

# KEPASTIAN HUKUM ATAS TUMPANG TINDIH (OVERLAPPING) HAK KEPEMILIKAN ATAS TANAH DI TINJAU HUKUM POSITIF DI INDONESIA

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## Abstrak

Tumpang tindih hak kepemilikan tanah merupakan permasalahan yang masih sering terjadi dalam sistem pertanahan di Indonesia, sehingga menimbulkan ketidakpastian hukum bagi masyarakat dan memerlukan kajian mendalam terhadap pengaturan serta penyelesaiannya. Penelitian ini bertujuan (1) untuk menganalisis pengaturan hukum dan pelaksanaan penyelesaian sengketa atas tumpang tindih hak kepemilikan tanah dalam perspektif hukum positif di Indonesia, (2) mengidentifikasi kepastian hukum terhadap tumpang tindih hak kepemilikan tanah. Fokus kajian diarahkan pada implementasi peraturan perundang-undangan yang berlaku, khususnya Undang-Undang Pokok Agraria, Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah, serta peraturan pelaksana lainnya. Jenis penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan (*statute approach*), dan pendekatan konseptual (*conceptual approach*). Sumber bahan hukum terdiri atas bahan hukum primer, sekunder, dan tersier yang dianalisis secara kualitatif untuk memperoleh kesimpulan yang komprehensif. Hasil penelitian menunjukkan bahwa meskipun sistem pendaftaran tanah di Indonesia telah dirancang untuk memberikan kepastian hukum, dalam praktiknya masih sering terjadi tumpang tindih hak kepemilikan tanah akibat ketidaksinkronan data fisik dan yuridis, lemahnya koordinasi antarinstansi, serta kurangnya kesadaran hukum masyarakat. Penyelesaian sengketa umumnya dilakukan melalui mediasi di Badan Pertanahan Nasional atau melalui jalur peradilan, namun efektivitasnya sangat dipengaruhi oleh kelengkapan dan keabsahan dokumen yang dimiliki para pihak. Upaya pencegahan dapat dilakukan melalui modernisasi sistem pendaftaran tanah berbasis digital, integrasi data lintas instansi, penerapan asas publisitas secara transparan, penguatan pengawasan internal, harmonisasi regulasi, serta peningkatan edukasi hukum kepada masyarakat.

**Kata kunci:** Tumpang Tindih, Hak Kepemilikan Tanah, Kepastian Hukum, Pencegahan Sengketa.

**LEGAL CERTAINTY REGARDING OVERLAPPING LAND OWNERSHIP  
RIGHTS AS REVIEWED BY POSITIVE LAW IN INDONESIA**

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**Abstract**

*Land ownership rights overlap is a problem that still frequently occurs in Indonesia's land tenure system, giving rise to legal uncertainty for the public and requiring in-depth study of its regulation and resolution. This study aims (1) to analyze the legal regulation and implementation of dispute resolution regarding overlapping land ownership rights from the perspective of positive law in Indonesia, and (2) to identify legal certainty with respect to overlapping land ownership rights. The focus of the study is directed at the implementation of applicable legislation, particularly the Basic Agrarian Law, Government Regulation Number 24 of 1997 on Land Registration, and other implementing regulations. The type of research employed is normative juridical, using a statute approach and a conceptual approach. Legal materials consist of primary, secondary, and tertiary sources, which are analyzed qualitatively to obtain comprehensive conclusions. The results of the study indicate that although Indonesia's land registration system has been designed to provide legal certainty, in practice overlapping land ownership rights still frequently occur due to inconsistencies between physical and juridical data, weak inter-agency coordination, and insufficient legal awareness among the public. Dispute resolution is generally carried out through mediation at the National Land Agency or through judicial channels; however, its effectiveness is greatly influenced by the completeness and validity of documents held by the parties. Preventive efforts can be undertaken through the modernization of a digital-based land registration system, cross-agency data integration, transparent application of the publicity principle, strengthening of internal oversight, regulatory harmonization, and enhanced legal education for the public.*

**Keywords:** *Overlapping Land Rights, Land Ownership Rights, Legal Certainty, Dispute Prevention.*