

The Role of the Land Office in Supervising the Making of Land Deeds by Temporary Land Deed Making Officials in Banyumas Regency

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Abstract. *Banyumas Regency has 134 active Land Deed Officials, but due to the large area and many remote areas, the sub-district head is mandated by law as a substitute for the PPAT and is spread across 27 sub-districts in Banyumas Regency. BPN in this case also plays a role in supervision related to the PPATS carried out by the sub-district heads as general officials. The purpose of this study is to analyze the role of the National Land Agency in supervising the making of land deeds by Temporary Land Deed Officials in Banyumas Regency and to analyze what obstacles hinder supervision and provide solutions to the making of land deeds by Temporary Land Deed Officials in Banyumas Regency. The approach method in this study is sociological juridical. The data used are primary and secondary data obtained through interviews and literature studies, data analysis is carried out descriptively analytically, and the theory used is the theory of legal certainty and legal protection. The results of the study and the conclusions that can be obtained are: 1. The National Land Agency (BPN) has the authority to carry out guidance and supervision. The basis of the supervisory authority in general for the land environment refers to the duties and functions of the National Land Agency (BPN), while the basis of the supervisory authority is more related to the supervision of Land Deed Officials (PPAT) and Temporary Land Deed Officials (PPATS). This is regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 2 of 2018 concerning the Guidance and Supervision of Land Deed Officials. 2. The Banyumas Regency Land Office revealed that there were violations of regulations committed by a number of Temporary Land Deed Officials PPATS. These violations include late monthly reporting, inaccurate deed contents, and the use of inappropriate PPATS letterheads. The impact of these violations can create land disputes, hinder the process of achieving legal certainty, and harm the community. To overcome this problem, the Head of the Regional Land Office provides guidance and supervision of PPATs in administration and services to the community.*

Keywords: Authority; Land; Transfer.

1. Introduction

The state in order to organize land administration and create public welfare, forms a special institution to handle matters related to land. Based on the Provisions of Article 1 of Presidential Regulation Number 20 of 2015 concerning the National Land Agency, the National Land Agency (BPN) is defined as a non-ministerial institution that is under and responsible to the President and led by a Head.

The task of organizing land registration throughout Indonesia is carried out by the National Land Agency (BPN), the implementation of which is the responsibility of the Head of the Land Office. Article 3 of Presidential Regulation Number 20 of 2015 concerning the National Land Agency explains the duties and functions of the National Land Agency (BPN), especially those mentioned in Article 3 letter c, namely regarding the formulation and implementation of policies in the field of determining land rights, land registration and community empowerment in carrying out its duties. The National Land Agency (BPN) is assisted by a party tasked with participating in carrying out part of the land registration, namely the Land Deed Making Officer

The definition of the Land Deed Making Officer is stated in Government Regulation Number 37 of 1998 concerning the Regulation of the Position of the Land Deed Making Officer which states that the Land Deed Making Officer is a public official who is authorized to make authentic deeds regarding certain legal acts regarding land rights or ownership rights to apartment units. The role of the Land Deed Making Officer in carrying out land registration itself in this case is to make authentic deeds related to certain legal acts.

Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Making Officials not only provides an explanation related to Land Deed Making Officials, but the regulation defines Temporary Land Deed Making Officials. Land Deed Making Officials are government officials appointed because of their position to carry out the duties of Land Deed Making Officials by making PPAT deeds in areas where there are not enough Land Deed Making Officials.

The Sub-district Head as a Temporary Deed Making Officer in carrying out his position must comply with applicable regulations relating to land. Regarding the duties of the Sub-district Head as a Temporary Land Deed Making Officer, this is not explained directly in Government Regulation Number 17 of 2018 concerning Sub-districts, however, in Article 10 letter i of Government Regulation Number 17 of 2018 concerning Sub-districts, it is stated that the Sub-district Head carries out other duties in accordance with the provisions of laws and regulations, which

then becomes the basis for the duties of the Sub-district Head as a Temporary Deed Making Officer.

The National Land Agency (BPN) has an important role in regulating and supervising all matters related to land. One of them is supervision of the Making of land deeds which is an important legal process in regulating land ownership in Indonesia. Deeds made by Land Deed Officials or Temporary Land Deed Officials are important legal products as the basis for the transfer of land rights. Therefore, supervision by the National Land Agency (BPN) is needed regarding land deeds issued by Temporary Land Deed Officials in order to realize land policies for justice and public welfare.

2. Research Methods

This research was conducted using an approach with a Juridical Sociological research type with a descriptive analytical approach method. With the data sources used based on Laws, literature, legal journals, official documents and so on. In addition to this, interviews were also conducted with officers of the Banyumas Regency Land Office and literature review by collecting legal materials that are considered related to the problems in this study.¹

3. Results and Discussion

3.1. The Role of the Land Office in Supervising the Making of Land Deeds by Temporary Land Deed Making Officials in Banyumas Regency

The National Land Agency (BPN) has the authority to carry out guidance and supervision. The basis of the supervisory authority in general for the land environment refers to the duties and functions of the National Land Agency (BPN), while the basis of the supervisory authority is more related to the supervision of Land Deed Making Officials and Temporary Land Deed Making Officials. This is regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 2 of 2018 concerning the Guidance and Supervision of Land Deed Making Officials.

According to Presidential Regulation Number 10 of 2006, it is explained that the National Land Agency (BPN) is a non-departmental institution that is under and responsible to the President and led by the Head. The same is true for the Land Office which is a vertical agency of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency in districts/cities that are under and responsible to the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency through the Head of the Regional Office of the National Land

¹H. Hadari Nawawi, 2000, Applied Research, Gajah Mada University Press, Yogyakarta, p. 9.

Agency led by a Head. The National Land Agency (BPN) has duties in the land sector nationally, regionally and sectorally. One of the implementations of duties in the land sector carried out by the National Land Agency (BPN) is to supervise and provide guidance to all elements involved in managing land issues, which in this case are the Land Deed Making Officer and the Temporary Land Deed Making Officer.

Land Office generally refers to a government agency responsible for the administration, management, and arrangement of data related to land and building ownership. The Land Office itself has an important role in ensuring legal clarity and certainty regarding land ownership, which is a key aspect in the development and development of a region. Openness, transparency, and accuracy in land administration are essential to support economic growth and the protection of community rights.

The Banyumas Regency Land Office is basically a vertical agency of the National Land Agency (BPN) which has a supervisory function carried out by the Land Office which is not explained in detail in the general functions of the Land Office and the agenda planned by the Banyumas Regency Land Office relating to supervision is explained in Article 4 paragraph (2) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 2 of 2018 concerning the Development and Supervision of Land Deed Making Officials.

Based on the data, it is known that one of the functions of the National Land Agency (BPN) is to supervise, implement supervision and guidance by the Land Agency in the Regency/City which is carried out by the Land Office. Especially in terms of supervision and guidance in Banyumas Regency, it is carried out by the Banyumas Regency Land Office. Where supervision of the Land Deed Making Officer and Temporary Land Deed Making Officer is carried out by the Rights Determination and Registration Section of the Banyumas Regency Land Office.

At the Banyumas Regency Land Office for supervision and guidance, monthly reports are carried out. Where the Land Deed Making Officer and the Temporary Land Deed Making Officer carry out monthly reports to the Banyumas Regency Land Office, especially this is carried out by the Rights Determination and Registration Section as supervision of the performance of the Land Deed Making Officer and the Temporary Land Deed Making Officer.

The form of supervision and guidance carried out by the Head of the National Land Agency (BPN) is to provide policies regarding the implementation of the duties of the Land Deed Making Officer, provide direction to all stakeholders related to the position of Land Deed Making Officer, provide guidance and supervision of the professional organization of Land Deed Making Officers so that they continue to run in accordance with their direction and objectives, carry

out other actions deemed necessary to ensure that the services of Land Deed Making Officers continue to run as they should, and provide guidance and supervision of Land Deed Making Officers and Temporary Land Deed Making Officers in order to implement the Code of Ethics for the profession of Land Deed Making Officers.

Meanwhile, the Head of the Regional Office, among others, conveys and explains land policies and regulations as well as technical instructions for implementing the duties of the Land Deed Making Officer (PPAT) that have been determined by the Head of the Agency and applicable laws and regulations, assists in conducting socialization, dissemination of land policies and regulations or technical instructions, and periodically supervises the office of the Land Deed Making Officer (PPAT) to ensure administrative order, implementation of duties and obligations in accordance with the provisions of laws and regulations concerning the Land Deed Making Officer.²

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 2 of 2018 concerning Guidance and Supervision of Land Deed Making Officials (PPAT). This ministerial regulation explains the definition, intent, purpose and scope of the Guidance and Supervision Council for Land Deed Making Officials. Article 1 of the Regulation of the Minister of Agrarian Affairs Number 2 of 2018 concerning Guidance and Supervision of Land Deed Making Officials (PPAT) regulates the Guidance and Supervision Council for Land Deed Making Officials (PPAT) which has the authority to foster and supervise the performance of Land Deed Making Officials. Supervision of the position of Land Deed Making Officials (PPAT) is carried out with the aim of reducing errors or violations committed by Land Deed Making Officials (PPAT) in carrying out their duties.

Supervision of Land Deed Making Officials (PPAT) as referred to in Article 1 paragraph (3) is an administrative preventive and repressive nature by the Minister which aims to ensure that Land Deed Making Officials and Temporary Land Deed Making Officials carry out their duties in accordance with the provisions of laws and regulations. This supervision is carried out to ensure that Land Deed Making Officials carry out their obligations in accordance with the provisions of laws and regulations.

In Article 32 paragraph (2) of Government Regulation Number 24 of 2016 to regulate the procedures for coaching and supervision of Land Deed Making Officials in the Ministerial Regulation followed up by the Minister of Agrarian

²Article 1 paragraph 2 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 2 of 2018 concerning Guidance and Supervision of Land Deed Making Officials.

Affairs and Spatial Planning/Head of the National Land Agency Number 2 of 2018 concerning Coaching and Supervision of Land Deed Making Officials (hereinafter written as Permen ATR/Ka. BPN No. 2 of 2018), which was promulgated on March 20, 2018. The birth of Permen ATR/Ka.BPN Number 2 of 2018 is intended as a guideline for the implementation of coaching and supervision and enforcement of legal regulations through the imposition of sanctions on Land Deed Making Officials carried out by the Ministry. In addition, the promulgation of Permen ATR/Ka. BPN Number 2 of 2018 also aims to create professional Land Deed Making Officials, with integrity and carrying out the position of Land Deed Making Officials in accordance with the provisions of laws and regulations and codes of ethics. In this case, what is meant by Land Deed Making Officials includes Land Deed Making Officials, Temporary Land Deed Making Officials, Substitute PPATs, and Special PPATs.³

The form of guidance and supervision by the Head of the National Land Agency, Head of the Regional Office includes conveying and explaining land policies and regulations and applicable laws and regulations, assisting in socialization, dissemination of land policies and regulations or technical instructions, and periodically supervising the office of the Land Deed Making Officer to ensure administrative order, implementation of duties and obligations in accordance with the provisions of laws and regulations concerning the Land Deed Making Officer.

3.2. Obstacles and Solutions Faced by the Land Office for Temporary Land Deed Making Officials in Banyumas Regency

The National Land Agency (BPN) plays a significant role in regulating and supervising various aspects related to the land domain. One of the main aspects is the supervision of the land deed making process, which is a crucial element in regulating land ownership in Indonesia. As stated in Article 33 of Government Regulation Number 37 of 1998, the guidance and supervision of Land Deed Making Officers are carried out by the Minister, which in this case is carried out by the Banyumas Regency Land Office.

The provisions for the implementation of guidance and supervision are regulated in Article 65 to 68 of KBPN Regulation Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number. 37 of 1998. Guidance and supervision are carried out in order to improve the performance of PPAT/PPATS to be better. The performance of Land Deed Making Officials and Temporary Land Deed Making Officials is seen from the productivity of deeds (number of deeds and quality of deeds) and the implementation of the

³Hatta Isnaini Wahyu Utomo, 2000, Applied Research, Gajah Mada University Press, Yogyakarta, p. 123-124

obligations of Land Deed Making Officials and Temporary Land Deed Making Officials (obligations before making the deed, at the time of making the deed and obligations after making the deed).⁴

In carrying out its crucial role, the National Land Agency (BPN) has dynamics related to problems or obstacles in carrying out its supervisory and law enforcement functions so that the Temporary Land Deed Making Officer (PPATS) is in line with its responsibilities as a Temporary Land Deed Making Officer who is a Public Official, it is not uncommon for the Temporary Land Deed Making Officer (PPATS) to deal with legal processes. due to reports from the public or through legal counsel from the results of products made by Notaries and not infrequently there are defendants in court. The logical consequence, along with the responsibility of the Temporary Land Deed Making Officer (PPATS) to the public, it must be guaranteed that there is continuous supervision and guidance so that the duties of the Temporary Land Deed Making Officer are always in accordance with the legal principles underlying their authority and can avoid abuse of authority or trust given, so in providing legal protection from this, the National Land Agency (BPN) must also be present.

Regarding the obstacles or constraints faced by the National Land Agency (BPN), especially at the Banyumas Regency Land Office, it is explained that Supervision is carried out by 3 (three) sections, namely the Land Transfer Sub-section, the Land Determination and Conversion Sub-section, but the focus in terms of the duties and authorities of the Land Deed Official/Temporary Land Deed Official is in the Transition Sub-section. The obstacles faced are related to the many things that need to be supervised so that the 3 (three) sections in the Banyumas Regency Land Office must directly supervise even though it is the main function of the Banyumas Regency Transition Sub-section. That the Banyumas Regency Land Office shows that there are still many Land Deed Officials (PPAT)/Temporary Land Deed Officials (PPATS) who violate applicable regulations, such as late monthly reporting, monthly reporting that does not comply with the provisions, use of letterheads of Temporary Land Deed Officials that are not appropriate, and inaccurate contents of PPATS deeds. These actions have the potential to create land disputes, land law vulnerabilities, and hinder the process of achieving legal certainty and land rights. As a result, society becomes the disadvantaged party.

Guidance and supervision carried out by the Head of the Regional Land Office regarding the transfer and granting of land rights burdens carried out by the community or by Temporary Land Deed Making Officers (PPATS). The implementation of guidance and supervision of Land Deed Making Officers

⁴Urip Santoso, Land Deed Making Officer; Perspective on Regulation, Authority and Nature of Deeds, Kencana, Jakarta, 2016, p. 352.

(PPAT) aims to assess the performance of Land Deed Making Officers in administration, reporting, and services to the community while still paying attention to the legal certainty contained in each deed made. This step is necessary to prevent land problems and disputes in the future. Ministerial Regulation Number 2 of 2018 concerning Guidance and Supervision of Land Deed Making Officers was issued based on Article 33 of Government Regulation Number 24 of 2016, which amended Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Making Officers, with the aim of regulating guidance and supervision so that the implementation of the duties of Land Deed Making Officers (PPAT) does not cause legal problems related to the deeds they make.

The issuance of this regulation improves the function of coaching and supervision of Temporary Land Deed Officials (PPATS) to create Temporary Land Deed Officials who are professional, integrated, and carry out their positions in accordance with the regulations and code of ethics of Land Deed Officials. Coaching of Temporary Land Deed Officials is expected to accommodate the interests of Temporary Land Deed Officials while monitoring their performance. The National Land Agency (BPN) at the regional, area, and central levels also aims to provide supervision and control over the implementation of the duties of Temporary Land Deed Officials as officials authorized by the BPN to make authentic deeds. Without planned coaching of Temporary Land Deed Officials (PPATS), conflicts of interest and inequality in the implementation of duties can arise.

Banyumas Regency itself still has many obstacles related to the lack of Temporary Land Deed Making Officers (PPATS) in understanding land transfer issues compared to Land Deed Making Officers themselves, this is an obstacle for the Land Office in carrying out its supervisory function because officials generally need time to understand when given an evaluation and recommendations on the findings of the Land Office regarding deeds related to land transfer issues. The Banyumas Regency Land Office explained that Temporary Land Deed Making Officers (PPATS) are officials who oversee land transfer issues because of their position, because there are few in each region, this authority arises, this is very different from Land Deed Making Officers who have completed a master's degree in law or a master's degree in notary, where this is something that must be taken seriously.

In addition to the problem of lack of understanding of the involvement of Temporary Land Deed Making Officers (PPATS) themselves, such as sub-district heads, they rarely directly assist and tend to work on deeds related to transfers are sub-district administration staff in Banyumas Regency. Banyumas Regency itself has 134 active Land Deed Making Officers (PPAT), but for Temporary Land

Deed Making Officers (PPATS) themselves, there is still no data at the BPN office itself, but based on the Banyumas Regency website, there are around 27 sub-districts in the Banyumas area itself.

The mention of the Sub-district Head as a Temporary Land Deed Making Officer (PPATS) was first mentioned in Article 7 paragraph (2) of Government Regulation Number 24 of 1997 but in its explanation the definition of a Temporary Land Deed Making Officer (PPATS) was not stated. The definition of a Temporary Land Deed Making Officer (PPATS) in Article 1 paragraph 2 of the Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for Implementing Government Regulation Number 37 of 1998 states: "A Temporary PPAT is a government official who is appointed because of his position to carry out the duties of a Deed Making Officer (PPAT) by making PPAT deeds in areas where there are not enough PPATs." Meanwhile, in the provisions of Article 5 paragraph (3a) of Government Regulation Number 37 of 1998, this is also mentioned again in Article 2 paragraph (1) of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 1 of 1998 concerning the Delegation of Authority for the Appointment and Dismissal of Sub-district Heads as Land Deed Making Officials (PPAT) which states that: "Sub-district heads can be appointed as PPAT if the work area of the sub-district head concerned is in a Regency/Municipality area where the PPAT formation has not yet been closed."

Explanation of Article 5 paragraph 3 letter a of Government Regulation Number 37 of 1998, because the role of the Land Deed Making Officer (PPAT) in the field of land registration is very important for the community in need, then this function must be carried out throughout the country. Therefore, in areas that still do not have adequate Land Deed Making Officers (PPAT), the Sub-district Head needs to be appointed as an official who carries out this function. From this explanation, the position of the Temporary Land Deed Making Officer (PPATS) as a government official who is appointed based on his position.

Based on this definition, the Sub-district Head can be appointed and installed as a Temporary Land Deed Making Officer (PPATS). However, the Sub-district Head does not automatically become a Temporary Land Deed Making Officer (PPATS), because there must be proof of the appointment of the Sub-district Head as a Temporary Land Deed Making Officer (PPATS) through a Decree by the Head of the National Land Agency Regional Office of the Province and an oath and inauguration as a Temporary Land Deed Making Officer (PPATS). This is based on Article 19 paragraph (3) of the Regulation of the Head of the National Land Agency Number 1 of 2006 which states that "to appoint a Sub-district Head as a PPATS, the person concerned must submit an application for appointment as a Temporary Land Deed Making Officer (PPATS) to the Head of the Agency by

attaching a copy or photocopy of the decision to appoint him as Sub-district Head through the Head of the Regional Office". Article 3 of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 1 of 1998 concerning the Delegation of Authority for the Appointment and Dismissal of Sub-district Heads also states that: "in order to be appointed as PPAT, the Sub-district Head concerned is required to submit an application for appointment to the Minister of State for Agrarian Affairs/Head of the National Land Agency Cq. Head of the Regional Office through the local Land Office".

The Banyumas Regency Land Office also has obstacles related to the changing placement of the Temporary Land Deed Making Officer (PPATS) itself, such as in the case of having just been inaugurated and registering at the Land Office, it turns out that the PPATS has moved to another sub-district, therefore data collection from the Temporary Land Deed Making Officer (PPATS) is very difficult to do, even regarding what is his authority at the time of placement in a certain area regarding the transfer and has not been completed and has found clarity on the law on land transfers but has been moved for things like this to be confusing, therefore the deeds made by the Temporary Land Deed Making Officer (PPATS) cause a lack of requirements.

Due to the many obstacles and dynamics faced by the Land Office, especially in Banyumas Regency, as described above, the solutions that can be offered to overcome this are:

1. There needs to be socialization regarding the land transfer issues carried out by the Banyumas Regency Land Office to the Temporary Land Deed Making Officials (PPATS) regarding their authority and function as substitute officials who assist the National Land Agency (BPN). This aims to ensure that the Temporary Land Deed Making Officials (PPATS) carry out their duties in accordance with the provisions of applicable regulations and do not waste time in terms of incomplete services. In addition, it also aims to ensure that the community can ensure that their land transfer rights can be completed immediately and appropriately and realize the important role of the Temporary Land Deed Making Officials (PPATS) represented by the Sub-district Head.
2. There needs to be a regulation or rule that accommodates the problem of the transfer of a Sub-district Head who is moving in the near future while his work as a Temporary Land Deed Making Officer (PPATS) has not been completed.
3. Tightening the requirements for the application of sub-district heads as Temporary Land Deed Making Officers (PPATS) by ensuring an understanding of the problems of Land Transfer owned by the community. The tendency of sub-district heads to assume that Temporary Land Deed Making Officers (PPATS) are a side job is a mistaken idea because the appointment of sub-district heads as

Temporary Land Deed Making Officers (PPATS) by the ministry is based on an application submitted by the Temporary Land Deed Making Officer (PPATS) himself. This is the basis for responsibility regarding the appointment of sub-district heads as Public Officials who authorize land transfer rights.

4. The Banyumas Regency Land Office itself must ensure that the Temporary Land Deed Officials (PPATS) have data on transfer applications submitted by the community and use the services of Temporary Land Deed Officials (PPATS) as well as reports on the stages of this so that people who have difficulty obtaining the services of Land Deed Officials (PPAT) do not waste their time on repeated applications to the National Land Agency (BPN) in the sense that there is data that is submitted and the new Temporary Land Deed Officials (PPATS) can follow up on applications from the community.

4. Conclusion

Temporary Land Deed Officials (PPATS), including Sub-district Heads, are appointed because of their positions to carry out the duties of Land Deed Officials (PPAT) in areas that do not yet have adequate Land Deed Officials (PPAT). Solutions to overcome this obstacle include socialization, regulations that accommodate the problem of moving Sub-district Heads, and tightening the requirements for submitting Sub-district Heads as Temporary Land Deed Officials (PPATS). This is important to ensure that the land transfer process can run smoothly and in accordance with applicable regulations, and prevent losses to the community.

5. References

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Interview

Eny Sulma as a Young Land Administrator in the Rights Determination and Registration Section of Banyumas Regency at the Banyumas Regency Land Agency Office, January 15, 2024 at 13:00 WIB