
LEGAL CERTAINTY OF GRONDKAART AS PROOF OF CONTROL OF PT. KERETA API INDONESIA (PERSERO) IN THE IMPLEMENTATION OF LAND REGISTRATION

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Abstract

Grondkaart is administrative evidence that records the ownership of railway land in the past. However, the unclear legal status of Grondkaart has given rise to various conflicts that often end up in court. There is legal uncertainty regarding land rights in the form of overlapping other rights issued above Grondkaart or land rights that are only based on Grondkaart itself. Critical evaluation of existing regulations and identification of problems from previous case studies will provide a strong foundation for formulating recommendations for improvement and refinement of the concept in order to ensure legal certainty. The research method used is normative legal research, namely, research on legislation, court decisions, and legal doctrines to understand positive law and resolve legal issues. The results of this study indicate that the Grondkaart has a strategic function as initial evidence of land ownership by PT. KAI (Persero), but its legal certainty will only be realized if the registration or conversion process of rights has been carried out in accordance with the provisions of laws and regulations. The Grondkaart cannot be used as the only legitimate basis for proving ownership in the land registration system in Indonesia. In order to maximize the transitional function of the Grondkaart as a basis for temporary recognition, the government needs to issue a policy that clearly explains its legal status within the framework of rights conversion. This can be done through the technical guidelines of the Ministry of ATR/BPN, which regulate the procedure for integrating historical documents into the national land registration system. Efforts are also needed to increase factual verification of physical control in the field, including the involvement of the community and interested parties. Thus, proof based on the Grondkaart becomes more objective, transparent, and in accordance with the precautionary principle in the national land registration system.

Keywords: Grondkaart, Kereta Api Indonesia, Land Registration

INTRODUCTION

Proof of ownership of a plot of land is very much needed because the existence of land has an important value. A certificate is proof of land ownership that is recognized in Indonesia. A certificate is a valid proof of rights that serves as a strong means of proof regarding the physical data and legal data of land rights contained therein, as long as the physical data and legal data are in accordance with the data in the measurement letter and the relevant land rights book. However, to this day there is evidence of control obtained during the Dutch colonial period which is still considered a form of ownership, one of which is the Grondkaart.

Grondkaart can be interpreted as a land map during the Dutch colonial period, which consists of a single land certificate containing the origin of the land, land boundaries, and so on, which function as instructions explaining that the land described in the Grondkaart is state property (PT KAI, 2000). Grondkaart is stated in the Decision of the Supreme Court of the Republic of Indonesia Number: 2505 K/Pdt/1989 and the Decision of the Supreme Court of the Republic of Indonesia Number: 1262/K/Pdt/2014 which has become the jurisprudence of the Supreme Court, which states that the existence of Grondkaart is recognized as evidence of land rights or proof of ownership. The legality of Grondkaart is further strengthened by the issuance of the Letter of the Minister of Finance to the Head of the National Land Agency Number: S-11/MK.16/1994 which states that Grondkaart is the result of evidence of asset ownership by Perumka which has now changed its name to PT. Kereta Api Indonesia (hereinafter referred to as PT. KAI (Persero)) (Silviana, 2020). In addition, the Court's decision that also strengthens the legal position of the Grondkaart is the Semarang District Court Decision Number 227/Pdt.G/2016/PN.Smg. which states that until now, the Grondkaart remains valid but must still be registered with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (hereinafter referred to as the Ministry of ATR/BPN) to obtain a Certificate of Use Rights or Management Rights.

The Ministry of Finance, through the Directorate General of State Assets (DJKN), instructed Ministries/Institutions to immediately certify State Property (BMN) in the form of land since 2013, reinforced by Joint Regulation Number 186 and 24 of 2009 concerning Certification of BMN in the form of Land, which was issued jointly with the Ministry of ATR/BPN (Putri, 2025). This registration is administratively important so that BMN land is recorded in an orderly manner. This step aims to secure state assets from claims by other parties and provide legal certainty regarding their ownership status. The call to convert Grondkaart into land rights has been around since the issuance of Law Number 5 of 1960 concerning Basic Agrarian Principles (hereinafter referred to as UUPA). In particular, land controlled by the government with control rights (beheer) since September 24, 1960, based on the Regulation of the Minister of Agrarian Affairs (PMA) Number 9 of 1965 concerning the Implementation of Conversion of Control Rights over State Land and Provisions, should be converted into Use Rights or Management Rights.

The problem arises because in fact there are still Grondkaart that have not been converted into Certificates. As much as 40% or an area of 131,130,284.8 m² of the total land assets of PT. KAI (Persero) of 327,825,712 m² have been certified, but the remaining 60% have not been certified (Public Relation KAI, 2025). This is not without reason considering that Government Regulation Number 19 of 1998 concerning the Conversion of the Form of a Public Company (Perum) of Railways into a Company (Persero) does not regulate in detail

the procedures for the transfer of land included as capital of PT. KAI (Persero). Consequently, the status of land to support the implementation of railway infrastructure is unclear so that it becomes an object of dispute between PT. KAI (Persero) and the Directorate General of Railways (DJKA) which is under the Ministry of Transportation. The land dispute intensified when a plan emerged to optimize land use at train stations through a land use agreement with a third party to develop a residential and business area integrated with the train station under the name Transit Oriented Development (TOD). DJKA claims that the Grondkaart land is within Rumaja and Rumija which is the area where the TOD is built which is its property, so that DJKA claims that the party that should have the right to enter into an investment agreement for the development of the TOD area with the Investor is DJKA as a representative of the Ministry of Transportation and not PT. KAI (Persero). This internal problem is what caused many Grondkaart to not be converted into Certificates.

Based on the provisions of Law Number 1 of 2004 concerning State Treasury, as a form of proof of the existence of land assets owned by PT. KAI (Persero) during the Dutch colonial period, the party entitled to the Grondkaart is PT. KAI (Persero). In its implementation, many obstacles were encountered by PT. KAI (Persero) in its efforts to regulate and re-take over assets in the form of land and buildings utilized by Agencies/Individuals (third parties). If asset certification is not carried out immediately, the land will become abandoned land, although if you look at state lands that are currently not being used properly, then legally it must fall to the state and have the status of state land.

The overlapping of land certificates on the Grondkaart land plot, caused a dispute between the rights holders which resulted in losses experienced by PT. KAI (Persero) (Effendi, 1995). The problem becomes more complicated, with the issuance of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Implementing Provisions of Government Regulation Number 24 of 2014 concerning Land Registration, stating that traditional land documents such as Letter C, Petuk D, Girik, and other similar documents will no longer be recognized as proof of land ownership starting February 2, 2026. This condition makes the Grondkaart have an increasingly weak legal position and makes the Grondkaart not provide certainty, plus the Grondkaart has not been regulated in statutory regulations (Holijah, 2024). In fact, if viewed from a historical aspect, Grondkaart also functions as administrative evidence that records land ownership in the past. However, the ambiguity regarding the legal status of Grondkaart has caused various conflicts that often end up in court (Edwirka, 2024).

Based on the description as explained above, it provides an illustration that there is still legal uncertainty regarding land rights in the form of overlapping other rights issued above the Grondkaart or land rights that are only based on the Grondkaart itself. The existence of clear legal certainty will reduce land disputes as formulated in the main objectives of the UUPA in laying the foundations for providing legal certainty regarding land rights. Critical evaluation of existing regulations related to Grondkaart is important to ensure legal certainty. Identification of problems from previous case studies and in-depth analysis of applicable regulations will provide a strong foundation for formulating recommendations for improvement and refinement of regulations.

RESEARCH METHOD

This study uses a normative legal research type. Normative legal research is a study of legislation, court decisions, and legal doctrines to understand positive law and resolve legal issues (Efendi & Susanti, 2019). This study connects legal theory with actual dynamics related to the legal certainty of Grondkaart as evidence of PT. KAI (Persero)'s control over land registration, of course, by considering applicable regulations.

RESULTS AND DISCUSSION

Ground Certificate as Evidence of Control of PT. KAI (Persero) with Legal Certainty

The beginning of the enactment of the Railway Law (Spoorweg Wet) in 1867 became a historical milestone in the establishment of the Dutch Private Railway Company to open the Dutch Railway line, where the Dutch private railway companies were not affiliated with the Dutch Government railway company in the Dutch East Indies. Political support from the Dutch government was given to 12 private railway companies in the Verenigde Staatspoorwegen Bedrijf (VS) which at that time had its head office in the Lawang Sewu Building, Semarang.

Historically, the acquisition of Grondkaart land began with the efforts of 12 Dutch Private Railway Companies that obtained transportation business authority in 1863 from the Dutch East Indies government to procure railway transportation lines by means of *ontoegeuing* for land acquisition, regulated by the provision of compensation. All of the railway lines that were acquired were made into land maps made by surveyors (landmeters) using geodetic theory. Meanwhile, to fulfill its legality, the map sheets along with supporting documents were signed by the Resident of Batavia or the head of the Colonial Agrarian Office. The map is known as Grondkaart.

Due to the absence of specific regulations to support this, in 1866 the Dutch government in The Hague issued regulations which became guidelines for managing railway lines in the Dutch East Indies (Muchsan, et.al., 2019). The basis for the regulation of the Grondkaart land in the form of *Besluit Van Gouvernement General* Number 7 dated October 14, 1895, confirms that the legal force of the Grondkaart is as an official substitute for administrative evidence of land ownership (*domein*). In addition, *Staatsblad* 1911 Number 110 and *Staatsblad* 1940 Number 430 confirm that the evidence required for land ownership is sufficient based on control or *bestemming* alone.

After the transfer of sovereignty of the Republic of Indonesia based on the Round Table Conference (RTC), the Grondkaart land became the property of the government of the Republic of Indonesia, which then based on the provisions of Article 2 of Government Regulation Number 8 of 1953, the authority to control it was transferred to the Minister of Home Affairs. In practice, the Ministry of Home Affairs handed it over to the *Djawatan* or agencies to carry out their respective interests, one of which was the management of the Grondkaart land was handed over to the *Djawatan Kereta Api* (DKA) based on the proposal of the Deputy Minister of Land Transportation, Energy and Public Works on January 6, 1950.

Judging from the land regulations that are used as the basis and reference in the land sector at this time, namely UUPA and Government Regulation No. 24 of 1997 concerning Land Registration, there are no clear regulations regarding Grondkaart as proof of land ownership. However, there are regulations that regulate Grondkaart as proof of railway land ownership, namely the Letter of the Minister of Finance / Director General of BUMN

Development to the Minister of State for Agrarian Affairs / Head of the National Land Agency No. S-11 / MK.16 / 1994 dated January 24, 1995 and the Letter of the Head of the National Land Agency / Deputy for Land Rights to the Head of the West Java Province National Land Agency Regional Office No. 570.32-3594-D.III dated October 29, 1992 concerning the Problem of State Land Formerly Eigendom Verponding No. 234 and No. 334 Covering an area of 8,750 m² Located in Loji Village, Kereseke Village, Cibatu District, Garut Regency.

Analysis of the Grondkaart using two synchronizations of legal norms, namely horizontal and vertical using the "stufanbau" theory, Han Kelsen argues that legal norms are tiered and layered in a hierarchy, in the sense that a lower norm applies, is sourced and based on a higher norm, a higher norm applies, is sourced and based on a higher norm, and so on until a norm that cannot be traced further and is hypothetical and fictitious, namely the Basic Norm (*Groundnorm*). Based on the stufanbau theory, the author uses the vertical synchronization studied is the Letter of the Minister of Finance / Director General of BUMN Development to the Minister of State for Agrarian Affairs / Head of the National Land Agency No. S-11 / MK.16 / 1994 dated January 24, 1995 with Government Regulation No. 24 of 1997 concerning Land Registration with Law No. 5 of 1960 with the 1945 Constitution of the Republic of Indonesia. The position of the Government Regulation (Government Regulation No. 24 of 1997 concerning Land Registration) which is lower than this Law (UUPA), then the contents of the Government Regulation may not conflict with the contents of the Law which is higher in position and the contents of the Law may not conflict with the contents of the 1945 Constitution of the Republic of Indonesia which is the legislation with the highest position in the hierarchy of legislation in Indonesia.

The position of the Letter of the Minister of Finance / Director General of BUMN Development to the Minister of State for Agrarian Affairs / Head of the National Land Agency No. S11 / MK.16 / 1994 dated January 24, 1995 is below Government Regulation No. 24 of 1997 concerning Land Registration. The contents of the Letter of the Minister of Finance according to the author do not conflict with the contents of Government Regulation No. 24 of 1997 concerning Land Registration, the contents of the Letter of the Minister of Finance further clarify the validity of the Grondkaart as evidence of control over railway land which must be immediately confirmed by registering the land contained in the Grondkaart in accordance with Government Regulation No. 24 of 1997 concerning Land Registration so that the land has a legal basis for land rights in the form of a Land Rights Certificate. With the position of the Letter of the Minister of Finance / Director General of BUMN Development to the Minister of State for Agrarian Affairs / Head of the National Land Agency No. S-11/MK.16/1994 dated 24 January 1995 does not conflict with the legal norms above, so the position of the Grondkaart itself is a concrete matter regulated therein which is also a stipulation (*beschiking*).

The author has also conducted horizontal synchronization between the Land Title Certificate and the Grondkaart which in the stufanbau theory are included in the legal norms that are both concrete and individual in nature which can be called as provisions (*beschiking*) which both regulate land issues, especially regarding evidence of land ownership. Both legal norms regulate the land ownership of an individual over a concrete area that is written on it. Both provisions (*beschiking*) are at the bottom of the pyramid of legal norms and the stufanbau theory because both legal norms are already concrete and individual. It can be

concluded that horizontally the Grondkaart has the same concept as the Certificate, namely in the form of provisions (*beschiking*) that prove land ownership. However, if referring to current land law, the Grondkaart is only seen as a form of land ownership documentation that has historical and administrative value issued by a party that has the authority in this matter even though the authority was only in the colonial era.

Although not all of them are certified, the lands managed by PT. KAI (Persero) actually still have the status of state land (*government assets*) managed by BUMN through management rights. All of these instruments generally state that old rights originating from the colonial era are still recognized as long as they do not conflict with national agrarian principles, and must be converted through a registration process in order to obtain recognition in the positive legal system. So *de jure* the land has become a land rights certificate in the form of use rights and management rights even though there are still other obligations that must be fulfilled by each agency that uses state land (Santoso, 2012). Therefore, Grondkaart must be immediately converted in accordance with the provisions of existing laws and regulations to obtain a land rights certificate.

When viewed from a formal legal perspective in relation to the existence of the Grondkaart when connected with evidence, it can be explained that the Grondkaart is not recognized as evidence of new land rights in the UUPA or in Government Regulation Number 24 of 1997 concerning Land Registration, because the regulation only requires registration of old rights that existed before 1960 to the National Land Agency (BPN) as regulated in Article 37 of the Government Regulation concerning Land Registration. However, in relation to the non-recognition of the Grondkaart in its implementation, it can be set aside considering that in reality the Grondkaart is still considered a document that has a basis or historical value of asset ownership originating from the colonial period. Indeed, the Grondkaart cannot be used as evidence like a Certificate of Land Rights which has perfect and binding legal force. However, this Grondkaart is what proves as one of the signs that there has been control by the relevant agency/department. This control can be said to be *de jure* control by the agency or department in this case PT. Kereta Api Indonesia (Persero).

Grondkaart has an important but limited position in the land law system in Indonesia. Although recognized as initial evidence of control, especially in the historical and administrative context, Grondkaart is not sufficient to fulfill the principles of legality and legal certainty if it is not converted into land rights recognized by the state. Therefore, in order for the claim to land controlled especially by PT. KAI (Persero) to have strong legal force and not cause ownership conflicts, the conversion and registration steps to the BPN are a necessity that cannot be ignored. Grondkaart can function as initial evidence of land control of PT. KAI (Persero), but its legal certainty is only realized after the registration and conversion process of rights in accordance with the Law. These continued efforts, especially changing Grondkaart into land rights recorded at the Ministry of ATR/BPN, are needed so that land control of PT. KAI (Persero) has a valid legal basis and fulfills the principle of legal certainty in Indonesia.

Validity of the Grondkaart as Evidence of Land Control of PT. KAI (Persero) Post-Nationalization

In realizing legal certainty for Grondkaart land as an asset of Staatsspoorwegen or PT. KAI (Persero), a uniform perception is needed to create a unified regulation, which emphasizes that Grondkaart is an asset of PT. KAI (Persero). The Indonesian government

has made efforts to improve land regulations, including regulations in Article 58 of the UUPA. However, not all Grondkaart land has been converted as mandated in PMA Number 9 of 1965 into Right to Use or HPL, the problem is that until now there are still many differences in perception between the Land Office and the Court which consider Grondkaart land not evidence of land rights. In the case of the issuance of a certificate of the rights of another party over Grondkaart land, there is a decision that defeats PT. KAI (Persero), so that the assets of PT. KAI (Persero) were forced to disappear. After the UUPA has been issued PP Number 20 of 2021 concerning the Regulation of Abandoned Areas and Land Juncto PP Number 11 of 2010 Juncto PP Number 18 of 1998 and PP Number 18 of 2021, there is concern about the existence of Grondkaart land which is a product of western land rights, especially if it is not in the physical control of the land by PT. KAI (Persero).

Land regulations in Indonesia have undergone fundamental changes, especially in the agrarian sector, which includes the transition from colonial agrarian law to national agrarian law. This national agrarian law has the characteristics of unification, simplicity, and provides legal certainty for the Indonesian people. In terms of institutions, developments in the land sector began with nationalization until the enactment of the UUPA. With the enactment of the UUPA, the state took steps to revoke colonial-era laws or regulations related to land, as stated in the Agrarische Wet (Staatsblad 1870) and Article 51 of the Indische Staatsregeling (Staatsblad 1925 Number 447), which are the basis for colonial agrarian law that gave rise to various agrarian legal issues before the existence of the UUPA.

Observations on the problem of the Grondkaart land owned by PT. Kereta Api Indonesia (Persero), show that the land is still used by PT. Kereta Api Indonesia (Persero) as evidence of assets. Therefore, it is necessary to analyze the regulations related to the Grondkaart. After nationalization, the existence of the land is maintained, but requires a clear legal basis as a philosophy, principle, and applicable norms, in order to ensure the legal certainty of the Grondkaart regulation can be accounted for (Sodiki, 2013).

The implementation of the nationalization of Dutch-owned railway companies was then further regulated in Government Regulation Number 40 of 1959, which stated that these railway companies became state-owned based on the consideration that these companies controlled the interests of the community and the livelihoods of many people. Government Regulation Number 40 of 1959 stipulated that the railway companies owned by the Netherlands in Indonesia consisted of several companies such as N.V. Nederlandsch Indische Spoorwegmaatschappij and N.V. Semarang Joana Stoomtram Maatschappij. This regulation was in effect since its enactment and was applied retrospectively until December 3, 1957, to ensure that all parties were aware of this (Soesanobeng, 2012).

Government Regulation Number 18 of 2021 (PP 18/2021) concerning Management Rights, Land Rights, Apartment Units, and Land Registration brings significant changes to the regulation of proof of land ownership in Indonesia. One of the main aspects of this regulation is the affirmation of the legal force of Land Certificates as valid and strong evidence. Land certificates, which are issued after the registration process, are recognized as proof of ownership that has high legal force. This means that as long as there is no evidence to the contrary, the information contained in the Certificate must be accepted as true in daily legal acts and in disputes in court (Huijbers, 1978). Thus, PP 18/2021 provides legal certainty for land rights holders and creates better protection for land ownership. On the other hand, PP 18/2021 also regulates the status of old documents that were previously used as proof of

ownership. Grondkaart is now only considered as an indication for the purpose of initial land registration. This shows that old documents no longer have the same legal force as the official Certificate issued after land registration. Landowners who are still using old documents are required to immediately register their land in order to obtain an official Certificate in accordance with the provisions of PP 18/2021. If not done, the old documents can be considered invalid and do not provide legal protection for land ownership. Thus, this regulation indirectly forces PT. KAI (Persero) to register their land in order to avoid the problem of overlapping proof of ownership and if left for a long period of time it will become abandoned land (Arba, 2021).

Post-nationalization Grondkaart Regulation with the issuance of PP Number 20 of 2021 concerning the Order of Abandoned Areas and Land which emphasizes that if it is not under physical control, the land becomes abandoned land. Based on the PP, abandoned land returns to being free state land or land not under government management. The PP also has an impact on Grondkaart land (Masykur, 2022). which have not been converted because the main purpose of this conversion is to create a unification of individual rights to land that already have a concrete legal relationship based on old land law, both western land rights and customary land. On the other hand, mortgage rights that burden lands with Eigendom Rights, Erfpacht Rights, Opstal Rights, and Creditverband must also be accommodated and End land ownership by foreign parties as regulated in the Agrarische Wet 1870. Western land rights that are not converted into Ownership Rights are only valid for a certain remaining time, a maximum of 20 years, or even completely abolished (KAI, 1970). In reviewing Article 95 paragraph 1 of PP Number 18 of 2021 which confirms that the certificate of proof of land rights for former western rights is revoked with the enactment of the PP, so that it contradicts the acquisition of Grondkaart from nationalization.

The regulation of Grondkaart after Nationalization with the existence of Government Regulation Number 20 of 2021 concerning the Regulation of Abandoned Areas and Land and with the enactment of Government Regulation Number 18 of 2021 which confirms that the certificate of proof of land rights for former western rights is revoked so that it is contradictory because the acquisition of Grondkaart originated from the Nationalization of former western rights land, so the guideline is that the Government Regulation cannot defeat or eliminate the existence of the Law which is hierarchically higher in position, therefore the two Government Regulations cannot eliminate the existence of Grondkaart.

Asset protection measures are needed in order to maintain the existence of Grondkaart that has not been converted or increased rights to Right of Use or HPL by registering the land as regulated in PP No. 24 of 1997. Likewise, for regulatory fields, it is necessary to create harmonization of authority over Grondkaart land ownership, asset management is needed both by the Ministry of Transportation as the technical supervisor and BUMN as the operational supervisor and the Ministry of Finance as the State Treasury Cq. DJKN, if necessary, by making Amendments related to the renewal of the Law related to West Rights product assets or at least issuing a Joint Ministerial Decree regarding the protection of Grondkaart assets.

CONCLUSION

The Grondkaart has a strategic function as initial evidence of land ownership by PT. KAI (Persero), but legal certainty will only be realized if the registration and conversion

process of rights has been carried out in accordance with the provisions of laws and regulations. The Grondkaart does not provide legal certainty because there are still problems that arise when PT. KAI (Persero) wants to register its land assets, coupled with the presence of the Nationalization Law, making the position of the Grondkaart weak even though it can be used as a historical document, but to create legal certainty, conversion registration must be carried out with the Ministry of ATR/BPN. The Grondkaart has an important role as initial evidence of land ownership, especially related to former Western rights or former state-owned business use rights, but it cannot be used as the only legitimate basis for proving ownership in the land registration system in Indonesia. In order to maximize the transitional function of the Grondkaart as a temporary basis for recognition, the government needs to issue a policy that clearly explains its legal status within the framework of rights conversion. This can be done through technical guidelines from the Ministry of ATR/BPN which regulate the procedure for integrating historical documents into the national land registration system, so that legal certainty regarding state or BUMN assets is maintained and prevents the emergence of legal loopholes that can be exploited by third parties. Grondkaart cannot stand alone as evidence of land ownership, so efforts are needed to increase institutional capacity in conducting factual verification of physical control in the field, including the involvement of the community and interested parties. Thus, proof based on Grondkaart becomes more objective, transparent, and in accordance with the principle of prudence in the national land registration system.

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