

SETTLEMENT OF LAND RIGHTS CERTIFICATE CANCELLATION BASED ON IMPLEMENTATION OF COURT DECISIONS WHICH HAVE PERMANENT LEGAL ENFORCEMENT

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ABSTRACT

To achieve legal certainty and legal protection of land rights, a certificate of land rights is given as proof of a person's ownership of a land and its buildings. Certificates are strong evidence, but are not absolute, meaning that at any time they can be sued by other parties through the courts, as long as it can be proven otherwise the physical data and juridical data contained therein must be accepted as correct data. The cancellation of this certificate occurs because of a defect in administrative law in its issuance, or carrying out a court decision that has permanent legal force. This cancellation aims to provide legal certainty regarding the control, ownership, use and utilization of land in Indonesia. The purpose of this study is to analyze the juridical settlement of the implementation of the cancellation of land rights certificates based on the implementation of court decisions that have permanent legal force and to examine and analyze the obstacles and solutions in implementing court decisions that have permanent legal force. This type of research is empirical legal research. The location of the research was conducted at the Land Office of Klaten Regency. The sampling technique used is the purposive sampling. Data collection techniques in this research are literature study and interviews. The results of this study are the implementation of the cancellation of a certificate that already has legal force is still carried out in accordance with the regulations that were then in effect. There were several obstacles, both from the direct applicant and from the Klaten Regency Land Office.

Keywords: *certificate, certificate cancellation, permanent legal force.*

ABSTRAK

Untuk mencapai jaminan kepastian hukum dan perlindungan hukum hak atas tanah, maka diberikan sertipikat hak atas tanah sebagai bukti kepemilikan seseorang atas suatu tanah beserta bangunannya. Sertipikat merupakan alat bukti yang kuat, namun tidak mutlak, artinya kapan saja dapat digugat oleh pihak lain melalui peradilan, selama dapat dibuktikan sebaliknya data fisik dan data yuridis yang tercantum di dalamnya harus diterima sebagai data yang benar. Pembatalan sertipikat ini terjadi karena adanya cacat hukum administrasi dalam penerbitannya, atau melaksanakan putusan pengadilan yang telah mempunyai kekuatan hukum tetap. Pembatalan ini bertujuan untuk memberikan kepastian hukum akan penguasaan, pemilikan, penggunaan dan pemanfaatan tanah di Indonesia. Tujuan dari penelitian ini yaitu untuk menganalisis penyelesaian yuridis terhadap pelaksanaan pembatalan sertipikat hak atas tanah berdasarkan pelaksanaan putusan pengadilan yang telah mempunyai kekuatan hukum tetap serta mengkaji dan menganalisis kendala-kendala dan solusi dalam melaksanakan putusan pengadilan yang telah mempunyai kekuatan hukum tetap. Jenis penelitian ini adalah penelitian hukum empiris. Lokasi penelitian dilakukan di Kantor Pertanahan Kabupaten Klaten. Teknik pengambilan sampel yang digunakan yaitu *purposive sampling*. Teknik pengumpulan data dalam penelitian ini adalah studi kepustakaan dan wawancara. Hasil dari penelitian ini

yaitu pelaksanaan pembatalan sertifikat yang telah mempunyai kekuatan hukum tetap dilaksanakan sesuai dengan peraturan yang saat itu berlaku. Ada beberapa kendala baik dari pemohon langsung maupun dari pihak Kantor Pertanahan Kabupaten Klaten.

Kata-kata Kunci: sertifikat, pembatalan sertifikat, kekuatan hukum tetap.

INTRODUCTION

Land has a very important meaning and role for human life, because everyone needs land when they live until they die. Land is the surface of the earth which is a field that has certain boundaries. On this plot of land, there are rights to land, whether owned individually or as a legal entity, as stipulated in Article 16 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). Soil is a very strategic component of the ecosystem for the survival of mankind, and also as a major factor in any development activity (Ilyasa, 2020; Sitorus et al., 2022). The significance of land for human life and for a country is proven by the constitutional regulation in the 1945 Constitution Article 33 paragraph (3) that "Earth, water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

The provisions of this Article then become the constitutional basis for land management in Indonesia which is legally regulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations, which will be abbreviated hereinafter (UUPA), namely national agrarian law must provide the possibility of achieving the function of the earth, water and space, as referred to above and must be in accordance with the interests of the Indonesian people and also meet their needs. Land disputes in the community often occur, in this case from year to year increasing in complexity and quantity as dynamics in the economic, social and political fields continue to develop and occur in almost all regions in Indonesia, both in urban and rural areas (Primasari, 2021); (Ramli et al., 2021).

Of the various kinds of problems that occur in the jurisdiction of the Klaten District Land Office, there are also problems regarding the cancellation of a certificate as an implementation of a court decision that has permanent legal force, followed up if the order is declared null and void, one of which includes maintaining land registration data. Article 94 paragraph (1) Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration, stipulates that maintenance of land registration data is carried out by registering changes in physical data and or juridical data of registration objects land that has been registered by recording it in the public register in accordance with the provisions. The issue of land has so far been very relevant to be studied together and considered in depth and carefully in relation to policies in the land sector, which is due to the fact that at the level of policy implementation it has been shown so far that it has neglected the structural aspects of land tenure which in turn has given rise to various kinds of disputes (Rangkuti, 2020).

The purpose of maintaining land registration data is so that land registration data is "up to date", meaning that it is always in accordance with the reality on the ground, while interested rights holders can prove their rights are also "up to date" to third parties with good intentions, so that the creation of legal certainty and legal protection for holders of land rights

which is one of the important elements in the realization of justice and people's welfare (R. Ramadhani, 2021). This prompted researchers to conduct research on the implementation of certificate cancellations based on the implementation of court decisions that have permanent legal force as well as obstacles and solutions in implementing court decisions that have permanent legal force, with the research title "Completion of Cancellation of Land Rights Certificates Based on Implementation Court Decisions That Have Permanent Legal Force (Case Study at the Klaten District Land Office)"

RESEARCH METHOD

This type of research is empirical legal research. Empirical legal research because this research analyzes problems from the point of view according to sources (Pandey & Pandey, 2021). Empirical legal research is research conducted/focused on primary data (Tripa, 2019). This empirical legal research uses primary data on certificate cancellation cases as the main data and secondary data as support for knowing the law. The research location was conducted at the Klaten Regency Land Office, which is located at Jalan Veteran Number 88, Barenglor, North Klaten District, Klaten Regency, Central Java Province. The reason for choosing this research location is because the Klaten Regency Land Office is one of the Land Offices in Central Java Province which has a Class A classification, with around 90% of the total land in Klaten Regency having certificated land, so that it is possible for land disputes in this case to be certificate cancellation. The population in this study were applicants for cancellation of certificates at the Klaten District Land Office from 2018 to 2020, namely 7 applications for cancellation of legal products, consisting of 5 cancellations for certificates that had permanent legal force and 2 requests for cancellation of certificates due to administrative defects. Data collection techniques in this study used literature studies, interviews. Data analysis uses a qualitative description approach.

RESULT AND DISCUSSION

Geographical Conditions of Klaten Regency

Klaten Regency is one of the regencies in Central Java Province which is located at 07°32'19" LS - 07°48'33" LS and 110°26'14" E - 110°26'14" E with an altitude between 75 - 1,500 meters above sea level. Based on its geographical location, Klaten Regency is not directly adjacent to the sea area. The boundaries of the Klaten Regency area are as follows:

To the North: Boyolali Regency; East : Sukoharjo Regency;

To the south: Gunungkidul Regency (DI Yogyakarta); West side: Sleman Regency (DI Yogyakarta).

The area of Klaten Regency is $\pm 6,556.6 \text{ km}^2$ consisting of 26 sub-districts, 391 villages and 10 sub-districts, and 3,703 hamlets, with a population of 1,260,506 people and a population density of 2,230 people/km².

Use of Klaten Regency Land

Land use in Klaten Regency consists of agricultural land and non-agricultural land. Agricultural land is divided into wet agricultural land (rice fields), dry agricultural land (gardens and fields), and agricultural land for other uses (ponds or ponds). Non-agricultural land in the

form of residential areas, facilities and infrastructure, services, and industry. Based on data from the Central Bureau of Statistics for Klaten Regency (2022), land use in Klaten Regency.

Land Rights in Klaten Regency

There are 704,124 plots of land in Klaten Regency that have been certified. The types of land rights in these land parcels are in the form of property rights, usufructuary rights, building use rights, usufructuary rights, management rights, and waqf rights. The number of certificates based on the type of land rights can be seen in table 1, as follows.

Table 1. Number of Land Title Certificates in Klaten Regency

No.	Type of Land Rights	Total	Area (m2)
1.	Freehold	704.124	544.625.812
2.	Cultivation Rights	0	0
3.	Building use rights	6.067	3.789.691
4.	Right to Use	27.183	60.322.361
5.	Management Rights	0	0
6.	Waqf rights	2.635	836.398
Total amount		704.124	609.574.262

Source: Klaten District Land Office, 2022.

Discussion

Position Case

The results of research at the Klaten Regency Land Office, from 2018 to 2020, obtained data on requests for cancellation of certificates that had permanent legal force as many as 5 requests, including:

- 1) Freehold Certificate Numbers 814, 815, 816, 817, 818, 819, 820, 821, 822 and 823/Desa Granting, Jogonalan District, area 6,384 m², on behalf of R. Soeryo Isworo, et al, with application file number 13298/2018.
- 2) Certificate of Freehold Number 1140/Sidowarno Village, Wonosari District, with an area of 3,125 m², in the name of Ngadinem Warsodikromo, with application file number 45746/2018.
- 3) Certificate of Freehold Number 1141/Sidowarno Village, Wonosari District, with an area of 3,105 m², in the name of Ngadinem Warsodikromo, with application file number 45840/2018.
- 4) Certificate of Freehold Number 40/Joho Village, Prambanan District, with an area of 2,625 m², in the name of Sumadi Yososumarto, with application file number 49091/2018.
- 5) Certificate of Freehold Number 41/Joho Village, Prambanan District, with an area of 2,500 m², in the name of Sumadi Yososumarto, with application file number 49095/2018.

Of the five requests, it is broken down into 3 cases based on court decisions that have permanent legal force as follows. 1) Freehold Certificate Numbers 814, 815, 816, 817, 818, 819, 820, 821, 822 and 823/Desa Granting, Jogonalan District, area 6,384 m², in the name of R. Soeryo Isworo, et al, with application file number 13298 /2018, District Court Decision

Number: 94/Pdt.Plw/2010/PN.Klt. Jo. Number: 58/Pdt.G/2011/PN.Klt. Jo. Number: 284/Pdt/2012/PT.Smg. Jo. Number: 582K/Pdt/2013.

- 1) Certificate of Freehold Number 1140/Sidowarno Village, Wonosari District, with an area of 3,125 m², in the name of Ngadinem Warsodikromo, with application file number 45746/2018, and Certificate of Freehold Number 1141/Sidowarno Village, Wonosari District, with an area of 3,105 m², in the name Ngadinem Warsodikromo, with application file number 45840/2018, Klaten District Court Decision Number: 44/Pdt.G/2002/PN.Klt Jo. Number: 57/Pdt/2003/PT.Smg Jo. Number: 261.K/Pdt/2004.
- 2) Certificate of Freehold Number 40/Joho Village, Prambanan District, with an area of 2,625 m², in the name of Sumadi Yososumarto, with application file number 49091/2018, and Certificate of Freehold Number 41/Joho Village, Prambanan District, with an area of 2,500 m², in the name Sumadi Yososumarto, with application file number 49095/2018, Klaten District Court Decision Number: 67/Pdt/G/1999/PN.Klt Jo. Number: 121/Pdt/2000/PT.Smg Jo. Number: 1421.K/Pdt/2001 Jo. Number: 02/Pdt.Ex/2002/PN.Klt

Juridical Settlement of Cancellation of Certificates of Land Rights Based on the Implementation of Court Decisions that Have Permanent Legal Force

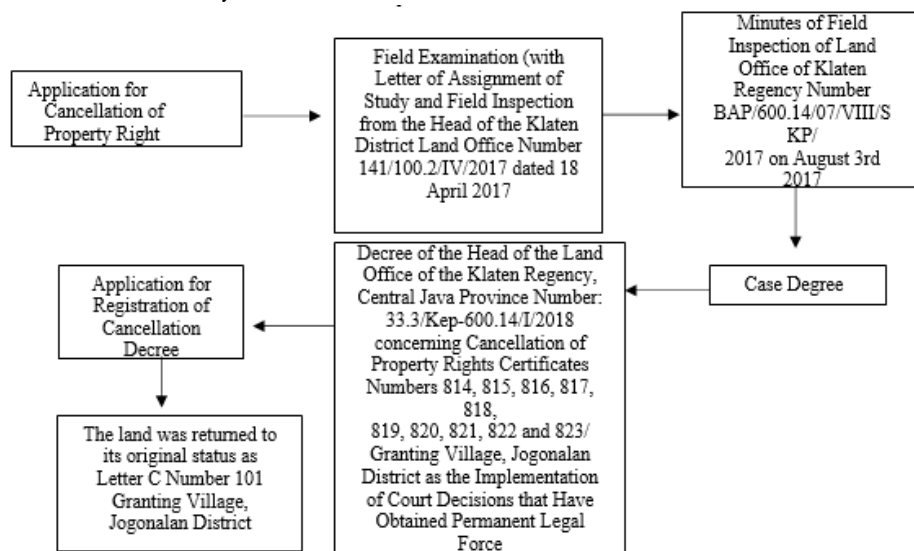
- a. Certificate of Property Rights Numbers 814, 815, 816, 817, 818, 819, 820, 821, 822 and 823/Desa Granting, Jogonalan District, area 6,384 m², in the name of R. Soeryo Isworo, et al, with application file number 13298/2018 , District Court Decision Number: 94/Pdt.Plw/2010/PN.Klt. Jo. Number: 58/Pdt.G/2011/PN.Klt. Jo. Number: 284/Pdt/2012/PT.Smg. Jo. Number: 582K/Pdt/2013. The Head of the Klaten Regency Land Office also invited all Somo Dihardjo Heirs to apply for the first registration for the recognition of the rights of Letter C Number 101 Granting Village, Jogonalan District, Klaten Regency to the Klaten Regency Land Office based on the provisions of the applicable laws and regulations, as well as fees services in connection with the deletion, recording, and recognition of rights as stipulated in Government Regulation Number 128 of 2015 are the obligations of the Petitioner.

The Head of the Klaten Regency Land Office also invited all Somo Dihardjo Heirs to apply for the first registration for the recognition of the rights of Letter C Number 101 Granting Village, Jogonalan District, Klaten Regency to the Klaten Regency Land Office based on the provisions of the applicable laws and regulations, as well as fees services in connection with the deletion, recording, and recognition of rights as stipulated in Government Regulation Number 128 of 2015 are the obligations of the Applicant. On March 22, 2017 Suryo Rantjono submitted a letter of request for cancellation of certificates based on a Court Decision against certificates of Property Rights Numbers 814, 815, 816, 817, 818, 819, 820, 821, 822 and 823/Village Granting to the Dispute and Conflict Case Section of the Land Office Klaten Regency. Then on April 18 2017 the Klaten Regency Land Office staff examined physical data and juridical data. The land area of 1,986 m² after being measured during the execution on May 11, 2016 to 1,936 m² has been divided between the plaintiff and the defendant. Paddy fields of 2 (two) plots have also been divided between the plaintiff and the defendant. After the field examination, the case was held at the Klaten Regency Land Office by presenting the court's decision to the minutes of the execution of

the surrender, emptying and demolition. In addition, there are also other documents, namely photocopies of the clerk's statement at the Klaten District Court Number W12-U9/232/HK.00.004/I/2017, dated 17 January 2017; Certificate of Land Registration, photocopy of C Village book and quote C Village Number 101 in the name of Somodiharjo.

Based on the description of the case settlement process above, it can be concluded in the image below:

Figure 1. Completion of Cancellation of Property Rights Certificate Numbers 814, 815, 816, 817, 818, 819, 820, 821, 822 and 823/Desa Granting, Jogonalan District, area 6,384 m², on behalf of R. Soeryo Isworo, et al



Source: Research Results, 2022

- b. Certificate of Freehold Number 1140/Desa Sidowarno, Wonosari District, with an area of 3,125 m², in the name of Ngadinem Warsodikromo, with application file number 45746/2018, and Certificate of Freehold Number 1141/Desa Sidowarno, Wonosari District, with an area of 3,105 m², in the name of Ngadinemo Warsodikromo , with application file number 45840/2018, Klaten District Court Decision Number: 44/Pdt.G/2002/PN.Klt Jo. Number: 57/Pdt/2003/PT.Smg Jo. Number: 261.K/Pdt/2004.

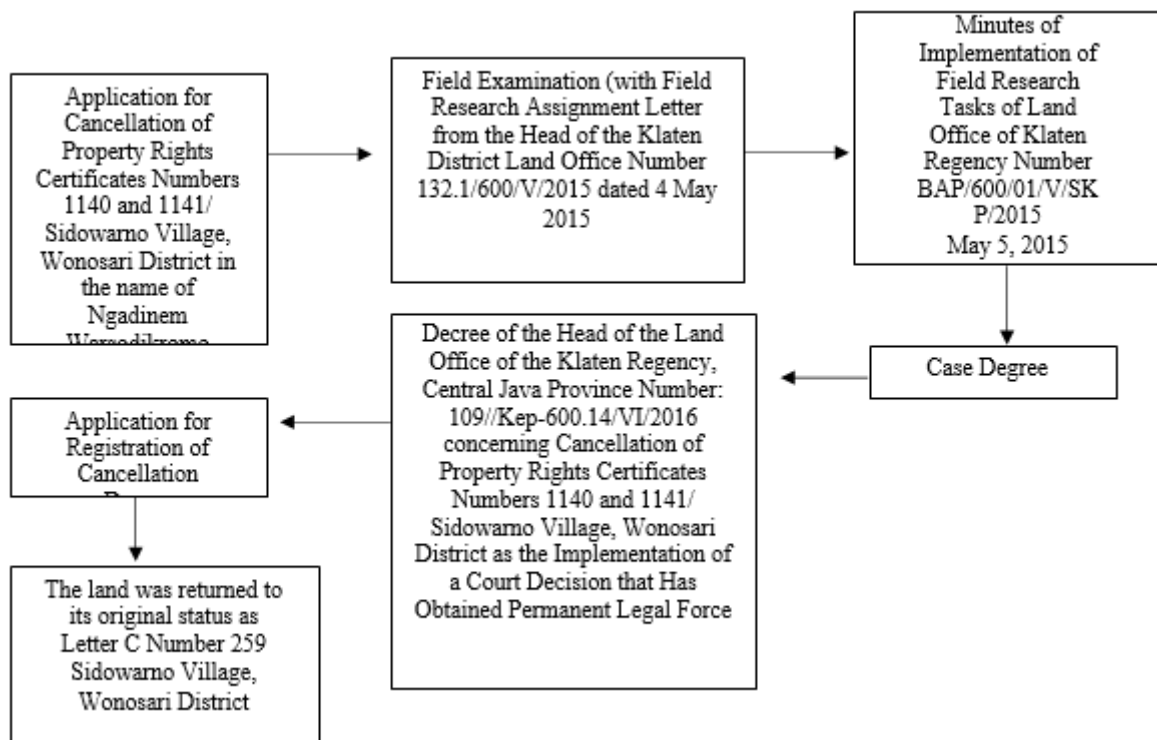
Based on the main problem, the paddy field object of the dispute has not been divided into inheritance, so that the ownership of the land by Ngadinem Warsodikromo and his heirs was sued by the other heirs of Resosemito alias Diki at the Klaten District Court registered in the case register Number: 44/Pdt.G/2002/PN Klt., with the Parties: Warno Miarjo, et al (3 people) as the Plaintiff against Sugiman, et al (8 people) as the Defendant and the Defendant have an interest.

Based on a statement made by the Head of Sidowarno Village on December 10, 2013 which stated that the Land Title Certificate Numbers 1140 and 1141 of Sidowarno Village, Wonosari District, Klaten Regency has been physically owned by the Auction Winner since November 14, 2008. Then the request for cancellation was notified to the Respondent for Cancellation (Ngadinem Warsodikromo or his heirs), according to the Letter of the Head of the Land Office: Klaten Regency Number: 1187/600.14/XI/2015 dated 10 November

2015. Based on the matters mentioned above, because he has fulfilled the requirements stipulated by law -applicable legislation and considering the social function of the land, the request for cancellation of the certificate can be considered for granting. Based on the Decree of the Head of the Klaten Regency Land Office regarding the Cancellation of Certificates of Property Rights Numbers 1140 and 1141 located in Sidowarno Village, Wonosari District, Klaten Regency, Central Java Province, as the Implementation of a Court Decision that Has Obtained Permanent Legal Force, then declared the Property Certificate Number 1140 and 1141/ Sidowarno Village, Wonosari District, in the name of Ngadinem Warsodikromo is no longer valid as proof of legal land rights.

Based on the description of the case settlement process, it can be concluded in the image below:

Figure 2. Completion of Cancellation of Certificates of Property Rights Numbers 1140 and 1141/ Sidowarno Village, Wonosari District, on behalf of Ngadinem Warsodikromo



Source: Research Results, 2022.

- c. Certificate of Freehold Number 40/Joho Village, Prambanan District, with an area of 2,625 m², in the name of Sumadi Yososumarto, with application file number 49091/2018, and Certificate of Freehold Number 41/Joho Village, Prambanan District, with an area of 2,500 m², in the name of Sumadi Yososumarto, with application file number 49095/2018, Klaten District Court Decision Number: 67/Pdt/G/1999/PN.Klt Jo. Number: 121/Pdt/2000/PT.Smg Jo. Number: 1421.K/Pdt/2001 Jo. Number: 02/Pdt.Ex/2002/PN.Klt.

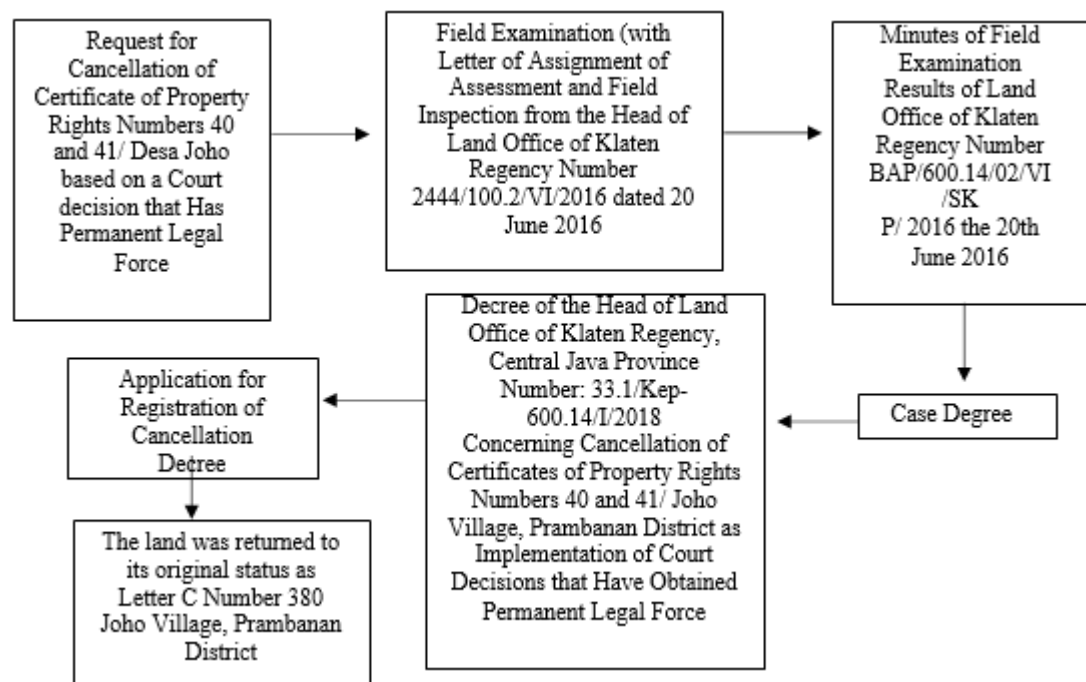
Based on the principal case above, then Mrs. Kartodiharjo alias Sami, et al (Katodiharjo heirs alias Saidi) filed a lawsuit at the Klaten District Court with the parties: Mrs.

Kartodiharjo alias Sami, et al as the Plaintiffs against Yososumarto alias Sumadi as the Defendant.

Based on the Statement Letter from the Head of Joho Village, Prambanan District, Klaten Regency Number: 477.II.2013, dated 1 February 2013 which stated that Decision Number 1421.K/Pdt./2001 was won by Mrs. Kartodiharjo, et al and have mastered it physically. Based on the Statement from the Head of Joho Village Number: 590/105/16/2015, dated 24 July 2015 which explained that the paddy field letter C Number 380, Plot 30/31 Class I Area 2,625 m² and Plot 16 Stake 33 Class II area 2,500 m² Village Joho, Prambanan District, on behalf of Kartodiharjo Saidi, is physically owned by Sukanto Hadi Prayitno and has been leased from 2003 to 2015. Based on the Field Inspection Results of the Klaten District Land Office Number: BAP/600.14/02/VI/SKP/2016 dated June 20 2016, the land Property Rights Numbers 40 and 41 have been controlled by Sukanto Hadi Prayitno. The cancellation request has been notified to the Respondent for Cancellation (Yososumarto alias Sumadi), according to the Letter of the Head of the Klaten District Land Office Number: 47/600.14/VII/2017 dated 19 July 2017.

Based on the above matters, because it has fulfilled the requirements determined by the applicable laws and regulations, the application for canceling the certificate can be considered for granting and stipulating a decision of the Head of the Klaten Regency Land Office regarding the cancellation of Certificates of Property Rights Numbers 40 and 41 which are located in Joho Village, Prambanan District, Klaten Regency, Central Java Province, as the implementation of a court decision that has obtained permanent legal force. Based on the description of the case settlement process, it can be concluded in the image below:

Figure 3. Completion of Cancellation of Certificates of Property Rights Numbers 40 and 41/Joho Village, Prambanan District, on behalf of Sumadi Yososumarto



Source: Research Results, 2022.

Based on the description above, a certificate of land rights is evidence issued by the government to be used as proof of rights and evidence issued in the context of implementing land registration. The data collected basically covers 2 (two) fields, namely:

1. Physical data, namely regarding the location or location of boundaries and the area of land parcels and apartment units that are registered, including information regarding the existence of buildings or parts of buildings on them.
2. Juridical data, is information regarding the legal status of land parcels and apartment units that are registered, the rights holders and the rights of other parties and other burdens that burden them.
3. Obstacles and Legal Solutions in Implementing Court Decisions that Have Permanent Legal Force

Of the various cases above, of course the settlement is not always smooth, there are obstacles in the settlement of certificate cancellation based on court decisions that have permanent legal force, both in the registration process and the settlement of certificate cancellation. Based on the results of an interview with Mr. Sutikno, S.ST., as the Coordinator of the Substance Group for Handling Conflict Disputes and Land Cases, several obstacles were found in the juridical settlement of certificate cancellation based on a court decision that has permanent legal force at the Klaten district Land Office. In the application for cancellation of certificates of ownership rights Numbers 814, 815, 816, 817, 818, 819, 820, 821, 822 and 823/Desa Granting, Jogonalan District, the land parcel in question is not physically controlled by the applicant for registration of the cancellation of the certificate so that the solution what is done is submitting an application for execution to the court as a condition for physical possession by the petitioner for cancellation. In the application for the cancellation of Certificates of Property Rights Numbers 1140 and 1141/Desa Sidowarno, Wonosari District, there was a problem at the counter of the Klaten Regency Land Office who were not thorough in examining the application file, that is, in this application file there was no minutes of auction execution, in addition to the implementation inappropriate law by processing officers of the Klaten District Land Office.

Due to the auction already being held, Letter C should not need to be cancelled, but during this process the certificate cancellation is still being carried out, which has an impact on the length of the process at the land office because you have to ask for signatures and photocopies of KTP and KK from the heirs. The solution in this case is that the application file is still subject to cancellation and then processing the recognition of rights based on the decision and execution auction. Then in the application for the cancellation of the Certificate of Property Rights Numbers 40 and 41/Joho Village, Prambanan District, the certificate of ownership cannot be submitted because it is held by the defendant. The solution is that the Klaten Regency Land Office makes a certificate withdrawal letter within a period of 14 (fourteen) days from the date the certificate withdrawal letter was signed. If within the time limit mentioned above, it is not submitted, then in accordance with the Letter of the Head of

the Klaten Regency Land Office, the certificate of land rights will be announced in a newspaper and declared no longer valid as proof of legal land rights.

A land certificate is proof of ownership and a person's right to land or land (Urip Santoso, 2019). Nurbaeti et al., (2023) The original land certificate is only issued by the National Land Agency (BPN) and is an essential state document. Land certificates are issued for the benefit of the rights holder concerned in order to protect the owner's land assets as valid evidence (G. P. Ramadhani, 2021; Arba, 2021). However, a land certificate can also be cancelled; a land certificate is an annulment of the decision to grant a land title or a certificate of land rights (Hasbia et al., 2022). This can happen for several reasons. One of them that often happens is administrative reasons; a certificate of land rights can be cancelled if, in that case, other parties can prove that a piece of land issued by the certificate is legally and his own (Salim, 2019). Of course, by being supported by the correct court ruling. Then a new certificate is issued with a faster announcement, namely 30 days (this refers to the process of issuing a lost certificate). The documents that need to be prepared are KTP, family card, NPWP, and marriage certificate (Sembiring & SH, 2010). From the information of the dista, it is necessary for the advance that the landowner prepares in advance all the requirements for the management of the land deed. For management costs, it can be checked to the relevant diamond.

CONCLUSION

The juridical settlement of the cancellation of the certificate of land rights based on the implementation of a court decision that has permanent legal force at the Klaten District Land Office has proceeded smoothly according to the request, so that a new subject of rights can be found in accordance with legal certainty. The application that came in was then an officer of the District Land Office conducted a field inspection and filed the case. This is in order to obtain a decision letter from the Head of the Land Office to register an application for registration of the Certificate Cancellation Decree. Obstacles in resolving the cancellation of certificates that have permanent legal force, namely, the land parcel in question is not physically controlled by the applicant for the registration of the cancellation of the certificate, the counter clerk of the Klaten Regency Land Office who is not thorough in examining the application file, the certificate of ownership cannot be submitted because held by the defendant, the applicant does not know the registration procedure, regarding the decision which is not clearly stated, the applicant does not know the stages or registration procedure, and the officer receiving the file and the data entry officer does not understand.

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