Progressive Law Review Volume 5 No. 2 November 2023 University of Bandar Lampung (e-ISSN) 2716-2141, progrresivelawreview.ubl.ac.id



LEGAL CERTAINTY CERTIFICATE OF LAND RIGHTS UNDER NATIONAL LAW

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Abstract: The land is a natural resource that has strategic value in the life of society and the development of a country. Land title certificates serve as proof of the legality of land ownership and provide legal certainty to landowners. The data findings show that land ownership certificates play an important role in building legal certainty and protecting the rights of landowners. This study also examines the legal provisions governing the issuance, registration, and transfer of certificates of ownership of land, as well as the rights and obligations associated with them. This section further analyzes available legal remedies in the event of a dispute or challenge to the validity of land ownership certificates. This study uses a normative juridical method because this method plays an important role in the systematic understanding and application of the law by ensuring legal certainty and ensuring consistency of the legal process. Researchers take the problem of (1) What is the meaning and importance of legal certainty of ownership of certificates of land rights?, (2) What are the roles and responsibilities of the government in ensuring legal certainty of certificates of land rights based on national law? Hopefully, this research will contribute to understanding the legal framework around land titles in a national context and highlight the importance of legal certainty in promoting land rights and facilitating economic development. It will be able to provide insights and recommendations for policymakers, legal practitioners, and stakeholders involved in land administration to improve the effectiveness and efficiency of the land registration system and ensure the protection of land rights under national

Keywords: Land Tittle Certificates; Protetion; National Law..

I. INTRODUCTION

In some areas, especially in developing countries, the land recording and documentation system is not yet perfect. There are many cases where there are no clear records of ownership of land or the boundaries of legitimate property. This creates uncertainty and often leads to conflicts between individuals, groups of people, or even governments. Without clear records and papers, it is difficult to

determine exactly who is the legal owner of a land plot.¹ This creates uncertainty and ambiguity about property rights, which can lead to disputes between individuals, groups, or interested parties. Parties who do not have legal land rights may try to falsify or alter documents to make improper claims of rights. This can lead to disputes with the beneficial owner or other interested parties.²

The aspect of legal certainty of land ownership is one of the main principles of the national legal system. In many countries, including Indonesia, the law provides a solid legal basis for the protection of land rights and legal certainty regarding land rights certificates. In the law will play a role in regulating more detail about land rights, the registration process, the division of land, and the protection of the rights of landowners. In general, the Basic Law plays a central role in determining the certainty of land ownership. They provide a solid legal basis, protect property rights, establish obligations and limits, and ensure that the laws governing land ownership are by constitutional principles.³ Therefore, the Constitution and the Basic Law create a solid legal framework to guarantee land ownership and protect the rights of landowners.

Several cases of disputes over property rights to land that have occurred in Indonesia are neatly summarized in the brief report of commission II of the House of Representatives "field of domestic government and regional autonomy, State Apartments and Bureaucratic Reform, land and election". In the evaluation of the handling of land problems, it showed that there were around 8,111 cases of land disputes during 2021, with reports on the results of handling cases that could be resolved by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency only around 1,591 cases. So the Commission II of the House of Representatives of the Republic of Indonesia encourages the ministry to pay attention to aspects of land use, and spatial appropriateness.⁴ Because considering the regulations stipulated in the law, it has been considered quite good disputes resolving land dispute issues.

In realizing what has been established by law, an organized and centralized land registration system must be an important foundation to ensure the legality of land use rights certificates. This system ensures that any change in ownership or grant of land use rights is officially recorded, to produce clear and accountable legal evidence. Because the land registration system aims to create clear and binding evidence of land ownership. Through the registration process, a person's land use rights are recorded in the form of a certificate of title to land. This certificate is a valid proof of who owns the land and what rights they have to the land. With the certificate, the certainty of land ownership can be guaranteed

¹ Rosmidah Rosmidah, Elizabeth Siregar, and Dony Yusra Pebrianto, 'Sosialisasi E-Sertifikat Tanah Dalam Rangka Mewujudkan Kepastian Hukum Di Indonesia', *Jurnal Karya Abdi Masyarakat*, 5.3 (2021), p. 62–69

² Fauzan Arga Wirakusuma, Firdan Nursalfah Toni, and Rini Suwartika, 'Model Sistem Informasi Monitoring Berkas Kepemilikan Tanah Berbasis Web Pada Badan Pertanahan Nasional', *Jutisi: Jurnal Ilmiah Teknik Informatika Dan Sistem Informasi*, 10.3 (2021), p.567

³ Cholida Hanum, 'Analisis Yuridis Kedudukan Surat Edaran Dalam Sistem Hukum Indonesia', *Humani (Hukum Dan Masyarakat Madani)*, 10.2 (2020), p.138–53

⁴ Komisi II DPR RI, 'Laporan Singkat Komisi II DPR RI "Bidang Pemerintahan Dalam Negri Dan Otonomi Daerah, Apartur Negara Dan Reformasi Birokrasi, Pertanahan Dan Kepemiluan"', 2022

because there is a strong document as a legal basis.⁵

The establishment of a system related to land ownership should be accompanied by the importance of information on registered land rights to be widely available and accessible. Thus, interested parties can transparently verify the status and owner of land use rights. The dissemination of good information about land ownership can prevent disputes or multiple claims to land. With open and publicly available information, interested parties can verify and compare the status of existing land ownership. With good accessibility, parties who want to know the status of land ownership can easily obtain accurate and up-to-date information. This helps prevent misunderstandings, confusion, or unsubstantiated claims regarding land ownership.⁶

The previous study also discussed related to Article 19 of the UUPA ordered the government to register regions throughout the territory of the Republic of Indonesia.⁷ with the evidentiary val- ue of the land title certificate as proof of land ownership shows that the land ownership deed is valid as long as the issuance of the deed meets the requirements and procedures stipulated in the applicable regulations.⁸ however, there is a reason for the revocation of the certificate that is broken by the law which explains the rules of the Minister of Agriculture Article 1, Number 14 of 1999 which explains the cancellation of the decision granting land rights. Making its decisions has the disadvantage of Administrative Law legal defects that cause some improper practices or procedures in the application of the law.⁹

Through national legislation, land use rights holders have the legal right to protect their rights from interference or infringement by other parties. In the event of a dispute, the court will ensure a fair and objective settlement under current legislation. Law enforcement and dispute resolution procedures are also part of the procedures used to regulate the security of land ownership. In the event of a dispute or violation of property rights, the established legal procedure dispute.10 be followed to resolve the This requires independent and fair judiciary that resolves disputes and ensures the security of land ownership. The legal security of land use rights also requires effective law enforcement and close supervision by relevant organizations, such as the National Land Agency (BPN) in Indonesia. These organizations are responsible for ensuring

⁵ Abdul Mutalib Saranani, 'Tinjauan Hukum Tentang Pembuktian Sertifikat Dalam Penyelesaian Sengketa Tanah', *Sibatik Journal: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, Dan Pendidikan*, 1.3 (2022), p.173–84

⁶ Bhim Prakoso, 'Pendaftaran Tanah Sistematis Lengkap Sebagai Dasar Perubahan Sistem Publikasi Pendaftaran Tanah', *Journal of Private and Economic Law*, May, 2021, p.63–82

⁷ Rahmat Ramadhani, 'Pendaftaran Tanah Sebagai Langkah Untuk Mendapatkan Kepastian Hukum', *SOSEK Jurnal Sosial Ekonomi*, 2.1 (2021), p. 31–40

⁸ Klaudius Ilkam Hulu, 'Kekuatan Alat Bukti Sertifikat Hak Milik Atas Tanah Dalam Bukti Kepemilikan Hak', *Jurnal Panah Keadilan*, 1.1 (2021), p. 27–31

⁹ Ni Made Silvia Gayatri, I Putu Gede Seputra, and Luh Putu Suryani, 'Pembatalan Sertifikat Hak Milik Atas Tanah Akibat Cacat Administrasi', *Jurnal Analogi Hukum*, 3.1 (2021), p.79–83

¹⁰ Istijab, 'Penyelesaian Sengketa Tanah Sesudah Berlakunya Undang-Undang Pokok Agraria', *Widya Yuridika Jurnal Hukum*, 1960, p.11–23

that the land registration process is carried out correctly and is free from illegal activities or abuse.

Normative legal method is an approach that is carried out through the study of theories, concepts, principles of law and legislation based on basic legal materials in the framework of this study. This approach is also called librarianship, through the review of books, legislation, and other documents related to the study. The standard legal method plays an important role in the systematic understanding and application of law by ensuring legal certainty and ensuring the consistency of legal proceedings. So that researchers can interpret the meaning of legal norms based on existing legal texts or clauses and use relevant legal interpretation rules. researchers can also compare legal standards with similar cases decided by courts in the past.

In accordance with the title and topic discussed, researchers see the normative legal method is very suitable for use. In the context of legal certainty of land title certificates, researchers collect relevant laws, regulations, and results of a ptusan inkrah to analyze the standards of issuance, registration, and protection of property rights. By examining all available data materials, researchers can interpret the meaning of sentences or sections of regulations relating to the issuance of land title certificates, land title boundaries, and certificate protection. And later the results that can be generated from this study researchers can identify registration procedures, requirements, procedures and legal protection related to seland property rights set forth in the national legislation

II. DISCUSSION

Importance of legal certainty of ownership of land rights certificate

Recognizing the value of land to humanity and the fact that it is a non-renewable natural resource, the Indonesian government issued a set of rules to regulate the use, distribution, and exploitation of land for the benefit of humanity. 11 legal certainty of ownership of land rights certificates provides confidence to landowners, communities, and related parties in land ownership and land use. This principle promotes stability, fairness, and protection of land ownership rights in the applicable legal system. In a sale-purchase transaction, a certificate of title to land becomes the necessary legal basis for transferring ownership of the land from the seller to the buyer. The parties involved in the transaction can ensure that the ownership of the land has been legally recognized and well-documented.

Certificate of land use rights in the context of law refers to an official document issued by the National Land Agency (BPN) or other competent authorities. This certificate is valid written evidence of ownership or other rights to the land. The National Land Agency (BPN) itself is the government agency responsible for implementing land registration in Indonesia. BPN has a role in regulating, managing, and supervising the land registration process throughout Indonesia.

¹¹Agus Supriyo and Universitas Muhammadiyah Surabaya, 'Tinjauan Yuridis Terhadap Pemanfaatan Tanah Aset Milik Pt Kai Oleh Pihak Ketiga Di Daop VIII Surabaya', 9.6 (2022), p.48

BPN is also responsible for developing land-related policies and regulations.¹² Land title certificates provide legal certainty for landowners and protect their rights to the land. This document includes important information such as data on the identity of the landowner, the geographical boundaries of the land, the area of the land, and the type of land rights owned. In the certificate of land rights, several types of rights can be listed, including:

- 1. Proprietary: "Hak milk is the most powerful right to land that gives the owner the
 - full right to own, use, control and use his land by the provisions of applicable law. Landowners with a certificate of full title have inheritable rights and can be used as collateral for financial transactions."
- 2. Right to Use Business: "Hak Guna Usaha is granted to an individual or legal entity to use state land or customary land controlled by the state for certain commercial activities. Right to Use Business owners have the right to control and use their land for a certain period by the established agreement."
- 3. Building Use Rights: "Hak guna bangunan gives the right to the owner to build, own and use a building on land that does not belong to him. HGB holders can use their land for a certain period with certain conditions."
- 4. Right of Use: "Hak Pakai is granted to a natural or legal person to use land belonging to the state or another party for a specific purpose, such as a residence or commercial activity. A person who has the right to use does not own the land but has the right to use and use the land according to the agreement in force."

Land title certificate is a proof of ownership or right to land that is legitimate and important in buying and selling transactions, securing and protecting land rights legally. Land use certificate holders have legal guarantees of their land use rights and are protected by law to prevent disputes or violations of their land use rights. To avoid problems to the detriment of one of the parties, it is necessary to comply with the provisions of the law.¹³

Land registration has important benefits for landowners and society as a whole. Land Registry provides legal certainty, protects ownership rights, prevents disputes, facilitates investment, and supports economic development. In addition, the Land Registry also assists the government in managing Land Resources Efficiently and sustainably. There are several legal bases in making ownership of land rights certificates, including;

1. Constitution of the Republic of Indonesia year 1945: "Article 33 paragraph (3) of the 1945 Constitution, states that the earth, water and Natural Resources contained therein are controlled by the state and used to the greatest extent for the prosperity of the peo- ple. This provision is the

¹² Mira Novana Ardani, 'Penyelenggaraan Tertib Administrasi Bidang Pertanahan Untuk Menunjang Pelaksanaan Kewenangan, Tugas Dan Fungsi i Badan Pertanahan Nasional', *Administrative Law and Governance Journal*, 2.3 (2019), p.476–92

¹³ Ade Dwi Aprilia and Agus Supriyo, 'Jual Beli Tanah Yang Bersertifikat Dijaminkan Hutang Menurut Uu No 5 Tahun 1960', 6.2 (2022).

- constitutional basis for the regulation of property rights and land use rights in Indonesia."
- 2. Agrarian Basic Law (UUPA) No. 5 of 1960, "UUPA is an agrarian law that regulates land rights and agrarian agreements in Indonesia. The UUPA provides the legal basis for land registration, land use rights, land acquisition and legal protection related to land."
- 3. Law No. 4 of 1996 on mortgage rights, "this law regulates liens that can be registered on land. this right is used as collateral in a credit or loan that gives the creditor the right to enforce the collateral if the debtor defaults."
- 4. Government Regulation No. 24 of 1997 on Land Registration, "this regulation regulates land registration, including First Time land registration, data changes, cancellation of registration, and renewal of land registration. This regulation is the operational basis for the National Land Agency (BPN) in implementing land registration in Indonesia."
- 5. Government Regulation No. 103 of 2015 concerning amendments to Government Regulation No. 24 of 1997 concerning land registration, "this regulation is a change from the previous regulation that provides adjustments and updates to the procedures for land registration."

In addition, there are local regulations governing land registration procedures at the provincial or district/city level. These arrangements can differ from region to region depending on the needs and characteristics of the local area. it is important to always consult the applicable laws and regulations and consult with the National Land Agency (BPN) or other relevant agencies to ensure proper understanding and compliance with the law in the land registration process in Indonesia.

However, disputes can arise when ownership claims of two or more parties claiming to be the rightful owners of the same property overlap. This can happen if there is ambiguity in the history of the transfer of property rights, a complicated division of inheritance, or an administrative error in the entry in the land register. If the land boundary is not clearly defined in the certificate or if there are differences in interpretation between the interested parties, a land boundary dispute can arise. This usually happens in the case of the division of people or the common division of land between different owners.¹⁵

Disputes can arise between communities and institutions. Disputes are different interests between individuals or institutions on the same issue, which are manifested in the relationship between them. Disputes can be individuals, groups, institutions, or institutions that claim control over one or more lands, forests, and natural resource areas. Anyone who claims to own a piece of land, forest, or natural resource (object) necessarily does so based on legitimacy

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¹⁴ Anang Dony Irawan and Fadli Fadli, 'The Legitimacy of the Muhammadiyah Association as a Legal Subject in Ownership of Land Rights', *Journal of Islamic and Muhammadiyah Studies*, 1.1 (2020), p.3

¹⁵ Johamran Pransisto, Kairuddin Karim, and Muhammad Akbar Fhad Syahril, 'Mewujudkan Kepastian Hukum Pendaftaran Hak Milik Atas Tanah Untuk Mencegah Timbulnya Sengketa Tata Usaha Negara', *Jurnal Litigasi Amsir*, 9.4 (2022), p.307–17.

(validity) that aims to convince. The process of land Registration involves checking and verifying the data submitted by the applicant. National Land Agency (BPN) or the competent authority to verify the claim of ownership and geographical boundaries of the land. By careful examination, disputes that may arise due to incorrect or overlapping claims can be prevented from the outset.¹⁶

Legal certainty of ownership of land documents is also important to prevent disputes and conflicts related to land ownership. Homeowners have unambiguous proof of ownership. This can reduce the likelihood of disputes and minimize the risk of land-related conflicts. Prevention of disputes related to legal certainty of ownership of land rights is an important step to minimize the risk of conflict and maintain the stability of land rights. By implementing a transparent registration mechanism, thorough examination, and effective dispute resolution, it is hoped that land disputes can be minimized so that land rights can be realized.¹⁷

The role and responsibility of the government in ensuring the legal certainty of land rights certificates based on national law

In Indonesia, the land is the center of a nation's development and can be used for the happiness and prosperity of its citizens. ¹⁸ Indonesian people should be able to have what God has provided. With the recognition of every Indonesian society in having recognition of land rights legally. Seeing this can provide legal certainty for individuals or groups in owning, controlling, and transferring land by applicable regulations. Clear and strong land ownership encourages the active participation of people in the economic and social development of the country.

Many jurisdictions require the registration of land in an organized registration system. This land registration is intended to ensure legal certainty of land ownership, facilitate sale and purchase transactions, and ensure legal protection of landowners. Government Regulation No.24 of 1997 on land registration is a relevant regulation and can be used as a legal basis to regulate land certificate regulations in Indonesia. This regulation was issued to implement the "Constitution of the Republic of Indonesia year 1945 and also in the basic agrarian law No. 5 of 1960".

Related to the land registration procedure itself, which includes the requirements, processes, and documents required to obtain a land certificate. This creates a clear legal basis for parties who want to apply for land certificates related to ownership and acquisition of land use rights. ¹⁹ including provisions on property rights, utilization rights, use rights, management rights, and land lease rights. This

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¹⁶ Vani Wirawan, 'Alternatif Upaya Pencegahan Kejahatan Mafia Tanah Dalam Perspektif Hukum Administrasi Pertanahan', *Legal Standing: Jurnal Ilmu Hukum*, 7.1 (2022), p.47–58

¹⁷ M. Syuib and Sarah Diana Aulia, 'Implementasi PTSL Sebagai Upaya Pencegahan Konflik Pertanahan Di Kecamatan Ingin Jaya Kabupaten Aceh Besar', Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-Undangan Dan Pranata Sosial, 6.2 (2021), p.217

¹⁸ Ega Permatadani and Anang Dony Irawan, 'Kepemilikan Tanah Bagi Warga Negara Asing Ditinjau Dari Hukum Tanah Indonesia', *Khatulistiwa Law Review*, 2.2 (2021), p. 348–58

¹⁹ Zico Trevor Malli, 'Prosedur Pendaftaran Hak Atas Tanah Menurut Undang-Undang Nomor 5 Tahun 1960 Tentang UUPA', *Lex Et Societes*, 87.1,2 (2017), p. 149–200

Regulation describes the process of transfer of land use rights, transfer of inheritance rights or agreements, as well as various mechanisms for the legal transfer of rights, providing legal protection to landowners who already have a valid land use rights certificate. This regulation regulates the validity of land certificates, the legal recognition of certificate holders, and the use of certificates as evidence in court.

In practice, the government plays an important role in ensuring the legal certainty of ownership of land rights. The government should issue clear regulations, update and improve the land registration and registration system, and ensure effective enforcement of laws to protect the rights of landowners. The legal certainty of ownership of land rights creates an environment conducive to investment, development and social justice in society. Because with land rights holders are protected by law in maintaining ownership of the land. Provide space to national law in regulating enforcement mechanisms to protect landowners from encroachment, seizure or abuse of land use rights. In case of violation, the certificate holder may take legal action and request that his rights be restored.²⁰

Allocation of Registration Authority between the National Land Agency (BPN) and the Land Office. This article regulates the duties, functions, and authority of each authorized agency in conducting land registration and granting land certificates. "Government Regulation No. 24 of 1997 on land registration". The system used in this regulation is the "negative publication system with a positive tendency" what is meant by the negative system is that if the information on the certificate/property book is incorrect, it can be changed, giving the opportunity to anyone who feels entitled to fight for their rights for as long as possible. Proves otherwise ac- cording to the law of proof. This is possible only 5 years after the certificate is issued. while the positive tendency means the implementation of land registration plays an active role.

In addition to the government, there is also the role of notaries in maintaining the success of the implementation of regulations that have been made. The existence of notary who serves as a public official in the field of law is expected to be able to carry out all its functions that have been regulated both in the law and the code of ethics must be able to exist as well as possible. Therefore, a notary providing services to the community needs legal protection and guarantees to achieve legal certainty. The right of notaries to be respected, protected, and obeyed is a form of the legal protection of the rights of notaries as public servants and is the result of the transfer of interests carried out by the notary legislative process in maintaining a legal or parliamentary form.²²

²⁰ R Verawati, W V R Salshadilla, and Sholahuddin Al-Fatih, 'Kewenangan Dan Peran Peraturan Daerah Dalam Menyelesaikan Sengketa Agraria', ... Jurnal Penelitian Hukum ..., 19.2 (2020), p. 127–28

²¹ Government The Republic Of Indonesia, 'PP No. 24 Tahun 1997 Tentang Pendaftaran Tanah', *Icassp*, 21.3 (1997), p,295–316

²² Khoirotul Ummah Andriana and Anang Dony Irawan, 'Perlindungan Hukum Bagi Notaris

Although government regulation has several advantages and good goals, it still has some disadvantages. Some shortcoming of " Government Regulation No. 24 of 1997 on land registration", is that this regulation does not expressly regulate the procedures for updating land data. This can lead to uncertainty and conflicts in the land registry about the community, because this PP does not provide adequate sanctions and clear enforcement mechanisms against violations or manipulation of land registration data. Therefore, this can be an obstacle for people with low economic ability to register land.²³ which in turn can hinder the economic and social development of the area. Therefore, this government regulation does not adequately pro-tect the rights of Indigenous people regarding land ownership and use.²⁴

The weakness of the negative publication system has a positive tendency that the validity of rights and their transfer is determined by the validity or not of legal acts committed, not by registration. Therefore, the owner of the land certificate may be involved in a dispute over the land he registered. However, this system is fairer because it respects customary land ownership and those who lose their rights to their land through expropriation can regain their rights.²⁵ Therefore, a claim by citizens known in the country adheres to the general legal system, basically lawsuits by citizens should be the responsibility of State administrators or the government for their negligence.

So, in this issue, the government must maintain effective enforcement of land ownership laws. In the event of a dispute or violation of land rights, the government must provide fair and efficient access to the judicial system to resolve the issue. This includes ensuring an independent judiciary, as well as an effective alternative dispute resolution mechanism. Because the government has a responsibility to provide education and raise public awareness about land use rights and the importance of having a valid land use rights certificate. This includes legal education to the public about the land registration process, the importance of having a land title, and the rights and obligations associated with land ownership.

III. CONCLUSION

National legislation plays an important role in providing a clear and stable legal basis for the issuance, registration and protection of land title certificates. Legal norms contained in legal orders, court decisions and other legal documents are the main reference to ensure legal certainty for landowners. It requires that the collection of relevant documents, verification of information and the establishment

Dalam Pembuatan Akte Berdasarkan Keterangan Palsu Dari Para Pihak', *Academicos*, 1.1 (2022), p. 25–37

²³ Fredrik Mayore Saranaung, 'Peralihan Hak Atas Tanah Melalui Jual Beli Menurut Peraturan Pemerintah Nomor 24 Tahun 1997', *Lex Crimen*, 1, 2015, p.1–27

²⁴ Mikha Ch. Kaunang, 'Proses Pelaksanaan Pendaftaran Tanah Menurut Peraturan Pemerintah Nomor 24 Tahun 1997', *Lex Crimen*, V.April (2016)

 ²⁵ Oldy Rosy and others, 'Peran Mediasi Dalam Penyelesaian Sengketa Tanah Adat Setra Karang Rupit Di Pengadilan Negeri Singaraja Kelas 1B', Ganesha Law Review,
 2.2 (2021), p. 155–66

of clear boundaries of land rights. If disputes arise over property rights, dispute resolution mechanisms existing under national laws can be used to seek fair and legal solutions. Although national legislation provides a clear legal framework for the legal certainty of land title deeds, there are still challenges and obstacles to their implementation. Challenges that can be faced include public ignorance or awareness of registration procedures, changes in policies or regulations, and low legal awareness to confirm and protect land rights. Because with the legal certainty of land rights certificates based on national legislation, it is expected to create a more stable situation, increase investment in real estate, provide certainty of land rights to owners, and minimize the occurrence of conflicts and disputes related to land. property matters. This has a positive impact on the economic and social development of the community and the maintenance of order and justice in national land ownership.

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