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The Evidentiary Strength of Land Title Certificates in Civil Cases: A Study of Decisions of the Makassar District Court

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ABSTRACT

Land title certificates are normatively designed as the strongest evidentiary tool; however, their validity is frequently annulled by court decisions due to the negative publication system, which is at odds with the positive trend in national agrarian law. This research aims to analyze the dualism in the legal construction of evidentiary strength, evaluate its relativity in dispute practice at the Makassar District Court, and examine the juridical implications of Article 64 of Government Regulation Number 18 of 2021 on legal certainty. The research method applies an empirical juridical type, combining dogmatic analysis of legislation with a study of field facts through interviews with judges and a review of court decisions. The research results reveal a dogmatic conflict between the certificate as an authentic deed with "perfect" value under the Civil Code and the "strong" predicate under Law Number 5 of 1960. Empirical findings at the Makassar District Court confirm that the certificate's strength is relative, where the five-year rechtsverwerking protection fortress is consistently set aside by judges if bad faith or substantial legal defects are proven. Furthermore, the implementation of Government Regulation Number 18 of 2021 introduces a new paradigm: "administrative amnesty" after five years, while maintaining avenues for judicial correction in civil disputes. This study concludes that the legal certainty of current certificates is dichotomous: administratively absolute yet judicially open, thereby recommending layered due diligence in every rights transfer to guarantee material validity.

Keywords: *Administrative Defects; Bad Faith; Evidentiary Strength; Land Title Certificates; Makassar District Court.*

INTRODUCTION

Land is a fundamental necessity that demands legal certainty regarding its control. The State, through Law Number 5 of 1960, mandates the implementation of land registration throughout the territory of the Republic of Indonesia. The primary objective of such registration is to provide a certificate of rights serving as a strong evidentiary tool (Prihatmaka et al., 2025). The final product of this series of processes is the land title certificate. Normatively, the certificate provides legal protection to the right holder, enabling them to easily prove ownership against other parties (Syam & Muzakkir, 2022). The existence of the certificate is a vital instrument for preventing disputes and ensuring the order of national land administration (Ramadhani, 2021; Putera et al., 2022).

The evidentiary strength of the land title certificate (Right of Ownership) possesses unique characteristics within the Indonesian legal order. Article 1870 of the Civil Code classifies the certificate as an authentic deed possessing full evidentiary weight (Trayama & Adhari, 2025). However, Law Number 5 of 1960 does not adopt a pure positive publication system that guarantees the absolute truth of the data in the certificate. Indonesia applies a negative publication system with a positive tendency. This system results in the certificate serving only as strong evidence, not as absolute proof. Other parties retain the opportunity to challenge the truth of the physical or juridical data contained in the certificate through judicial institutions (Ardiansyah

et al., 2025). Consequently, certificate holders are constantly at risk of having their rights cancelled if the opposing party can submit counter-evidence (*tegenbewijs*).

Legal loopholes in the negative publication system frequently trigger ownership disputes that end up in court. Certificates issued by the National Land Agency are often annulled by judges because they are proven to contain administrative or juridical defects. The phenomena of double certificates, forgery of the basis of right, and overlapping physical possession are the main triggers for lawsuits (Mustari et al., 2024). In dispute situations, the judge plays a central role in assessing the evidentiary strength of the certificate. The judge looks beyond the formalities of the certificate to investigate the material truth behind the issuance of such rights (Wijaya et al., 2025). This confirms that the legal certainty of a certificate is dynamic and highly dependent on material examination in a trial.

The dynamics of land ownership disputes are palpably felt in dense urban areas like Makassar City. The Makassar District Court records a high volume of civil cases involving Right of Ownership certificates as the subject of dispute (Megawati et al., 2022). Trial facts often demonstrate that certificates that have existed for decades are still being sued and cancelled. In this regard, cases such as Decision Number 174/Pdt.G/2018/PN Mks and Decision Number 159/Pdt.G/2021/PN Mks indicate that judges apply strict evidentiary standards against certificate holders. This judicial practice demonstrates the relativity of evidentiary strength. A certificate deemed strong by statutory law can collapse instantly when confronted with more convincing opposing evidence.

The government attempts to narrow the dispute space through the issuance of the latest regulation, namely Government Regulation Number 18 of 2021. This regulation imposes a five-year time limit on parties seeking to file objections based on administrative defects. This provision is expected to strengthen the bargaining position of certificate holders and minimize baseless lawsuits (Maulidiana et al., 2025). However, the implementation of this provision in judicial practice remains a subject of debate. The conflict between administrative protection and judicial authority in deciding civil disputes becomes an intriguing legal issue to study. The tension between administrative legal certainty and substantive justice in court demands a deep analysis of the current position of the Right of Ownership certificates.

Based on the background description, this research has three main objectives. First, to analyze the dualism of the legal construction regarding the evidentiary strength of Right of Ownership certificates based on the perspectives of the Civil Code and Law Number 5 of 1960. Second, to evaluate the relativity of the certificate's evidentiary strength in dispute settlement practices at the Makassar District Court, particularly

regarding the application of forfeiture of rights (*rechtsverwerking*) and proof of bad faith. Third, to examine the juridical implications of Article 64 of Government Regulation Number 18 of 2021 on the legal certainty of certificate cancellation due to administrative defects. This research is expected to contribute theoretically to the development of civil evidence law and provide practical guidance for society and legal practitioners in understanding the limits of land certificate strength in Indonesia.

METHOD

This study employs empirical juridical legal research, combining an analysis of positive legal norms with an examination of their implementation in judicial practice (Qamar & Rezah, 2020). This approach was selected to address the complexity of the issue regarding the certificate's evidentiary strength, which is not merely dogmatic but also sociological. At the initial stage, the research applies a statute approach to dissect the conflict between the general civil law regime and national agrarian law. The analysis focuses on harmonizing crucial Articles within the Civil Code and Law Number 5 of 1960 to map the dualism of the evidentiary strength concept. Furthermore, a conceptual approach is utilized to unravel legal doctrines related to authentic deeds and the negative publication system with a positive tendency.

Research data stems from secondary and primary data collected structurally (Sampara & Husen, 2016). Primary legal materials include relevant legislation, specifically the Civil Code, Law Number 5 of 1960, Government Regulation Number 24 of 1997, and Government Regulation Number 18 of 2021. In addition, primary data was obtained through in-depth interviews with key informants, namely judges and court clerks, to gain practitioner perspectives regarding evidentiary dynamics in trial. Empirical facts are also enriched by tracing court decisions available publicly to identify land dispute settlement patterns in the research area. This combination of data sources guarantees the validity of a comprehensive analysis from both theoretical and practical standpoints.

Data analysis techniques are conducted qualitatively using a deductive reasoning model (Irwansyah, 2020). The analysis commences by inventorying the legal norms that regulate the evidentiary strength of certificates as the major premise. These norms are then confronted with legal facts found in judicial practice and judges' decisions as the minor premise. Sharp analysis is directed to evaluate the consistency of legal application, specifically regarding the institution of expiration and bad faith. Moreover, the juridical implications of the shift in the latest land administration regulations for the legal certainty of right holders are analyzed. The entire analysis culminates in drawing prescriptive conclusions to address the existing legal uncertainty.

RESULTS AND DISCUSSION

A. Dualism of Evidentiary Strength: Between “Perfect” and “Strong”

Proof is the most crucial stage in civil procedural law to determine the truth of a lawsuit's arguments. In land disputes, the Land Title Certificate (Right of Ownership) holds a central position as the primary written evidence. Characteristically, the certificate is qualified as an authentic deed because it is drafted in a form prescribed by law and issued by an authorized public official, namely the National Land Agency. The standing of the certificate as an authentic deed bears significant juridical implications on its evidentiary value before a judge. The existence of this authentic deed aims to ensure legal certainty in every transaction or legal event related to land control, thereby minimizing the potential for future denials ([Trayama & Adhari, 2025](#)).

The legal construction of the evidentiary weight of authentic deeds is explicitly regulated by the Civil Code. Article 1868 of the Civil Code defines an authentic deed formally, while Article 1870 of the Civil Code regulates its material consequences. The provision of Article 1870 states that an authentic deed provides “perfect proof” (*volledig bewijs*) for the parties and their heirs regarding what is contained therein. The phrase “perfect” implies that judges are bound to accept the truth of the deed's contents without requiring additional evidence, as long as no counter-evidence stating otherwise is submitted. From a pure civil law perspective, the certificate should enjoy strong immunity from lawsuits due to its nature of perfection.

However, the national agrarian law regime introduces different terminology, creating a dualistic interpretive framework. Law Number 5 of 1960, specifically in Article 19 section (2) letter c, Article 23 section (2), Article 32 section (2), and Article 38 section (2), consistently states that land registration produces a certificate of rights serving as a “strong means of proof.” The use of the term “strong” in Law Number 5 of 1960 undermines the “perfect” nature of the Civil Code. This terminological shift is not a mere play on words, but a reflection of the state's principle of prudence in guaranteeing the truth of physical and juridical data ([Prihatmaka et al., 2025](#)).

This difference in the degree of proof is a logical consequence of the land registration publication system adopted by Indonesia. Indonesia does not adhere to the Torrens system or a pure positive publication system that provides a guarantee of the certificate's truth. Conversely, Indonesia applies a negative publication system with a positive tendency. In this system, the issued certificate is deemed legally correct, yet the state does not rule out the possibility of data errors within

it. This results in the land title certificate lacking an absolute nature. Third parties who believe they possess an older right or feel aggrieved retain the constitutional right to file a lawsuit for cancellation of the certificate with the court (Mohamad & Djaja, 2025).

The dualism between the “perfect” norm in the Civil Code and the “strong” norm in Law Number 5 of 1960 places judges in a dilemma when deciding disputes. On one hand, judges must respect the certificate as a product of a legitimate state official. On the other hand, judges are required to conduct a material examination to seek the substantive truth behind the issuance of said certificate. In practice, judges must not remain passive by merely looking at the certificate’s physical form. Judges are obliged to examine whether the certificate issuance process has complied with the publicity principle and specialization principle, as well as ensuring the absence of legal defects in the underlying basis of right (Ardiansyah et al., 2025).

The correction mechanism for the certificate’s strength is conducted through the reverse burden of proof (*omkering van bewijslast*). Based on Article 1865 of the Civil Code, the party arguing that the opposing party’s certificate is legally defective is obliged to prove said argument. As long as the plaintiff is unable to present convincing counter-evidence (*tegenbewijs*), the certificate remains valid as a legitimate and binding instrument of evidence. Court decisions play a vital role in determining the transfer or cancellation of rights, as only a decision with permanent legal force can annul the ownership status in the certificate (Nuraini & Yunanto, 2023).

The tension between legal certainty and justice lies at the heart of this evidentiary strength issue. Certificates are created to provide legal certainty and protection for their holders. However, such legal certainty must not undermine the community’s sense of justice, especially if the certificate is issued over land that is legally controlled or owned by another party. Therefore, the evidentiary strength of the certificate is always relative and open to validity testing. This principle confirms that in national land law, material truth (facts of possession and land history) takes precedence over mere formal administrative truth (Sihombing & Widjojo, 2025).

The relativity of this evidentiary strength raises a crucial question regarding the time limit of legal protection for certificate holders. If a certificate can be challenged at any time, the objective of land registration to create a legal order will be difficult to achieve. Therefore, agrarian law provides a mechanism for limiting lawsuits through the institution of *rechtsverwerking* or expiration. However, the

effectiveness of this institution in fortifying certificates from third-party lawsuits often depends on the subjective element of the right holder, namely good faith. The dynamics of applying this legal protection limit in judicial practice will be further elaborated in the following section.

B. Limitations of Legal Protection: The Institution of *Rechtsverwerking* and Proof of Bad Faith

The relativity of the evidentiary strength of the Land Title Certificate (Right of Ownership) as previously outlined demands a legal instrument capable of balancing the interests of right holders with third parties who feel aggrieved. National land law accommodates this need through the institution of *rechtsverwerking* or lapse of time. The provision of Article 32 section (2) of Government Regulation Number 24 of 1997 stipulates that other parties can no longer demand the execution of land rights if, within 5 (five) years since the certificate issuance, they do not file a written objection. Theoretically, this provision was created as a final fortress to provide legal immunity for certificates that have passed this critical period, thereby ensuring absolute legal certainty after a certain period ([Mustari et al., 2024](#)).

However, the effectiveness of this five-year protection fortress often collapses before the panel of judges in land-dispute cases. Empirical facts at the Makassar District Court show that the old age of a certificate does not necessarily guarantee the security of rights from lawsuits by other parties. This phenomenon is confirmed by the high number of land disputes in the Tamalanrea District and its surroundings involving old certificates ([Megawati et al., 2022](#)). Judges, in examining cases, are not merely focused on the mathematical calculation of the time of issuance of the certificate, but also on the decisive subjective element, namely good faith (*te goeder trouw*).

The requirement of good faith becomes the main key to the operation of the *rechtsverwerking* institution. The legal protection of Article 32 section (2) of Government Regulation Number 24 of 1997 is cumulative, meaning the certificate must be obtained in good faith and physically controlled by the right holder. If it is proven in a trial that the certificate acquisition was based on an unlawful act, such as forgery of land statements or land grabbing, then the element of good faith is deemed void by law ([Wijaya et al., 2025](#)). This absence of good faith opens a loophole for judges to set aside the five-year expiration and annul the certificate even though it has been administratively registered for decades. This aligns with the view of judicial practitioners regarding the certificate's evidentiary strength in court. Mr. RL, a Judge at the Makassar District Court, stated in an interview:

"The land title certificate evidence belongs to documentary evidence, namely an authentic deed possessing strong and perfect evidentiary value. It is considered strong and valid because it is issued by a legally authorized agency. The land title certificate is absolute unless proven otherwise. Which means although the land title certificate is strong and perfect, it can become non-absolute if proven otherwise by the opposing party, the land title certificate becomes devoid of evidentiary strength."

This view confirms that in judicial practice, the "absolute" strength of the certificate is conditional. Judge RL emphasizes the phrase "as long as it is not proven otherwise," which indicates that counter-evidence (*tegenbewijs*) possesses massive destructive power against the certificate's validity. Similar sentiments were expressed by Mr. HA, a Judge at the Makassar District Court:

"The strength of the land title certificate is a strong instrument of evidence, but it becomes non-absolute if someone proves otherwise. This is a problem possessing complex dynamics."

Mrs. SW, the Junior Civil Clerk at the Makassar District Court, added a similar perspective:

"The strength of the land title certificate is a strong instrument of evidence, but it becomes non-absolute if someone proves otherwise. This is a problem possessing complex dynamics."

The complexity of evidentiary dynamics mentioned by the informants often culminates in cases of double certificates (overlapping certificates). In cases where two authentic certificates cover the same land object, judges face a difficult choice about which has greater evidentiary weight. The judge's assessment is usually based on tracing land records or land history to identify subjective defects in the issuance procedure ([Syam'ani & Setiawan, 2025](#)). A certificate issued later over land already certified is often categorized as a legally defective product that must be annulled, regardless of the lapse of the five years, because its issuance violates the principle of *nemo plus iuris* ([Amalia et al., 2024](#)).

A study of the Makassar District Court decisions reinforces the analysis that the court does not hesitate to annul land law products proven defective. For example, in Decision Number 159/Pdt.G/2021/PN Mks, the judge rejected the absolute competency exception and affirmed the General Court's authority to examine the principal land ownership dispute, even though it involved authentic deeds. This indicates that the court positions itself as a corrective fortress against administrative or judicial errors that escape the National Land Agency's supervision. The existence of disputes that reach the decision stage indicates that society and law enforcers still view the certificate as a disputable object ([Christopher & Djaja, 2026](#)).

Besides defects in the issuance procedure, the loss of good faith is also often proven by the existence of engineered physical possession statements or rights transfers. Private documents serving as the basis for certificate issuance often become the main point of attack for the plaintiff. If the underlying document is proven fake or contains a defect of will, then the certificate, which is a derivative product, automatically loses its legal legitimacy (Brahmana et al., 2025). The legal consequences are fatal: the certificate no longer has any evidentiary value, and the land status is returned to its original state or to the legitimate owner, as determined by the court.

This empirical reality at the Makassar District Court provides an important lesson that the legal certainty of the Land Title Certificate (Right of Ownership) in Indonesia is not built on a foundation of formality alone, but on material truth. The institution of *rechtsverwerking* which should provide tranquility for land owners turns out to possess a large loophole named “bad faith.” This loophole makes the certificate’s evidentiary strength relative and highly dependent on the moral integrity of its holder. However, apart from juridical factors and good faith, there is also an administrative dimension that has experienced significant regulatory shifts in recent years. The change in state policy in viewing administrative defects as grounds for certificate cancellation brings new implications for legal certainty which will be discussed in depth in the following section.

C. Implications of Administrative Defects on Legal Certainty Post-Enactment of Government Regulation Number 18 of 2021

The dynamics of land ownership disputes in Indonesia cannot be separated from the land administration aspect, which is the National Land Agency’s attribution authority. For decades, the cancellation of Land Title Certificates (Right of Ownership) was often based on reasons of administrative defects regulated in the National Land Agency Regulation Number 9 of 1999. The definition of administrative defects includes procedural errors in the measurement, mapping, and registration of rights processes, errors in applying legislation, errors in rights subjects, and overlapping land rights (Putera et al., 2022). This old regime tended to provide ample space for certificate cancellation without strict time limits, thereby causing prolonged legal uncertainty for right holders who have controlled their land for years.

However, the legal paradigm of certificate cancellation underwent a significant transformation with the issuance of Government Regulation Number 18 of 2021. This regulation brings a new spirit to strengthen the legal certainty of land rights and minimize land disputes. One of the most fundamental legal breakthroughs is found in Article 64 of Government Regulation Number 18 of

2021. This provision explicitly provides that the cancellation of land rights due to administrative defects may be conducted only within a maximum period of 5 (five) years from the issuance of the land title certificate.

This five-year “administrative expiration” provision is a form of affirmation of the *rechtsverwerking* principle which was previously only implied in Government Regulation Number 24 of 1997. Under Article 64 of Government Regulation Number 18 of 2021, the state provides “amnesty” for administrative errors in the issuance of certificates, provided the certificate has been in existence for more than 5 years. The juridical implication is that the National Land Agency no longer possesses the authority to annul old certificates solely due to internal procedural errors, unless there is a court decision ordering otherwise. This shift demands that land officials be more careful and meticulous in the initial period of rights issuance ([Maulidiana et al., 2025](#)).

Furthermore, the enactment of Government Regulation Number 18 of 2021 was also accompanied by the revocation of National Land Agency Regulation Number 9 of 1999 through National Land Agency Regulation Number 18 of 2021. The revocation of this old regulation marks the end of the era of administrative uncertainty and the beginning of a new era of more rigid, certain land governance. This transformation is also supported by the land service digitalization program and the issuance of electronic certificates aimed at enhancing land data transparency and security ([Andilsim et al., 2025](#)). Digitalization is expected to close loopholes caused by administrative defects, such as fake land records or duplicate data, which have been a source of disputes.

Nevertheless, the five-year time limitation for administrative defects does not necessarily close the door to justice for truly aggrieved parties. Disputes occurring at the Makassar District Court, as reflected in court decisions, show that certificate cancellation lawsuits filed after five years can still be granted by judges if substantial legal defects are proven. These substantial legal defects differ from procedural administrative defects. Substantial legal defects relate to the validity of the legal act of rights transfer, such as signature forgery in the sale and purchase deed, invalid oral grants, or the sale and purchase of inheritance land without the approval of all heirs ([Putri & Silviana, 2022](#)).

In this context, the court’s role becomes crucial as the final dispute resolution institution. When the administrative path at the National Land Agency is closed due to the lapse of five years, the aggrieved party has only one option, namely filing a civil or state administrative lawsuit in court. A court decision with permanent legal force (*inkracht van gewijsde*) becomes the mandatory legal basis for the National Land Agency to execute certificate cancellation, without

being bound anymore to the five-year time limit in Article 64 of Government Regulation Number 18 of 2021 ([Cahyadi, 2025](#)). The execution of court decisions is a manifestation of the supremacy of law overriding administrative limits for the sake of substantive justice.

Besides ownership disputes, potential conflicts also frequently arise due to the issuance of physical land possession statements (*sporadik*) that do not accord with facts. The *sporadik* letter is often used as the basis of right for first-time land registration, yet its validity highly depends on the applicant's honesty and local community testimony. If in the future it is proven that the sporadic letter is fake or materially defective, it is considered an unlawful act capable of annulling the certificate ([Mahban et al., 2024](#)). Administrative legal protection does not apply to legal products resulting from lies or bad faith.

Land disputes involving both administrative and civil aspects often result in overlapping authority between the General Court and the State Administrative Court. Disputes regarding certificate issuance procedures are the domain of the General Court and State Administrative Court, whereas disputes regarding rights ownership are the domain of the General Court. Court decisions in State Administrative Disputes annulling certificates due to procedural defects in issuance must be interpreted as a corrective measure against the performance of state administrative officials. Therefore, synergy between court decisions and the National Land Agency's administrative follow-up is key to achieving complete and just land dispute settlements ([Rere & Suardi, 2025](#)).

CONCLUSIONS AND SUGGESTIONS

Based on the analysis results of the legal construction and empirical dynamics of the evidentiary strength of the Land Title Certificate (Right of Ownership), several fundamental interrelated conclusions can be drawn. First, dogmatically, there is a significant legal terminology dualism between the general civil law regime and national agrarian law. The Civil Code grants the certificate the predicate "perfect" as an authentic deed, thereby theoretically creating absolute evidentiary immunity. However, Law Number 5 of 1960 reduces such strength to "strong" as a logical consequence of Indonesia's negative publication system. This dualism demands judges not to be fixated merely on deed formalities, but obliged to conduct a material examination to ensure the truth of physical and juridical data contained therein.

Second, the relativity of the certificate's evidentiary strength is factually confirmed in dispute settlement practice at the Makassar District Court. Although the law provides the institution of *rechtsverwerking* as a protection fortress for certificates aged more than five years, its effectiveness relies heavily on the element

of the right holder's good faith. Trial facts show that judges consistently override that limitation if substantial legal defects or unlawful acts are proven during the rights-acquisition process. This confirms that in the national judicial ecosystem, substantive justice based on material truth holds a higher position than mere administrative legal certainty.

Third, regulatory transformation under Government Regulation Number 18 of 2021 introduces new legal implications by establishing an absolute five-year time limit for the cancellation of certificates due to administrative defects. This provision effectively narrows the procedural administrative dispute space. However, this regulation does not deprive the court of its authority to annul certificates found to contain criminal elements or defects of will. Thus, legal certainty post-this latest regulation is dichotomous: absolute in the pure administrative realm, yet it remains relative and open in the civil and criminal realms.

Departing from these conclusions, this research recommends several strategic steps. Lawmakers and the government are advised to immediately draft technical regulations that rigidly synchronize the definitions of "administrative defects" and "legal defects" to minimize double interpretation in the field. Data integration between courts and the National Land Agency is also required so that certificate cancellation decisions can be executed in real-time within the electronic land system. For legal practitioners and society, the implications of this research demand early vigilance (due diligence) before conducting land transactions. Land history checks must not stop at land book validation; they must also trace physical possession and dispute history to ensure the fulfillment of the good-faith element, which serves as the main shield of the certificate's evidentiary strength.

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