

## The Implementation of the Duties of Officials Making Land Deeds in Making Deeds of Sale and Purchase of Land During the Implementation Period of Restricting Community Activities

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**Abstract.** *Land Deed Officials/PPAT are officials who are authorized to make authentic deeds that can be trusted. Making a Land Sale and Purchase Deed is a document made by a Land Deed Making Officer (PPAT) which can prove an agreement between each party regarding the sale and purchase of land. During the period of the spread of Covid-19 in Indonesia and government regulations regarding the imposition of restrictions on community activities (PPKM), in this case officials making land deeds and appearers must follow all applicable rules to minimize and break the chain of the spread of Covid-19 in Indonesia. This study uses an empirical juridical approach, analytical descriptive research specifications, namely how to describe the condition of the object under study, the method of data collection is done by interviews and literature studies, as well as qualitative analytical methods as a method of analyzing data. Based on the results of the research and discussion: 1) PPAT has an important role, namely a General Official who helps the parties to achieve their wishes, prepares and registers a transfer of land rights at the Land Office, and has the authority to make AJB as an authentic deed, and implements health protocols in making a sale and purchase deed in accordance with the rules issued by the government; 2) Obstacles in making a land sale and purchase deed, namely if one of the parties is infected with Covid-19, it is mandatory to temporarily postpone the implementation of the signing of the document, the solution in making a land sale and purchase deed during the implementation of restrictions on community activities due to the Covid-19 outbreak, namely by adhering to the health protocols that have been recommended by the government to the public.*

*Keywords: Land; Official; Purchase.*

### 1. Introduction

The State of Indonesia as a legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia which guarantees certainty, order and

legal protection for every Indonesian citizen, one of the forms in providing certainty, order and legal protection is by having written evidence that is authentic.<sup>1</sup>

Land Deed Making Officer, hereinafter referred to as 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.

Land Deed Officials or abbreviated as PPAT, in English are called land deed officials, while in Dutch they are called land titles registrars, who have a very important position and role in the life of the nation and state because these officials are authorized by the state to make deed of transfer. land rights and other deeds in the Republic of Indonesia and abroad.<sup>2</sup>

The essence of the position of Maker of Land Deeds is that:<sup>3</sup>

1. PPAT is a public official who is given special duties and authorities to provide services to the public in the form of drawing up a deed proving that a legal act has been carried out before him transferring land rights, ownership rights to flats units or granting mortgage rights to land;
2. The deed he makes is an authentic deed, which only he has the right to make;
3. PPAT is a State Administrative Officer, because his duties are in the field of administering land registration which is an activity in the Executive/State Administration sector;
4. The PPAT deed is not a Decree of a State Administrative Officer, because the deed is a *relaas*, namely a written report from the maker of the deed in the form of a statement regarding certain parties having committed a legal act before them at a time referred to in the deed concerned;
5. What constitutes a PPAT decision as a State Administrative Officer is a decision to reject or grant the request of parties who come to him to draw up a deed regarding the legal actions they will take before him. Giving a decision to reject or grant the application is the obligation of the PPAT. If the conditions are met, it is obligatory for him to grant his request. Conversely, if there are conditions that are not met, then he can reject it.

To guarantee legal certainty over land rights, land registration is carried out throughout the territory of the Republic of Indonesia, which includes:<sup>4</sup>

1. measurement, mapping, and bookkeeping of land;
2. registration of land rights and acquisition of said rights;

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<sup>1</sup>Kelik Pramudya, Ananto Widiatmoko. *Guidelines for Legal Officer Professional Ethics*, (Yogyakarta: Pustaka Yustisia, 2010) p. 69.

<sup>2</sup>H. Salim, HS., *Techniques for Making Deeds Officials Making Land Deeds*, Raja Grafindo Persada, Jakarta, 2016, p. 85

<sup>3</sup>Boedi Harsono, *Indonesian Agrarian Law Association of Land Law Regulations*, (Jakarta: Djatangan, 2007), p. 485.

<sup>4</sup>Adrian Sutedi, *Certificate of Land Rights*, (Jakarta: Sinar Graphic, 2011), p. 1.

3. granting a letter of proof of rights (certificate) which is valid as a strong means of proof.

Furthermore Article 3 of Government Regulation Number 24 of 1997, Land Registration in Indonesia aims to:

1. Providing 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;
2. Providing information to interested parties, including the Government, so that they can easily obtain the necessary data in carrying out legal actions regarding registered land parcels and apartment units;
3. The implementation of orderly land administration.

Article 1868 of the Civil Code states: "An authentic deed is a deed made in the form determined by law by or before a public official who is authorized to do so at the place where the deed was made." Based on Article 1868 of the Civil Code, it can be concluded that the elements of an authentic deed are:

1. The deed is made in the form according to the law;
2. Made in the presence of public officials and the authorized area.

At the beginning of 2020 Indonesia was affected by a deadly outbreak, namely the Coronavirus disease (Covid-19) which affected all activities including in this case the Land Deed Making Officer (PPAT) in carrying out their duties. With the increasing number of cases of the spread of the corona virus in Indonesia, the government has imposed rules to stop the transmission of this corona virus, namely by:

1. Social Distancing (maintaining distance between individuals in crowds)  
In the legal paradigm in Indonesia, social distancing and lockdown have a legal basis in the form of Law no. 6 of 2018 concerning Health Quarantine. Health Quarantine according to Law no. 6 of 2018 is an effort to prevent and counteract the entry or exit of diseases and/or public health risk factors that have the potential to cause public health emergencies. The implementation of social distancing and lockdown is actually an effort to create a health emergency. A public health emergency is an extraordinary public health event characterized by the spread of infectious diseases and/or events caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism and food which pose a health hazard and have the potential to spread across regions or across countries. In Law no.<sup>5</sup>

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<sup>5</sup> <https://www.cnnindonesia.com/gaya-hidup/20200314102823-255-483358/mengenal-social-distancing-as-cara-menprevent-corona> accessed on Friday, January 28 2022, at 14.30 WIB

## 2. Guidelines for Enforcing Restrictions on Community Activities

Guidelines for Imposing Limitations on Community Activities or commonly referred to as PPKM are restrictions on certain activities of residents in an area suspected of being infected with the corona virus (Covid-19) in such a way as to prevent the possibility of spreading Coronavirus Disease (Covid-19) which is stated in the Instruction of the Minister of Home Affairs Number 27 of 2021 concerning Enforcement of Restrictions on Community Activities in Java and Bali, in order to reduce the spread of the corona virus.

## 3. Reminder to stay at home

With the appeal to stay at home it is hoped that it will inhibit or even stop or break the chain of the spread of the virus. In following up on the president's appeal, the local government began issuing several policies such as dismissing school children for an indefinite period, making regulations for office workers in the essential and non-essential sectors to work at work from home (WFH). However, some regions apply different regulations according to the conditions of their respective regions.<sup>6</sup>

During the Covid-19 pandemic as it is today, more electronic transactions are carried out to reduce physical contact between people which can increase the possibility of spreading the Covid-19 virus. The increase in electronic transactions was carried out to follow up on government regulations regarding limiting physical contact. Arrangements regarding electronic transactions in Indonesia have been regulated by Act No. 11 of 2008 concerning Information and Electronic Transactions which was renewed by Law no. 19 of 2016. The rules in the ITE Law are the government's effort to provide legal certainty for transactions carried out electronically.

The existence of the ITE Law is contrary to the provisions that the government has not given new authority to PPATs to make deeds that are done electronically. In the factual conditions of the Covid-19 pandemic, these rules are irrelevant because making a deed directly before the PPAT is very risky if one of the parties facing each other is infected with the Covid-19 virus. On the other hand, the urgency of making a deed to support the activity cannot be postponed because it relates to the rights and obligations of the parties involved in the deed.

Obstacles in making a PPAT deed using electronic means also cannot be done because it contradicts Article 5 Paragraph (4) of Act No. 11 of 2008 which was amended by Act No. 19 of 2016 concerning the Law on Information and Electronic Transactions (UU ITE) which states that electronic information and/or electronic documents do not apply to letters which according to law must be drawn up in the form of a notarial deed or a deed drawn up by a deed-making official. Thus, it can be seen that making a PPAT deed using electronic means

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<sup>6</sup><https://nasional.kompas.com/read/2020/04/04/17042991/jubir-government-tetap-tinggal-di-rumah-Jadi-solusi-terbaik-prevent> accessed Friday, January 28 2022, at 14.34 WIB

cannot be carried out because it is contrary to the Electronic Information and Transaction Law (UU ITE). Based on this phenomenon.

## **2. Research Methods**

In this study the authors used the approach used in research on "The Implementation of Duties of Officials Making Land Deeds in Making Deeds of Sale and Purchase of Land During the Implementation Period of Restrictions on Community Activities in Brebes Regency" which is a Sociological Juridical research method. The juridical aspect in question is that in reviewing and seeing and analyzing problems using legal principles and principles as secondary data related to the problem. What are the legal issues faced by the community, especially regarding the professional duties of Land Deed Officials during the Covid-19 pandemic.

## **3. Result and Discussion**

### **3.1. The Role of PPAT in Making the Deed of Sale and Purchase of Land during the PPKM Period in Brebes Regency**

The Covid-19 pandemic which spread widely in Indonesia to be more precise in Brebes Regency in July 2021, experienced a drastic increase in people exposed to the corona virus. Because of the ease of transmission and the impact caused by contracting the corona virus is very dangerous and deadly. This outbreak has resulted in all social activities being restricted by the government as well as the field of work which requires people to work from home.

If at any time the parties come before the Land Deed Making Officer (PPAT) for the land sale and purchase process, the PPAT is required to provide various directions starting from the requirements, procedures, procedures, taxation, to the legal consequences of carrying out the legal action. However, in carrying out his duties as legal adviser to the Official for Making Land Deeds, he is only limited to giving directions, but everything is still based on the decisions of the parties, provided that they are in accordance with the provisions of the applicable laws and regulations. The PPAT is required to provide direction to the parties, both sellers and buyers, so that they are open to each other and avoid any indication of fraud that results in losses for one of the parties.

In making the Deed of Sale and Purchase of land during the Imposition of Restrictions on Community Activities, the parties must comply with health protocols in accordance with government recommendations by wearing masks, washing hands, and keeping a distance from others. The office of the Official for Making Land Deeds must also provide a place to wash the hands of the parties or use hand sanitizer.

The Sale and Purchase Deed (AJB) drawn up by the PPAT is evidence of an agreement between the seller and the buyer regarding land rights which is the basis for land registration. Land registration has the objective of providing legal protection to the holder of a right to a plot of land and other rights registered in the land book so that he can easily prove himself as the holder of the said right. Therefore, the PPAT must understand and master the legal aspects that will be used as the basis or basis for rights as well as supporting data in each making of an authentic deed.

In making the deed of sale and purchase of land must be attended by each party concerned, the seller and the buyer and also witnessed by at least 2 (two) witnesses who meet the requirements to act as witnesses in the legal action. Witnesses who will be used as witnesses in signing the Sale and Purchase Deed must have a correct understanding of the legal action.

An authentic deed is the only basis for transferring land rights which the author considers to be the safest, where in the process of making it the PPAT guarantees certainty about the signature, certainty about the appearers, certainty about the time of signing, and certainty about the contents of the deed, and the parties will not be able to deny it. what they have done in connection with the deed, therefore legal certainty and protection for the parties will be more secure.

The purpose of this land registration is to provide legal certainty and legal protection to the holder of rights to a registered land parcel in order to be able to prove that he is the holder of the rights to a parcel of land and to provide information on interested parties including the government so that they can easily obtain information. data needed in carrying out legal actions regarding land parcels that have been registered, for the implementation of orderly land administration.<sup>7</sup>

Maintenance of land registration data is carried out if there is a change in the physical data or juridical data of registered land registration objects. The right holder concerned must register the amendment to the local Land Office.

The PPAT is obliged to examine the formal and material requirements regarding the subject and object of rights, which include:

- 1) Deed of Sale and Purchase (AJB)
- 2) Identity of the Parties (Resident Identity Card, Family Card)
- 3) Land certificate
- 4) Taxation (Notification of Taxes Payable on Land and Building Tax), and other supporting letters.

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<sup>7</sup> Laura Chrismetin, *The Role of the Land Deed Making Officer (PPAT) in Making the Deed of Distribution of Common Rights (APHB) Against the Distribution of Inheritance in Islamic Law on Land and Buildings in Brebes Regency*, (Tegal: Pancasakti University, 2019), p. 63

This supports the purpose of maintaining land registration data, namely to adjust physical data and juridical data in registration maps, land registers, name lists, measuring letters, land books, and certificates with changes that occur later. The PPAT deed must be drawn up in such a way that it can be used as a basis or basis for a strong right to register, transfer rights, and encumber rights by the person concerned. Therefore, the PPAT is responsible for examining the requirements for the validity of the legal action in question, by, among other things, matching the data contained in the certificate with the registers in the Land Office.

### **3.2. Obstacles and Solutions Faced by the PPAT in Making the Deed of Sale and Purchase of Land during the PPKM Period in Brebes Regency**

The spread of the Covid-19 virus has resulted in various negative impacts on society, impacting on restrictions on space for movement and community activities so that it is expected to narrow the spread of the Covid 19 virus. The government followed up the increase in the number of cases of Covid-19 sufferers by issuing the Instruction of the Minister of Home Affairs Number 30 of 2021 concerning the Implementation of Restrictions on Community Activities in the Context of Accelerating Handling of Corona Virus Disease 2019 (COVID-19).

The acceleration of the handling of the 2019 Corona Virus Disease was followed up with the Regent Regulation Number 64 of 2020 concerning the Implementation of Discipline and Law Enforcement of Health Protocols as an Effort to Prevent and Control Corona Virus Disease 2019. The existence of these regulations causes many economic sectors and people's lives to experience obstacles. This is as contained in Article 5 of the Regent Regulation Number 64 of 2020 which regulates restrictions on public places and facilities which include:

- 1) office/workplace, business and industry;
- 2) schools/other educational institutions;
- 3) worship place;
- 4) stations, terminals, ports and airports;
- 5) public transportation;
- 6) shops, modern markets and traditional markets;
- 7) pharmacies and drugstores;
- 8) food stalls, restaurants, cafes and restaurants;
- 9) street vendors/ snack stalls;
- 10) other similar hotels/lodgings;
- 11) tourist attraction;
- 12) health service facilities;
- 13) public areas, other places that may allow large crowds; and
- 14) public places and facilities that must pay attention to other health protocols in accordance with statutory provisions

Based on Article 5, it can be seen that the office of the Official for Making Land Deeds is included in offices which certainly experience restrictions in carrying out services. However, in the conditions applied to Brebes Regency, the office of the Official for Making Land Deeds continues to provide services as usual because the Office for Making Land Deeds only has a small number of employees. But on the other hand, the operation of services at the office of the Land Deed Making Officer has an impact on the potential for transmission of Covid-19 due to guests arriving from various walks of life who aim to carry out activities at the office. Thus, even though the potential for internal transmission of Covid-19 is relatively small,

Based on the results of interviews with the Land Deed Official, if one of the parties is positively infected with the Covid-19 virus, it is obligatory to temporarily postpone the activity of making a land sale and purchase deed in the office of the land deed official because it endangers the parties to transmission of the virus.

#### **4. Conclusion**

Based on the research and discussion conducted, the following conclusions can be drawn:

1. The Land Deed Making Officer (PPAT) has an important role because the PPAT is a General Official who has the task of assisting the parties to achieve their wishes in this matter to make deed of transfer of land rights and other deeds in the Republic of Indonesia. And convey all the requirements before the registration of the transfer of rights on the basis of the Deed of Sale and Purchase at the Land Office.
2. The implementation of the Health Protocol in the implementation of land sales and purchases at the office of the Land Deed Official is an obligation for the parties to avoid or minimize the transmission of the Covid-19 outbreak in Indonesia.

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- [2] Act No. 5 of 1960 concerning Basic Agrarian Regulations;
- [3] Act No. 1 of 1974 concerning Marriage;
- [4] Act No. 3 of 2006 concerning Amendments to Act No. 7 of 1989 concerning Religious Courts;



- [5] Republic of Indonesia Government Regulation Number 24 of 1997 concerning Land Registration;
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