

The Role of Land Deed Maker Officials in Making the Deed of Transfer of Land Rights and Registration of Transfer of Names During the Covid-19 Pandemic

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Abstract. *This research aims to know and analyze the role of land deed officials in making the deed of transfer of land rights and registration of transfer of names during the covid-19 pandemic at the Pekalongan City Land Office, to find out and analyze the legal consequences of making a deed of transfer of land rights that have been transferred, and to find out and analyze examples of a deed of transfer of land rights. This study uses a sociological juridical approach. This research specification uses descriptive analysis. The types and sources of data used in this study are primary data from interviews, while secondary data is obtained through library research. Research data collection is divided into 2 (two), namely primary data collection is done by interview and secondary data collection is done by collecting data contained in laws and regulations, books, articles and others. The data analysis method used in analyzing the data is qualitative analysis. The results of the study indicate that the role of PPAT is to carry out some of the tasks of the state in the land sector, as a public official who is authorized to make authentic deeds. Since the signing of the deed by the parties, PPAT as one of the implementing officials of land registration is obliged to submit the deed he made and register the name transfer at the local Land Office. Since the Covid-19 pandemic, the Pekalongan City Land Office has implemented 8 (eight) steps of the conventional or semi-online service process, this is done so that services continue to run in a conducive manner and prevent the spread of the covid-19 outbreak. Second, there is legal certainty and legal protection for new rights holders by making a deed of transfer of land rights which has been transferred to a certificate of land rights.*

Keywords: Covid-19; Pandemic; Registration; Transfer.

1. Introduction

Land is a valuable asset and plays an important role in human life. This is because humans are very dependent on land to meet their needs, especially for housing. From an economic point of view, land has a high economic value, because land has permanent properties and can be used in the future.

According to the general explanation of Government Regulation Number 24 of 1997 concerning Land Registration, the provision of legal certainty in the land sector for all Indonesian people can be realized through two efforts. First, it requires written, complete, and clear legal instruments that are implemented consistently in accordance with the spirit and content of its provisions; so it is necessary to make laws and regulations ordered by the LoGA that are in accordance with the spirit and principles of the LoGA. Second, to deal with concrete cases in the land sector, the provision of legal certainty guarantees cannot be realized only with the availability of legal instruments that meet the requirements. However, it is also necessary to carry out land registration that allows land rights holders to easily prove their rights to the land they control.¹

According to AA Andi Prajitno,² Land Deed Making Officer (PPAT) is an official appointed by a government decree in this case by the Head of the National Land Agency (BPN) to represent part of the state's duties, namely making deeds or documents required by the state related to controlling the implementation of land regulations and asset registration. (wealth) of the state in the form of land in serving the needs of the community (public service) in the field of civil law with land objects as stated in the UUPA. Therefore, it can be concluded that PPAT has an important role in its authority to make evidence regarding certain legal actions regarding the transfer, imposition of land rights which are used as the basis for registering land rights at the National Land Agency.

An authentic deed is a deed which, in the form determined by law, is drawn up by or in the presence of public officials in power for that purpose; at the place where the deed was made. This is based on the provisions of Article 1868 of the Civil Code (KUHPer).

Through this authentic deed, rights and obligations can be clearly determined, guarantee legal certainty, and at the same time it is hoped that disputes can be avoided. Disputes can arise due to a discrepancy in the interests of the parties, so that with the existence of this authentic deed, it is hoped that it can be used as the most accurate written evidence in resolving disputes.

¹Yulia Amborowati, (2020), *Kekuatan Hukum Perjanjian Terhadap Perjanjian Pengikatan Jual Beli Hak Atas Tanah dan Bangunan yang Belum Terdaftar*, Al Qodiri J Pendidikan, Sos dan Keagamaan, p. 302.

²AA Andi Prajitno, (2013), *Pengetahuan Praktis Tentang Apa dan Siapa PPAT*, Selaras, Malang, p. 13.

The deed made by PPAT acts as an authentic deed, for example, the deed of sale and purchase (AJB), deed of exchange, deed of grant, deed of sharing of joint rights (APHB). These deeds function to administer the letters of transfer of land rights from the old owner or the first party to the new owner or the second party.

Whether or not the PPAT deed can be processed by the land office depends on the deed provided with supporting documents. This is because the PPAT deed will be used as authentic evidence regarding legal actions that result in changes to the juridical data of land registration. In the practice of transferring land rights, the term transfer of names is often encountered. Although the meaning of this term can be guessed clearly, there are still some who do not understand what exactly the name behind it is related to the transfer of land rights. For land that has been certified, if there is a transfer of rights either through buying and selling, exchanging, grants, or others whose deed is made by PPAT, then the transfer of names will then be carried out. What is meant by name transfer here is to change the ownership status of the seller or right holder as the previous land owner to the buyer or recipient of the rights as the new land owner. If the process is complete, the name of the new owner of the land will be written on the land certificate, namely the name of the buyer or recipient of the rights, while the name of the old owner will be crossed out. Thus, the process of changing the name has been completed so that the buyer or recipient of the legal rights becomes the new land owner.

Based on the Regulation of the Minister of Health of the Republic of Indonesia Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (Covid-19) and Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 1/SE-100.HR.01.01/II/2021 concerning Ease of Service for Determination and Registration of Land Rights during the Corona Virus Disease 2019 (Covid-19) Emergency Response Status Period for registration of transfer of name at the Land Office, especially the Land Office of Pekalongan City, applying semi-online registration to prevent crowds and avoid face-to-face contact, this is done so that the Pekalongan City Land Office can still work optimally in serving the transfer of name registration process and or others, even though there are still many shortcomings, such as the registration process behind the name which is complicated and takes approximately one week until the issuance of the deposit order.

2. Research Methods

The approach method in this paper will use a sociological juridical legal research type. The sociological juridical approach emphasizes research that aims to obtain legal

knowledge empirically by going directly to the object.³ Research specifications used in this study is descriptive analysis. The method of collecting data is by interviewing to obtain information by asking directly the officers or officials who handle the registration of transfer of names at the Land Office of Pekalongan City, as well as related parties. Data analysis in this study is a qualitative analysis.

3. Results and Discussion

3.1. The Role of Land Deed Making Officials (PPAT) in Making the Deed of Transfer of Land Rights and Registration of Transfer of Names during the Covid-19 Pandemic in Pekalongan City

The role of PPAT is to carry out some of the state's duties in the land sector, as a public official authorized to make authentic deeds. The deed made by the PPAT is a formulation or the will of the parties and as written evidence regarding the circumstances, events or legal actions that have occurred. PPAT as a position of trust in carrying out their duties and positions must uphold their dignity and carry out their duties and positions appropriately and honestly.

The responsibility of the Land Deed Making Officer (PPAT) in providing legal protection to the parties arises because of unlawful acts committed by PPAT in carrying out their duties, causing losses to the parties requesting their services. The form of PPAT's responsibility when associated with his profession adheres to the principle of responsibility for fault (based on fault of liability). So that in making an authentic deed, PPAT must be responsible if there is an error or violation of the deed he made. However, if the element of error or violation occurs from the parties, then the PPAT concerned cannot be held accountable, because the PPAT only records what was conveyed by the parties or appearers to be included in the deed.⁴ In this case, the PPAT only checks what happened, what was seen, and said by the parties, then the PPAT put it into the deed.

Re-registration of land rights certificates is one of the things that people need to know after buying or acquiring land, so that land ownership rights have permanent legal force. According to Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, it is affirmed that "The transfer of land rights and ownership rights to apartment units through buying and selling, exchanging, grants, income in the company, and other legal acts of transfer of rights, except that the transfer of rights through auction can only be proven by a deed made by the authorized PPAT according to the provisions of the applicable laws and regulations."

³Soerjono Soekanto, (2005), *Pengantar Penelitian Hukum*, Penerbit Universitas Indonesia Press, Jakarta, p. 51.

⁴Andi Mamminanga, (2008), *Pelaksanaan Kewenangan Majelis Pengawas Notaris Daerah dalam Pelaksanaan Tugas Jabatan Notaris berdasarkan UUJN*, Tesis, Fakultas Hukum Universitas Gajah Mada, Yogyakarta, p. 32.

The implementation of land registration by the Head of the Land Office assisted by PPAT does not mean that it implies that PPAT is assistant or subordinate to the Head of the Land Office, but this understanding must be interpreted in the context of implementing land registration activities whose duties and authorities are born from and because of laws or regulations that underlies, so that PPAT does not automatically become subordinate to the Head of the Land Office, but the duties and authorities are independent (independent). So in deciding whether to make a deed or refusing to make a deed regarding a legal act committed before him, PPAT has an independent position (there is no and there is no intervention from any party). No one has the authority to give orders to him or prohibit him from making deeds. A PPAT not only has the right, the PPAT is even obliged to refuse it, if upon the request for making a deed which is known (suspected) and results in violating the applicable provisions, because the implementation of the PPAT's duties has existed and is clearly and firmly regulated in Law Number 16 of 1985, Law Number 4 of 1996, Government Regulation Number 24 of 1997, and related material legal regulations. In this regard, in terms of carrying out its duties and authorities, PPAT should be able to be held accountable for a balanced account with the Head of the Land Office if there are problems related to the data presented in the deed is inaccurate. Likewise, other officials referred to in accordance with article 6 paragraph (1), In carrying out the duties and authorities of land registration, they must have a balanced responsibility with the Head of the Land Office. Even though the position of the PPAT is not subordinate to the Head of the Land Office, but in the context of the smooth implementation of land registration, in special cases as referred to in Article 37 paragraph (2) the Head of the Land Office absolutely requires data that must be presented in the form of a deed which can only be made by a PPAT.⁵ Not later than 7 (seven) working days from the date of signing the relevant deed, PPAT as one of the implementing officials for land registration, is obliged to submit the deed he made, along with the relevant documents to the Head of the Land Office, so that the registration process can be carried out immediately. This is stipulated in Article 40 of Government Regulation Number 24 of 1997 concerning Land Registration. Meanwhile, in the explanation of the article it is stated that the obligation of the PPAT is only limited to the submission of the deed in question and its files to the Land Office. Registration of further activities and receipt of certificates are the business of the interested parties themselves.⁶

Since Corona Virus Disease 2019 (Covid-19) was declared a national disaster, the government implemented many new policies in order to support the running of public services by minimizing the risk of the spread of Covid-19. These government policies also

⁵Widhi Handoko, (2014), *Kebijakan Hukum Pertanahan Sebuah Refleksi Keadilan Hukum Progresif*, Thafa Media, Yogyakarta, p. 167-168.

⁶Budi Harsono, (2015), *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*, Penerbit Universitas Indonesia, Jakarta, p.511.

aim to create convenience for the public in carrying out administrative activities while still implementing health protocols during this pandemic.

One of the new policies established by the government is the issuance of the Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 1/SE-100.HR.01.01/II/2021 concerning Ease of Service for Determination and Registration of Land Rights during the Emergency Response Status Period. Corona Virus Disease 2019 (Covid-19) hereinafter referred to as "Circular Letter No.1/2021".

The purpose of the issuance of Circular Letter No.1/2021 is to provide implementation instructions to the Head of the National Land Agency Regional Office and the Head of the Land Office in order to provide convenience for land services to the community during the Covid-19 emergency response status.

Circular No. 1/2021 regulates policies for facilitating land services, namely (i) service facilities policies for registration of decision letters for granting, extension, renewal of land rights and decrees for granting management rights, and (ii) policy on ease of service delivery of complete evidence validation documents. payment of tax payments in the context of registration of decrees granting land rights and transfer of land rights.

Differences in registration of name transfers before and during the covid-19 pandemic at the Pekalongan City Land Office, including:

- a. Registration of name transfer before the covid-19 pandemic, the applicant in this case the PPAT directly comes to the Pekalongan City Land Office to register the name transfer file, after the inspection and it is declared complete, the officer will immediately print the Deposit Order and the Pekalongan City Land Office provides Electronic Data Capture or EDC is a payment recipient tool that can connect between bank accounts, which makes it easier for PPAT to make payments for the Deposit Order, while during the covid-19 pandemic, transfer of name registration must be done through semi-online which takes longer and payment of letters. Deposit orders can no longer be carried out at the Pekalongan City Land Office because during the COVID-19 pandemic they did not provide EDC.
- b. Before the COVID-19 pandemic period, the certificate collection has been completed, the applicant or PPAT can directly ask the pick-up counter officer, while at this time they have to wait until the counter officer notifies the applicant or PPAT via WhatsApp.⁷
- c. The Pekalongan City Land Office applies 8 (eight) steps of the conventional or semi-online service process during the Covid-19 emergency, which includes:⁸

⁷Interview with Gatot Bintoro, Counter Officer of the Land Office of Pekalongan City, 20 June 2022.

⁸Interview with Setiaman, First Land Manager of the Pekalongan City Land Office, 20 June 2022.

- d. The applicant sends the requested file via Google Form with the link address provided by the Pekalongan City Land Office in the form of softcopy/scan, where the submitted file items must be numbered;
- e. Check the completeness of the file by the officer. Complete File, Print Deposit Order and sent via WhatsApp. If the file is incomplete, the officer will notify the applicant of the completeness of the file that must be completed and the applicant will re-upload it;
- f. The officer prints the Deposit Order (SPS) and then submits a softcopy/scan of the Deposit Order (SPS) to the applicant via WhatsApp;
- g. The applicant makes payment and submits proof of deposit via WhatsApp to the officer. After receiving the proof of deposit, the officer then notifies the applicant of the schedule for the physical files to be submitted to the Land Office of Pekalongan City;
- h. The applicant submits physical documents to the Land Office of Pekalongan City;
- i. The process of completing the application at the Land Office of Pekalongan City;
- j. After the service is completed, the officer notifies the applicant of the product pick-up schedule;
- k. The applicant picks up the product at the Pekalongan City Land Office.

The semi-online registration starts operating at 08.00 WIB (eight West Indonesian Time) until 14.00 WIB (two West Indonesian Time), while for the physical file submission, it is placed in a box provided by the Land Office of Pekalongan City.⁹

Obstacles that are often experienced by the Pekalongan City Land Office counter officers and applicants, in this case PPAT, in semi-online transfer of names as mentioned above include:¹⁰

- a. The applicant's error in entering the uploaded data on the available item, so that the Pekalongan City Land Office officer will provide a note via WhatsApp to immediately re-upload it;
- b. Changes in the google form link with different uploading rules, so that applicants need to study again to scan files that must be included in the items that are already available, which causes delays in registration for transfer of names;
- c. Lack of accuracy in registration, where the files uploaded in the google form and the physical files sent are not the same, so that the registration file cannot be processed and must be returned to the applicant;
- d. Servers that often experience problems;
- e. The difficulty of the applicant consulting face to face;

⁹Interview with Girl Tria Permana, Counter Officer of the Land Office of Pekalongan City, 20 June 2022.

¹⁰Ibid.

- f. Computerization of Land Activities (KKP) from the center which often experiences problems resulting in delayed file entry, which causes the issuance of old Deposit Orders;
- g. There is a requirement for a Health BPJS (Social Security Administering Body) Card with an active status for registration for transfer of name due to buying and selling which has been in effect since March 1, 2022 based on Presidential Instruction Number 1 of 2022, which requires counter officers to first check the activity of BPJS Health, if turns out to be inactive, the counter clerk must notify the applicant so that he can activate it first and refuse the name transfer registration.

The Pekalongan City Land Office has made every effort to ensure that services in the land sector continue to run in a conducive manner, preventing the spread of the COVID-19 outbreak by continuing to implement 3 (three) M services, namely: wearing masks, maintaining distance, and washing hands. For registration of transfer of name during the covid-19 pandemic, after PPAT has paid the Deposit Order, the Pekalongan City Land Office only takes 10 (ten) working days to change the name of the certificate to become the new right holder.

3.2. Legal Consequences for the Making of the Deed of Transfer of Land Rights that have been carried out by Transfer of Names

Providing guarantees of legal certainty in the land sector requires the availability of written legal instruments, which are complete and clear and implemented consistently, apart from that it is necessary to carry out effective land registration.¹¹

If someone needs land, from the legal provisions he knows how to get it and what will be the evidence. If the land in question has the status of property rights, he will know that the land in question can be controlled and used indefinitely. If he needs money, from the legal provisions in question, he knows that his land can be used as collateral and is encumbered with security rights. Also, that the land can also be sold to other parties. But for a person who is going to buy land, knowledge of these matters, however important, is not enough to arrive at a decision to buy the land that is offered to him. He wants to get certainty first, which land he will buy is land, where is it located, what are the boundaries, how big is it, what buildings and/or plants are on it. No less important is to obtain certainty regarding the status of the land, who is the holder of the rights and the presence or absence of the rights of other parties. All that is needed by him to secure the purchases made and prevent disputes from arising in the future.¹²

Registration of transfer of land rights is required in order to provide legal protection to new rights holders, so that the data stored and presented always shows the real situation. Re-registration of the transfer of title to the title must be carried out by PPAT.

¹¹Boedi Harsono, Op. cit, p. 69.

¹²Ibid, p. 70 – 71.

The legal consequence of the transfer of land rights is the transfer of control of land rights which is the object of the transfer of rights, the control of these rights from the first party or the holder of land rights is transferred to the second party or the new right holder.

4. Conclusion

The role of PPAT in making the deed of transfer of land rights and registration of transfer of names during the Covid-19 pandemic at the Pekalongan City Land Office continues as it should, although the implementation is different from before the Covid-19 pandemic. The Pekalongan City Land Office applies 8 (eight) steps of the conventional or semi-online service process during the Covid-19 emergency. This is done so that services in the land sector continue to run in a conducive manner by implementing 3 (three) M, namely: wearing masks, maintaining distance, and washing hands.

5. References

Books:

- [1] AA Andi Prajitno, (2013), *Pengetahuan Praktis Tentang Apa dan Siapa PPAT*, Selaras, Malang
- [2] Andi Mamminanga, (2008), *Pelaksanaan Kewenangan Majelis Pengawas Notaris Daerah dalam Pelaksanaan Tugas Jabatan Notaris berdasarkan UUUJN*, Tesis, Fakultas Hukum Universitas Gajah Mada, Yogyakarta
- [3] Budi Harsono, (2015), *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*, Penerbit Universitas Indonesia, Jakarta
- [4] Soerjono Soekanto, (2005), *Pengantar Penelitian Hukum*, Penerbit Universitas Indonesia Press, Jakarta
- [5] Widhi Handoko, (2014), *Kebijakan Hukum Pertanahan Sebuah Refleksi Keadilan Hukum Progresif*, Thafa Media, Yogyakarta
- [6] Yulia Amborowati, (2020), *Kekuatan Hukum Perjanjian Terhadap Perjanjian Pengikatan Jual Beli Hak Atas Tanah dan Bangunan yang Belum Terdaftar*, Al Qodiri J Pendidikan, Sos dan Keagamaan