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## **Criminal Liability of Village Heads in Issuing Erroneous Land Certificates: Analysis of Article 378 of the Indonesian Penal Code and Its Implications for Preventing Abuse of Authority**

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**Abstract:** The issuance of erroneous land certificates by village heads in Indonesia has become a pressing legal and administrative issue, particularly because such actions create overlapping ownership rights and undermine public confidence in land governance. Background: The village head is vested with authority under the Village Law to certify land ownership, but this discretion often exposes opportunities for abuse of power. Purpose: This study aims to analyze the extent of criminal liability borne by village heads when issuing erroneous certificates, specifically in the context of Article 378 of the Indonesian Penal Code, which governs fraud. Methods: Using a normative juridical approach, the research examines statutory provisions, doctrinal debates, and relevant case law, while also drawing comparisons with legal doctrines from civil law jurisdictions. Results: The analysis reveals that the issuance of false land certificates may fulfill the elements of fraud if there is intentional misrepresentation or concealment of material facts to benefit oneself or another party. However, the findings also highlight a doctrinal tension between administrative misconduct, which should fall under administrative sanctions, and criminal liability, which arises only when fraudulent intent is established. Conclusions: The study argues for clearer regulatory guidelines that delineate administrative error from deliberate fraud, combined with preventive mechanisms such as oversight systems and capacity-building for village officials. These measures are essential not only to strengthen deterrence but also to ensure proportionality in sanctioning, thereby promoting legal certainty and protecting citizens' property rights.

**Keyword:** Criminal Liability, Village Heads, Land Certification, Article 378 Penal Code, Abuse of Authority.

### **INTRODUCTION**

Land management in Indonesia is a crucial aspect in ensuring legal certainty and public welfare. Land, as a strategic resource, plays a vital role in development, both for individual and public interests. (Hutama, 2025) Therefore, the land administration system

must be able to provide clear legal protection for land rights. One of the main instruments in ensuring this legal certainty is the land certificate, as regulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). Land certificates serve as proof of legal ownership, providing legal certainty to owners and serving as the basis for land transactions. (Khalimi, 2025) Without adequate legal certainty, land disputes easily arise, creating legal uncertainty, and can negatively impact local and national economic development.

However, in practice, land governance still faces various complex issues. One major problem is overlapping land rights, which often occurs due to inaccurate data, administrative errors, or erroneously issued documents. This overlap not only creates conflict between residents but also has socio-economic impacts, such as uncertainty over land ownership, financial losses, and hampered investment. Protracted land disputes also erode public trust in government officials and the national land system. (Harefa, 2024) In this context, land certificates are not only an administrative tool but also a symbol of legal protection whose validity must be maintained so that the community feels safe and the state can uphold legal certainty.

Village heads play a strategic role in land administration, particularly in issuing land ownership certificates at the village level. The village head's authority in this regard is regulated in Law Number 6 of 2014 concerning Villages, Article 67 paragraph (1), which states that village heads have the authority to regulate village governance, including land administration matters. (Saidin, 2024) Village heads act as the spearhead in verifying and issuing land documents at the village level, so that decisions made have legal consequences for the residents concerned. Issuing incorrect or erroneous documents can lead to disputes that are detrimental to the community, making the village head's responsibility in this process crucial. (Labunga, 2025)

Furthermore, the village head is responsible for ensuring that land administration processes are carried out accurately and in accordance with applicable procedures. It includes verifying landowner data, coordinating with the National Land Agency (BPN), and maintaining transparent and accountable record-keeping. This task implements the principles of good governance at the village level and serves as the basis for administrative accountability. (Surya, 2022) In practice, errors in certificate issuance can occur due to a lack of legal understanding, limited resources, or inconsistent procedures. Therefore, the village head's role is not only administrative but also legal, as decisions made can have legal consequences for both the village head and the community. (Rahmah, 2025)

On the other hand, the authority granted to the village head also creates the potential for abuse. Broad discretion without adequate oversight can be exploited for personal or group interests, for example, by issuing fake certificates or manipulating landowner data. This creates a dilemma between administrative errors and criminal acts, especially if there is an intent to defraud another party. Article 378 of the Criminal Code (KUHP) regulates the crime of fraud, which can be imposed if there is an unlawful act committed with the intention of benefiting oneself or another person at the expense of the other party. (Al Miski, 2025) Therefore, village heads must be careful to ensure that their authority does not exceed legal limits and remains oriented towards fair and transparent public service. (Khair, 2024)

The phenomenon of incorrect land certificate issuance by village heads in Indonesia is a real problem that often leads to land conflicts. According to data from the National Land Agency (BPN), hundreds of dispute cases occur annually related to land administration documents that do not reflect the actual situation on the ground. These errors can include duplicate certificate issuances, errors in owner names, inaccurate land boundaries, or documents issued without proper procedures. Real-life examples, such as those in several villages in West Java and Sumatra, demonstrate that incorrect certificates can lead to prolonged disputes between residents and disrupt social stability at the village level. This

phenomenon underscores the importance of strict oversight and a rapid correction mechanism to minimize conflict. (Ashadi, 2025)

The impact of these administrative errors is far-reaching and extends beyond individual landowners. Errors in certificate issuance can hinder land sales transactions, cause economic losses, and undermine public trust in the national land system. Furthermore, land conflicts resulting from incorrect certificates can also incur social costs, such as increased litigation, disruption to local development, and the potential for horizontal conflict between residents. In this context, incorrect land certificates are not only an administrative issue, but also a legal and social issue that requires serious attention from the government and village officials. (Nis, 2024)

It should be emphasized that not all errors in issuing land certificates can be categorized as criminal acts. Administrative errors arising from negligence, lack of capacity, or imperfect procedures must be distinguished from deliberate acts of deception. This distinction is crucial because administrative errors are usually only subject to disciplinary or administrative sanctions, while deliberate acts to obtain illegal benefits can constitute criminal offenses. (Aulia, 2025) A clear understanding of this distinction will help prevent the inappropriate criminalization of village heads who work professionally but still commit administrative errors.

In criminal law, Article 378 of the Criminal Code (KUHP) regulates the crime of fraud. This article states that anyone who intentionally benefits themselves or another person to the detriment of that person, by using a false name or false identity, or by deception, shall be punished for fraud. (Lubis, 2023) In the context of land certificate issuance, the elements of fraud are met if the village head knowingly falsifies documents or conceals important facts for personal gain or for the benefit of a particular party, thereby harming residents. Therefore, not all erroneous certificate issuances are automatically criminal, unless there is an intent to deceive.

The relationship between erroneous certificate issuances and the crime of fraud has given rise to doctrinal debate in legal circles. Some experts argue that administrative errors should be adequately resolved through disciplinary mechanisms and administrative corrections, while those with malicious intent can be punished under Article 378 of the Criminal Code. Others emphasize that the authority granted to village heads is public, so any error that causes harm to another party has the potential to give rise to criminal liability, even if there is no element of intentional fraud. This tension reflects the need for clear regulatory guidelines to distinguish between administrative errors and criminal deeds.

Although regulations regarding land administration and the authority of village heads have been established, significant gaps remain in practice, particularly regarding the distinction between administrative errors and criminal fraud. Currently, there are no clear guidelines detailing when errors in the issuance of land certificates fall into the administrative category and when they qualify as criminal acts under Article 378 of the Criminal Code. This lack of guidelines creates legal uncertainty for village heads, which can leave them vulnerable to criminal prosecution even if the error is purely administrative or without malicious intent. This lack of clarity also impacts law enforcement officials, who must interpret the intent and consequences of incorrect certificate issuance on a case-by-case basis, leading to inconsistent law enforcement practices. (Ardani, 2022)

Furthermore, oversight and prevention mechanisms for land certificate issuance by village heads remain limited. Many villages lack strict internal procedures or adequate verification systems, while external oversight from the National Land Agency and local governments is not always optimal. The problem opens up opportunities for errors to occur that go undetected early and increases the potential for abuse of authority. Without effective prevention mechanisms, administrative errors or fraudulent actions risk harming the

community, both economically and socially, thus disrupting legal stability and public trust in the land system. (Annisa, 2024)

The legal impact of this gap is quite significant for the community. Incorrect land certificates not only cause material losses for landowners but also trigger protracted disputes that burden the judicial system. Legal uncertainty arising from administrative errors or abuse of authority can undermine public trust in village officials and the government as a whole. It demonstrates that the issue of issuing incorrect certificates is not merely a technical administrative issue, but also a legal and social issue that requires serious attention from policymakers, village officials, and the wider community. (Indrayana, 2025)

Therefore, research into the criminal liability of village heads for issuing incorrect land certificates is crucial and urgent. This research is expected to contribute to the formulation of clearer policies, for example, by clearly distinguishing between administrative errors and criminal acts, and by strengthening prevention and oversight mechanisms. Furthermore, this research also aims to increase legal certainty for village officials and the community, so that land rights can be effectively protected. Thus, the research results can serve as a basis for policymakers in formulating regulations that are proportional, fair, and oriented towards the public interest, while strengthening the protection of community rights to land.

## **METHOD**

This research uses a normative juridical research method with a focus on the study of legal doctrine, legislation, and academic literature related to the criminal responsibility of village heads in issuing erroneous land certificates. The approach used includes a legislative approach, namely analyzing relevant legal provisions such as Article 378 of the Criminal Code on fraud, Law Number 6 of 2014 concerning Villages, and regulations related to land administration, and a conceptual approach, which emphasizes understanding legal principles, the concept of criminal responsibility, and the difference between administrative errors and criminal acts. The research data sources consist of primary data in the form of laws, government regulations, and legal doctrine, and secondary data in the form of journals, books, scientific articles, and relevant jurisprudence or court decisions. Data collection techniques are carried out through library research and documentation of regulations and legal decisions related to the practice of issuing land certificates in villages. The data analysis technique is carried out qualitatively, namely by reviewing, classifying, and analyzing the contents of regulations, doctrines, and legal decisions to conclude provisions, principles, and legal implications related to the criminal responsibility of village heads, while also comparing legal theory with practice in the field to produce systematic and comprehensive conclusions.

## **RESULTS AND DISCUSSION**

### **Criminal Liability of Village Heads in Issuing Erroneous Land Certificates**

The criminal liability of village heads for issuing false land certificates is rooted in criminal law provisions governing fraud. Article 378 of the Criminal Code (KUHP) states that "anyone who, with the intent to benefit themselves or another person, by using a false name or false circumstances, or by deception, harms another person, shall be punished for fraud." In the context of land administration, issuing certificates that contradict the facts can be categorized as an unlawful act if done with the intent to deceive or harm another party. It reveals that village heads not only have administrative obligations but can also be subject to criminal liability if the elements of fraud are met.

The village head's authority in land administration is regulated by Law Number 6 of 2014 concerning Villages, specifically Article 67 paragraph (1), which states that village heads have the authority to regulate village governance, including land administration

matters. With this authority, village heads are responsible for issuing valid and accurate documents so that communities obtain legal certainty regarding their land rights. However, if the village head abuses this authority for personal or group gain and issues false documents with the intent to deceive, this gives rise to criminal liability under Article 378 of the Criminal Code. Thus, the granted authority also demands a high degree of legal accountability.

The distinction between administrative and criminal liability is crucial. Administrative errors typically involve negligence or procedural deficiencies that do not involve malicious intent, such as misspelling an owner's name or inaccurate land boundaries. These errors are usually resolved through administrative sanctions, such as reprimands, document corrections, or internal guidance. Conversely, criminal liability arises only if there is an element of deliberate fraud, that is, an act committed with the intent to benefit oneself or another party to the detriment of the community, thus fulfilling the elements of Article 378 of the Criminal Code.

The criminal elements in issuing false certificates include unlawful acts, namely issuing certificates that contradict the facts on the ground or harm another party. The village head is considered to have committed an unlawful act if the issued documents cause real harm to residents, such as overlapping land ownership or multiple certificates. This act serves as the basis for assessing whether an administrative action has crossed the line and constitutes a criminal offense.

Furthermore, the element of intent to benefit oneself or another person is a key distinguishing factor between administrative errors and criminal acts. If a village head knowingly falsifies documents or conceals important facts to secure a specific advantage, the element of intent is met. In legal practice, this intent is usually proven through documentary evidence, witness statements, or a pattern of actions indicating deliberate intent in issuing a false certificate. Without clear intent, the issuance of a false certificate is still treated as an administrative error.

The final element is the loss to another party resulting from the issuance of an erroneous certificate. This loss can include loss of land rights, economic loss, or the emergence of a land dispute that creates social and legal burdens. This element serves as an important benchmark in assessing whether the village head's actions meet the criteria for criminal fraud or simply constitute an administrative error. By understanding these three elements—unlawful act, intent to benefit oneself or another person, and harm to another party—a clear demarcation between administrative and criminal liability can be established, thereby ensuring legal certainty for village officials and the community.

Administrative errors in the issuance of land certificates refer to actions by the village head that occur due to negligence, procedural deficiencies, or technical errors without malicious intent. Examples of administrative errors include misspelling the owner's name, inaccurate land boundaries, or documents issued due to incomplete verification procedures. These types of errors can usually be corrected through administrative correction mechanisms, such as document corrections or internal guidance. Essentially, administrative errors arise from human or procedural factors and do not involve any intention to harm another party.

In contrast, intentional fraud occurs when a village head knowingly falsifies or misleads information on a land certificate to benefit themselves or another party, to the detriment of the community. This act fulfills the elements of Article 378 of the Criminal Code, namely an unlawful act, the intent to benefit themselves or another person, and to the detriment of another party. In practice, this fraudulent act can take the form of intentionally issuing duplicate certificates, falsifying owner data, or manipulating land boundaries for a specific purpose. The element of intent is the key differentiator between administrative errors and criminal acts.



The importance of distinguishing administrative errors from criminal acts is not only academic but also practical, in order to protect village heads from misapplication of the law. Without a clear understanding, village heads who commit purely procedural errors risk being subjected to disproportionate criminal charges. Conversely, intentional acts of deception must be subject to appropriate sanctions to serve as a deterrent. By distinguishing between the two, legal certainty is maintained for village officials and the community, while ensuring accurate and accountable land certificate issuance.

This case study demonstrates how Article 378 of the Criminal Code is applied to village heads in practice. For example, in several court decisions in West Java, village heads were convicted for intentionally issuing duplicate land certificates to benefit certain families or parties. The judges' analysis in these cases emphasized the elements of intent and the consequences of issuing false documents, so not all administrative errors are considered criminal acts. These court decisions set important precedents in distinguishing administrative errors from fraud.

In analyzing these cases, judges assessed the available evidence, including the documents issued, witnesses, and the procedures followed by the village head. The element of intent to harm another party was the determining factor in assessing whether the village head's actions met the elements of fraud under Article 378 of the Criminal Code. If intent is proven, the village head can be punished; if not, the error remains categorized as an administrative violation. This underscores the importance of a thorough analysis of the context of the act and its impact on the community.

The impact of legal decisions on legal certainty and village administrative practices is significant. Proportional and evidence-based decisions provide certainty for village heads in carrying out their duties, while protecting the community from losses resulting from false certificates. Furthermore, this jurisprudence serves as a guideline for other village officials to be more careful and accurate in issuing land documents. Thus, the combination of learning from case studies, judicial analysis, and understanding of criminal law can strengthen the village land administration system as a whole.

One of the main factors that can lead to village heads being subjected to criminal liability is the abuse of their authority or discretion. The village head's authority in land administration, as stipulated in Article 67 paragraph (1) of Law Number 6 of 2014, allows them to regulate and verify land documents at the village level. However, if this authority is used for personal or group purposes, such as issuing false certificates or manipulating landowner data, then the element of fraud under Article 378 of the Criminal Code may be fulfilled. Broad discretion without clear boundaries can increase the risk of village heads being implicated in criminal charges if the intent to harm others is proven.

Lack of legal knowledge and administrative capacity are also significant factors. Village heads who do not fully understand land procedures or lack an adequate understanding of the legal implications of issuing certificates are at risk of committing errors that could be classified as criminal. For example, ignorance of document verification procedures or administrative requirements can lead to the issuance of erroneous certificates. Such ignorance, if accompanied by intent, can increase the risk of criminal prosecution, making legal training and improving the administrative capacity of village officials crucial.

The legal implications of issuing erroneous certificates are quite extensive. For village heads, this can have criminal, reputational, and career consequences, including potential imprisonment, removal from office, or loss of public trust. For the community, false certificates can lead to protracted disputes, financial losses, and legal uncertainty. These social impacts emphasize the importance of balanced legal protection for village officials and the community, ensuring that criminal acts are proportionately prosecuted in accordance with Article 378 of the Criminal Code.

## **Preventive Efforts and Legal Implications in Village Land Administration**

Preventing errors in issuing land certificates at the village level is a crucial step in maintaining legal certainty and preventing land disputes. Accurate verification procedures before certificate issuance are a key foundation in land administration. Village heads and village officials need to ensure that all landowner data, land boundaries, and supporting documents have been thoroughly verified. A systematic verification process will minimize the risk of overlapping ownership, duplicate certificates, or technical errors that could harm the community.

Clear Standard Operating Procedures (SOPs) in village land administration are also a crucial tool for preventing errors. These SOPs cover the certificate issuance workflow, required documents, and data validation mechanisms before certificates are issued. With standard SOPs, village officials have consistent guidance in carrying out administrative tasks, thereby minimizing the risk of negligence or procedural errors. Effective SOPs also facilitate internal evaluations and provide a strong basis for accountability for village officials in the event of errors.

In addition to manual procedures, the role of digital administration systems or land databases is becoming increasingly important in minimizing errors. The use of digital systems allows for more accurate recording, facilitates real-time data verification, and minimizes document manipulation. A database integrated with the National Land Agency (BPN) or local government can assist village heads in verifying land status, ensuring there are no overlaps, and facilitating corrections if errors are discovered. This technology also serves as a transparency mechanism that enhances public accountability.

Internal oversight at the village level is an additional step to ensure the accuracy of land administration. The village head, village secretary, and other village officials must be involved in the document checking and validation mechanism before certificates are issued. Consistent internal oversight allows errors to be promptly detected and corrected before they cause disputes or harm to the community. Furthermore, the involvement of multiple parties in internal oversight creates a cross-check system that prevents abuse of authority.

External oversight also plays a crucial role in preventing errors. The National Land Agency (BPN) or local government must conduct regular audits and monitor the issuance of land certificates at the village level. These audits include document checks, compliance with standard operating procedures (SOPs), and the validity of land data. A rapid correction mechanism from external parties allows erroneous certificates to be corrected before they cause losses or more complex legal disputes. With synergistic internal and external oversight, the risk of errors and abuse of authority can be significantly minimized.

In addition to prevention and oversight mechanisms, capacity building for village officials is a key factor in accurate and accountable land administration. Regular training on land law and document administration should be provided to ensure village heads and their staff understand applicable procedures, the legal implications of certificate issuance, and criminal liability in the event of intentional errors. Workshops, regulatory outreach, and ongoing development also help ensure village officials are able to exercise their authority professionally. With comprehensive capacity building, village heads can minimize errors, maintain legal certainty for the community, and uphold the principles of transparency and accountability in land administration.

The legal implications of implementing mechanisms to prevent incorrect land certificate issuance directly impact village heads. Village heads who fail to follow proper procedures risk criminal sanctions under Article 378 of the Criminal Code if proven to have committed fraud, administrative sanctions in the form of a warning or dismissal and impacts to their reputation and career within the community. With clear procedures and effective

prevention mechanisms, criminal and administrative risks can be minimized, allowing village heads to exercise their authority safely and accountably.

For communities, systematic prevention efforts also provide stronger legal protection. Accurately issued and properly monitored land certificates ensure land rights remain secure, preventing communities from being disadvantaged due to overlapping ownership or incorrect documentation. The legal certainty plays a function in reducing the potential for land disputes, expediting administrative processes, and maintaining public trust in village governments and the national land system.

Legal certainty and preventing land disputes are the primary goals of clear regulations and structured oversight mechanisms. With standard procedures, regular audits, and accurate verification, administrative errors and abuse of authority can be promptly detected and corrected. This also emphasizes the government's role in providing legal certainty for villagers while maintaining the integrity of village officials in exercising their authority.

The importance of clear regulations and guidelines cannot be overstated. Regulations must clearly distinguish between legitimate administrative errors and intentional criminal acts, so that village heads are not wrongly subject to criminal sanctions. Comprehensive standard procedures for certificate issuance can reduce the risk of errors and provide consistent guidance for village officials. With clear regulations, communities and village officials share a common legal framework, fostering public trust in the land administration system.

The effectiveness of prevention efforts is clearly demonstrated by their ability to suppress errors and abuse of authority. Strict verification mechanisms, legal training for village officials, and internal and external oversight ensure that every land document is thoroughly reviewed before issuance. It has a positive impact on overall village land governance, where errors are minimized, transparency is increased, and accountability of village officials is maintained.

Structured prevention creates a transparent and trustworthy land administration system. With a combination of clear procedures, firm regulations, village official training, and consistent oversight, the risk of incorrect certificate issuance is significantly reduced. This not only protects community rights but also provides legal certainty for village heads and strengthens public trust in village governance and the land system as a whole.

## CONCLUSION

The conclusion of this study confirms that village heads are criminally liable for issuing erroneous land certificates if the act meets the elements of fraud as stipulated in Article 378 of the Criminal Code, namely an unlawful act, the intention to benefit oneself or another party, and causing harm to residents. Issuing erroneous certificates does not always constitute a crime; many cases fall into the category of administrative errors due to negligence, procedural deficiencies, or technical errors. This distinction is important to maintain legal certainty and prevent disproportionate criminalization of village officials. This study also shows that factors contributing to village heads being caught in criminal cases include abuse of authority, lack of administrative capacity, and the absence of clear regulatory guidelines. The impact of issuing erroneous certificates is far-reaching, both for village heads, who face criminal and reputational risks, and for the community, which can experience disputes, financial losses, and legal uncertainty.

Based on these findings, recommendations include the need for clear regulations and guidelines to distinguish between administrative errors and criminal acts, including consistent standard operating procedures (SOPs) for issuing land certificates in villages. Preventive efforts through legal and administrative training for village officials, internal and external oversight, and the use of digital administration systems are crucial steps to improve accuracy,



transparency, and accountability. This preventative approach minimizes the risk of incorrect certificate issuance, protects community land rights, and maintains public trust in the land system and village government. This also encourages professional, proportional, and equitable land governance.

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