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REVERSE THE NAME OF THE CERTIFICATE OF TITLE TO THE ESTATE UNILATERALLY WITHOUT THE KNOWLEDGE OF THE OTHER HEIRS

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| **KEYWORDS** Reverse Name, Certificate of Title, Heirs. | **ABSTRACT**Property Rights are the descending rights, strongest and fullest that a person can have over land. Property rights can be transferred and transferred to other parties because a legal event occurs due to the death of a person so that the property left behind passes to the heirs and legal actions occur if there is a transfer of rights from the rights holder or his heirs to the new rights holder. If there is an abandoned land certificate, the land certificate is also transferred. A certificate is a proof of land rights to guarantee legal certainty. How is the legal settlement of the reverse action of the title certificate to the estate unilaterally without the knowledge of the other heirs. The research method used in writing tesis in the form of a normative juridical approach method. Specifications The research used in this study is analytical descriptive research. The types and sources of data used by the author are secondary data types, data obtained through data sources of civil law literature studies and primary legal materials, secondary legal materials, tertiary legal materials. Data collection techniques are obtained through literature studies and interviews. The method of analysis in thesis research is in the form of Qualitative Juridical. The results of the research on the reverse name of the title certificate to the heirs unilaterally without the knowledge of other heirs; The first provides legal protection for heirs who have full rights related to the act of unilaterally reversing the name of the title certificate to the estate without the knowledge of the other heirs is that each heir has the right to file a lawsuit through the Court to fight for his heir rights as per Article 834 of the Civil Code. Secondly, the legal settlement of the reverse action of the name of the title certificate to the estate unilaterally without the knowledge of the other heirs is to file a lawsuit through the court institution if the court decision has been issued that has obtained permanent legal force, the title certificate contains defects law in its issuance and declared invalid and unlawful |

**INTRODUCTION**

The Unitary State of the Republic of Indonesia is a legal state based on Pancasila and the 1945 Constitution. One of the elements of the State law is the guarantee against the protection of human rights. Article 28 paragraph (4) of the 1945 Constitution provides that: "Everyone has the right to have private property rights and those property rights shall not be arbitrarily taken over by any person."

Everyone has the right to fair recognition, guarantees, protection and legal certainty and equal treatment before the law for the rights of his citizens to obtain, possess and enjoy property rights. Property rights to land are one type of property rights. In the territory of the [(Niswah, 2022)](#Niswah) Republic of Indonesia, land is a valuable asset that is needed by humans as a primary need (board) to establish a place to live also concerns the lives of many people and as a support for the implementation of human productive activities such as natural resources which are the main capital for development.

 Land is viewed from the point of view of civil law science categorized as objects, in Article 499 of the Civil Code objects are goods and each right that can be controlled by property rights. Land based on Article 1 paragraph (3) and Article 4 paragraph (1) of Law Number 5 of 1960 concerning Agrarian Principles referred to as Land is the surface of the earth. This is what makes people generally view land as a high economic value asset that continues to increase in selling and rental prices. As an asset that has high economic value and has a social function, and is a socio-cultural root, so there are often conflicts, disputes, and disputes related to land issues both horizontal and vertical due to limitations and high human needs for land [(Limbong, 2014).](#Limbong)

 Legal disputes arise from various legal actions over land rights which are legal acts of the public domain, namely between fellow community members in matters related to material rights such as buying and selling land, renting rent, or from acts of controlling land in bad faith [(Prodjodikoro, 1984).](#Prodjodikoro) The imbalance between the number of plots or land areas that do not increase with the growth of the population increasing rapidly results in competition for a plot of land increasing with the growth of the population. This has led to the need for the role of the State as the highest organization of the Indonesian people to create order in the land sector in order to create administrative order both in terms of juridical land rights and physical land rights [(Miftakhuddin, 2020).](#Miftakhuddin)

 Based on Article 20 paragraph (1) of the UUPA, Property Rights are the most powerful, strongest and fullest derivative rights that people can have over land by considering that all land rights have a social function. The characteristic of property rights is the parent right to other material rights, complete rights in terms of quantity, rights whose nature is still not lost due to other rights, rights that contain the essence of all other rights and the term of property rights is not limited. Property rights are transferable and transferable and can be burdened with dependent rights as collateral for debt [(Sitompul, 2017).](#Sitompul)

The transfer of Property Rights is regulated in Article 20 paragraph (2) of the UUPA which states that Property Rights can be transferred and transferred to other parties. Ownership of land rights due to the transfer of rights can occur due to legal actions and legal events. The transfer of land rights due to legal acts is an act desired by the parties so as to give rise to rights and obligations such as buying and selling, exchanging, grants, grants of wills while the transfer of land rights that occurs due to legal events is an event that occurs due to the death of a person so that the property left behind passes to the heirs [(Aditama, 2017).](#Aditama) If there is a letter or even a land certificate left behind, the land certificate also moves. As stated in article 26 of the UUPA that inheritance can occur due to statutory provisions or even due to the will of persons who have bequeathed [(Urip Santoso, 2019).](#Urip) Regarding who is entitled to the inheritance of the heir is governed by the inheritance law that applies to the heir. An heir is a person who at the time of his death or who is declared dead based on a religious decree, leaving heirs and estates [(Sabir, 2019).](#Sabir) While an heir is a group of people or a person or individual or relatives or family who are related to the deceased and are entitled to inherit or receive inherited property left for dead by someone (heir) [(Sinaga, 2014)](#Sinaga) [(Cahyani, 2020).](#Cahyani)

Inheritance only takes place due to death, this gives rise to a legal effect, namely about how the management and continuation of rights and obligations as a result of legal events due to the death of a person is regulated by the Law of Inheritance. So that in this case inheritance will occur, if three requirements are met, namely:[(Hasballah, 2013)](#Hasballah)

1. There was someone who died;
2. There are people who are still alive as heirs who will acquire an inheritance at the time the testator dies;
3. There are a number of estates left by the heir.

 The transfer of inherited property to heirs will give rise to joint ownership of the property. Possession of an object is a circumstance against one material right owned by two or more persons [(Hulu & Telaumbanua, 2022)](#Hulu). This joint ownership consists of free joint ownership and bound ownership. Free common ownership is joint ownership whereby a person is only bound by things, that they are co-owners [(Sebastian & Adjie, 2018).](#Sebastian) Joint ownership occurs because it is limited to the relationship between the rights holder and an object. Bound joint ownership is joint ownership in the form of one of the consequences of the legal ties that exist between the holders of common rights. Joint ownership occurs due to the consequences and legal relationship between those who have common rights. Joint ownership of the property cannot be transferred to another person without the consent or knowledge of all heirs. For example, if there is one heir who does not participate in the transfer of rights, then the act of transferring these rights becomes void [(Kurniawati, 2018)](#Kurniawati) [(Permana, 2016).](#Permana)

Transfer of title to land is a data maintenance activity related to land registration that requires the right holder to register with the local District/City Land Office to be recorded in the land book and then a change in the name of the title holder to the land is carried out. Registration of transfer of rights due to inheritance is required in order to provide legal protection to the heirs and for the sake of administrative order of land registration, so that the data stored and presented always show the latest circumstances. For any agreement intended to transfer rights to land, a deed must be made by the authorized Officer, namely the Land Deed Making Officer [(Sibuea Rejeki & Susanti Ochtorina, n.d.).](#SIbuea)

Therefore, if there is a transfer of property rights to land, it must be faced with PPAT based on laws and government regulations, transfer of property rights to land or also called reverse name, the certificate of ownership of the land must have an agreement between the owner of the certificate and the new owner. However, in reality, there is still a transfer of land rights through inheritance that does not involve all heirs in the transfer process carried out where there is an unlawful act of one of the heirs who carried out the transfer of rights to the land and has unilaterally returned the name of the title certificate to the heirs without the knowledge of the other heirs who have the right of the inheritance. An heir must seek the consent of the other heirs if he wishes to make a Transfer of Rights to his or her right of inheritance, as the other heirs also have rights to the estate. If a person entitled to an inherited land raises the allegation that he or she is the sole owner of the land, then the Transitional should not be deemed to be held on tacit terms. However, if any other heirs who are also entitled to the estate are not involved, in the sense that there is no consent, there will be a dispute over the proceedings.

**RESEARCH METHODS**

The stages or methodology in this research can be described as follow:

**Study of literature**

This research requires a literature study to support the topic to be researched. In this section the author discusses the theory needed as a support in completing the research.

**Test Environment Design**

The design of the test environment serves to structure and prepare what will be done in the research. The design of the test environment contains the design of the scenario environment, the design of the test parameters, the design of the simulation parameters, the design of the topology, the design of the test and the design of data retrieval.

**Implementation Test Environment**

At this stage the authors implement the test environment that has been designed previously. At this stage, the installation of NS-3 and the addition of a LoRa module that functions to simulate the LoRaWAN protocol are carried out. In addition, the authors also implement the scenarios and parameters that have been designed previously.

**Retrieval and Processing of Test Result Data**

At this stage, a mechanism is carried out to obtain data from the implementation that has been done previously and then the data that has been obtained is processed so that it can be analyzed so that conclusions can be drawn.

**RESULTS AND DISCUSSION**

Legal protection of plaintiffs who have full rights regarding the unilateral reversal of the title certificate of title to the estate without the knowledge of the other heirs. The principle of legal protection of the Indonesian nation is the principle of recognition and protection of human dignity and dignity based on Pancasila and the principles of the State of law. In a State that adheres to the principle of a legal State, one of its characteristics is the existence of constitutional guarantees of human rights, which includes legal protection for its citizens and which can provide justice, order, certainty, expediency and peace. Legal protection is a form of service that must be provided by law enforcement officials or security forces to provide a sense of physical and psychological security to legal subjects from threats, disturbances, terror, and violence from any party provided at the stage of investigation, prosecution, and examination in court.

Legal protection is also a protection given to legal subjects in the form of legal tools both preventive or preventive and repressive or repressive, both written and unwritten.Land rights owners who are Indonesian citizens are entitled to legal protection, especially related to land rights in the form of controlled property rights, registration of transfer of land rights or also called Balik Nama which is carried out without the knowledge of other heirs in the case of decision number 60 / Pdt.G / 2018 / PN.Ptk whose Deed of Sale and Purchase is made before the Land Deed Making Officer and the reversal process at the National Land Agency results in changes in juridical data in the field registered land and its rights holders. The birth of the right is at the time of registration, with which it can be provided with a guarantee of legal certainty and legal protection of a person's rights to land. The final result of the land registration process is a certificate of title to the land.

A certificate is a letter of proof of rights that applies as a strong evidentiary tool, meaning that as long as it cannot be proven otherwise the physical data and juridical data contained therein must be accepted as correct data. The truth contained in the certificate must be accepted in carrying out legal acts and cases in court. As the owner of the right to the land will continue to be protected as long as the land is acquired in good faith and is manifestly controlled by the holder of the right concerned. The principle of good faith provides protection to persons who in good faith obtain a right from a person who is suspected of being the rightful holder of the right. Based on the principle of *nemo plus juris in alium transferre potest quam ipse habet* which implies that a person cannot give up or transfer rights beyond what he himself has. The possession of a right to land by an ineligible person is void.

A buyer always faces the possibility of being sued by a party who feels more entitled to the land in question, even if the buyer has registered. Thus the actual right holder can always reclaim his rights that have been transferred without his knowledge from whomever the right resides. This is very important to give protection to the actual land rights holder. It can be said that a certificate as a certificate of proof of rights issued is valid as a strong evidentiary tool and not an absolute proof tool. The legal protection of heirs who have full rights regarding the act of unilaterally returning the name of the title certificate to the estate without the knowledge of the other heirs is that each heir has the right to file a lawsuit to fight for his inheritance rights as article 834 of the Civil Code states that: Each heir has the right to advance a lawsuit to fight for his or her inheritance rights, against all of them, which is good on the basis of equal rights, whether without any basis any right to control all or part of the estate, as against them, who have cunningly ceased their possession. In this regard, the case in Court Decision No. 60/Rev.G/2018/PN.Ptk regarding the unilateral reversal of the title certificate of title to the estate by Defendant III with Defendant II through Defendant I without the knowledge or without the consent of the Plaintiffs as the children (Heirs) of Defendant II.

Sale and Purchase The object of dispute between Defendant II and Defendant III is invalid and null and void, so that by itself the Certificate of Property Rights Number: 1072/Darat Sekip in the name of Mr. U (Co-Defendant II) is to be invalid and has no legal force, the return of the Certificate of Property Rights to the Plaintiffs and for the process of returning the Certificate of Property must go through an administrative process at the Land Office because it is already in the name of another person. Legal settlement of the reverse action of the name of the title certificate to the estate unilaterally without the knowledge of the other heirs. Transfer of rights is a change in juridical data on registered land ownership that can occur due to 2 (two) reasons, namely due to legal events and legal acts. The transition due to legal events occurs due to the death of a person so that the property left behind passes to the heirs (*boedel* heirs).

Juridically, the estate passes at the time of the death of the testator, but its administrative transition occurs at the time of registration. The transfer due to legal action occurs when there is a transfer of rights from the right holder or his heirs to the new rights holder. This transfer of rights requires a deed that proves that there has been a legal act of transfer of rights, namely a deed made by PPAT and the reversal process at the National Land Agency results in changes in the juridical data of the land plots registered and their rights holders. With the issuance of a certificate of title to land, it makes it easy for the holder of land rights to prove ownership of the rights to the land he owns or controls, even though in the provisions of Article 32 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration is that there is no guarantee for the owner or holder of the land rights certificate not to get a lawsuit from other parties who feel aggrieved over the issuance of the land rights certificate. A legal settlement of the reverse of the name of the title certificate to the estate unilaterally without the knowledge of the other heirs under Article 834 of the Civil Code may be through a lawsuit in the District Court if the one being sued regarding an act against civil law (*Onrechtmatigedaad*).

## Along with the current high value and benefits of land, many parties are trying to obtain ownership of land rights unlawfully by violating the law which results in the cancellation of their ownership. Basically, annulment is an act that aims to decide, terminate or abolish a legal relationship. Cancellation of registration of transfer of rights carried out by unlawful acts results in land and proof of ownership in the form of the certificate in question returning to the holder of the right to the legal land.

## Cancellation of a land rights certificate is a form of settlement of land rights disputes caused by a decision on the granting of rights and/or a certificate of land rights issued by the Head of the Land Office containing administrative legal defects or implementing a court decision with permanent legal force. In the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1999 concerning Delegation of Authority and Cancellation of the Decree on the Granting of State Land Rights, Article 1 number 12 states that the formulation of the cancellation of land rights is the cancellation of decisions regarding a right to land because the decision contains legal defects in issuing it or implementing court decisions that have permanent legal force.

## A legal defect certificate is a certificate of land rights that has been issued and it turns out that there are things that cause its cancellation because in the process there is an element of coercion, an element of error, an element of fraud, an element of forgery or the flow of procedures that have been violated or not in accordance with proper regulations, so that the legal consequences are void. Administrative law defects are related to errors of an administrative legal nature, as in Article 107 of PMNA Number 9 of 1999 are caused by procedural errors, errors in the application of laws, errors of rights subjects, errors in the object of rights, errors in the type of rights, errors in broad calculations, overlapping land rights or because juridical data or physical data are incorrect or other errors of an administrative nature. Meanwhile, the cancellation of land rights due to carrying out permanent legal force, among others, is related to the validity of the rights underlying the legal relationship arising from the existence of the land rights concerned.

## The implementation of court decisions with legal force must still be carried out, unless there are valid reasons for not implementing them. Therefore, if there are parties who feel aggrieved by the issuance of a certificate of title to land, then the party who feels aggrieved can file a lawsuit in court, as in the case of Court Decision No. 60/Pdt.G/2018/PN.Ptk. in the judgment, the Plaintiffs are the heirs as the parties who feel aggrieved due to the unilateral transfer of rights to the land without the knowledge of other heirs and the issuance of a certificate of title to the land filed a lawsuit to acquire his rights.

In this case, the sale and purchase deed that is used as the basis for the cancellation of the title certificate is said to be legally defective because it does not meet the material requirements in a sale and purchase deed, namely the only inherited property in the form of a piece of land on which stands a house building located in Pontianak City, then if there is a transfer of land rights through buying and selling, there must be knowledge and approval of all legal heirs, No one should act as a seller.

**CONCLUSION**

Land rights owners who are Indonesian citizens are entitled to legal protection, especially with regard to land rights in the form of property rights. The transfer of a right to land that occurs due to inheritance from the owner to the heir, An heir must seek the consent of the other heirs if he wants to transfer rights to his inheritance rights, because the other heirs also have rights to the estate. The transfer of title to land or also called the reverse name of the certificate of ownership over the land, the process of reversal of the name in the National Land Agency results in a change in the juridical data of the land plots registered and the rights holders. The birth of the right is at the time of registration, with which it can be provided with a guarantee of legal certainty and legal protection of a person's rights to land. The legal protection of heirs who have full rights related to the act of unilaterally returning the name of the title certificate to the heirs without the knowledge of the other heirs is that each heir has the right to file a lawsuit to fight for his inheritance rights as Article 834 of the Civil Code states that each heir has the right to file a lawsuit to fight for his inheritance rights, against all of them, which is good on the basis of equal rights, whether without any basis any right to control all or part of the estate, as against them, who have cunningly ceased their possession. The legal protection of plaintiffs who have full rights regarding the unilateral reversal of title certificates over inherited land without the knowledge of other heirs has the binding force that is legally owned.

With the issuance of a certificate of title to land, it makes it easy for the holder of land rights to prove ownership of the rights to the land he owns. The legal settlement of the reverse of the name of the title certificate to the estate unilaterally without the knowledge of the other heirs under Article 834 of the Civil Code may be through a lawsuit in the District Court if the one being sued regarding an act against civil law (Onrechtmatigedaad). Cancellation of registration of transfer of rights carried out by unlawful acts results in land and proof of ownership in the form of the certificate in question returning to the holder of the right to the legal land. Cancellation of a certificate of land rights is a form of settlement of land rights disputes caused by a decision on the granting of rights and/or a certificate of land rights issued by the Head of the Land Office containing administrative legal defects or implementing a court decision with permanent legal force whose decision declares it void or has no legal force. Cancellation of land rights due to the exercise of permanent legal force, relating to the validity of the rights underlying the legal relationship arising from the existence of rights to the land in question.

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