

## The Roles and Responsibilities of Land Deed Officials in the Registration of Transfer of Land Rights as a Result of Sale and Purchase

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**Abstract.** *This study aims to identify and explain the roles and responsibilities of the PPAT in registering the transfer of land rights as a result of buying and selling in Blora Regency, and to identify and explain the obstacles encountered in carrying out the registration of transfer of land rights as a result of buying and selling in Blora Regency. as well as the solution. The method used is a juridical-sociological approach, with descriptive analytical research specifications. The types of research data include primary legal materials, secondary legal materials, and tertiary legal materials. The analytical method used in this study is a qualitative analysis method. Based on the results of the study it was concluded that the responsibilities of the Land Deed Making Officer (PPAT), namely in making and issuing Deeds of Transfer of Land Rights, must comply with the provisions of the applicable regulations. Obstacles in registering the transfer of land rights include incomplete paperwork, disputes with neighbours, lands for sale and purchase that have not been registered, the community is reluctant to certify the transfer of rights over their land. The solution to overcome the obstacles that occur during the implementation of the transfer of land rights in Blora Regency. Explains that, checks and examines the files, records them in the filling form, gives a receipt for the application files, and gives the applicant to complete the files through a notification letter. At the time of measurement there is a difference in the size of the land object in the certificate, it is better to report back to the BPN for re-checking. The land office organizes a mass certification program, especially for the less fortunate, so that the need for certificates can be met in a fair manner.*

**Keywords:** Land; Rights; Transfer.

## **1. Introduction**

Land as an element forming human life and other living things, land is not only a place to live or farm, but can also be used as collateral to get bank loans for the purposes of buying and selling and leasing.<sup>1</sup>

Considering the increasing need for land for the benefit of the community, while the existing land in Indonesia is not increasing, a regulation is needed to ensure legal certainty and protection for holders of land rights. With the issuance of Law Number 5 of 1960 concerning Basic Agrarian Regulations or better known as the Basic Agrarian Law or hereinafter referred to as UUPA and Government Regulation Number 10 of 1961 in conjunction with Government Regulation Number 24 of 1997 concerning Land Registration.

The purpose of land registration according to Government Regulation Number 24 of 1997 concerning Land Registration, as contained in Article 3 is:

- a. To provide legal certainty and protection to rights holders over a parcel of land, apartment units and other registered rights so that they can easily prove themselves as the holder of the rights in question.
- b. To provide information to interested parties, including the Government, so that they can easily obtain the data needed to carry out legal actions regarding registered land parcels and apartment units.
- c. For the implementation of orderly land administration.

Registration of the Transfer of Land Rights is carried out by the PPAT in accordance with the Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for the Implementation of PPAT Position Regulations, namely Government Regulation Number 37 of 1998 concerning Position Regulations for Officials Making Land Deeds which in Article 2 states:

1) The PPAT has the main task of carrying out some of the land registration activities by making deeds as evidence that certain legal actions have been taken regarding land rights or ownership rights to flats, which will be used as the basis for registering changes to land registration data resulting from said legal action.

2) The legal actions referred to in Paragraph (1) are as follows:

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<sup>1</sup>Florianus SP. Sangsun, *Procedures for Managing Land Certificates*, Third Print, (Jakarta: Visimedia, 2007), p.1.

- a. Buy and sell.
- b. Exchange.
- c. Grant.
- d. Shared rights.
- e. Granting of Building Utilization Rights/Utilization Rights over Freehold Land.
- f. Granting Mortgage Rights.
- g. Grant of Power of Attorney Imposing Mortgage Rights

Another definition of PPAT, namely as a public official who is authorized to draw up deed of transfer of land rights, deed of imposition of land rights, and deed of granting of power of attorney imposes mortgage rights according to applicable laws and regulations. Boedi Harsono stated that a public official is someone who is appointed by the government with the task and authority to provide services to the public in certain fields.<sup>2</sup>The function of the PPAT deed is as evidence that a legal action has been carried out and is used as a strong basis for registration of the transfer of rights and the encumbrance of the rights concerned.<sup>3</sup>

The role of the PPAT is to carry out some of the land registration activities by making land deeds as proof that certain legal actions have been taken regarding land rights or ownership rights to apartment units, which will be used as the basis for the registration of changes to land registration data, as stated in Article 2 (1) Government Regulation Number 37 of 1998 concerning Regulations for the Position of Land Deed Maker (PP No. 37/1998). The role of the PPAT in the series of land registration activities has a very important position, because the PPAT deed it makes is one of the main sources in the maintenance of land registration data.

In this regard, Article 3 paragraph (1) of Government Regulation Number 37 of 1998 concerning Position Regulations for Officials for Making Land Deeds explains that the PPAT Deed made is an authentic deed regarding land rights and ownership rights to flats located within their working area. The authentic deed is a deed in the form determined by law, made by or in the presence of public officials who have the authority for that at the place where the deed was made.

Therefore, it can be concluded that the PPAT has an important role in its authority to produce evidence regarding certain legal actions regarding transfers; the encumbrance of land rights which is used as the basis for registration of land

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<sup>2</sup>Salim HS, *Techniques for Making Land Deeds Official for Making Land Deeds*, Jakarta: Rajawali Press, 2016, p. 87

<sup>3</sup>Ibid

rights at the Directorate General of Agrarian Affairs which is now at the BPN of the Republic of Indonesia.<sup>4</sup>

## **2. Research Methods**

This study uses a juridical-sociological approach, using descriptive analysis research specifications, while the type of research data includes legal materials primary, secondary legal materials, and tertiary legal materials. The analytical method used in this study is a qualitative analysis method, because this research is aimed at examining the quality of a legal norm, so it is classified as a qualitative method.

## **3. Results and Discussion**

### **1. PPAT Roles and Responsibilities in Registration of Transfer of Land Rights Due to Sale and Purchase in Blora Regency**

There are two attempts to achieve land legal certainty. First, by providing complete and clear written legal instruments. Second, by carrying out land registration which makes it possible for holders of land rights to prove their rights to the land they control and for the government to implement land policies.<sup>5</sup>

Legal certainty that transports land regarding ownership and control of land includes the following elements:

- 1) Certainty regarding the subject of the right, namely the person or legal entity that is the holder of the right.
- 2) Certainty regarding the object of rights regarding the location of the land, the boundaries of the land and the area of the land parcels.

In order to achieve this purpose, in practice, the holder of the registered right will be given a proof of right so that it can easily prove the right that has been registered. Apart from the National Land Agency (BPN), the party that plays an important role in orderly land administration is the Land Deed Making Officer. (PPAT). According to article 1 paragraph (1) of Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of

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<sup>4</sup>Dwina Natania, Lastuti Abubakar & Nanda A Lubis, "Submission of the Deed of Granting Mortgage Rights by Officials Making Land Deeds after the Enactment of Ministerial Regulation ATR/KPBN Number 5 of 2020 Regarding Electronically Integrated Mortgage Services" (2020) 3:2 Acta Diurnal J Ilmu Notary Law 273–291 at 287.

<sup>5</sup>Dyara Radhite Oryza Fea, 2018, Guide to Managing Home Land and Permits for Legality, Yogyakarta, p. 90.

1998 concerning Regulations for Officials Making Land Deeds, a PPAT is a public official who is authorized to make authentic deeds regarding certain legal actions regarding land rights. or ownership rights to apartment units. The legal actions referred to are buying and selling, exchange, grants, entry into the company (inbreng), distribution of joint assets, granting building use rights,

The legal basis for land registration is Law no. 5 of 1960 concerning UUPA, Government Regulation No. 24 of 1997, then in its implementation it was translated back to the Minister of Agrarian Affairs/Head of the National Land Agency No. 3 of 1997 dated October 1, 1997 concerning Regulations for Implementing Government Regulation No. 24 of 1997 concerning Land Registration. The purpose of land registration is to guarantee legal certainty over land rights, including legal certainty over land parcel objects (object rights), legal certainty over the subject of the rights (subject rights), legal certainty over the types of land rights.<sup>6</sup> Hereinafter referred to as the PPAT whose main task is to carry out some land registration activities by making deeds as evidence and the basis for land registration.

Based on the results of an interview with Mrs. Yani Dwi Rahayu as PPAT and Notary in Blora Regency, it was stated that the responsibilities of the Land Deed Making Officer (PPAT), namely in making and issuing Deeds of Transfer of Land Rights, must comply with the provisions of the applicable regulations. Before making and issuing the Deed of Transfer of Land Rights in question. If the land has been registered but does not yet have a Land Rights Certificate, then as a replacement for the said Land Rights certificate is a Certificate of Land Registration (SKPT) for the land drawn up and issued by the Regency/Municipal Land Office, which states that the land rights the land does not yet have a Land Title Certificate.<sup>7</sup>

The responsibilities of the Land Deed Official are as follows:

1. PPAT must take an oath.
2. The PPAT must immediately submit the deed that has been made to the local Regency/City to be registered in the "land book" and included in the "Certificate of Land Rights" concerned.
3. The PPAT is required to maintain a "Register of Deeds" that has been made

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<sup>6</sup>Nurhidayah, 2012, Implementation of Fulfillment of Ppat Responsibilities in the Deed of Sale and Purchase of Land and its Legal Consequences, Publication Manuscript, University of Muhammadiyah Surakarta, p. 16.

<sup>7</sup>Results of Interview with Mrs. Yani Dwi Rahayu, Notary and PPAT in Blora Regency on Friday January 20 2023 at 11.00

and issued, according to the form specified in the applicable regulations.

4. PPAT is obligated to carry out the instructions given by the National Land Agency and officials who supervise it;

Each month the PPAT is required to submit a "Monthly Report" which it makes for one month to the head of the District/City Office of the National Land Agency and will report the results of its observations to the Head of the Regional Office of the local Provincial National Land Agency. In carrying out the role of PPAT responsibilities in the transfer of registration of land rights due to sale and purchase:<sup>8</sup>

a. Supervise and check the completeness of land registration files in the form of the authenticity of several documents such as identity cards of sellers and buyers, family cards of sellers and buyers, original land and building tax (PBB) payments and original ownership certificates.

b. Checking land certificates on the website of the National Land Agency or BPN and the plotting process. Plotting is the process of verifying the authenticity of land certificates using global positioning system or GPS technology, which is intended to determine the original position of land in the land registration map database.

c. Ensuring registration and payment of taxes for buyers through the Regional Asset Management Revenue Service office or DPPKAD and for sellers paying at the Tax office.

d. Make and sign the deed of sale and purchase.

e. If all processes have been completed with the filing at the PPAT office, then it will be completed at the Land Agency or BPN, this takes approximately two months.

f. After finishing at the land office, the PPAT took the certificate and handed it over to the buyer.

The deed of sale and purchase of land rights must be attended by the seller and the buyer who carries out the legal action concerned or their attorney and witnessed by at least two witnesses who meet the requirements to act as witnesses in the said legal action. The witnesses testified regarding the presence of the parties or their proxies, the existence of the documents referred to in the

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<sup>8</sup>Results of Interview with Mrs. Yani Dwi Rahayu, Notary and PPAT in Blora Regency on Friday January 20 2023 at 11.00

deed, and the legal actions that had been carried out by the parties concerned. Before the deed is signed, the Land Deed Making Officer (PPAT) is required to read it to the parties concerned and provide an explanation regarding the contents and purpose of making the deed, as well as the registration procedures that must be followed. The land deed issued by the Land Deed Making Officer is made up of two sheets, all of which are genuine. One sheet is kept at the PPAT office, while the other sheet is submitted to the Head of the Land Office for the purpose of registering the transfer of rights. While the parties concerned are given a copy.<sup>9</sup>

Examination of the certificate of land rights is necessary to ensure conformity of technical and juridical data between the land certificate and the land book at the Land Office. Inspection of certificates of land rights is also carried out by the PPAT which aims to ensure that the land which is the object of the sale and purchase is not involved in a legal dispute, is not being guaranteed, is not being confiscated by the authorities, and there is no blockage. Where if there is a record in the land book at the BPN, the seller is obliged to clean up the record first. If the record is in the form of a block, then the block must be removed first. Because without this process buying and selling will not be done.<sup>10</sup>

In addition to examining the Land Rights Certificate to BPN, the PPAT will then examine the Deposit Receipt Letter (STTS) and the PBB Payable Tax Notification Letter (SPPT). This check is carried out to ensure that there are no arrears in PBB payments. At the same time to calculate the costs and taxes that are the responsibility of each party. Where the calculation of these costs can be done based on the Selling Value of Tax Objects (NJOP). After the inspection of both is completed, before carrying out the land sale and purchase transaction process or before the sale and purchase deed (AJB) is drawn up. There are conditions that must be prepared by the seller and the buyer. These requirements must be met for the validity and smoothness of the sale and purchase transaction of land rights. When facing the PPAT to draw up a land sale and purchase deed,<sup>11</sup>

- a. Terms prepared by the seller, among others:
  - a. Original Land Title Certificate to be sold.
  - b. Identity Card (KTP).
  - c. Family Card (KK)
  - d. Proof of Payment of Land and Building Tax (PBB)
  - e. Family consent letter
  - f. Statement letter that the land to be sold is not in dispute.
- b. Terms prepared by the buyer, among others:

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<sup>9</sup>Ibid

<sup>10</sup>Ibid

<sup>11</sup>Ibid

- a. Identity Card (KTP).
- b. Family Card (KK).
- c. Money for payments that can be made in cash before the PPAT.

If all of these conditions have been met, the seller and buyer must submit these requirements to the PPAT and then the PPAT will process the sale and purchase transaction of land rights by drawing up a Sale and Purchase Deed (AJB) between the seller and the buyer. Then the deed that has been signed by the parties who entered into the agreement on the transfer of rights over the land as well as witnesses who were present in the process of transferring rights over the land, is then taken by the PPAT to the Land Office to be registered as a certificate of ownership for the new land rights holder.<sup>12</sup>

Prior to making the deed, the PPAT is required to check the conformity of the certificate with the data in the land book at the land office. If at the time of registration of the transfer of land rights, land rights become the object of dispute, the interested parties can file a lawsuit in court. In order to expedite the trial process in court, interested parties can request that the land book be recorded in accordance with Article 126 paragraph (1) Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 8 of 2012 concerning Amendments to the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration.

The PPAT's responsibilities are related to its authority, including:<sup>13</sup>

- 1) PPAT civil liability
- 2) PPAT criminal responsibility
- 3) PPAT administrative responsibility

Regarding the responsibilities of the PPAT, it is regulated in Article 55 of the Regulation of the Head of BPN No. 1 of 2006, PPAT is personally responsible for carrying out his duties and positions in every deed. If analyzed using grammatical interpretation analysis, in Article 55 of the Head of BPN Regulation No. 1 of 2006, regulates as a whole regarding the responsibility of the PPAT for all actions based on his position in the process of making the deed, the article states<sup>13</sup> that the PPAT

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<sup>12</sup>Ibid

<sup>13</sup>I Gusti Bagus Yoga Prawira, PPAT Responsibilities for the Deed of Sale and Purchase of Land, IUS Journal, Vol IV, Number 1 April 2016, p. 69.



is personally responsible. In this case the PPAT is not only personally responsible for the deed he made,

The authority and obligations of the PPAT are from the stage where the PPAT receives the certificate related to the preparation process for making the deed until the process of issuing a certificate from the Land Office has been completed. The PPAT has the authority and obligation to prepare the deed until the certificate has been issued, the PPAT has the responsibility for that. If there is a loss from one of the parties related to the blocking of the certificate because land rights are the object of dispute, the PPAT cannot be held responsible unless the parties can prove it.<sup>14</sup>

PPAT has carried out the stages of transferring land rights, namely carrying out the procedures or procedures that apply. The PPAT is obliged to apply the principles of accuracy and caution when receiving statements from appearers and to evaluate the wishes of the appearers, so that one of the parties or the other party does not feel disadvantaged. In addition to the deed he made, the PPAT is morally responsible for providing services in the form of storing and maintaining the certificate, not carelessly handing it over to one of the parties because the transfer process has not been completed. For this reason, the PPAT has no right to demand payment or fees related to its obligation to keep the certificates and documents returned by the land office. If the PPAT asks for additional fees, the PPAT may be subject to administrative sanctions or moral sanctions based on the PPAT's code of ethics. PPAT as an intermediary party is obliged to safeguard the interests of both parties until the process of registering the transfer of land rights has been completed.<sup>15</sup>

Regarding the discussion of the PPAT's responsibility for the registration of the transfer of land rights, in addition to using the theory of accountability, it also uses the theory of legal certainty. The PPAT, based on its authority and obligations, has the responsibility to guarantee legal certainty regarding the deed it made as evidence that certain legal actions have been carried out regarding land rights that are used as the basis. This registration aims to provide guarantees of certainty and legal protection for new land rights holders.

## **2. Obstacles and Solutions for Registration of Transfer of Land Rights Due to Buying and Selling in Blora Regency**

In carrying out the registration of the transfer of rights over land by buying and selling, there were several obstacles that resulted in the implementation of the

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<sup>14</sup>Results of Interview with Mrs. Yani Dwi Rahayu, Notary and PPAT in Blora Regency on Friday January 20 2023 at 11.00

<sup>15</sup>Ibid.

registration of the transfer of rights not being smooth or not being completed on time. In this case, the obstacles in registering the transfer of land rights are mentioned, namely:<sup>16</sup>

- a. Incomplete documents needed to register the transfer of ownership rights by way of buying and selling. For example: A photocopy of the applicant's KTP has not been legalized by the authorized official.
- b. Disputes with neighbors, this usually happens in the community because when measuring the area the certificate does not match the land object.
- c. In principle, there are no obstacles to land that has been certified, but land for sale and purchase that has not been registered at the Blora District Land Office, so it does not have a certificate.
- d. Communities feel reluctant to certify the transfer of their land rights because the cost of paying taxes is relatively expensive and takes quite a long time. Because tax payments must be made before the sale and purchase or transition occurs. And people think that buying and selling under the hands is considered legal and they have legal certainty.

The explanation of the obstacles described above also mentions various solutions to overcome the obstacles that occurred during the implementation of the transfer of land rights in Blora Regency. explain that :<sup>17</sup>

- 1) The files for this case are incomplete, so the Land Office after receiving the files should:
  - a. check and examine files.
  - b. record in the form.
  - c. provide acknowledgment of receipt of the application.
  - d. provide to the applicant to complete the files through a notification letter.
- 2) There is a difference when measuring the ground object
- 3) The community feels reluctant to certify the transfer of their land rights because, according to them, the cost of the transition is relatively expensive and

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<sup>16</sup>Results of Interview with Mrs. Yani Dwi Rahayu, Notary and PPAT in Blora Regency on Friday January 20 2023 at 11.00

<sup>17</sup>Ibid

takes quite a long time. To overcome these obstacles, the land office held a mass certification program especially for the less fortunate so that the need for certificates could be met fairly.

#### **4. Conclusion**

The PPAT's responsibilities are related to their authority, including: PPAT's civil responsibility, PPAT's criminal responsibility, and PPAT's administrative responsibility. Obstacles in the registration of the transfer of land rights, namely: 1) The incomplete documents needed to carry out the registration of the transfer of ownership rights by way of buying and selling. For example: A photocopy of the applicant's KTP has not been legalized by the competent authority, 2) Disputes with neighbors, this usually happens in the community because when measuring the area the certificate does not match the land object, 3) In principle, lands that have been certified do not have obstacles, but lands for sale and purchase that have not been registered at the Blora Regency Land Office so they do not have certificates, and 4) The community feels reluctant to certify the transfer of their land rights because the cost of paying taxes is relatively expensive and takes quite a long time. Because tax payments must be made before the sale and purchase or transition occurs. And people think that buying and selling under the hands is considered legal and they have legal certainty. The solution to overcome the obstacles that occurred during the implementation of the transfer of land rights in Blora Regency. explained that: 1) Examine and examine the files, record in the form, provide a receipt for the application file, and give the applicant to complete the files through a letter of notification, 2) There is a difference when measuring land objects, 3) The community feels reluctant to certify the transfer of land rights because, the cost of switching which according to them is relatively expensive and takes quite a long time. To overcome these obstacles, the land office held a mass certification program, especially for the less fortunate so that the need for certificates could be met fairly.

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