

The Effectiveness of Electronic Mortgage Registration in Klaten Regency

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Abstract. *The need for electronic registration of mortgage rights, with various weaknesses regarding the management of digital-based mortgage registration, in its development will give rise to ineffectiveness in society. The purpose of this research is to find out and analyze: 1) The legal position of the electronic mortgage deed. 2) Factors influencing the effectiveness of the current implementation of electronic mortgage registration. The approach method used in discussing this research problem is a normative juridical approach. The specification of the research used is descriptive analytical research. This type of data uses secondary data. The data analysis method used in this research is qualitative data analysis. The research results concluded: 1) The effectiveness of the implementation of electronic mortgage registration is currently not fully effective, because there are still some obstacles or obstacles. Registration of electronic mortgage rights has not all been carried out in accordance with the procedures stated in the HT-el Juknis. However, in order for the law to apply effectively, of course there are internal and external constraints related to the implementation of the registration of mortgage rights using electronic means, it is necessary to find a solution to overcome these obstacles. After going through various obstacles in carrying out electronic registration, in general since the implementation of electronic registration it has been more effective and efficient amidst the Covid-19 pandemic. Obstacles continue to be attempted to be overcome so that everything runs smoothly. 2) Factors that influence the effectiveness of the implementation of electronic mortgage registration currently consist of juridical and non-juridical factors. Juridical factors include checking documents which takes a long time, and electronic HT applications which still often have errors, while non-juridical factors include many PPATs which have not been verified so they cannot access the HT-el application, banking human resources which are still slow, and PPATs which are not yet enthusiastic in HT-el service because it is considered more difficult.*

Keywords: *Electronic; Guaranteed; Rights.*

1. Introduction

Electronic Systems are a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, transmit and/or disseminate electronic information. Electronic Integrated Mortgage Services, hereinafter referred to as HT-el Services, is a series of mortgage rights services processes in the context of maintaining land registration data which is carried out through an integrated electronic system. This provision was issued to consider improving service, timeliness, speed, convenience and affordability in the context of public services, as well as to adapt to legal developments,¹

Basically, mortgage rights are security rights over land for debt repayment where the position of the creditor takes priority over other creditors. Mortgage Creditors are preference creditors, namely creditors who have priority in getting debt repayment and have the right to execute directly with the execution agency.²

Provisions regarding mortgage rights were previously regulated in UUHT number 4 of 1996 concerning mortgage rights over land and other objects related to land.³The implementation of electronic-electronic HT in its development has various problems, including:⁴

1. Electronic signatures are not yet regulated;
2. There is a problem regarding the timing of changes related to errors in the old electronic HT registration data;
3. The existence of Article 5 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning Head of the National Land Agency Number 5 of 2020 concerning the Implementer of the HT-el System as referred to in paragraph (1) letter b is a component of the HT-el System Operator which has the authority to examine and ratify the results of HT-el Services and subject to the provisions of statutory regulations. (4) The HT-el System User as referred to in paragraph (1) letter c is a person who utilizes the HT-el System provided by the Operator;

¹Eugenia Liliawati Mulyono, *Juridical Review of Law Number 4 of 1996 concerning Mortgage Rights in Relation to Credit Provision by Banking*, Harvarindo, Jakarta, 2003, p. 1.

²Zidna Aufima, *The Role of PPAT as a User of Electronically Integrated Mortgage Rights Services*, *Journal of Judicial Review*, *Journal of Judicial Review*, 22, December 2020, p. 260.

³Nadia Imanda, *Birth of Mortgage According to Agrarian Government Regulations Regarding Electronically Integrated Mortgage Services*, *Jurnal Notaire*, Vol. 3, no. 1, February 2020, p. 151.

⁴Pandam Nurwulan, *Implementation of Electronic Mortgage Services for Creditors and Land Deed Officials*, *Ius Quia Iustum Law Journal*, Vol. 28 Issue 1, January 2021, p. 187.

4. HT dispute resolution is still traditional, for example, evidence in civil court is still not fully based on advances in information and communication technology;

Based on the things above, it shows that the implementation of electronic HT registration is ineffective in providing legal guarantees for related parties. This situation is due to several obstacles in the implementation of electronic Mortgage or HT registration which have been explained and will affect legal certainty and justice.

Technological advances have entered all aspects of people's lives, including the country's economy, this requires banks, which are agents of trust and also agents of development, to also improve the quality of work facilities and infrastructure, many of which are now digitally based.⁵

This is because banking, which is an institution that provides credit for the fulfillment of economic life, both on a state scale and on an individual community scale, must be able to follow the dynamics of community life, which is currently largely supported by advances in communication and information technology. In other words, banking has an important position because it is one - the only institution capable of realizing stable and healthy national financial circulation, in order to maintain the health of credit business institutions, especially banks, this credit business should also be accompanied by guarantees, this aims to provide security in granting credit and certainty in repayment of credit. Lenders and recipients of credit and other parties involved in it should receive protection through guarantee institutions that can provide legal certainty for all parties involved in the credit business.⁶

In practice, it can be seen that most of the objects that are objects of collateral in credit agreements at banks are land based on mortgage rights data published from 2019 to 10 October 2019 total 1,390 in the city of Yogyakarta.⁷ Then, to date, the number of Electronic Mortgage Certificates is 142,477 issued by 454 Land Offices in 33 Provinces with 1,150 creditor partners in the form of Bank Legal Entities.⁸

The position of banking then clearly becomes increasingly important, especially in terms of the implementation of credit with Mortgage guarantees. The importance of the existence of a bank in the implementation of HT credit is to ensure legal certainty and protection for the parties involved. So that losses from

⁵*Ibid*, p. 152.

⁶*Loc, cit.*

⁷<http://statistik.atrbpn.go.id> accessed on 10 April 2021.

⁸*Loc, cit.*

the implementation of Mortgage crediting can be avoided.⁹In reality, this situation has not been able to materialize due to the problems described above. One of the main problems in electronic HT registration is actually at the level of BPN Officer Resources in the electronic HT registration sector who do not yet have good digitalization skills qualifications.

The Klaten District Land Office issues HT certificates without going through an inspection process by officers. This incident was the result of human error due to the inaccuracy of the officers in the service. There are also files that are closed because there are uploaded documents that are difficult to read but service users are slow to respond to make corrections. This is certainly an obstacle to realizing the successful implementation of HT-el services at the Klaten District Land Office. Readiness and support from various parties is also very much needed to support the successful implementation of HTel services so that they can improve the service image of the Ministry of ATR/BPN and create satisfaction for service recipients.¹⁰

2. Research Methods

The approach method used in discussing this research problem is a normative juridical approach. The specification of the research used is descriptive analytical research. This type of data uses secondary data. The data analysis method used in this research is qualitative data analysis

3. Results and Discussion

3.1. The effectiveness of the implementation of electronic HT registration in Klaten Regency

The rapid development of the internet in general has also given rise to various quite serious disputes and legal conflicts for its users, with many unexpected problems appearing in recent years. This condition is due to the rapid acceleration in the field of information technology. One of them is the unexpected progress in forms of e-commerce including e-governance.

MIternet media is one of the transaction media in Indonesia that is accessible by law in the conventional order.¹¹ This is with implementation of Law No. 19

⁹Hasannudin Rahman, *Aspects of Banking Credit Provision in Indonesia*, Citra Aditya Bakti, Bandung, 1995, p. 9.

¹⁰Interview with Ria Rustiani, SH, M.Kn as a Notary/PPAT in Klaten Regency, interview was conducted on December 19, 2022.

¹¹ Faith Sjahputra, 2002, *Problematic Law Internet Indonesia*, Prenhallindo, Jakarta, p. 5

of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information, forms the basis for implementing an Electronic system in Indonesia.

Various means, including supporting capital by providing credit facilities through financial institutions, either state-owned or private, in order to boost the nation's economy. Providing credit by banks cannot be separated from guarantees for repayment of the credit. Taking into account the growth and development of today's business world, entrepreneurs usually take advantage of credit facilities provided by the government in an effort to increase the need for capital that encourages the smooth running of their business. Credit facilities are channeled through financial institutions by entering into credit agreements.

The position of the bank as an institution finance whose operational activities are within the scope of the business of collecting funds from the public and managing these funds by reinvesting them in the community in the form of providing credit until the funds return to the bank.¹² In practice, it can be seen that most of the objects that are the object of collateral in credit agreements at banks are land based on Mortgage data published 2019 to 10 October 2019 totaling 1,390 in Klaten Regency.¹³ To date, there are 142,477 Electronic Mortgage Certificates issued by 454 Land Offices in 33 Provinces with a total of 1,150 creditor partners as Bank Legal Entities.¹⁴

The practice of granting credit with collateral on land, a security rights institution is needed that is able to provide legal certainty for interested parties in realizing a prosperous, just and prosperous society in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia. In the development of Mortgage Rights in Indonesia, the Government provides services include Registration Electronically integrated mortgage rights based on Ministerial Regulations ATR/BPN Number 5 of 2020 concerning Electronic Mortgage Services and/or hereinafter referred to as "HT-el"

ATR/BPN Ministerial Regulation Number 5 of 2020 concerning Electronic Integrated Mortgage Services. Preamble letter a ATR/BPN Ministerial Regulation Number 5 of 2020 states that this regulation is intended to implement electronically integrated mortgage rights services in order to improve mortgage rights services that meet the principles of openness, timeliness, speed, convenience and affordability for public services, as well as to adapt to legal developments, technology and societal needs. Electronic Mortgage Rights

¹² Hasannudin Rahman, 1995, *Aspects of Banking Credit Provision in Indonesia*, Citra Aditya Bakti, Bandung, p. 9

¹³ Data source: <http://statistik.atrbpn.go.id> accessed on 10 May 2023

¹⁴ *Ibid.*

regarding the registration relationship from the PPAT and/or creditors at the local Land Office. The relationship between the PPAT, the creditor and the debtor in the procedure for making the deed physically does not change. This can be seen from Article 10 of the Republic of Indonesia ATR/BPN Ministerial Regulation Number 5 of 2020 concerning Electronic Integrated Mortgage Services as follows:

1. PPAT submits deeds and documents completing the requirements as intended in article 9 paragraph (2) through the electronic system of working partners which is integrated with the Electronic Mortgage Rights System.
2. Submission of documents is accompanied by a statement regarding accountability for the validity and correctness of the submitted electronic document data
3. Whole completeness document condition as referred to in paragraph (1) must be kept by PPAT.
4. The format of the Statement Letter as intended in paragraph (2) is listed in attachment I which is an inseparable part of this Ministerial Regulation.

Users of Electronic Mortgage Rights other than PPAT are Creditors are usually financial institutions (banking) and can also be individuals. For the banking world, it is certainly hoped that the electronic mortgage service will provide benefits, including timely registration of mortgage rights on the seventh day after registration. This registration can be more economical because there is no need to go to the local Land Office. Other benefits include being able to carry out loan transfers quickly, then there is also ease of asset management (no need to scan mortgage certificates) and also being able to report and monitor the number and value of mortgage rights in all branches of the bank concerned.

Mechanism on Conventional Mortgage, the Bank authorizes the PPAT and entrusts the payment of the Mortgage registration fee, the PPAT pays the registration fee, takes the Certificate from the Land Office, then the Bank receives the certificate which has been recorded. So with the conventional system almost everything is done by PPAT. With the enactment of simultaneous national services for electronic Mortgage Rights since July 8 2020 based on Permen ATR/Head of BPN Number 5 of 2020, currently there are no services from BPN for conventional Mortgage Granting.

The mortgage rights registration mechanism in the electronic system must still be recorded in the land book. This is done by creditors up to printing Certificate of Rights His dependents attach it to the Certificate of Land Rights. Users of the

Electronic Mortgage System service consist of: individuals or legal entities (as creditors), PPAT, and ASN of the Ministry of Agrarian Affairs/BPN.¹⁵

Flow of granting mortgage rights as stated in the table above can be explained as follows:

1. Permen ATR Number 5 of 2020, PPAT checks certificates with two options, namely electronic or online and/or non-electronic by visiting the local land office. Since July 8 2020, conventional services have been simultaneously stopped so everything has to be done electronically. After that the PPAT submits the APHT online on the PPAT partner application page with the land office after the date the APHT is made, this must be done by the PPAT according to his position orders. The second sheet of the PPAT deed and other documents is uploaded through the work partner application and becomes an electronic document and also submits a copy of the deed and land certificate to the bank. PPAT deed reporting is done automatically so that an STTD (letter indicating receipt) will be issued from the local land office.
2. In the event that a creditor registers to become a registered user, the creditor is required to upload several documents that have been provided on the portal. These documents consist of a cover letter, application letter, deed of establishment of the creditor if in this case it is a legal entity, letter of appointment for the admin in charge of administering the Electronic Mortgage service if the creditor is a legal entity, a copy of the KTP of the admin appointed by the creditor who is a legal entity in the case tasked with managing Electronic Mortgage services, operator appointment letters, and creditor NPWPs.
3. After registering, the creditor prints the registration form which is signed by the head of the bank and prints the central administrator data form (initialized by the head of the bank) then both forms are sent via registered mail expedition to the ATR/BPN ministry's data center for validation. If the process is complete, the creditor becomes a registered user and can implement the Electronic Mortgage System.
4. There are still several obstacles that occur when creditors register yourself as a registered user, for example when uploading the required documents, they are still incomplete or such as the deed of establishment of a PT is not scanned properly and cannot be read or is blurry. This slightly slows down the implementation of Electronic Mortgage Rights. Therefore, the Land Office will send notifications to creditors about any documents that are still missing so that creditors can correct and upload them again. If everything is finished and ready, then the Electronic Mortgage Service system can be run.

¹⁵Source: Ministry of ATR/BPN

5. Creditor as applicant Right dependents Electronic do registration and online payments for Electronic Mortgage services carried out by admins who have been previously appointed by creditors (legal entities). In the case of Electronic Mortgage services and there are problems during the service process, the files experience delays. If the file is delayed, users must respond quickly to make improvements immediately because according to the timeframe set by the HT Law, HT must be registered within 7 (seven) working days after signing the APHT. Within 7 (seven) days, the land office will verify the HT application files. If there is a request for confiscation and/or blocking or a document upload error occurs, the land office will postpone the Electronic Mortgage service. The Electronic Mortgage Service, which is based on ATR Ministerial Regulation Number 5 of 2020, aims to fulfill the principles of openness, timeliness, speed, convenience and affordability. Apart from that, it is also to improve effective and efficient mortgage services adapt development of law and information technology. Mortgage objects that can be processed are Mortgage objects as regulated in laws and regulations. The output of this Electronic Mortgage Rights service is an Electronic Mortgage Rights Certificate for users, namely creditors (can be banking institutions/financial institutions, can also be individuals) as recipients of Electronic Mortgage Rights.

The Electronic Mortgage Service is known as the Land Book Electronics in the form of a collection of all editions of Electronic certificates. The edition of the electronic certificate is a history of registration, for example the first edition is the registration of a Mortgage, the second edition is a cessie and so on. Every time a new certificate comes out, old certificates are turned off electronically. There is also something called Electronic *Warkah* (in the form of all electronic documents uploaded by PPAT and Banks/Creditors automatically saved as *warkah* at the end of the Electronic HT service process). The authentic deed (APHT) is kept by the PPAT as an integral part of the digital document.

Repair of this mortgage right given 30 calendar days from the issuance of the Mortgage and carried out by the creditor. Mortgage documents that can be repaired include ratings, Deed Numbers, Rights Holders, Pointers, Partial Values, Types and Numbers of Rights and Other Objects. The form of this repair note is also printed and attached to the notes on the encumbrance in the Land Title Certificate which is the object of collateral.

Simultaneous national services that have been in effect since July 8 2020, it is possible to compare the services of Electronic Mortgage Rights with Conventional Mortgage services for their users (PPAT and Creditors) as follows: on Conventional Mortgage Creditors authorize PPAT, entrust HT registration fees, receive certificates from PPAT, receive an HT certificate after the seventh day, analog HT certificate products in paper media, and receive a Land Rights

Certificate that has been given a note of encumbrance from the PPAT. In the PPAT Electronic Mortgage service, upload the deed to the BPN, submit a copy of the deed and Land certificate to the Bank, while the Bank makes the application file electronically (without the need to come to the BPN), pays the registration fee, receives the Electronic HT certificate on the seventh day.

Simultaneous implementation of the Electronic Mortgage Services without going through an adequate transition and socialization period. This of course raises many problems, especially obstacles/problematic ones.

Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (BPN) has issued Mortgage Services (HT) digitally or electronically. This is regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 5 of 2020 concerning Electronically Integrated Mortgage Services, amendment to the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 9 of 2019 concerning Electronically Integrated Mortgage Services. .

Electronic HT services are known as the Electronic Mortgage System (HT-el System). Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 5 of 2020 This is a development of digital-based land law and contract law which is intended as an effort to provide convenience, speed, accuracy and affordability for Mortgage users and parties conducting engagements, so that the process of imposing Mortgage rights can be carried out more efficiently and effectively.

HT-el system as referred to in PMATR/BPN Number 5 of 2020 is a series of Mortgage Rights service processes in the context of maintaining land registration data which is carried out through an integrated electronic system. Several types of services available in the HT-el System include registration of mortgage rights, transfer of mortgage rights, changes in creditor names and deletion of mortgage rights.¹⁶

Based on Article 7 PMATR/BPN Number 5 of 2020, states that causing HT-el System services are called HT-el System Users, including Creditors and PPAT or other parties determined by the Ministry. As for creditors referred to is an individual/legal entity as regulated in statutory regulations.

The effectiveness or not of a related legal regulation the effectiveness of law in terms of the optics of legal sociology, law is an empirical phenomenon, and its nature can only be understood by looking at it from the perspective of society.

¹⁶Iga Gangga Santi Dewi, Mira Novana, Land Guarantee Policy through Mortgage Rights in Indonesia, *Journal of Law, Development & Justice Review*, Volume 3, Number 1, 2020, p. 5

Knowledge of the legal form is necessary to test the effectiveness of the law. In all efforts to be able to achieve the things that are intended in development, namely the law system can play a supportive role.

The ineffectiveness of the legal system can certainly create obstacles to the attainment of goals. If individual behavior in pan life of society is adjusted to the content that is the provisions of the legally enforced regulations, then the legal system can be said to be effective.¹⁷

Based on the description above, the effectiveness of the implementation of electronic mortgage registration is currently not fully effective, because there are still several obstacles or obstacles. Registration of electronic mortgage rights is not all done in accordance with the procedures stated in the HT-el Technical Manual. Procedure discrepancies, for example, were found in files that were suspended and closed in 2019 until May 12, 2020.

Application documents that are not according to the procedure, it is known that the results of the Land Office inspection, if it is not checked, the HT-el Certificate will be issued automatically on the seventh day. Issuance without inspection from the Land Office if there is a procedural error is feared that it will become a problem in the future. However, in order for the law to apply effectively, of course there are obstacles both internal and external related to the implementation of mortgage rights registration using electronic means, so it is necessary to find solutions to overcome these obstacles. After going through various obstacles in carrying out electronic registration, in general since the implementation of electronic registration it has been more effective and efficient amidst the Covid-19 pandemic.

3.2. Obstacles and solutions to the problem of the effectiveness of implementing electronic HT registration in Klaten Regency

Regarding electronic mortgage rights, there are three components the important things in Electronic Mortgage services are: First, the organizer is the Ministry of ATR/BPN; Second, the executor is the Land Office; Third, Users, namely Creditors, PPAT or other parties determined by the Ministry as users. The Electronic Mortgage Service process is completely carried out through an online system, eliminating the role of land counters, which is a breakthrough from the Ministry of ATR/BPN in an effort to speed up and improve the quality of land services by utilizing the e-Government concept.

¹⁷ Mrs Mahayu, Effectiveness Application Registration Right dependents Through Means Electronic on PT. RB Shade Denpasar, *Journal Construction Law*, Vol. 2, No. 3, September 2021, p.613

Electronic Mortgage Rights at the Land Office began to be implemented in early September based on ATR/BPN Ministerial Regulation No. 9 of 2019 concerning Electronic Integrated Mortgage Services, however this Ministerial Regulation does not yet accommodate all HT services, so conventional HT services are still used. There are two systems used, namely Electronic Mortgage with conventional, so most PPATs choose to use the conventional one on the grounds that they are used to it. This is as stated by Sulistyoy:

"At the beginning of the HT-el launch, PPAT tended to be less interested to use Mortgage Rights services via HT-el even though there has been previous socialization. On March 24 2023, which coincides with Agrarian Day, which was supposed to be an exposure of HT-el products, it turned out that there was only one application that used the HT-el system. "Finally it was decided that on May 4 2023, the Land Office made a decision that applications for mortgage rights by legal entities must go through the HT-el system."

Land Agency Klaten Regency decided to make policies for show seriousness improving services through e-Government for the sake of transparency through the online system, eliminating the role of land counters is a breakthrough from the ATR/BPN Ministry in an effort to accelerate and improve the quality of land services by utilizing the e-Government concept.

Electronic Mortgage Rights at the Land Office began to be implemented in early September based on ATR/BPN Ministerial Regulation No. 9 of 2019 concerning Electronic Integrated Mortgage Services, however this Ministerial Regulation does not yet accommodate all HT services, so conventional HT services are still used. There are two systems used, namely Electronic Mortgage with conventional, so most PPATs choose to use the conventional one on the grounds that they are used to it. This is as stated by Sulistyoy:¹⁸

Registration for checking certificates can be carried out provided that the original certificate is an Assignment Letter or checking authority from PPAT, a request for checking the certificate (application form) which has been provided at the Land Office and a photocopy of the land owner's Resident Identity Card (KTP) which is listed on the certificate. Registration for checking the certificate is online but the physical files are still being delivered to the office so it's not done electronically which is only done by checking at the KKP without sending physical files again.

The process continues with the creation of APHT. Process Making an APHT must be preceded by checking the certificate at the Land Office, in order to avoid false or inappropriate guarantees in making the APHT. After making an APHT, if you want to register HT with the HT-el system, PPAT must immediately submit the

¹⁸Interview with Sulistyoy, Klaten BPN officer on 20 May 2023

APHT and other documents by uploading them to the partner's HT-el application. APHT reporting can be done using the create APHT menu in the BPN Partner application. APHT reporting begins by creating a deed code as a deed identifier, then continues by filling in the deed data.

PPAT then downloads the deed cover letter containing the name PPAT, deed number and deed code. The letter of introduction to the deed is printed in 3 copies and signed and affixed with the PPAT stamp, provided that one sheet becomes one unit with the original APHT first sheet and second sheet to be kept at the PPAT office, one sheet is delivered to the Creditor along with a copy of the APHT and supporting data for making the APHT, and one the following sheet A copy of the APHT is submitted to the Debtor.

After the process from PPAT, then proceed with APHT reporting by the Bank which will process HT registration based on APHT that has been reported by PPAT before without visiting the Land Office. The bank officer, in this case the operator, makes the file, inputs the number and code of the deed and completes the APHT data that has been made by the PPAT and uploads the application file. After uploading the file, the bank operator prints a deposit order and makes the PNB payment will get a transaction number state revenue (NTPN).

The initial inspection of HT-el application files is carried out by the HT-el admin. The inspection process produces two decisions, the first is that the application file complies with procedures with no problems, while the second is that the file still contains deficiencies or errors. If there are no problems, a Mortgage Rights Certificate and HT-el sticker will be immediately issued, but if there are problems or deficiencies, it will be returned to the PPAT or Bank to complete or repair and then sent again to the Land Office. In this step, both PPAT and the Bank must be more careful in monitoring mortgage services to see if there are files that have been suspended due to something that does not comply with existing procedures.

Difference between registration Mortgage rights conventional with HT-el System. First, it lies in the registration process, where previously registration was carried out by PPAT but now it is carried out by creditors. Second, all files are submitted to the Land Office in digital form (uploaded results) without physical files. Third, there is no longer any face-to-face contact in registering mortgage rights. Fourth, the mortgage certificate can be printed directly along with the notes. Fifth, the signature on the mortgage certificate from the HT-el system in electronic form.

The Roya process at the Land Office does not yet use a system HT-el. The Roya process using a manual system is completed in a maximum of three days.

For Roya applications that are completed in more than three days, data validation is carried out first.

According to Sinaga, he explained that "hierarchically UUHT its position is above or higher than Permen ATR/BPN No. 5 of 2020, therefore, Permen ATR/BPN No. 5 of 2020 may not conflict with the UUHT, but the facts are not the case".¹⁹

Banks as creditors have obstacles, including:

1. It is necessary to add time to make payments more than three days, because in HT-el there are no working days but calendar days. If the bank registers the HT on Thursday and the deposit order goes out on Thursday afternoon then on Friday it happens to be a national holiday which results in the bank being on holiday resulting in a delay in payment, so it is necessary to re-register and add additional work and costs.
2. So that each bank is given more than one operator and supervisor account so that many jobs can be completed on time
3. Order per account restriction can only register rights dependents 10 files per day deleted or added to the quota. The obstacles mentioned by the bank operators above have not been known by the HT-el Admin of the Pekanbaru City Land Office.
4. It is still difficult for banks to get accounts, especially bank branches. Obtaining a bank branch operator and supervisor account in HT-el depends on the Bank Branch Admin where the account will be created, where the requirements are in the form of a passport photo, photocopy of KTP, appointment letter for supervisor or operator and a decree for appointment as an employee. Based on the interview above, this means that there is no account relationship with the Land Office where both operator and supervisor accounts are issued based on the completeness of the requirements and the Bank Branch Admin registering them.

In connection with this theory, to ensure legal certainty, the Mortgage Certificate issued by the HT-el system is given an electronic signature. Electronic Signature is a signature consisting of Electronic Information that is attached to, associated with or related to other Electronic Information that is used as a means of verification and authentication. Electronic Signatures are carried out in accordance with statutory provisions, namely PMATR/KBPN No. 3 of 2019

¹⁹ Sinaga, H., 2020, Electronic HT Has No Legal Power, (<https://www.mistar.id/opini/>), Opinion ruler, 9 June 2020, Accessed on 30 April 2023

concerning Application of Electronic Signatures. In addition, the benefits obtained from this electronic Mortgage service include, the mechanism for the binding process and registration of Mortgage rights is efficient, fast and easy, costs are more certain and legal certainty and legal protection for creditors is faster and guaranteed. However, with the discovery of many factors that influence the effectiveness of the implementation of electronic mortgage registration, such as the electronic system, you can request to change the APHT date and re-enter the data so that the electronic mortgage system can be implemented. Of course, this results in a lack of legal certainty and guaranteed date certainty due to changes in the APHT date in order to fulfill the system's wishes for registration.

HT-el is a new electronic service, it is hoped that it can provide time certainty, cost transparency and ease of monitoring the process in mortgage rights services as well as minimizing direct face to face contact which will indirectly avoid actions that can be detrimental to society and the state such as corruption, collusion and nepotism.²⁰

Based on the description above then, factors that influence the effectiveness of the implementation of electronic mortgage registration currently consist of juridical and non-juridical factors. Juridical factors include checking documents which takes a long time, and electronic HT applications which still often have errors, while non-juridical factors include many PPATs which have not been verified so they cannot access the HT-el application, banking human resources which are still slow, and PPATs which are not yet enthusiastic in HT-el service because it is considered more difficult.

4. Conclusion

The effectiveness of the implementation of electronic mortgage registration is currently not fully effective, because there are still several obstacles or constraints. Not all registration of electronic mortgage rights has been carried out in accordance with the procedures stated in the HT-el Technical Guidelines. For example, procedural discrepancies were found in files that were suspended and closed from 2019 to May 12 2020. Application files that did not comply with procedures were identified as a result of an inspection by the Land Office, if they were not checked the HT-el Certificate would be issued automatically on the seventh day. Issuance without inspection from the Land Office if there are procedural errors is feared to be a problem in the future. However, in order for the law to apply effectively, of course there are obstacles both internal and external related to the implementation of

²⁰Krisnawan Andiyanto, Implementation of Electronically Integrated Mortgage Rights Registration at the Pekanbaru City Land Office, Journal of Notarial Law, Volume 6 Number 01 April 2021, p.199

mortgage rights registration using electronic means, so it is necessary to find solutions to overcome these obstacles. In general, since the implementation of electronic registration, it has been more effective and efficient amidst the Covid-19 pandemic. We continue to try to overcome obstacles so that everything runs smoothly.

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Constitution

1945 Constitution of the Republic of Indonesia;

Code of Civil law;
Constitution Number 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Legislative Regulations;
Law No. 12 of 2011 concerning the Formation of Legislative Regulations;
Law No. 37 of 2004 concerning Law on the Execution of Mortgage Rights and Guaranteed Debt Payment Obligations;
Law No. 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land;
Law No. 5 of 1960 concerning Basic Agrarian Principles Regulations;

Interview

Interview with Ria Rustiani, SH, M.Kn as one of the Notaries/PPATs in Klaten Regency, interview conducted on December 19 2022