

## Implementation of Regulation of the Minister of Agrarian Affairs and Spatial Planning (ATR)Act No.National Land Agency (BPN) Number 9 of 2019 concerning Implementation of Registration of Mortgage Rights Using an Electronic System (Analysis of Problems and Legality of Authentic Deed Electronically)

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**Abstract.** *This research discusses the implementation of the regulation of the minister of agrarian and spatial planning (atr)Act No.national land agency (BPN) number 9 of 2019 concerning the implementation of registration of mortgage rights using an electronic system (problematic analysis and validity of authentic deeds electronically). With the background of the Regulation of the Minister of Agrarian and Spatial Planning of the Head of the National Land Agency Number 9 of 2019 concerning Electronic Integrated Mortgage Services which came into effect since it was promulgated, namely on June 21, 2019. This regulation is a continuation of the previous Ministerial Regulation that was passed, namely Permen 3 Act No.2019 concerning the use of electronic systems and Permen 7/2019 regarding changes to the form of certificates. However, the implementation is still not optimal in the field. Therefore, the aim of this research is to analyze the problematics of authentic deeds electronically in relation to the implementation of the regulation of the Minister of ATAct No.BPN No.9 of 2019 concerning the implementation of registration of mortgage rights with an electronic system. This study uses a normative juridical approach, in addition to using legal principles and principles in reviewing, viewing, analyzing problems. Data collection techniques use books, related constitutions and coupled with field studies. The data from this research were analyzed descriptively qualitatively, by describing all the findings of primary data and secondary data. The results of the analysis are used as material to formulate conclusions in order to answer the problems studied and to formulate suggestions for parties related to this research. The results of this study are The problem of electronic authentic deeds*

*in the implementation of the ministerial regulation ATR Act No. BPN no 9 of 2019 concerning the implementation of registration of mortgage rights with an electronic system, there are two of the most dominant problems, including the Interference of the HT-e System and the Regulations that Have Not Regulated the Subjects and Objects of the Insurance Rights as a whole. Furthermore, on the validity of electronic authentic deeds in the implementation of the regulation of the Minister of ATR Act No. BPN No. 9 of 2019 concerning the implementation of registration of mortgage rights with an electronic system, namely by continuing to implement technological restrictions to maintain the validity of authentic deeds in order to align with the main spirit of the notary profession as a general official.*

*Keywords: Mathematical Analysis; Legality of Authentic Deeds; Electronically.*

## **1. Introduction**

During the colonial era of the Dutch East Indies, land registration in Indonesia was carried out by Cadaster which was the beginning of the history of land registration in Indonesia. After Indonesian independence, the Basic Agrarian Law (UUPA) was born which regulates all matters related to land. Article 19 paragraph (1), The UUPA states that "To ensure legal certainty by the Government, land registration is held throughout the territory of the Republic of Indonesia according to the provisions stipulated by the Government Regulation." As a derivative regulation, Government Regulation Number 10 of 1961 concerning Land Registration was passed. This government regulation was no longer able to accommodate the existing needs, so in 1997, a regulation related to land registration was re-enacted, namely Government Regulation No. 24 of 1997.

Registration of lands throughout the territory of Indonesia has the objectives in accordance with Article 3 of Government Regulation Number 24 of 1997, namely as follows:

1. Providing legal certainty and legal protection to holders of rights over a parcel of land, apartment units and other registered rights so that they can easily prove themselves as holders of the rights concerned
2. Providing information to interested parties including the Government so that they can easily obtain the data needed to carry out legal actions regarding registered land parcels and apartment units.
3. The implementation of an orderly land administration

The task of administering land registration is carried out by the government, in this case the National Land Agency. This is in accordance with Article 5 of Government Regulation No. 24 of 1997, which states: "Land registration shall be carried out by the National Land Agency". Then in Article 3 letter e, Presidential Regulation Number 63 of 2013 concerning the National Land Agency of the Republic of Indonesia states "BPN RI carries out the function of formulating and implementing policies in the field of land rights determination, land registration and community empowerment".

Furthermore, in 6 Government Regulation Number 24 of 1997, the task of implementing land registration is carried out by the Head of the Land Office and assisted by the Official for Making Land Deeds (PPAT). The task of PPAT is to make authentic deeds related to certain legal actions related to land rights and ownership rights to land partment units to be used as the basis for changes in juridical data on registered land objects. Certain legal actions regarding land rights and ownership rights over the apartment units, one of which is the making of the Deed of Granting Mortgage Rights (APHT). Security rights are collateral rights for the repayment of certain debts that give the creditor a special position, where the guarantee can be sold by the creditor who owns the mortgage through an auction if the debtor defaults.<sup>1</sup>

In order to increase the value of their business, entrepreneurs need to increase their business capital. Limited business capital causes many entrepreneurs to make capital credit loans to third parties, in this case banks. Then there is a debt agreement between entrepreneurs who are commonly referred to as debtors and banks that act as a creditor. To overcome the risks that may arise, the bank asks for a number of guarantees from the debtor, which can be auctioned at any time in the event of default by the debtor. One of the guarantees that is usually given by the debtor is land. As a form of collateral, land has its own features, including the price always increases, is easy to sell, has proof of rights, is difficult to embezzle and if it is imposed a mortgage right gives special rights to the creditor.<sup>2</sup>

Based on Act No. 4 of 1996 concerning Mortgage Rights to Land and Objects Related to Land (UUHT), then the collateral in the form of land must be registered with the mortgage rights so that a Certificate of Mortgage will appear preceded by the making of the Deed of Granting Mortgage Rights (APHT) by the Land Deed Making Official (PPAT). Mortgage is an accessory agreement, meaning a follow-up agreement, which does not stand alone. This agreement occurs because of the main agreement, in this case a debt

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<sup>1</sup> Remy Sjahdeni, *Hak Tanggungan, Asas-Asas, Ketentuan Pokok dan Masalah Yang Dihadapi oleh Perbankan (Suatu Kajian Mengenai Undang-Undang Hak Tanggungan)*, cetakan I, Alumni, Bandung, 1999, p. 15

<sup>2</sup> Efendy Peranging, *Praktek Penggunaan Tanah Sebagai Jaminan Kredit*, Rajawali Pers, Jakarta, 1991 . p. ix

and credit. Thus, if the debt and credit is paid off, then the existence of the mortgage is also canceled. As previously explained, the mortgage ownership process consists of two stages, namely the creation of a deed of mortgage granting (APHT) by PPAT and registration of mortgage rights to BPN which marks the birth of the mortgage right. This is in accordance with Article 10 paragraph (2) of Act No. 4 of 1996 concerning Mortgage Rights, namely that the Granting of Mortgage Rights is carried out by signing the Deed of Granting Mortgage Rights by the PPAT which must comply with the provisions of the prevailing laws and regulations. Then Article 13 paragraph (1) states that the Granting of Mortgage must be registered at the land office.

Mortgage rights in the National Security Law referred to by the UUPA, were previously unknown, both in the Customary Law and in the Civil Code. However, it is then regulated in Article 51 of the UUPA that it is stipulated that Mortgage Rights can be imposed on Property Rights, Business Use Rights and Building Use Rights as regulated by law. Based on the mandate of Article 51 of the UUPA, Act No. 4 of 1996 concerning Land Mortgage Rights and Land-Related Objects (UUHT) was promulgated. In Article 29 of the UUHT it is determined that with the enactment of the UUHT, the provisions regarding Credietverband and the provisions regarding Hypotheek as mentioned in Book II of the Civil Code as long as the imposition of Mortgage Rights on land rights and objects related to land are declared invalid.

The current development of information technology has changed the way of seeing and living every element involved in various aspects of life. Its presence is inevitable, avoidance will only make extinction or other terms disrupted. Advances in technology and information also gave rise to a new term, namely the digital technology revolution marked by the proliferation of computers and automation of records in all fields. To accommodate the development of technology and information, at the beginning the government passed Law No. 11 of 2008 on Electronic Transaction Information (ITE). UU ITE has penetrated in all areas of life, one of which is a notary by issuing the popular term "Cyber Notary".

Actually the discourse on cyber notary has existed since 1995, but due to the absence of a related legal basis, the discourse is hampered. When the ITE Law was passed, the discourse on cyber notary resurfaced. Cyber Notary itself is a convenience for notaries in making authentic deeds in the world virtual and perform other activities related to notary duties. The goal is to make the notary's duties easier, more effective and efficient. Cyber notary has also been accommodated in Article 15 paragraph (3) of Act No. 2 of 2014 concerning amendments to Act No. 30 of 2004 concerning Regulation of the Position of Notary State Gazette of the Republic of Indonesia of 2014 Number 3, Supplement to the State Gazette Number 5491 (hereinafter referred to as Act No. 2 of 2014) which reads "In addition to the authorities

as referred to in paragraph (1) and paragraph (2), Notary Public has other powers regulated in statutory regulations." Furthermore, Article 15 paragraph (3) of Act No. 02 of 2014 states that: "What is meant by other authorities regulated in the laws and regulations include: authority to certify transactions conducted electronically (cyber notary), make a pledge deed of *Waqf* and airplane mortgages."

The development of technology and information in notarial duties has also occurred in the mortgage registration system with the enactment of the Regulation of the Minister of Agrarian and Spatial Planning for the Head of the National Land Agency Number 9 of 2019 concerning Electronically Integrated Mortgage Services which came into effect since it was promulgated on June 21 2019. This is a continuation of the previous Ministerial Regulation which was ratified, namely Permen 3/2019 concerning the use of electronic systems and Permen 7/2019 concerning changes to certificate forms. In order to improve the ease of service to the community, the Ministry Agrarian and Spatial Planning. The National Land Agency has taken a step forward in accordance with technological developments by ratifying the Ministerial Regulation. With the passing of the Regulation concerning Integrated Electronic Mortgage Services are expected to be able to improve services to the public in the form of timeliness, speed, convenience and affordability. Besides that, the importance of the legal field is to adjust technological developments and the needs of the community. So the use of information technology is important so that procedures for providing security services to be more effective and efficient.

However, the implementation of the candy in the field still has to adjust to the readiness of each land office regarding the implementation of an electronic system in providing services to the community. This means that not all land offices use electronic mortgage services or what is called HT-el. Thus there are land offices that have implemented the HT-el system and some are still manual.

In Cirebon City BPN itself, registration of Mortgage Rights has been done online, but there are several problems including based on article 9 paragraph 5, HT-el registration is only possible for HT providers who must be by the debtor himself. In fact, in the field, many guarantees are not in the name of the debtor himself, so registration cannot be carried out because there is no feature that provides the debtor who is not the owner of the collateral. This is considered as a form of prohibition against making APHT and HT registration which do not belong to the debtor himself.

In the HT-el Permen, there are several differences related to the duties, functions and authorities of PPAT compared to mortgage services that are usually performed manually. Usually, PPAT is tasked with registering HT and submitting the APHT deed to the Land Office. For the legalized HT-el Permen, PPAT's task is only to submit APHT to the National Land Agency

which is carried out online through HT-el services in accordance with article 10 while the mortgage registration process is carried out by the creditor so that if the creditor is negligent he does not register his mortgage creditors lose special privileges in accordance with the Mortgage Rights Law. Whereas in fact, PPAT officers who continue to register online should be based on article 10 of the HT-el Permen who should register are creditors.

## 2. Research Methods

The research method is a process, principles and procedures for solving problems faced in conducting research, which is an attempt to find, develop and test the truth of knowledge, which is carried out using scientific methods.<sup>3</sup> Research that is carried out to obtain data that has proven scientific truth, is carried out by thinking rationally and empirically so that it can provide a logical frame of mind and can provide a framework of evidence or testing to ascertain the truth.<sup>4</sup>

### 2.1. Approach to the Problem

This research is a normative juridical approach to the authenticity of notary deeds which has the power of proof by way of analysis of the laws and regulations which are the basis of the perfect evidentiary power of notary deeds. To clarify the analysis, the researcher will use several approaches, namely:

a. Legislative Approach (statute approach)

The approach is taken by examining all laws and regulations related to the legal issue that is being handled. A normative legal research must use a statutory approach, because what is being studied is the various legal rules that become the focus as well as the central theme of the research.<sup>5</sup> This thesis research is conducted by examining the provisions of UUJN and other regulations related to the fulfillment of the authenticity of notary deeds which can have perfect evidentiary power.

b. Concept Approach (conceptual approach)

An approach that departs from the views and doctrines that develop in the science of law, in order to find ideas that give birth to the relevant understanding, concepts and legal principles as a basis for building a legal argument in solving the issues at hand.<sup>6</sup> This approach is used to understand concepts related to proving civil procedural law and criminal procedural law.

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<sup>3</sup> Sutrisno Hadi, *Research Methodology*, Volume I, (Yogyakarta: ANDI, 2000), p. 4

<sup>4</sup> Ronny Hanitijo Soemitro, *Legal and Julimetry Methodology*, (Jakarta: Ghalia Indonesia, 1990), p. 36

<sup>5</sup> Johnny Ibrahim, *Normative Law Theory and Research*, (Malang:, Bayumedia Publishing, 2nd edition, 2006), p. 302

<sup>6</sup> Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana Prenada Media Group, 2000), p. 95

c. Case Approach (case approach)

Approach by analyzing cases related to legal issues.<sup>7</sup> The case approach in normative legal research aims to study legal norms or rules that are carried out in legal practice.<sup>8</sup>

The case approach is used in this thesis research to obtain an overview of the impact of the dimension of norming in a legal rule in legal practice regarding legal consequences which include the status of a notary deed that can be revoked or that is null and void, as well as notary deeds which degenerate into deeds under hand.

**2.2. Research Specifications**

The specifications used in this research are descriptive analytic, which is intended to provide data as accurately as possible about a situation.<sup>9</sup> by describing, describing or disclosing statutory regulations in relation to applicable legal theories and the implementation of positive law,<sup>10</sup> especially those related to the authenticity of the notary deed as an authentic word that has perfect evidentiary power, which is then discussed or analyzed according to science and theories or the opinion of the researcher himself and finally concludes.<sup>11</sup>

**2.3. Sources and Types of Data**

Sources and types of data required in the preparation of this study consist of:

a. Primary Data Sources

Primary data sources are data that are obtained directly from the source, are observed, will be researched and recorded for the first time,<sup>12</sup> obtained and collected directly from respondents in the form of information or facts.<sup>13</sup> Direct data from respondents, namely interviews with judges at the District Court, several notaries who have carried out their profession as notaries who have made notarial deeds in practice,

b. Secondary Data Sources

Secondary data sources are data sources used to support basic data,<sup>14</sup> obtained through literature study, which is related to the

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<sup>7</sup> Ibid, p. 94

<sup>8</sup> Ibrahim, op. cit., p. 321

<sup>9</sup> Soerjono Soekanto, op. cit, p. 10

<sup>10</sup> S. Margono, Educational Research Methodology, (Jakarta: Rineka Cipta, 2003) p. 37

<sup>11</sup> Bambang Sunggono, Legal Research Methodology, (Jakarta: PT. Raja Grafindo Persada, 2003), p. 43

<sup>12</sup> Marzuki, Research Methodology, (Yogyakarta: BPFE UII, 2003), p. 55

<sup>13</sup> Soerjono Soekanto, loc. cit, p. 10 27

<sup>14</sup> P. Joko Subagyo, Research Methods in Theory and Practice, (Jakarta: PT. Rineka Cipta, 1997), p. 89

problem to be studied, is used as a basis for theoretical thinking. Sekunder data in this paper, include:

1) Primary Legal Materials

Primary legal materials, namely in the form of binding basic regulations because they are issued by the government,<sup>15</sup> which discusses primary legal materials. The legal material consists of positive legal rules sorted according to hierarchy, starting from the 1945 Constitution to other regulations under it, which include the Civil Code, Criminal Code and Notary Act No. 30 of 2004.

2) Secondary Legal Materials

All legal publications<sup>16</sup> and materials that are closely related to primary legal materials and can help analyze primary legal materials by:<sup>17</sup>

a) Literature review

Literature study in writing this thesis is carried out by studying library materials related to the object of research, including the internet, which is a source of information that can be used by researchers because it is a complete and complex source of information.

b) Results of Scientific Findings

In the form of writings of the work of legal experts and other relevant documents, the material of which can be used as a reference for writing this thesis.

3) Tertiary Legal Materials

Tertiary legal materials are in the form of legal dictionaries and encyclopedias or other books that support primary and secondary legal materials.

#### 2.4. Data collection technique

Data collection techniques in the preparation of this thesis are carried out by:

a. Field Study

Field studies were carried out in order to obtain primary data, by engaging directly in the field by conducting structured interviews with respondents. The interview is one of the methods of data collection by means of communication, namely contact or personal relationship between the data collector (interviewer) and the data source (respondent).

b. Literature Study

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<sup>15</sup> Burhan Ashshofa, *Legal Research Methodology*, Cet. Third, (Jakarta: PT. Rineka Cipta, 2001), p. 103

<sup>16</sup> Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Predana, 2000), p. 41

<sup>17</sup> Soemitro, *op. cit.*, p. 53



Done by reading, recording and quoting information from secondary data, in order to explore the theories that have developed in the science with an interest and make interpretations,<sup>18</sup> and research documents that are closely related to the research problem.

### 2.5. Data analysis technique

The data from this research were analyzed descriptively qualitatively, by describing all the findings of primary data and secondary data. The results of the analysis are used as material to formulate conclusions in order to answer the problems studied and to formulate suggestions for parties related to this research.

## 3. Results and Discussion

### 3.1. Electronic authentic deed problematic analysis in relation to the implementation of ATR Act No. BPN ministerial regulation no 9 of 2019 concerning the implementation of registration of mortgage rights using an electronic system.

The problem that then arises in making authentic deeds electronically is related to the obligations that a notary must carry out on the deed he makes, as regulated in Article 16 paragraph (1) UUJN, in particular Article 16 paragraph (1) UUJN letters c, and m, which reads in full: 1. Attaching letters and documents as well as fingerprints of the applicant to the Minuta Deed; 2. Read out the Deed in front of an audience in the presence of at least 2 (two) witnesses, or 4 (four) special witnesses for making a will under hand, and signed on the spot by the tappers, witnesses and notary public.

Based on the two types of deeds made by notaries, for now it is very unlikely to apply information technology in making electronic notary deeds. Especially in making deeds of relaas. Here, the presence of a notary in front of the parties is a must so that an official report can be made containing a description of the notary that has been seen and witnessed by the notary himself at the request of the parties.

Furthermore, when referring to the provisions of Article 5 paragraph (4) letters a and b of the ITE Law, it is known that documents made in the form of notary deeds are not included in electronic information and Act No. or electronic documents. So that notarial deeds made electronically do not obtain legal force as valid evidence according to the provisions of the ITE Law. With the limitation on the meaning of electronic information Act No. electronic documents as stipulated in Article 5 paragraph (4) letters a and b, authentic deeds made electronically by notaries are deemed unable to be valid evidence. Thus, the authenticity

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<sup>18</sup> Mohal Nazir, *Research Methods*, (Jakarta: Ghalia Indonesia, 1998), p. 111

of the deed made by a notary in this case is not fulfilled. It seems that the legal substance in making deeds electronically has not been fully accommodated in the UUJN and in the ITE Law. Even though, Legal certainty and legal benefits for the community need harmonization of laws and regulations related to the authority of notaries in making deeds electronically, namely between UUJN and UU ITE and between UUPT and UUJN. So that notaries no longer experience juridical problems regarding their authority to make deeds electronically<sup>19</sup>

The legal provisions regarding authentic deeds stipulated in UUJN and UU ITE, provide an understanding that the application of information technology developments in the making of authentic deeds electronically by notaries is still difficult to apply, considering that the legal provisions governing the authenticity of authentic deeds are still an obstacle in the deed making process. made electronically by notary officials in the UUJN and the Civil Code. The use of information technology in making electronic notary deeds certainly raises several new problems, especially legal issues. Furthermore, in Permen ATR Act No. BPN no 9 of 2019 there is a regulation in this case that is quite crucial, namely registration of Ht-el is only possible for HT providers who must be by the debtor himself to be precise in Article 9 paragraph 5. Application for registration of Ht-e is the obligation of the creditor,

Regarding the problems or obstacles in making authentic deeds electronically in the implementation of Ministerial Regulation ATR Act No. BPN No. 9 of 2019 concerning the implementation of registration of mortgage rights with an electronic system, namely:

a. HT-el System Crashes

As an electronic-based service (e-Government) that has just been developed, at the beginning of the implementation of HT-el services, it encountered several problems, such as the service website that could not be opened and the document upload process that could not be done. According to the Head of Land Rights Registration Subsection, this is something that is reasonable as a process of developing the HT-el system to an improvement stage.

b. Regulations have not completely regulated the subjects and objects of the mortgage.

In terms of regulations, the previous regulation regarding HT-el Services, namely the Ministerial Regulation of ATR Act No. BPN No. 9 of 2019, requires Creditors to have a Certificate of Registration at the Financial Services Authority and requires a Certificate of Land Rights (SHAT) pledged in accordance with the name of the Debtor. Based on

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<https://www.unisba.ac.id/masalah-hukum-pembuatan-akta-notaris-secara-elektronik/> (accessed February 2020)

this, there is a dualism of Mortgage Services, not only in Land Offices throughout Indonesia.

The weakness of the online system is that it is prone to errors in data entry, and errors in entering the intended system, all depending on the readiness of human resources (it is important to train operators to work professionally). The main weakness is actually in the data center server, not only projects that pursue imaging and use random servers. The weakness of society due to the presence of up-to-date technology is that many Indonesians are still technologically illiterate, even those who implement technology (rule sanctioning), especially those who are cross-aged (fifty years and over) are usually clueless. However, this is not an obstacle.

Responding to the rules of electronic HT technically related to the duties, functions and authorities of PPAT.

- a. There is a separation between electronic HT registration and submission of the APHT deed to the ATR Office.
- b. Provisions (Article 10): Submission of APHT to the ATR Office is the task of PPAT according to the specified time limit. Submission of the deed can be done electronically
- c. The application for electronic HT registration becomes the obligation of the creditor, if the negligent creditor does not register it, the risk and legal consequences of making the guarantee provided do not provide the special rights granted by the Mortgage Law.
- d. Then the provisions of Article 9 paragraph 5 state that the HT provider must be in the name of the debtor himself (not in the name of another party)

### 3.2. Analysis of the validity of authentic deeds electronically in relation to the implementation of the ATR Act No. BPN ministerial clash no 9 of 2019 regarding the implementation of registration of mortgage rights using an electronic system

Before analyzing the validity of authentic deeds electronically in relation to the implementation of Permen ATR Act No. BPN no 9 of 2019 regarding the implementation of registration of mortgage rights using an electronic system. In article 6 regarding the types of mortgage services that can be submitted through the HT-el system which includes; registration of mortgage rights, transfer of mortgage rights, change of creditor names and removal of mortgage rights. The civil law system adopted by notaries in Indonesia has the following characteristics:

- a. There is a codification system

- b. Judges who are not bound by precedent or the doctrine of *stare decisis*, so that the law becomes the reference of the first law.
- c. Its judicial system is inquisitorial, which means Judges have a major role in directing and deciding cases. Judges are active in finding facts and careful in assessing evidence.

Authentic deeds made in civil law countries have the power of proof that is good and correct so that it can be said to be perfect and what is done by the public notary is not. This very strong power of evidence arises from the fact that notaries in civil law countries have a formal obligation that is born from implementation of *Tabellionis Officium Fideliter Exercebo* (which states that the notary must work traditionally and is still maintained today). This requires the notary to come to review each deed and be signed by the notary and the respective parties directly at the place where he reads it by the notary.

The engraved signature must be the original from the Notary Public and the parties are not an electronic signature that can be written on the deed. This obligation has a good benefit, namely ensuring that the party making the agreement or the creditor is really the party whose name is listed in the comparison, is not under coercion, erroneous or cheated, and has been agreed by both parties.

Regarding the validity of electronic signatures, Article 11 paragraph (1) Act No. 11 of 2008 concerning Electronic Information and Transactions ("ITE Law") and Article 59 paragraph (3) PP PSTE states as follows:

Electronic Signatures have legal force and legal consequences as long as they meet the following requirements:

- a. Electronic Signature creation data related only to the Signer;
- b. Electronic Signature creation data at the time of the electronic signing process is only in the power of the Signer;
- c. all changes to the Electronic Signature that occur after the signing time can be known;
- d. all changes to Electronic Information related to the Electronic Signature after the signing time can be known;
- e. there are certain methods used to identify who the Signers are; and

- f. there is a certain way to show that the Signer has given consent to the related Electronic Information.

Based on the explanation above, an electronic signature can be said to be valid if it meets the requirements as described in Article 11 paragraph (1) of the ITE Law and Article 59 paragraph (3) PP PSTE, regardless of one's position and profession. The validity of the notary's electronic signature, if notaries use electronic signatures related to their position as notary public, there are no explicit rules that regulate this.

Regarding the mechanism of integrated mortgage services electronically, Article 9, (1) registered users submit an application for Mortgage services electronically through the Ht-el system provided by the ministry.(2) Requirements for application of Mortgage services as referred to in paragraph (1) are in accordance with the provisions of laws and regulations. (3) In addition to the requirements as intended in paragraph (2), the applicant shall make a Statement Letter regarding the accountability for the validity and accuracy of the submitted Electronic Document data. (4) Requirements for the application as intended in paragraph (2) and paragraph (3) are made in the form of an Electronic Document. (5) Requirements in the form of a Certificate of Land Rights or Ownership of a Flat Unit must be in the name of the debtor. (6) The applicant must keep the original documents required for the application. (Pemen no 9 of 2019)

Authentic deeds must be studied in detail down to philosophical reasoning that creates understanding and conditions which, although they seem ancient, are still antiquated and force notaries to continue working traditionally. Therefore, notaries have better legal considerations in providing safer protection so that they are able to protect the integrity of the evidentiary power of authentic deeds which include three things, namely, the strength of formal proof, the strength of material proof and the power of proof out.(Basic Concept of Cyber Notary: Validity of Deeds in Electronic Form)

The solution is for a country that adopts a civil law system to give its own meaning to cyber notary when implementing restrictions on the use of technology to maintain the wetness of an authentic deed.

## 4. Closing

### 4.1. Conclusion

Based on the results of the research and discussion that has been described, therefore the authors conclude:

1. The problem of electronic authentic deeds in the implementation of the ministerial regulation ATR Act No. BPN no 9 of 2019 concerning the implementation of registration of mortgage rights with an electronic system, there are two of the most dominant problems, including the Interference of the HT-e System and the Regulations that Have Not Regulated the Subjects and Objects of the Insurance Rights as a whole.
2. The validity of the electronic authentic deed in the implementation of the regulation of the Minister of ATR Act No. BPN No. 9 of 2019 concerning the implementation of registration of mortgage rights with an electronic system, namely by continuing to implement technological restrictions to maintain the validity of authentic deeds in order to align with the main spirit of the notary profession as a public official.

### 4.2. Suggestions

Based on the above conclusions, the authors make the following suggestions:

1. The solution to fixing the problematic of authentic deeds electronically in implementing candy no.9 of 2019 is by improving service quality with the HT-e system, minimizing errors that are likely to occur, and applying the ATR Act No. BPN candy no 9 of 2019 more optimally.
2. To maintain the validity of authentic electronic data in the context of implementing Permen No. 9 of 2019, notaries in countries with civil law systems continue to conduct direct reviews.

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