



doi DOI: 10.46924/jihk.v8i1.469

Indefeasibility of Title and Its Protective Limits in the Contemporary Torrens System

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How to cite

Samudro, Velliana., & Rasji, Rasji.
2026. Indefeasibility of Title and
Its Protective Limits in the
Contemporary Torrens System.
Jurnal Ilmu Hukum Kyadiren 8(1),
232-249.
<https://doi.org/10.46924/jihk.v8i1.469>

Original Article

Abstract

Legal certainty in land rights constitutes a fundamental objective of modern land registration systems, including those based on the Torrens system through the application of the principle of indefeasibility of title. This study examines the regulation of the principle of indefeasibility of title under the Land Title Act 2000 of the Northern Territory, analyzes the nature and legal foundations of its exceptions, and evaluates its implications for the protection and certainty of land rights. The research employs a normative legal methodology utilizing statutory, conceptual, and comparative approaches. Legal materials are analyzed qualitatively through a comprehensive review of relevant legislation, legal doctrines, and scholarly literature. The findings demonstrate that the Land Title Act 2000 adopts a model of qualified indefeasibility, which affords strong protection to registered proprietors while recognizing limited statutory exceptions under Section 198 to preserve a balance between legal certainty and substantive justice. The implementation of this principle, reinforced by the mirror, curtain, and insurance principles, enhances transaction security, minimizes land disputes, and strengthens public confidence in the land registration system. Accordingly, the qualified indefeasibility model effectively promotes legal certainty while safeguarding substantive justice within the contemporary Torrens system.

Keywords: *Indefeasibility of Title, Torrens System, Legal Certainty, Land Registration, Land Title Act 2000*

Abstrak

Kepastian hukum hak atas tanah merupakan tujuan utama sistem pendaftaran tanah modern, termasuk melalui penerapan prinsip indefeasibility of title dalam Sistem Torrens. Penelitian ini bertujuan menganalisis pengaturan prinsip *indefeasibility of title* dalam *Land Title Act 2000 Northern Territory*, mengkaji bentuk dan dasar hukum pengecualiannya, serta menganalisis implikasinya terhadap perlindungan hukum dan kepastian hak atas tanah. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan perbandingan. Bahan hukum dianalisis secara kualitatif melalui studi kepustakaan. *Land Title Act 2000* menerapkan prinsip *qualified indefeasibility* yang memberikan perlindungan kuat kepada pemilik terdaftar, namun tetap mengakui pengecualian tertentu berdasarkan *Section 198* untuk menjaga keseimbangan antara kepastian hukum dan keadilan. Penerapan prinsip tersebut, yang didukung *mirror principle*, *curtain principle*, dan *insurance principle*, meningkatkan keamanan transaksi, mengurangi sengketa, serta memperkuat kepercayaan terhadap sistem pertanahan. Oleh karena itu, model *qualified indefeasibility* mampu mewujudkan kepastian hukum sekaligus mempertahankan keadilan substantif dalam Sistem Torrens modern.

Kata kunci: *Indefeasibility of Title, Sistem Torrens, Kepastian Hukum, Pendaftaran Tanah, Land Title Act 2000*

1. INTRODUCTION

Land constitutes a fundamental resource with significant strategic value in human society, serving not only as a place of residence but also as a means of production, an investment asset, and a key instrument for economic and social development.¹ As population growth, urbanization, infrastructure expansion, and economic activity continue to accelerate, the value and functions of land have become increasingly complex. Consequently, the legal relationship between individuals and land has grown more dynamic, requiring a land law system capable of ensuring legal certainty, protecting property rights, and facilitating effective dispute resolution. Legal certainty in the land sector is particularly important because the absence of secure ownership and control rights may hinder development initiatives and investment activities, thereby affecting social stability and economic growth.

Legal certainty is primarily achieved through the implementation of a land registration system, which functions to record, publicize, and validate land rights. Broadly speaking, two principal models of land registration have been developed: the deeds registration system and the title registration system. The deeds registration system focuses on recording the instruments underlying transfers of rights, whereas the title registration system treats land title itself as the primary object of registration, enabling direct access to information concerning the legal status of a parcel of land through the land register. Compared with the deeds registration system, title registration is generally regarded as providing a higher degree of legal certainty because it eliminates the need to investigate lengthy and often complex chains of title.

One of the most sophisticated forms of title registration is the Torrens system, introduced by Sir Robert Richard Torrens in South Australia in 1858. The system was developed in response to the deficiencies of the deeds registration model, which was widely considered complex, costly, and incapable of providing adequate legal certainty. The effectiveness of the Torrens system is founded upon three core principles: the mirror principle, the curtain principle, and the insurance principle. Collectively, these principles establish the land register as the authoritative source of legal information concerning land ownership and interests in land. Through their operation, the system promotes a land administration framework that is efficient, transparent, and reliable.

Among the defining features of the Torrens system, the principle of indefeasibility of title occupies a central position because it affords strong legal protection to registered proprietors. Nevertheless, developments in judicial practice and legal scholarship have demonstrated that such protection is not invariably absolute. In various jurisdictions, significant debate has emerged regarding the extent to which registered title should

¹ Gracia Putri, Jessica Fionita, dan Juan Matheus, "Lelang Eksekusi Kepailitan atas Tanah dan Bangunan yang Dimiliki Bersama oleh Pihak Ketiga dan Debitur Pailit," *Jurnal Supremasi* 14, no. 2 (20 September 2024): 1–15, <https://doi.org/10.35457/supremasi.v14i2.3810>.

remain protected in cases involving fraud, forgery, or administrative error. This debate has led to the development of the concepts of absolute indefeasibility and qualified indefeasibility, both of which seek to reconcile the objectives of legal certainty and substantive justice.

The Northern Territory of Australia provides a particularly valuable case study because it operates a Torrens-based land registration system under the Land Title Act 2000. This legislation not only regulates the creation and protection of registered land rights but also establishes mechanisms for correcting the register, resolving disputes, and compensating parties who suffer loss as a result of registration errors or administrative actions. These provisions indicate that the Northern Territory adopts a model of qualified indefeasibility, designed to balance the protection of registered proprietors with the rights and interests of parties adversely affected by defects in the registration process. As such, the Northern Territory model offers an important example of how a modern land registration system can integrate legal certainty, substantive justice, and governmental accountability within land administration.

The issue of legal certainty in land registration systems has attracted considerable attention in agrarian law scholarship due to its close relationship with the protection of property rights, the effectiveness of land administration, and the prevention of land disputes. Previous studies have consistently demonstrated that the degree of legal certainty provided by a land registration system is largely determined by the publication model adopted, the evidentiary status of registered titles, and the extent to which the state guarantees the accuracy and reliability of information contained in the land register.

Extensive scholarship has examined land registration systems and the legal certainty of land rights from a variety of perspectives. Arie Lestario and Erlina analyzed Indonesia's land registration system and concluded that the existing negative publication system with positive elements has not been able to provide optimal legal certainty. According to their findings, this limitation stems from the absence of a full state guarantee regarding the accuracy of the physical and juridical data contained in land certificates. Consequently, they advocated the adoption of a positive publication system to strengthen legal protection for land rights holders.²

Similarly, Amalia Nurfitriya Syukur, Nia Kurniati, and Yusuf Saepul Zamil investigated the progress of efforts to transition Indonesia's land registration framework toward a positive publication system. Their study revealed that the implementation of this initiative continues to face significant challenges, including concerns regarding the quality of data generated through the Complete Systematic Land Registration (PTSL) program, limitations in inter-agency coordination, and the absence

² Arie Lestario and Erlina Erlina, "Sistem Pendaftaran Tanah Yang Memberikan Perlindungan Hukum Bagi Pemegang Sertifikat Hak Atas Tanah Di Indonesia," *Notary Law Journal* 1, no. 1 (2022): 1–30, <https://doi.org/10.32801/nolaj.v1i1.1>.

of the administrative and technical prerequisites necessary for comprehensive implementation.³

Another study by Annisa Weningtyas, Rahayu Subekti, and Purwono Sungkowo Raharjo examined the concept of indefeasible title in the context of electronic land certificates as a mechanism for preventing land-related fraud and organized land crime. Their findings suggest that the negative publication system continues to create opportunities for disputes and data manipulation, thereby necessitating stronger mechanisms for validating and protecting registered rights through digital certification.⁴ Likewise, Ezar Bramantia emphasized that legal certainty in land administration is closely linked to compliance with formal legal requirements, particularly the use of authentic deeds in transactions involving the transfer of land rights.⁵

Comparative studies conducted by Handar Subhandi Bakhtiar et al., Tvesha Bagaskara et al., and Stella and Benny Djaja demonstrate that jurisdictions such as Malaysia, Australia, and Singapore provide a higher degree of legal certainty through the implementation of the principle of indefeasibility of title, centralized registration systems, digitized land administration, and robust state guarantees concerning the accuracy of registered data.⁶ Nevertheless, research by Nur Atheefa Sufeena M. Suaree et al. cautions that strong protection of registered proprietors should not be applied without limitation, but rather balanced against the demands of substantive justice, particularly in cases involving fraud, forgery, or administrative error.⁷ Collectively, these studies indicate that legal certainty in land registration is shaped not only by the publication model adopted but also by the quality of registration data, institutional governance, technological development, and the ability of the legal framework to balance certainty with justice.

Despite the growing body of literature on land registration systems, existing studies have primarily focused on comparative analyses of registration models, the

³ Amalia Nurfitriya Syukur et al., “Perubahan Sistem Pendaftaran Tanah Menuju Publikasi Stelsel Positif Di Indonesia,” *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 15, no. 1 (2024): 97–116, <https://doi.org/10.22212/jnh.v15i1.4235>.

⁴ Annisa Weningtyas et al., “The Concept of Indefeasible Title in Electronic Land Certificates as an Initiative to Prevent Land Mafia,” *International Journal of Social Science and Religion (IJSSR)*, 2024, 145–68, <https://doi.org/10.53639/ijssr.v5i1.188>.

⁵ Ezar Bramantia, “Prinsip Kepastian Hukum Terhadap Peralihan Hak Atas Tanah Tanpa Akta Yang Dibuat Oleh Pejabat Pembuat Akta Tanah” (Universitas Abdurachman Saleh, 2024), <https://repository.unars.ac.id/id/eprint/2905/>.

⁶ Handar Subhandi Bakhtiar et al., “Studi Komparatif Hukum Kepemilikan Tanah Antara Indonesia Dan Malaysia,” *Referendum: Jurnal Hukum Perdata Dan Pidana* 2, no. 2 (2025): 40–55, <https://doi.org/10.62383/referendum.v2i2.725>; Tvesha Bagaskara et al., “Perbandingan Model Pendaftaran Tanah Berbasis Sistem Torrens Di Australia Dengan Sistem Pendaftaran Tanah Di Indonesia,” *Causa: Jurnal Hukum Dan Kewarganegaraan* 16, no. 1 (2025): 1491–500; Stella Stella and Benny Djaja, “Perbandingan Kepastian Hukum Kepemilikan Rumah Susun Di Indonesia Dan Singapura,” *Jurnal Usm Law Review* 9, no. 3 (2026): 1610–27, <https://doi.org/10.26623/julr.v9i3.14342>.

⁷ Nur Atheefa Sufeena M Suaree et al., “Assessing The Principle of Indefeasibility of Land Title Within The Framework of Maqasid Shariah In Malaysia,” *Al-Qanatir: International Journal of Islamic Studies* 34, no. 4 (2025): 25–33, <https://doi.org/10.64757/alqanatir.2025.3404/1197>.

implementation of positive publication systems, electronic land certificates, and the application of the principle of indefeasibility of title within the contexts of Indonesia, Malaysia, and Singapore. To date, no study has specifically examined the legal construction of the principle of indefeasibility of title under the Land Title Act 2000 of the Northern Territory, including the nature of the exceptions that limit the protection afforded to registered proprietors and their implications for the legal certainty of land rights. The novelty of the present study lies in its comprehensive examination of the concept of qualified indefeasibility, its identification and analysis of statutory exceptions to the principle, and its evaluation of how these exceptions contribute to balancing legal certainty, substantive justice, and state responsibility within a Torrens-based land registration system.

Based on the foregoing discussion and the identified research gap, this study seeks to:

- 1) Analyze comprehensively the legal provisions governing the principle of indefeasibility of title under the Land Title Act 2000 of the Northern Territory as an integral component of the modern Torrens system.
- 2) Examine the form, scope, and legal foundations of the exceptions to the principle of indefeasibility of title established under the Land Title Act 2000, as well as the underlying rationale for their recognition from the perspectives of legal certainty and justice.
- 3) Evaluate the implications of the principle of indefeasibility of title and its statutory exceptions for the protection and certainty of land rights in the Northern Territory, including their relationship to the mirror principle, curtain principle, and insurance principle that underpin the Torrens system.

2. RESEARCH METHODOLOGY

This study employs a normative legal research methodology, focusing on the examination of legal norms, principles, doctrines, and concepts governing the principle of indefeasibility of title within the land registration system of the Northern Territory, Australia. A normative approach is particularly appropriate because the study seeks to analyze the legal construction of the principle, the statutory exceptions that limit the protection afforded to registered proprietors, and the implications of those exceptions for the legal certainty of land rights under the Land Title Act 2000.

To achieve these objectives, the study adopts three complementary approaches: a statutory approach, a conceptual approach, and a comparative approach. The statutory approach is used to examine the provisions of the Land Title Act 2000 relating to the creation and protection of indefeasible title, the correction of the land register, and compensation mechanisms for parties adversely affected by registration errors. The

conceptual approach facilitates an analysis of the legal concepts underpinning the Torrens system, including indefeasibility of title, the mirror principle, the curtain principle, the insurance principle, and broader theories of legal certainty and legal protection. The comparative approach is employed to evaluate the regulatory framework of the Northern Territory in relation to other jurisdictions that implement the Torrens system, as well as Indonesia's land registration system.

The research relies on primary, secondary, and tertiary legal materials collected through an extensive review of legislation, judicial decisions, legal literature, and other relevant sources. These materials are analyzed qualitatively using a descriptive-analytical and prescriptive method. The analysis aims not only to explain the applicable legal framework but also to evaluate its effectiveness in promoting legal certainty, protecting land rights, and maintaining an appropriate balance between legal certainty and substantive justice within a modern land registration system.

3. RESEARCH RESULT AND DISCUSSION

3.1. The Principle of Indefeasibility of Title under the Northern Territory Land Title Act 2000 as a Component of the Modern Torrens System

Based on a normative analysis of the relevant statutory provisions, the principle of indefeasibility of title constitutes the cornerstone of legal certainty within the Northern Territory land registration system. However, its operation is not absolute; rather, it is structured through a legal framework that seeks to balance legal certainty, substantive justice, and state responsibility.

The principle of indefeasibility of title occupies a central position within the Torrens system because it serves as the primary foundation for the legal recognition of registered land ownership.⁸ Unlike the deeds registration system, which requires proof of ownership through a chain of title derived from successive transfer instruments, the Torrens system treats the land register as the authoritative source of ownership information. Consequently, an individual's status as a landowner is determined not by the historical validity of prior transactions but by the individual's registration as the proprietor in the official register maintained by the state. The legal consequence of this approach is that registration operates not merely as an administrative procedure but as a constitutive legal act that creates and protects registered rights. The Land Title Act 2000 reinforces this principle by granting substantial legal authority to the land register, thereby enabling members of the public to rely upon the information recorded therein without the need to investigate the historical chain of ownership.

⁸ Elisabetta Fiocchi Malaspina, "Universalising Colonial Law Principles on Land Law and Land Registration: The Role of the Institut Colonial International (1894)," *History of European Ideas* 49, no. 2 (2023): 395–410, <https://doi.org/10.1080/01916599.2022.2073680>.

The statutory framework governing indefeasibility of title demonstrates that the Land Title Act 2000 provides robust protection to registered proprietors against competing claims that are not reflected in the register. Such protection is intended to promote stability in land transactions and enhance public confidence in the land registration system. In practice, an individual who lawfully acquires and registers an interest in land receives legal recognition as the legitimate proprietor of that interest. As a result, third parties dealing with registered proprietors may rely on the information contained in the register without undertaking extensive inquiries into the prior history of the title. This arrangement exemplifies one of the defining characteristics of the Torrens system, namely the doctrine of title by registration, under which the register functions as the principal source of legal truth concerning land ownership.

The protection afforded to registered proprietors represents a direct manifestation of the mirror principle. Under this principle, the land register is expected to provide an accurate and complete reflection of the legal status of a parcel of land. Consequently, any person with an interest in a particular property should be able to ascertain its legal status by consulting the register alone. This feature promotes efficiency in land transactions while minimizing the risk of disputes arising from uncertainty regarding ownership and encumbrances. The analysis indicates that the protections established under the Land Title Act 2000 are designed not only to ensure legal certainty but also to facilitate economic activities that depend upon the security and reliability of land rights, including investment, financing, and property development.

In addition to protecting registered proprietors, the effective operation of the principle of indefeasibility of title depends substantially on the role of the Registrar-General. Under the Land Title Act 2000, the Registrar-General performs a function that extends beyond the mere recording of documents and transactions. The office serves as a guardian of the integrity and reliability of the land registration system. Prior to registration, the Registrar-General is empowered to examine the completeness of submitted documentation, verify the identity and authority of the parties involved, assess the validity of the application, and ensure that no legal impediments exist to registration. These powers reflect the active role of the state in maintaining the accuracy and credibility of information entered into the register. Accordingly, the legal certainty generated by the principle of indefeasibility of title derives not solely from the legal status of the register itself but also from the rigorous verification and scrutiny undertaken before registration is completed.

The Land Title Act 2000 does not adopt the doctrine of absolute indefeasibility; rather, it implements a model of qualified indefeasibility. Although the protection afforded to registered proprietors is substantial, it is not unlimited. The legislation permits the correction, cancellation, or modification of registered interests in specific circumstances prescribed by law. This framework reflects a deliberate legislative effort

to prevent the potential injustices that may arise from granting absolute protection without regard to fraud, administrative error, or other exceptional circumstances. Consequently, the system established in the Northern Territory is designed not only to promote formal legal certainty but also to accommodate the demands of substantive justice.

These findings are consistent with the conclusions reached by Nur Atheefa Sufeena M. Suaree, Mohd Izzat Amsyar Mohd Arif, and Wan Farahiyah Izni Wan Abdul Rahman, who argued that the doctrine of absolute indefeasibility of title may, in certain circumstances, produce unjust outcomes, particularly in cases involving fraud or the abuse of legal processes.⁹ The present study reinforces this perspective by demonstrating that the Land Title Act 2000 consciously adopts a more balanced and pragmatic approach through the doctrine of qualified indefeasibility. At the same time, this study extends the existing literature by moving beyond a purely philosophical or normative discussion and providing a detailed analysis of how the doctrine is operationalized within the statutory framework of the Northern Territory.

The findings also support the observations of Tvesha Bagaskara and colleagues, who emphasized that the principal strength of the Torrens system lies in its ability to provide legal certainty through the doctrine of indefeasibility of title and the reliability of the land register.¹⁰ However, the present study makes a more specific contribution by demonstrating that legal certainty within the modern Torrens system is achieved not solely through the protection of registered proprietors, but also through the recognition of limited statutory exceptions that permit corrective intervention in cases of injustice. Accordingly, legal certainty should not be understood as an inflexible commitment to the absolute protection of registered rights, but rather as a legal condition that balances certainty with considerations of fairness and justice.

Furthermore, the regulation of indefeasibility of title under the Land Title Act 2000 is closely connected to the insurance principle.¹¹ Within the Torrens system, legal protection extends beyond the recognition and preservation of registered rights to include state responsibility for compensating individuals who suffer loss as a result of defects or errors in the land registration process.¹² The existence of a statutory compensation mechanism demonstrates that the state functions not merely as an administrator of land records but also as a guarantor of the integrity and reliability of

⁹ Nur Atheefa Sufeena M Suaree et al., "Assessing The Principle of Indefeasibility of Land Title Within The Framework of Maqasid Shariah In Malaysia."

¹⁰ Tvesha Bagaskara et al., "Perbandingan Model Pendaftaran Tanah Berbasis Sistem Torrens Di Australia Dengan Sistem Pendaftaran Tanah Di Indonesia."

¹¹ Penelope Carruthers, "The Australian Torrens System Principle of Immediate Indefeasibility: Is It 'Fit for Purpose' for the 21st Century?" (The University of Western, 2018), <https://research-repository.uwa.edu.au/en/publications/the-australian-torrens-system-principle-of-immediate-indefeasibil/>.

¹² Shahrul Natasha Halid and Jady Zaidi Hassim, "A Comparative Analysis of Assurance Fund Vis-À-Vis Title Insurance: Which Offers Better Compensation for Victims of Land Disputes in Malaysia?," *Pacific Rim Property Research Journal* 27, no. 2 (2021): 107–26, <https://doi.org/10.1080/14445921.2021.2001725>.

the registration system. Consequently, where an individual is deprived of rights or suffers financial loss due to registration errors, the law provides an avenue for redress through compensation. This framework strengthens public confidence in the land registration system by ensuring that the risks associated with administrative error are not borne exclusively by affected individuals.

The principle of indefeasibility of title under the Land Title Act 2000 of the Northern Territory serves as a fundamental mechanism for securing legal certainty in land ownership through the recognition of the land register as the authoritative source of title. Nevertheless, this protection is not founded upon a doctrine of absolute indefeasibility. Instead, it is structured through a model of qualified indefeasibility that seeks to maintain an appropriate balance between legal certainty and substantive justice. This balance is reinforced by the active supervisory role of the Registrar-General in preserving the integrity of the register and by the availability of compensation mechanisms reflecting the operation of the insurance principle. Accordingly, the Torrens system implemented in the Northern Territory exemplifies the evolution of a modern land registration framework that not only prioritizes legal certainty but also safeguards fairness, accountability, and state responsibility in the administration of land rights.

3.2. Exceptions to the Principle of Indefeasibility of Title under the Northern Territory Land Title Act 2000 and Their Implications for the Legal Certainty of Land Rights

Based on a normative analysis of Section 198 of the Land Title Act 2000, the Northern Territory does not adhere to a doctrine of absolute indefeasibility. Rather, it adopts a model of qualified indefeasibility that affords substantial protection to registered proprietors while simultaneously recognizing certain legal interests capable of prevailing over registered title in specific circumstances. These findings demonstrate that the modern land registration system seeks not only to promote formal legal certainty but also to accommodate the demands of substantive justice and the protection of legitimate rights and interests.

The principal legal foundation for exceptions to the doctrine of indefeasibility of title is found in Section 198 of the Land Title Act 2000. This provision makes clear that the protection afforded to registered proprietors does not extend to certain interests expressly recognized by law. The existence of these exceptions illustrates that, although the land register possesses significant evidentiary authority, it is not an instrument capable of validating every legal circumstance without regard to competing rights and interests that also warrant legal protection. The concept of qualified indefeasibility adopted in the Northern Territory therefore represents an effort to reconcile two

fundamental objectives of land law: the promotion of legal certainty and the realization of justice.

The first category of exception concerns interests arising from the conduct of the registered proprietor. A registered proprietor cannot invoke the doctrine of indefeasibility of title to evade the legal consequences of his or her own actions. Where a right or interest arises directly from the conduct of the registered proprietor, that interest may remain enforceable notwithstanding its absence from, or incomplete reflection in, the land register. This exception reflects the well-established legal principle that no person should be permitted to benefit from his or her own wrongdoing. From the perspective of justice, the provision prevents the misuse of statutory protections and ensures that the doctrine of indefeasibility is not transformed into a mechanism for avoiding legal accountability.

The second exception relates to the rights of tenants holding short-term leasehold interests. Although such interests are not always fully recorded in the land register, they nevertheless receive legal recognition and protection. The protection afforded to tenants demonstrates that the Northern Territory land registration framework is not exclusively oriented toward the interests of registered proprietors but also takes into account the rights of individuals who possess and use land pursuant to valid legal arrangements. From the standpoint of legal certainty, this provision assures tenants that their rights cannot be extinguished solely because they are not formally recorded in the register. From the standpoint of justice, it prevents an imbalance in legal protection between landlords and tenants and promotes fairness in property relations.

The Land Title Act 2000 also recognizes exceptions for interests that have been omitted from, or inaccurately recorded in, the register as a result of administrative error.¹³ Although the Torrens system treats the register as the authoritative source of title information, the reliability and accuracy of the data contained therein remain essential to the legitimacy and effectiveness of the registration system. Where a legitimate interest has been lost, omitted, or incorrectly recorded due to administrative error, the affected party is afforded an opportunity to assert and protect that interest. This framework demonstrates that the Northern Territory land registration system does not regard the register as immune from correction. Rather, it treats the register as a legal instrument that must continuously reflect the true legal status of land rights and interests. Accordingly, the mirror principle is not understood merely as a formal doctrine requiring reliance on the register; instead, it is interpreted as a mechanism for ensuring ongoing correspondence between the register and legal reality.

Another important exception concerns claims founded upon previously registered interests. Priority is accorded to interests that were registered earlier and remain legally

¹³ Fatkhul Muin, "Administrative Defects in Land Registration and Cancellation in the Perspective of Legal Justice," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 24, no. 1 (2025): 2744–58, <https://doi.org/10.31941/pj.v24i1.5959>.

valid and enforceable. This provision reflects the continued relevance of the priority principle, which constitutes a fundamental element of modern land administration. In this context, a proprietor whose interest is registered at a later date cannot invoke the doctrine of indefeasibility of title to defeat an earlier registered interest that remains legally effective. The rule serves to preserve the integrity of the registration system and minimize conflicts arising from competing claims to the same property.

The protection afforded by indefeasibility of title may also be displaced in situations where two certificates or competing registered interests have been issued in relation to the same parcel of land.¹⁴ Such circumstances typically arise as a consequence of administrative failures, including the omission to cancel or update prior registration records. In these situations, the register is no longer capable of performing its fundamental function as the authoritative and singular reflection of the legal status of land. Consequently, a legal mechanism is required to determine which interest should prevail and receive protection. This finding demonstrates that, even within a Torrens system that places considerable emphasis on legal certainty, the possibility of administrative error is both acknowledged and addressed through carefully defined statutory exceptions.

Further exceptions apply where errors in land descriptions, survey data, or boundary determinations result in the inclusion of land belonging to another person within a registered title. The findings indicate that these provisions play a critical role in preventing the indirect deprivation of property rights arising from technical mistakes in the surveying, mapping, or registration process. By providing legal remedies for parties adversely affected by such errors, the legislation ensures that administrative inaccuracies do not become a source of unjust enrichment or unlawful dispossession. From the perspective of legal certainty, these corrective mechanisms enhance rather than diminish the credibility of the land registration system, as they demonstrate the existence of effective procedures for identifying and rectifying errors capable of causing legal harm.

The findings of this study are consistent with those of Nur Atheefa Sufeena M. Suaree, Mohd Izzat Amsyar Mohd Arif, and Wan Farahiyah Izni Wan Abdul Rahman, who concluded that the application of indefeasibility of title as an absolute doctrine may, in certain circumstances, undermine substantive justice.¹⁵ The present study reinforces that conclusion by demonstrating that the Land Title Act 2000 expressly recognizes a range of statutory exceptions designed to prevent unjust outcomes. At the same time, this study makes a more specific contribution by systematically identifying the legally recognized exceptions to indefeasibility and explaining the normative rationale underlying their inclusion within the Northern Territory land registration framework.

¹⁴ Dian Fitri and Upik Mutiara, "Legal Certainty Regarding Multiple Land Rights Certificates In Indonesia," *Jihad: Jurnal Ilmu Hukum Dan Administrasi* 6, no. 4 (2024): 791–96, <https://doi.org/10.58258/jihad.v3i1.7876>.

¹⁵ Nur Atheefa Sufeena M Suaree et al., "Assessing The Principle of Indefeasibility of Land Title Within The Framework of Maqasid Shariah In Malaysia."

The findings also complement the work of Tvesha Bagaskara and colleagues, who emphasized the capacity of the Torrens system to promote legal certainty through the doctrines of indefeasibility of title and registration-based ownership.¹⁶ The present analysis demonstrates that legal certainty within the contemporary Torrens system is not achieved through absolute protection of registered interests, but rather through a model of qualified protection. In other words, sustainable legal certainty depends upon the ability of the legal system to accommodate the correction of errors, resolve competing claims fairly, and safeguard the legitimate interests of affected parties.

The exceptions to the principle of indefeasibility of title under the Northern Territory Land Title Act 2000 function as essential legal instruments for maintaining an appropriate balance between legal certainty and justice. These exceptions do not undermine the doctrine of indefeasibility; rather, they reinforce the legitimacy of the Torrens system by ensuring that the protection afforded to registered proprietors cannot be used to validate administrative errors, disregard the legitimate rights of others, or perpetuate inaccuracies within the land register. Accordingly, the model of qualified indefeasibility adopted in the Northern Territory may be understood as an evolved form of the modern Torrens system—one that seeks to integrate legal certainty, protection of rights, substantive justice, and administrative accountability within a coherent and balanced legal framework.

3.3. Implications of the Application of the Principle of Indefeasibility of Title and Its Exceptions for the Legal Protection and Certainty of Land Rights

The doctrine of indefeasibility of title makes a substantial contribution to the enhancement of legal certainty in land ownership, the security of land transactions, the reduction of land-related disputes, and the strengthening of public confidence in land administration. At the same time, the statutory exceptions recognized under Section 198 of the Land Title Act 2000 reinforce the legitimacy of the registration system by ensuring that legal protection remains consistent with the demands of substantive justice.

The most significant implication of the doctrine of indefeasibility of title is the creation of legal certainty regarding ownership and interests in land. Within the Torrens system, the land register functions as the authoritative source of title, enabling registered proprietors to obtain strong legal recognition from the state. Information concerning the identity of the rights holder, the nature of the registered interest, and the land parcel to which the interest relates can be determined directly from the register without requiring an investigation into the historical chain of title. This framework provides clarity regarding lawful ownership and significantly reduces the uncertainty that

¹⁶ Tvesha Bagaskara et al., “Perbandingan Model Pendaftaran Tanah Berbasis Sistem Torrens Di Australia Dengan Sistem Pendaftaran Tanah Di Indonesia.”

frequently characterizes document-based registration systems, particularly those operating under a deeds registration model.

This degree of legal certainty is closely connected to the operation of the mirror principle. Under this principle, the land register is expected to accurately and comprehensively reflect the legal status of a parcel of land.¹⁷ Within the Northern Territory registration system, the register functions not merely as an administrative repository of information but as an authoritative representation of the legal status of land rights upon which the public may confidently rely. Consequently, interested parties are not required to undertake extensive investigations into historical documents or prior transactions in order to verify the validity of registered interests. The effective implementation of the mirror principle therefore constitutes a critical factor in enabling the doctrine of indefeasibility of title to deliver a high degree of legal certainty.

In addition to enhancing certainty regarding ownership, the findings demonstrate that the doctrine of indefeasibility of title has significant implications for the security and efficiency of land transactions. Parties involved in transactions such as sales, transfers, gifts, inheritances, mortgages, and other dealings with land may rely upon the information recorded in the register with confidence. Reliance on the register substantially reduces transaction costs by eliminating the need for complex investigations into historical ownership records. As a result, land transactions become simpler, more efficient, and less susceptible to legal uncertainty. The benefits generated by the Torrens system therefore extend beyond the legal sphere and contribute directly to economic efficiency, investment certainty, and the broader functioning of property markets.

The enhancement of transactional security is closely linked to the operation of the curtain principle. This principle provides that parties dealing with registered land are not required to “lift the curtain” and investigate the entire legal history of a parcel of land because all relevant information necessary for a transaction is presumed to be reflected in the register. In the Northern Territory, the implementation of the curtain principle enables the public to treat the register as the principal and authoritative source of legal information relating to land rights and interests.¹⁸ This significantly reduces the risk of undisclosed or hidden interests that might otherwise undermine legal certainty, compromise transactional security, and generate disputes. Consequently, the curtain principle complements the doctrine of indefeasibility of title by simplifying transactions while simultaneously strengthening confidence in the reliability of the land registration system.

¹⁷ Arif Firmansyah and Lina Jamilah, “The Concept of Good Faith in Complete Systemic Land Registration in Realizing Legal Guarantee,” *Administrative and Environmental Law Review* 3, no. 1 (2022): 65–74, <https://doi.org/10.25041/aer.v3i1.2588>.

¹⁸ Benjamin Armah Quaye, “Factors Impacting on Effective Implementation of Land Title Registration – a Perspective from Ghana,” *Journal of Planning and Land Management* 1, no. 2 (2020): 23–37, <https://doi.org/10.36005/jplm.v1i2.25>.

The implementation of the doctrine of indefeasibility of title has significantly reduced the potential for land-related disputes. Within a system that affords strong legal protection to registered proprietors, opportunities for competing parties to challenge registered interests are substantially limited. Although the Land Title Act 2000 recognizes a number of exceptions to the doctrine, these exceptions apply only in narrowly defined circumstances expressly prescribed by law. As a result, many disputes concerning the validity of land rights can be prevented through a robust and reliable registration framework. This finding demonstrates that the legal certainty generated by the Torrens system serves not only as a mechanism for protecting rights but also as a preventive instrument for reducing land conflicts.

The existence of statutory exceptions to the doctrine of indefeasibility of title does not diminish the effectiveness of the legal protection afforded to registered proprietors. On the contrary, these exceptions enhance the legitimacy of the registration system by providing mechanisms through which errors capable of producing unjust outcomes may be corrected. The recognition of short-term leasehold interests, rights adversely affected by administrative errors, previously registered interests, inaccuracies in land descriptions or boundaries, and situations involving the issuance of duplicate titles over the same parcel of land demonstrates that the Land Title Act 2000 does not pursue legal certainty as an absolute objective. Rather, it adopts an approach that seeks to balance formal legal certainty with substantive justice. The model of qualified indefeasibility implemented in the Northern Territory may therefore be understood as a carefully constructed compromise between the protection of registered proprietors and the protection of other parties possessing legitimate legal interests.

The findings of this study are consistent with those of Nur Atheefa Sufeena M. Suaree, Mohd Izzat Amsyar Mohd Arif, and Wan Farahiyah Izni Wan Abdul Rahman, who argued that absolute protection of registered rights may, under certain circumstances, result in unjust outcomes.¹⁹ The present study reinforces that conclusion by demonstrating that the exceptions established under the Land Title Act 2000 function as legal mechanisms designed to preserve an appropriate balance between legal certainty and justice. However, this study makes a broader contribution to the literature by moving beyond a purely normative examination of those exceptions and assessing their implications for the overall effectiveness and legitimacy of the land registration system.

The results of this study also support the findings of Tvesha Bagaskara and colleagues, who concluded that the Torrens system provides a higher degree of legal certainty than systems based on negative publication.²⁰ Nevertheless, the present

¹⁹ Nur Atheefa Sufeena M Suaree et al., "Assessing The Principle of Indefeasibility of Land Title Within The Framework of Maqasid Shariah In Malaysia."

²⁰ Tvesha Bagaskara et al., "Perbandingan Model Pendaftaran Tanah Berbasis Sistem Torrens Di Australia Dengan Sistem Pendaftaran Tanah Di Indonesia."

analysis demonstrates that legal certainty is not generated solely by the doctrine of indefeasibility of title. Rather, it is the product of the interaction between indefeasibility of title and the three foundational principles of the Torrens system: the mirror principle, the curtain principle, and the insurance principle. Together, these principles operate as an integrated framework that provides comprehensive legal protection and promotes the reliability of land administration.

Legal protection within the Torrens system extends beyond the recognition and protection of registered rights and is further reinforced through compensation mechanisms that give effect to the insurance principle. The Land Title Act 2000 establishes a statutory framework through which individuals who suffer loss as a result of administrative errors in the land registration process may seek compensation. The existence of such a mechanism is of considerable importance because it demonstrates that the state functions not merely as an administrator of the registration system but also as a guarantor of its integrity and reliability. Through the provision of compensation, the risks associated with administrative mistakes are not borne exclusively by affected individuals, thereby strengthening confidence in the overall system.

The application of the doctrine of indefeasibility of title and its statutory exceptions under the Northern Territory Land Title Act 2000 has produced a land registration framework that effectively balances legal certainty and substantive justice. Legal certainty is reflected in the clarity of ownership status, enhanced transactional security, reduced potential for disputes, and increased public confidence in the land administration system. At the same time, justice is promoted through the recognition of carefully defined exceptions and the availability of compensation mechanisms designed to protect individuals adversely affected by administrative errors. The success of the modern Torrens system therefore lies not in the absolute protection of registered rights, but in its capacity to integrate the mirror principle, the curtain principle, and the insurance principle within a coherent legal framework capable of simultaneously ensuring legal certainty, substantive justice, and state accountability.

4. CONCLUSION

The Land Title Act 2000 positions the doctrine of indefeasibility of title as the cornerstone of legal certainty within the Northern Territory land registration system by recognizing the land register as the authoritative source of title and by affording strong legal protection to registered proprietors. However, the Northern Territory does not adopt a doctrine of absolute indefeasibility. Instead, it implements a model of qualified indefeasibility through Section 198 of the Land Title Act 2000, which recognizes specific exceptions relating to interests arising from the conduct of the registered proprietor, short-term leasehold interests, registration errors, prior registered interests,

the issuance of duplicate titles, and inaccuracies in land descriptions or boundary determinations.

These exceptions do not diminish legal certainty; rather, they enhance the legitimacy of the Torrens system by preserving an appropriate balance between legal certainty and substantive justice. The effectiveness of land rights protection in the Northern Territory is further reinforced through the integration of the mirror principle, the curtain principle, and the insurance principle. Together, these principles promote transactional security, reduce the likelihood of land disputes, and provide compensation mechanisms for losses arising from administrative errors within the registration system.

This study contributes to the literature by providing a comparative and analytical perspective that may inform future land registration reforms in Indonesia. Nevertheless, the study is subject to certain limitations. As a normative legal inquiry, it focuses primarily on statutory provisions and doctrinal analysis and does not examine the empirical implementation of the law or the role of judicial interpretation in shaping the operation of the Torrens system in the Northern Territory. Accordingly, policymakers engaged in land law reform should consider strengthening state guarantees, improving the accuracy and reliability of land registration data, and enhancing compensation mechanisms for parties adversely affected by administrative errors. Future research should explore the practical application of qualified indefeasibility through analyses of judicial decisions and comparative studies of other Torrens-based jurisdictions in order to provide a more comprehensive understanding of the effectiveness of land rights protection in practice.

REFERENCES

Journals

- Dian Fitri and Upik Mutiara. "Legal Certainty Regarding Multiple Land Rights Certificates In Indonesia." *Jihad: Jurnal Ilmu Hukum Dan Administrasi* 6, no. 4 (2024): 791–96. <https://doi.org/10.58258/jihad.v3i1.7876>.
- Firmansyah, Arif, and Lina Jamilah. "The Concept of Good Faith in Complete Systemic Land Registration in Realizing Legal Guarantee." *Administrative and Environmental Law Review* 3, no. 1 (2022): 65–74. <https://doi.org/10.25041/aclr.v3i1.2588>.
- Halid, Shahrul Natasha, and Jady Zaidi Hassim. "A Comparative Analysis of Assurance Fund Vis-À-Vis Title Insurance: Which Offers Better Compensation for Victims of Land Disputes in Malaysia?" *Pacific Rim Property Research Journal* 27, no. 2 (2021): 107–26. <https://doi.org/10.1080/14445921.2021.2001725>.
- Handar Subhandi Bakhtiar, Atik Winanti, and Pradipta Prihantono. "Studi Komparatif Hukum Kepemilikan Tanah Antara Indonesia Dan Malaysia."

- Referendum: Jurnal Hukum Perdata Dan Pidana* 2, no. 2 (2025): 40–55.
<https://doi.org/10.62383/referendum.v2i2.725>.
- Lestario, Arie, and Erlina Erlina. “Sistem Pendaftaran Tanah Yang Memberikan Perlindungan Hukum Bagi Pemegang Sertifikat Hak Atas Tanah Di Indonesia.” *Notary Law Journal* 1, no. 1 (2022): 1–30.
<https://doi.org/10.32801/nolaj.v1i1.1>.
- Malaspina, Elisabetta Fiocchi. “Universalising Colonial Law Principles on Land Law and Land Registration: The Role of the Institut Colonial International (1894).” *History of European Ideas* 49, no. 2 (2023): 395–410.
<https://doi.org/10.1080/01916599.2022.2073680>.
- Muin, Fatkhul. “Administrative Defects in Land Registration and Cancellation in the Perspective of Legal Justice.” *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 24, no. 1 (2025): 2744–58. <https://doi.org/10.31941/pj.v24i1.5959>.
- Nur Atheefa Sufeena M Suaree, Mohd Izzat Amsyar Mohd Arif, and Wan Farahiyah Izni Wan Abdul Rahman. “Assessing The Principle of Indefeasibility of Land Title Within The Framework of Maqasid Shariah In Malaysia.” *Al-Qanatir: International Journal of Islamic Studies* 34, no. 4 (2025): 25–33.
<https://doi.org/10.64757/alqanatir.2025.3404/1197>.
- Putri, Gracia, Jessica Fionita, dan Juan Matheus. “Lelang Eksekusi Kepailitan atas Tanah dan Bangunan yang Dimiliki Bersama oleh Pihak Ketiga dan Debitur Pailit.” *Jurnal Supremasi* 14, no. 2 (20 September 2024): 1–15.
<https://doi.org/10.35457/supremasi.v14i2.3810>.
- Quaye, Benjamin Armah. “Factors Impacting on Effective Implementation of Land Title Registration – a Perspective from Ghana.” *Journal of Planning and Land Management* 1, no. 2 (2020): 23–37. <https://doi.org/10.36005/jplm.v1i2.25>.
- Stella Stella and Benny Djaja. “Perbandingan Kepastian Hukum Kepemilikan Rumah Susun Di Indonesia Dan Singapura.” *Jurnal Usm Law Review* 9, no. 3 (2026): 1610–27. <https://doi.org/10.26623/julr.v9i3.14342>.
- Syukur, Amalia Nurfitri, Nia Kurniati, and Yusuf Saepul Zamil. “Perubahan Sistem Pendaftaran Tanah Menuju Publikasi Stelsel Positif Di Indonesia.” *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 15, no. 1 (2024): 97–116. <https://doi.org/10.22212/jnh.v15i1.4235>.
- Tvesha Bagaskara, Muhammad Fauziel Adhim Al-Vaerous, Alka Sugianggoro, Amelia Putri Praditya, Aprila Niravita, and Muhammad Adymas Hikal Fikri. “Perbandingan Model Pendaftaran Tanah Berbasis Sistem Torrens Di Australia Dengan Sistem Pendaftaran Tanah Di Indonesia.” *Causa: Jurnal Hukum Dan Kewarganegaraan* 16, no. 1 (2025): 1491–500.
- Weningtyas, Annisa, Rahayu Subekti, and Purwono Sungkowo Raharjo. “The Concept of Indefeasible Title in Electronic Land Certificates as an Initiative to Prevent Land Mafia.” *International Journal of Social Science and Religion (IJSSR)*, 2024, 145–68. <https://doi.org/10.53639/ijssr.v5i1.188>.

Thesis

Ezar Bramantia. “Prinsip Kepastian Hukum Terhadap Peralihan Hak Atas Tanah Tanpa Akta Yang Dibuat Oleh Pejabat Pembuat Akta Tanah.” Universitas Abdurachman Saleh, 2024. <https://repository.unars.ac.id/id/eprint/2905/>.

Penelope Carruthers. “The Australian Torrens System Principle of Immediate Indefeasibility: Is It ‘Fit for Purpose’ for the 21st Century?” The University of Western, 2018. <https://research-repository.uwa.edu.au/en/publications/the-australian-torrens-system-principle-of-immediate-indefeasibil/>.