

Legal Effects on PPAT that are Involved in the Making of Multiple Certificates

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Abstract

In the implementation of maintaining and protecting the rights of citizens and providing clear legal certainty regarding the registration of a plot of land to legalize ownership of land parcels and individual rights in control over land based on PP no. 24 of 1997 concerning Land Registration. PPAT is a public official who is authorized to make a deed of transfer of land rights, deed of assignment of land rights, and deed of power of attorney to impose Mortgage Rights. With this authority, PPAT can take other people's rights by making land deeds for the issuance of other certificates on land owned by other people, so there will be multiple certificates on the same piece of land. In his behavior that violates and abuses his authority and obligations as PPAT, the legal impact of dishonorable dismissal or criminal threats needs to be carried out to protect the rights of landowners from crimes committed by PPAT that can harm other parties.

Keywords: *Legal Consequences; PPAT; Certificate Creation; Multiple Certificates.*

INTRODUCTION

The unitary state of Indonesia is a state designed as a legal state as stipulated in the 1945 Constitution Article 1 paragraph 3 "The State of Indonesia is a legal state" which in its implementation is for the sake of safeguarding and protecting the rights of its citizens in order to enjoy, obtain and enjoy property rights. Adrian (2014) in Sari, R. L. (2018).

Land in everyday life is very important in supporting and guaranteeing the life of humans and citizens in carrying out their activities as human beings. According to Chayadi, L. (2020) Land in the legal sense is the surface of the earth, for Indonesians, land is one of the most basic problems, this is because of the importance of land for human life, ownership of rights to a piece of land is also in accordance with human nature. Thomas Aquinas, an eminent medieval theologian and philosopher said that humans are

by nature individual and social. That is why in ownership of an object, including ownership of land, the two dimensions can be harmoniously integrated. From the perspective of value in its function, land can be in the form of economic, cultural, social, legal, and also political values.

In an effort to protect and maintain the rights of citizens regarding land, the government has clearly regulated the rules and procedures in the regulations regarding land and agrarian affairs. According to Larasati, A., & Raffles, R. (2020) one of the objectives of the Basic Agrarian Law (UUPA) is to provide legal certainty regarding land rights held by the community. That is, the purpose of UUPA is none other than as the foundations for drafting national agrarian law as a tool in achieving prosperity, happiness and justice for all its people, as well as the foundations for the unity and simplicity of land law and as a basis for providing legal certainty regarding rights to land. land for the people.

In the implementation of safeguarding and protecting the rights of citizens and providing clear legal certainty regarding the registration of land plots in order to legalize ownership of land parcels and individual rights in land tenure. According to Ramadhani, R. (2021) Land registration aims to guarantee legal certainty of land rights. Confirmation of this can be seen in Article 19 paragraph (1) UUPA jo. Article 3 letter (a) Government Regulation Number 24 of 1997 which in essence the purpose of land registration is to provide legal certainty and legal protection to holders of rights over a plot of land. By registering land owned by an individual, the individual is guaranteed legal protection and legal certainty over a piece of land which is his right and can control the land. Wibawa, K. C. S. (2019) states that the duties and authorities of the government (bestuurs bevoegdheid) in terms of land registration can be divided into two tasks, namely :

- a. Registration of land rights, is the registration of rights for the first time or the recording of a land right in the land book register.
- b. Registration of transfer of land rights.

Further in Article 1 paragraph (1) Government Regulation Number 24 of 1997 concerning Land Registration, it states :

Land registration is a series of activities carried out by the Government continuously, continuously and regularly, covering the collection, processing, bookkeeping and presentation and maintenance of physical data and juridical data, in the form of maps and lists, regarding land parcels and apartment units, including a letter providing proof of rights for land parcels for which there are rights and ownership rights to apartment units as well as certain rights that burden them.

Land that has been registered will have a clear legal status or a land object that is owned by an individual. As evidence and as a basis for legal certainty over land owned.

Individuals who are entitled to a plot of land will be given a certificate that can legally protect the land for their rights to control, use and occupy the land. Rajab, R. A (2020) explains that holders of registered land rights will be given a letter of proof of title called a certificate as a result of the land registration process. A certificate is a single sheet of document that contains the necessary juridical data and physical data from a land parcel that is registered in accordance with Government Regulation Number 24 of 1997.

As a clear legal basis in the implementation of land registration to have legal certainty and a strong legal basis. Government Regulation No. 24 of 1997 clearly explains the registration of land parcels to obtain strong evidence of individual land ownership rights. Irfan, M., & Kurniati, N. (2018) explained in order to realize the implementation of legal certainty that "Providing letters of proof of rights, which applies strong evidence tools". The government issued implementing regulations to realize this, namely by issuing Government Regulation Number 10 of 1961 concerning Land Registration, now it has been amended by Government Regulation Number 24 of 1997 concerning Land Registration.

With the issuance of laws governing land registration, it is hoped that citizens' rights to land rights can be fulfilled with proof of land certificates issued by BPN. However, in practice there are still many cases involving 2 parties fighting over the rights status of the same plot of land with multiple certificates. As an example of a case regarding double certificates, quoted from kupastuntas.co which was published on Monday 20 June 2022, it was reported that there was a case of double certificates on land purchased by a private hospital (RS) in Kedaton, Bandar Lampung. It was explained that if there was an overlapping problem between the Certificate of Property Rights Number: 536/1994 with a land area of 1,218 square meters and the Certificate of Property Rights Number: 13680/2014 with a land area of 1,671 square meters, there had been a case at PTUN Bandar Lampung with case number Number: 26/G /2020/PTUN-BL. It was also stated that the parties involved were Jelita Ferro Digraha as the plaintiff, and the Head of the Bandar Lampung City Land Office as the defendant, and Rivico Oktavia as the interventionist II. From the description of the case, it is stated that the defendant is the head of the land office of the city of Bandar Lampung, which in this case can be explained if there is involvement of the authorities in the issuance of land in the case of multiple certificates.

It did not stop there it was suspected that the PPAT as the official who made the land deed was involved in the case of multiple certificates that could take other people's rights for personal or group interests. Muchsin, T., et al (2020) explained that a PPAT is a public official who is authorized to make deed of transfer of land rights, deed of imposition of land rights, and deed of granting power of attorney to impose Mortgage

according to applicable laws and regulations. In this case the PPAT is responsible for the land deed that has been made for the issuance of the certificate by the BPN in the case of multiple certificates which is the subject matter.

If there is a PPAT's role and involvement in making a certificate which in this case overlaps land rights owned by other people or makes fake land deeds to seize other people's rights, what are the legal impacts of the PPAT being involved in making multiple certificates.

In handling and minimizing the occurrence of cases as described earlier, in this case the government participates in the eradication process by issuing technical guidelines for handling them. Pratiwi, P. F. P. (2021) describes the Technical Instructions Number : 01/Juknis/D.VII/2018 Concerning the Prevention and Eradication of the Land Mafia, explaining the meaning of the land mafia is "Individuals, groups and/or legal entities that take actions intentionally to commit crimes that can cause and cause delays in the implementation of handling land cases and if it is connected to the cases that have been described, what is the legal instrument for Technical Guidance Number : 01/Juknis/D.VII/2018 Concerning the Prevention and Eradication of Land Mafia against PPATs involved in making multiple certificates.

METHOD

This research will use a normative juridical method which is carried out with a statutory approach and with an analytical approach. The data to be used is secondary data including laws and regulations and relevant literature.

RESULT AND DISCUSSION

1. Legal Impact of PPAT Involved in Making Multiple Certificates

In carrying out land registration activities to obtain clear legal provisions and certainty, namely obtaining land certificates in accordance with Government Regulation Number 24 of 1997 concerning land registration, it is stated that the role of the PPAT, namely the official making land deeds in carrying out land registration, is considered important. In Government Regulation Number 24 of 1997 explains in chapter 3 article 6 regarding the important role of PPAT in registering land, namely :

In the context of implementing land registration as referred to in Article 5, the task of executing land registration is carried out by the Head of the Land Office, except for certain activities which are assigned by this Government Regulation or the relevant legislation to other Officials.

In carrying out land registration, the Head of the Land Office is assisted by the PPAT and other Officials who are assigned to carry out certain activities according to this Government Regulation and the relevant laws and regulations.

From Government Regulation Number 24 of 1997 explaining in chapter 3 article 6 states that in the land registration carried out, there is the role of the PPAT as an official assigned to assist in land registration activities. Komaling, E. A. (2019) explained more clearly regarding the duties and functions of the PPAT in land registration, namely the Land Deed Making Officer has the role of an official who has the function and duty to carry out certain activities according to the relevant laws and regulations (making sale and purchase deed, exchange, grants, income into the company (inbreng), distribution of joint rights, granting building use rights/land use rights, property rights giving mortgage rights).

The description explains that the PPAT's role as a deed making official is very important in the case of land registration which is carried out on a deed that must be made first by the PPAT and with the authority it has to issue a registration deed on a plot of land that has been signed by it. In their authority, PPAT, Puspa Sari, R. M., & Gunarto, G. (2018) explains the authority of the Official for Making Land Deeds (PPAT) in a land sale and purchase agreement, namely, PPAT carries out part of the land registration activities with the task of making (authentic) deeds as evidence that certain legal actions are carried out regarding land rights or ownership rights over flats units which are used as the basis for registration of changes to land registration data caused by said legal actions in the work area determined by the government (absolute competence), namely a district or city of one region with a work area The land office, and for PPAT while (Camat) is the area of office of the camat while in office. From what was explained by Puspa Sari, R. M., & Gunarto, G. (2018) it is known that the PPAT's authority in registering land parcels is to make (authentic) deeds as proof that certain legal actions have been carried out regarding land rights or ownership rights to housing units. Arrange the base :

According to R. Soergondo in Wahid, A, et al (2019), an authentic deed is a deed made and formalized in a legal form, by or before a public official, who is authorized to do so, at the place where the deed was made. From what has been defined, an authentic deed will only be valid and authentic if it is drawn up and formalized in the presence of the official authorized to make it, namely in this case the PPAT as the official making the land deed. Wahid, A, et al (2019) added that the position of Land Deed Making Officer is an independent profession:

Has the function of being a public official who, based on statutory regulations, has authority from the Government through the State Minister or Agrarian Head of the National Land Agency to draw up deed of transfer of rights and imposition of mortgage rights on land which are authentic evidence. The Land Deed Making Officer also functions as a legal tool in a land registration process system. The Land Deed Making

Official is also a public servant whose aim is to achieve prosperity for his people so that the Land Deed Making Official is obliged to provide the best possible service to those in need;

Has a duty as a record of deed of conveyance, recording of actions so that it is obligatory to confirm the will of the parties who have reached an agreement between them;

Authorize a legal action between parties of substance:

Validate the signatures of the parties who carry out legal actions;

Guarantee the certainty of the date of signing the deed.

PPAT only requires parties who wish in the context of land registration and the deed has legal status as proof of ownership of the land rights by those who have the land rights.

With the authority it has to make and ratify authentic deeds which in this study focus on deed of ownership rights over a plot of land, indirectly the PPAT also bears the responsibility for the special authority given to it over the deeds made and formalized. The responsibility of PPAT is stated by Rasda, D., et al (2021), namely :

The PPAT draws up a deed that can be used as a solid basis for carrying out the registration of the transfer of rights, and is responsible for the documents used as the basis for carrying out the Action.

The PPAT is responsible for fulfilling the skill and authority elements of the applicant in the deed and the legitimacy of his rights in accordance with the data and information submitted by the applicant;

The PPAT is also always responsible for the validity of a legal action in accordance with the data and information of the applicant and guarantees the authenticity of the deed and is responsible that his actions are in accordance with the procedures.

Even though the PPAT has been given special authority to make authentic deeds in making land deeds, it is also responsible for any errors in the deeds it makes. It does not rule out the possibility that with the special authority given to it, the PPAT misuses this authority to take personal and group benefits in a way that is detrimental or takes other people's rights. As with many cases encountered, the PPAT with special authority can make land deeds to be registered and overlap land rights or certificates that have been issued by the BPN to the actual owner of the land rights, and issue the same certificate resulting in multiple certificates on the same land parcel. same.

In order to protect the rights of citizens from behavior that can be detrimental by taking land rights owned and to provide PPAT limitations in carrying out their duties and authorities, so as not to abuse their authority as a deed maker, and so that multiple certificates do not occur on the same plot of land, then there must be consequences that

are applied according to the rules as a legal consequence in being held accountable for behavior that violates the law and harms other citizens.

In Government Regulation Number 20 of 1998 it is stated that the PPAT is dishonorably dismissed from his position, because :

Committing a serious violation of the prohibition or obligation as a PPAT;

Sentenced to confinement/prison for committing a crime punishable by imprisonment or imprisonment for a maximum of 5 (five) years or more based on a court decision that has obtained permanent legal force.

From the quote from Government Regulation Number 20 of 1998 article 10 paragraph 2 states that if the PPAT will be dishonorably dismissed by the Minister who has the authority to remove and appoint the PPAT, prohibit and abuse his authority in carrying out his obligations as a PPAT. Added to point d, if the PPAT must also be held accountable for its treatment in order to benefit oneself and the group by causing harm to other people and taking the rights of other people with the threat of confinement/prison for committing crimes of criminal acts punishable by imprisonment or imprisonment for -5 (five) years or more according to a court decision. Pratama, A. N. Y., et al (2019) clarified by mentioning the responsibility of a Notary/PPAT who made a sale and purchase deed containing elements of the criminal act of forgery who was made a suspect and charged with committing a crime resulting in losses to one of the parties, inherent personal responsibility for all actions which is not in accordance with what is his authority as a Notary / PPAT. As Indonesian citizens who are equal before the law, must be held accountable for any criminal acts that cause harm to other people.

Wibawa, K. C. S. (2019) clearly states the responsibilities that must be fulfilled by the PPAT in being responsible for negligence in their obligations, namely :

Administrative responsibility in the form of a written warning up to the termination of his position as a PPAT as stipulated in Article 62 of Government Regulation Number 24 of 1997 concerning Land Registration is in line with the provisions in Article 10 of Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 2016 1998 concerning Regulations for the Position of Officials Making Land Deeds and Article 6 paragraph (1) Code of Ethics for the Association of Officials Making Land Deeds (IPPAT), namely members who violate the Code of Ethics may be subject to sanctions in the form of :

- a. Reprimand.
- b. Warning.
- c. Schorsing (temporary dismissal) from IPPAT membership.
- d. Onzetting (dismissal) from IPPAT membership.
- e. Dishonorable termination of IPPAT membership.

The PPAT's administrative responsibilities can also be in the form of fines, especially those related to taxation authority, which is an additional PPAT's authority granted by the tax law. Article 91 paragraph (1) Law Number 28 of 2009 Concerning Regional Taxes and Regional Retributions, which expressly states that the Land Deed Official/Notary can only sign the deed of transfer of Land and/or Building Rights after the Taxpayer submits proof of tax payment. The implication of this provision is that the PPAT may be subject to sanctions as stipulated in Article 93 of Law Number 28 of 2009 concerning Regional Taxes and Regional Retributions, that Officials who make Land Deeds/Notaries and heads of offices in charge of state auction services, who violate the provisions referred to in Article 91 paragraph (1) and paragraph (2) is subject to administrative sanctions in the form of a fine of Rp. 7,500,000.00 (seven million five hundred thousand rupiah) for each violation.

2. Provision 1320 of the Civil Code, if it is related to the provisions of Article 39 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, then the material requirements of the procedure for making a PPAT deed must meet subjective requirements (subject rights or parties facing or comparability). and objective requirements (object of rights transferred) in making a PPAT deed. If the subjective and objective requirements are violated, the PPAT deed may be requested for cancellation and/or declared null and void.

From what has been described, it can be explained that a PPAT who abuses his authority and is involved in the act of making multiple certificates can be dishonorably dismissed as a PPAT by the Minister and can be subject to criminal penalties in Government Regulation Number 20 of 1998 with the threat of imprisonment or imprisonment for a maximum of 5 (five) years or more weight based on a court decision with a legal bondage with an element of forgery.

CONCLUSION

In carrying out its authority and obligations as a PPAT, there needs to be accountability and consequences for a PPAT who is negligent and misuses his position which can harm other people. With the authority to register land parcels, namely as a (authentic) deed maker as evidence that certain legal actions have been taken regarding land rights or ownership rights to flats, PPAT can take other people's land rights by making multiple land certificates. The legal impact on PPATs who are involved in the act of making multiple certificates is that they can be dishonorably dismissed as PPAT by the Minister and can be sentenced to imprisonment or imprisonment for a maximum of 5 (five) years or more, and can cancel the deed that was he submitted.

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