

The Effectiveness of Electronic Land Title Certificate Checking Services in Helping PPAT Perform Their Job Duties

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Abstract. *This research aims to determine and analyze the effectiveness of the implementation of electronic certificate checking services for the PPAT of Sragen Regency, and to find out the constraints and obstacles experienced by the PPAT and to find out the legal strength of the electronic checking results as a basis for making deeds for the PPAT. The research approach used in this thesis is an empirical or juridical legal research method. This research specification uses empirical juridical research methods or field research. The types of data used in this research are primary data and secondary data. The data analysis method is by collecting research materials and then analyzing them using description techniques. The results of the research show that the effectiveness of the certificate checking service for PPAT Sragen Regency in assisting their duties and positions is currently not fully effective because there are still several obstacles and obstacles. The results of checking the certificate electronically have legal force and are valid evidence in accordance with the procedural law in force in Indonesia.*

Keywords: *Effectiveness; Certificates; Electronic; Land; Systems.*

1. Introduction

Land has an important role in human life, because a large part of human life depends on the existence and ownership of land. In Indonesia, constitutionally the issue of land as the surface of the earth is stated in Article 33 paragraph (3) of the 1945 Constitution, which reads: "Earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people" .

Judging from its position, this article is closely related to the issue of the welfare of the Indonesian people. Both in the article and in the explanation, it can be found that land should be used as much as possible for the prosperity of the people in order to achieve state goals as implied in the fourth paragraph of the

Preamble to the 1945 Constitution. Land is considered to be an investment reserve in the future. Attention to good land management will have a positive impact on investment.

Rearranging land structures and policies in terms of control, ownership, use and utilization of resources needs to be carried out with a serious political commitment from the government to provide a clear basis and direction within a reform framework that is just, democratic and sustainable, considering the many problems which arise because it is not managed properly and correctly.¹

One of the institutions that has a close relationship with land is the National Land Agency (BPN) which is regulated in Government Regulation no. 10 of 2006 concerning the National Land Agency. It is explained in article 1 paragraph 1 of PP No. 10 of 2006 that the National Land Agency is a non-departmental government institution that is under and responsible to the president. Furthermore, Article 2 of PP No. 10 of 2006 states that the National Land Agency has the task of carrying out government duties in the land sector nationally, regionally and sectorally.

One effort to achieve quality services in accordance with what the public desires as stated in Article 18 of Law number 25 of 2009 concerning Public Services, namely by providing service integrity, equality of treatment, speed and affordability of access to the services provided. So policies, formulations and innovation are needed to make this happen.

The Ministry of Agrarian Affairs and Spatial Planning/BPN is trying to make various breakthroughs and innovations in the field of public services, namely through digital transformation. Digital transformation will make services faster, easier and shorten queues at the Land Office. There are 4 (four) digital services that have been implemented by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), namely Electronic Mortgage Rights, Royalty, Land Value Zone (ZNT) and Certificate Checking.²

Exactly on December 31 2020, the checking of land title certificates which is usually carried out manually was 100% closed, and was replaced by electronic certificate checking, which was carried out in full from January 1 2021 nationally,

¹Radityo amaradipta prasojo (2022). "The effectiveness of SKK Migas in realizing people's prosperity based on Article 33 of the 1945 Constitution." in Research Innovation Journal, Volume 3 No 6 November 2022, [urlfile:///C:/Users/Alpha/Downloads/2116-Article%20Text-5488-1-10-20221102.pdf](file:///C:/Users/Alpha/Downloads/2116-Article%20Text-5488-1-10-20221102.pdf) accessed December 1, 2023.

²Fabiola Febrinastri, "With Information Technology, the Ministry of ATR/BPN Innovates in Public Services", <https://www.suara.com/news/2021/09/29/105851/dengan-technology-informasi-kementerian-atrbpn-berinovasi-di-jasa-publik?page=all> accessed on November 18, 2021 at 10 p.m. 22.00.

this was confirmed by the Ministry of ATR/BPN.³Checking certificates is an activity carried out to find out physical data and juridical data stored in registration maps, land registers, measuring letters and land books.⁴

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 19 of 2020 concerning Electronic Land Information Services explains that Land Information Services in the form of checking Land Rights Certificates must be carried out by PPAT before making certain legal deeds regarding Land Rights/Rights. Belongs to a Flat Unit.

Applications for Electronic Checking are regulated in Minister of Agrarian Affairs Regulation Number 19 of 2020, namely that Applications for Electronic Checking Services for Land Title Certificates are accessed by PPAT electronically. The Electronic Certificate Checking Application Service can only be accessed using each PPAT's username and password. The user name and application password are obtained by PPAT by registering on the land information service application. After registering, PPAT will get an identity which will then be used as an identifier in the application.

The initial aim of this online service was to improve land information services easily, quickly and at low cost. Because with electronic checking services, the checking process can be carried out anytime and anywhere by PPAT using the account that has been created without having to come to the BPN Office.

The ease of electronically checking land title certificates really helps ease PPAT's work, but in its application data discrepancies often occur between the electronic certificate data content and the physical data of the original certificate issued by BPN. Apart from the problems in terms of the validity of the data, checking land title certificates electronically also often causes errors in the system. This will certainly make the checking process take a long time because we are waiting for improvements to the BPN online system.

2. Research Methods

This research was conducted using a qualitative sociological or empirical (non-doctrinal) approach.⁵This research specification uses empirical juridical research

³Insi Nantika Jelita, "Land Certificate Checking will be fully electronic starting this year,<https://mediaindonesia.com/economic/374493/pengecekan-sertipikat-tanah-full-elektronik-mulai-tahun-ini> accessed November 18, 2021 at. 22.00.

⁴Implicit in Article 34 paragraph (1) Government Regulation Number 24 of 1997 concerning Land Registration.

⁵Soetandyo Wignjosebroto, 2011, Legal Research Methods Syllabus, Postgraduate Program, University of Surabaya: Airlangga, p. 1-3.

methods or field research, in which the author will conduct research and collect related data. Data sources come from primary data and secondary data. Data collection methods include interviews, document studies or library materials. The data analysis method used in analyzing data is by collecting research materials and then analyzing them using description techniques in the form of primary legal materials and secondary legal materials.

2. Results and Discussion

2.1. The effectiveness of electronic certificate checking services for PPATs in Sragren Regency in carrying out their official duties

Checking certificates in daily practice is called a clean check, which is an initial action for the Notary/PPAT to ascertain whether the certificate of title to the land whose ownership rights will be transferred/transferred or is burdened with a Mortgage or other legal action will be carried out is problematic or not and whether it is in accordance with the registers or data in the land book at the Land Office. PPAT also checks land title certificates to ensure that the land is not in legal dispute, is not being pledged as collateral, or is not being confiscated by the authorities.⁶

Electronic Certificate Checking Service is a development or modernization of land services carried out electronically which is very much needed in the current era of information technology development. This is driven by the increasing need for other agencies for land data and dynamic land services, especially in supporting development planning. Internally, the very high certification target until 2025 requires anticipated increases in post-certification derivative services and land archive management. On the other hand, public perception of land services is still not satisfactory. In such conditions, changing the land administration system to electronic is a necessity.

Electronic land title certificate checking services are regulated in ATR Ministerial Regulation Number 5 of 2017 which was established to improve land information services by providing convenience, fast service, low costs and following community needs. The move from checking certificates from previously manual to using an electronic land service application aims to provide convenience for the public because it is done electronically so that it can be reached throughout Indonesia without having to come to BPN.

⁶ Chintya Agnisya, Farris Nur Sanjaya, Gunarto. (2018). "The Effectiveness of Checking Certificates in Checking Land Disputes in the Process of Transferring Land Rights". in *Deed Journal*, Volume 5 No 1,, page 120. [urlfile:///C:/Users/Alpha/Music/KUTIPAN%20TESISKU/Kecekan%20Certifikat%20Against%20Prevention%20Dispute%20Land%20In%20Process%20Peralihan.pdf](file:///C:/Users/Alpha/Music/KUTIPAN%20TESISKU/Kecekan%20Certifikat%20Against%20Prevention%20Dispute%20Land%20In%20Process%20Peralihan.pdf) accessed December 1, 2023

In its development, ATR/BPN Ministerial Regulation No. 5 of 2017 was replaced with ATR Ministerial Regulation Number 19 of 2020. Precautionary letter b of ATR/BPN Ministerial Regulation Number 19 of 2020 states that in order to expand the subject of information services and to encourage increased investment and provide ease of doing business in Indonesia, it is necessary to improve several provisions in the implementation electronic land services.

ATR/BPN Ministerial Regulation Number 19 of 2020 Article 1 number 5 explains that land checking services are services used to check the conformity of physical data and juridical data contained in land rights certificates with electronic data contained in the BPN database. The land data presentation service by BPN which is carried out electronically is one of the implementations of the purpose of land registration, namely that every person has the right to be able to know their land data which has been registered and stored in the BPN database.⁷

In the past, the mechanism for checking land title certificates was still carried out conventionally, namely by the applicant coming directly to the BPN office with the files and conditions for checking the certificate. If the land title certificate has been checked, the land office will provide information on the certificate in the form of a stamp with the words "It has been checked and is in accordance with the land book at the land office". and given initials along with the date of checking.⁸

In contrast to certificate checking which is carried out through an electronic checking system, the original certificate form does not contain writing or a stamp of information and what applies is a printout of the results of the electronic certificate checking file. land title certificate checking service using an electronic system. At the start of the Electronic Checking Service, in practice, PPAT often encountered problems in the form of electronic certificate checking information data content where the contents did not match the data on the original physical certificate. If this happened, PPAT had to notify and coordinate with the land office first to carry out repairs, the repair process will certainly increase the time it takes to check the certificate because you have to coordinate with BPN.⁹

Electronic land information is in accordance with the provisions of article 10 paragraph 1 of ATR Ministerial Regulation Number 19 of 2020 that land information has the same information value as electronic data, both Physical Data and Juridical Data in the database, on the day, date and time when the information service results are delivered. land.

⁷Winahyu Erwiningsih & Sailan, FZ 2019, *Agrarian Law Basics and Application in the Land Sector*, UII Press, Yogyakarta, p. 188.

⁸Interview with Dwi Riswiyanto, BPN Sragen Officer, 08 August 2023

⁹Interview with Notary-PPAT Suryanti, Bachelor of Laws, Master of Notary PPAT Sragen Regency.

The process of checking certificates through an electronic checking system is expected to make things easier for interested parties and provide legal certainty. SW Sumardjono, stated that the law requires certainty. The certificate holder has strong proof of rights. Indonesian Land Law requires certainty as to who holds the ownership rights or other rights to a piece of land.¹⁰

In its development, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency has carried out a transformation of land and spatial planning information services as an effort to improve the public service system regarding service methods and procedures in order to provide easy, fast, precise, affordable and accountable services through the application and development of technology. Information and Communication (ICT) in various land services, more complete and detailed arrangements are needed so that the Electronic System can be in harmony with applicable legal norms.

Issuance of Technical Instructions Number 5/Juknis 100.HK.02/VII/2021 concerning Electronic Land and Spatial Planning Information Services which are implementation instructions for the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 19 of 2020 concerning Electronic Land Information Services Electronic, and then in 2022 it will be perfected with the publication of Technical Instructions Number 3/Juknis-HK.02/IV/2022, where there are updates to the Electronic System for Electronic Checking Services for Certificates and Land Registration Certificates (SKPT) so that it becomes the legal basis for implementation of electronic systems. With the publication of Technical Instructions Number 3/Juknis-HK.02/IV/2022 concerning Electronic Certificate Checking Services and Electronic Land Registration Certificate (SKPT) Services, Technical Instructions Number 5/Juknis100.HK.02/VIII/2021 concerning Services Electronic Land and Spatial Planning Information, is revoked and declared invalid.

Simultaneous implementation of the Electronic Certificate Checking service without going through a transition period with a good electronic system will certainly cause several problems, especially obstacles faced by PPATs as users of electronic certificate checking services. The problem in question has occurred a lot with the simultaneous implementation of the Electronic Certificate Checking Service mechanism. The following are several obstacles to the electronic certificate checking service experienced by the Sragen Regency PPAT, including:

1. The electronic checking system still encounters errors in the system, resulting in the Electronic Certificate Check being hampered. Electronic checking experienced an error and could not be accessed for approximately two weeks

¹⁰Maria Sumardjono SW, 2001, Land Policy between Regulation and Implementation. Kompas, Jakarta, p.37.

simultaneously in mid-May 2022.

2. The process of checking certificates electronically with the latest system now after the publication of technical guidelines No. 3/Juknis-HK.02/IV/2022, the contents of the data contents in the electronic checking results with the contents of the data contents on physical certificates rarely find differences in the data contents, however, when published It is impossible to determine when the results of electronic checking will occur, so PPAT as a service user must always monitor the application to find out whether the checking process has been completed or whether there are document corrections that must be corrected immediately.

3. Checking the certificate electronically with the latest system now in document revision still finds orders to carry out validation, meanwhile in reality according to the physical data on the certificate there is already a validation stamp by BPN which means the certificate has been validated.

4. During the checking process, it was still found that Land and Building Rights Acquisition Fee (BPHTB) was owed. If the results of the certificate check show a reduced BPHTB record, it must be deleted first by coordinating with BPN regarding the deletion procedure.

5. Of the many certificate files that have to be checked electronically, we still find checking results that contain different data from the original certificate.

In connection with the theory of effectiveness, the Electronic Certificate Checking Service is currently not fully effective because it still experiences several obstacles such as those inon. If we look at the theory of legal effectiveness put forward by Soerjono Soekanto, whether a law is effective or not is determined by 5 (five) factors, namely the legal factor itself (law), law enforcement factors, means or facilities factors, community factors and cultural factors.¹¹

The level of effectiveness of implementing electronic certificate checking is reviewed using the five indicators or factors from Soerjono Soekanto, that not all indicators or factors can be fulfilled as explained above. The lack of role of law enforcers, imperfect regulations governing electronic systems, lack of supporting facilities or facilities with sophisticated systems, and lack of public knowledge of the existence of electronic checking services.

3.2. Legal strength of the results of checking land certificates electronically as a

¹¹Soerjono Soekanto, 2008, Factors that influence Law Enforcement, PT Raja Grafindo Persada. Jakarta, p. 8.

basis for making deeds for PPAT

Land issues since ancient times have been complicated and complex legal issues and have broad dimensions in both developed and developing countries, so they are not easy to resolve quickly.¹²BPN as a state apparatus, which has duties in the land sector with its work units where in issuing certificates BPN must apply an element of caution in inputting physical data and juridical data in the land book, so that the information provided regarding the validity of the certificate data becomes valid, if an error occurs in the physical data and juridical data in the certificate, then automatically the information provided regarding the validity of the certificate data will not become valid, resulting in the creation of disorderly land administration, because the certificate is the final product of a series of land registration processes issued by BPN for provide legal certainty.

The National Land Agency is a non-departmental government agency that is located under and is directly responsible to the president. When handling land issues, it must be able to:

1. Manage and develop land administration based on the Basic Agrarian Law and other laws and regulations;
2. Overcoming problems arising in the defense sector which are always increasing;
3. Fostering and implementing cooperation in the land sector with other departments and institutions.

According to Mochtar Kusumaatmadja, law is the totality of the rules and principles that regulate human interactions in society which aim to maintain order which includes institutions and processes in order to realize the validity of these rules as a reality in society.¹³Law functions as a driver of development, that is, it can lead society to a more advanced direction.¹⁴With the existence of law, people's lives will become more orderly and focused, because there is legal certainty, the aim of which is so that people are not confused about legal rules both in regulation and in law enforcement.

The task of land registration is a rights administration task carried out by the State to provide certainty of land rights. Regarding land registration, it cannot be

¹²Irawan Soerodjo, 2002, *Legal Certainty of Land Rights in Indonesia*, Arkola Publishers, Surabaya, p. 25.

¹³Samidjo, 1982, *Introduction to Indonesian Law*, Armico Publishers, Bandung, p. 22

¹⁴Mochtar Kusumaatmaja, 1986, *Function and Development of Law in National Development*, Binakreati Publishers, Bandung, p.11

separated from the terms and conditions that must be fulfilled in order to carry out land registration. Every legal act of transferring rights before the PPAT for land that has been registered (certificated) must first be checked for suitability of the certificate at the local Land Office. Article 97 paragraph 1 Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration States that:

Before executing a deed regarding the transfer or encumbrance of Land Rights or Ownership Rights of Flat Units, the Land Deed Making Official is obliged to:

1. ensure the conformity of physical data and juridical data on the Certificate with electronic data in the database through electronic land information services; And
2. ensure and believe that the physical object of the land plot to be transferred and/or encumbered with rights is not in dispute.

Since the implementation of electronic certificate checking, the checking process is carried out by PPAT in its own office using an account created by PPAT without having to come to the BPN office. So the original certificate form does not contain any written/stamp information, but what is currently valid is the PDF result which is then printed by the PPAT itself. The results of electronic checking are different from manual checking. The results of electronic checking are included in the Electronic Document category which is regulated based on Article 1 number 2 of Agrarian Ministerial Decree Number 19 of 2020.

The Ministry of ATR/BPN's efforts to maintain product quality from the results of electronic checking services are carried out through internal and external factors. Internal factors are carried out by making improvements to both the system and land documents that have been recorded before the digitization process begins. Meanwhile, regarding external factors, the ATR/BPN Ministry's efforts are carried out by encouraging all work partners and/or service users to move together to follow the rules or regulations that have been made by the ATR/BPN Ministry.¹⁵

Agrarian Ministerial Regulation Number 19 of 2020 explains that servicesLand information, in this case the results of electronic certificate checking services, has the same information value as electronic data, both physical data and juridical data in the database, on the day, date and time when the results of the land

¹⁵Interview with Sragen Regency BPN Officer.

information service are delivered. The Land Office is also responsible for the information contained in the resultselectronic land information.results of electronic certificate checking servicesIf there is a change in land information in the database, the Land Office will convey the change in land information to service users.

In implementing an electronic system, it must also be certified so that the validity of the electronic documents issued from it can be trusted. Proving evidence in the form of electronic documents also concerns aspects of the validity of those used as evidence, because electronic evidence has special properties and characteristics compared to non-electronic evidence.

In civil evidence law in Indonesia, formal jurisprudence does not yet accommodate electronic documents or information as evidence in resolving disputes through the courts. However, with the enactment of Law Number 8 of 2007 concerning Company Documents, Indonesia has actually begun to accommodate the use of electronic documents as legal evidence. For example, in Capital Market law, there is the term online trading found on the stock exchange and the use of electronic means in storing information and documents in a company.

In 2008 Law Number 11 of 2008 concerning Electronic Information and Transactions was issued and as amended by Law Number 19 of 2016 concerning Electronic Information and Transactions, the existence of Electronic Information and/or Electronic Documents is binding and recognized as evidence. which is valid to provide legal certainty regarding the Implementation of Electronic Systems and Electronic Transactions, especially in evidence and matters relating to legal actions carried out through Electronic Systems.

Electronic documentary evidence is not regulated in the Civil Code, but is still recognized in civil justice practice and is regulated in various special laws and legal instruments that have been issued by the Supreme Court of the Republic of Indonesia. In a special law, it has been determined that electronic documentary evidence can be used to prove civil cases at both the examination, witness and court levels.¹⁶

Based on the description above, it can be said that the legal force of the results of the electronic certificate checking document is the basis for making a deed for PPAT, is valid evidence and has valid legal consequences so it is capable provide legal protection, in order to avoid land disputes in the future for PPAT so that the

¹⁶Muhammad Ridho, 2022. "Judicial Analysis of Electronic Documents from Certificate Checking Results as a Evidence Tool in the Evidence System in Indonesia, Notary Journal, Vol 1, No. 2, <file:///C:/Users/Alpha/Music/KUTIPAN%20TESIS/KU/KEKUATAN%20HUKUM%20PENCECEKAN.pdf> accessed on 07 June 2023 at 22.47 WIB

deed made is not legally flawed because checking the certificate is carried out at the beginning before ratifying the deed.

4. Conclusion

The legal strength of the results of checking the certificate through an electronic checking service as the basis for making a deed for PPAT is that it is valid evidence and has valid legal consequences. The presence of Law Number 11 of 2008 concerning Electronic Information and Transactions in conjunction with Law Number 19 of 2016 concerning Electronic Information and Transactions, makes it recognized that electronic information, electronic documents and their printed results are valid evidence in accordance with the procedural law in force in Indonesia, as long as the electronic information and/or electronic documents contained therein can be accessed, displayed, its integrity is guaranteed, and can be accounted for so that it can explain a situation. The National Land Agency Office is responsible for the information contained in the result electronic land information so that it can provide legal protection for the owner and guarantee legal certainty.

5. References

- Chintya Agnisya, Farris Nur Sanjaya, Gunarto. (2018). "The Effectiveness of Checking Certificates in Checking Land Disputes in the Process of Transferring Land Rights". in Deed Journal, Volume 5 No 1,, page 120. [urlfile:///C:/Users/Alpha/Music/KUTIPAN%20TESISKU/Kecekan%20Certifikat%20Against%20Prevention%20Dispute%20Land%20In%20Process%20Peralihan.pdf](file:///C:/Users/Alpha/Music/KUTIPAN%20TESISKU/Kecekan%20Certifikat%20Against%20Prevention%20Dispute%20Land%20In%20Process%20Peralihan.pdf)
- Fabiola Febrinastri, "With Information Technology, the Ministry of ATR/BPN Innovates in Public Services", <https://www.Suara.com/news/2021/09/29/105851/dengan-technology-information-kementerian-atrbpn-berinovasi-di-jasa-publik?page=all>
- Insi Nantika Jelita, "Land Certificate Checking will be fully electronic starting this year", <https://mediaindonesia.com/economic/374493/pengecekan-sertipikat-tanah-full-elektronik-mulai-tahun-ini>
- Interview with BPN Sragen Officer
- Interview with Notary-PPAT Sragen Regency
- Maria Sumardjono SW, (2001), Land Policy between Regulation and Implementation. Jakarta: Kompas.
- Mochtar Kusumaatmaja. (1986), Function and Development of Law in National Development. Bandung: Binakreatif.
- Muhammad Ridho, 2022. "Judicial Analysis of Electronic Documents from Certificate Checking Results as a Evidence Tool in the Evidence System in Indonesia, Notary Journal, Vol 1, No.

[2,file:///C:/Users/Alpha/Music/KUTIPAN%20TESISKU/KEKUATAN%20HUKUM%20PENGECEKAN.pdf](file:///C:/Users/Alpha/Music/KUTIPAN%20TESISKU/KEKUATAN%20HUKUM%20PENGECEKAN.pdf)

Samidjo. (1982), Introduction to Indonesian Law. Bandung: Armico.

Soerjono Soekanto. (2008) Factors that influence Law Enforcement. Jakarta: PT Raja Grafindo Persada.

Soetandyo Wignjosoebroto. (2011). Legal Research Methods Syllabus, Postgraduate Program, University of Surabaya: Airlangga.