



Regulatory Challenges in Addressing Illegal Land Use in Residential Property Transactions

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ABSTRACT

Illegal land use in residential property transactions has become a major legal issue in developing countries due to rapid urbanization, weak institutional coordination, and fragmented regulations. Practices such as unauthorized land conversion, overlapping ownership claims, and fraudulent land certification undermine legal certainty and sustainable urban governance. This study analyzes regulatory challenges in addressing illegal land use and evaluates the effectiveness of existing legal frameworks. Using a normative juridical method with statutory and conceptual approaches, the study finds that regulatory fragmentation, corruption, weak law enforcement, and administrative inefficiency significantly contribute to illegal land practices. The study concludes that integrated land governance reform and stronger institutional accountability are essential to improve legal certainty and sustainable residential property governance.

INTRODUCTION

Land constitutes one of the most strategic resources within modern society because it functions not only as an economic asset but also as a social, political, environmental, and legal instrument that influences development and public welfare. Rapid urbanization and increasing population growth have significantly intensified demand for residential property, particularly in developing countries experiencing accelerated urban expansion. However, this growing demand has simultaneously increased the prevalence of illegal land use practices within residential property transactions, including unauthorized land conversion, fraudulent land ownership documentation, illegal occupation of land, and residential development within environmentally protected or restricted zones.

Illegal land use in residential property transactions has become increasingly complex because land governance systems involve multiple legal and administrative sectors, including agrarian law, spatial planning law, environmental law, administrative law, housing regulation, and consumer protection law. In practice, these regulatory frameworks frequently overlap and are implemented inconsistently among governmental institutions. Such conditions create legal loopholes that can be exploited by developers, intermediaries, speculative actors, and corrupt administrative officials (Widiyono & Khan, 2023).

The increasing commercialization of urban housing development has further intensified pressure on land resources. Urban expansion frequently occurs faster than institutional supervision capacity, causing agricultural land, forest areas, and conservation zones to be converted into residential developments without proper legal authorization. Bayuma (2025) argued that informal and unauthorized land utilization continues to increase in rapidly urbanizing regions due to weak institutional governance and inadequate regulatory enforcement.

The issue of illegal land use also directly threatens the principle of legal certainty, which represents one of the most important objectives within modern legal systems. Legal certainty requires that ownership rights, administrative procedures, zoning regulations, and property transactions be transparent, consistent, and enforceable. However, illegal land practices often create overlapping ownership claims, prolonged litigation, administrative disputes, and financial losses for residential property buyers acting in good faith.

In Indonesia, legal regulation concerning land administration is primarily governed by Law Number 5 of 1960 concerning Basic Agrarian Principles (Undang-Undang Pokok Agraria/UUPA). Article 19 of the law states:

“To guarantee legal certainty by the Government, land registration shall be conducted throughout the territory of the Republic of Indonesia according to provisions regulated by Government Regulation.”

This provision demonstrates that land registration constitutes a fundamental mechanism for ensuring legal certainty regarding ownership rights and land utilization. Furthermore, Law Number 26 of 2007 concerning Spatial Planning establishes zoning obligations and regulates land utilization according to officially approved spatial planning frameworks. Article 61 provides:

“Every person shall comply with the spatial planning established in the utilization of space.”

Despite these regulations, illegal land use practices remain widespread within residential property transactions. Cases involving double certification, zoning violations, unauthorized residential construction, and land disputes continue to emerge in various urban and peri-urban regions. These conditions indicate that legal regulation alone remains insufficient without effective institutional coordination, technological integration, administrative accountability, and consistent law enforcement.

Recent legal reforms have attempted to strengthen land administration systems through digitalization and integrated governance mechanisms. Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration introduced electronic land registration procedures intended to improve transparency and reduce administrative manipulation. However, implementation challenges remain substantial due to technological limitations, bureaucratic resistance, corruption, and unequal institutional capacity.

Several recent studies have emphasized the importance of integrated land governance systems. Siyum (2023) found that fragmented urban land governance systems significantly contribute to informal settlements, unauthorized land occupation, and administrative conflict. Similarly, Abedi (2025) argued that digital transformation and integrated dispute resolution systems are increasingly necessary to strengthen legal certainty within modern land administration systems.

Nevertheless, previous studies generally focus separately on land disputes, zoning violations, property fraud, or urban planning problems. Limited research comprehensively examines illegal land use within residential property transactions from an integrated legal governance perspective involving institutional fragmentation, administrative corruption, digital governance, and consumer protection simultaneously.

This study aims to analyze the regulatory challenges in addressing illegal land use within residential property transactions and evaluate the effectiveness of current legal frameworks in ensuring legal certainty, institutional accountability, and sustainable urban development.

THEORETICAL REVIEW

Land Governance and Legal Certainty

Land governance refers to the legal, institutional, administrative, and political mechanisms through which land ownership, land use, and spatial development are regulated. Effective land governance is essential for maintaining legal certainty, investment stability, environmental sustainability, and social justice. According to Enemark et al. (2021), modern land governance systems must integrate cadastral administration, zoning regulation, environmental protection, and digital information systems to ensure efficient and transparent land management. Weak governance systems frequently produce overlapping ownership claims, land disputes, and unauthorized land utilization. Legal certainty constitutes a central principle within land administration systems.

Widiyono and Khan (2023) emphasized that legal certainty in land ownership remains difficult to achieve due to inconsistent implementation of regulations, overlapping authority, and weak coordination among governmental institutions.

Illegal Land Use in Residential Property Transactions

Illegal land use generally refers to land utilization practices that violate statutory regulations, zoning restrictions, ownership requirements, or environmental obligations. Common forms of illegal land use include unauthorized land conversion, construction within protected areas, falsification of land ownership documents, and residential development without valid permits. Law Number 26 of 2007 concerning Spatial Planning regulates spatial utilization obligations and establishes sanctions for zoning violations. Article 69 states that violations of spatial planning policies may result in administrative sanctions, permit revocation, and criminal penalties. Recent research demonstrates that illegal land conversion continues to increase in urbanizing regions due to weak institutional supervision and rapid property commercialization (Bayuma, 2025).

Institutional Fragmentation and Administrative Weakness

Land governance systems typically involve multiple institutions responsible for land registration, environmental permits, zoning approval, taxation, and residential licensing. However, fragmented institutional authority frequently creates inconsistent administrative procedures and weak law enforcement mechanisms. Siyum (2023) explained that institutional fragmentation significantly contributes to illegal land occupation and land disputes because different agencies maintain separate databases and verification systems. Government Regulation Number 18 of 2021 introduced electronic land registration reforms intended to improve coordination and transparency. Article 84 states that electronic land registration may be implemented to improve legal certainty and administrative efficiency. Nevertheless, implementation remains inconsistent due to limited technological infrastructure and institutional resistance.

Consumer Protection in Property Transactions

Residential property buyers frequently experience legal vulnerability because they possess limited access to transparent land information and insufficient legal literacy regarding land verification procedures. Developers and intermediaries generally maintain greater control over administrative information, creating information asymmetry within property transactions. Law Number 8 of 1999 concerning Consumer Protection establishes consumer rights regarding transparency and legal protection. However, specific mechanisms concerning land legality verification remain relatively weak within residential property governance systems.

METHODOLOGY

This study employs a normative juridical research method with a qualitative approach. The normative juridical method was selected because the research focuses on examining statutory regulations, legal doctrines, institutional governance frameworks, and legal principles related to illegal land use in residential property transactions. Primary legal materials include:

1. Law Number 5 of 1960 concerning Basic Agrarian Principles.
2. Law Number 26 of 2007 concerning Spatial Planning.
3. Law Number 8 of 1999 concerning Consumer Protection.
4. Law Number 32 of 2009 concerning Environmental Protection and Management.
5. Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration.

Secondary legal materials consist of academic journals, legal commentaries, policy reports, and recent studies published between 2021 and 2025 discussing land governance, urban development, zoning regulation, and property law. Data collection was conducted through documentation and literature review techniques. The collected materials were analyzed qualitatively using statutory, conceptual, and comparative legal approaches. Data interpretation focused on identifying recurring patterns concerning regulatory fragmentation, institutional weakness, corruption, digital governance challenges, and consumer vulnerability.

RESEARCH RESULTS

Regulatory Fragmentation in Land Governance

The findings indicate that regulatory fragmentation remains one of the primary causes of illegal land use within residential property transactions. Multiple institutions possess overlapping authority concerning land registration, zoning verification, environmental permits, and residential development licensing. Developers frequently exploit inconsistencies between institutional databases and administrative procedures to obtain permits despite violating zoning regulations or environmental restrictions. This condition creates significant legal uncertainty because residential projects may receive partial approval from certain agencies while simultaneously violating regulations enforced by others. The findings further reveal that coordination between central and regional governments remains inconsistent. Decentralization policies intended to strengthen local governance have, in practice, generated uneven regulatory interpretation and varying law enforcement standards among regions.

Weaknesses in Land Registration Systems

The study identified substantial weaknesses within land registration systems, including incomplete cadastral mapping, inconsistent ownership records, delayed registration updates, and limited interoperability between databases. Double certification practices remain one of the most serious problems identified within residential property transactions. Multiple ownership certificates are sometimes issued for the same land parcel due to administrative negligence or corruption. Manual administrative systems also continue to dominate several regional land offices despite digitalization reforms. These conditions increase the risk of document manipulation, bureaucratic inefficiency, and fraudulent transactions.

Corruption and Abuse of Authority

Corruption was identified as a major factor facilitating illegal land use practices. Bribery and political intervention frequently influence zoning approvals, permit issuance, and dispute resolution processes. The findings demonstrate that developers possessing strong political relationships may obtain residential permits despite violating environmental regulations or spatial planning obligations. Administrative corruption also occurs within land registration services through document falsification, unofficial payments, and bureaucratic delays.

Consumer Vulnerability

Residential property buyers remain highly vulnerable due to limited legal literacy and inadequate access to transparent land information. Buyers frequently rely solely on developers or intermediaries without independently verifying ownership legality, zoning compliance, or permit validity. Consumers often become victims of fraudulent transactions involving disputed land, uncertified land, or illegally converted agricultural areas.

DISCUSSION

The findings demonstrate that illegal land use within residential property transactions represents a systemic governance problem involving institutional fragmentation, weak administrative systems, corruption, and inadequate legal enforcement. Regulatory fragmentation significantly undermines legal certainty because overlapping institutional authority creates inconsistent administrative decisions and weak supervision mechanisms. These findings are consistent with Siyum (2023), who emphasized that fragmented governance structures frequently contribute to unauthorized land occupation and urban land disputes.

The persistence of double certification and ownership disputes indicates that current land registration systems remain administratively vulnerable. Although Government Regulation Number 18 of 2021 introduced electronic registration reforms, implementation remains inconsistent due to technological limitations and institutional resistance.

Corruption further exacerbates illegal land use practices by enabling developers to circumvent zoning regulations and environmental restrictions. Such conditions contradict Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states:

“Earth, water, and natural resources contained therein shall be controlled by the State and utilized for the greatest prosperity of the people.”

The misuse of authority for private economic interests therefore undermines constitutional principles concerning social justice and sustainable development. The vulnerability experienced by residential property buyers also reflects weaknesses in consumer protection mechanisms. Existing legal frameworks primarily emphasize contractual obligations without requiring comprehensive land legality verification procedures. Consequently, buyers acting in good faith remain exposed to significant legal and financial risks. The findings indicate that integrated digital cadastral systems, interoperable institutional databases, and transparent zoning verification mechanisms are essential for improving legal certainty and reducing fraudulent transactions.

CONCLUSIONS AND RECOMMENDATIONS

Illegal land use within residential property transactions represents a complex regulatory and governance challenge involving institutional fragmentation, administrative weakness, corruption, inadequate digital integration, and limited consumer protection. The findings demonstrate that overlapping legal frameworks and inconsistent institutional coordination significantly contribute to unauthorized residential development, zoning violations, and ownership disputes. Weak land registration systems and corruption further increase legal uncertainty and consumer vulnerability.

The study concludes that effective prevention of illegal land use requires harmonization between land law, spatial planning regulation, environmental governance, and consumer protection mechanisms. Strengthening institutional accountability, implementing integrated digital land administration systems, improving public legal literacy, and enforcing stricter sanctions against illegal land practices are essential for ensuring sustainable residential property governance and legal certainty.

ADVANCED RESEARCH

Future research is recommended to empirically examine the underlying factors contributing to the ineffectiveness of enforcement in symbolic regulations within administrative law, including institutional capacity, political will, and bureaucratic culture. Further studies may also adopt a comparative approach across different jurisdictions to identify best practices in transforming symbolic laws into enforceable and effective legal instruments. In addition, subsequent research could explore the impact of non-enforced regulations on public compliance, legal certainty, and trust in government institutions. It is also important for future scholars to develop evaluative frameworks capable of distinguishing between purely declarative regulations and those with practical enforceability. Thus, follow-up research is expected to contribute to the

development of administrative law policies that are not only normatively sound but also operationally effective and socially impactful.

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