e-ISSN: 2600-9374

PENERBIT PRESS UNIVERSITI TEKNOLOGI MARA

Available online at
https://journal.uitm.edu.my/ojs/index.php/JAS

Journal of Administrative Science 23(3) 2026, 66–80

Journal of Administrative Science

Challenges in Land Registration and Title Ownership in Malaysia: A Doctrinal Analysis of Case Law

Najwa binti Azizun[1*], Azni binti Mohd Dian[2], Azhani binti Arshad[3]

[1] *Centre of Foundation Studies, Universiti Teknologi MARA, Cawangan Selangor, Kampus Dengkil, 43800 Dengkil, Selangor Darul Ehsan, Malaysia, najwa6483@uitm.edu.my, 0009-0006-9982-8300*

[2] *Faculty of Law, Universiti Teknologi MARA, 40450 Shah Alam, Selangor Darul Ehsan, Malaysia, azni378@uitm.edu.my, 0000-0001-5669-6973*

[3] *Faculty of Law, Universiti Teknologi MARA, 40450 Shah Alam, Selangor Darul Ehsan, Malaysia, azhani_arshad@uitm.edu.my, 0000-0003-3991-0143*

ARTICLE INFO

Article history:
Received 1 August 2026
Revised 15 September 2026
Accepted 5 October 2026
Online first 30 October 2026
Published 31 October 2026

Keywords:
Land registration
Title security
National Land Code
Land fraud
Compensation
Verification

DOI:
10.24191/jas.v23i3.10048

ABSTRACT

Registration of title confers an indefeasible title to any landowner in Peninsular Malaysia. Indefeasibility therefore connotes an unchallenged guarantee that the landowner is legally protected from unlawful deprivation of land ownership. However, with the rising of fraudulent land transactions as well as weaknesses that are embedded in the land registration system, some unfortunate landowners have become victims of the situation. Thus, this research aims at examining issues and challenges within Malaysian Torrens system and its land registration system so that any weaknesses can be unfold to allow necessary intervention for improvement. This doctrinal research will analyse ten case law that have been decided by the Malaysian courts so that comprehension of how deprivation of land ownership occurs within the framework of the current land registration system and the working of the Torrens system. The cases are chosen based on their unique factual scenario, representing various circumstances that have allowed manipulation of law and procedures to defraud innocent landowners. The finding shows that land frauds are committed through impersonation, falsification of signature and legal documents meanwhile on the part of land office officials, their mistakes include failure to follow the prescribed legal procedures under the National Land Code, failure to exercise care and due diligence and failure to maintain an accurate records of the Register of Title. After all, these finding contributes an insight on how to improve the efficacy of the land registration system so that it can provide stronger security of landowner's proprietorship.

[*]Corresponding author. *E-mail address* : *najwa6483@uitm.edu.my*

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1. INTRODUCTION

Property right is one of the guaranteed rights under Article 13 of the Federal Constitution of Malaysia which prohibits unlawful deprivation of property of any person. For the same spirit, section 340 of the National Land Code ("NLC") upholds ownership of land through title registration. In other words, once your name appears as the owner of a land, your legal rights over the land is undisputed. This is the cardinal principle of Malaysian Torrens system, which has been adopted from South Australia. However, the adoption of the Torrens system is made with modification whereby the insurance principle through an assurance fund (also known as compensation scheme) is left out. According to Sir Robert Torrens (1859) whom introduced the Torrens system, the assurance fund is meant for persons who may be deprived of rights or interest in land to get compensation because he is barred from recovery of his right in the land due to the operation of law.

As generally understood, registration of title confers certainty of ownership or interest. Three cornerstones of the Torrens system are the mirror, curtain and insurance principle (also known as guarantee principle or economic security). How does the three principles work? Ismail, Zakariah & Ganason (2023) explain all three principles whereby the mirror principle denotes that the register of title contains accurate and complete facts that relates to the title. It is what it is, nothing more or less. The title should be free from any burdens, rights or qualifications, unless such burdens, rights or qualifications are stated in the register of title. The curtain principle is supposed to ease the whole process of land ownership because this principle signifies that no further investigation is required for the purpose of validating the title and knowing its history. The register document of title becomes the conclusive evidence as well as the sole source of information regarding the title. Last but not least, insurance principle stands as state guarantee for indemnity or compensation in the event the register of title is in error which caused the landowner to be deprived of his right. Under this principle, an assurance fund becomes part and parcel of the Torrens system because it provides economic security for innocent landowners in the event of unlawful deprivation of their title.

Despite the importance of the insurance principle, non-inclusion of an assurance fund into Malaysian Torrens system is due to several reasons. According to Mohd & Kader (2016), the justifications of omitting the assurance fund were because 1) the British believed that 'no urgent need for such

sophisticated compensation scheme to be established in the newly established land registration system. This is due to the simplicity and scarcity of land dealings that suggests less possibility of error and fraudulent dealings', 2) at that particular time, 'easy access to the regional land officials to assist in all dealings and the fact that all grant emanated directly from the state suggest that the system could be well carried on without the compensation scheme', and 3) the staffs were not trained and the public were still ignorant of the land registration system, making it uneconomical to set up the compensation scheme because there may be a lot of mistakes and errors occur which ultimately increase the amount and volume of claims from the compensation scheme.

However, these justifications are irrelevant at this present era. Land dealings have become complex, with high numbers of land frauds and errors made by the land officials which have caused innocent landowners to be deprived of their proprietorship. To cite one example, a famous Malaysian actor, Amar Baharin alleged that a piece of land that belongs to his family had been fraudulently transferred to another

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person while the original document of title remained in his possession (Hazardi & Zain, 2024). In this context, landowner who has been wrongfully deprived of his legal right has to take civil action against the fraudster to get compensation. However, civil litigation can become a nightmare because it takes a long time to end, financially as well as emotionally draining the parties. Thus, without a proper compensation scheme or assurance fund, Malaysian land law cannot be said to be comprehensive because the non-existence of state-guarantee in the form of an assurance fund has made the system missing a pivotal and integral component.The paragraphs continue from here and are only separated by headings, subheadings, images, and formulae. The section headings are arranged by numbers, bold and 10 pt. Here are further instructions for authors.

1.1 Problem statement

Land is an important asset for socio-economic development. It is where livelihood starts, economic progress relies upon and societal freedom is manifested. Therefore, to guarantee title ownership, a good land administration must be placed. In the context of Malaysia, as affirmed in the landmark case of Teh Bee v K Marutamuthu [1977] 2 MLJ 7, registration of title confers indefeasibility. In other words, that the title is unchallenged and secured. This is also in accordance with section 340 (1) of the NLC.

However, section 340 (2) of the NLC recognizes that such title can become defeasible if it is tainted with fraud, forgery, void or insufficient instrument. There are many instances where these unfortunate events take place; to name one is to refer to the case of Adorna Properties Sdn Bhd v Boonsom Boonyanit @ Sun Yok Eng [2001] 1 MLJ 241where the proprietor had lost her land to the fraudster due to forgery of her signature. When cases of this nature occur, the innocent landowner needs to take legal action to recover the land or to get compensation. The problems at this point are: 1) civil action is a lengthy, complex, time and money consuming procedures, 2) most of the time, the fraudster is unidentifiable or cannot be traced which only worsen the situation for the landowner to prove his case, 3) section 340 (3) of the NLC favours a bona fide purchaser with valuable consideration over the innocent landowner. All of these undermine property right of landowner and therefore must not be neglected.

A compensation mechanism is a viable solution for the abovementioned problems. As stated earlier, insurance principle is not included when the Torren system is implemented in Malaysia because it is considered as unnecessary at that point of time. However, the situation has already changed and the unnecessary is now a necessity. But, above all, it is more important to understand how fraud, forgery and other factors that challenge indefeasible title occur so that we can tackle that issue first. This is due to the fact that even with an assurance fund is introduced, if fraud or forgery remain a frequent occurrence, the assurance fund will not be sustainable to cover high amount or volume of claims.

1.2 Research Objectives

To uphold property right of landowner, it is important to understand how an indefeasible title of a registered proprietor is challenged. Therefore, the sole aim of this study is to identify circumstances under which a registered proprietor may be deprived of his indefeasible title. Comprehension of this aspect is

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pivotal to provide suitable intervention for the purpose of ensuring protection of property right of a registered proprietor of land.

2. METHODOLOGY

This qualitative research employs doctrinal analysis of primary and secondary sources of law: legislation, case law and articles. Patton (2002) explains that "qualitative analysis transform data into findings. No formula exists for that transformation. Guidance, yes. But no recipe. Direction can and will be offered, but the final destination remains unique for each inquirer, known only when- and if- arrived at". Therefore, this method is chosen for its suitability to achieve the purpose of this study: to explore challenges of land registration that is currently applied in all land offices throughout Peninsular Malaysia as well as understanding the difficulties to uphold title ownership. Emphasis is given to cases that have been decided by the superior court in Malaysia; related to the concept of indefeasibility of title under section 340 of the NLC. There are ten cases altogether, categorized into two which are 1) Cases involving fraud and other factors affecting indefeasibility, and 2) cases on land office errors and losses to landowners. These cases are selected because of their various factual scenario, representing different ways on how manipulation of law and procedures can occur that unfortunately victimized innocent landowners.

3. DISCUSSION AND ANALYSIS

An assurance fund is government guarantee of indefeasibility of title. Section 340 (1) of the NLC recognizes legal ownership once the title is registered. However, section 340 (2) of the NLC provides circumstances whereby a title is defeasible, for an example, if the title is tainted with fraud, forgery, void or insufficient instrument. Therefore, a title which has been obtained through fraud or forgery is liable to be set aside and the ownership of the original proprietor is recovered. However, section 340 (3) of the NLC creates a dilemma between several parties; an innocent proprietor, fraudster and subsequent purchaser in good faith and has paid valuable consideration. At this juncture, the subsequent purchaser retains ownership even though the transaction involves fraud while the innocent proprietor can only recover compensation from the fraudster through civil suit. Here, the law struggles to balance the right of competing interest; the innocent proprietor and the subsequent purchaser. This is why an assurance fund is pivotal; to remedy an innocent proprietor because his loss is unavoidable with the presence of subsequent purchaser whose right must also be protected by law.

Wrongful deprivation of title ownership accrues in many ways, which point at the flaws of the land registration system. To highlight such weaknesses, it is pertinent to study case law to grasp the reality of what is happening and the approach taken by the judges in making sure justice is uphold. Judicial decisions are pivotal in law since they are tasked with the role of applying the statutory provisions justly; interpret the law as what is intended by the legislature and at the same time protecting the rights and interests of society. The analysis of case law is divided into two; 1) analysis of fraudulent dealings that challenge the notion of indefeasibility and 2) Land office errors and losses to the landowners. The purpose of studying case law is to understand in what instances the title of a registered owner is threaten.

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Case Analysis 1: Fraud and the Limits of Indefeasibility

In any discussion of fraudulent dealings relating to land, the case of Adorna Properties Sdn Bhd v Boonsom Boonyanit @ Sun Yok Eng [2001] 1 MLJ 241 and Tan Ying Hong v Tan Sian San [2010] 2 MLJ 1 are inevitable. These two cases anchor the law on indefeasibility of title where they involve forgery of signature and falsification of a power of attorney. Apart from that, fraudulent dealings also happen through the usage of fake original issue document of title, identification card, transfer form (Form 14A of the NLC), court's order, as well as impersonation as a registered proprietor and estate agent (Abdullah, Ramly & Ikhsan, 2017).

A title is defeasible if there exist any vitiating circumstances as enunciated in section 340 (2) of the NLC. Fraud, misrepresentation, insufficient or void instrument of dealings are among the vitiating factors that can render a title defeasible. The only protection for these situation lies in the hand of a subsequent purchaser who bought the land in good faith and for valuable consideration. For an example, a registered proprietor may lose his land without any fault on his part when someone commits fraud by falsifying his signature and transfering his land to A, and A subsequently sells the land to B, whom a *bona fide* purchaser with valuable consideration.

In the case of T Sivam A/L Tharamalingam v. Public Bank Berhad [2018] 6 CLJ 1, the plaintiff was defrauded by his own son when the son fraudulently transferred the plaintiff's land to himself. The son then charged the land to Public Bank (the defendant). Both transfer and charge were handled by the same solicitor. In this case, one of the main issues raised is whether the defendant is a 'subsequent purchaser' within the definition of section 340 (3) and obtain an indefeasible title? First of all, the transfer is set aside because it falls within one of the vitiating circumstances of section 340 (2) of the NLC. However, on the issue of whether the defendant was a subsequent holder of interest in good faith, what had become the bone of contention between the parties was the question of attribution of the knowledge of the solicitor to the defendant. In other word, whether knowledge of the solicitor should be imputed to the defendant? The federal court held that the knowledge of the solicitor is regarded and treated by the law as the knowledge of the defendant. The defendant was therefore infected with the knowledge that there was a serious dispute as to the ownership of the land. What is more, the defendant knew of the allegation that the son of the plaintiff obtained title to the land by fraud. This type of knowledge would affect the good faith of the defendant.

A transaction to transfer land involves a lot of documentations such as Memorandum of transfer (Form 14A of the NLC), identification card, original document of title and power of attorney. Thus, falsification of documents is one of the main methods where fraudulent land dealings take place. The case of Jamil bin Arashad *lwn* Nordin bin Omar *dan lain-lain* [2024] MLJU 2076 illustrates forgery of signature in the Form 14A. In this case, the plaintiff is the son to the original proprietor of the disputed land who has passed away in 1984. As a rightful beneficiary, the plaintiff has built a house on the land from 1999. Only in 2017, he was aware that there have been multiple transactions of transfer and charge over the land. The first transfer was registered in 19.1.2006 to the first defendant, then transferred to the second defendant on 7.3.2006, and to the third defendant on 16.10.2006. The third defendant has charged the land to the fourth defendant. The first form 14A, allegedly signed by the deceased proprietor is clearly a forged document because the

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deceased has passed away 22 years before that. The form 14A was also attested by a solicitor, who claimed that the attestation, signature and stamp were forged. In addition, there was no evidence that the payment for the land has been made.

The court was also suspicious with the fact that the purchase price was inconsistent because the first purchase was at RM140,000 while the second and third defendant allegedly only pay RM60,000 for their respective purchase even though the valuation is at RM156,000. In addition, the transfer from the first, second and third defendant was made in a short gap of time. Not only that, since the purchase, none of the defendant care to get vacant possession from the plaintiff who was living on the land ever since. Therefore, the court decided that the three defendants conspired to commit fraud. As for the fourth defendant (chargee), it was not a subsequent purchaser because the first until third defendant were fraudsters. Thus, the charge was liable to be set aside. However, it is to be noted that there is no judgment is made to remedy the fourth defendant.

In the case of Rajeswari a/p Paranthaman v Vithiapathy a/l B Subramaniam & Anor [2023] MLJU 3265, the plaintiff is the wife of the deceased (original proprietor). The plaintiff caveated 3 pieces of land belong to the deceased since she is financially unable to proceed administering the estate of the deceased. However, she receives a notice from the land office to remove her caveat filed by the first defendant. The plaintiff later on discovered that the first defendant (her step son) has obtained a grant of probate through a Will executed by the deceased, bequeathing the three pieces of land to him. Through a land search, the lands are under the first defendant's name and one of the three lands has been sold and registered in the second defendants' name. The second defendant denies any knowledge of fraud and no suspicion that the first defendant was not the owner of the land he has bought. He has taken due diligent by doing a land search. He also charged the land to Public Bank.

This case centered on the issue of validity of the Will because it is used to obtained a grant of probate which conferred the authority to the first defendant to sell the land. The court, after looking at the evidences and on the balance of probabilities has ruled that the Will contains forged signature of the deceased. The grant of probate that was granted by the court to the first defendant pursuant to the invalid will must also be set aside. The second defendant is not a *bona fide* purchaser; therefore, his title is defeasible (the court finds that the lack of explanation regarding the purchase price and relation between the first and second defendant as childhood friend give rise to possibility of fraud).

Apart from falsification of documents, insufficient or void instrument is also a vitiating factor of indefeasibility. In Champion Score Sdn Bhd v Mohd Sobri Chew bin Abdullah [2025] MLJU 627, a single-storey house was bought by the purchaser from Suruhanjaya Perumahan Nasional Berhad (SPNB) as an original proprietor. SPNB had a joint-venture agreement with a delevoper and executed an irrevocable power of attorney for this purpose. The purchaser discovered that the house was charged to the appellant after he had paid full purchase price and take possession of the house. Thus, the legal suit is taken to gain the house free from the charge. The charge was executed by the developer under the said power of attorney. The court ruled that the developer had acted beyond the power of the PA, and therefore "the instrument of charge in Form 16A at Enc 5 pdf 64 executed by the developer as an attorney for SPNB is thus an insufficient instrument. The charge created by an insufficient instrument is not an indefeasible charge and

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liable to be impugned and set aside under s 340(2)(b) NLC. This exception to indefeasibility under s 340(2)(b) on ground that the charge was created under an insufficient instrument could be invoked to nullify the charge created with the result that the charge is invalid, null and void and ought to be cancelled and expunged from the title. The title with the charge duly cancelled is to be transferred to the plaintiff purchaser who had paid the full purchase price".

Whether as a matter of public policy and taking into consideration competing equities, the title of the first purchaser should prevail over the second charge. Therefore, the court invokes public policy to preserve and protect the interest and title of the innocent purchaser who otherwise would be left high and dry without any effective remedy as the developer had gone into liquidation. While the appellant (chargee) has it remedy against the developer in a separate legal suit.

Impersonation is another common occurrence in a fraudulent transaction. In the case of Ooh Tong Hai & Anor v Lee Chee Boon & Ors [2024] MLJU 2485, by impersonating a registered proprietor, a fraudster has secured a fraudulent transfer of land. The fraudster also uses a genuine Issue Document of Title ("IDT") (version 3) that bears his name as the proprietor whereas the original IDT (version2) still remain with the original proprietor. The purchaser paid RM1.8 million as the purchase price but later discovered the fraud. The purchaser sues Selangor land office and its officials for negligence and breach of statutory duty. The fraudster and the solicitor were also named as defendants.

It is undisputed that the Selangor Land Office has the exclusive control, management, safekeeping and usage of security papers and the issuance and destruction of IDTs. The security measures include the following:

(i) IDTs are printed on security papers that are only accessible by its Registrars;

(ii) Each security paper contained security features that makes it special from ordinary papers i.e. different weight and thickness, watermark and unique serial number.

(iii) Only the Registrars have the authority, knowledge and means to print and issue IDTs on security papers;

(iv) Older version of an IDT must be surrendered to the Selangor Land Office for destruction before a new IDT is issued.

The court ruled that the Selangor land office and its official were negligent and in breach of their statutory duty. It was not denied that the IDT (version 3) used by the fraudster was printed on a genuine security paper. It was also cannot be justified why more than one genuine IDT existed on the same time. To worsen the situation, memorandum of transfer and Form 19G (removal of caveat) were registered despite the fact that they were stamped "DITOLAK". Although the purchaser had filed a complaint and enquiry, no response was given by the Selangor land office as the matter was never investigated. The carelessness and conduct of the officials have caused damage to the purchaser and the proprietor and thus, on top of RM1.5 million damages for the purchase price, Selangor land office was also liable to pay exemplary damages of RM375,000 to both the purchaser and the proprietor. The fraudster was also ordered to pay exemplary damages and the land remained registered to the original proprietor free from any caveat.

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To summarize, the gist of the cases is simplified in Table 1 below:

Table 1. Cases involving fraud and other factors affecting indefeasibility

Name of the case	Types of fraud etc. that challenge indefeasibility
T Sivam A/L Tharamalingam v. Public Bank Berhad [2018] 6 CLJ 1	• Fraudulent transfer of land by the son of the plaintiff where the son transfers the land to himself and executes a charge over the land.
Jamil bin Arashad lwn Nordin bin Omar dan lain-lain [2024] MLJU 2076	• Forged signature of the proprietor (already deceased) in the Memorandum of transfer.
Rajeswari a/p Paranthaman v Vithiapathy a/l B Subramaniam & Anor [2023] MLJU 3265	• Forged signature of the proprietor (already deceased) in a Will which later was use to secure a grant of probate, authorizing the defendant to sell the land.
Champion Score Sdn Bhd v Mohd Sobri Chew bin Abdullah [2025] MLJU 627	• Insufficient or void agreement- the developer acts beyond the lawful exercise of power of attorney.
oh Tong Hai & Anor v Lee Chee Boon & Ors [2024] MLJU 2485	• Impersonation of registered proprietor.

Case Analysis 2: Land Office Errors and Losses to Landowners

Registration of title is made by using electronic land administration system (ELAS). However, ELAS is still dependant on human efficacy to operate and manage it. Inability to efficiently administer ELAS or in most cases, due to an act of negligent, ELAS can be abused or manipulated. The first example can be seen from the case of Mohd Norazwan bin Abd Kadir v Pengarah Jabatan Ketua Pengarah Tanah & Galian (Persekutuan) Kelantan dan Lain-Lain [2024] MLJU 2623 where failure to update particulars regarding acquisition of land which affect the size of land is considered as an act of negligent by the officer in the land office. In this case, the Plaintiff had bought a piece of land in 22.2.2010 ("the land"). In the IDT, the land is 0.1142 hectare. However, when the plaintiff was to build a house on the land, he was told by the surveyor that the land was only 0.0485 hectare (57.53% less from the amount shown in the IDT). One of the issues contended was whether the defendants (fourth and fifth) were liable for the failure to update the information in the IDT after land acquisition was made. Acquisition of part of the land was made twice, one in 1969 and the second time was in 1977. It is therefore a statutory duty of the defendants (land office) to update the record of the land, especially when they were the one conducting the acquisition. The erroneous information about the size of the land contained in the IDT has resulted loss to the plaintiff. Before buying the land, the plaintiff has taken due diligent by conducting a land search and the purchase of the land was made in reliance to such search. Even though there was no *mala fide*, inability to maintain accurate information amounted to negligence and breach of statutory duty.

The maintenance of a land registry that is efficient and contains accurate particulars is a duty that the land office owes to every member of the public who makes and relies on a search conducted at the land offices operated by them in Peninsular Malaysia. In the case of Uptown Properties Sdn Bhd v Pentadbir Tanah Wilayah Persekutuan & Ors [2012] 3 CLJ 271, the plaintiffs' land was transferred to the fourth defendant by using a duplicate title. The fourth defendant then sold the land to the fifth defendant and charged it to the sixth defendant. To aggravate, the fourth defendant was not a legal entity since there was no registration with Suruhanjaya Syarikat Malaysia ("SSM"). Not only that, the registrar of title mistakenly typing in the fourth defendant in the computer particulars instead of the plaintiff (on the duplicate title from

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Uptown to Liptown). The court held that the issuance of a computerized title based on a void instrument had rendered the title defeasible and that the error during typing the name of the proprietor is an act of negligent that could have been avoided if due care and diligent was exercised.

Pendaftar Hakmilik, Pejabat Pendaftaran Wilayah Persekutuan Kuala Lumpur & Anor v. Poh Yang Hong [2016] 9 CLJ was another case about the failure to maintain true and accurate records of register of title (the very same piece of land appears registered in the records of the second defendant (land office) under two different title numbers and two different names). In this case, based on a private search made by the plaintiff at the land office, it shows that the first defendant is the proprietor. Thus, the plaintiff entered into a sale and purchase agreement and paid a deposit for such purchase. However, it came to the plaintiff knowledge that the land is also held under a different title, under the name of someone else. From the evidence by the staff in the land office, an unknown third party was able to create the fake or fraudulent title in the data base of the computer system of registration in the office of the second defendant. The court viewed that the duty of care of the land office is two-fold: "Firstly, there is the statutory duty under the NLC to maintain the register of all lands caused to be registered at the Registry, and in particular to ensure that the information contained in the Register is correct, true and accurate and reflects the true and actual description of the title to the land as well as the true identity of the registered proprietor thereof. Secondly, there is the common law duty of care whereupon there can be a claim for negligence for the same alleged wrong."

The particulars of information recorded in the Land Registry of the second defendant is a representation that such information as recorded are accurate and reliable to a paying public and would be purchasers of any piece of land to which such information relates. In addition to that, the staff could not provide any explanation as to how sensitive information in their database could fall into the hand of a fraud. This points to the failure to implement adequate security measures in the computerized land administration system which enable irresponsible individual to take advantage of the situation which ultimately compromises the integrity of the land registration system. This also proves that the current technological trait of ELAS has to be revisited and improved.

Even though section 22 of the NLC gives protection against any civil suit to the officers in the land office for any act done or omitted in good faith during performance of their duties, this section is not a shield. The key element of 'good faith' has been extensively relied on in any suit of negligent. However, the court are reluctant to exclude liability for negligent conduct on the basis that 'good faith' must indicate proper care has been taken. This can be seen from the judgment in Hartalega Sdn Bhd & Anor Kerajaan Negeri Selangor & Ors [2022] 7 CLJ which is reproduced partly as below:

"Land Administrator and the Registrar of Titles have statutory duties and owe certain duty of care to landowners in some exceptional situations. This means that the protection of officers under s. 22 of NLC is not comprehensive or absolute even in situation where the officers have acted in good faith. [41] From the decided authorities, it has been held that the land office owes a duty of care to landowners which includes taking reasonable steps to adequately protect the land owner's rights…

In cases relating to s. 340(2) of NLC, the appellate courts have held that a person in good faith does not include a person who is careless or who has been negligent. And the party who alleges that he acts in

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good faith in an attempt to rely on the protection under s. 22 of the NLC also bears the onus of proving good faith."

Therefore, the absence of bad faith or mistake done which resulted in the deprivation of rights to the landowner will not shield the land office from liability. In the case of Pendaftar Hakmilik Negeri Selangor & Ors v Shaifulizam bin Mohd Saleh & Anor and another appeal [2020] 5 MLJ 1, it was alleged by the plaintiff that his property had been fraudulently transferred to the name of a fraudster, the first defendant in the High Court suit. The first defendant had used the said property to register a charge in favour of the second defendant. The court held that the land office was negligent for not following the procedures required by section 90 read together with section 192 of the NLC regarding conversion from qualified title to final title. No evidence produced by the land office to show that notice had been served to the plaintiff and no explanation as to how the issue document of final title falls into the hand of the first defendant. Not only that, the land office had admitted that there was deficiency in their record keeping systems and that the file of the said land is missing. Apart from that, had they exercised further care, land office could have detected the identity card was fake because it failed to denote the plaintiff as a Muslim while his name clearly is a Malay. Such acts and omissions on the part of the land office amount to improper conduct and these improper conducts of the land office reflect bad faith on their part which, in the court's view, clearly show negligence on their part. Further, the non-compliance of the NLC shows a breach of statutory duty which is equally a breach of a common law duty of care. The land office has failed to properly keep land title details and land titles secure in the manner required by the NLC.

Another relevant case to be emphasized is Pendaftar Hakmilik Negeri Selangor v Caesius Development Sdn Bhd & Ors and another appeal [2020] MLJU 25 whereby the failure to follow procedures regarding an application to change name and conversion from manual title to computerised title. The change of name from the plaintiff to the third defendant was made fraudulently. Manual IDT was still in the possession of the plaintiff but then the third defendant was given a computerized IDT after the change of name is approved and conversion from manual to computerized IDT was made. The third defendant then sold the land to the first and second defendant for two million ringgits. However, no proof that the full payment was made.

Section 378 of the NLC regarding an application to change of name only allows a change of name of proprietor, not ownership. The new IDT was issued in the name of the third defendant was in breach of the said provision. This is because, Paragraph (c) of subsection 8(9) of the 14th Schedule clearly states that where conversion is affected by the Registrar on his own accord (emphasis here is that the application is only to change name, not application for conversion), he shall not be obliged to deliver to the proprietor the computer printed issue document of title unless the existing issue document of title is produced to him. It is not disputed that the existing issue document of title has always been and is still with the plaintiff. The officer did not pay much attention to this Form 13 at the material time as otherwise he would have noticed the following:1) that the Form 13 was issued under the name of Pejabat Pendaftar Syarikat and not SSM; and that the third defendant's company registration number is 464962-X, which is different from the plaintiff's company registration number 9110/82 (as appeared in the land office record). The officer of the land office claimed that he had no knowledge that a change of name of a company does not involve change of company number and Form 13 of SSM was indeed not from SSM. The court held that the failure to

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exercise due care and diligent in inspecting documents amounted to a breach of statutory duty.

Based on these cases, it is vivid that inadequate training and qualifications of land office staff has to be overcome. Currently, the land registry staff are not required to have legal backgrounds, leading to potential errors in handling land transactions. There are short courses regarding land law that they have to attend, but the sufficiency and effectiveness of such courses are not examined. Furthermore, as they are part of public servants, they might be transferred from one department to another, making it difficult to maintain experienced staff in the land office. High turnover and lack of experience among staff further exacerbate this issue, increasing the likelihood of negligence in land registration processes.

To sum up, the gist of the cases discussed above is simplified in Table 2 below.

Table 2. Land Office Errors and Losses to Landowners

Name of the case	Types of fraud etc. that challenge indefeasibility
Mohd Norazwan Bin Abd Kadir v Pengarah Jabatan Ketua Pengarah Tanah & Galian (Persekutuan) Kelantan dan Lain-Lain [2024] MLJU 2623	• Failure to update particulars regarding acquisition of land, which affect the size of land. • Failure to follow procedures prescribed under section 90 read together with section 192 of the NLC regarding conversion from qualified title to final title. Notice to collect the issue document of title (Form 5F) was not served to the landowner.
Pendaftar Hakmilik Negeri Selangor & Ors v Shaifulizam bin Mohd Saleh & Anor and another appeal, [2020] 5 MLJ 1	• Failure to maintain a good record keeping (relevant files were missing). • Failure to exercise due care when inspecting documents, otherwise can detect fake identity card. • Failure to explain how the final title falls into the hand of the first defendant.
Pendaftar Hakmilik Negeri Selangor v Caesius Development Sdn Bhd & Ors and another appeal [2020] MLJU 25	• Failure to follow procedures regarding an application to change of name and conversion from manual title to computerised title. • Failure to exercise due care and diligent in inspecting documents, otherwise can detect fake identity of the defendant.
Uptown Properties Sdn Bhd v. Pentadbir Tanah Wilayah Persekutuan & Ors [2012] 3 CLJ 271	• Mistake during the process of key in the name of the proprietor.
Pendaftar Hakmilik, Pejabat Pendaftaran Wilayah Persekutuan Kuala Lumpur & Anor v. Poh Yang Hong [2016] 9 CLJ	• Failure to maintain true and accurate records of Register of Title (the very same piece of land appears registered in the records of the second defendant (land registry) under two different title numbers and two different names). • Dishonest individual created a fake or fraudulent title in the database of the computer system of registration in the office of the second defendant.

4. RECOMMENDATION AND CONCLUSION

The above discussion portrays weaknesses of the current framework of land ownership as well as loopholes in land registration system. Competing interest among original proprietor, financial institution and subsequent purchaser who is also innocent has been difficult to be balanced and protected at once. When it comes to the first part of case analysis, the finding shows that fraud, impersonation or falsification of signature and legal documents are among the methods employed by fraudster to gain unlawful advantage. To improve, it is recommended that verification protocols to be strengthened before any registration of dealings be executed in the land office. Execution of instrument of dealings should have been attested

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physically, in the presence of the parties. According to Halid (2018), the importance of attestation lies with the fact that "the process of attestation is the hinge on which hangs the success of any scheme of transfer, charge or lease by registration and that the attesting witness not only must state that the signatory signed in his presence but must also add that he verily believes that such signature is of the proper handwriting of the person described therein".

Signing a blank form or attesting an instrument in the absence of the parties could lead to fraud and forgery. However, since there is no legal provision that requires attestation to be made face to face, there is no legal consequences from the failure to execute an instrument of dealing before an attesting witness. Several countries have move forward to mandate physical attestation by legal practitioner. This includes New Zealand (Section 7(3)(b) and (d) of the New Zealand Land Transfer Regulations 2018), the United Kingdom (Rule 17 of the United Kingdom Land Registration Rules 2003 and Practice Guide 67), Australia (section 162 of the Land Transfer Act 1994, Queensland) and Singapore (Section 59 of Land Transfer Act). When false attestation is criminalized, it creates a sense of responsibility and deterrence from doing such irresponsible action and at the same time upholds justice for the victim. As an example, a Singaporean lawyer had been suspended from legal practice for three years as punishment for false attestation of Certificate of Correctness, which is in violation of section 59 of the Land Transfer Act (Law Society of Singapore v Mohammed Lutfi bin Hussin [2022] SGHC 182).

The second part of case analysis specifically deals with errors in the land office that can cause deprivation of legal rights of landowner. An act of negligence or carelessness can be improved by continuous training for the Registrar of Title to boost their performance. At present, there is no specific requirement to become a Registrar of Title in the land office. As public servants, they are subject to be transferred to other department, making it unfortunate for experienced Registrar of Title to leave the office and more time is needed to train new staff. In addition to that, it is also a recommendation for blockchain technology to be employed in the land registration system. ELAS has certain security measures including biometric feature. However, as demonstrated in the case of Poh Yang Hong, it is still possible for any dishonest staff to create fake title by using ELAS. Thus, blockchain technology is timely relevant to be explored because it can provide transparency and trustworthy transaction since all entry of data is secured and tamper proof. This technology has been adopted in various countries such as India (Swan, 2017), Japan, Russia, United States of America, Canada (Shuaib, Daud, Alam & Khan, 2020), Sweden, the United Kingdom and Australia (Bakar et al., 2022).

From a pilot study that adopted blockchain in land registration system in India, positive results had been demonstrated. Firstly, with traditional method of land registration, only 50 transfers can be executed in a month because manual verification takes time as well as bureaucratic delays whereby with blockchain system, 500 transfers a month can be completed by using automated processes in addition to real-time data access. Secondly, blockchain reduces the cost from approximately 500 to 100 per transaction since blockchain allows for automation, reduced intermediaries, and streamlined operations as compared to the need to pay for manual labour, paperwork, and bureaucratic processes. Thirdly, public confidence improves by 50% since because blockchain reduces turnaround time, making the processes secure and transparent (Kaushik et al., 2025).

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All in all, further research is required to analyse a new verification protocol for land dealings. This will include the impact on conveyancing practices as well as amendment to the legal provisions. Not only that, it is pertinent to explore blockchain technology to be implemented in the land registration system so that security of land transaction can be enhanced. With an effective verification protocol and a tamper-proof system, property right of land owners is safeguarded. This research has laid down the weaknesses of the current legal framework which can be evidenced from the cases discussed above, hence, if there is no improvement is made, property right of landowner is at risk. To reiterate, an assurance fund must be implemented as compensation mechanism: but it will be more effective if a tamper proof system is in place and fraud and forgery can be avoided through a rigid verification process. Otherwise, it is fearful that the assurance fund is abused by frivolous claim.

5. ACKNOWLEDGMENTS/FUNDING

The authors express their gratitude to Universiti Teknologi MARA, particularly the Faculty of Law for providing the institutional support and resources necessary to complete this research.

6. CONFLICT OF INTEREST STATEMENT

There is no conflict of interest associated to this publication.

7. AUTHORS' CONTRIBUTIONS

Najwa Azizun: Conceptualisation, methodology, formal analysis, investigation and writing-original draft; **Azni Mohd Dian**: Conceptualisation, validation, supervision, review and editing; **Azhani Arshad**: Supervision, review and validation.

8. DECLARATION OF GENERATIVE AI IN THE WRITING PROCESS

During the preparation of this work, the authors did not use any AI-assisted technologies.

9. DATA AVAILABILITY/SUPPLEMENTARY MATERIALS

Data sharing is not applicable to this article as no new datasets were generated or analysed during the current study.

10. ETHICS STATEMENT

The authors declare that this research did not involve human or animal subjects. No experimental procedures were performed.

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11. REFERENCES

Abdullah, N. C., Ramly, R., & Ikhsan, M. I. (2017). Land registration of titles at stake: West and East Malaysia compared. *Environment-Behaviour Proceedings Journal*, *2*(6), 197-203.

Bakar, N. A., Omar, H., Ab Hamid, N., Mansoor, M., Abdullah, S. M., Sulaiman, S. S., Raof, N.A., & Mansor, H. (2022). Securing land registry by blockchain: At the Crossroads against Land Fraud Registration. *International Journal of Academic Research in Economics and Management Sciences*, *11*(2).

Champion Score Sdn Bhd v Mohd Sobri Chew bin Abdullah [2025] MLJU 627

Halid, N., (2018). The importance of attestation prior to the registration of instruments under the National Land Code 1965, *International Journal of Engineering & Technology*, 7(3.30):155 DOI:10.14419/ijet.v7i3.30.18218

Hazardi, A.S.M., & Zain, R. M., (2024, April 25). Actor alleges land belonging to family transferred to third party. *New Straits Times*. Retrieved from https://www.nst.com.my/news/nation/2024/04/1042680/actor-alleges-land-belonging-family-transferred-third-party#:~:text=KUALA%20LUMPUR%3A%20Actor%20Ammar%20Baharin,another%20person%20without%20prior%20notice.

Ismail, M. S., Zakariah, Y., & Ganason, A. (2023). Land administration system in Malaysia: The Torrens Assurance Fund. *Jurnal LAND*, *3*(1), 53-60.

Jamil bin Arashad lwn Nordin bin Omar dan lain-lain [2024] MLJU 2076

Kaushik, V., Singh, N., Bhatnagar, S., Shukla, P., & Taluja, A. (2025). Revolutionary land registry system powered by blockchain. In *2025 3rd International Conference on Intelligent Systems, Advanced Computing and Communication (ISACC)* (pp. 1323-1328). IEEE. https://doi.org/10.1109/ISACC65211.2025.10969338

Mohd, K. W., & Kader, S. Z. S. A. (2016). Overview of the compensation scheme under the Torrens system: An analysis for adoption in Peninsular Malaysia. *Journal of Asian and African Social Science and Humanities*, *2*(3), 1- 11.

Mohd Norazwan Bin Abd Kadir v Pengarah Jabatan Ketua Pengarah Tanah & Galian (Persekutuan) Kelantan dan Lain-Lain [2024] MLJU 2623

Ooh Tong Hai & Anor v Lee Chee Boon & Ors [2024] MLJU 2485

Patton, M. Q. (2002) Qualitative research & evaluation methods. *Thousands Oaks, Sage*. p. 432.

Pendaftar Hakmilik Negeri Selangor v Caesius Development Sdn Bhd & Ors and another appeal [2020] MLJU 25

Pendaftar Hakmilik Negeri Selangor & Ors v Shaifulizam bin Mohd Saleh & Anor and another appeal, [2020] 5 MLJ 1

Pendaftar Hakmilik, Pejabat Pendaftaran Wilayah Persekutuan Kuala Lumpur & Anor v. Poh Yang Hong [2016] 9 CLJ

Rajeswari a/p Paranthaman v Vithiapathy a/l B Subramaniam & Anor [2023] MLJU 3265

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Shuaib, M., Daud, S. M., Alam, S., & Khan, W. Z. (2020). Blockchain-based framework for secure and reliable land registry system. *TELKOMNIKA (Telecommunication Computing Electronics and Control)*, *18*(5), 2560-2571.

Swan, M. (2017). Anticipating the economic benefits of blockchain. *Technology Innovation Management Review*, *7*(10), 6-13.

T Sivam A/L Tharamalingam v. Public Bank Berhad [2018] 6 CLJ 1

Torrens, R., R. (1859). *The South Australian System of Conveyancing by Registration of Title with Instruction for the Guidance of Parties' Dealings.* https://arisp.wordpress.com/wp-content/uploads/2009/06/thesouthaustraliansystemofconveyanc.pdf

Uptown Properties Sdn Bhd v. Pentadbir Tanah Wilayah Persekutuan & Ors [2012] 3 C LJ 271

About the Authors

Najwa binti Azizun is a law lecturer at Universiti Teknologi MARA and is currently pursuing her PhD at the Faculty of Law, Universiti Teknologi MARA. Her research interest focuses on constitutional matters, human rights issues as well as property and land law. She can be reached at najwa6483@uitm.edu.my.

Azni binti Mohd Dian is a law lecturer at UiTM, specializing in land, planning, and heritage laws. She can be contacted at azni378@uitm.edu.my.

Azhani binti Arshad is a law lecturer at UiTM. She actively participates in several research works, and her research interests include land law, property law, procedural law and family law. She can be reached at azhani_arshad@uitm.edu.my.

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