

Administrative Suspension of Land Rights Applications on Former HGB Land: A Study of Discretion and Legal Certainty

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Abstract

This study addresses the absence of explicit regulatory provisions governing the mechanism for suspending land rights applications; in practice, BPN therefore exercises administrative discretion guided by the principle of prudence and the General Principles of Good Governance (AUPB). Accordingly, this study aims to analyze BPN's authority to suspend applications for Right to Use (Hak Pakai) over land previously encumbered by Building Use Rights (HGB), and to examine the consistency of such decisions with the principles of administrative land law and legal certainty. This study employs a normative legal research method, utilising a legislative, conceptual and case-based approach, through an analysis of legislation and relevant legal literature. The findings indicate that the suspension of applications for Right to Use constitutes an exercise of administrative discretion in the absence of specific legal norms; however, it lacks clear operational parameters, which may potentially result in an overextension of administrative authority in land governance practices. Furthermore, BPN's considerations are predominantly driven by factual circumstances, such as claims of physical possession by communities, rather than normative considerations, including the priority rights of former HGB holders and the legal appropriateness of land utilization. This condition reflects an imbalance in the application of the principle of legal certainty within land administration. This study concludes that clearer, more operational regulatory frameworks are required to govern the suspension mechanism, define parameters for assessing priority rights, ensure that administrative discretion remains within lawful boundaries, and strengthen legal certainty in land administration.

Keywords: Administrative Discretion, Legal Certainty, Priority Rights, Right to Use, Suspension.

1. Introduction

An issue concerning the suspension of a land rights application in land administration practice arose regarding land previously encumbered by a Building Use Right (HGB) held by PT Laju Perdana Indah, located in Pundenrejo Village, Pati Regency, covering an area of approximately seven hectares. Upon expiration of the HGB period, PT Laju Perdana Indah submitted an application for a Right to Use (*Hak Pakai*) to the National Land Agency (Badan Pertanahan Nasional/BPN) of Pati Regency. However, during the administrative process, residents Pundenrejo Village raised claims to landownership. As a result, the application was not processed immediately and was temporarily suspended by the local BPN office.

Pursuant to Article 35 paragraph (1) of Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA), HGB is a right granted to its holder to construct and own buildings on land that is not owned by the holder for a maximum period of 30 (thirty) years (Harsono, 1997). Upon the expiration of the HGB term, the land reverts to state control under the Right of State Control (HMN), thereby allowing the possibility of submitting a new application for



land rights over the same parcel of land, including a Right to Use, as stipulated in Article 41 paragraph (1) of the UUPA. Within the framework of state control over land, the state exercises its authority by granting, regulating, and supervising land rights to parties that meet the legal requirements in accordance with applicable laws and regulations. The exercise of this authority is carried out by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) pursuant to Presidential Regulation Number 47 of 2020.

The suspension of land rights applications is commonly implemented in cases involving land tenure conflicts or objections from third parties as a manifestation of the principle of prudence, aimed at preventing the issuance of land rights that may potentially give rise to future disputes (Saleh, 2023). Although Law No. 5 of 1960 on the Basic Agrarian Principles Act (UUPA), Government Regulation No. 24 of 1997 on Land Registration, and Ministerial Regulation of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency No. 18 of 2021 on Procedures for the Determination of Land Management Rights and Land Rights have regulated the mechanisms for applying for and granting land rights, these provisions do not yet explicitly regulate the authority to suspend applications for land rights, the procedures for doing so, the duration of the suspension, or the legal consequences for the applicant. However, this conclusion is based on an analysis of legislation at the level of laws, government regulations and ministerial regulations; it therefore does not yet cover operational administrative instruments, such as technical guidelines, circulars or internal guidelines of the National Land Agency. Consequently, a review of these administrative instruments is still required to ascertain whether the suspension mechanism has been regulated at the implementation level. As long as there are no clear and integrated provisions within the regulatory framework analysed in this study, this situation has the potential to lead to variations in practice in the delivery of land administration services.

This raises questions regarding the legal basis of the authority of the BPN to suspend applications for land rights. Furthermore, this measure is also related to the application of the prudential principle in public administration and the General Principles of Good Governance (AUPB). In practice, suspension may be interpreted as an exercise of discretionary authority by BPN in situations where legal uncertainty exists. Beyond the issue of suspension authority, land administration practice also recognizes a relevant consideration in decision-making, namely the applicant's status as a former holder of HGB who may possess priority rights. Former HGB holders are entitled to priority in applying for new land rights, provided that they fulfill the requirements stipulated under prevailing laws and regulations, including conformity between actual land use and the designated purpose of the previously granted right (Kahfian NM et al., 2025). However, such priority rights are conditional and do not automatically arise solely from the status of a former rights holder. Every land right carries the obligation to utilize the land in accordance with its designated purpose and social function, as stipulated in Article 6 of the UUPA. Further provisions governing the conditions for granting such priority rights are regulated in Article 37 paragraph (4) letter a of Government Regulation Number 18 of 2021. Accordingly, the applicability of priority rights depends on the fulfillment of these conditions, including the consistency between actual land use and the original purpose of the granted right.

Land use does not always correspond to the designated purpose of the granted rights or to the spatial planning framework underlying their issuance. Such misalignment may give rise to legal issues concerning the fulfillment of obligations by rights holders and the assessment of eligibility for the granting, extension, or renewal of land rights (Erwandi et al., 2023). For instance, land under HGB status, which is intended for building development, is in practice sometimes utilized for other activities, such as plantations. Compliance with these normative

requirements is relevant as a consideration in evaluating applications for land rights. In this context, land administration practice shows that the BPN's decision-making in handling land rights applications in the present case has primarily emphasized competing claims of possession by local communities, resulting in the suspension of the applications. From a normative perspective, however, additional considerations are also relevant in assessing the reinstatement of rights for former holders, namely priority rights and the conformity between actual land use and the original purpose of the granted rights. This indicates a divergence between administrative practice and applicable normative provisions in the assessment of land rights applications.

Several previous studies have addressed topics relevant to this research. First, a study by Aulia (2025) indicates that the issuance of the HGB held by PT Laju Perdana Indah did not comply with the clean and clear principle, thereby potentially generating legal uncertainty. Second, a study by Hartono and Ardani (2025), shows that agrarian conflicts arise from the neglect of farmers' land tenure and emphasizes the importance of legal protection under the Agrarian Reform scheme. Third, a study by Nursita et al. (2025), demonstrates that the use of HGB land for sugarcane plantations is inconsistent with its designated purpose, thus requiring conversion into a Business Use Right (HGU), provided that no conflict with the community exists. Fourth, a study by Wigati (2022), indicates that the BPN has the authority to exercise discretion in land administration processes, particularly in determining policies on land registration applications under conditions of dispute or legal uncertainty, in order to prevent legal vacuums and ensure legal certainty for the parties involved. Fifth, a study by Feddyawan and Sukresno (2023), shows that priority rights are still granted to former rights holders as long as they fulfill the requirements, including conformity of land use, although it does not clearly regulate time limits or legal consequences when such requirements are not satisfied.

Based on a review of prior studies, research on land disputes has generally focused on agrarian conflicts, the legality of land rights, and the legal protection of community land tenure. However, no study has specifically examined the suspension of applications for Right to Use from an administrative law perspective, particularly by positioning discretion, the prudential principle, and AUPB as parameters for assessing governmental authority. In addition, previous studies have not comprehensively analyzed the alignment between BPN's considerations in suspending land rights applications and the principle of legal certainty, especially in the context of a shift in decision-making from normative criteria, such as priority rights and land use conformity, toward a predominance of factual considerations, namely community land tenure claims. This indicates a gap in the existing literature, which underpins the novelty of this study in examining the limits of BPN's discretionary authority and the consistency of the application of the principle of legal certainty in the practice of suspending applications for Right to Use.

Based on the foregoing discussion, this study focuses on two main issues. First, it examines the legal basis of BPN's authority to suspend applications for Right to Use, analyzed within the framework of attributed authority and the exercise of discretionary power. Second, it analyzes the appropriateness of BPN's considerations in issuing such suspensions, particularly whether decisions that rely solely on the existence of land ownership disputes are consistent with land law principles, or whether they should also incorporate other normative considerations, such as the conformity of land use by former HGB holders, as a basis for assessing priority rights in accordance with applicable laws and regulations.

2. Literature Review

2.1. The Authority of BPN in Land Administration

Authority is a fundamental concept in administrative law, as it constitutes the legal basis of legitimacy for governmental actions. In a rule of law state (*rechtstaat*), every governmental action must derive from authority granted by legislation (Qamar & Rezah, 2023). Such authority functions as a benchmark for the validity of administrative actions and as an instrument to prevent arbitrary conduct by government bodies (Hadjon, 2002). Accordingly, an administrative decision or action is considered legally valid only when it is issued by a government official or agency that possesses lawful authority under the applicable laws and regulations.

This concept is distinct from power. Power refers to the capacity to influence or control others, whereas authority denotes power that is legitimized by law. Accordingly, authority encompasses both the right and the obligation of government officials to act within the limits prescribed by laws and regulations. This concept is closely related to the principle of legality (*wetmatigheid van bestuur*), which requires that every governmental action must have a clear and lawful basis.

Hadjon (2002) distinguishes three sources of governmental authority, namely attribution, delegation, and mandate. The authority of BPN in land administration is attributed authority granted directly by legislation. This authority covers the regulation, granting, and management of land rights within the framework of HMN. In this context, BPN functions as a governmental institution with legal legitimacy to implement national land policy. Attributive authority is inherent authority conferred directly by law upon a government agency, serving as the primary legal basis for BPN in performing its land administration functions, including land registration and the determination of land rights.

2.2. Discretion in Administrative Land Law

The term “discretion” originates from the Dutch term “*discretionair*”, which refers to the freedom to act based on sound judgment in decision-making. Discretion is not solely grounded in rigid statutory provisions, but also considers principles of fairness and the specific circumstances of each case. It refers to the independent authority of administrative officials to make decisions in situations where laws and regulations do not provide clear guidance or where legal uncertainty exists. According to Hadjon (2002), discretion may be exercised even when it involves deviation from statutory provisions. However, such deviation must remain within the scope and purpose of the authority granted; therefore, the exercise of discretion must not depart from the fundamental objectives intended by the conferral of such authority (Faisal et al., 2021).

The purpose of exercising such discretion is also reaffirmed in Article 22 paragraph (2) of Law No. 30 of 2014 on Government Administration, as amended by Law No. 6 of 2023, which stipulates that discretion is exercised to facilitate governmental administration, fill legal gaps provide legal certainty, and overcome governmental stagnation under certain circumstances in the interest of public benefit and welfare (Antoro, 2024). Hadjon emphasizes that discretion must not be exercised arbitrarily, as every governmental action is subject to legal and administrative accountability (Putri et al., 2025). Accordingly, the exercise of discretion must be proportional and rational, while upholding the principles of legal certainty and legal protection for the public.

From the perspective of comparative administrative law, the concept of administrative discretion is recognised in various countries as a mechanism to ensure the effective administration of government when legislation does not provide detailed provisions for a

particular situation. However, the exercise of discretion remains subject to the principles of legality, proportionality, reasonableness and judicial review, so that every administrative act must be legally accountable. In the United States, the limitations on administrative discretion have evolved through the Administrative Procedure Act, which grants the courts the power to annul administrative actions that are arbitrary and capricious (Pierce Jr, 2002). Meanwhile, within the European Union's legal system, the principles of proportionality and legitimate expectations are recognised as the standards against which the exercise of discretion by administrative authorities is assessed (Craig & De Búrca, 2020). This comparative perspective shows that, even though administrative officials are granted discretion, the exercise of that discretion must still comply with the principles of accountability, legal certainty and the protection of citizens' rights.

2.3. HGB, Right to Use, and Priority Right

Conceptually, a land right is a legal entitlement that grants its holder the right to use and/or derive benefits from a plot of land, including the space above and below ground level, provided that such use is directly related to that land and does not contravene the provisions of applicable legislation (Indriati, 2021). Provisions concerning land rights within the Indonesian agrarian legal system are based on the Basic Agrarian Law (UUPA). One form of land right is the Right to Use Land for Building Purposes (HGB), which is the right to erect and own a building on land that one does not own for a specified period of time (Harsono, 2008; Santoso, 2017). Once the HGB term has expired, the land reverts to state control under the concept of State Control Rights (HMN). In such circumstances, the former HGB holder may apply for a new land right, including a Right of Use, provided they meet the requirements set out in the applicable legislation. The administrative procedures regarding the extension, renewal or change of status of land rights are further regulated in technical guidelines issued by the relevant authorities (AESIA, 2023).

In essence, former holders of HGB titles have priority rights to apply for new land rights over the same plot of land (Thomas et al., 2022). However, this priority right does not apply automatically; rather, it is subject to the fulfilment of the requirements set out in the applicable legislation. One of the key requirements is that the use of the land must remain consistent with the purpose for which the right was originally granted. Consequently, the use of the land must remain in line with the function established at the time the right was first granted. Thus, the applicability of the priority right is determined not only by the status of being a former right-holder, but also by compliance with the legal provisions governing the sustainable use of the land.

2.4. The Perspective of Legal Certainty

Certainty in *bahasa* derives from the word "*pasti*," meaning definite, fixed, and free from ambiguity. In legal terms, legal certainty constitutes a fundamental principle for ensuring the effective implementation of law within society and the state. It is necessary to enable legal subjects to understand their rights and obligations clearly, as well as to guarantee legal protection against actions undertaken by other parties or governmental authorities.

According to Mertokusumo (2005), legal certainty refers to the assurance that law is applied consistently so that the rights and obligations of legal subjects can be clearly identified and protected. He further states "Legal certainty serves as protection for those seeking justice against arbitrary actions, meaning that a person will be able to obtain what is expected under certain circumstances. Society expects legal certainty because, with legal certainty, society will be more orderly."

Based on this view, legal certainty can be understood as encompassing at least the following key elements including the existence of clear and accessible legal norms for the public, consistency in the application of law by authorized institutions or officials, the protection of the rights and obligations of legal subjects in accordance with applicable legal provisions, and predictability of the legal consequences arising from a legal action or decision.

3. Methods

3.1. Type of Research

The type of research used in this study is normative legal research. Normative legal research examines legal issues based on applicable laws and regulations. It focuses on the identification and analysis of legal norms and doctrines in order to provide answers to the legal issues under study (Marzuki, 2005).

3.2. Research Approach

The approaches used in this study include the statutory approach, the conceptual approach, and the case approach (Muhaimin, 2020). The statutory approach is employed to examine legal norms governing land rights, HGB, Right to Use, and administrative authority in land administration. The conceptual approach is used to analyze the concepts of discretion, the prudential principle, AUPB, and legal certainty in administrative law. Meanwhile, the case approach is applied to examine the practice of suspending Right to Use applications by the Pati Regency BPN, with the case of PT Laju Perdana Indah serving as the primary object of analysis.

3.3. Types and Sources of Legal Materials

This study draws on three categories of legal materials. The primary legal sources consist of the 1945 Constitution of the Republic of Indonesia, Law No. 5 of 1960 concerning Basic Agrarian Principles, Law No. 30 of 2014 on Government Administration as amended by Law No. 6 of 2023, Government Regulation No. 18 of 2021 on Procedures for the Granting of Land Rights and Land Registration, and other relevant regulations. In addition, secondary legal sources are used to support the analysis, comprising books, scientific journal articles, theses and dissertations, as well as legal doctrines and expert opinions. Finally, tertiary legal sources are employed to provide supplementary reference material, including legal dictionaries, encyclopedias, and other relevant supporting materials.

3.4. Theoretical Framework

This study is based on three theoretical frameworks, namely the theory of authority and the theory of discretion proposed by Hadjon (2002), and the theory of legal certainty proposed by Mertokusumo (2005). According to Hadjon (2002), the theory of authority posits authority as the legal basis for the legitimacy of governmental actions in a rule of law state. Authority must derive from law and is inseparable from the principle of legality (*wetmatigheid van bestuur*). Hadjon classifies the sources of authority into attribution, delegation, and mandate. In the context of land administration, BPN exercises authority derived from statutory attribution; therefore, every administrative action, including the assessment of land rights applications, must remain within the limits of authority granted by law (Sari, 2025).

The theory of discretion refers to the authority of administrative officials to make decisions in certain situations, particularly where legal uncertainty, regulatory ambiguity, or governmental stagnation occurs (Antoro, 2024). Under Law No. 30 of 2014, as amended by Law No. 6 of 2023, discretion is exercised to facilitate governmental administration, fill legal

gaps, provide legal certainty, and overcome administrative stagnation. However, the exercise of discretion is not absolute, as it is limited by AUPB.

The theory of legal certainty, as proposed by Sudikno Mertokusumo, asserts that law must ensure certainty in its application so that legal subjects can clearly understand their rights and obligations (Nur, 2023). Legal certainty is determined not only by the existence of written norms but also by the consistency of their application in administrative practice. Inconsistency in law enforcement may lead to uncertainty and create excessive interpretative discretion in governmental administrative actions.

3.5. Legal Material Collection Techniques

The method used to collect legal materials in this study is library research. Library research is a method of data collection involving the review of various legal sources relevant to the research problem. Legal materials were collected through a systematic search of legal documents in both printed and digital formats, including scientific journal databases, institutional repositories, and legal information systems. The collected materials were then selected based on their relevance, validity, and relevance to the legal issues under study.

3.6. Legal Material Analysis Techniques

The analysis of legal materials in this study was conducted qualitatively using legal interpretation methods. The collected legal materials were systematically analyzed to identify relationships among legal norms and to answer the research questions. The analysis further focused on legal reasoning to examine the compatibility of BPN's discretionary authority in suspending Right to Use applications with the prudential principle, AUPB, and the principle of legal certainty in administrative land law.

4. Results and Discussion

4.1. Legal Authority and Discretion in Suspension of Right to Use Applications

Based on Hadjon (2002) theory of authority, every governmental action must be grounded in lawful authority, which serves as both the basis of legitimacy and the limitation of administrative actions. In this context, BPN's authority in land affairs covers not only the issuance of land rights but also the entire administrative process of assessing and verifying land rights applications. In the case of the application for Right to Use over land previously held under HGB by PT Laju Perdana Indah in Pati Regency, this authority was exercised under conditions where residents of Pundenrejo Village asserted possession of the land. This situation created legal uncertainty regarding the status of physical control over the land, resulting in the suspension of the application.

Attributive authority serves not only as the formal basis for administrative actions but also as a limiting mechanism requiring BPN to act within the legal framework that confers legitimacy and prevents *ultra vires* actions that would render such acts invalid (Aminudin, 2025). In the absence of specific technical regulations governing the suspension of land rights applications, including procedures, time limits, and legal consequences, a discretionary space arises in land administration practice for BPN to undertake administrative actions. In this context, discretion refers to the authority exercised to address regulatory gaps in order to ensure the continuity of land administration services, as regulated in Articles 22 to 32 of Law No. 30 of 2014, as amended by Law No. 6 of 2023.

Such discretion cannot be understood as absolute authority but must be subject to control mechanisms to prevent its expansion into unchecked administrative power (Suryadi et al., 2026). The absence of clear parameters in suspension practices indicates a broad scope

of discretion, which may create legal uncertainty in the exercise of administrative authority if not accompanied by adequate operational limits. BPN states that suspension is implemented as an application of the prudential principle in land administration. This principle is understood as a preventive measure to avoid the issuance of decisions when the legal status of land ownership remains uncertain. In this context, community claims may constitute a condition requiring BPN to postpone decision-making in order to prevent potential future land disputes. Nevertheless, the principle of prudence cannot stand alone as the ultimate justification for administrative actions; rather, it must be examined within the framework of the General Principles of Good Governance (AUPB), which function as normative standards guiding government officials in exercising their authority.

From the perspective of AUPB, particularly the principles of prudence and legal certainty, the suspension measure is generally justifiable as it is based on the existence of a land ownership dispute, indicating that the “clean and clear” requirement regarding the subject of rights has not been fulfilled. However, from the standpoint of legal certainty, the absence of a defined time limit for suspension and the lack of objective indicators determining the termination of such status indicate that the exercise of this authority does not yet fully ensure procedural certainty for land rights applicants. This suggests that the application of the prudential principle in suspension practices has not been comprehensively integrated with AUPB parameters in land administration practice. Hence, clearer operational standards are required to ensure that the exercise of discretion remains within lawful boundaries and does not generate legal uncertainty. Thus, the BPN’s exercise of discretion in granting a suspension in the case of an expired HGB that is being contested by a third party in Pati Regency indicates the potential for an expansion of administrative powers due to the absence of clear operational boundaries. This finding is limited to the context of the case under study and cannot be generalised as a characteristic of land administration practices in Indonesia as a whole.

This analysis is also consistent with the trend in the case law of the Administrative Court (PTUN) when reviewing the exercise of administrative discretion. In various administrative disputes relating to the exercise of discretionary powers or the postponement of administrative decisions, the courts not only assess the compliance with formal procedures but also examine whether the actions in question have fulfilled the objectives for which the powers were granted, the General Principles of Good Governance (AUPB), as well as the principles of proportionality and legal certainty. Administrative judicial practice demonstrates that the exercise of discretion cannot be justified if it results in prolonged legal uncertainty or is not accompanied by objective and accountable reasons. This jurisprudential perspective reinforces the analysis that the BPN’s authority to suspend applications for land rights indeed falls within the scope of administrative discretion; however, its exercise must remain constrained by clear legal parameters to prevent it from evolving into an administrative power of an indeterminate nature, as illustrated in Table 1.

Table 1. Analysis of the BPN’s Authority Regarding Suspensions

Aspects	Legal Basis	Practice	Legal Analysis
Authority	Theory of authority (attribution)	BPN grants suspension	Valid within administrative authority framework
Discretion	Law No. 30 of 2014 as amended by Law No. 6 of 2023	Existence of legal vacuum	Must be limited by AUPB
Limitations	Prohibition on abuse of authority (<i>ultra vires</i>)	No clearly defined time limit	Potential expansion of administrative authority

4.2. BPN Considerations in Suspension Decisions

The primary consideration for the Pati Regency BPN in suspending the application for Right to Use is the existence of a land possession claim by residents of Pundenrejo Village. This situation is viewed as an indication that the fundamental administrative requirement for granting land rights, namely the absence of disputes or conflicts over land control, has not yet been fulfilled. In land administration practice, third-party claims over a parcel of land are often considered a factor affecting its “clean and clear” status, thereby serving as a basis for delaying or suspending land rights applications (Sukmawati, 2022). However, when analyzed within the normative framework of land law, this consideration does not fully reflect all relevant legal parameters in assessing Right to Use applications. Under Indonesia’s agrarian legal system, HGB constitutes a limited right as stipulated in Article 35 paragraph (1) of the UUPA, which expires after a certain period and reverts control of the land to the state under the concept of HMN. In such circumstances, former HGB holders may apply for new land rights over the same land, including Right to Use, provided they meet the requirements set out in applicable laws and regulations.

One important aspect of this mechanism is the existence of priority rights for former HGB holders. These rights are not automatic but are contingent upon the fulfillment of statutory requirements as stipulated in Article 37 paragraph (4) letter a of Government Regulation No. 18 of 2021, particularly regarding the conformity of land use with the original purpose of the granted right. Accordingly, the assessment of applications for new land rights is not based solely on physical control of the land but also on the historical aspect of land use as part of the administrative feasibility evaluation. Sudikno Mertokusumo states that legal certainty is determined by three main elements: clarity of legal norms, consistency in law enforcement, and protection of legal subjects. These elements serve as indicators for assessing whether an administrative action provides predictable legal outcomes for the public. In the context of this study, the lack of integration of land-use consistency as a consideration parameter indicates that the clarity of decision-making standards has not been fully operationalized in land administration practice.

The predominance of considerations regarding the community’s land ownership claims indicates that the decision-making process is largely influenced by an assessment of the existence and basis of the claims put forward by the community, whether these stem from de facto possession or from rights recognised within the Indonesian agrarian legal system. These claims cannot be understood merely as a form of physical control over the land, but also as claims possessing a normative dimension through the recognition of customary rights, the history of land control, and the principle of the social function of land rights as stipulated in the Basic Agrarian Law. Consequently, the dispute resolution process does not reflect a conflict between normative and factual considerations, but rather constitutes an effort to balance the various legal bases and empirical facts that are equally relevant in determining the status and control of land rights.

This imbalance suggests that the principle of consistency in law application, as articulated by Sudikno Mertokusumo, has not been fully realized, as norms on priority rights and land-use requirements are not applied proportionately in suspension practices. In this sense, legal certainty is understood not only as the existence of written norms but also as the consistent application of legal rules in administrative actions. Furthermore, the absence of clear indicators regarding suspension time limits and criteria for dispute assessment results in low legal predictability for applicants. Applicants lack certainty about when an application will proceed and what standards BPN uses to determine whether the administrative process will continue. This indicates that, in practice, the exercise of discretion in suspension decisions

has not yet fully aligned with the ideal of legal certainty, as it lacks measurable, consistent normative parameters. This misalignment between BPN's considerations and the normative framework of land law standards is illustrated in Table 2. Normatively, this suggests that suspensions based solely on claims of community possession do not fully reflect the principle of legal certainty in land administration.

Table 2. BPN Considerations vs. Land Law Standards

Aspect	Legal Norm	Practice	Legal Analysis
Existence of a dispute	Clean and clear requirement, absence of dispute	The main basis for suspension	Dominance of factual considerations
Priority rights over HGB	Government Regulation No. 18 of 2021	Not dominantly considered	Inconsistent application of norms
Legal certainty	Legal certainty theory	Unmeasurable in practice	Reduces legal predictability

The findings in this case are also consistent with various studies on land administration practices at the National Land Agency (BPN), which show that administrative decision-making in land matters often faces challenges in the form of the complexity of land rights status, inter-agency coordination, and the need to interpret legal provisions that do not yet provide full legal certainty. Various studies indicate that improving the quality of land administration governance depends not only on compliance with formal procedures, but also on the consistent application of the general principles of good governance, transparency and accountability in every administrative decision. Therefore, this case cannot be viewed in isolation, but rather reflects broader challenges in land administration practices in Indonesia.

5. Conclusion

This study shows that the suspension of Right to Use applications over land formerly subject to HGB by BPN constitutes an exercise of discretionary authority in land administration. This discretion is exercised in the absence of specific technical regulations governing the suspension mechanism, thereby granting administrative officials flexibility to make decisions based on the prudential principle. In practice, suspension is implemented in response to community land-ownership claims that create uncertainty about the land's legal status. However, the absence of clear operational parameters governing the exercise of such discretion can create legal uncertainty in land administration.

From a deliberative perspective, BPN's decisions to grant suspensions are primarily based on factual considerations, such as land disputes or community claims of possession. In contrast, relevant normative considerations, such as priority rights of former HGB holders and the conformity of land use with the original purpose of the granted rights, have not been optimally integrated into the decision-making process. This indicates an imbalance between factual and normative approaches in land administration practice. Such an imbalance has led to inconsistencies in the application of legal norms, contrary to the principle of legal certainty.

Overall, the exercise of discretion in suspension decisions can be justified within the framework of the prudential principle and AUPB, particularly to avoid issuing decisions that may potentially lead to land disputes. However, its implementation still requires stronger operational safeguards to prevent it from evolving into an unchecked expansion of administrative authority. This study emphasizes that strengthening technical regulations

governing suspension mechanisms and parameters for assessing priority rights is essential to ensure legal certainty for land rights applicants. Thus, the exercise of discretion by BPN must always be subject to a clear legal framework to ensure consistency with the principles of legality and legal certainty in land administration.

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