

Legal Protection of Land Deed Officials Against Signing of Deed Minutes by Unauthorized Parties (Study in Nganjuk Regency)

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Abstract. A Land Deed Official (PPAT) is a public official authorized to create authentic deeds regarding certain legal acts concerning land rights or ownership rights to apartment units. In practice, PPATs can face legal issues if the party present and signing the minutes of the deed is not the authorized party or provides incorrect information. This condition can give rise to disputes and potentially place the PPAT as a party who is also held accountable. This study aims to analyze the legal protection for PPATs against the signing of minutes of the deed by an unauthorized party and the legal consequences that arise for the deed and PPAT. The study uses a sociological juridical approach with analytical descriptive specifications. Data were obtained through field research in the form of interviews and library research on primary, secondary, and tertiary legal materials, then analyzed qualitatively. The results of the study indicate that PPATs have an obligation to apply the principle of caution, especially in identifying the parties, checking the identities and documents submitted, and ensuring that the parties appearing are truly authorized to sign the deed. In the case of a Deed of Sale and Purchase signed by an unauthorized party in Nganjuk Regency, failure to verify the identity of the parties can result in the deed being declared invalid and null and void. Protection for Land Deed Officials (PPAT) essentially depends on the proper execution of their duties in accordance with procedures and in good faith. Therefore, increased accuracy, identity and document verification, and a better prevention system are required in the performance of PPAT duties.

Keywords: Legal Protection, PPAT, Minutes of Deed, Signing, Authorized Party.

1. Introduction

Land registration is a crucial instrument for providing legal certainty regarding land rights. Law No. 5 of 1960 concerning Basic Agrarian Regulations establishes

land registration as a means of ensuring legal certainty. In practice, Land Deed Officials (PPAT) play a crucial role in drafting deeds of transfer of rights and certain legal acts concerning land. The deed prepared by a Land Deed Official (PPAT) holds significant importance as it serves as evidence of the commission of a specific legal act. Therefore, the process of drafting it must be carried out meticulously and meet the formal requirements stipulated by law. The PPAT is also obligated to identify the parties present and ensure that the party signing the deed is truly authorized.

Problems arise when the party approaching the PPAT provides false identification or information. The thesis underlying this article suggests that PPATs can be implicated in legal cases not only due to their own mistakes, but also due to inaccurate information or documents provided by the parties. This problem can be seen in a case in Nganjuk Regency. In case No. 45/Pdt.G/2020/PN Njk dated May 20, 2021, there is a Deed of Sale and Purchase No. 962/2018 dated August 23, 2018, drawn up by Notary/PPAT "A." In this case, the party present and signing the deed as the seller's wife was not the legal wife. As a result, the legitimate wife subsequently filed a lawsuit.

This incident shows that there is a problem regarding the limits of the PPAT's responsibility and the form of legal protection that can be provided when the PPAT is faced with incorrect information or identity from the parties.

Based on these problems, this article discusses two main issues, namely: first, how is the legal protection for PPAT in the case of the minutes of the deed being signed by an unauthorized party; and second, what are the legal consequences for the deed and PPAT in such conditions.

2. Research Methods

This research uses a sociological juridical approach (sociology of law), which examines law as a social phenomenon and examines the reciprocal relationship between law and society. This research is descriptive and analytical in nature, aiming to provide an overview of legal protection for Land Deed Officials (PPAT) in the preparation of deeds that could potentially give rise to legal issues. The research data consists of primary and secondary data. Primary data was obtained through field research and interviews with research subjects. Meanwhile, secondary data was obtained through library research, which included primary, secondary, and tertiary legal materials. Data analysis was conducted qualitatively. Data was grouped and selected based on quality and accuracy, then systematically reviewed by linking field data to relevant theories and legal materials.

3. Results and Discussion

3.1. Legal Status of Deeds and Responsibilities of PPAT

A Land Deed Official (PPAT) is a public official authorized to issue authentic deeds regarding certain legal acts in the land sector. This position imposes a responsibility on the PPAT to exercise this authority in accordance with applicable legal provisions.

An authentic deed has strong evidentiary power. From an evidentiary perspective, a deed has external, formal, and material evidentiary power. External evidentiary power relates to the deed's ability to prove itself as an authentic deed, while formal and material power relate to the formality of its creation and the truth of the matters described in the deed.

If a deed violates formal provisions, its evidentiary force may be reduced to a private deed. The thesis also explains that a deed that does not meet legal requirements can have several consequences, including being annulled, null and void, having the evidentiary force of a private deed, or being annulled by a legally binding court decision.

However, it is important to distinguish between errors made by the PPAT and inaccurate statements made by the parties. If the PPAT has followed the required procedures and the inaccurate statements are made by the parties without their cooperation or in bad faith, material responsibility for such statements essentially rests with the party providing the information.

On the other hand, if the PPAT knows or should have known that there was an untruth but still continued to make the deed, the problem could develop into the PPAT's responsibility, either civilly, administratively or in certain circumstances criminally.

3.2. PPAT's Obligation to Apply the Principle of Prudence

The principle of prudence is an essential part of the PPAT's role. The PPAT must identify the parties, verify their identities, examine documents, listen to and consider their wishes, and ensure the documents and the parties present are in accordance.

The thesis emphasizes that in carrying out their duties, PPATs must be extremely careful and precise in identifying the parties who will undertake legal actions. The parties appearing must be the actual parties who will sign the deed. The deed is then read aloud in front of the parties and witnesses, and then signed by the relevant parties.

The application of the principle of caution is very important because the documents brought by the parties may appear administratively complete, but it

turns out that the identity of the parties present does not correspond to the actual situation.

In such circumstances, a PPAT cannot simply rely on trust from the parties. Identity and document verification must be carried out meticulously to reduce the risk of fraud, identity forgery, and document misuse.

3.3. Case of Signing of Deed by Unauthorized Party in Nganjuk Regency

One of the cases focused on in this study is Case Number 45/Pdt.G/2020/PN Njk. In this case, the parties approached Notary/PPAT "A" to conduct a land sale and purchase process. Documents brought included the land title certificate, the parties' identities, the current year's Land and Building Tax (PBB) Tax Return (SPPT), and other supporting documents. A Deed of Sale and Purchase was then drawn up and signed by the seller, the party considered the seller's spouse, the buyer, witnesses, and the PPAT.

Problems arose after the transfer of title was completed. The seller's legal wife stated that she had never been to the PPAT office, had never sold the land, and had never signed any documents or the Deed of Sale and Purchase. Therefore, the person who signed the deed as the seller's wife was not the authorized party.

The panel of judges in the case declared Deed of Sale and Purchase No. 962/2018, dated August 23, 2018, invalid and null and void. Consequently, the certificate transfer process must be canceled, and the certificate returned to its previous name.

This case shows that carelessness in ensuring the identity and authority of the parties present can have serious consequences for the legal certainty of the transfer of land rights.

3.4. Forms of Legal Protection for PPAT

Legal protection for Land Deed Officials (PPAT) can be understood in two forms: preventive and repressive. Preventive protection is aimed at preventing violations, while repressive protection is provided after a dispute or violation has occurred.

Preventive protection for PPAT can be realized through:

- 1) careful examination of the identities of the parties;
- 2) examination of original documents and supporting documents;
- 3) introduction of the parties before signing;
- 4) identity matching with documents;

- 5) land data inspection;
- 6) reading of the deed in the presence of the parties and witnesses;
- 7) refusal to make a deed if any discrepancies or suspicious circumstances are found.

The thesis specifically suggests that if there are odd circumstances, for example if the identity or KTP does not match, the PPAT can reject the parties' request because it does not comply with statutory regulations.

Meanwhile, repressive protection relates to the position of Land Deed Officials (PPAT) in the event of a dispute or legal investigation. PPATs who carry out their duties according to procedures and in good faith deserve protection based on their position as public officials.

In the context of Notaries, the thesis also describes the existence of a protection mechanism through Article 66 of the UUJN which regulates the interests of the judicial process regarding minutes of deeds and summons of Notaries.

However, research shows that there is a problem regarding the suboptimal regulation of special legal protection for PPAT when PPAT becomes a victim of false information or identity provided by the parties.

3.5. Legal Consequences for Deeds and PPAT

The legal consequences of a deed depend on the form of violation that occurred in the process of making it. If defects occur in the formal requirements, the deed can lose its authentic power and can have the power of proof as a private deed.

On the other hand, if the deed is made based on false information or signed by an unauthorized party, and this situation affects the validity of the legal act stated in the deed, the deed can be declared invalid or null and void by law through a court decision.

In a case in Nganjuk Regency, the absence of the authorized party to provide approval and signing by another party resulted in the Deed of Sale and Purchase being declared invalid and null and void. This resulted in the cancellation of the title transfer process.

Meanwhile, the PPAT's responsibility cannot be based solely on the fact that the PPAT is listed in the deed. It must be determined whether the PPAT has properly carried out his duties and official procedures, or whether there has been negligence or deliberate action on his part.

Thus, protection for PPAT is closely related to the PPAT's ability to prove that all procedures have been carried out carefully, objectively and in accordance with the provisions of laws and regulations.

4. Conclusion

First, legal protection for Land Deed Officials (PPATs) when the minutes of a deed are signed by an unauthorized party is closely related to the implementation of the principle of prudence in carrying out their duties. PPATs must identify the parties, verify their identities and documents, examine their intentions, and ensure that those present are truly authorized to perform and sign legal acts. Second, if a deed is made without complying with legal provisions or if there is a defect in the process of making it, the deed can have legal consequences in the form of being cancelled, null and void, being degraded to a private deed, or being cancelled based on a court decision that has permanent legal force. Third, in a case in Nganjuk Regency, Deed of Sale and Purchase No. 962/2018 dated August 23, 2018, was declared invalid and null and void because the party signing as the seller's wife was not the authorized party. This situation also resulted in the cancellation of the title transfer process. Fourth, PPATs, in principle, should receive legal protection if they have carried out their duties according to applicable procedures and have not acted in bad faith. Conversely, if the PPAT is aware of an inaccuracy and still executes the deed, they may be held accountable under applicable law.

5. References

Books:

- Adjie, Habib. *Sanksi Perdata dan Administratif terhadap Notaris sebagai Pejabat Publik*. Bandung: Refika Aditama, 2008.
- Anshori, Abdul Ghofur. *Lembaga Kenotariatan Indonesia Perspektif Hukum dan Etika*. Yogyakarta: UII Press, 2009.
- Darus, M. Lutfan Hadi. *Hukum Notariat dan Tanggung Jawab Jabatan Notaris*. Yogyakarta: UII Press, 2017.
- Faisal, Edwar, A. Rani, dan Dahlan Ali. "Kedudukan Notaris sebagai Pejabat Umum Ditinjau dari Konsep Equality Before the Law." *Jurnal Magister Hukum Udayana*, Vol. 8, No. 2, 2019.
- Harsono, Boedi. *Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaan*. Jakarta: Djambatan, 2003.
- Jalil, Abdul. "Hukum Perjanjian Islam: Kajian Teori dan Implementasinya di Indonesia." *Cendekia: Jurnal Studi Keislaman*, Vol. 6, No. 2, 2020.
- Lotulung, Paulus Effendie. "Perlindungan Hukum bagi Notaris Selaku Pejabat Umum dalam Menjalankan Tugasnya." *Media Notariat*, April-Juni 2003.
- Mertokusumo, Sudikno. *Hukum Acara Perdata Indonesia*. Yogyakarta: Liberty, 1988.
- Pasaribu, Chairuman dan Suhrawardi K. Lubis. *Hukum Perjanjian dalam Islam*. Jakarta: Sinar Grafika, 2004.

- Raharjo, Satjipto. *Ilmu Hukum*. Bandung: PT Citra Aditya Bakti, 2000.
- Santoso, Lukman AZ. *Aspek Hukum Perjanjian: Kajian Komprehensif Teori dan Perkembangan*. Yogyakarta: Penebar Media Pustaka, 2019.
- Setiawan, Wawan. "Tanggung Jawab Notaris dalam Pembuatan Akta." Makalah Seminar Nasional, Universitas Diponegoro, Semarang, 1991.
- Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Jakarta: UI Press, 2007.

Regulation:

- The 1945 Constitution of the Republic of Indonesia. Civil Code.
Criminal Code.
- Law Number 5 of 1960 concerning Basic Agrarian Principles. Law Number 30 of 2004 concerning the Position of Notary.
- Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary.
- Government Regulation Number 24 of 1997 concerning Land Registration.
- Government Regulation Number 37 of 1998 concerning the Regulations on the Position of Land Deed Making Officials.
- Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Making Officials.
- Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Making Officials.
- 2017 PPAT Code of Ethics.