



# Juridical Analysis of Strengthening the Decision of the Administrative Court by PT TUN Jakarta in the Dispute Over the Cancellation of HGB Certificate No. 1444/Kebon Kelapa (Decision Study Number 243/B/2025/PT.TUN.JKT)

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## ABSTRACT

This study examines the juridical basis of The Jakarta High Administrative Court (PT TUN) in strengthening the decision of the Jakarta Administrative Court related to the dispute over the cancellation of the building rights certificate (HGB) No. 1444 / Kebon Kelapa issued by the Land Office of the city administration of Central Jakarta. The dispute is filed by the plaintiff on the pretext that the certificate is legally flawed both procedurally and substantially, so it must be declared null and void. In addition to the head of the Central Jakarta Land Office as a defendant, PT Multi Aneka Sarana also serves as defendant II intervention because it is the right holder of the HGB. The Jakarta Administrative Court in the first instance decision stated that the *niet Ontvankelijk* lawsuit (unacceptable) was filed after passing the 90-day grace period as determined by Article 55 of Law Number 5 of 1986 on Administrative Justice. The panel of judges considered that the plaintiff should have known the existence and validity of the certificate long before filing the lawsuit, considering that the certificate had been issued since 1989 and the land object had been controlled and utilized by the HGB holder. This decision was then re-examined at the appeal level and upheld by PT TUN Jakarta through Decision number 243/B/2025/PT.TUN.JKT. Through normative legal research methods with a statutory approach, conceptual approach, and case approach, this study found that PT TUN consistently applied the principle of *termijn vervallen*, which is a doctrine that states that a lawsuit filed after the passage of a mandatory grace period is otherwise unacceptable without examining the subject matter of the case. The application of this principle confirms that the provisions of the grace period in the Tun procedural law are limited and binding, so ignoring them will damage legal certainty. In addition, the study found that the reasons for the delay in filing a lawsuit put forward by the plaintiff did not meet the qualification of "justifiable juridical reasons," based on both doctrine and judicial practice. Therefore, the consideration of PT TUN Jakarta that strengthens the PTUN decision is not only in line with positive legal norms, but also strengthens the principles of administrative order, protection for land rights holders, and stability of the National Land system. PT TUN's assertion is important to prevent misuse of certificate cancellation claims filed after a very long period of time, as well as to ensure that land administration is not constantly in a state of uncertainty. Thus, this ruling contributes to the harmonization of TUN judicial practice and provides jurisprudential guidelines for the future handling of land disputes.

## INTRODUCTION

The State Administrative Court (TUN) is a judicial institution that is given the authority to examine, decide, and resolve disputes arising in the field of state administration, especially related to the validity of State Administration decisions (KTUN). The basic law governing the judiciary is contained in Law No. 5 of 1986 on Administrative Justice, which was later updated through Law No. 9 of 2004 and Law No. 51 of 2009.

According to Article 1 Number 9 of the Administrative Law Law, KTUN is a "written determination issued by a state administration body or official containing Administrative Law actions based on applicable laws and regulations, concrete, individual and final, and causing legal consequences for a person or civil law entity."

One of the fundamental provisions in the Tun procedural law is the formal requirement for filing a lawsuit, which is a 90-day grace period as specified in Article 55 of the Administrative Procedure Law. This provision is imperative and must be complied with by every plaintiff who wants to test the validity of a KTUN.

According to Indroharto in his book efforts to understand the law on administrative justice, the grace period is fatal and decisive, because it plays a role in maintaining legal certainty, stability of State Administration, and protection of parties who obtain rights from administrative decisions. Indroharto emphasized that if a lawsuit is filed after the grace period has passed, the lawsuit must be declared *Niet Ontvankelijk* (unacceptable) without the need to examine the subject matter. This view later became a doctrinal reference and was applied consistently in many of TUN's judicial rulings.

Furthermore, the principle of legal certainty (*rechtszekerheid*) is the main basis for the use of the deadline for filing a lawsuit. Without a clear time limit, any decision of the state administration could potentially be challenged at any time, thus threatening the stability of the government and the certainty of rights for those who have obtained legitimate benefits from the KTUN.

In National Land Law, A certificate is evidence that has strong legal force regarding the legal status of a land plot. This refers to the provisions of Article 19 paragraph (2) letter c of the UUPA and is detailed in PP No. 24 of 1997 on Land Registration, which states that the certificate is proof of rights granted to the holder recorded in the land book.

As a product of the state administration, the issuance of certificates must meet formal requirements (correct administrative procedures)

and material requirements (validity of the substance of ownership). If there is an alleged violation of these two conditions, the party who feels aggrieved has the right to file a lawsuit for the cancellation of the certificate through the Administrative Court.

However, jurisprudence shows that the settlement of land disputes through the Administrative Court has limitations, especially when it comes to land that has been certified for a long time. Certificates that have been used, transferred or controlled for decades are generally considered to have met the principle of maximum legal protection for rights holders (*rechtsverwerking*). Therefore, the filing of a claim for cancellation of the certificate must be made within a reasonable time and in accordance with the provisions of the law.

In the case of HGB No. 1444 / Kebon Kelapa, the certificate has been issued since 1989 and has been utilized by the rights holders for many years. Thus, the lawsuit filed after more than three decades is legally considered not to meet the principle of timeliness in the ktun dispute. This condition emphasizes the need for discipline in filing land disputes so as not to cause uncertainty for rights holders who have obtained certificates through administrative procedures.

Article 55 of the Administrative Procedure Law provides that a lawsuit against KTUN must be filed within 90 calendar days from the moment the decision was notified to the party concerned or from the moment the party knew or should have known of the existence of the decision. This provision emphasizes two key phrases:

1. "Since known", which is subjective, and
2. "Should have known", which is objective.

In the doctrine of administrative law, the interpretation of when one is "supposed to know" a KTUN is associated with the principle of *redelijkheid* (reasonableness). That is, if the decision has been announced, used, or has resulted in real factual conditions, then a person is considered to have been or should have known the decision.

The doctrine of *termijn vervallen* is an important principle in Administrative Procedure Law which means that the grace period for a lawsuit is an absolute limit. If the lawsuit passes the grace period, the judge no longer has the authority to examine the subject matter. This doctrine is expressly put into practice in various decisions of the Supreme Court, which affirm that without the discipline of grace, the administrative justice system cannot exercise the function of legal certainty.

Land disputes are one of the most frequently arising and most complex legal issues in the practice of State Administration in Indonesia. This is related

to the characteristics of land as a resource that has a high social, economic, and strategic value so it is very vulnerable to conflict of interest between individuals, between companies, and between the community and the government. In the national legal system, the land rights certificate instrument serves as a strong proof of ownership, as asserted in the agrarian Basic Law (UUPA) and Government Regulation No. 24 of 1997 on Land Registration. However, the strength of proof of the certificate does not necessarily rule out the possibility of a dispute if there are parties who feel aggrieved or find alleged administrative defects in the issuance process.

One of the most common dispute patterns found in practice is the application for cancellation of certificates through the jurisdiction of the Administrative Court (PTUN). Testing of administrative actions in the form of issuing certificates of land rights is the absolute authority of the administrative court because the certificate is considered a decision of the State Administration (KTUN) which is concrete, individual, and final. However, even though the Administrative Court is authorized to examine the object of the dispute, there are strict limits that must be obeyed by the party who wants to sue, especially regarding the deadline for filing a lawsuit as stipulated in Article 55 of Law Number 5 of 1986 concerning Administrative Justice.

This provision confirms that a lawsuit can be filed only within 90 days from the moment a citizen became aware or should have become aware of the existence of such a decision. This article has a fundamental position because it becomes the initial filter that determines whether a lawsuit can be examined subject matter or declared *niet Ontvankelijk* (inadmissible). In practice, the provision of this grace period often becomes a polemic, especially in land disputes in which the object has been issued for a long time or has switched rights several times, raising the question of when exactly the "injured party" is judged to be aware of the decision.

Case of cancellation of HGB Certificate No. 1444 / Kebon Kelapa proposed by R. Lutfi is a concrete example of this problem. In this case, the plaintiff argued that the issuance of HGB on the land located in Kebon Kelapa was legally flawed and requested that the certificate be canceled through the PTUN mechanism. The plaintiff postulated the existence of a certificate issuance procedure that was not in accordance with the provisions, and claimed that he only learned of the existence of the HGB in the near future before the lawsuit was filed.

However, the Jakarta Administrative Court in the first instance ruling argued otherwise. The panel of judges concluded that the lawsuit was filed after passing the 90-day time limit as required by the Tun procedural law. This argument is based on the fact that the certificate has been issued since 1989, has been officially recorded in the land administration, and has been controlled and used by its rights holders for decades. Thus, the plaintiff is legally considered to have been or should have known of the existence of the HGB long before the lawsuit was filed. On that basis, the Jakarta Administrative Court declared the lawsuit *niet Ontvankelijk* and did not examine the subject matter.

The verdict was then appealed by the plaintiff to The Jakarta High Administrative Court (PT TUN). However, in decision number 243/B/2025 / PT.TUN.JKT, PT TUN Jakarta reinforces all considerations and decisions of the Jakarta Administrative Court. PT TUN considers that the application of the grace period provisions by the Administrative Court is appropriate, and there are no errors in the application of the law that can be used as a basis to cancel the first instance decision. In addition, PT TUN emphasized that the application of the *termijn vervallen* principle is a form of legal certainty in administrative cases, especially in land disputes that have the potential to cause long legal uncertainty for rights holders.

The main issue in this study is how PT TUN assesses the consistency of the decision of the Jakarta Administrative Court, especially related to the application of Article 55 of the Administrative Law Law. In addition, this study also examines how the limits of judicial authority TUN work in land disputes, particularly regarding when the Administrative Court and PT TUN have the authority to check the validity of a certificate and when the case should be declared unacceptable. Thus, this study not only focuses on the factual conditions of the case, but also seeks to explore in more depth the methods of legal reasoning used by judges in upholding the principles of procedural law TUN.

This study is important because there is still often misunderstanding among the public and practitioners regarding the deadline for filing a lawsuit and its legal consequences. Many lawsuits actually have the substance of criticism of the legality of a certificate, but cannot be examined because they are filed after a specified period of time. Therefore, this study is expected to contribute to the development of academic literature and judicial practice, as well as provide a clearer understanding of the mechanism of certificate cancellation in the Indonesian administrative law system.

## METHOD

This study uses the normative legal research method, which is a method that focuses on the analysis of applicable legal norms, legal doctrine, and relevant court decisions. Normative legal research does not examine empirical data, but examines library materials and norms that regulate problems.

## RESULTS AND DISCUSSION

### A. Analysis of consideration PTUN Jakarta

The Jakarta Administrative Court in examining the dispute over the cancellation of HGB Certificate No. 1444 / Kebon Kelapa emphasizes the assessment of the formal requirements of the lawsuit, especially regarding the grace period as stipulated in Article 55 of the Administrative Procedure Law. The panel of judges declared the plaintiff's lawsuit *Niet Ontvankelijk* (inadmissible) with several main reasons as follows:

\* The filing of the lawsuit was made more than 30 years after the ktun was published, namely since HGB No. 1444 / Kebon Kelapa was published in 1989. This very long span of time is considered to have exceeded the reasonable limits of public knowledge of the existence of land certificates in its territory.

\* The Administrative Court considered that the plaintiff should have known about the existence and legal status of the certificate for a long time, because the land had been controlled, utilized, and built by the HGB holder. Thus, the reason "just found out" after the development activities can not be justified by law.

\* The Assembly affirms that Article 55 of the Administrative Procedure Law is imperative, that is, it requires that a lawsuit must be filed within 90 days of being known or should have been known. Violation of the grace period resulted in the lawsuit having to be declared inadmissible.

\* Based on this, the administrative court concluded that the formal requirements of the lawsuit were not met, so the court did not enter into the subject matter of the case, both regarding the procedure for issuing certificates and allegations of substantial defects in the HGB.

The attitude of the Jakarta Administrative Court shows consistency in applying the principle of *termijn vervallen*, namely that the passage of the grace period eliminates the right to sue without questioning the substance of the disputed KTUN. Thus, the ruling of the first instance has confirmed the importance of time discipline in any attempt to revoke land certificates.

### B. Consistency of decision of PT TUN Jakarta

In the appeal level, through Decision number 243/B/2025 / PT.TUN.JKT, PT TUN Jakarta strengthened the consideration of the Jakarta Administrative Court and rejected all the plaintiff's objections. The more in-depth consideration of PT TUN include:

1. The plaintiff cannot show evidence of when he first learned of the KTUN. One-sided testimony without supporting documents, witnesses, or supporting evidence is considered insufficient to extend the grace period.

2. The plaintiff's excuse that he "only found out" about the existence of the certificate after seeing the development activities was considered juridically illogical. This is because:

o HGB had been published more than three decades earlier;  
the land has long been owned by;

O physical changes in the soil is a common phenomenon and can be known by the surrounding community.

3. PT TUN applies the principle of presumed knowledge, which is the principle that a person is considered to know a decision when objectively he should know it. Thus, the 90-day count should not be based on actual knowledge, but on knowledge that should reasonably be possessed.

4. The Assembly stressed that the 90-day grace period is an absolute requirement in Tun procedural law. Therefore, a lawsuit filed after this period is legally impossible to examine the subject matter.

Thus, the decision of PT TUN not only strengthens the decision of the administrative court, but also provides additional justification for the need for legal certainty, especially regarding the stability of land administration which is greatly influenced by the effectiveness of land certification bodies.

### C. Judicial attitude to the grace period of the lawsuit

Through this decision, PT TUN reaffirms the position of the Administrative Court on the application of the lawsuit grace period. Principal attitude of the court can be formulated as follows:

\* The grace period is not just a formal requirement, but an instrument for maintaining administrative order, preventing the endless cancellation of certificates, and ensuring the stability of the land registry system.

\* Land certificates are final, concrete, individual, and have fixed legal consequences. Therefore, any cancellation attempt must follow strict procedures including grace period discipline.

\* The judge cannot tolerate a late lawsuit unless there is a very strong juridical reason, such as the existence of an element:

O administrative fraud (administrative fraud),  
o falsification of documents,  
o a fatal error concealed by the certificate issuing office.

In this case, the plaintiff cannot prove the existence of a reason for the exclusion, so the provisions of Article 55 of the Administrative Procedure Law remain in full force. Thus, the attitude of the judiciary shows that the time aspect is a central element in the Tun dispute, not just a simple administrative requirement.

#### **D. Community Implications of the verdict on judicial practice TUN**

The decision of PT TUN Jakarta has important implications for the development of administrative law and land dispute resolution practices in Indonesia. Some of these implications are:

1. The discipline of grace periods becomes a fundamental element of legal certainty.

The court affirmed that the right to sue in the TUN dispute is not of a time-free nature, but is strictly bound by a time limit that must be respected.

2. The plaintiff cannot easily apply for the cancellation of the old certificate.

Certificates that have been valid for decades will obtain stronger legal protection, so that the value of certainty and stability of land administration increases.

3. The formation of a precedent that the old land certificate has a higher legal protection.

This reduces the potential for litigation arising from New parties claiming rights after a very long period.

4. PT TUN strengthens national jurisprudence related to the principle of finality of land administration.

This ruling reinforces the doctrine that the cancellation of certificates cannot be done recklessly, but must follow strict procedures and time limits.

5. The verdict became a reference for judges, land officials, and the public.

The establishment of guidelines for the application of grace periods in certificate disputes provides clearer direction for all law enforcement officers.

## **CONCLUSION**

The Jakarta Administrative Court rightly declared the plaintiff's lawsuit as *Niet Ontvankelijk* (unacceptable) because the lawsuit was filed far beyond the 90-day grace period as expressly provided for in Article 55 of the Administrative Law Law. The panel of judges of the first instance has given a logical and rational consideration that the time gap is more than three decades since the publication of HGB No. 1444 / Kebon Kelapa makes the lawsuit forfeit a formal basis for review. Thus, the formal requirements are not met so that the court does not have the authority to enter the subject matter of the case. PT TUN Jakarta consistently strengthens the consideration of the Jakarta Administrative Court. In decision number 243/B/2025 / PT.TUN.JKT, the panel of judges emphasized that the plaintiff should have known about the existence of the certificate for a long time, considering that the land had been controlled and used by the rights holder. PT TUN also considered that the postulate of "just knowing" after the development could not be accounted for judicially. The application of the presumed knowledge principle is a strong basis that the time limit is calculated from the moment a person should know the KTUN, not from the moment he claims to know subjectively.

This ruling reinforces the principle of legal certainty in land disputes, especially in cases of cancellation of old certificates. The land certificate, as a solid piece of evidence and an administrative product of a final Nature, needs stability so that it is not constantly threatened by lawsuits filed not in time. This ruling confirms that certificates that have been valid for decades will get extra strong protection from the judiciary.

The strengthening of PT TUN proves that the TUN justice system works consistently and harmoniously, especially in applying the limits of authority and disciplinary deadlines for lawsuits. The consistency of consideration between the Administrative Court and PT TUN indicates that the court has implemented the Tun procedural law appropriately, strengthened the *termijn vervallen* doctrine, and upheld the principles of administrative effectiveness and finality.

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