by tracing reference sources in the form of books, journals, research reports, and other supporting documents.

3. RESULTS AND DISCUSSION

3.1 Regulations Related to the Use of Electronic Certificates as Evidence in Proving Land Rights According to the Civil Procedure Code

Regulations related to the use of electronic certificates as evidence in proving land rights in Indonesia refer to various legal regulations that are interconnected and aim to provide legal certainty in the land sector. The process of land registration and land certificates as evidence has a solid foundation, starting from the Basic Agrarian Law (UUPA), which regulates land rights and the state's obligation to provide legal certainty over these rights. UUPA Article 19 emphasises the importance of land registration as the first step in providing legal protection for the rights of individuals and legal entities that own land in Indonesia (Aniscasary & Ramasari, 2022).

Along with the times and technology, land registration also began to adapt to the needs and demands of society. Government Regulation (PP) No. 10 Year 1961 was initially the basis for regulating land registration in Indonesia. However, along with the dynamics of land, the regulation was revoked and replaced by Government Regulation No. 24 of 1997, which provided significant changes in the way land registration was conducted. One of the important things in GR No. 24/1997 is the regulation on land data management that is more modern and transparent. It also paved the way for the application of technology in the land registration process by stipulating that land registration data can be stored and presented in electronic or microfilm form. This is the forerunner of the concept of electronic-based land registration (Assidiqih & Susilowati, 2021). Furthermore, in an effort to keep up with technological developments and create a more efficient land system, GR No. 24/1997 was updated with GR No. 18/2021, which regulates in more detail land management rights, land rights, and land registration. It also introduces the concept and application of electronic certificates in land registration as a measure to improve the efficiency of land administration. In this latest regulation, the government stipulates that electronic certificates are not only a substitute for physical certificates but also have the same legal force as traditionally issued land certificates in physical form (Assidiqih & Susilowati, 2021).

The National Land Agency (BPN) plays an important role in the implementation of electronic certificates by initiating steps to convert physical land certificates into electronic certificates. The conversion process aims to reduce the potential for forgery of land certificates, speed up the land administration process, and reduce dependence on physical documents that are vulnerable to damage, loss, or manipulation. Electronic certificates issued by BPN have the advantages of being easily accessible, can be stored in a secure digital form, and are more transparent. The conversion of physical certificates into electronic certificates is expected to make it easier for the public to access land information, speed up administrative processes, and improve the accuracy and reliability of land data (Hidayah et al., 2024).

Electronic certificates issued by BPN not only have an administrative function but are also recognised as valid legal evidence in court. The use of electronic certificates in proving land rights is regulated in Law No. 11/2008 on Electronic Information and Transactions (ITE Law). The ITE Law provides a strong legal basis for electronic documents to be accepted as valid evidence in court, as long as the documents fulfil several requirements, namely being accessible, displayed, guaranteed integrity, and can be accounted for (Article 5, Law Number 11 of 2008). This makes electronic certificates valid evidence and gives them an equal position with other written documents in proving in court. Electronic certificates can be used in civil, criminal, and state administration cases while still complying with applicable legal procedures. It is important to note that in civil procedure law, evidence is a very essential part. Based on Article 1886 of the Civil Code (KUHPer), the types of evidence that are valid in civil cases include written evidence, witness testimony, testimony, confession, and oath. Electronic certificates, as written evidence, qualify as valid evidence in civil cases, as long as the documents have been processed through legal procedures and have validity that can be accounted for (Article 1886 of the Civil Code). In addition, Article 164 of the Herzien Inlandsch Reglement (HIR), which regulates evidence in civil cases, also states that valid evidence is a document issued by an authorised official and can be accounted for. In this case, the electronic certificate issued by BPN meets these criteria because it is issued by an authorised agency and uses digital technology that can guarantee its integrity (Article 164 Herzien Inlandsch Reglement).

With the acceptance of electronic certificates as evidence in proving land rights in court, there are a number of significant advantages. One of them is ease of access. Parties who have an interest in land or who are involved in a land dispute can access electronic certificates quickly and easily through the electronic system provided by BPN. This reduces reliance on physical documents that require more time and money to access and reduces the risk of losing or damaging documents. In addition, with electronic certificates, the judicial process can take place more efficiently, transparently, and quickly, because relevant evidence can be submitted electronically, without having to wait for the process of sending or examining physical documents (Patittingi, 2024). However, while electronic certificates offer various advantages, there are some challenges that need to be considered. One of them is the potential obstacles in the admissibility of electronic evidence in court. Not infrequently, there is a lack of understanding or resistance to the use of digital technology among legal practitioners, which can slow down the process of adopting electronic certificates as valid evidence in court (Hidayah et al., 2024).

In addition, although the information technology system that supports electronic certificates is growing, there is still the possibility of problems related to data security, system integrity, and the potential for digital data manipulation that can affect the validity of electronic certificates as legal evidence. To overcome this, it is necessary to conduct more intensive socialisation regarding the use of electronic certificates among legal officials, the public, and related agencies so that this technology can be accepted and applied properly (Hidayah et al., 2024). In addition, strict supervision of the electronic-based land registration system must be carried out to ensure that the data stored remains secure and cannot be altered without authorisation. This is important to maintain the integrity of the system and prevent potential misuse of electronic certificates in land transactions (Assidiqih & Susilowati, 2021).

Overall, the use of electronic certificates as evidence in proving land rights makes a very important contribution in accelerating the judicial process and increasing legal certainty over land rights in Indonesia. With electronic certificates, the land administration process becomes more efficient, transparent, and secure. Electronic certificates issued by the BPN, which have met the requirements set by law, are recognised as valid evidence in proving land rights in court, thus providing better legal certainty for land rights holders. While there are challenges in the acceptance and implementation of electronic certificates, efforts to overcome these challenges can accelerate the modernisation of Indonesia's land system and ultimately create a fairer and more reliable land system.

3.2 Legal and Practical Applicability of the Use of Electronic Certificates in Proceedings to Protect Land Rights in Court

The use of electronic certificates in proving land rights in court is a modernisation step in the land administration system in Indonesia. This step is in line with technological developments and the need to create efficiency and better legal certainty (Maulana et al., 2024). Electronic certificates were introduced to replace conventional paper-based certificates, with the aim of improving data security, minimising the risk of forgery, and facilitating easier and faster access to land documents. Legally, the enactment of electronic certificates is supported by various regulations, including the Basic Agrarian Law (UUPA), Government Regulation (PP) No. 24 of 1997 on Land Registration, Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Flats, and Land Registration, and Ministerial Regulation No. 1 of 2021 on Electronic Certificates. These regulations provide a strong legal basis for the adoption of electronic certificates as part of the land administration process.

One of the key relevant provisions is Article 35 of Government Regulation No. 24/1997, which states that land registration data can gradually be stored and presented using electronic devices and microfilm. This regulation is then reinforced by Permen ATR/BPN No. 1 of 2021, which explicitly regulates the transfer from analogue certificates to electronic certificates. The conversion of physical certificates to electronic certificates includes not only changing the form of the document but also the entire process of storing, processing, and presenting land data digitally. In practice, electronic certificates provide many advantages. As evidence in court, electronic certificates have the same evidentiary power as conventional certificates. According to Article 5, paragraph (1) and paragraph (2) of Law Number 11/2008 on Electronic Information and Transactions (ITE Law), electronic information and electronic documents are recognised as valid legal evidence. Electronic certificates are considered valid if they fulfil three important elements, namely authenticity, integrity, and availability. These three elements ensure that the information in the electronic certificate can be accessed, displayed, and accounted for.

The process of proof in civil courts involving electronic certificates is regulated in the Civil Procedure Code (KUHPer) and the *Herziene Indonesisch Reglement* (HIR). In civil law, land certificates are one type of written evidence regulated in Article 164 HIR and Article 1886 KUHPer. In the context of electronic certificates, written evidence can be in the form of electronic documents generated and managed in an electronic system that has been authorised by the authorised agency, namely the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). In court, electronic evidence can be used by plaintiffs or defendants to support their arguments. Electronic certificates that have been converted from physical certificates and stored in an electronic system have the same evidentiary power as physical certificates. For example, in the event of a land dispute, the party in possession of the electronic certificate can submit the document as evidence. The judge will check the authenticity and validity of the document through the electronic system provided by BPN. If the document matches the data stored in the electronic land book, it is recognised as valid evidence.

The legal validity of electronic certificates in proving land rights is also supported by the principles of justice and legal certainty. This principle is applied through digital transformation policies in public services that aim to speed up administrative processes, reduce the burden of physical administration, and reduce the risk of fraud or forgery. The security of electronic certificate data is guaranteed through the use of encryption technology and electronic signatures, which ensure that only certain parties have access to the document (Masri, 2023). The practical advantage of using electronic certificates also lies in the speed and efficiency of the proof process. Prior to the implementation of electronic certificates, the process of proof often required physical presence in court with a physical certificate that could be damaged, lost, or forged. With electronic certificates, documents can be accessed online through a system provided by BPN. This allows parties in land disputes to submit evidence online without the need to bring physical documents to court. The existence of this electronic system provides faster and more efficient access to the evidentiary process (Nirmalasari et al., 2024).

However, the use of electronic certificates also faces several challenges. One of them is the need to increase the technical capacity and readiness of information technology infrastructure in courts and related agencies. Not all courts in Indonesia have systems that are integrated with the BPN electronic system. In addition, the understanding of judges, lawyers and the general public about the concept of electronic certificates still needs to be improved. Another challenge is cybersecurity risks that can threaten the confidentiality and integrity of electronic documents. Therefore, there needs to be a strict risk management policy, including regular system audits and strengthening protection against cyber attacks (Hidayah et al., 2024). To overcome these challenges, there needs to be collaboration between the Ministry of ATR/BPN, the Supreme Court, and other law enforcement agencies in strengthening technological infrastructure and developing human resource capacity. In addition, there needs to be further arrangements regarding the management and security of electronic documents, including authentication procedures, document attestation, and complaint mechanisms in the event of data errors.

4. CONCLUSION

The use of electronic certificates in proving land rights in court has a strong legal basis. Electronic certificates are legally recognised as valid evidence and have the same evidentiary power as physical certificates. Regulations related to the use of electronic certificates are regulated in several important regulations, including the Basic Agrarian Law (UUPA), Government Regulation No. 24 of 1997, Government Regulation No. 18 of 2021, Minister of ATR/BPN Regulation No. 1 of 2021, and the Electronic Information and Transaction Law (ITE Law). The use of electronic certificates brings significant benefits, such as increasing administrative efficiency, minimising the risk of certificate forgery, and strengthening legal certainty and protection of land rights. However, there are still several obstacles faced, such as public resistance to digitalisation, limited technological infrastructure, and protection of data and information security. Therefore, strategic

steps are needed to overcome these obstacles so that the implementation of electronic certificates can run optimally and provide the expected benefits. **Strengthening Regulations and Socialisation** The government needs to strengthen regulations related to the use of electronic certificates through policy updates and harmonisation with other laws and regulations. Socialisation to the public and stakeholders regarding the importance of using electronic certificates also needs to be strengthened so that it can be well received. **Digital Infrastructure Development** The government needs to improve adequate technological infrastructure to support the implementation of electronic certificates. Strengthening digital security systems, data storage servers, and the development of encryption and cybersecurity technologies are important to avoid the risk of data leakage and misuse of information. **Strengthening HR Capacity and Supervision** The government needs to improve the competence of human resources (HR) involved in the management and operation of the electronic land registration system. Technical training and supervision of the implementation of electronic certificates should also be conducted regularly to ensure the smooth running of the digitisation process. **Data Security and Privacy Protection** To ensure data security and privacy protection, there needs to be a special policy related to the management and security of electronic certificate data. This is important to maintain public trust and avoid potential data leaks that could interfere with the proof process in court. **Monitoring and Evaluation of Implementation** The government needs to conduct regular monitoring and evaluation of the implementation of electronic certificates. This evaluation aims to identify obstacles that arise, find effective solutions, and ensure that the policy runs in accordance with the initial objectives of digital-based land administration reform.

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