

The Authority of Notaries & Land Deed Making Officials (PPAT) from The Perspective of The Code of Ethics: Overlaps & Their Legal Implications

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Abstract. *This study discusses the authority of notaries and Land Deed Officials (PPAT) from the perspective of the professional code of ethics, focusing on the phenomenon of overlapping authority and its legal implications. Although the authority of these two positions has been strictly regulated in laws and regulations, in practice there are still frequent deviations, especially by officials who hold two positions at once. This study uses a normative legal approach with a literature study method on laws and regulations, codes of ethics, and related legal documents. The results of the study indicate that the form of overlapping authority occurs when a notary uses his capacity to exercise the authority of a PPAT or vice versa, which results in administrative errors and can harm the parties in legal transactions. The legal implications include the potential for formal defects in the deed, violations of the professional code of ethics, administrative to criminal sanctions, and civil lawsuits by the injured party. Therefore, a deep understanding and discipline are needed in carrying out the functions of each position in accordance with legal provisions and professional ethics to maintain integrity and legal certainty in public services.*

Keywords: Authority; Code; Ethics; Overlapping.

1. Introduction

The profession of notary and Land Deed Making Officer (PPAT) are two legal professions that have a strategic role in ensuring legal certainty and protection for various civil legal acts (Ningsih *et al* , 2022). Notaries, based on Law No. 2 of 2014 concerning the Position of Notaries, have the authority to make authentic deeds and carry out functions as public officials. Meanwhile, PPAT, as regulated in Government Regulation Number 24 of 1997 concerning Land Registration and the Regulation of the Head of the National Land Agency (BPN), has limited authority to make authentic deeds related to the transfer of rights to land and buildings. Although normatively both have different authorities, in practice there is often an overlap of authority, especially in making deeds related to the transfer of land rights. Not a few notaries also serve as PPAT, thus causing confusion regarding the limits of authority that may be exercised in their capacity as one of the officials. The unclear boundaries not only have the potential to cause violations of the professional code of ethics, but can also have an impact on the validity of the deed and give rise to broader legal consequences (Suprpto, 2024).

The code of ethics for notaries and PPATs, compiled by their respective professional organizations, namely the Indonesian Notary Association (INI) and the Association of Land Deed Officials (IPPAT), serve as a moral basis as well as ethical norms in carrying out their profession. The code of ethics regulates the integrity, professionalism, independence, and responsibility of public officials in carrying out their authority. However, the lack of integration or harmonization between the notary and PPAT codes of ethics has created a wide scope for interpretation and often leads to differences in interpretation, especially when one individual carries out both roles simultaneously. This overlapping authority not only threatens the principle of caution and accuracy in making deeds, but also opens up opportunities for conflicts of interest and abuse of office (Riyanto, 2017). In some cases, the lack of clarity in distinguishing between the functions of a notary and a PPAT has resulted in legally flawed deeds, or even led to disputes in court. Therefore, a deep understanding of the limits of authority of each profession, as well as the application of a consistent and harmonious code of ethics, is crucial to maintaining the integrity of the profession and public trust. This study aims to further examine the overlapping authority of notaries and PPATs from the perspective of the professional code of ethics, and to analyze its legal implications from both administrative, ethical, and civil law perspectives. It is hoped that the results of this study can contribute to the formation of a clearer ethical and regulatory framework, in order to prevent deviations and ensure the achievement of the principle of legal certainty.

Although there have been many studies that discuss the authority of notaries and PPATs separately, studies that specifically highlight the overlapping aspects of their authority from the perspective of the code of ethics are still very limited. In fact, this ethical problem is increasingly relevant considering the large number of notaries who also serve as PPATs, which is prone to causing role conflicts and violations of the principle of professionalism. This study is based on the theory of legal functionalism and the theory of professional ethics, which views that every legal profession must carry out its functions proportionally in the legal system in order to maintain social balance and justice. Based on this, this study aims to examine the overlapping authority between notaries and PPATs from the perspective of the professional code of ethics and to analyze its legal implications, both for the validity of the deed and the legal responsibility of the officials concerned.

2. Research Methods

This study uses a normative legal approach, namely an approach that is based on a study of applicable positive legal norms, especially those related to the authority of notaries and PPATs and the provisions of the professional code of ethics. The data used consists of secondary data obtained through a literature study of laws and regulations, codes of ethics, legal literature, and relevant court decisions. Data analysis techniques are carried out qualitatively, by interpreting and reviewing the contents of legal documents in order to find conformity, contradictions, and legal implications of the practice of overlapping authority. Through this approach, it is expected to obtain a comprehensive understanding of the legal problems studied and can provide normative recommendations as solutions.

3. Results and Discussion

3.1. The Authority of Notaries and Land Deed Making Officials (PPAT) is Regulated in the Laws & The Code of Ethics of Their Respective Professions

The authority of notaries and Land Deed Making Officials (PPAT) are each strictly regulated in laws and regulations, which provide limitations and scope of their duties as public officials. Notaries are public officials appointed by the state based on Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notaries. Article 15 paragraph (1) of the Law emphasizes that notaries are authorized to make authentic deeds regarding all acts, agreements, and provisions required by laws and/or desired by the parties to be stated in the form of authentic deeds (Saragih & Djaja, 2023). This means that the scope of notary authority is general and broad, not limited only to land aspects, but also includes various areas of civil law such as inheritance, agreements, and other legal acts

Meanwhile, PPAT has special authority that is limited in nature, as regulated in Government Regulation Number 24 of 1997 concerning Land Registration, and clarified in Regulation of the Head of BPN Number 1 of 2006. PPAT is given the authority to make deeds related to the transfer of land rights and ownership rights to apartment units, such as sales and purchases, grants, exchanges, income in companies, granting mortgage rights, and so on. PPAT deeds are the main requirement in the process of registering changes to data in the land book at the land office. Therefore, PPAT's authority is more administrative in nature in the national land registration system. In terms of professional ethics, each position has a code of ethics that regulates standards of behavior, integrity, and professionalism in carrying out duties. Notaries are subject to the Notary Code of Ethics compiled and supervised by the Indonesian Notary Association (INI), while PPATs follow the PPAT Code of Ethics regulated by the Association of Land Deed Making Officials (IPPAT). This code of ethics regulates the obligation to maintain confidentiality, act independently, avoid conflicts of interest, and not abuse authority. Although there has been a clear division of authority, in practice overlapping often occurs, especially when a notary also serves as a PPAT. When this is not addressed with caution and compliance with each respective code of ethics, then the potential for ethical violations or legal defects in the deeds made can have serious consequences.

This overlapping phenomenon often occurs because not all notaries fully understand the limitations of their roles when acting as PPAT, and vice versa. In some cases, an official who holds two positions makes a land deed using a notary's letterhead or stamp, not that of PPAT, even though the substance of the deed is within the scope of the PPAT's authority. This can raise legal issues related to the formal validity of the deed, and has implications for the process of registering land rights at the Land Office. In addition, this action can also be considered a violation of the professional code of ethics, because it mixes up the authorities, each of which has different rules and responsibilities. It should be underlined that although in practice many notaries are also appointed as PPAT, the legal status of these two positions cannot be functionally combined. From a code of ethics perspective, this requires a professional to be able to clearly distinguish in which capacity he or she is acting, and to ensure that every administrative and legal action taken is in accordance with the norms of their respective professions. Affirming this difference in authority is also important to maintain the integrity of the profession and protect the interests of the parties who use the services of notaries and PPATs. Thus, the regulation of authority through laws and codes of ethics should be the main guideline for notaries and PPATs in carrying out their duties professionally and accountably.

However, in reality, weak internal supervision of professional organizations, low compliance with codes of ethics, and multiple interpretations of legal norms often become loopholes for violations to arise. Therefore, a deep understanding of the limitations of authority and internalization of codes of ethics are crucial to prevent deviations, and to ensure that the deeds produced have valid legal force and do not cause problems in the future.

3.2. The Forms of Overlapping Authority Between Notaries and PPATs Occur in Practice

In practice, overlapping authority between notaries and Land Deed Making Officials (PPAT) often occurs in the making of deeds related to the transfer of land rights, such as sale and purchase, donation, or power of attorney to sell. One of the most common forms of overlap is when a notary who also serves as a PPAT makes a deed of transfer of land rights using notary attributes or letterhead, even though the deed is legally within the PPAT's domain of authority (Wulandari, 2020). This gives rise to administrative errors that can impact the validity of the deed in the land registration process at the Land Office. In addition, there is also a practice where notaries make deeds of power of attorney to sell that in substance resemble deeds of sale and purchase agreements, thus blurring the boundaries between the authority of notaries and PPATs. In some cases, notaries even exceed their authority by directly taking care of the land registration process, even though the administrative authority lies exclusively with the PPAT. Another form of overlap occurs when a notary consults and provides legal opinions on land transactions that should be the authority of the PPAT in the formal context of making deeds. These practices not only have the potential to violate positive legal norms, but also violate the code of professional ethics because they reflect unclear roles and open up space for conflicts of interest. If not controlled, this overlap can harm the parties in the transaction and lead to lawsuits that question the validity of the deed, as well as question the professionalism of the officials concerned (Thalita & Ratna, nd).

Overlapping authority also often occurs in the context of signing deeds that do not correspond to the capacity of the position. For example, when an official who doubles as a notary and PPAT does not explicitly state his capacity when signing the deed, thus creating ambiguity regarding the deed being made by a notary or PPAT. This is very important because each deed has different legal consequences and procedures for ratification, depending on the position used. Mistakes in this aspect can have fatal consequences, for example the deed is rejected by the Land Office because it does not comply with the format or is not valid according to PPAT procedures. In addition, there is also a practice where notaries take over the work of PPATs in making land deeds for reasons of efficiency or client requests (Yusrizal, 2024). In fact, even though the official has two positions, each position must be carried out in accordance with the procedures and legal corridors of each. Even in some cases, notaries still make land sale and purchase deeds even though they have not been appointed as PPAT, which is clearly a violation of legal provisions and professional ethics. This kind of practice shows that there are still conceptual errors and weak supervision from supervisory institutions and professional organizations. This overlapping of authority generally occurs due to a lack of understanding by officials regarding the legal boundaries of each position, as well as low discipline in consistently implementing the code of ethics. Therefore, stricter enforcement of regulations and ongoing education regarding the roles and responsibilities of notaries and PPATs are urgently needed so that the integrity of the profession is maintained and the public obtains the legal certainty they deserve.

3.3. The Legal Implications of This Overlapping Authority are Reviewed from The Perspective of The Code of Ethics & Applicable Legal Regulations

The overlapping authority between notaries and Land Deed Officials (PPAT) has quite serious legal implications, both from the perspective of the professional code of ethics and from the perspective of applicable legal regulations (Sidabutar, 2024). Normatively, every public office has a specific scope of authority and may not be carried out in an overlapping manner without regard to the predetermined legal boundaries. When a notary acts outside his/her authority as a PPAT—or vice versa—the resulting deed has the potential to be legally flawed. Such a deed can be considered not to meet formal requirements, so it can be canceled or even declared invalid by the court if questioned by an interested party. This certainly creates legal uncertainty and can be detrimental to the parties in a transaction. From the perspective of the code of ethics, violations of the limits of authority reflect non-compliance with the principles of professionalism and integrity of legal officials. The Notary Code of Ethics and the PPAT Code of Ethics expressly stipulate that every official must carry out his/her duties honestly, independently, objectively, and in accordance with the legal authority inherent in his/her position (Rosanti, 2025). If a notary/PPAT abuses his/her position, for example by intentionally mixing functions for personal gain or to facilitate client transactions without a valid legal basis, then he/she can be subject to ethical sanctions by his/her professional organization, in the form of reprimands, warnings, to temporary or permanent dismissal.

In addition, the legal implications can also spread to the criminal realm if there is an element of intent or bad faith, such as falsification of information in the deed, abuse of authority, or manipulation of official identity. In this case, the official concerned can be charged with articles in the Criminal Code (KUHP) and the Notary Law. Furthermore, clients who feel disadvantaged by a legally defective deed can also sue for civil damages based on the principle of breach of contract or unlawful acts. Thus, overlapping authority is not just an administrative violation, but can give rise to a series of broad legal consequences. Therefore, it is important for notaries and PPATs to have a clear understanding and discipline in carrying out their roles in accordance with the applicable legal corridors and professional ethics.

4. Conclusion

Based on the discussion that has been described, it can be concluded that the authority between notaries and Land Deed Making Officials (PPAT) has been strictly regulated in the laws and regulations and the code of ethics of their respective professions. Notaries have general authority to make authentic deeds for all civil legal acts, while PPATs have special authority to make deeds related to the transfer of land rights and ownership rights to apartment units. Although the regulation is clear, in practice there is still often an overlapping of authority, especially for officials who hold two positions. Actions such as using notary attributes to make land deeds or mixing up the capacity of office when acting, are forms of violations that can be detrimental to the parties. This overlap has serious legal implications, both in terms of the validity of the deed and the legal responsibility of the official concerned. Deeds that are made not in accordance with the authority that should be can be declared legally flawed and have an impact on the land registration process or even become the object of a dispute. From the code of ethics, these actions reflect a violation of the principles of integrity and professionalism, which can be subject to ethical sanctions by professional organizations. In fact, if elements of

intent or bad faith are found, the relevant officials can be subject to criminal sanctions or civil lawsuits. Therefore, a deep understanding of the division of authority, as well as a commitment to implementing the code of ethics consistently, are the main keys to preventing overlapping authority and maintaining the integrity of the notary and PPAT profession. Tighter supervision from professional organizations and increased legal education for officials are expected to minimize violations and ensure legal certainty for the community.

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