



LEGAL CERTAINTY ON THE CANCELLATION OF THE EXTENSION OF BUILDING USE RIGHTS OVER MANAGEMENT RIGHTS (STUDY OF SUPREME COURT DECISION NUMBER 245 K/TUN/2024)

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Received: 02/04/2026 | Revised: 04/05/2026 | Accepted: 20/05/2026 | Published: 17/06/2026

Abstract

This study aims to analyze the validity of the administrative action of canceling the extension of Building Use Rights (HGB) over Management Rights (HPL) by land officials and examine whether the legal considerations of the Panel of Judges in Supreme Court Decision Number 245 K/TUN/2024 have provided legal certainty for HGB holders. This problem arises due to the cancellation of the HGB extension which gives rise to disputes regarding the limits of the authority of land officials and legal protection for land rights holders. This study uses a normative legal research method with a statutory approach, a conceptual approach, and a case approach. The legal materials used consist of primary legal materials and secondary legal materials which are analyzed qualitatively using a prescriptive method. The results of the study indicate that the validity of the cancellation of the HGB extension must be tested based on aspects of authority, procedure, and substance in accordance with the provisions of government administrative law and applicable land regulations. In addition, the legal considerations of the Panel of Judges in Supreme Court Decision Number 245 K/TUN/2024 have an important role in realizing legal certainty through testing the legality of the actions of land officials. The ruling affirms that the exercise of administrative authority must be based on statutory regulations, the principle of legal certainty, and general principles of good governance, so that the rights of HGB holders acting in good faith remain legally protected. Therefore, legal certainty in the land sector can only be achieved if every administrative action is carried out legally, proportionally, and accountably.

Keywords: legal certainty, Building Use Rights, Management Rights, authority

INTRODUCTION

Legal certainty is one of the fundamental principles in a state of law that has the function of guaranteeing the protection of citizens' rights to avoid arbitrary government actions¹. In the land sector, legal certainty has a very important meaning because land is not only of economic value, but also has social, political, and cultural functions that are closely related to the lives of the people². Therefore, the state is given the obligation to create a land administration system that is able to provide legal protection for every land right that has been legally obtained by the community³. Constitutionally, the regulation regarding land is based on Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that the earth, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. These provisions were then elaborated through Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) as the main basis for national agrarian law. The formation of UUPA was intended to realize the unification of national agrarian law by eliminating the dualism of land law that was in effect during the colonial period⁴.

¹Philipus M. Hadjon, *Administrative Law and Good Governance* (Jakarta: Trisakti University, 2011), 32

²Maria SW Sumardjono, *Land in the Perspective of Economic, Social, and Cultural Rights* (Jakarta: Kompas, 2008), 12.

³AP Parlindungan, *Land Registration in Indonesia* (Bandung: Mandar Maju, 2009), 19.

⁴Boedi Harsono, *Indonesian Agrarian Law: History of the Formation of UUPA, Contents and Implementation*, Volume I (Jakarta: Trisakti University, 2008), 3.

One form of land rights recognized in the UUPA is the Building Use Right (HGB), which is the right to construct and own a building on land that is not one's own for a certain period of time as regulated in Article 35 paragraph (1) of the UUPA. The Building Use Right is a right that gives the holder the authority to construct and own a building on land that is not one's own with certain limitations stipulated by statutory regulations⁵. The Building Use Right is a legal instrument that provides certainty for the implementation of development activities without having to transfer land ownership to the party utilizing the land⁶. In its development, HGB is not only granted on state land and freehold land, but can also be granted on land with Management Rights (HPL) as regulated in Article 36 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. The legal relationship between HGB and HPL creates a complex legal construction because it involves the authority of the state, HPL holders, and HGB holders in one interrelated legal relationship⁷. This complexity often gives rise to various legal issues, particularly those related to the granting, extension, renewal, or cancellation of land rights issued by land officials⁸. Normatively, every land administration decision issued by an authorized official must meet the aspects of authority, procedure, and substance as stipulated in Law Number 30 of 2014 concerning Government Administration. Authority is an essential element in every government action because it is the legal basis for administrative officials in making a decision⁹. Without valid authority, an administrative action has the potential to create legal defects and result in losses for the party obtaining rights based on the administrative decision¹⁰.

Problems arise when land officials cancel a previously issued HGB extension decision, resulting in legal consequences for the rights holder. This situation raises questions about the limits of land administration officials' authority to correct existing decisions, particularly when those decisions have become the basis for the emergence of civil rights in society. On the one hand, administrative officials have an obligation to maintain orderly land administration and correct decisions that contain legal defects¹¹. On the other hand, such cancellation actions must still adhere to the principles of legal protection and legal certainty for parties who have legally and in good faith obtained rights¹². This issue is reflected in Supreme Court Decision Number 245 K/TUN/2024, which adjudicated a dispute over the cancellation of the extension of Building Use Rights on land with Management Rights. This decision is interesting to study because it brings together two equally important legal interests: the state's authority to control land administration and the protection of the rights of legal subjects who have obtained land rights through legal mechanisms. The dispute shows that legal certainty in the land sector is not only determined by the consistency of the application of the law in every action of government officials and the legal considerations of the courts¹³.

Previous research generally discusses the position of Building Use Rights over Management Rights, the legal relationship between HPL holders and HGB holders, and the state's authority in managing land rights¹⁴. However, research that specifically analyzes the validity of the cancellation of the extension of HGB over HPL from the perspective of government administrative authority and links it to legal certainty in Supreme Court Decision Number 245 K/TUN/2024 is still very limited. Thus, there is a study space that has not been widely researched regarding the relationship between the legality of land administration actions and the guarantee of legal certainty for land rights holders. Based on these conditions, the novelty of this research lies in the integrative analysis between the theory of authority in government administrative law, the concept of the validity of state administrative decisions, and the theory of legal certainty in the context of the cancellation of the extension of HGB over HPL. This research not only examines the normative aspects regarding the authority of land officials, but also analyzes how the Supreme Court's legal considerations build or influence legal certainty for land rights holders. This research is important

⁵Ibid, 314

⁶Urip Santoso, *Agrarian Law: A Comprehensive Study* (Jakarta: Kencana, 2017), 118

⁷Urip Santoso, "The Existence of Management Rights in the Indonesian Land Law System," *Law Forum* 24, no. 2 (2012): 187-375.

⁸Urip Santoso, *Agrarian Law: A Comprehensive Study* (Jakarta: Kencana, 2017), 125.

⁹ Philipus M. Hadjon, *Administrative Law and Good Governance* (Jakarta: Trisakti University, 2011), 68.

¹⁰Ridwan HR, *State Administrative Law* (Depok: Rajawali Pers, 2020), 101.

¹¹Philipus M. Hadjon, *Administrative Law and Good Governance* (Jakarta: Trisakti University, 2011), 187.

¹²Ibid, 189

¹³Kukuh Kurniawan and Sri Wahyu Handayani, "Certainty and Justice of Land Rights in Indonesia: A Comprehensive Analysis of Land Rights in Indonesia (Legal Basis, Characteristics, and Contemporary Challenges)," *Al-Zayn: Journal of Social Sciences and Law* 3, no.5 (2025): 6950-6962.

¹⁴Afifah Kusumadara, "Development of State Rights to Land: Right to Control or Right to Own?," *Journal of Legal Media* 20, no. 2 (2013): 268.

because its results are expected to provide theoretical contributions to the development of agrarian law and state administrative law, while also providing practical contributions for land officials, land rights holders, and judicial officials in understanding the boundaries of land administration authority. Thus, this research is expected to be able to provide solutions to the problem of legal certainty in the cancellation of the extension of HGB over HPL and support the realization of land governance that is just, accountable, and oriented towards community protection. Based on the background description above, the following is the formulation of the problem in this research:

1. What is the validity of the administrative action of canceling the extension of Building Use Rights on Management Rights land by land officials based on the principle of authority in government administrative law?
2. What are the legal considerations of the Panel of Judges in Supreme Court Decision Number 245 K/TUN/2024 in realizing legal certainty for Building Use Rights holders?

LITERATURE REVIEW

Building Use Rights (HGB) is a land right that grants the holder the authority to construct and own buildings on land that is not their own for a certain period of time as stipulated in Law Number 5 of 1960 concerning Basic Agrarian Principles. In national land law practice, HGB can be granted on state land, freehold land, or land under the management of the Management Rights (HPL) holder. The existence of HGB on top of HPL indicates a legal relationship that is both administrative and civil in nature between the HPL holder and the HGB holder. HPL is essentially a delegation of part of the state's authority to certain bodies or agencies to manage the land under their control. HPL holders have the authority to plan the land use, use the land for the implementation of their duties, and transfer parts of the land to third parties through the granting of land rights in accordance with the provisions of laws and regulations¹⁵. Therefore, the granting or extension of HGB on top of HPL in principle cannot be separated from the approval of the HPL holder as the party that has a control relationship over the land in question. The characteristics of a HGB over a HPL differ from those of a HGB derived directly from state land. HGB over a HPL establishes a legal relationship involving the HPL holder, the HGB holder, and the state, which holds public authority in the land sector. This legal relationship becomes crucial when disputes arise regarding the extension or cancellation of the HGB, as it involves balancing state administrative authority with the protection of legally acquired rights.

Authority is a fundamental element in state administrative law because it serves as the basis for legitimacy for every action of government officials. Every administrative decision must be issued based on the authority granted by statutory regulations and used in accordance with the purpose for which the authority was granted. In the land sector, the authority of the Minister of ATR/BPN includes the granting, extension, renewal, and cancellation of land rights in accordance with applicable legal provisions. The implementation of the state's right to control does not place the state as the land owner, but rather as the holder of public authority tasked with regulating and managing the legal relationship between the community and the land for the greatest possible prosperity of the people¹⁶. Therefore, every action to cancel land rights must be based on clear legal grounds and implemented through procedures determined by statutory regulations. In land administration, the cancellation of land rights is a legal action that directly affects the legal standing of the rights holder. Therefore, the use of cancellation authority must adhere to the principles of legality, accuracy, and protection of citizens' rights to avoid legal uncertainty or abuse of authority.

Legal certainty is the primary objective of land registration in Indonesia. Through the land registration system, the state strives to provide legal protection to land rights holders by providing accurate and accountable physical and legal data. Legal certainty in the land sector relates not only to the existence of rights recognized by the state, but also to the guarantee of protection of these rights from actions that could disrupt or eliminate legally acquired rights¹⁷. Legal certainty is achieved not only through the issuance of certificates, but also through consistent and legally compliant land administration. Certificates are strong evidence of the physical and legal data of the land, but their validity depends on the validity of the administrative process that underlies their issuance¹⁸. Therefore, administrative actions that do not comply with procedures have the potential to reduce the legal protection that should be provided to land rights holders. Legal protection for land rights holders can only be achieved through an orderly,

¹⁵Urip Santoso, "The Existence of Management Rights in National Land Law," *Mimbar Hukum* 24, no. 2 (2012): 187–199.

¹⁶Afifah Kusumadara, "The Development of State Rights to Land: Right to Control or Right to Own?," *Journal of Legal Media* 20, no. 2 (2013): 263–276.

¹⁷Maria SW Sumardjono, *Land in the Perspective of Economic, Social, and Cultural Rights* (Jakarta: Kompas, 2008), 112.

¹⁸Dadi Arja Kusuma, Rodliyah, and Sahnan, "Land Ownership Certificates as Strong Evidence of Rights," *IUS Journal of Law and Justice Studies* 5, no. 2 (2017): 309–321.

transparent, and accountable land administration process¹⁹. Therefore, every land administration decision, including the cancellation of HGB extensions, must be carried out carefully and based on legally justifiable reasons so that the objective of land registration in realizing legal certainty is maintained.

METHOD

This research uses doctrinal legal research, with a prescriptive nature where the object of legal science is the coherence between legal norms and legal principles, between legal rules and legal norms, and between individual behavior and legal norms. The approaches used in this research are the statute approach, case approach, and conceptual approach. The legal materials in this research use primary legal materials and secondary legal materials, the primary legal materials consist of the 1945 Constitution of the Republic of Indonesia; Law Number 5 of 1960 concerning Basic Agrarian Principles; Law Number 30 of 2014 concerning Government Administration; Law Number 51 of 2009 concerning State Administrative Courts; Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration; Regulation of the Minister of ATR/BPN Number 21 of 2020 concerning Handling and Settlement of Land Cases; Supreme Court Decision Number 245 K/TUN/2024, secondary legal materials in the form of books or other literature, scientific works in the form of articles, journals, or related research, and trusted electronic media. The legal materials collected in this study used a literature study technique. In this study, the analysis of the first problem formulation is examined using the theory of authority and the second problem formulation is examined using the theory of legal certainty.

RESULTS AND DISCUSSION

A. The Validity of Administrative Actions to Cancel the Extension of Building Use Rights over Management Rights by Land Officials

The legitimacy of a governmental administrative action is a fundamental element in the implementation of a state based on the rule of law. In the concept of a state based on the rule of law, every governmental action must be based on legitimate authority, carried out in accordance with established procedures, and have substance that complies with applicable legal provisions. Authority is at the core of every governmental action because it serves as the basis for the legitimacy of state administrative officials in carrying out government functions²⁰. Therefore, every state administrative decision must be tested based on aspects of authority, procedure, and substance to determine its validity.

In the case under investigation, the dispute arose from the issuance by the Central Java Provincial Office of the National Land Agency of Semarang of a decision to cancel the extension of the Building Use Rights (HGB) for a building located on land with a Management Rights (HPL) granted to the Semarang City Government. The HGB holders challenged the decision, claiming the cancellation was made without sufficient legal basis and detrimental to the rights they had acquired through the legal land administration process.

1. Authority Aspect Analysis

The first aspect that must be tested in this case is the authority of the official who issued the disputed object. In the theory of authority, Philipus M. Hadjon explains that government authority can be obtained through attribution, delegation, and mandate. The existence of authority is an absolute requirement for the validity of government actions because without legitimate authority, an administrative decision will lose its legal legitimacy²¹. Based on the consideration of the Panel of Judges, the Head of the Central Java Regional Office of the National Land Agency as the Defendant is an official who is legally competent to issue a decision to cancel land rights so that from the aspect of formal authority there is no finding of any authority defects. The Panel of Judges stated that the Defendant has the authority to issue the disputed object so that further testing focuses on the procedural and substantive aspects of the issued decision. These findings indicate that the main issue in this case lies not in the existence or absence of authority of the land official. In other words, the dispute is not related to the actions of the official who exceeds his authority, but rather relates to how that authority is used. The existence of formal authority does not automatically make an administrative decision valid if in its implementation there are procedural or substantive defects²². Therefore, even though the element of authority has been fulfilled, the legality of the disputed object must still be tested through procedural and substantive aspects.

¹⁹Indri Hadisiswati, "Legal Certainty and Legal Protection of Land Rights," *Ahkam* 2, no. 1 (2014): 118-146.

²⁰Philipus M. Hadjon, *Introduction to Indonesian Administrative Law* (Yogyakarta: Gadjah Mada University Press, 2011), 68.

²¹*Ibid*, 72.

²²Ridwan HR, *State Administrative Law*, Revised Edition (Depok: Rajawali Pers, 2020), 101.

2. Procedural Aspect Analysis

The procedural aspect is an important part in assessing the validity of government administrative actions. Administrative procedures are a preventive legal protection instrument that functions to protect the public from the possibility of arbitrary government actions²³. The correct procedure is to provide assurance that any decision that has the potential to harm citizens' rights is carried out transparently and can be known by interested parties. In the a quo case, the Panel of Judges found that the decision to cancel the HGB extension was never properly communicated to the HGB holders as the parties directly affected by the legal consequences of the decision. The HGB holders, who were also the Plaintiffs, only learned of the cancellation of the HGB extension from another party, while the Defendant could not prove that the object of the dispute had been communicated to the rights holders in accordance with applicable legal provisions. The Panel of Judges was of the opinion that this action was contrary to Article 48 of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 which regulates the obligation to convey land decisions to interested parties. Based on the facts in the trial, the Defendant could not prove that the decision to cancel the HGB extension had been communicated to the rights holders who were directly affected by the legal consequences of the decision. Therefore, the Panel of Judges considered that the object of the dispute contained procedural defects because it did not comply with the procedures for submitting land administration decisions as required by the regulations in force at the time the decision was issued.

In relation to the development of current land regulations, the substance of these regulations is still maintained in the Regulation of the Minister of ATR/BPN Number 21 of 2020 concerning the Handling and Settlement of Land Cases. Article 8 paragraph (1) letter d requires research on legal data, physical data, and field data before making a decision to resolve a land case. This provision shows that the principle of notification to the parties and the principle of caution in decision-making are still important parts of the national land administration system. Thus, although the Panel of Judges based its considerations on the Regulation of the Minister of Agrarian Affairs/Head of BPN Number 9 of 1999, the substance of its considerations remains in line with the current land policy which emphasizes the protection of rights and legal certainty for land rights holders.

These procedural violations cannot be considered merely formal administrative errors. From the perspective of state administrative law, communicating decisions to the relevant parties is part of the protection of citizens' procedural rights. Legal protection in land administration is not only realized through the issuance of land rights, but also through the implementation of transparent and accountable land administration, and providing adequate access to information to the public regarding every decision that affects the status of land rights. Legal certainty in the land sector requires that every administrative action be carried out in accordance with established procedures, so that the community's rights receive optimal protection²⁴. In addition, legal protection for land rights holders requires transparency of information and orderly land administration as instruments to prevent disputes and ensure the effective implementation of the community's civil rights²⁵. Therefore, the Defendant's actions in failing to convey the object of the dispute to the HGB holders indicate a violation of the principles of transparency, accuracy, and legal certainty as part of the General Principles of Good Governance (AUPB).

3. Substantive Aspect Analysis

In addition to procedural aspects, the Panel of Judges also found substantial defects in the issuance of the disputed object. Substantial defects occur when administrative decisions are based on inaccurate legal facts, irrelevant considerations, or the application of legal norms that do not correspond to the actual situation. Substance is the core of an administrative decision so that errors in the substantive aspect can cause a decision to lose its legal basis²⁶. In this case, the cancellation of the HGB extension was based on a civil decision that turned out to have a different object and subject than the disputed object examined by the court. The Panel of Judges found that the land object in the civil decision used as the basis for the cancellation was located in Sampangan Village, Gajahmungkur District, while the object of the Plaintiffs' HGB was located in Purwodinatan Village (formerly Tamanwinangun), Central Semarang District. This difference indicates that the legal basis used to cancel the HGB extension had no direct connection to the rights of the plaintiffs. This finding indicates the failure to fulfill the principle of prudence in the implementation of land administration. Decisions related to changes or

²³Philipus M. Hadjon, *Legal Protection for the People in Indonesia* (Surabaya: Bina Ilmu, 1987), 2.

²⁴Septina Marryanti and Arsan Nurrokhman, "Legal Certainty of Land Rights: Lessons from Losing Land Cases in Court," *Land Journal* 11, no. 2 (2021): 149-151.

²⁵I Made Citra Gada Kumara, I Ketut Kasta Arya Wijaya, and Luh Putu Suryani, "Legal Certainty for Land Rights Holders in the Land Law System in Indonesia," *Journal of Legal Preferences* 2, no. 3 (2021): 560-563.

²⁶Ridwan HR, *State Administrative Law*, Revised Edition (Depok: Rajawali Pers, 2020), 105.

revocation of land rights must be based on comprehensive research on physical and legal data to avoid causing disputes or uncertainty for rights holders²⁷. From the perspective of the principle of accuracy (*zorgvuldigheidsbeginsel*), administrative officials should conduct a thorough research on legal facts and legal data before issuing a decision. When a decision is issued based on irrelevant facts, the decision contains a substantive flaw that has implications for the loss of validity of the decision. The Panel of Judges also found a contradiction in the considerations of the disputed object. On the one hand, it was stated that the Plaintiffs' HGB had been separated from the HPL Number 1/Tamanwinangun, but on the other hand, it was stated that the HGB was still part of the same HPL and therefore required the approval of the Semarang City Government for the extension of the rights. This contradiction shows a lack of consistency in the considerations used as the basis for issuing the disputed object.

4. Analysis of the Legality of Administrative Actions to Cancel HGB Extension

Based on the analysis of the authority, procedure, and substance aspects, it can be concluded that the object of the dispute does not contain any authority defects because it was issued by an authorized official. However, the decision contains procedural defects because it was not communicated to the interested parties in accordance with applicable legal provisions. In addition, the decision also contains substantive defects because it is based on irrelevant legal facts and inconsistent considerations. Thus, when analyzed using Philipus M. Hadjon's theory of authority and Ridwan HR's theory of the legality of administrative actions, the cancellation of the HGB extension in the *a quo* case does not meet the requirements for the validity of a government administrative decision. Therefore, the consideration of the Panel of Judges which declared the object of the dispute void because it contradicts the General Principles of Good Governance, especially the principles of accuracy and legal certainty, is in accordance with the principles of state administrative law.

B. Legal Considerations of the Panel of Judges in Supreme Court Decision Number 245 K/TUN/2024 in Realizing Legal Certainty for Building Use Rights Holders

Legal certainty is one of the primary objectives of law, which serves to protect individual rights through consistent and predictable legal application. Legal certainty is a guarantee that the law is implemented properly so that the community is protected against arbitrary actions²⁸. In the land sector, legal certainty has a very important meaning because it is directly related to the protection of land rights owned by the community. The main objective of implementing land registration is to provide legal certainty and protection to land rights holders²⁹. Legal certainty in the land sector is one of the main objectives of the implementation of land registration carried out by the government. Through an orderly land administration system, the community obtains legal guarantees for their rights, thus being protected from disputes or actions that have the potential to disrupt the continuity of those rights. Legal protection for land rights is not only realized through the issuance of certificates, but also through the implementation of land administration that is carried out consistently in accordance with statutory provisions. Therefore, every administrative action related to the granting, extension, or cancellation of land rights must be carried out carefully and based on clear legal procedures so that the objectives of legal protection and legal certainty can be realized effectively³⁰. Legal certainty in the land sector is not only determined by the existence of a certificate as proof of rights, but also by the quality of land administration carried out by the government. The land registration system essentially aims to guarantee legal certainty and legal protection to land rights holders through the presentation of accurate and accountable physical and legal data³¹. This legal certainty is realized through certainty regarding the subject of rights, the object of rights, and the legal status of the land in question. Therefore, any land administration action that has the potential to eliminate someone's rights must be carried out carefully and based on clear legal provisions.

In the *a quo* case, the Plaintiffs had obtained an extension of the HGB through applicable land administration procedures and obtained rights valid until 2038. This situation gave rise to a legitimate legal expectation that rights

²⁷Urip Santoso, "Legal Certainty in the Land Registration System in Indonesia," *Perspektif* Vol. 17, No. 3 (2012): 123–126.

²⁸Sudikno Mertokusumo, *Understanding the Law: An Introduction* (Yogyakarta: Liberty, 2007), 160.

²⁹Boedi Harsono, *Indonesian Agrarian Law: History of the Formation of UUPA, Contents and Implementation*, Volume I (Jakarta: Trisakti University, 2008), 81.

³⁰Indri Hadisiswati, "Legal Certainty and Legal Protection of Land Rights," *Ahkam: Journal of Islamic Law* 2, no. 1 (2014): 118–146.

³¹Dadi Arja Kusuma, Rodliyah, and Sahnan, "Land Ownership Certificates as Strong Evidence of Rights," *IUS Journal of Law and Justice Studies* 5, no. 2 (2017): 309–321.

obtained through the correct mechanism would continue to receive protection from the state. The Panel of Judges found that the disputed object was issued based on a legal basis that was irrelevant to the object of the Plaintiffs' rights and was issued through a procedure that did not comply with applicable legal provisions. Therefore, the Panel of Judges concluded that the decision to cancel the HGB extension contained administrative defects and was contrary to the General Principles of Good Governance. Analyzed using Sudikno Mertokusumo's theory of legal certainty, the decision, which was later upheld in Supreme Court Decision Number 245 K/TUN/2024, has reflected protection of legal certainty through three main indicators. First, the clarity of the norms used as the basis for testing administrative actions. Second, the consistency of the application of the law through testing the authority, procedures, and substance of the disputed object. Third, the protection of the rights legally obtained by HGB holders.

Legal protection for citizens is a logical consequence of the principle of the rule of law, which requires restrictions on the use of government authority³². In the context of this case, HGB holders have acted based on valid administrative decisions and therefore are entitled to legal protection when those rights are threatened by administrative actions that do not comply with legal provisions. Supreme Court Decision Number 245 K/TUN/2024 also conveys an important message that the authority of land officials to cancel land rights is not absolute. This conclusion is in line with developments in administrative law studies that place the authority of government officials as an authority that must be exercised based on the principles of legality, accountability, and protection of citizens' rights. In the land context, the use of administrative authority that does not comply with procedures or the purpose of granting the authority has the potential to create legal uncertainty and land disputes. Therefore, judicial oversight through the State Administrative Court plays a crucial role in ensuring that every land administration decision is issued in accordance with applicable legal provisions and does not contain elements of abuse of authority that could harm the public³³. This authority must be exercised based on correct legal facts, proper procedures, and rational considerations. Thus, this decision not only provides protection to the Plaintiffs, but also strengthens the principles of legality and legal certainty in the implementation of land administration in Indonesia.

Based on the overall analysis, it can be concluded that the legal considerations of the Panel of Judges, which were later strengthened in Supreme Court Decision Number 245 K/TUN/2024, have provided legal certainty for holders of Building Use Rights (HGB). This legal certainty is realized through the protection of legally obtained rights, the consistent application of the principle of legality, and restrictions on the use of administrative authority that is contrary to the law. The novelty of this study lies in the finding that the validity of the cancellation of the extension of HGB over HPL is not solely determined by the existence of the authority of the land official, but rather by the conformity of the use of that authority with the principles of legality, the principle of accuracy, and the principle of legal certainty. In this case, the land official was proven to have the authority to cancel, but the issued decision was still declared null and void due to procedural and substantive defects. These findings indicate that testing of land administration actions should not only focus on the source of authority, but also on the quality of the use of authority in order to ensure the protection of rights and legal certainty for land rights holders.

CONCLUSION

Based on the results of research and discussion regarding the cancellation of the extension of Building Use Rights (HGB) over Management Rights (HPL) in Supreme Court Decision Number 245 K/TUN/2024, two conclusions were obtained.

First, the administrative action of canceling the HGB extension carried out by the Head of the Regional Office of the National Land Agency of Central Java Province formally fulfilled the authority aspect because it was issued by an official who has the competence to cancel land rights in accordance with the provisions of applicable laws and regulations. However, this action does not meet the requirements for the validity of a government administrative decision because it contains procedural and substantive defects. The procedural defect is evident in the failure to convey the cancellation decision to the HGB holders as the parties directly affected by the legal consequences of the decision. Meanwhile, the substantive defect is evident in the use of a legal basis in the form of a civil decision that has a different object and subject from the actual object of the dispute and the inconsistency in the considerations of the cancellation decision. Therefore, although the land official has the authority to cancel land rights, the use of this authority is deemed not in accordance with the principle of legality and the General Principles of Good Governance, especially the principles of accuracy and legal certainty.

³²Philipus M. Hadjon, *Legal Protection for the People in Indonesia* (Surabaya: Bina Ilmu, 1987), 25.

³³Enrico Simanjuntak, "Prospects of the Ombudsman of the Republic of Indonesia in Strengthening the Implementation of State Administrative Court Decisions," *Journal of Law and Justice* 3, no. 2 (2014): 163–176.

Second, the legal balance of the Panel of Judges in Supreme Court Decision Number 245 K/TUN/2024 has created legal certainty for HGB holders through a comprehensive examination of the authority, procedures, and substance of the disputed object. The Panel of Judges not only assessed the formal legality of the authority of land officials, but also examined the suitability of the procedures and the relevance of the legal basis used in canceling HGB extensions. The decision provides protection for the rights of HGB holders who have obtained their rights through legitimate administrative procedures and emphasizes that land administration authority must be used carefully, proportionally, and based on correct legal facts. Thus, Supreme Court Decision Number 245 K/TUN/2024 not only resolves the dispute between the parties but also strengthens the principle of legal certainty and protection of land rights in the implementation of land administration in Indonesia.

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- Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria;
- Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan;
- Undang-Undang Nomor 51 Tahun 2009 tentang Peradilan Tata Usaha Negara;
- Peraturan Pemerintah Nomor 18 Tahun 2021 tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun, dan Pendaftaran Tanah;

LEGAL CERTAINTY ON THE CANCELLATION OF THE EXTENSION OF BUILDING USE RIGHTS OVER MANAGEMENT RIGHTS (STUDY OF SUPREME COURT DECISION NUMBER 245 K/TUN/2024)

Lutfia Haneda Zahara et al

Peraturan Menteri ATR/BPN Nomor 21 Tahun 2020 tentang Penanganan dan Penyelesaian Kasus Pertanahan.

Putusan Pengadilan

Putusan Mahkamah Agung Nomor 245 K/TUN/2024