

## The Duties & Authorities of Land Deeds Officer (PPAT) in Implementing the First Land Registration

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**Abstract.** *The purpose of this study is to find out and analyze how the Duties and Authorities of Land Deed Maker Officials in the Implementation of Land Registration for the first time. To find out and analyze the Constraints and Solutions of Land Deed Making Officials in carrying out land registration activities for the first time and to find out what efforts must be made by PPAT. The method used by the researcher is Empirical Jurisdiction and the specifications in this study include descriptive analysis. The sources and types of data in this study are secondary data obtained from library studies. Based on the results of the study that The Duties and Authorities of the Land Deed Making Official in the Implementation of Land Registration for the first time are: make an authentic deed that plays a role in providing juridical data on changes to data on the implementation of land registration. The obstacles are: a. The inability of the parties to complete the requirements related to taxation. b. For the first application for land registration with proof of land acquisition in the form of a sale and purchase receipt or sale and purchase receipt, but the evidence in the form of a sale and purchase seal or sale and purchase receipt has been damaged. c. Requirements relating to taxation. d. Lost and unknown land book in the Land Office. The solution: a. The requirements that must be met by applicants who wish to apply for land registration are incomplete for the first time. b. Ask for a copy to the local Village Office, because all data on the sale and purchase of the land is in the Village office. c. All land owners are required to pay Land and Building Tax regularly every year if they want to register their land rights. d. It is hoped that people who have land that have not been registered (certified) to register their land with the Regency/Municipal National Land Agency Office regarding the importance of registering land rights.*

**Keywords:** Authorities; Land; Registration.

## 1. Introduction

The authority that comes from the right of control of the state is used to achieve the greatest prosperity of the people, in the sense of happiness and prosperity as well as independence in an independent, sovereign and prosperous Indonesian society and legal state. For some Indonesians, land has an important meaning and occupies a vital position in everyday life. In this connection Van Dijk argues that: "Land is the main capital and for most parts of Indonesia, land is the only capital".<sup>1</sup>

Land is the main thing in human life related to activities and businesses that are agrarian in nature so that until now land has become the foundation of hope for the community to be able to carry out their life order. Land becomes part of the earth's surface which in its use includes part of the earth's body below it and part of the space above it, with the limitations contained in Article 4 of the Basic Agrarian Law (UUPA), namely: used for interests related to directly with the use of the land in question, as regulated in the boundaries according to the LoGA and other regulations of a higher position. How deep is the body of the earth and how high is the space related to land issues that can be used with the objectives to be achieved.<sup>2</sup>

In addition to having economic value, land also has social value, which means that land rights are not absolute, however, the state has guaranteed and respected land rights granted to its citizens, so there needs to be a legal certainty in land tenure protected by law. . The direction of land policy conceptually which is based on the 1945 Constitution of the Unitary State of the Republic of Indonesia as mentioned above, has been regulated and outlined in the Law on Basic Agrarian Principles (Act No. 5/1960 which hereinafter referred to as UUPA). The purpose of the enactment of the UUPA is to lay the foundations to provide legal certainty regarding land rights for all Indonesian people.<sup>3</sup>

According to Maria SW Sumardjono, Government Regulation Number 24 of 1997 was issued because of the awareness of the importance of the role of land in the development process with clear legal certainty. Viewed from the normative side, legal certainty requires the existence of a set of laws and regulations that are able to support its implementation. Then the laws and regulations empirically need to be implemented consistently by human resources as supporters.<sup>4</sup>

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<sup>1</sup>Adijani al-Alabij, (1992), *Perwakafan Tanah di Indonesia*, Rajawali Pers, Jakarta, p. 1.

<sup>2</sup>Boedi Harsono, (1994), *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi & Pelaksanaannya*, Djambatan, Jakarta, p. 203-204.

<sup>3</sup>Urip Santoso, 2010, *Registration and Transfer of Land Rights*, Kencana, Jakarta, p. 2.

<sup>4</sup>Maria S. W. Sumardjono, accessed on 03 October 2019, *Kepastian Hukum & Perlindungan Hukum Dalam Pendaftaran Tanah, Makalah, (Seminar Nasional Kebijakan Baru Pendaftaran*

Land registration activities based on Article 6 paragraph (1) of PP Number 24 of 1997, the duties and implementation are carried out by the Head of the Land Office, except in certain activities which are assigned to other officials by the Government Regulation or the relevant legislation. PPAT is a public official who is a partner in land management activities. In Article 1 number 24 of Government Regulation Number 24 of 1997 concerning Land Registration, it is explained that the Land Deed Making Officer is a public official who is authorized to make certain land deeds regarding land rights or Ownership Rights to Flat Units. The definition of Land Deed Making Official (PPAT) as regulated in Article 1 of Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Position Regulation of Land Deed Making Official (PPAT) is a public official who is authorized to make Authentic Deeds regarding certain legal actions related to land rights or Ownership Rights to Flat Units. From the provisions of Article 1 of Government Regulation Number 24 of 2016 above, it is stated that the Land Deed Making Officer (PPAT) will always refer to the provisions of Article 1868 BW which states that an Authentic Deed is a Deed made in the form determined by law by or before a public official who is authorized to do so at the place where the Deed was made. Then the official who has the authority to make a deed is the PPAT. If in one area there are several PPATs and temporary PPATs, then the authority in making the Deed is the PPAT, because the temporary PPAT does not have the authority to make a land deed. Temporary PPAT is a Government Official who is appointed because of his position to carry out PPAT duties by making PPAT Deeds in areas where there are not enough PPATs. So if in an area there are two PPATs that are recognized based on statutory regulations, taking into account the origin and function of the official in question.<sup>5</sup>

Based on the General Elucidation of Government Regulation Number 24 of 1997, it is stated that the PPAT Deed is the main thing in the context of maintaining land registration data, so that the main tasks and procedures for their implementation are regulated in the regulation. Some of the tasks that must be carried out by PPAT include carrying out land registration activities by making a deed which is used as evidence that certain legal actions have been carried out regarding land rights or property rights to flat units which are then used as the basis for land registration. These legal actions include the process of buying and selling, exchanging, grants, sharing joint rights, granting building rights or use rights over land with property rights.<sup>6</sup>

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*Tanah & Pajak-Pajak Yang Terkait: Suatu Proses Sosialisasi & Tantangannya*), Kerja sama Fakultas Hukum UGM & Badan Pertanahan Nasional, Yogyakarta, p. 1.

<sup>5</sup>Herlina Ratna SN, 2015, *Kewenangan Pejabat Pembuat Akta Tanah Dalam Perjanjian Jual Beli Tanah*, Keadilan progresif, Vol. 6 No.2, p. 101.

<sup>6</sup>Mhd. Yamin Lubis & Abd. Rahim Lubis, (2012), *Hukum Pendaftaran Tanah*, Mandar Maju, Bandung, p. 6.

This PPAT guarantees the material truth and formal truth in every Deed made and also plays a role in examining the obligations of the parties that must be fulfilled in relation to the process of transferring the rights. Furthermore, the PPAT's responsibility for the Authentic Deed is to only record or pour a legal act carried out by the parties or appearers into the Deed. The deed is made as evidence that a certain legal act has been carried out and then the deed is used as the basis for land registration activities at the Land Office. So that if there is no Deed made by PPAT, land registration activities will be difficult to carry out, the PPAT Deed becomes the basis for the land registration process to be carried out.<sup>7</sup>

The purpose of this study is as follows: To find out and analyze how the Duties and Authorities of Land Deed Maker Officials in the Implementation of Land Registration for the first time. To find out and analyze how the land registration process for the first time is carried out by the Land Deed Making Official. To find out and analyze the Constraints and Solutions of Land Deed Making Officials in carrying out Land Registration activities for the first time.

## **2. Research Methods**

The method used by the researcher is Empirical Jurisdiction and the specifications in this study include descriptive analysis. The sources and types of data in this study are secondary data obtained from library studies.

## **3. Results and Discussion**

### **3.1. Duties and Authorities of Land Deed Making Officials in the Implementation of Land Registration for the first time**

In essence, one of the important things in land regulation by the state is the guarantee of legal certainty for owners of land rights. To guarantee legal certainty of land rights, the Basic Agrarian Law as the legal basis for regulating land in Indonesia, orders the Government to carry out land registration.<sup>8</sup>

With the enactment of Act No. 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), land rights since September 24, 1960 were changed (converted) into the National Land Law. Namely, Property Rights (HM), Business Use Rights (HGU), Building Use Rights (HGB) and Use Rights (HP).

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<sup>7</sup>Boedi Harsono, Op.cit, p. 486.

<sup>8</sup>Muhammad Muthohar, Amin Purnawan, 2017, *Tugas & Kewenangan Camat Sebagai PPAT Sementara Dalam Pembuatan Akta-Akta Tentang Tanah (Studi Di Kabupaten Boyolali)* in *Jurnal Akta* Volume 4 (4), Published Master of Notarial Law, Faculty of Law Unissula

According to the LoGA, these rights must be registered in accordance with Government Regulation Number 10 of 1961 concerning Land Registration. This Government Regulation is an implementation of the provisions of Article 19 of the LoGA. Then in 1997, this Government Regulation was refined into Government Regulation Number 24 of 1997 concerning Land Registration.

In carrying out land registration, it must be proven by a deed called a land deed. This deed proves the legal act of transferring land rights and the imposition of land rights with mortgage rights. The existence of the Land Deed Maker Official (PPAT) is very important, this is that with the existence of the Land Deed Making Official, it will provide services to all communities who need explanations regarding the making of the deed in the context of land registration. With land registration, the holder of land rights will receive proof of land rights, namely a certificate. So that with the certificate the holder of land rights will be guaranteed the existence of their rights. Even if the land will be used in trade traffic.<sup>9</sup>

The role of PPAT in land registration is an authority granted by Government Regulation No. 24 of 2007 concerning Land Registration. This role is in the form of services for making land deeds in the context of land registration.

The main duties and authorities of PPAT are actually as stated in Article 2 paragraph (10) and (2) Government Regulation no. 37 of 1998 concerning the Regulation of the Position of the Official for Making Land Deeds, namely carrying out some land registration activities by making a deed as evidence that certain legal acts have been carried out regarding land rights or property rights over flat units which will be used as the basis for registering changes in land data caused by these legal actions, namely buying and selling, exchanging, grants, entry into the company (inbrenng), sharing of joint rights, granting building use rights/use rights over land with property rights, granting mortgage rights, and granting power of attorney to encumber mortgage rights.

The role of PPAT in making land deeds is in accordance with Efendi Warin's view which states that PPAT is an official authorized to make deeds rather than agreements that intend to transfer land rights, give new rights to land, pawn land or lend money with land rights as dependents. .<sup>10</sup>

The Duties and Authorities of the Land Deed Making Official in the Implementation of Land Registration for the first time are: make an authentic

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<sup>9</sup> Harris Yonatan Parmahan Sibuea, 2011, *Arti Penting Pendaftaran Tanah Untuk Pertama Kali*, Jurnal NEGARA HUKUM: Membangun Hukum Untuk Keadilan & Kesejahteraan Vol. 2, No. 2, November 2011

<sup>10</sup> Efendi Perangin, (1994), *Hukum Agraria di Indonesia*, Raja Grafindo Persada, Jakarta, p. 3

deed that plays a role in providing juridical data on changes to data on the implementation of land registration. In carrying out its duties, PPAT Grobogan Regency still adheres to Government Regulation no. 24 of 1997 concerning Land Registration, Government Regulation no. 37 of 1998 concerning the Regulation of the Position of the Official for Making Land Deeds, as well as the Regulation of the Head of the BPN Number 1 of 2006 concerning the Provisions for the Implementation of the Government Regulation No. 37 of 1998 concerning the Position of the Official for Making Land Deeds.

### **3.2. The land registration process for the first time is carried out by the Land Deed Maker Official**

Land registration is a series of activities carried out by the government continuously, continuously and regularly, including the collection, processing, bookkeeping, and presentation and maintenance of physical data and juridical data, in the form of maps and lists of land parcels and apartment units. , including the provision of certificates as proof of rights for parcels of land that already have rights and Ownership Rights to Flat Units as well as certain rights that encumber them.<sup>11</sup>

Land registration is carried out by the land registration office according to the provisions of government regulations, as it is known that originally the land registration office was under the auspices of the Ministry of Justice. National which is its own agency.

After the issuance of Presidential Decree No. 26 of 1988 with the establishment of the National Land Agency (BPN), those relating to land rights are the authority of the National Land Agency, for Level I Regions (Kanwil BPN) and for Level II Regions the Office of the Land Agency District/City National.

According to Bachtiar Effendi, the land registration system adopted by many countries that carry out land registration, namely:<sup>12</sup>

- Torrens System

The land certificate according to the Torrens system is the most complete and inviolable evidence of land rights holders. It is not possible to change the size of the land unless you obtain a land certificate by means of forgery by writing or by means of forgery.

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<sup>11</sup>Ratih Mega Puspa Sari, Gunarto, 2018, *Peranan PPAT Dalam Pensertifikatan Tanah Akibat Jual Beli*, in *Jurnal Akta* Volume 5 (1), Published Master of Notarial Law, Faculty of Law Unissula

<sup>12</sup>Bachtiar Effendi, (1983), *Pendaftaran Tanah di Indonesia & Peraturan-peraturan Pelaksanaannya*, Alumni, Bandung, p. 35.

- Positive System

One land certificate that has been given is as a proof of absolute land rights and is proof of land rights. The main feature of this positive system is that land registration is a complete guarantee that the name registered in the land book is irrefutable even though it turns out that he is not the rightful owner of the land.

- Negative System

Everything stated in the land certificate is considered true until it can be proven otherwise (not true) before a court session. The main feature of this negative system is that land registration does not guarantee that the name registered in the land book cannot be disputed if the registered name is not the owner.

The land registration process for the first time is carried out by the Land Deed Making Officer in Grobogan Regency after the Applicant completes the files that have been determined based on KBPN Regulation Number 1 of 2010 then the next process carried out by the Applicant is to submit an application through the available counter and make payment, the measurement officer goes down to the field to carry out measurements by producing a Field Map, after the Field Map is available, Land Inspection Committee, land tenure and boundary markings/land stakes and continued with Committee Session "A", the Land Inspection Committee (Committee A) announces in the Village, the ownership of the requested land for 2 (two) consecutive months, if not there is a lawsuit from a third party, then the process is continued to Registration to get a certificate, The land certificate can be taken at the Land Office by the applicant directly and or by a proxy by bringing a power of attorney and attaching a photocopy of the identity card of the applicant and the proxy.

### **3.3. Constraints and Solutions for Land Deed Making Officials in carrying out Land Registration activities for the first time**

Every government action is required to rely on legitimate authority. Without legal authority, an official or State Administration Agency cannot carry out a government action. Therefore, legitimate authority is an attribute for every official or for every agency.<sup>13</sup>

One of the authorities given to a notary as a public official is to make an authentic deed in addition to other authorities determined by law. An authentic

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<sup>13</sup>Lutfi Effendi, (2011), *Pokok-Pokok Hukum Administrasi*, Bayumedia Publishing, Malang, p.77

deed according to article 1868 of the Civil Code is a deed made by an authorized official whose form is determined by law.<sup>14</sup>

The acquisition of rights to land and/or buildings is through the process of transferring rights to land and/or buildings by taking legal actions, namely by making a deed of transfer of rights to land and/or buildings before the PPAT, as a public official.<sup>15</sup> So that the role of the Land Deed Maker Official (PPAT) in addition to making the deed is also validating the making of certain laws, however, the PPAT also does not escape the obstacles in carrying out its role in the implementation of land registration related to the making of the deed.

The Obstacles faced by Land Deed Making Officials in carrying out Land Registration activities for the first time are: The inability of the parties to complete the requirements related to taxation. For the first application for land registration with evidence of land acquisition in the form of a sale and purchase receipt or sale and purchase receipt, but the evidence in the form of a sale and purchase seal or sale and purchase receipt has been damaged; Requirements related to taxation, be it Land and Building Tax (PBB), Income Tax (PPh), Customs on Acquisition of Land and Building Rights (BPHTB); Land books that are lost and whose whereabouts are unknown at the Land Office;

The solutions to overcome the obstacles faced by the Land Deed Making Officer in carrying out Land Registration activities for the first time are: The requirements that must be met by applicants who wish to apply for land registration for the first time must be complete; Ask for a copy to the local Village Office, because all data on the sale and purchase of the land is in the Village office; It is mandatory for all land owners to pay Land and Building Tax regularly every year if they want to register their land rights. With the payment of the PBB, the SPPT-PBB will be issued by the DPPKAD; From the PPAT side, requesting the Land Office to make a report of the loss in accordance with the applicant's data.

#### **4. Conclusion**

Based on the description in the previous chapter, the authors conclude that: The Duties and Authorities of the Land Deed Maker Official in the Implementation of Land Registration for the first time are: make an authentic deed that plays a role

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<sup>14</sup>Hasrul, Sri Kusriyah, 2018, *Politik Hukum Pemberian Kewenangan Kepada Notaris Untuk Membuat Akta Pertanahan Dalam Kaitannya Dengan Kewenangan PPAT*, in *Jurnal Akta* Volume 5 (1), Published Master of Notarial Law, Faculty of Law Unissula

<sup>15</sup> Eko Puji Hartono & Akhmad Khisni, 2018, *Peranan PPAT Dalam Pembuatan Akta Peralihan Hak Atas Tanah Dan/Atau Bangunan Bekas Hak Milik Adat Berkaitan Dengan Pembayaran Bea Perolehan Hak Atas Tanah Dan/Atau Bangunan*, in *Jurnal Akta* Volume 5 (1), Published Master of Notarial Law, Faculty of Law Unissula



in providing juridical data on changes to data on the implementation of land registration. The land registration process for the first time is carried out by the Land Deed Maker Officialis after the Applicant completes the files that have been determined based on the KBPN Regulation Number 1 of 2010. The obstacles are:

- a. The inability of the parties to complete the requirements related to taxation.
- b. For the first application for land registration with proof of land acquisition in the form of a sale and purchase receipt or sale and purchase receipt, but the evidence in the form of a sale and purchase seal or sale and purchase receipt has been damaged.
- c. Requirements relating to taxation.
- d. Lost and unknown land book in the Land Office.

The solution:

- a. The requirements that must be met by applicants who wish to apply for land registration are incomplete for the first time.
- b. Ask for a copy to the local Village Office, because all data on the sale and purchase of the land is in the Village office.
- c. All land owners are required to pay Land and Building Tax regularly every year if they want to register their land rights.
- d. It is hoped that people who have land that have not been registered (certified) to register their land with the Regency/Municipal National Land Agency Office regarding the importance of registering land rights and the importance of transferring land rights to be carried out before the authorized official not according to custom or by using a receipt as regulated in Government Regulation Number 24 of 1997 concerning Land Registration which aims to provide legal certainty for both the Seller and the Buyer.

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