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The Strength of Proof of Land Rights Certificates on the Division of Joint Property Post-Divorce

¹Fanny Hazrialita Harahap, ²Darmawan, ³Dahlan

¹ Postgraduate Student of Master of Notary, Faculty of Law, Universitas Syiah Kuala, Indonesia

^{2,3} Faculty of Law, Universitas Syiah Kuala, Indonesia

Corresponding Author: **Fanny Hazrialita Harahap**

Abstract

This research aims to examine the evidentiary strength of land certificates regarding the distribution of joint assets after divorce. This study is based on PP No. 24 of 1997 which, among other things, states that in land registration, a land title certificate is a strong and perfect piece of evidence for the holder of rights to a plot of land. In this case, the certificate is an authentic proof of rights with all the consequences. However, regarding joint assets which in the Marriage Law are said to be jointly owned by husband and

wife, even after a divorce occurs, these assets are still joint property and must be divided according to applicable law. However, in the Banda Aceh Sharia Court Judge's Decision in case No.185/Pdt.G/2021/MS. Bna, there are cases where certificates of title to jointly owned land have been transferred to the name of another party, because the land has been sold by one party without the consent or knowledge of the other party. So it is interesting to study the strength of the land title certificate.

Keywords: Strength of Evidence, Certificate of Land Rights, Joint Property, Post-Divorce

Introduction

Land conflicts and disputes where land is the object of seizure, confiscation and so on are factors where land registration is an ideal solution to provide strength or strong evidence for the holder of rights to the land that he is the one who has legal authority or power over something. Registered land plots.

According to Government Regulation (PP) No. 24 of 1997 about Land Registration, the purpose of land registration is to: (1) ensure that those who own property have legal protection and certainty over it; and (2) make it easy for such people to prove their ownership of the land. The. (2) to allow interested parties to request information on a piece of property in order to take legal action against that piece of land, and (3) for orderly land management, so that registered plots of land are well-recorded and not unorganized.

Boedi Harsono, meanwhile, asserts that land registration's ultimate purpose is to facilitate an atmosphere where:¹

- a. Property owners, whether persons or entities, may easily prove their ownership to the land, their rights within it, and the exact parcel of ground to which they are entitled. To achieve this goal, a letter of verification of rights is sent to the relevant rights holder.
- b. Anyone, whether a potential buyer or creditor, may easily get reliable information on land located in the correct registration area if they need to know that the information given by a seller or debtor is valid. This is achieved by making the stored data publicly available.

In order to provide registered land rights holders with legal certainty,² PP No. 24 of 1997 stipulates that they would get a certificate as solid evidence. The land title certificate is proof of ownership that is given to the proper party and is composed of a duplicate of the land book, a measurement certificate, and a covering paper. Article 4 of PP No. 24 of 1997 states as follows:

¹ Boedi Harsono, *Hukum Agraria Indonesia* (Sejarah, Pembentukan, Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya), Djambatan, Jakarta, 2008, hlm. 472

² Della Rafiqqa Utari, Suhaimi, Pendaftaran Tanah Yang dikuasai Oleh Tempat-Tempat Ibadah Umat Islam Di Kecamatan Kuta Alam Banda Aceh, *Syiah Kuala Law Journal*, Vol.4(3) Desember 2020, pp. 310-322.

- 1) In accordance with Article 3 letter a, the relevant rights holder is awarded a certificate of land rights to provide legal certainty and protection.
- 2) Achieving the information function outlined in Article 3 letter b requires making physical and legal data from registered property plots and residential units available to the public
- 3) In order to maintain the orderly administration as envisioned by Article 3 letter c, it is necessary to record every plot of land and apartment unit, including any transfers, encumbrances, or deletions of rights to the land parcel or ownership of the apartment unit.

According to Article 32 paragraphs 1 and 2 of PP No. 24 of 1997, a certificate is a letter of proof of rights that can be used as a strong form of evidence for the physical and juridical data included in it, as long as these data match up with the data in the relevant measurement letter and land rights book. Unless other evidence is found to the contrary, the contents of the certificate have substantial weight as evidence in the case of a litigation involving the land parcel for which it was issued.

Proving a point in court requires gathering evidence, which the disputing parties do in pursuit of truth, which is valuable for achieving justice and clarity. For example, in a civil case, the proof is;³

- a. Letter proof
- b. Witness evidence
- c. Estimate
- d. Oath

Based on the description of evidence in resolving civil cases, documentary evidence is very important evidence in obtaining truth, certainty and justice in a case. A land title certificate as proof of (written) documents has many functions for the owner. The main function of a certificate is as strong evidence. This is stated in Article 19 UUPA No.5 of 1960 as previously explained. In this way, anyone can prove their right to land if it is clear that the name listed on the certificate is the holder. Thus, the things that can be proven in the land title certificate are:

- Type of land rights (whether ownership rights, building use rights, business use rights or other land control rights.
- Rights holder
- Physical information about land objects
- Legal events that occur with land.

Among ordinary people, the importance of having a land title certificate as strong evidence in the event of a dispute is not fully understood. This is because there are so many types of land documents available in society, such as Land Certificates, Land Management Certificates and other certificates that are issued and/or recognized by the local government. Even though it is clear in UUPA, and PP No. 24 of 1997 which states that certificates are strong evidence in order to guarantee legal certainty over control of land, whether controlled by ownership rights, building use rights, use rights, or other rights which are land registration object. In this case PP no. 24/1997 is a very important tool for

creating legal certainty over registered land plots throughout Indonesia.⁴

This in no way rules out the admissibility of evidence that does not include a certificate. If the facts stated in the certificate match the facts stated in the measuring letter and land book, then the certificate is more persuasive than other forms of proof based on physical and legal data.

The building's location, dimensions, and specific features on the registered plot of land and apartment units are all part of the physical data. So is information on the property's boundaries and dimensions. Judicial data pertains to information on the legal standing of identified real estate parcels and apartment units, as well as the owners, any parties involved, and any liens or other claims against them. Alternatively, a measuring letter may be described as a document that contains physical information on a plot of land, including a map. The registration map is the source of the information.

Consequently, the information included in the certificate has substantial weight as evidence in the case of a litigation involving the given property, so long as no other evidence disproves it.⁵ This is reasonable since the certificate is an absolute piece of evidence with all the weight of law attached to the data it contains.

The distribution of marital assets is one of the legal consequences of getting a divorce. In contrast to inherited wealth, which is acquired before to marriage, marital assets are created simultaneously. To resolve disputes over the distribution of marital assets in the event of a divorce, many Acehnese people turn to the Religious Court, namely the Sharia Court.

Joint property in Indonesia is governed by the Marriage Law No. 1 of 1974, which contains extensive provisions, such as:

- a. Any assets acquired by either spouse before to or during the marriage are deemed joint assets under Article 35 of the Marriage Law. However, unless both spouses agree otherwise, the recipient becomes the legal owner of any assets, whether they be gifts, inherited property, or otherwise. So, they aren't considered part of the joint assets.
- b. If both spouses agree, they may engage in joint actions pertaining to the aforementioned shared property, as stated in Article 36 of the Marriage Law.
- c. Article 37 of the Marriage Law states that in the event of a divorce, the laws that are relevant will control the division of joint property.

Article 35 (1) of the Marriage Law states that following a marriage, whatever property acquired becomes joint property. According to Article 36 of the Marriage Law, the marital status of the assets that each spouse acquires is regulated. The laws that are relevant to the division of joint property include religious law, customary law, and any other laws that are included in the explanation of Article 37 (1) of the Marriage Law.

The KHI, which regulates the division of joint property, is another law in Indonesia alongside the Marriage Law. In a

⁴ Muhammad Al Fadhil, Suhaimi, Ika Susilawati, Legal Consequence on Land Transfer Due to Unregistered of Heretage, *International Journal of Multicultural and Multireligious Understanding*, Vol.10(4), 2023, pp.80-88.

⁵ Hilman Hadikusuma, *Hukum Perkawinan Adat*, PT Citra Aditya Bakti, Bandung 1990, hal 56.

³ Pasal 164 HIR

life or death divorce, according to Articles 96 and 97 of the KHI, each spouse would get half of the combined property. Here is the whole text of Article 96 of the KHI:

- (1) When a couple files for divorce, the spouse with the longer life expectancy will get half of the marital assets.
- (2) A husband or woman whose spouse has disappeared is not to have their joint assets divided until it is shown that he has died, either legally or actually, according to a decision of a Religious Court.

Article 97 of the KHI states: "Widows or widowers who are divorced each have the right to half of the joint property as long as it is not specified otherwise in the marriage agreement." That being said, it is not completely out of the question that assets that belonged to both the husband and the wife during the marriage could end up in joint assets after a divorce, with specific divisions between the ex-wife and the husband. Among them are securities, mobile property, and immovable property. Objects that lack physical form include rights and duties.

The division of joint assets in marriage (*gono-gini*) needs to be based on aspects of justice for all parties involved. The justice referred to includes the understanding that the distribution does not discriminate against any of the parties. The interests of each party need to be accommodated according to actual reality. The term "joint assets" describes the property that a husband and wife own together after being married. All assets acquired by a husband and wife during their marriage, with the exception of those that are inherited or given as gifts, are considered joint assets from the day of marriage until the marriage is dissolved.⁶

The concept of joint property ownership in marriage is a product of customary law based on local values which determines the balance between husband and wife in married life. Property acquired during marriage is owned jointly between husband and wife, it is never questioned whether the husband or wife simultaneously acquired the property jointly. Therefore, when the marriage bond is broken, both parties will also get equal rights to the property acquired during the marriage.⁷

The KHI also mentions joint property regulations in Articles 85 to 97 of the KHI. The KHI states in Article 85 that "The existence of joint property in marriage does not rule out the possibility of the existence of property belonging to each husband or wife."⁸ In the event that a dispute arises after a divorce regarding the division of assets, the matter is reopened and brought as a new lawsuit in either the Religious Court or the Sharia Court. A case with the case number 185/Pdt.G/2021/MS is registered in the Registrar's Office of the Banda Aceh Sharia Court, and the researcher intends to write a thesis based on that verdict. According to the information you have already supplied, Bna. Defendants I, II, and III were the subjects of the plaintiff's case.

That after the divorce between the Plaintiff and Defendant I in 2018, and in 2019 Defendant I sold the house which was

joint property between Plaintiff I and Defendant I which had not been divided and Defendant I sold the land and house himself without the knowledge and consent of the Plaintiff to the Defendant II as stated in the Deed of Sale and Purchase No: 58/2019 of 2019 made by Defendant III as PPAT of Ulee Kareng District. After Defendant I sold it to Defendant II, as stated in the Deed of Sale and Purchase No: 58/2019 made by Defendant III as PPAT of Ulee Kareng District, then Defendant III, who at that time changed the name of the Ownership Certificate Number: 2285 dated 30 June 2016 which was originally in the name of Defendant I was changed to the name of Defendant II. Then Defendant I, from the proceeds from the sale of the joint property house, Defendant I bought the land and building above it which is located in Dusun Mesjid, Gampong Miruk, Krueng Barona Jaya District, Aceh Besar.

That because the land and house on it are joint assets between the plaintiff and the defendant which have not been divided, legally the act of sale and purchase carried out by Defendant I to Defendant II is invalid and has no legal force and is therefore null and void.

Based on the description above, the author is interested in studying in more depth the decision relating to the strength of evidence of land ownership certificates in proof of ownership rights through a legal research carried out for writing with the title: "The Strength of Proof of Land Certificates on the Division of Joint Assets Post-Divorce."

Methodology

The type of research applied by researchers is Normative Juridical, which focuses on the use of secondary data or written legal norms and reviews related doctrines based on principles in legal science. The research was carried out by analyzing the legal regulations relating to the strength of land ownership certificate evidence as proof of ownership rights.⁹

This type of research can be viewed from various aspects, namely based on the nature, form, objectives, application and knowledge used.¹⁰ In this case, in terms of its nature, it is included in Descriptive Analytical research, namely providing a description of the human condition as a social creature who lives hand in hand with other parties in certain social relationships. Based on its form, it includes prescriptive research, namely suggesting things that must be implemented to resolve disputes related to property. If it is based on the science used, it is included in mono-disciplinary research because it is based on a type of science, namely legal science which implements a methodology commonly implemented in the science concerned.

When planning the study's procedures, the researcher draws from both theoretical frameworks and practical examples. Theoretical approach: This normative research takes a theoretical approach in its quest to elucidate fascinating concepts and traits from a knowledge-based and a practical perspective.¹¹ The case approach, meanwhile, looks at cases that deal with issues that come up as court decisions that

⁶ Amran Saudi dan Mardi Candra, *Politik Hukum: Perspektif Hukum Perdata Dan Pidana Islam Serta Ekonomi Syariah*, (Jakarta: Prenadamedia Group, 2016), hal 80.

⁷ Ratno Lukito, *Pergumulan Antara Hukum Islam Dan Hukum Adat di Indonesia*, (Jakarta: INIS, 1998), hal 82.

⁸ Abdul Ghani Abdullah, *Pengantar Kompilasi Hukum Islam Dalam Tata Hukum Indonesia*, (Jakarta: Gema Insani Press, 2002), hal 104.

⁹ Ali, Zainuddin, 2016, *Metode Penelitian Hukum*, Jakarta: Sinar Grafika, hlm. 58.

¹⁰ *Ibid*, hlm. 59.

¹¹ Jhony Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Malang: Bayumedia publishing, 2007, hlm. 306.

have long-lasting legal ramifications.¹² This case's approach is based on Study Decision No. 185/Pdt.G/2021/MS. Bna. The data was analyzed using the Qualitative Approach Analysis Method, which comprises collecting, screening, evaluating, and drawing conclusions from the data that was collected in a systematic manner during the research. This approach was chosen since the research is a normative judicial study, which might allow the authors to more easily explore, analyze, and draw conclusions from the data using a qualitative method.¹³

Results and discussion

Analysis of Sharia Court Decisions Register No.185/Pdt.G/2021/MS.Bna

Register No. 185/Pdt.G/2021/MS.Bna: Review of Sharia Court Decisions In accordance with Law No. 3 of 2006, which revises Law No. 7 of 1989 regarding Religious Courts, the first level of Muslim individuals' cases pertaining to marriage, inheritance, wills, grants, endowments, zakat, infaq, sadaqah, and sharia economics must be investigated, decided upon, and settled by Religious Courts. All pertinent facts must be thoroughly considered by the court before a decision can be made. Since evidence paints a detailed picture of the subject at hand, it is inevitable that the subject will come up during the course of judicial procedures. Since the court depends only on evidence to uphold the law and justice, proof is everything in procedural law before a court hearing.¹⁴

Settlement of civil cases is always motivated by the existence of disputes between the parties involved in the case, in addition to the very diverse nature of these disputes, the power to adjudicate the disputes in question is also varied, as stated by M. Yahya Harahap as follows:

“The existence of civil justice aims to resolve disputes that arise between members of the community. The disputes that occur are various. There are those related to breaking or breaking an agreement (breach of contract), unlawful acts (onrechtmatige daad), property rights disputes, divorce, bankruptcy, abuse of authority by authorities that harm certain parties, and so on. Questions of adjudicatory power—also called jurisdiction, competency, or ability to adjudicate—emerge when these conflicts develop as a result of civil courts. What this means is that the court may rule on specific situations according to the rules laid down in statute.¹⁵

In accordance with UU No. 3 of 2006 (amendment to Law No. 7 of 1989 concerning Religious Courts), the Religious Court is entrusted with the responsibility and power to hear and decide on initial level disputes between Muslim individuals in matters pertaining to marriage, inheritance, wills, grants, endowments, zakat, infaq, shadaqah, and sharia economics. Prior to making a decision, the court must conduct a careful and exhaustive examination of the case.

¹² Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, 2011, hlm. 24.

¹³ Terry Hutchinson, *Researching and writing in Law*, dalam Yudhi Setiawan, Jakarta: Raja Grafindo Persada, 2009, hlm. 35.

¹⁴ Roihan A. Rasyid, *Hukum Acara Peradilan Agama* (Jakarta: Rajawali, 1991), 137

¹⁵ M. Yahya Harahap, *Hukum Acara Perdata (Tentang Gugatan, Persidangan, Penyidikan, Pembuktian, Dan Putusan Pengadilan)*, Sinar Grafika, Jakarta, 2005, hlm 179.

Evidence is naturally presented during court proceedings as it helps the judge to understand the issue at hand. If the couple gets a divorce but still can't agree on how to divide their joint assets, they may file a second lawsuit in a religious court or Sharia court to find out how such courts often rule on such matters.

Before the author raises the issue of competency in resolving this case, the author first presents the case that was the basis for the examination at the Banda Aceh Sharia Court. This decision is a case registered at the Registrar's Office of the Banda Aceh Sharia Court No.185/Pdt.G/2021/MS. Bna. In the case filed by the Plaintiff against Defendant I, Defendant II and Defendant III.

That after the divorce between the Plaintiff and Defendant I in 2018, and in 2019 Defendant I sold the house which was joint property between the Plaintiff and Defendant I which had not been divided and Defendant I sold the land and house himself without the knowledge and consent of the Plaintiff to Defendant II as stated in the Sale and Purchase Deed No: 58/2019 of 2019 made by Defendant III as PPAT of Ulee Kareng District.

That after the Defendant sold it to Defendant II, as stated in the Deed of Sale and Purchase No: 58/2019 made by Defendant III as PPAT of Ulee Kareng District, then Defendant III, who at that time changed the name of the Ownership Certificate Number: 2285 dated 30 June 2016 which was originally in the name of Defendant I was changed to the name of Defendant II.

That then Defendant I, from the proceeds from the sale of the joint property house, Defendant I purchased land and the building above it which was located in Dusun Mesjid, Gampong Miruk, Krueng Barona Jaya District, Aceh Besar. That because the land and house on it are joint assets between the plaintiff and the defendant which have not been divided, legally the act of sale and purchase carried out by Defendant I to Defendant II is invalid and has no legal force and is therefore null and void.

Based on the practice of Religious Court decisions in cases of distribution of joint assets, the following decisions regarding the division of joint assets are stated as follows:

1. Grant the Plaintiff's lawsuit in part;
2. Determine that the joint assets of the Plaintiff and Defendant I are a plot of land measuring + 330 M2 and 1 (one) Permanent House unit above it which is located on Jalan Kapai Kleng (Jalan H. T. Usman Utama) Gampong Doy, Ulee Kareng District, Banda Aceh, as referred to in the Certificate Ownership Rights No.2285 dated 30 June 2016 with the following boundaries:
 - North borders with Empty Land
 - South borders with Salman Abdul Mutalif
 - East borders with Rosmaida
 - West bordered by Jalan.
3. Determine 1/2 (half) of the share for the Plaintiff and 1/2 (half) of the other share for Defendant I of the value of the joint assets as stated in dictum number 2. above;
4. Sentence Defendant I to divide the joint property as stated in dictum number 2 above in a vacant condition without any ties with other third parties voluntarily and in kind, if this cannot be done in kind, then it will be carried out by auction through the State Auction Office and the proceeds divided by two as stated in dictum number 3 above;

5. Declare the Minutes of Peace dated 30 July 2018 to be invalid and have no legal force.
6. Determine the sale and purchase between Defendant 1 (Maimun bin Ali Musa) and Defendant II (Marhamah), regarding the disputed object of joint property covering an area of + 330 M2 and 1 (one) Permanent House unit above with Deed of Sale and Purchase No: 58/2019 dated 10 - 10 - 2019 made by Defendant III as PPAT of Ulee Kareng District, has no legal force;
7. Declare the transfer of names from a.n Maimun (Defendant I) to a.n Marhamah (Defendant II) regarding the Ownership Certificate No. 2285 dated 30 June 2016 which was executed by Defendant IV regarding the object of the joint property dispute as invalid and has no legal force;
8. Reject the Plaintiff's claim for other than that;
9. Sentenced the Plaintiff to pay court costs amounting to Rp. 6,915,000.00 (Six million nine hundred and fifteen thousand rupiah).

Based on the description of the decision which is a case registered at the Registrar's Office of the Banda Aceh Sharia Court No.185/Pdt.G/2021/MS. Bna determines that the joint assets of the Plaintiff and Defendant I are a plot of land measuring + 330 M2 and 1 (one) Permanent House unit thereon located on Jalan Kapai Kleng (Jalan H. T. Usman Utama) Doy Village, Ulee Kareng District, Banda Aceh, as referred to in the Certificate Ownership Rights Number: 2285 dated 30 June 2016 with the following boundaries:

- North borders with Empty Land
- South borders with Salman Abdul Mutalif
- East borders with Rosmaida
- West bordered by Jalan.

Determining the sale and purchase between Defendant 1 (X) Defendant II (XX), regarding the disputed object of joint property covering an area of + 330 M2 and 1 (one) Permanent House unit above with Deed of Sale and Purchase No: 58/2019 dated 10 - 10 - 2019 which made by Defendant III as PPAT of Ulee Kareng District, has no legal force;

Declare the name of a.n X (Defendant I) to a.n XX (Defendant II) regarding the Ownership Certificate Number: 2285 dated 30 June 2016 which was executed by Defendant III regarding the object of the joint property dispute as invalid and has no legal force;

Based on this, an analysis of the judge's considerations in deciding the case turns out that the land object of dispute at the time the reverse name certificate was issued by Defendant I regarding the transfer of sale and purchase rights with Defendant II was still the object of dispute at the Banda Aceh Sharia Court in Case Number 185/Pdt. G/2021/MS. Bna. The defendants knew that at that time the case had not yet obtained permanent legal force. The object of the joint property dispute is invalid and has no legal force;

According to Article 106 paragraph (1) of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Cancellation of State Land Rights and Management Rights, it can be concluded that the land's title certificate is defective under administrative law.

- a. Errors in the process;
- b. Failure to properly execute regulations;

- c. Mistake about rights;
- d. Clueless subject of rights;
- e. Incorrect kind of rights;
- f. Large-scale mistakes in calculation;
- g. Duplicate land ownership exists;
- h. Inaccurate information on physical or judicial matters; or
- i. Extra errors in administration!

It has been determined that the following administrative law defects exist in the issuing of land ownership certificates

- a. Procedural errors in the process of determining and/or registering land rights;
- b. Procedural errors in the process of registering the transfer of rights and/or replacement certificates;
- c. Procedural errors in the registration process for confirmation and/or recognition of rights to former customary land;
- d. Procedural errors in the process of measuring, mapping and/or calculating area;
- e. Overlapping rights or certificates of title to land;
- f. Mistakes in the subject and/or object of the right; And
- g. Other errors in the application of statutory regulations.

The Sharia Court judge who decided the case in decision number 185/Pdt.G/2021/MS. Bna has declared the land ownership certificate in Defendant II's name to be invalid and null and void. This is due to the fact that the land registration guidelines under Government Regulation Number 24 of 1997 regarding Land Registration state that the land is not in dispute, and if this is not fulfilled, the certificate is administratively defective. Errors in the application of statutory regulations are related to these conditions and procedures. Hence, the Banda Aceh Sharia Court has the authority to decide, by order, to cancel the land title certificate if it contains any of the elements listed as administrative defects. In this instance, the certificate was issued due to procedural errors made by the land office, which could make the ownership certificate null and void, according to the judge.

In civil cases, court decisions have three kinds of force, namely binding force, evidentiary force and executorial force. The binding force, those bound by the court decision are the parties, the heirs of the parties, and those who receive rights from the parties. Strength of evidence, the decision is said to have the strength of evidence because it meets the requirements as an authentic deed, which is made in written form by an authorized official, signed, and is intended for verification. Executorial power, meaning that a court decision can be implemented by force, if the decision is not implemented voluntarily. However, not all court decisions can be implemented by force. A court decision that can be implemented by force is a court decision that is condemnatory in nature.¹⁶

In connection with the explanation above and based on the adage theory of *curia novit jus*, judges are deemed to know and understand all laws, so the judge has the authority to determine which objective law should be applied in accordance with the subject matter of the case (Harahap 2008). Therefore, the credibility of the arguments advanced

¹⁶ Nyoman A. Martana, *Buku Ajar Hukum Acara dan Praktek Peradilan Perdata*, Fakultas Hukum Universitas Udayana, 2016, Hlm. 35.

by the parties in this case-backed by land title certificates that are fully and conclusively legally binding—really rests with the judge who hears the case. Consequently, in civil decision Number 185/Pdt.G/2021/MS. Bna, the evidence shows that the judges at the Banda Aceh Sharia Court ruled that the Ownership Certificate Number: 2285, dated June 30, 2016, is invalid and null and void.

The judge's basic consideration in deciding case number 185/Pdt.G /2021/MS.Bna was that both the seller and the buyer did not have good intentions so that because of the transaction there was still a party who was injured, namely the plaintiff as the seller's ex-wife whose object was the status of the sale and purchase is still joint property. One should always verify if the item being sold is joint property before making a purchase or sale. In the event that one party sells joint property without the consent of a divorced husband and wife, it is considered a criminal act of embezzlement and carries a punishment of four years in prison and a class IV fine of IDR 200,000,000.00 (two hundred million).

Conclusion

The character of the certificate as evidence of rights is described in Article 32 of Government Regulation Number 24 of 1997. From the research and subsequent discussion, it can be inferred that the land registration publication system is a negative publication system with positive elements, specifically that the certificate is a letter that provides absolute proof. The legal force of land title certificates is contingent upon their issuance conforming to all requirements and procedures laid down by relevant regulations. If, however, the issuance of the certificate does not conform to these requirements and procedures, it is administratively defective and cannot be legally enforced. Consequently, the physical and juridical data included in the certificate are legally binding and presumed to be true information by the judge in the absence of other evidence to the contrary. Furthermore, further evidence may disprove a written land ownership certificate submitted during a civil case examination if the court believes the evidence has complete evidentiary power and the certificate's contents are shown to be inaccurate.

Suggestions

Suggestions that need to be made based on the results of this research are: First, in the examination of civil cases in court involving land ownership, and one of the parties submits a certificate of ownership of the land as evidence so that the Judicial Trilogy can be achieved, the judge should as far as possible nominate an official from the land agency as an expert witness, so that it is hoped that the court's decision will fulfill a sense of justice for the parties involved in the case. Second, with regard to land ownership certificates submitted as evidence in civil cases, if based on a court decision that has permanent legal force to be implemented it turns out that the subject and object are invalid according to law, the Supreme Court as the highest judicial body should be able to issue an instruction together with the Head of the National Land Agency, to provide clarity on what must be done by the Head of the Regency/Municipal Defense Office and interested parties.

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