

The Effectiveness of Digitizing Land Services to Prevent Land Mafia in Vietnam

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Abstract. *This research aims to analyze: 1) Implementation of digitization of land services. 2) Effectiveness of digitizing land services to prevent land mafia. The approach method used in this research is a sociological juridical approach. The research specifications used are analytical descriptive research. This type of data uses primary data and secondary data obtained through interviews and literature study. The data analysis method used in this research is descriptive analysis. The research results were concluded: 1). The implementation of digitization of land services is carried out through a special agrarian internet site. Currently, the Ministry of Agrarian Affairs has implemented four digital land services, including Electronic Mortgage Rights, checking certificates, Land Registration Certificates, and Land Value Zone information. There are two electronic services that will be added by the AGRARIAN Ministry, namely land sale and purchase deeds and transfer of rights. The implementation of digitalization of land services at AGRARIAN AGENCY Vietnam, apart from using a special agrarian internet site, is also carried out through the Touch application. Touch My Land is an application created to answer various community land problems. 2) The effectiveness of digitizing land services to prevent land mafia can effectively prevent land mafia practices and achieve the strategic goals of the Ministry of Agrarian Affairs.*

Keywords: Digitalization; Land; Mafia; Registration.

1. Introduction

Land certificates often become disputes that even go to court. This arises because land has a very important function for people's lives, which makes people try to obtain land in various ways, even by grabbing land belonging to other people.¹

¹ Spencer Stuart, Board Services Practice. (2008). *Cornerstone of the board—the nonexecutive chairman: Offering new solutions*. New York: Author. Rose, N. & Wolfram, C. (2002). *Regulating*

Settlement of land ownership disputes through the courts is a decision that determines who is the actual certified owner of the land in dispute.

The increase in land use has given rise to various forms of control and management of land, and on the other hand, has given rise to the development of normative law, both statutory and doctrinal approaches.² Land issues have long been a complicated and complex legal issue and have broad dimensions in both developed and developing countries, so they are not easy to resolve quickly.³ Therefore, this land issue needs to be managed and planned carefully and with wisdom. Article 20 of the Basic Agrarian Law explains that property rights are hereditary, strongest and fullest rights that people can have on land, bearing in mind the provisions in Article 6. From this explanation it can be seen that property rights are the strongest rights on land, which gives authority to the owner to be able to give back another right over the plot of land which he owns (which can be in the form of building use rights or use rights, with the exception of business use rights), which is almost the same as the authority of the State (as ruler) to give land to its citizens.⁴

The regulation mandates that to ensure legal certainty in the land sector, registration of land rights throughout Vietnam is required. The certificate is the final result of land registration and is authentic evidence. The strength of the Certificate is a guarantee of legal certainty for the Certificate holder as perfect evidence as long as no opposing party proves otherwise.⁵ Providing legal certainty over the rights of land owners is very important. Legal certainty of land ownership begins with a legal product in the form of a land ownership certificate issued by the National Land Agency. Land registration is carried out to protect the community's rights to land ownership.⁶ AGRARIAN AGENCY as the land registration organizer guarantees the correctness of land data, both physical and juridical, on the land title certificate, and provides legal certainty by applying the latest principles, so that the public will feel safe because the public gives its trust to AGRARIAN AGENCY as a government that

executive pay: Using the tax code to influence chief executive officer compensation. *Journal of Labor Economics*, 20(2), S138–S175.

2 Wood, David. (1993). Forests to fields. Restoring tropical lands to agriculture. *Land use policy*. 10. 91-107. 10.1016/0264-8377(93)90001-Q, https://www.researchgate.net/publication/11109790_Forests_to_fields_Restoring_tropical_lands_to_agriculture/citation/download

3 Salwen, K. G. (1992, February 14). Shareholder groups cheer SEC's moves on disclosure of executive compensation. *Wall Street Journal*, p. A-4.

4 Coffee, J. C., Jr. (2002). Understanding Enron: It's about the gatekeepers, stupid (Columbia Law and Economics, Working Paper No. 207). *Business Law*, 57, 1403.

5 Petra, S. T. (2006). Corporate governance reforms: Fact or fiction. *Corporate Governance*, 6(2), 107–115.

6 Monks, R. A. G. (2005, March). Corporate governance—USA—fall 2004 reform—the wrong way and the right way. *Corporate Governance*, 13(2), 108.

provides guarantees of certainty of rights. above ground.⁷

The sophistication of technology today cannot be denied in its development, it provides many benefits for the daily lives of people in various parts of the world. Access to technological sophistication makes it easier for people to obtain what they need. Entering the digital era in today's technological developments, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, hereinafter referred to as AGRARIA, has launched electronic land services. Electronic services are referred to as electronic-based land registration activities which are regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of AGRARIAN AGENCY of Vietnam on Electronic Land Information Services.

The government's efforts to overcome this problem are manifested in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency concerning Electronic Land Certificates. Changes in the era of disruption driven by developments in science and technology require the government to adapt, innovate and create policies to support social and economic development in the national land administration sector. Digitization of land certificates is considered a progressive step in creating legal certainty and providing land administration system information.⁸

Along with human development and increasing economic activity, the need for land is increasing and the value of land is also increasing. The importance of land and the high value of land is behind the current rise in land mafia cases which are very disturbing and detrimental to society. Apart from that, there are several factors that can enable the land mafia to increasingly carry out their actions in society. One of them is due to the lack of supervision and order in land administration, because the overlap of existing laws and regulations and the substantive regulations that have been regulated means that a lot of land is neglected and escapes the law.⁹

Land mafia is a land crime involving a group of people working together to own or control land belonging to other people illegally or in violation of the law. The land mafia is rampant in Vietnam. There are some land owners who don't dare to take care of it, because there are many village officials who control it, and the people behind it are very powerful so the owners are afraid to take care of it. Therefore, the digitization of land services continues to be socialized to all AGRARIAN AGENCY Regional Offices and Land Offices spread throughout Vietnam. The Ministry of Agrarian Affairs must be able to run, develop and maximize digital land services. It is

7 Coffee, J. C., Jr. (2003a). Corporate gatekeepers: Their past, present, and future. (Duke Law School, Working Paper No. 7). *Duke Law Journal*, 7.

8 Rivero, J. C., & Nadler, D. A. (2003). Building a valuable relationship between CEOs and their boards. *Mercer Management Journal*.

9 Hunter, Susan & Bulirwa, Elizabeth & Kisseka, Edward. (1993). AIDS and agricultural production. *Land use policy*. 10. 241-58. 10.1016/0264-8377(93)90018-6.

hoped that the digitization of land services can help complete the three main instructions of the President of Vietnam, namely registering all land in Vietnam, resolving land conflicts, and supporting the development of the National Capital City. It is also hoped that the digitization of land services can prevent the land mafia in Vietnam.

2. Research Methods

The approach method in this research is a sociological juridical approach. The research specifications used are analytical descriptive research. This type of data uses primary and secondary data. Data collection using interview and literature study methods. The data analysis method used is qualitative descriptive analysis.

3. Results and Discussion

3.1 Implementation of Digitalization of Land Services in Vietnam

Land administration problems often arise as land disputes, such as disputes caused by unregistered land ownership rights, overlapping land uses, and the issuance of multiple land certificates.¹⁰ Orderly administration in the defense sector is part of efforts to obtain legal certainty. To ensure legal certainty and certainty of land rights by the government, it is regulated in Government Regulation Number 10 of 1961 which is enhanced by Government Regulation concerning Land Registration. This government regulation was issued as an effort to prevent forms of legal action that often occur in society.¹¹ The provisions in the regulation, namely Article 19, regulate subjective legal certainty, namely provisions regarding legal entities and people who are holders of land rights (subjective requirements) and related objective certainty in the form of boundaries, length, location and width in their control.¹²

The large number of land mafias in Vietnam also greatly influences the legalization system for land certification, due to the economic impact that has occurred recently. The emergence of brokers is caused by land sellers who never find buyers or poor advertising. The land mafia still shadows land governance in Vietnam. Various loopholes are exploited for certain purposes, one of the most frequently found is falsification of land ownership documents.¹³

10 Lorsch, J. (1995, January–February). Empowering the board. *Harvard Business Review*, 73(1), 107–117.

11 Matheson, J. H., & Olson, B. A. (1992). Corporate law and the long term shareholder model of corporate governance. *Minnesota Law Review*, 76, 1313–1391.

12 Millstein, I. M., Gregory, H. J., & Grapsas, R. C. (2006, January). Six priorities for boards in 2006. *Weil Briefing: Corporate Governance*. New York: Wel, Gotsal & Manges.

13 Jensen, M. C. (2001). Value maximization, stakeholder theory, and the corporate objective

Land mafia is a crime involving land and involves a group of individuals who collaborate with each other to own or have control over land owned by other individuals illegally. The perpetrators used various methods that were against the law and were carried out in a planned, coherent and neat manner. Illegal ownership and control of land often creates disputes which often result in the loss of someone's life. Control is still weak, laws that are enforced are still weak, and lack of transparency are the reasons for the emergence of land mafias to control land illegally. There are also various modus operandi and operational techniques used by land mafia perpetrators to falsify documents or letters, citizens who are illegal or without rights, seeking legality in court, fabricating cases, colluding with authorities to obtain legality, corporate crimes such as cheating or embezzlement, falsifying authority to administer land rights, carrying out land sales and purchases as if they were formal, as well as the disappearance of land certificates as a method carried out by various elements at AGRARIAN AGENCY and there is collaboration with the land mafia. Through various types of modus operandi, the most common method used by the land mafia is falsifying documents. carrying out land buying and selling as if it were formal, as well as the disappearance of land certificates as a method carried out by various elements at AGRARIAN AGENCY and there is collaboration with the land mafia. Through various types of modus operandi, the most common method used by the land mafia is falsifying documents. carrying out land buying and selling as if it were formal, as well as the disappearance of land certificates as a method carried out by various elements at AGRARIAN AGENCY and there is collaboration with the land mafia. Through various types of modus operandi, the most common method used by the land mafia is falsifying documents.¹⁴

The land mafia is rampant in Vietnam. For example, village officials manipulate land titles belonging to other people. There are some land owners who don't dare to take care of it, because there are many village officials who control it, and the people behind it are so powerful that the owners are afraid to take care of it. For example, in the case of a resident who owns 1.8 hectares of land, it has been certified but was taken over by village officials and sold to Jatirejo village officials, the certificate was even embezzled by village officials, another case of village officials also did not provide certificates to other residents who already had it. so from AGRARIAN AGENCY to the legal land owner. There were even those who took it up to the Vietnam Police but ended up going to SP3 on the grounds that there was no criminal

function. *European Financial Management Review*, 7(3), 297–317, see Laura Notess (WRI) , Peter Veit (WRI), Iliana Monterroso (WRI), Andiko (WRI), Emmanuel Sulle (WRI), Anne M. Larson (WRI), Anne-Sophie Gindroz (WRI), Julia Quaedvlieg (WRI) and Andrew.

14 Williams (WRI) - July 2018, The Scramble for Land Rights, Reducing Inequity between Communities and Companies, <https://wri-indonesia.org/en/publication/scramble-land-rights>

element.¹⁵

The National Land Agency (AGRARIAN AGENCY), apart from having the authority to register land, also has the authority to prevent and handle land disputes. One of the activities in AGRARIAN AGENCY's strategic program is accelerating the resolution of land cases. Land disputes are land disputes between individuals, legal entities or institutions that do not have a broad socio-political impact.¹⁶ One of the land disputes was caused by the land mafia. According to the Minister of AGRARIAN, many land mafia cases are related to criminal acts of corruption, involving state assets, company assets, and involving government officials (ASN) in collaboration with certain individuals. That there are individuals from AGRARIAN AGENCY who are involved in land mafia practices, but action has been taken against individuals who are proven to be carrying out land mafia practices and the Ministry of AGRARIA has taken firm steps to take action against land mafia elements within the Ministry of AGRARIA by removing them and criminalizing them apart from that. There are also those who are given warnings depending on their mistake and if anyone is proven to have violated the law we will hand them over to law enforcement officials.¹⁷

The National Land Agency (AGRARIAN AGENCY) has an important role in preventing land mafia, including:

1. Carrying out the Land Redistribution Program / Agrarian Reform
2. The solution to overlapping certificates is that there are double certificates.
3. Accelerate the resolution of land disputes and conflicts by collaborating with various related institutions.
4. Carrying out improvements to Human Resources (HR) internally at AGRARIAN AGENCY, including improving the HR administration system, promotions, demotions, disciplinary penalties and improvements to Land regulations/administration. .
5. Re-examine the files from PPAT, and AGRARIAN AGENCY must examine whether there are defects in the administration or not.
6. Accelerate the faster program.
7. Carrying out organized and continuous outreach about electronic certificates to the public.

Efforts to digitize electronic certificates are regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency concerning Electronic Land Certificates. Changes in the era of disruption driven by developments in science and technology require the government to adapt, innovate

15 Lipton, M., & Savitt, W. (2007, May). The many myths of Lucian Bebchuk. *Virginia Law Review*, 93(3), 733.

16 Kaldor, M., Anheier, H., & Glasius, M. (2003). Global civil society in an era of regressive globalisation. In M. Kaldor, H. Anheier, & M. Glasius (Eds.), *Global civil society 2003* (pp. 3–33). Oxford: Oxford University Press.

17 Khurana, R., & Pick, K. (2005). The social nature of boards. *Brooklyn Law Review*, 70(3), 1259–1285.

and create policies to support social and economic development in the national land administration sector. The regulations state that the issuance of electronic land certificates is carried out through land registration for the first time, for land that has not been registered or a replacement for land certificates that have been previously registered in analog to digital form.

The stages of implementing the issuance of electronic certificates with first registration at AGRARIAN AGENCY are:

1. Applicants register at the registration counter and then verify it and this can be done by email, accompanied by a ID (Resident Identification Card).
2. Make a PNB (Non-Tax State Revenue) payment then upload it.
3. The next step will be land measurements, and an electronic land map will be issued, juridical data collection and data management will be issued.
4. The Land Registration Committee will then issue a Decree on Legalization of Rights. After the committee has processed the data and so on, a certificate of rights or validation will be issued to the certificate of rights for the registered land via the applicant's email.
5. The applicant then uploads proof of payment as stated which was sent by the land registration agency to the applicant's email.
6. Applicants can use the Touch My Land Application to view information and check the processing of land files and certificates.
7. Furthermore, after having proof that you have registered and paid the administration fee in the amount determined by the implementing committee, the measurement letter as proof of the amount of land and the Electronic Certificate as proof of control of land rights can be checked in the email that has been sent by the implementing committee.

Issuance of electronic certificates via media transfer, this applies to land that already has a certificate in analog form, as follows:

1. The applicant comes to AGRARIAN AGENCY, with the following conditions:
 - a. Land owners who change their land certificate to electronic must have or use an electronic ID.
 - b. The owner or rights holder must have an email.
 - c. Have physical evidence in the form of an analog certificate
 2. Applicants who feel that their data are complete can register for media transfer and can bring the analogous land certificate to the National Land Agency office to be stored and combined with the existing land certificate so that the media transfer process can be carried out.
 3. Next, the committee will verify the spatial juridical data and the rights owner if it is appropriate, the results in the form of an Electronic Certificate will be sent to the rights owner's email which was given to the registration committee previously.
- Digitization of land certificates is considered a progressive step in creating legal

certainty and providing land administration system information.¹⁸ Gustav Radbruch believes that legal certainty is a product of law or more specifically legislation. One of the objectives of land registration as stipulated in Article 3 of Government Regulation in conjunction with Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats and Land Registration is to provide legal certainty and legal protection to holders of land rights. a plot of land, apartment units and other registered rights so that they can easily prove themselves as the holder of the rights in question. To provide legal certainty and legal protection, the relevant rights holder is given a land rights certificate.

Based on the theory of legal certainty above, the issuance of AGRARIA Ministerial Regulation concerning Electronic Certificates which strengthens the regulatory basis for the implementation of changing physical certificates to digital certificates (e-certificates) is also expected to increase legal certainty, efficiency and legal protection for the public and reduce the number of disputes land in Vietnam. Digital land services are in the form of electronic certificates whose regulation aims to ensure the fulfillment of the principles of speed and timeliness, openness, as well as convenience and affordability. Apart from fulfilling these principles, digital land services are expected to be able to support the improvement of services in the land sector effectively and efficiently which are always innovating along with developments in law and information technology.

The digitization of land services at AGRARIAN AGENCY Vietnam is carried out through a special agrarian internet site. This website provides various features and information related to the main tasks and functions of AGRARIAN AGENCY RI. Currently, the Ministry of Agrarian Affairs has implemented four digital land services, including Electronic Mortgage Rights, checking certificates, Land Registration Certificates, and Land Value Zone information. There are two electronic services that will be added by the AGRARIAN Ministry, namely land sale and purchase deeds and transfer of rights.

3.2 Effectiveness of Digitizing Land Services to Prevent Land Mafia in Vietnam

Effectiveness is the ability to carry out tasks, functions of an organization or the like without pressure or tension between implementation. This understanding means that effectiveness is the stage of achieving success in achieving the goals that have been set. Effectiveness is always related to the relationship between the expected results and the results actually achieved. This is different from Susanto's opinion, which provides a definition of effectiveness as the power of messages to influence or the level of ability of messages to influence. So it can be interpreted that

18 Keinath, A. K., & Walo, J. C. (2004, November 23). Audit committee responsibilities: Focusing on oversight, open communication, and best practices. *The CPA Journal*, 74(11), 22–29.

effectiveness is a measurement of the achievement of goals that have been carefully planned in advance. Effectiveness can also be interpreted as a measure of the success or failure of a goal. If you successfully achieve your goal,

There are currently 4 (four) sectors digitizing land services in Vietnam. The four digital services are checking land certificates, mortgage rights, roya, and land value zone information. If the four digital service systems have not provided good results and achievements, you should not rush to implement electronic land certificates. The next step for AGRARIAN AGENCY is to implement Electronic Land Certificates by carrying out trials, because according to the regulations the implementation of Electronic Land Certificates is gradual. The AGRARIAN AGENCY's initial step is to implement e-land certificates through a pilot project.

Based on effectiveness theory, digitizing land services can effectively prevent land mafia practices and achieve the strategic goals of the Ministry of Agrarian Affairs. The strategic goals of the Ministry of Agrarian Affairs for 2025 include:

1. The realization of land justice.
2. Register land plots throughout Vietnam.
3. RDTR-based spatial planning to realize sustainable development goals that encourage economic growth.
4. Increasing HR competency standards towards world standard bureaucracy.
5. Creating a Modern Service Office that provides products, services and an electronic land & spatial information center based on information technology.
6. Optimizing land and spatial planning information services as a basis for state revenue in the context of self-financing.
7. Realizing legal certainty of land rights by implementing a positive stelsel land registration system.

Based on the fifth strategic goal above and observing one of the AGRARIA policy directions for 2021-2025, namely the creation of a modern service office by providing land and spatial planning products and services electronically, the Vietnam Land Office must become an office that can transform towards electronic services. Electronic land services require valid data. Article 27 of the Minister of Agrarian and Spatial Planning/National Land Agency (AGRARIA) Regulation states that the Land Office makes preparations for the implementation of mortgage right-el Services, including data validation, account registration, registration and Electronic Signature. The Vietnam Land Agency decided to create a policy to show seriousness in improving services through e-Government for the sake of service effectiveness, transparency and efficiency, for example by requiring banks as creditors to use mortgage right-el in registering Mortgage Rights. This step has proven to have an impact on mortgage right applications. for legal entities as creditors, everything is through the mortgage right-el system.

The presence of the Touch application is also intended by the government to

establish a symbiotic mutualism between the Ministry of Agrarian Affairs and the community. Touch My Land is an application created to answer various community land problems online. The Touch application is expected to be able to help the public find out land information regularly, transparently, and ultimately avoid various cases of fraud. So in general, the Touch application is one of the innovations and developments in land services to accommodate community needs.

Based on effectiveness theory, the policy of implementing electronic land certificates in the Land Registration Law in Vietnam is a policy issued by the Ministry AGRARIAN which effectively improves land services in order to provide legal certainty and legal protection for land owners, reducing the incidence of land ownership disputes and conflicts, as well as preventing the spread of the land mafia. Apart from that, judging from its form, an electronic land certificate is an electronic document that contains concise and complete land data and is protected by a unique code program created through the Ministry of Agrarian Affairs system.

In electronic land registration, electronic document security is stored in a database secured through BSSN. Another effort made by AGRARIAN AGENCY is Electronic Documents, electronic signatures are not stored on one server. If seen from AGRARIAN AGENCY's efforts as the organizer of Electronic Land Registration, then there is good faith in ensuring that security and comfort for the community in ownership and legal protection of land rights are achieved.

4. Conclusion

The implementation of digitization of land services is carried out through a special agrarian internet site. Currently, the Ministry of Agrarian Affairs has implemented four digital land services, including Electronic Mortgage Rights, checking certificates, Land Registration Certificates, and Land Value Zone information. There are two electronic services that will be added by the AGRARIAN Ministry, namely land sale and purchase deeds and transfer of rights. The implementation of digitalization of land services, apart from using a special agrarian internet site, is also carried out through the Touch application. The effectiveness of digitizing land services to prevent land mafia can effectively prevent land mafia practices and achieve the strategic goals of the Ministry of Agrarian Affairs. Online land services make it easier for people to manage their land and can avoid brokers or land mafia.

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