

The Role of Notaries in Realizing Effective Implementation Electronic Deed Registration in Tegal Regency

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Abstract. *This study aims to analyze and understand the implementation of the role of Notaries to find out and analyze the problems in the implementation of electronic deed registration in Tegal Regency and to find out and analyze the role of Notaries in realizing the effectiveness of the implementation of electronic deed registration in Tegal Regency. The type of research used in this study is a type of sociological or empirical legal research that includes legal identification and legal effectiveness, empirical legal research is legal research where data is obtained through primary legal data or data obtained directly in the community. The approach method used is a qualitative method. type of sociological or empirical legal research that includes legal identification and legal effectiveness. This research was conducted with a field study, the author used the interview method (interview). Based on the research conducted, it can be seen that the implementation of electronic HT deed registration in Tegal Regency has not been running effectively, this is indicated by the small number of HT Deeds registered electronically in Tegal Regency. The weaknesses that resulted in the creation of electronic HT deeds in Tegal Regency not yet running due to the fact that in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 5 of 2020 concerning Mortgage Rights Services there is an issue of the authority of Notaries/PPAT which is only limited to making APHT, sociologically the weaknesses are in the form of issues of change time related to errors in old electronic HT registration data when making new electronic HT deeds, the existence of Article 22 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning Head of the National Land Agency Number 9 of 2019 concerning Integrated Electronic Mortgage Rights Services regarding the provision of user names and passwords to other parties can potentially commit legal violations that can harm the HT owner, network maintenance that often makes electronic HT registration problematic or in other words the*

system often errors making it difficult for the party registering the Electronic HT deed, not all parties have internet facilities and computer devices, for example in remote areas in Indonesia.

Keywords: *Effectiveness; Electronic; Notary.*

1. Introduction

Indonesia was born as a country of law this view can be clearly found in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The concept of the Indonesian state as a state of law then has consequences that the actions of every level of society are regulated by applicable laws.

Economic life in its development cannot give up position important to the law, the importance of the legal position is because the law is able to protect the rights of every party in today's economic activities. Legal protection needed in economic development activities can be seen in terms of protection Ownership rights. Ownership rights to an object are expressly guaranteed in Article 28G paragraph (1) the 1945 Republic of Indonesia State Law. Meanwhile, regarding ownership rights to land guarantees for legal protection can be seen in Article 16 of the Law.

Law Number 5 of 1960 Concerning Basic Agrarian Principles of the President Republic of Indonesia. Article 16 of Law Number 5 of 1960 concerning Basic Regulations the Agrarian Principles of the President of the Republic of Indonesia read:

1) Land rights as intended in article 4 paragraph (1) are:

- a. ownership rights;
- b. right to cultivate;
- c. building use rights;
- d. right of use;
- e. lease rights;
- f. the right to open land;
- g. the right to collect forest products;
- h. other rights which are not included in the rights mentioned above which will be determined by law as well as temporary rights as mentioned in article 53.

2) The rights to water and space as referred to in Article 4 paragraph (3) are:

- a. water use rights;
- b. rights to maintain and catch fish;
- c. space use rights.

Guarantees for the protection of property rights are realized through the making of a deed authentic. The important position of an authentic deed is based on the function of the authentic deed. An authentic deed has 2 (two) important functions, namely a deed as a formal function which means that a legal act will be more complete if it is make a deed. The function of evidence is that the deed is a means of proof where it is made the deed by the parties bound by an agreement is intended for proof at a later date.

The presence of the industrialization era 4.0 and advances in information and communication technology its development has brought fundamental changes in life people all over the world, including in Indonesia.³The changes are in has fundamentally changed the culture of society which was previously done in a way traditional through the use of means that are not yet digital-based, currently this is has changed, all activities of people's lives have been carried out half in the world virtual. One proof of this can be seen in the bureaucracy of making deeds through the means of advances in information and communication technology. Authentic deeds that were previously created manually, has now morphed into an electronic deed in every stage of production until its implementation, a lot of technology has been involved digital.

The progress that exists then creates new legal problems, namely the problem of the validity of the authentic electronic deed made by a Notary. The validity of the deed is wrong the other must first be read by a Notary in the presence of two witnesses and para the person appearing or the party who wishes to make an authentic deed. This is regulated in Article 28 Regelemet op het Notaris-ambt in Indonesia (Ordinance of January 11, 1860). This provision also later accommodated in Article 16 paragraph (1) letter m of Law Number 30 2004 Jo. Law Number 2 of 2014 concerning the Position of Notary.

The above provisions require the presence of a Notary as the general official who makes the deed and the parties who wish to make an authentic deed. The creation of electronic authentic deeds is often not physically attended by the parties involved. intending to make an authentic deed. The absence of the person appearing in making an authentic deed if we refer to the two articles above, it will clearly result in the authentic deed questionable.

This becomes even more complicated due to the matter of authentic deeds made by there are no regulations regarding notaries in Law Number 19 of

2016. Regarding Electronic Information and Transactions and in Law Number 30 of 2004 in conjunction with Law Number 2 of 2014 concerning the Position of Notary. Such a situation clearly results in the problem of uncertainty in all matters. issues related to electronic notarial deeds, both in terms of resolving legal issues agreement if in the future the Notary's electronic deed contains various problems as well as in terms of protection of the parties who guarantee the protection of their rights through the Notary's electronic deed.

Another problem in electronic deed registration is availability facilities and infrastructure and Human Resources in each Notary and/or PPAT office as well as at the National Land Agency Offices spread across various regions in Indonesia.

Director General of Postal and Information Technology Services, Ministry of Communication and informatics Ahmad M. Ramli said that as many as 12,548 villages in Indonesia have not touched by Internet signals to this day.⁴Obstacles to electronic deed registration in Tegal Regency is a constraint in the form of an information and telecommunications network system which very often experiences disruptions, then there are still many people in tegal Regency has not yet mastered the informatics and telecommunications systems.

2. Research Methods

The approach method used is a qualitative method, namely a method that focuses on the general principles underlying the realization of the units a unit of symptoms that exist in human life, or the pattern that is analyzed is a symptom socio-cultural with the culture of the community concerned to obtain description of the prevailing pattern.⁶Data sources used in this study conducted through field studies, the author used the interview method (*interview*). An interview is a verbal question and answer process between two or more people. physically confronted, in the process *interview* there are two parties occupying positions different one party functions as a news seeker or is called *interviewer*, currently the other party functions as the giver. Data collection techniques in this research conducted by means of Observation and Interviews the author in this study uses descriptive nature.

3. Results and Discussion

3.1. The Role of Notaries in Realizing the Effectiveness of Deed Registration Implementation Electronic

Soil plays an important role in human life, one of which is in terms of social development. Therefore, the government as the highest organization of the state create legislation regarding land, namely UUPA. The government's intention and goal in enacting the UUPA is to provide legal certainty and protection regarding land rights for the people Indonesia as a whole.

PPAT is a public official who is given the authority to make authentic deeds regarding certain legal acts regarding land rights or rights regarding the Apartment Units as stated in Article 1 paragraph (1) of the Regulation Government Regulation Number 37 of 1998 concerning the Regulation of the Position of PPAT. The official who given authority by the Government to carry out some registration activities land by making an authentic deed where the authentic PPAT deed is a tool proof of a legal act such as an example of buying and selling. If the PPAT has already made the deed authentic, then the PPAT is obliged to immediately submit the deed to the Land Office.

Land for registration of transfer of rights. Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 1 2021 concerning Electronic Certificates, regulates Land Certificates which initially in paper form (analog) and has now changed to an Electronic Land Certificate.

This regulation aims to facilitate public services in the field of land in order to create modernization to improve public service indicators, take advantage of developments in information and communication technology by implementing

electronic-based land services. The government's commitment to fulfilling the sustainability of the Certificate Electronic or Electronic Deed is assisted by PPAT. Where PPAT has an important role in helping the government to carry out its duties government. The role of PPAT in Electronic Certificate Services is expected to be able to educate the public about legal actions on land that have been certified, can prevent identity fraud by using technology government-assisted biometric recording in terms of verifying a person's identity in addition, the role of PPAT includes but is not limited to the division of rights, registration deeds, transfer of rights and maintenance of data regarding land registration.

The aim of the e-service policy is to improve competence PPAT digitally through *E-Learning* PPSDM, verifying the identity of the person appearing individual through *KTP Reader* and use a registered electronic signature at the Financial Services Authority (OJK). The Ministry of ATR/BPN continues to update the Application Partners, all PPATs must first become members of the Partners. How to register a PPAT account, then verify the PPAT account data, then the PPAT gets access rights to the Partner application. Changes in work patterns PPAT is seen from the services which usually require a visit to the PPAT Office now register services electronically, in addition PPAT must create data that not electronically ready data is converted into electronically ready data.

3.2. Resolving Obstacles Faced by PPAT in Electronic Deed Services

As is known, users of this electronic mortgage service, apart from ASN at the Ministry of ATR/BPN, are Creditors (banks or individuals) and Officials Land Deed Maker (PPAT), whose existence is regulated in Government Regulation

Number 37 of 1998 concerning the Regulation of the Position of PPAT. PPAT is referred to as an Official General which person is appointed by the authorized agency with the duty of serving the general public or certain activities that are given the authority to make deeds certain land deeds, as regulated in laws and regulations. Deeds what is meant by the deed of transfer and encumbrance of land rights and ownership rights to the unit flat and a deed granting power of attorney to impose mortgage rights.

Implementation of electronic granting of mortgage rights for creditors and PPAT always begins with the preparation of a Deed of Grant of Mortgage Rights (APHT) in the presence of PPAT between the grantor of mortgage rights and the creditor. The APHT has fulfilled the qualifications as an Authentic Deed both in terms of Procedure, Substance and PPAT authority who formalized it. The APHT was then registered by the PPAT at the Land Office Local land electronically within 7 days after APHT at the latest was inaugurated as the basis for the issuance of the Electronic Mortgage Certificate.

Resolving problems and obstacles faced by Mortgage Rights users Elektronik, especially PPAT and Creditors, refers to the technical instructions made by Ministry of ATR/BPN, because basically the problems and obstacles are partly major related to the IT system and server of the Electronic HT Service. Users must always confirm the IT problem with the HT service provider Electronics, namely the local Land Office, so that the use of Land Rights Services Electronic Liability in this case the PPAT and Creditor must be skilled and adequate in using all the tools needed to complete the assignment Mortgage Rights until the Mortgage Rights Certificate is issued Electronically.

Based on the results of interviews with PPAT, that if there is a problem with the Electronic HT service system and PPAT directly informs the Tegal Regency Land Office, but sometimes the Tegal Regency Land Office cannot answer the problem because the staff at the Tegal Regency Land Office do not understand the electronic mortgage service system. Due to the lack of personnel, the officers who were asked for information do not know the answer because it is not their field. Therefore, the Tegal Regency Land Office should have officers/verifiers not only to check the conformity of documents with identity, mortgage ranking and so on, but also to solve problems related to the implementation of mortgage rights and regarding networks and other things.

4. Conclusion

The implementation of electronic HT deed registration in Tegal Regency has not been running effectively, this is indicated by the fact that there are still very few HT deeds that are registered electronically. in Tegal Regency. The weaknesses that resulted in the creation of electronic HT deeds in Tegal Regency

has not yet started operating due to the fact that in the Ministerial Regulation Agrarian and Spatial Planning/ Head of the National Land Agency of the Republic of Indonesia Number 5 of 2020 concerning Mortgage Rights Services, there is a problem with authority Notaries/PPATs who are only limited to making APHT, the position of foreign nationals is unclear in making Electronic HT Deeds in the Minister of Agrarian and Tata Regulations Room/ Head of the National Land Agency of the Republic of Indonesia Number 5 of 2020 Regarding Mortgage Rights Services, sociologically the weakness is that it has not been the regulation of clear electronic signatures in the Regulation of the Minister of Agrarian Affairs and Spatial Planning Room/ Head of the National Land Agency of the Republic of Indonesia Number 5 of 2020 Regarding Electronic Integrated Mortgage Rights Services, there are problems time of change related to the old electronic HT registration data error when create a new electronic HT deed, there is Article 22 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning of the Head of the National Land Agency Number 9 of 2019 concerning Spatial Planning Services Electronically Integrated Mortgage Rights related to the provision of user names and password to another party can potentially result in a violation of the law. can be detrimental to HT owners who want to register their mortgage rights Electronically, HT dispute resolution is still traditional, for example evidence in civil courts is still not based on advances in information technology and complete communication, network maintenance which often causes problems with electronic HT registration or in other words, the system often has errors so that making it difficult for the registrants of Electronic HT certificates, not all parties have internet facilities and computer devices, for example in remote areas in Indonesia.

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