

## Legal Consequences of Signing a Deed of Grant of Land Rights Outside the Position of the Land Deed Making Officer (PPAT)

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**Abstract.** *This study aims to determine and analyze the position of PPAT related to its authority in making land title deed of grant. and to determine and analyze the legal consequences of signing a land title deed of grant outside the position of PPAT. The approach method applied in this thesis is the statutory approach method. The type of research used is the normative legal research type and the Data Sources used in this study are secondary data which includes primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials, which consist of laws and regulations related to the legal research conducted. Secondary legal materials contain books and other supporting documents. And tertiary legal materials are legal materials that provide information and explanations of primary legal materials and secondary legal materials in the form of legal journals, newspapers, articles, magazines, and encyclopedias. The data analysis method used in analyzing the data is qualitative analysis. The results of the study reveal that: First, the position of PPAT related to its authority in making land title deed of grant according to PP No. 24 of 2016 Article 12 paragraph (1) is one provincial area, but in paragraph (3) it is stated that further provisions regarding the PPAT work area are regulated by the Ministerial Regulation. However, until now the juklak (implementation instructions) have not been issued so that they still refer to PP No. 37 of 1998, namely one work area of the Regency / City Land Office. Second, the legal consequences of a deed of grant of land rights signed outside the position of PPAT are that the deed is procedurally flawed, so that it can be appealed to the General Court. PPAT can be subject to administrative sanctions, criminal sanctions, and civil sanctions.*

**Keywords:** *Consequences; Deed; Gift, Position.*

## **1. Introduction**

The opening of the 1945 Constitution of the Republic of Indonesia, paragraph four, firmly states "Then from that to form a Government of the State of Indonesia that protects all the Indonesian people and all of Indonesia's homeland and so on...". Related to this, there are a number of protections that must be provided, namely all components that can later form a nation including the values of the people, natural resources, and the people themselves. No principles must be violated. All citizens must sincerely obey the 1945 Constitution of the Republic of Indonesia and Pancasila, including the Land Deed Making Officer (PPAT).

Referring to the 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3) states that "The Republic of Indonesia is a state of law". Therefore, it can be interpreted that various laws as well as legislative products and other derivatives need to be used as a basis for all aspects of life in the territory of the Unitary State of the Republic of Indonesia.

Indonesia should be able to enforce the law that is applied evenly and fairly for all citizens according to the role played as a country of law. In addition, the demands of reason must also be met and democracy that needs to be ratified as well as possible. As a manifestation of a true and good legal state in Indonesia, namely related to the regulation of all things that happen in a country, it is very important to maintain citizens to participate in implementing and obeying existing laws. Because the position of law as a rule or order in a country so that they participate in implementing and obeying existing laws. Because the position of law as a rule or order in a country that should be upheld by the people in it.

Referring to Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, it states "All citizens have equal standing before the law and government and are obliged to uphold the law and government without exception". The meaning contained in this regulation is that there is an equal position in the field of government and law for all citizens, and they are obliged to obey all government and laws that are enforced without exception.<sup>1</sup>PPAT is a public official with the authority to make authentic deeds who in carrying out his duties must uphold applicable laws (comply with the laws and regulations in force in Indonesia).

The authority of the PPAT is related to the making of authentic deeds in connection with certain legal acts regarding land rights and carrying out duties to

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<sup>1</sup> <https://kumparan.com/berita-terkini/bangun-dan-makna-pasal-27-ayat-1-uud-1945-1z3DM1AD3ZY/full>

register land. There are eight land deeds made by PPAT, including the deed of gift.<sup>2</sup>

The policy on grants is regulated in Article 1666 of the Civil Code which states that "A grant is an agreement by which the grantor during his lifetime, freely and irrevocably hands over an object for the needs of the grantee who receives the grant. The law does not recognize other grants other than grants between living people."

Grants given can be in the form of movable and immovable goods. Land and property are immovable goods that are often found.<sup>3</sup> Grants can give rise to disputes when there is a loss felt by one of the parties. For example, parties who suffer losses are those who have ownership rights to the donated objects or there is a discrepancy in the implementation of Article 210 paragraph (1) of the Compilation of Islamic Law. Referring to this rule, people who are at least 21 years old, have common sense and without any coercion can give a maximum gift of 1/3 of their assets. objects owned by an institution or another person in front of two witnesses in order to have ownership rights.<sup>4</sup>

Law No. 5 of 1960 Article 26 discusses:

1. A detailed explanation of the transfer of ownership rights through sale and purchase, donation, exchange, transfer due to a will, gift based on custom and other actions aimed at transferring ownership rights and supervision therein are discussed through Government Regulations; and
2. The consequences of transferring ownership rights to foreigners, through sale, exchange, gift, etc., are said to be cancelled by law.

Government Regulation Number 24 of 2016, a revision of Government Regulation Number 37 of 1998 concerning the Regulations on the Position of PPAT, Article 1 paragraph (8) explains that the PPAT's work area is an area that shows the authority of the PPAT in making deeds in connection with ownership rights to apartment units and rights to the surrounding land.

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<sup>2</sup>Anidya Khana Vinuris, Nur Chanifah, Supriyadi, 2023, "The Position of PPAT in Grants of Land Rights with the Consent of Some Children and Their Protection", *Journal of Law*, Vol. 2, <https://notarylaw.journal.ulm.ac.id/index.php/nolaj/article/download/11/33>, (accessed April 2, 2023).

<sup>3</sup><https://www.gramedia.com/literasi/penjualan-hibah/>

<sup>4</sup>Anidya Khana Vinuris, Nur Chanifah, Supriyadi, 2023, "The Position of PPAT in Grants of Land Rights with the Consent of Some Children and Their Protection", *Journal of Law*, Vol. 2, <https://notarylaw.journal.ulm.ac.id/index.php/nolaj/article/download/11/33>, (accessed April 2, 2023).

Government Regulation Number 37 of 1998 Article 4 paragraph (1) explains that the authority of the PPAT is limited to making deeds of land rights in the surrounding area and ownership rights to apartment units in accordance with the related work area, including deeds of gift. For example, for the PPAT of Brebes Regency, he can only sign deeds of gift located or domiciled in Brebes Regency. The authority of the PPAT to sign a deed of gift refers to the reality of where the ownership or land is located / situated, not to where the parties (recipient and grantor) can meet, or to the domicile of the recipient and grantor themselves. For example: There is a plan to grant a plot of land located in the Brebes Regency area, even though the grantor and grantee have made an agreement to gather and meet in Semarang City (for example, the grantor is domiciled in Semarang and the grantee is domiciled in Slawi, the deed of gift still cannot be signed by the PPAT Brebes in Semarang City), this is because the land that will be donated in Brebes Regency, thus only PPAT who has a position/work area in Brebes Regency can or has the authority to sign the deed of gift.

In Brebes Regency, a PPAT signed a deed outside the position of PPAT. If there is an element of intent in the deed which is then signed outside the position, then the deed that appears becomes degraded in its evidentiary power to be null and void by law or a deed under hand. PPAT who signs a deed outside his position of office is contrary to the law. Because the deed signed outside the position of office if it causes losses to the parties due to the actions of the PPAT which are contrary to the law, then the responsibility lies with the PPAT to carry out the replacement of the costs of compensation that arise.<sup>5</sup>

Referring to the background, the author tries to examine what if the PPAT is made a public official with the authority to make authentic deeds to sign land rights grant deeds outside the position of the PPAT. Can the consequences of his actions cause him to be subject to sanctions, what kind of sanctions are they? This is one of the reasons the author feels compelled and wants to conduct this study.

## **2. Research Methods**

The research approach method used in this thesis is the normative legal research method. The type of research used is the normative legal research type and the Data Sources used in this study are secondary data which includes primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials, which consist of laws and regulations related to the legal research being conducted. Secondary legal materials contain books and other supporting documents. And tertiary legal materials are legal materials that provide information and explanations of primary legal materials and secondary legal

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<sup>5</sup><https://etd.repository.ugm.ac.id/penelitian/detail/53999>

materials in the form of legal journals, newspapers, articles, magazines, and encyclopedias. The data analysis method used in analyzing data is qualitative analysis.

### 3. Results and Discussion

#### 3.1. The Position of PPAT Regarding His Authority in Making Deeds of Grant of Land Rights

The provisions of Article 1682 of the Civil Code stipulate that a grant must be made with a PPAT deed, otherwise the grant is void. However, basically all agreements made in writing between the two parties can be used as evidence of the validity or otherwise of the agreement letter, returning to the terms and conditions made at the beginning.

Some provisions regarding grants that must be understood include:

- a. Limitation of gifts; Article 210 paragraph (1) of the KHI regulates the limitations of gifts that may be given, namely that a person may grant a maximum of 1/3 of his assets to another person where the person is at least 21 years old and of sound mind, which is done without coercion and in the presence of two witnesses to be owned.
- b. Conditions for items to be donated; Article 210 paragraph (2) of the KHI states that the property to be donated must be the right of the donor.
- c. Grants to children; regarding grants to children, it is regulated in Article 211 which states that grants from parents to their biological children can be counted as inheritance. So this adheres to the principle that grants may only be made for 1/3 of the assets owned, grants from parents to their children can be counted as inheritance.
- d. A gift from a sick person; a person who is sick and wants to donate his property must obtain the consent of his heirs as stated in Article 213 of the KHI: A gift given when the donor is sick and close to death must obtain the consent of his heirs.”<sup>6</sup>

Article 1666 of the Civil Code states that a grant is an agreement by which the grantor during his lifetime freely and irrevocably hands over an object for the needs of the recipient of the grant who accepts the grant. The law does not recognize other grants between living persons.

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<sup>6</sup>Abdul Manan, 2008, Various Problems of Islamic Civil Law in Indonesia, Kencana Prenada Media Group, Jakarta, page 140.

Government Regulation Number 24 of 1997 explains that the transfer of land rights through grants can only be registered if proven by a deed made by a PPAT who has the authority to do so according to the provisions of applicable laws and regulations. The position / work area of PPAT as regulated in Article 12 paragraph (1) of Government Regulation Number 37 of 1998 concerning the Regulation of PPAT Positions is one work area of the Regency / City Land Office. Although there is a new Government Regulation, namely Government Regulation Number 24 of 2016 Article 12 paragraph (1) which states that the work area of PPAT is one provincial area, but in another paragraph, namely paragraph (3), further provisions regarding the position / work area of PPAT are regulated by the Ministerial Regulation.

If the land grant deed made by the PPAT has legal defects, of course many negative impacts will arise. Therefore, to minimize the occurrence of this, the role of PPAT is needed in carrying out its duties regarding land grants.<sup>7</sup>

From the description of the discussion of the problems above, it can be concluded that the Domicile of the PPAT Regarding His Authority in Making Deeds of Grant of Land Rights is in one working area of the Regency / City Land Office.

### **3.2. Legal Consequences of Signing a Deed of Grant of Land Rights Outside the Position of PPAT**

A deed of gift is made by a PPAT when a legal act occurs where the first party gives a right to land to the second party for free. Free means no payment, so that in the deed of gift there is no information about the price as contained in the deed of sale and purchase. In daily practice, the deed of gift is most often made at the request of parents who want to give it to their children and grandchildren for free. Gifts from one person to another person who is not related by blood are rare. Not a few people think that the power of a deed of gift is lower than a deed of sale and purchase. Some people argue that a deed of gift is prone to lawsuits in the future, the greatest possibility is a lawsuit from the heirs. In order to avoid or at least reduce the possibility of such lawsuits, in the practice of making a PPAT deed, it is better to ask for additional requirements, namely a statement from the prospective heirs of the grantor stating that they know and agree to the gift so that they promise not to demand anything in the future for the gift.

Land Deed Making Officer (PPAT) is a public official who is authorized to make authentic deeds regarding certain legal acts regarding land rights or ownership

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<sup>7</sup>Anidya Khana Vinuris, Nur Chanifah, Supriyadi, 2023, "The Position of PPAT in Grants of Land Rights with the Consent of Some Children and Their Protection", *Journal of Law*, Vol. 2, <https://notarylaw.journal.ulm.ac.id/index.php/nolaj/article/download/11/33>, (accessed April 2, 2023).

rights to apartment units (Article 1 paragraph (1) of Government Regulation Number 37 of 1998) including deeds of gift. So that the deeds made by PPAT are deeds that can be trusted and can be used as written evidence. Considering the function of PPAT as a public official who makes written evidence in the form of authentic deeds, the existence of PPAT is very important and needed by the wider community. One form of evidence in a case is a deed including a deed of gift of land rights. A deed is a signed letter containing an event that is the basis of a right or obligation, which was made from the beginning intentionally for proof.<sup>8</sup>

The position/work area of PPAT is one work area of the District/Municipality Land Office (Article 12 paragraph (1) of Government Regulation of the Republic of Indonesia Number 37 of 1998). Furthermore, Article 13 paragraph (1) of Government Regulation Number 37 of 1998 explains: if a District/Municipality area is divided into 2 (two) or more District/Municipality areas, then within 1 (one) year from the enactment of the Law on the Establishment of a new District/Municipality Level II Region, the PPAT whose work area is the original District/Municipality must choose one of the District/Municipality areas as his/her work area, with the provision that if the selection is not made on time, then starting 1 (one) year from the enactment of the Law on the establishment of the new District/Municipality Level II Region, the work area of the PPAT concerned shall only cover the District/Municipality area where the PPAT Office is located.

From the explanation above, it can be seen that the PPAT must carry out his duties in his work area, for example, in signing a deed of gift of land rights, the PPAT must sign in his work area, even though there has been an agreement between the grantor and the grantee to sign the deed of gift in a certain area but not the PPAT's work area, then this cannot be done.

Regarding the regulations related to PPAT, there are no provisions regarding the legal consequences of signing a deed outside the PPAT's area of office on the authenticity of the PPAT's deed. This is different from the UUJN which clearly contains prohibitions and sanctions regarding the legal consequences for Notaries and deeds made outside their area of office.

PPAT is only limited to objects in his work area but is not limited to the place where PPAT must sign the deed. Regarding the prohibition on signing deeds outside the PPAT's work area, it is only found in the provisions on sanctions in the form of serious violations contained in Article 10 paragraph (3) of Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning PPAT Job Regulations and Regulation

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<sup>8</sup>Sudikno Mertokusumo and A. Pitlo, 2013, Chapters on Legal Discovery, Citra Aditya Bhakti, Bandung, 2nd Printing, p. 151.

of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Implementation Provisions of Government Regulation Number 37 of 1998 concerning Land Deed Official Job Regulations, namely Article 28 number (4) letter c, namely making deeds outside his work area except as referred to in Article 4 and Article 6 paragraph (3). The provisions clearly prohibit PPAT from making deeds outside his work area and the legal sanctions for the PPAT himself, but it does not explain the legal consequences of the deeds made by the PPAT.

The results of the study show that the legal consequences of PPAT deeds signed by PPATs outside their work area, except as referred to in Article 4 and Article 6 paragraph (3) of the Regulation of the Head of the National Land Agency Number 1 of 2006, and without reasons that can be considered as valid reasons, then the deed is procedurally flawed, so that an annulment can be requested to the General Court, because based on the deed-making procedure, PPATs may only sign the deed in their work area and the form of PPAT's responsibility for PPAT deeds that contain legal flaws is that PPATs can be subject to administrative sanctions, civil sanctions and criminal sanctions.<sup>9</sup>

#### 4. Conclusion

The Domicile of PPAT related to its Authority in making land title deed of grant in accordance with Article 12 paragraph (1) of Government Regulation Number 24 of 2016 The PPAT's working area is one provincial area, but in paragraph (3) it is stated that further provisions regarding the PPAT's working area are regulated by the Ministerial Regulation. However, until now the *juklak* (implementation instructions) have not been issued, so it still refers to Government Regulation Number 37 of 1998, namely one work area of the Regency/Municipal Land Office. The legal consequences of a land title deed signed by a PPAT outside the PPAT's position, then the deed is procedurally flawed, so it can be appealed to the General Court, because based on the deed-making procedure, the PPAT may only sign the deed in his working area and the form of PPAT's responsibility towards the PPAT containing legal flaws The PPAT can be subject to administrative sanctions, civil sanctions, and criminal sanctions.

#### 5. References

##### Book

- Adjie Habib, Weaving Thoughts in the World of Notaries & PPAT, Bandung, PT. Citra Aditya Bhakti, 2014
- HS., Salim, Techniques for Making Deeds by Land Deed Making Officials, 2nd Edition, Jakarta, PT. RajaGrafindo Persada, 2016

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<sup>9</sup><https://repository.unair.ac.id/60095/>



Manan Abdul, *Various Problems of Islamic Civil Law in Indonesia*, Jakarta, Kencana Prenada Media Group, 2008.

Mertokusumo Sudikno and Pitlo A, *Chapters on the Discovery of Law*, 2nd Edition, Bandung, PT. Citra Aditya Bhakti, 2013

Riyanto Fajar Taufan, *Complete Guide to Smart Learning of PPAT Law for Prospective Land Deed Officials*, First Edition, Semarang, Samudera Biru, 2023

Sutedi Adrian, *Transfer of Land Rights and Its Registration*, Jakarta, Sinar Grafika, 2014

#### **Journal**

Anidya Khana Vinuris, Nur Chanifah, Supriyadi, 2023, "The Position of PPAT in Grants of Land Rights with the Consent of Some Children and Their Protection", *Journal of Law*, Vol. 2, <https://notarylaw.journal.ulm.ac.id/index.php/nolaj/article/download/11/33>, (accessed April 2, 2023).

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