

## The Prudential Principle of Land Deed Official in Drafting Agreement: Minors Protection and the Role of the Orphans Chamber

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**Abstract.** *Land Deed Officials are required to act diligently and professionally, adhering strictly to the principle of prudence when preparing sale and purchase deeds, particularly those involving property owned by minors. According to the Indonesian Civil Code, guardians must notify the Orphans Chamber (Balai Harta Peninggalan) and conduct the transaction in the presence of a supervising guardian when selling immovable property belonging to minors. However, in practice, such transactions often bypass the Orphans Chamber, raising legal concerns due to the potential for guardians to misuse the proceeds from the sale. This study explores how Land Deed Officials implement the prudential principle in drafting deeds for the sale of minors' property. Using qualitative methods, the research analyzes relevant legal frameworks, sale documents, and interviews with Land Deed Officials, Orphans Chamber representatives, and guardians. The findings reveal that the application of prudence by Land Deed Officials remains suboptimal. Many rely solely on court decisions authorizing parental guardianship, overlooking the legally mandated role of the Orphans Chamber in safeguarding the interests of minors. The study underscores the critical need for supervisory oversight to ensure the protection of children's rights in property transactions.*

**Keywords:** Agreement; Chamber; Principle; Protection; Prudential.

### 1. Introduction

The issue of protecting the property rights of minors is one of the most pressing issues in family law. Guardianship is an authority granted by the court to a person/guardian to carry out a legal act as a representative for the interests and on behalf of a minor who is not under the authority of the parents, where one of the parents has lived the longest becomes the guardian of the child. Guardianship, as regulated in the Indonesian Civil Code, only applies to Chinese groups.

One of the objectives of appointing a guardian is to protect the child's interests, namely the child's interests and the protection of his/her assets (Analiansyah et al., 2024). Guardianship of children who are not yet adults by law is carried out by the longest-living parent as regulated in Article 345 of the Indonesian Civil Code. Guardianship of the child's self includes managing the child's interests, such as caring for, maintaining, and providing education and religious guidance (Larasati et al., 2022). Meanwhile, guardianship of the child's assets includes managing the child's assets properly and responsibly, including recording the amount of assets when the guardianship begins, recording any changes in assets during the guardianship period, and returning all of the assets to the child after the guardianship ends. Guardianship ends when the child has grown up and can care for himself/herself (Pratiwi, 2019).

The basis of property rights of minors is the family relationship (Svetlana, 2021). Minors obtain property in 2 (two) ways, namely through legal acts and legal events. Legal events occur due to inheritance from parents to children, generally in the form of land and/or buildings. The transfer of property of minors is the responsibility of the child's guardian (Rayu et al., 2022). A sale and purchase agreement is one way to transfer land rights (Trisnomurti, 2019), which can be done privately or with an authentic deed by PPAT (Annisa et al., 2021). In addition to sale and purchase agreements, land rights can be transferred through exchange, grants, equity investment, and auctions (Santoso, 2019).

Land ownership generate legal norms (Ilyas & Hamzah, 2022). The transfer of land rights can only be registered if a deed is made by the Land Deed Official (in Indonesian, *Pejabat Pembuat Akta Tanah*, hereinafter referred to as PPAT hereinafter referred to as PPAT). Based on Article 395 of the Indonesian Civil Code, the sale must be carried out in public, in the presence of a guardian, by an authorized employee, according to local customs. The guardian referred to in Article 366 of the Indonesian Civil Code is the Orphans Chamber. The Orphans Chamber (in Indonesian, *Balai Harta Peninggalan*, hereinafter referred to as BHP) is tasked with supervising the guardianship of a child. Where to sell the child's permanent property, the guardian must obtain permission from the BHP (Mamesah, 2020). Furthermore, Article 418 of the Indonesian Civil Code stipulates that "Boards and councils may not be excluded from any interference ordered to them in the provisions of the law".

Protection of the property rights of minors is now one of the most crucial issues in civil law and family law (Ablyatipova & Volkova, 2022). In practice, there are Chinese descendants as guardians who are the longest-living parents of minors who transfer assets without involving the BHP as the supervising guardian, where the assets are the inheritance from the father of the minor and the name listed on the certificate is the name of the heir who is then the inheritance process is carried out to the wife and children of the heir as heirs. The guardian who is the longest living parent only applies to the court to sell the assets, where part of the assets are the rights of the minor to carry out a legal act under his guardianship so that the child's guardian can transfer assets only based on a court decision and ignore the duties of the BHP as the supervising guardian (Tana, 2024).

In this case, the PPAT, as the official who processes the transfer of the minor's assets, has ignored the regulation on the function of the supervising guardian and did not provide counseling to the guardian who will transfer the minor's assets because the PPAT is only guided by the court's decision. It happens because some PPATs and guardians of minors consider that the court's decision regarding the appointment of a guardian and

permission to sell the minor's assets is sufficient to be used as a basis for transferring the assets because the process of making a sale involving BHP as the supervising guardian takes quite a long time.

The responsibility of PPAT in providing legal protection to the parties arises in cases involving unlawful acts committed by guardians. Therefore, when drafting an authentic deed related to a minor's property sale, the PPAT must provide proper legal counselling to ensure that the deed offers legal certainty and minimizes the risk of loss. The PPAT must be responsible if there is an error or violation of his deed, including the negligence of the PPAT, which does not carry out his obligations (Bazar & Silviana, 2021). Suppose the PPAT has fulfilled its obligations according to the applicable laws and regulations, and any error or violation originates from the parties involved. In that case, the PPAT cannot be held liable. PPAT is not liable because it merely records and incorporates into the deed what the parties convey, observe, and state. Accordingly, the PPAT functions solely to ascertain legal facts as they are. Therefore, the PPAT can be subject to sanctions if it has been proven to have made an error, either intentionally or due to negligence, which resulted in losses to the parties. (Aditama, 2018).

In addition, the guardian, generally the longest-living parent, assumes that the property to be sold is jointly owned, so a sales permit in a court ruling is sufficient. Meanwhile, according to BHP, a court ruling does not immediately override the duties that have been given by law to BHP as the supervising guardian because the sale is carried out in the presence of the supervising guardian to protect the child's assets as a guarantee of security, prosperity, and peace in the present, later, and in the future. A sale not carried out in the presence of the supervising guardian will impact the legal certainty of transferring the minor's assets.

Several previous researchers have researched the role of PPAT in making land sales and purchase deeds. For example, the protection of children's assets in guardianship is strengthened by the role of the supervising guardian. This study focuses on strengthening the role of BHP as the supervising guardian (Pratiwi, 2019). Furthermore, the implementation of the transmission of land rights owned by minors obtained through inheritance (Heriyani & Yuniarlin, 2023). Still, the main focus is on the responsibility of the guardian, not on the responsibility of the PPAT to be careful when making the sale and purchase deed. Thus, no study currently addresses the application of the prudential principle by PPAT in drafting sale and purchase deeds for property owned by children under guardianship. This research is important because the practice of sales and purchases carried out by guardians without involving BHP still often occurs, thus opening up opportunities for authorities that can harm the interests of children. Therefore, this study describes how PPAT should apply the prudential principle to protect minors.

## **2. Research Methods**

The method used is qualitative research, with analysis of legal materials, such as laws and regulations governing the duties and authorities of PPAT and BHP. Analysis was also carried out on legal documents, such as a Deed of Sale and Purchase of Property for minors carried out by parents as guardians. In addition to legal materials, researchers also conducted interviews with PPAT, Representatives of BHP, and Guardians to obtain a deeper and more comprehensive understanding of this issue.

### 3. Results and Discussion

The philosophy of making a deed of agreement is to provide legal certainty regarding the rights and obligations of the parties (Salim, 2018). An agreement must be executed in good faith (Marwah, 2017). In the context of making a deed by a PPAT, good faith is very important because the deed made becomes the legal basis for the parties and has perfect evidentiary power. The PPAT is also morally and legally responsible for carefully making the deed. The principle of care is a development of the principle of good faith. Based on this principle, the PPAT must examine and provide correct information so that there is no misunderstanding that is detrimental to one of the parties to the agreement (Miru, 2020).

The prudential principle in executing PPAT duties is regulated by Government Regulation of the Republic of Indonesia Number 24 of 1997 jo. Government Regulation Number 18 of 2021 concerning Land Registration, and Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation Number 9 of 2019 concerning the Amendment to Ministerial Regulation Number 3 of 2017 concerning PPAT. The prudential principle of PPAT also refers to the PPAT Code of Ethics, which regulates the ethics and responsibilities of the PPAT professionals in carrying out their duties, including ensuring that all documents and legal processes in making land deeds are by applicable legal provisions and do not harm other parties, including the rights of children in the transaction.

#### 3.1. The Role of the PPAT in Drafting Property Sale Deeds for Minors Under Guardianship

##### 1) Verification of Documents and Ownership Status

PPAT is a public official with the authority to make deeds. The main duty of PPAT is to carry out part of the land registration activities by making authentic deeds as evidence of certain legal acts regarding land rights or Ownership Rights for Apartment Units. The acts referred to are regulated in Article 2 paragraph (2) of the Government Regulation on PPAT (Peraturan Pemerintah tentang PPAT), which are "sale and purchase, exchange, grant, capital (equity) investment, distribution of jointly owned rights, granting of Building Use Rights or Right of Use over Freehold Land, granting of Mortgage Rights, and issuance of a power of attorney to encumber land with Mortgage Rights".

Before making a deed regarding the transfer of land rights, the PPAT must check the complete identity of the appearing parties and examine the land rights certificate at the Land Office. The PPAT deed must be made based on the format of Government Regulation Number 8 of 2012 concerning the Implementation of Land Registration. The PPAT must be careful and professional when making the deed. Careful means that the PPAT must base its actions on complete information and documents to ensure legality in decision-making. Professionalism means that the PPAT must comply with the provisions of laws and regulations and the code of professional ethics (Muhammad, 2001).

The PPAT is obliged to examine all relevant facts based on the applicable laws and regulations, verify the completeness and validity of documents, and listen to the statements of the appearing parties as the basis for considerations to be outlined in the deed. Several aspects that the PPAT must consider in carrying out his/her duties (Suwondo & Saputra, 2019):

- a) Subject of land rights, namely a person or legal entity who owns a land rights certificate;
- b) Object of land rights, namely a plot of land owned with a land rights basis by a person or legal entity.
- c) Land rights basis, namely physical and legal data, which are used to issue a land rights ownership certificate at the land office.
- d) The capacity to act in law refers to an individual's ability to perform legal actions

Although, according to the law, everyone without exception can have rights, not everyone is allowed to exercise their rights. One of them is a minor (Simanjuntak, 2021). Minors cannot transfer their land rights without the intermediary of a guardian because, legally, they are not considered competent to carry out such actions (Setiyowati & Khasanah, 2023). The competence in question is the legal ability to carry out an agreement (Miru & Pati, 2018).

The provisions regarding the age of adulthood in law are quite diverse. In the Marriage Law and UUJN, a person is considered an adult if he is 18 years old or has been married. Therefore, the management of the assets of minors is carried out through guardianship. In this case, the guardian acts for and on behalf of the child who is not yet legally competent. Guardianship can be carried out by the longest-living father or mother, by a party appointed by the parents, by the court, or by an association, foundation, or charity, as regulated in Articles 345 to 365a of the Indonesian Civil Code.

Transferring land rights must meet material and formal requirements (Abaidata, 2021). Therefore, the sale of property owned by minors must obtain approval from the court (Heriyani & Yuniarlin, 2023). The administrative requirements for transferring property owned by minors are the determination of child guardianship and a sales permit from the Religious Court for Muslim citizens or permission from the District Court for non-Muslim citizens (Purwiningsih & Darmad). In practice, the process of sales property owned by minors under guardianship is as follows (Rini & Arpangi, 2023):

#### a) Preparation

At this stage, the certificate is checked online through the land office's "Mysertipikat" website. If the certificate is by the list in the application, the land office will issue the results of the checking history to the PPAT.

#### b) Drafting

The PPAT deed as an authentic deed must be made based on the specified format (Keumala and Setyorini, 2023):

- (1) The beginning of the deed, which contains, among other things, the title, serial number, year of deed making, full name of the PPAT, and legal basis for the PPAT's authority.
- (2) The body of the deed, consisting of:
  - (a) The position of the person appearing

The position of the person appearing indicates the authority or basis for the actions or actions taken by the person appearing. In this case, the longest-living parent acts as the guardian of the minor child and obtains such authority based on the district court's determination.

(b) Contents of the deed

The deed contains the parties' wills and desires, namely the object agreed upon, the certificate holder's name, and the evidence used as the legal basis for the action.

(c) Closing of the deed

The parties sign the deed, witnesses, and the PPAT immediately after the deed is read.

c) Registration

Registration of a deed of sale and purchase at the land office must include several documents required for transferring land rights due to the sale and purchase.

2) Protection of Children's Rights in Sale and Purchase Transactions

Based on the research, there is a case related to the sale of immovable assets of a minor child by a guardian without knowing the BHP before the PPAT. The case is related to immovable property owned by AL as a husband, who died on September 24, 2015, and based on the certificate of inheritance issued by the Head of Panakukkang District dated October 16, 2015, it is known that AL's heirs are:

1) Mrs. Y was born on August 18, 1969 (47 years old)

2) AHWL was born on July 05, 2006 (10 years old)

3) NAWL was born on January 21, 2013 (4 years old)

The property that originally belonged to AL was transferred to the heirs, namely Mrs. Y, AHWL, and NAWL, as stated in the certificate. However, based on regulations regarding the implementation of land registration, minors cannot yet transfer land rights, so AHWL and NAWL cannot appear in person but must be represented by a guardian appointed by the court.

The application for guardianship in court is accompanied by a request for permission to sell property that the heirs jointly own. In this case, Mrs. Y, as the longest-living parent, filed an application at the Makassar District Court to become the guardian of the minor children, namely AHWL and NAWL. Furthermore, the judge, through a court ruling, determined Mrs. Y as the longest living parent to be the legal guardian for AHWL and NAWL and gave permission to represent them to transfer rights to the property.

Based on this ruling, Mrs. Y, as the guardian, appeared before one of the PPAT in Makassar to conduct a sale and purchase transaction together with Mr. J, the buyer of the land and building. In this case, the PPAT only used the court ruling as the basis for Mrs. Y's authority to act as a guardian in selling jointly owned property with a minor child.

The sale of a minor child's property should be carried out to meet the child's needs. If the sale is made without the knowledge of the BHP, the BHP cannot supervise so that

the act does not harm the child. In addition to having an impact on the minor child, a sale without the BHP's knowledge also has an impact on the buyer. A buyer in good faith is a buyer who does not know and should not know that there are defects in transferring rights to the land purchased (Tanoto & Rusyad, 2022).

Based on the results of interviews with 30 PPAT respondents, none of them have ever involved BHP as a supervising guardian in making a deed of sale and purchase of property for minors under guardianship. All respondents only used court decisions as the basis for giving the guardian authority to represent the child's interests. Although in 2021, there was an appeal to PPAT to coordinate with BHP in the sale of property for minors, all respondents thought that a court decision granting permission to sell the object of joint property was sufficient as a basis for transferring the sale and purchase because it was accompanied by a permit to sell the object described in the decision. It has become a common practice because the Land Office also does not require the involvement of BHP in the transfer of property for minors.

In this case, the position of BHP as the supervising guardian in the sale of assets belonging to a minor is as an identifying witness. BHP must accompany the sale, and BHP's position as the supervising guardian must be stated in the comparison of the deed of sale to avoid legal problems in the future. An identifying witness, also known as an attested witness, is a witness brought by a party who is not known to the PPAT. Its function is to introduce the party to the PPAT, and the identity and authority of this witness are then stated in the contents of the deed right after the description of the contents of the deed (Tauratiya & Danni, 2023).

Based on the results of the interview with Mrs. ST (Guardian of AHWL and NAWL), she did not know that there was a rule that required permission from BHP to sell assets jointly owned by minors. The proceeds from the sale of the assets that had been sold were used for family living expenses and education costs for AHWL and NAWL (June 2024). Furthermore, Mr. JJ (buyer) also stated that he did not know about the requirement to notify BHP as the supervisor because, in the transaction, the PPAT only requested a court order containing a sale permit as a basis for transferring it to the buyer (December 2024).

In judicial practice, not all requests for the appointment of a guardian are granted by the Judge. In granting the application, the Judge requires evidence from the applicant regarding his position as a guardian by requesting an attachment of the child's birth certificate and the married couple's death certificate. In addition, the Judge also listens to the testimony of witnesses who are generally the closest family of the minor. Meanwhile, to grant permission to sell, the Judge must first hear the applicant's explanation and reasons for selling the property belonging to the minor. Based on this, the Judge granted the guardian's request and permission to sell the minor's assets. In addition, the court also did not provide a copy of the decision to BHP because it was the responsibility of the guardian concerned.

### **3.2. The Role of BHP in Supervising and Protecting Children's Rights**

In recent years, the supervision of minor guardianship has increasingly attracted significant attention (Huang & Zhou, 2024). The transfer of a decedent's assets to their heirs is a legal issue that frequently arises after death (Keumala, 2023). Legal protection in the application for the appointment of a guardian to sell property owned by a minor aims to prevent the guardian's misuse of the child's assets. It is a preventive measure

against potential inheritance disputes in the future. The main objective is to ensure that managing the child's assets is carried out in the child's best interests and can be accounted for when the child has reached adulthood. One form of legal protection is the involvement of BHP as a supervising guardian.

BHP is an agency within the Republic's Ministry of Law, which has the duties of guardianship, custody, and handling inheritances without legal power. In addition, BHP is authorized to open and register wills and carry out functions as a curator (Bidasari, 2016).

Article 1 number 1 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2021 concerning the Organization and Work Procedures of the BHP stipulates that "BHP is a technical implementing unit under the Directorate General of General Legal Administration." The main role of the BHP is as a supervisory guardian for the actions of the guardian, be it the father or mother who lives the longest, especially regarding the supervision and sale of the assets of minors to ensure that there are no violations of the law (Zulkifli et al., 2023).

The sale of minors' assets, whether obtained through inheritance or direct ownership of the child, cannot be carried out directly before the PPAT but through determining a guardian for the child and notifying the guardianship to the BHP. Based on the interview results (Hadariah, 2024), the sale of minors' assets must have the BHP's permission. In this context, the court must first ask for an opinion from the BHP before determining a sales permit. The court may not ignore the role of the BHP in determining a permit to sell assets of minors as regulated in Article 418 of the Indonesian Civil Code. The court should only appoint a guardian first and report the guardianship to the BHP; then, the guardian must conduct an inventory of the minor's assets. After conducting an inventory and being sworn in by the BHP to the guardian to act on behalf of the minor, if the guardian wishes to sell the minor's assets, the guardian must notify the BHP of this desire. The sale can be made after obtaining written approval from the BHP or if the judge has summoned the BHP to determine the granting of a permit to sell. If the sale is made in a place that the BHP can reach, then the BHP can also witness the sale of the child's assets before the PPAT, but if the place of sale is far away, then the sale is sufficient with written permission from the BHP.

Guardianship to sell assets of minors applies to all groups as regulated in several related regulations. Permission to sell assets of minors is not only for joint ownership between the longest-living parent and the minor but also if the minor has assets owned by him/herself in his/her name; it is also necessary to notify the BHP regarding the sale to be made of the child's assets so that the minor's assets are protected, and the proceeds of the sale are for the benefit of the child. Guardianships that must be notified to the BHP include guardianship by the father or mother, guardianship ordered by the father or mother, guardianship ordered by the court, and guardianship by associations, foundations, and charities as regulated in Article 368 jo. 369 of the Indonesian Civil Code (Tana, 2024).

Based on the provisions related to the sale of immovable assets of minors, according to the author, the sale made by the guardian of the assets of minors does not meet the requirements. It is based on Article 418 of the Indonesian Civil Code, which stipulates that "Boards and councils may not be excluded from any interference ordered to them



in the provisions of the law. All acts and agreements contrary to the provisions above are void and worthless".

Although, according to several PPATs, notification to the BHP is not an obligation of the PPAT but rather an obligation of the guardian, the PPAT, as an official who makes a deed of sale and purchase of assets of minors must provide legal counseling to the general public regarding what deed will be made by the PPAT and what must be done by the party appearing about the legal act that will be carried out as regulated in the PPAT code of ethics. About PPATs who do not know about the provisions for notification of the sale of assets of minors to BHP, the PPAT as an official should first find out the provisions related to the transfer of rights to assets of minors that will be carried out before him, so that the PPAT is not only the maker of the deed, but can also carry out his duties to provide legal counseling. Suppose the PPAT does not provide legal counseling because the notification is not an obligation of the PPAT. In that case, this will also impact the deed made before him, which can be detrimental to the parties related to the deed.

The sale of minors' assets should be notified to the BHP after the determination of the guardian as regulated in Article 368 jo. 395 of the Indonesian Civil Code, the sale must be done publicly before the BHP as the supervising guardian. This aims to protect the rights of minors incapable of carrying out legal acts before the PPAT. Suppose the provisions of Article 368 in conjunction with Article 395 of the Indonesian Civil Code are not carried out by the guardian and cause losses to the child. In that case, the minor has the right to sue the guardian regarding the losses of the minor as regulated in Article 414 of the Indonesian Civil Code, which stipulates that "All legal claims filed by the minor against his guardian in connection with his acts, shall expire ten years after the date of majority".

Although the oldest living parent is required to notify the BHP about the existence of guardianship, based on Article 369 of the Indonesian Civil Code, the court clerk also notifies the BHP that there is a judge's decision regarding guardianship. This notification aims to allow the BHP to function as a supervising guardian. The following are the steps taken by the BHP as a supervising guardian after the court decision (Tafonao & Butarbutar):

- 1) Announce the judge's decision regarding the existence of guardianship;
- 2) Order the guardian of a minor child before carrying out his duties to be sworn in first by the BHP;
- 3) Order the guardian to register all the inheritance of the minor child;
- 4) Notify the guardian to provide an annual calculation of accountability for the child's inheritance;
- 5) Provide supervision of the inheritance under guardianship;
- 6) Order the guardian to make final accountability for the child's inheritance to the supervising guardian;
- 7) The BHP routinely monitors the child and the child's guardian.

Based on the research results, BHP can take legal action if the tasks given based on existing regulations are not carried out properly. BHP cannot work optimally as a

supervisory guardian because BHP can only sue a guardian if the guardian directly notifies BHP regarding his guardianship. The legal efforts taken by BHP are to sue through litigation in the court that issued the guardianship determination by revoking the guardian's permission if he is negligent in carrying out his duties to report the child's assets every year, does not notify BHP if the assets are to be sold, the guardian is wasteful and does not use the proceeds of the sale for the benefit of the child. Such as the action currently being taken by BHP against a guardian in Soppeng Regency, where the guardian did not conduct an inventory, was a wasteful guardian, and did not ask BHP for permission to sell the child's assets under his guardianship, so BHP filed a lawsuit with the Soppeng District Court to revoke the guardianship of the guardian.

According to the author, the parties that play a role in supporting the active role of BHP in the sale of assets of minors are:

#### 1) Court

The court should provide a copy of the decision to BHP as a preventive measure if the guardian does not provide direct notification to BHP regarding his guardianship. BHP should summon the guardian to be sworn in as a guardian based on a copy of the decision provided by the court clerk.

#### 2) PPAT

PPAT is not a party that is required to provide notification of guardianship to BHP. However, PPAT, as the party who makes the deed of sale based on the code of ethics, is obligated to provide legal counseling to the general public. PPAT should notify the party who wants to sell the minor's assets, in this case, the seller, to notify BHP, report what assets the minor has, and conduct a sale attended by BHP as the supervising guardian. Furthermore, PPAT may also involve BHP as a witness in the sale and deed, reinforcing that the transaction was conducted with the knowledge and supervision of the competent authority.

If a conflict occurs that cannot be resolved peacefully, then the party who feels aggrieved can take the following dispute resolution efforts:

#### 1) Litigation

Litigation is a dispute resolution process in court. The final result of dispute resolution through litigation is a win-lose solution (Lathif & Habibaty, 2019). When associated with the problems studied by the author, BHP can file a cancellation in court against the sale of assets of minors carried out by guardians without the knowledge of BHP. However, the judge cannot immediately decide whether the sale is null and void or can be cancelled because the judge must first verify the applicant's files, and BHP must be able to prove that the sale can harm the minor concerned.

#### 2) Non-litigation

Non-litigation efforts are also known as Alternative Dispute Resolution, which is a dispute resolution outside the court through consultation, negotiation, mediation, conciliation, or expert assessment (Usman, 2012).

Based on the previous description, it is known that BHP has not been able to carry out its role optimally in supervising the assets of minors because there are no regulations

that specifically regulate the role of BHP. In carrying out its duties, BHP requires support from various parties, such as the court and PPAT. BHP must ensure that the guardian manages the assets of minors properly and always prioritizes the interests of the child. If there is misappropriation by the guardian of the assets of minors, BHP can take legal action, provided that the guardianship has been reported to BHP. Regarding the role of BHP in supervising guardians, legal certainty is needed through a set of laws and regulations that operationally support its implementation. In addition, empirically, these laws and regulations must be applied consistently and consequently by the competent authorities.

#### 4. Conclusion

PPAT must be careful and professional, always apply prudential principles, and comply with the PPAT code of ethics when carrying out its duties. In making deeds, including deeds of sale of property belonging to minors under guardianship, PPAT must pay attention to all provisions relating to the legal act. Based on our research, PPAT has so far only used the determination of a guardian by the court as the basis for making deeds of sale of property belonging to minors, with the consideration that the court's determination has included permission for the guardian to represent the interests of the child. In fact, PPAT must also provide counselling to the guardian so that they can first notify the BHP of the plan to sell the assets of the minor. If there is an abuse of authority by the guardian, the BHP can file a request with the court to revoke the granting of permission to the guardian. The abuse of authority in question, among others, if the guardian does not report the child's assets every year, does not notify the BHP before selling assets, is wasteful, or does not use the proceeds from the sale of assets for the benefit of the child. Therefore, to optimize the role of BHP in protecting the management of property owned by minors, more specific arrangements are needed through government regulations, socialization to the community about the role of BHP as a supervisory guardian, and the development of an information system integrated with the court so that BHP can find out the number of determinations of guardianship of minors in its work area. This step is a preventive effort to prevent abuse of the guardian's power while protecting minors under guardianship.

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Government Regulation Number 24 of 1997 jo. Government Regulation Number 18 of 2021 concerning Land Registration

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**Interview:**

Interview with Mr. Efraim Tana as Senior Expert Civil Curator, Balai Harta Peninggalan in Makassar, on November 15, 2024, and December 7, 2024.

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