

Legal Analysis of Forged Property Rights Certificates Used as Collateral by Banks

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Abstract

The use of land title certificates (Sertifikat Hak Milik/SHM) as collateral in Indonesian banking practices faces a significant legal and institutional gap due to the proliferation of counterfeit documents. This study investigates the normative inadequacies that fail to protect bona fide creditors from the consequences of forged SHM. Using a normative juridical method, this doctrinal legal research analyzes statutory instruments, case law, and legal doctrines, particularly Government Regulation No. 24/1997, Law No. 10/1998, and the Basic Agrarian Law. Findings reveal persistent structural weaknesses in certificate verification systems, institutional fragmentation, and a lack of preventive legal frameworks. The absence of electronic authentication mandates, strict liability for negligent PPATs or notaries, and civil protection for defrauded creditors underscores systemic risk. The study proposes a Unified Certificate Verification System (SVST), mandatory digital verification, blockchain-based registration, land title insurance, and legal reform to enforce due diligence and institutional accountability. It concludes that Indonesia's current framework fails to ensure legal certainty and justice for financial institutions, and urgent structural reform is needed to enhance transparency, minimize transactional risks, and restore public trust in land-based financial transactions.

Keywords: Land Certificate Forgery, Shm, Banking Collateral, Legal Certainty, Due Diligence

INTRODUCTION

A land title certificate is a crucial legal instrument that affirms ownership rights to a specific parcel of land. This certificate establishes the legal identity of its holder and reinforces legal certainty in the event of ownership disputes. The issuance and management of such certificates are closely tied to the socio-economic environment, regulatory structures, and technological advancements.

Real estate is an economic sector focused on the development, construction, and marketing of properties, particularly single-family homes and apartments, which has a broad economic impact because it absorbs a large workforce and drives growth in related sectors such as construction, financing, and real estate marketing services. This industry has a significant multiplier effect on the economy because property development activities stimulate demand across various supporting sectors, such as building materials, construction labor, real estate brokerage services, and banking financing services (Purnama et al., 2026).

Land title certificates play a vital role in ensuring legal certainty regarding land tenure, which is essential for facilitating economic activity in sectors such as agriculture and real estate. In various jurisdictions, such as Mali, holding registered land title certificates has been associated with fairer compensation during land expropriation and a significant reduction in land-related disputes (Coulibaly et al., 2021). Additionally, these certificates allow landowners to use their property as collateral, thereby enhancing access to financial services and encouraging investment (Owusu-Ansah et al., 2023). An efficient and transparent land registration system, therefore, is key to maintaining property value stability and preventing land-related conflicts (Owusu-Ansah et al., 2023).

In the Indonesian context, land title certificates, particularly the *Certificate of Ownership* (SHM), not only signify legal ownership but are also governed by regulatory instruments such as Government Regulation No. 24 of 1997 (Ariansyah et al., 2024). This regulation standardizes

land ownership certification procedures, aiming to enhance transparency, consistency, and efficiency. Nevertheless, the circulation of counterfeit land certificates used as collateral in banking transactions consistently exposes critical weaknesses in Indonesia's land administration and financial legal infrastructure. Although banks are expected to rely on certificates issued or validated by the National Land Agency (BPN), administrative loopholes continue to allow the use of forged documents, undermining legal certainty and leaving financial institutions vulnerable to significant losses.

In today's digital age, the positive impacts are evident, particularly in the rapid dissemination of information and the availability of versatile tools for work, entertainment, and daily activities. These advancements significantly enhance efficiency and convenience, contributing to a positive experience within the digital landscape. However, alongside these benefits, there is a dark side to the digital era (Sufa et al., 2025).

An example on social media is the trending hashtag #*Ihariloknum* (one day, one perpetrator). This stems from public anxiety caused by the actions of authorities under scrutiny. The hashtag #*Ihariloknum* was initially unknown but gained popularity when introduced alongside the hashtag #*percumalaporpolisi* (reporting to the police is pointless). This hashtag has been used over 500 times to share content highlighting various incidents, which often reveal dissatisfaction with the police institution (Susanto et al., 2024).

Regarding land certificate fraud, a notable example occurred in 2024, involving the fraudulent use of a land certificate by a resident of Cirebon, West Java. This case began in October 2022, when a prospective buyer from Yogyakarta received information through a broker regarding a residential property in Larangan Village, Harjamukti Subdistrict, allegedly owned by the suspect. After evaluating the property through video recordings and an on-site inspection, the buyer agreed to purchase it. The transaction took place at a notary's office in Gunung Jati Subdistrict, where the buyer transferred a down payment of Rp 750 million out of the total price of Rp 1.45 billion. Subsequently, the seller could not be contacted. The investigation later revealed that the land certificate was forged. The original SHM had been pledged at a bank, while the suspect utilized a third party to forge a duplicate certificate. This incident exposed significant shortcomings in the oversight and verification of land documents within the banking system and property transactions (Kompas.id, 2024).

In this context, Gustav Radbruch's philosophy of law, particularly the principle of legal certainty, holds significant relevance. Radbruch argued that the legitimacy of a legal system depends on the clarity, stability, and consistency of legal norms (Nurrahmah & Rukmono, 2024; Romadhani et al., 2023). When forged documents can penetrate officially recognized legal structures without effective institutional safeguards, legal certainty collapses, justice erodes, and economic rationality becomes distorted. Furthermore, Philipus M. Hadjon's Theory of Legal Protection emphasizes the state's dual responsibility: providing preventive legal safeguards against violations and imposing repressive sanctions to restore justice when violations occur (Agustini & Sudirman, 2025; Hirwansyah & Ambuwaru, 2023).

Given this complexity, a doctrinal legal analysis is necessary to evaluate the regulatory framework governing the use of land certificates as collateral, as well as the respective responsibilities of the institutions involved. Although existing studies often emphasize the criminal liability of individual forgers, they rarely address the systemic vulnerabilities within the land administration and financial sectors, particularly gaps in the legal protection afforded to banks acting as creditors in good faith. This study aims to address this gap.

The primary legal issue examined in this study concerns the use of forged land certificates as collateral in banking practices and the legal implications arising for financial institutions operating in good faith. This investigation is grounded in the normative proposition that Indonesia's current legal framework does not sufficiently protect banks that inadvertently accept forged certificates. Weak enforcement of due diligence standards, inconsistent legal

interpretations, and the absence of a coordinated verification system between financial institutions and the National Land Agency (BPN) contribute to systemic legal risks and erode public trust. Therefore, this study examines the intersection of land law, banking law, and criminal law through the lens of legal certainty, due diligence, and legal protection.

The objective of this study is to analyze the legal norms governing the issuance and utilization of land title certificates in the context of banking collateral, determine the legal consequences arising from the acceptance of forged certificates, particularly regarding risk allocation and institutional liability, and to evaluate the adequacy of Indonesia's post-2015 legal framework in protecting banking institutions as creditors acting in good faith. Additionally, this study seeks to propose normative reforms that strengthen legal protection both preventively and repressively through regulatory improvements, institutional coordination, and the reinforcement of due diligence obligations.

This study adopts a normative legal methodology and is limited to Indonesia's national legal framework. Its geographical focus is confined to Indonesian legal jurisdiction, with a concentration on recent developments in legislation and court rulings in the fields of land law and banking law. Substantively, this study covers three main areas of law: land law, specifically the Basic Agrarian Law and Government Regulation No. 24 of 1997; criminal law, with an emphasis on forgery provisions in the Criminal Code; and banking law, including statutory provisions and OJK regulations. Temporally, this study examines developments from 2015 to the present, reflecting the increasing incidence of certificate forgery as well as concurrent institutional reforms. This research does not involve empirical data collection or interviews but relies on authoritative legal sources, case law, and doctrinal analysis.

Theoretically, this research contributes to legal literature by articulating the relationship between due diligence in banking and the principle of legal certainty in land administration. It extends Radbruch's framework on justice, legal certainty, and utility to the realm of financial risk management and applies Hadjon's theory of legal protection to institutional practice.

Practically, this study identifies regulatory gaps in protecting financial institutions from fraud involving land certificates and offers prescriptive solutions to address these vulnerabilities. This includes regulatory reforms and cross-sector institutional collaboration. This research also clarifies the legal status of forged certificates in collateral arrangements, maps regulatory weaknesses, and proposes legal strategies to mitigate institutional risks. By grounding its analysis in due diligence theory, this study advocates for a stronger culture of compliance in the financial sector and promotes legal reforms that strengthen public trust in Indonesia's legal and economic framework. The uniqueness of this research lies in its exploration of the convergence between the criminal offense of land certificate forgery and legal protections in banking security a topic often fragmented in conventional legal analysis. This research presents a comprehensive normative critique supported by proposals for doctrinal reform, and introduces a legal audit approach to evaluate the resilience of preventive norms embedded in certificate verification mechanisms.

RESEARCH METHODS

This study employs a normative legal methodology, commonly referred to as doctrinal legal research, which examines law as a structured system of norms embedded in statutory provisions, legal doctrine, and judicial decisions. Doctrinal legal research focuses on interpreting and evaluating legal rules through systematic analysis of authoritative legal sources rather than empirical observation. Scholars emphasize that doctrinal analysis remains the central methodological approach in legal scholarship because it enables researchers to clarify legal principles, interpret statutory provisions, and evaluate the coherence of legal systems (Siems,

2022). In this context, the present study concentrates on the conceptual and regulatory dimensions of law by examining how the existing legal framework governs the use of property title certificates as collateral in banking transactions and whether the framework adequately protects financial institutions from the legal consequences of forged certificates. Unlike empirical or socio-legal approaches that involve fieldwork or interviews, doctrinal research relies primarily on normative reasoning and authoritative legal texts as the basis for legal interpretation (Smits, 2022).

This study relies on a comprehensive range of legal materials categorized into primary, secondary, and tertiary sources. Primary legal materials consist of binding legislative instruments and judicial decisions, including Law No. 5 of 1960 concerning the Basic Agrarian Principles, Government Regulation No. 24 of 1997 on Land Registration, Law No. 10 of 1998 on Banking, and relevant provisions of the Indonesian Criminal Code relating to document forgery. Judicial precedents from the Supreme Court and the Constitutional Court concerning forged land certificates and banking liability are also examined. Legal scholarship highlights that doctrinal legal research requires a hierarchical evaluation of legal materials in which primary legislation and court rulings serve as the principal sources, while secondary materials such as scholarly articles and legal commentaries provide interpretative insight and critical evaluation (Smits, 2022). Tertiary sources, including legal dictionaries and encyclopedias, support conceptual clarification and systematic referencing.

The interpretation of legal materials in this study employs multiple interpretive approaches, including grammatical, systematic, teleological, and comparative interpretation. Grammatical interpretation focuses on the literal meaning of statutory language, whereas systematic interpretation situates individual provisions within the broader structure of the legal system. Teleological interpretation examines the objectives underlying legal norms, particularly those relating to land registration, property rights protection, and banking prudence. Comparative interpretation introduces perspectives from other jurisdictions, especially civil law systems and ASEAN legal frameworks, in order to evaluate how different regulatory systems address the risks associated with forged property certificates used as collateral. Contemporary legal scholarship recognizes that combining several interpretive methods enhances analytical rigor and enables researchers to identify both doctrinal coherence and regulatory deficiencies within legal systems (Michaels, 2023).

This study employs descriptive-analytical and prescriptive approaches in its legal analysis. The descriptive-analytical method involves identifying and organizing relevant legal norms and evaluating their application to the problem of forged property certificates used in secured lending transactions. The prescriptive dimension formulates normative arguments for improving legal protection through legislative reform, administrative safeguards, or doctrinal reinterpretation by courts. Recent studies on property law and financial risk regulation emphasize that weaknesses in land registration systems and document verification procedures may expose financial institutions to significant legal and financial risks when collateral documents are falsified (Indriastuti & Nugroho, 2023). Accordingly, this study seeks to determine the extent to which the existing legal framework provides protection for banks against liability arising from forged property certificates used as collateral. Rather than testing empirical hypotheses, the study advances a normative proposition that the current legal framework does not sufficiently protect banking institutions from legal risks associated with forged land title certificates. This proposition is evaluated by examining statutory provisions governing certificate authenticity, the liability of notaries and land administration bodies, and the responsibility of financial institutions. The analysis ultimately aims to assess whether the existing regulatory framework fulfills the fundamental legal principles of legal certainty (*rechtszekerheid*), justice (*gerechtigheid*), and practical utility (*doelmatigheid*).

RESULTS AND DISCUSSION

The use of land certificates as collateral has historically served as a fundamental element of Indonesia's credit system, ensuring legal and economic certainty in secured lending practices. However, the rising number of cases involving the forgery of Certificates of Ownership (SHM) in banking transactions has exposed significant systemic weaknesses in the country's agrarian governance and financial regulatory framework. This phenomenon is not merely indicative of isolated cases of document forgery; rather, it highlights structural deficiencies in the institutional mechanisms responsible for verifying land ownership, coordinating responsibilities among agencies, and protecting bona fide creditors.

This study critically explores these systemic deficiencies through a combined legal-theoretical and empirical framework. It investigates the entry points through which counterfeit SHMs infiltrate the financial system, examines weaknesses in current verification protocols, and analyzes the legal consequences when financial institutions inadvertently accept fraudulent collateral. Empirical findings reveal a discrepancy between the normative guarantees of legal certainty enshrined in Indonesia's agrarian laws and the fragmented administrative practices governing land registration, document authentication, and the execution of credit agreements. Through the integration of statutory interpretation, theoretical legal analysis, and case-based evidence, this study provides a comprehensive evaluation of the legal risks associated with SHM forgery and the inadequacy of existing protective mechanisms for financial institutions. The results offer a foundational framework for proposing regulatory reforms aimed at strengthening preventive measures, enhancing institutional accountability, and restoring the legal integrity of secured lending practices in the Indonesian banking sector.

Legal Framework for Land Certificates as Collateral

Land ownership certificates serve as essential legal instruments in credit transactions, functioning as recognized evidence of land rights. The legal framework, including the Basic Agrarian Law (UUPA) and Government Regulation No. 24 of 1997, establishes the legitimacy of these certificates and underscores their role in safeguarding property rights. Nonetheless, the formal validity of such certificates significantly depends on the procedural integrity maintained by authorized officials, particularly Land Deed Officials (PPATs) and notaries. Neglecting their responsibilities in verifying and authenticating certificates may create vulnerabilities that facilitate document forgery

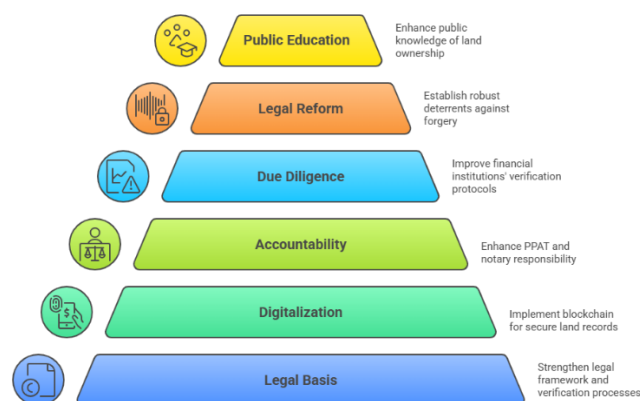


Figure 1. Strengthening Land Certificate Integrity

Addressing the problem of forged Freehold Title Certificates (Sertifikat Hak Milik/SHM) used as collateral in lending transactions requires a comprehensive and systemic approach encompassing regulatory, institutional, technological, and administrative dimensions. Several

strategic solutions can be formulated and implemented to mitigate legal vulnerabilities and enhance the integrity of land-related financial practices.

First, strengthening the legal basis and formal verification of certificates is essential. The widespread circulation of falsified certificates is largely attributable to inadequate administrative verification by authorized officials such as Land Deed Officials (PPATs) and notaries. To remedy this, a dual verification mechanism should be mandated prior to the use of SHM as collateral. This includes validating certificate authenticity through the Land Electronic Information System (Sistem Informasi Elektronik Pertanahan/SIEP) and conducting on-site inspections via field officers from the National Land Agency (BPN) or certified independent surveyors. Furthermore, the regulatory framework under Government Regulation No. 24 of 1997 should be revised to require digital verification of land certificates prior to the drafting of legal deeds by PPATs or notaries. The implementation of electronic signatures secured by Hardware Security Modules (HSM) for notarial and PPAT deeds should also be institutionalized to prevent unauthorized alterations.

Second, the full digitalization of land certificates and the application of blockchain technology represent a structural response to forgery risks associated with physical documents. In accordance with ATR/BPN Regulation No. 1 of 2021, the government should expedite the nationwide adoption of Electronic Land Certificates. A blockchain-based ledger must be utilized to store immutable records of land transfers and collateral registration, thereby ensuring traceability and authenticity. All financial institutions should be connected to this blockchain infrastructure and be required to accept only real-time validated digital collateral.

Third, the accountability and competence of PPATs and notaries must be reinforced through the development of an integrated Professional Responsibility Information System, supervised by the Ministry of Agrarian Affairs and Spatial Planning in coordination with the Association of Land Deed Officials (IPPAT). This system should mandate the inclusion of a legal liability clause in every deed, obligating PPATs to certify the validity of all documentation they process. Administrative and criminal sanctions must be imposed on officials proven to be complicit in, or negligent toward, document falsification.

Fourth, banks and financial institutions must improve their due diligence protocols. Currently, many lenders rely solely on documents provided by PPATs and notaries without conducting independent verification. To address this deficiency, financial institutions should be required to perform autonomous checks using the online platform of BPN to assess the legal status of the land, particularly in relation to disputes, encumbrances, or duplicate certificates. The adoption of a fit and proper test for property documentation, similar to those employed in OECD e-Mortgage systems, should become a prerequisite for credit approval. Additionally, the use of land title insurance should be promoted to transfer the legal risk associated with collateral to insurance providers.

Fifth, normative legal reform is imperative to establish robust deterrents against certificate forgery. Current laws provide insufficient punitive measures. Revisions to the Indonesian Criminal Code, the Banking Law, and the Agrarian Law should categorize SHM falsification as a serious economic offense. Moreover, legal provisions must explicitly protect financial institutions as bona fide creditors when they are victims of document fraud. A specialized civil procedure should be introduced to facilitate the recovery of collateral and safeguard creditor rights.

Lastly, public legal education and literacy must be enhanced. Many landowners and buyers lack sufficient understanding of the certification process, making them vulnerable to exploitation. Collaborative campaigns by ATR/BPN, the Financial Services Authority (OJK), and banking institutions should aim to elevate public knowledge regarding the legal aspects of land ownership and collateral. To support this, an interactive, government-backed online platform should be developed to provide accessible and accurate information on certificate status,

legal procedures, and citizen rights. This multi-layered approach aims to ensure a more secure, transparent, and accountable land certification and lending ecosystem in Indonesia.

Legal Implications of Certificate Forgery

The forgery of Certificates of Ownership (SHM) has significant negative implications for banking transactions, particularly in situations where financial institutions are unable to realize collateral due to its invalidity. Although acting in good faith, creditors often suffer financial losses as a result of relying on forged documents. While criminal law provisions impose penalties on perpetrators of such fraud, the existing legal framework fails to provide adequate protection for third parties who suffer economic losses due to such fraudulent acts.



Figure 2. Strengthening Creditor Protection

The following presents a series of integrated and detailed legal and policy solutions to mitigate the negative impact of counterfeit Certificates of Ownership (SHM) on banking transactions—particularly in situations where the invalidity of collateral hinders the execution of transactions and results in financial losses for creditors acting in good faith, whose legal protection remains inadequate under current legal provisions.

Fundamental reform of the legal framework is necessary to ensure adequate protection for creditors acting in good faith. Current criminal laws primarily target perpetrators of forgery but fail to offer compensation mechanisms or legal safeguards for third parties such as banks. Revised provisions in the Criminal Code, the Banking Law, and the Basic Agrarian Law (UUPA) must explicitly recognize creditors acting in good faith as legal entities entitled to protection from the consequences of forged documents. In parallel, a civil-law-based *lex specialis* must be established to allow financial institutions to automatically acquire rights to restitution or subrogation when collateral becomes invalid due to forgery. The legal system must impose strict liability on parties responsible for issuing or certifying land titles, including Land Deed Officers (PPAT), notaries, and land office staff, thereby shifting the legal risk burden away from creditors.

Additionally, a mandatory land title insurance scheme must be institutionalized to implement risk transfer. Buyers and creditors must be required to obtain land title insurance for every transaction involving SHM-based collateral, as applied in the U.S. legal system and various EU jurisdictions. Such insurance must cover various risks, including forgery, conflicting claims, procedural defects, and failure of execution. The Financial Services Authority (OJK) and the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) must issue implementing regulations requiring the inclusion of valid insurance documents during the collateral registration process.

To address situations where collateral proves unenforceable, alternative enforcement mechanisms must be legally established. Amendments to the civil procedure code or laws related to collateral must authorize banks to pursue assets of equivalent value owned by the debtor when

the primary collateral is invalid. If the debtor operates under a fictitious entity or engages in fraud, the court must permit the application of the “piercing the corporate veil” doctrine to access the personal assets of the individuals responsible for the fraud. A fast-track legal mechanism must be established to facilitate the transfer of enforcement rights without requiring the filing of a separate lawsuit.

The accountability of PPATs and notaries must be strengthened to reduce incidents of undetected forgery. Regulators must enforce minimum due diligence standards that legal officials must meet before signing deeds related to collateral. Every deed must include a clear legal liability clause affirming that the authenticity of all supporting documents has been verified. If negligence is proven in the verification process, notaries and PPATs must face civil sanctions, including financial compensation to affected creditors.

To ensure operational resilience, the land certificate verification system must be upgraded and made accessible in real time. Host-to-host integration must be implemented between banking systems and the ATR/BPN database, enabling financial institutions to conduct direct, real-time verification of SHM certificates. Digital certificates must include authentication features such as QR codes or cryptographic hashes to prevent forgery. Additionally, blockchain technology must be adopted to securely record and track all transactions involving land rights, thereby enhancing transparency and public trust.

Finally, structured education on creditor risks must be part of institutional governance. Many banks have not yet developed comprehensive protocols to detect or respond to collateral-related fraud. The OJK must issue national guidelines for property-based credit risk mitigation, which include early warning indicators for counterfeit certificates. Financial institutions must institutionalize multi-layered verification procedures and conduct regular training for staff to keep pace with evolving fraud techniques and document audit standards. By integrating legal, institutional, technological, and administrative dimensions, these solutions offer a coherent framework for addressing the legal, financial, and operational risks associated with SHM forgery in Indonesia’s banking sector.

Inadequate Safeguards

Document verification procedures remain dominated by manual and fragmented processes across various agencies. The absence of an integrated online system linking the National Land Agency, notaries, and financial institutions significantly hinders the early detection of fraudulent land certificates. Furthermore, the lack of enforceable administrative sanctions contributes to weak compliance with procedures and undermines institutional accountability in the certificate authentication process.



Figure 3. Strengthening Land Certificate Verification

To address structural weaknesses in the validation of land documents—particularly those arising from manual and fragmented processes, as well as inadequate administrative oversight—a comprehensive set of institutional and technological solutions must be implemented. These

solutions aim to mitigate the risk of certificate forgery and enhance procedural integrity among all relevant stakeholders.

The first priority is to establish an Integrated Certificate Verification System (SVST) that connects the databases of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (BPN), notaries or Land Deed Officers (PPAT), and financial institutions. Current institutional fragmentation results in unsynchronized verification practices, thereby hindering the identification of counterfeit land certificates. The SVST must function as a centralized national platform enabling real-time access to information regarding the legal status of certificates, ownership history, and potential duplication. This platform must integrate standardized Application Programming Interfaces (APIs) to ensure interoperability without requiring significant modifications to existing institutional systems. The platform must also comply with ISO 27001 standards and incorporate non-repudiation protocols to ensure data integrity and audit trails. This system will enable early detection of forged documents and enhance efficiency and accountability in inter-agency coordination.

Second, comprehensive end-to-end digitization of the land document validation process is essential to eliminate vulnerabilities in manual procedures. This includes digitizing the entire workflow from initial submission and certificate issuance to the registration of collateral in financial transactions. The system must utilize digital signatures and electronic seals protected by a Hardware Security Module (HSM) to ensure the authenticity and legal validity of electronic documents. Additionally, digital watermarks and QR codes must be embedded in electronic Certificates of Ownership (SHM) as visual authentication tools. Every verification step must be automatically recorded in the system, logging the time, the responsible officer, and the outcome of each process. These measures will significantly reduce the potential for document manipulation, increase verification speed, and improve the accuracy of procedural compliance.

Third, the imposition of administrative sanctions and the implementation of structured audit mechanisms targeting notaries and PPATs are crucial for strengthening institutional accountability. The absence of enforceable administrative sanctions has led to low compliance rates among legal professionals. Ministerial regulations issued by ATR/BPN must establish a hierarchy of sanctions, including official warnings, temporary license suspensions, and permanent license revocations for professionals found to have violated verification protocols. Additionally, the establishment of a Land Document Verification Oversight Unit (UPVDT) within ATR/BPN is necessary to conduct periodic audits using random sampling and risk-based (red-flag) methods. The publication of audit findings will ensure transparency and prevent negligent behavior or collusion among legal practitioners.

Finally, financial institutions must adopt systematic risk mitigation protocols supported by standardized red-flag indicators to proactively identify potentially fraudulent collateral during the credit assessment process. Currently, banks lack the tools to detect suspicious patterns in the issuance of certificates or land ownership. The Financial Services Authority (OJK), in coordination with ATR/BPN, must develop comprehensive guidelines outlining high-risk indicators such as certificates issued immediately prior to being pledged, inconsistencies in ownership history, and assets located in areas known to have land disputes. Banks must institutionalize verification procedures that include direct integration with the BPN system and optional third-party assessments by certified land surveyors. Additionally, ongoing training for credit analysts must be conducted to enhance their ability to detect forgery risks and implement active due diligence protocols. Collectively, these four steps provide a strategic and technically sound framework to strengthen Indonesia's land administration system against forgery risks, promote regulatory compliance, and protect the integrity of financial transactions involving land-based collateral.

Normative Reform

There is an urgent need to implement preventive legal audit mechanisms capable of minimizing transaction risks. Technical regulations must be harmonized and incorporated into implementing regulations that require electronic verification of the authenticity of Certificates of Ownership (SHM) prior to the execution of any transaction.

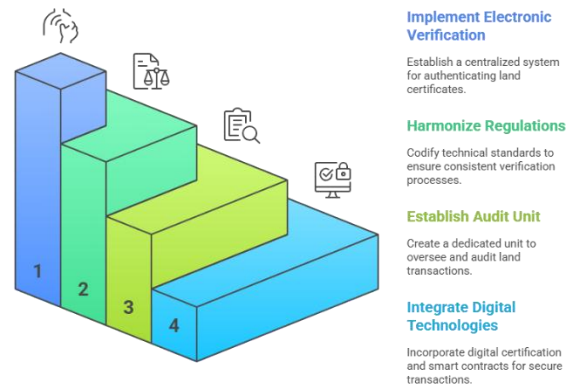


Figure 4. Enhancing Land Transaction Security

The following four structured solutions are proposed to address the urgent need for a preventive legal audit framework aimed at reducing transactional risks arising from inadequate authentication of Certificates of Ownership (SHM). These measures are designed to facilitate the harmonization of technical regulations and institutionalize mandatory electronic verification procedures prior to the execution of land-related transactions.

First, the implementation of mandatory authenticity testing for SHMs through an integrated electronic verification system must be institutionalized. A centralized national infrastructure must be established to ensure that every transaction involving an SHM undergoes electronic verification through the authoritative server of the National Land Agency (ATR/BPN). This system must be fully integrated with the agency's electronic certificate database, which includes legal status, ownership transfer history, and any encumbrance records. Access to the system must be granted to authorized parties, including notaries, Land Deed Officers (PPAT), financial institutions, and relevant government agencies, prior to the execution of deeds or credit agreements. Each verification process must generate a unique digital authentication hash that serves as a legal prerequisite for the registration of collateral and the formalization of contractual agreements. The primary objective is to prevent counterfeit certificates from entering the legal and financial execution chain.

Second, it is crucial to harmonize and codify technical regulations through the issuance of integrated implementing regulations. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, in coordination with the Ministry of Law and Human Rights, must formulate subsidiary regulations that consolidate procedural and substantive standards for land document verification. These regulations must formally mandate electronic authenticity verification as a legal requirement in notarial and collateral transactions, and establish enforceable administrative and civil sanctions for violations. This codification of the law will serve as an integrated prevention framework that transcends institutional and sectoral boundaries.

Third, the establishment of a dedicated Land Transaction Legal Audit Unit within the ATR/BPN is necessary to support proactive oversight. This unit must conduct pre-transaction audits of land security documents using risk-based methodologies and random sampling. Special oversight must be applied to notaries and PPATs with a history of processing certificates that were later found to be problematic. The audit unit must routinely publish compliance indices and findings to ensure institutional transparency and accountability. Such a unit would function as a forward-looking oversight mechanism, designed to detect and correct procedural deviations before they result in legal or financial losses.

Fourth, integrating digital certification technology and smart contracts into land transactions is crucial to eliminating procedural vulnerabilities. Transactions should only proceed after it is confirmed that the SHM has been successfully verified and recorded in an automated digital system. All parties involved in the transaction, including buyers, sellers, notaries, and financial institutions must have synchronized access to the legal status of the verified certificate. Furthermore, the entire transaction lifecycle must be digitally recorded in a system that supports an immutable audit trail and secure digital records. This technological integration ensures transaction integrity and eliminates opportunities for manipulation at every stage of the land registration and financing process.

Together, these four solutions offer a comprehensive framework to enhance legal certainty, institutional accountability, and technological resilience within Indonesia's land administration and financial systems.

The empirical findings of this study reveal a persistent discrepancy between the legal recognition of land certificates (*Certificate of Ownership/SHM*) as collateral and the operational integrity of the procedures intended to validate these documents. Although the Basic Agrarian Law (UUPA) and Government Regulation No. 24 of 1997 formally establish the legal status of SHM and its registration mechanisms, significant systemic vulnerabilities remain (Presiden Republik Indonesia, 1960, 1997). These weaknesses stem from inadequate law enforcement and fragmented coordination among relevant agencies.

This inconsistency undermines the principle of legal certainty, as articulated by Gustav Radbruch, who emphasized that legal norms must not only be applied consistently but also provide justice, clarity, and predictability in practice (Tan, 2021). Within the Indonesian legal framework, the failure to mandate digital verification of SHMs prior to their use in banking transactions contradicts Article 19 of the UUPA, which requires the state to ensure legal certainty regarding land rights through an effective registration system (Presiden Republik Indonesia, 1960).

Articles 4 and 5 of Government Regulation No. 24 of 1997 further underscore the state's obligation to provide a transparent, up-to-date, and publicly accessible land registration framework. Nevertheless, this study found that SHM forgery continues to occur, primarily because the procedural implementation of land registration remains heavily reliant on manual processes, while verification protocols across various institutions, such as the National Land Agency (BPN), land deed officers (PPAT), and banks have not been consistently standardized (Presiden Republik Indonesia, 1997).

According to Hadjon's theory of legal protection, the absence of preventive mechanisms to protect both landowners and financial institutions constitutes a fundamental legal weakness (Hirwansyah & Ambuwaru, 2023). Hadjon asserts that legal protection must begin before disputes arise, through a robust regulatory framework that enforces responsible governance and verification practices. In this context, the routine failure of notaries and PPATs to conduct independent verification of Certificates of Ownership (SHM) indicates a regulatory gap that contradicts Articles 6 and 7 of Government Regulation No. 24 of 1997, which establish the central role of these parties in the land registration process and the drafting of legal deeds (Presiden Republik Indonesia, 1997).

This problem is exacerbated by the lack of adequate enforcement mechanisms, particularly the absence of provisions for strict liability or legal restitution for financial institutions that fall victim to SHM forgery even when acting in good faith. This failure contradicts Article 29 of Law No. 10 of 1998 on Banking, which requires banks to apply principles of prudence, including strict due diligence when granting credit (Presiden Republik Indonesia, 1998). The inability to obtain compensation for banks that fall victim to fraud reveals a legal imbalance in risk allocation. Such an outcome contradicts Radbruch's principle that procedural legality must not override substantive justice.

To address this structural deficiency, it is proposed to establish the Integrated Certificate Verification System (SVST). This system aligns with Article 3 of Government Regulation No. 24 of 1997, which emphasizes administrative order, and Article 20 of the Land Law, which upholds the legal force of ownership (Presiden Republik Indonesia, 1960, 1997). The SVST directly reflects the indicators of legal certainty, transparency, clarity, and consistency articulated by Radbruch, while also aligning with the framework of preventive legal protection proposed by Hadjon (Tan, 2021).

Regarding due diligence in banking, findings indicate that many financial institutions rely solely on notarial documents without conducting independent validation of the legal status of SHM. This practice violates Article 8 of Law No. 10 of 1998, which requires banks to conduct a comprehensive analysis of a borrower's eligibility before granting credit (President of the Republic of Indonesia, 1998). The absence of integrated and real-time verification mechanisms deviates from international Customer Due Diligence (CDD) standards and poses systemic risks in the financial sector (Cao et al., 2020). The implementation of a blockchain-based verification system and mandatory digital land title insurance, following OECD e-mortgage practices, offers practical alignment between legal compliance and risk management (Thamrin et al., 2021).

Additionally, reforming the civil law structure by imposing strict liability on PPATs and notaries who certify forged certificates in accordance with Articles 26 and 27 of the Land Law, which govern the cancellation or restoration of land rights. Shifting legal liability to negligent or complicit parties will not only prevent fraudulent practices but also implement Hadjon's concept of repressive legal protection by ensuring accountability after a legal violation occurs (Presiden Republik Indonesia, 1960).

Enhancing public legal education and structured compliance training goes beyond mere procedural improvements. These measures fulfill the constitutional mandate embedded in Articles 2(2) and 14 of the Land Law, which require the state to regulate individual-land relations to achieve the common good (Presiden Republik Indonesia, 1960). Furthermore, these measures reflect the rights stipulated in Article 4(2) of Government Regulation No. 24 of 1997, which guarantees public access to legal information regarding land as the foundation of legal transparency (Presiden Republik Indonesia, 1997). The empirical issues documented in this study, including the forgery of Certificates of Ownership (SHM), institutional negligence, and inadequate banking safeguards are not merely operational challenges but point to a deeper normative discrepancy between Indonesia's agrarian, banking, and registration laws and their enforcement in practice. By grounding these findings in Radbruch's doctrine of legal certainty, Hadjon's theory of legal protection, and the legal mandates of the UUPA, Government Regulation No. 24 of 1997, and Law No. 10 of 1998, this analysis highlights the urgent need for coordinated legal reform. Legal consistency, technology-based law enforcement, and structural realignment of responsibilities must proceed hand in hand to ensure justice, protect financial actors acting in good faith, and restore institutional confidence in the land-based transaction system.

CONCLUSION

This study identifies a significant gap between the formal legal recognition of Certificates of Ownership (SHM) as collateral in banking transactions and the inadequate administrative mechanisms for verifying their authenticity. Although the Basic Agrarian Law (UUPA) and Government Regulation No. 24 of 1997 provide a clear legal basis regarding the validity of SHMs, their operational implementation remains hindered by structural deficiencies in oversight, verification, and institutional coordination, particularly among the National Land Agency (BPN), Land Deed Officers (PPAT), notaries, and financial institutions.

The applicable legal framework offers a solid normative foundation for the use of SHM as collateral. However, its practical enforcement is hindered by institutional fragmentation and delays in adopting digital certification infrastructure. Although positive law legitimizes SHMs as proof of ownership rights, it fails to mandate binding electronic verification protocols for all parties involved in land-based financial transactions.

The legal consequences of counterfeit SHMs are profound. Financial institutions acting in good faith risk significant losses if the collateral is proven invalid. Although criminal law imposes penalties on forgers, the existing legal system does not guarantee restitution or provide explicit protection for creditors suffering losses due to forged documents. Consequently, banks face a legal vacuum that leaves them vulnerable, even when they comply with standard procedural requirements.

Legal safeguards for financial institutions remain inadequate. Current laws do not explicitly regulate restitution or subrogation mechanisms for banks that fall victim to SHM forgery. Furthermore, due diligence standards are not uniformly codified, allowing financial institutions to rely solely on documents issued by PPATs or notaries without conducting independent verification of the authenticity of land certificates.

This study advocates for comprehensive normative reform. It proposes the institutionalization of mandatory electronic verification prior to all land-related transactions, the establishment of an Integrated Certificate Verification System (SVST), the introduction of mandatory land title insurance, and the strict enforcement of legal liability against PPATs and notaries proven to be negligent in their verification duties. Furthermore, the implementation of a blockchain-based verification system and smart contracts is crucial to ensuring tamper-proof and transparent documentation throughout the land transaction process. By applying Radbruch's doctrine of legal certainty and Hadjon's theory of legal protection, this study concludes that Indonesia's current legal framework fails to provide adequate preventive and remedial measures against the legal risks posed by counterfeit SHMs. Therefore, structural reforms and comprehensive digitization are essential to restore institutional integrity, enhance public trust, and ensure the credibility of the national land administration and banking systems.

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