

## The Effectiveness of Implementation of Electronic Integrated Mortgage Transparency through Digital Archive Management

Nurmawati Murdiningrum\*)

\*) Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), E-mail: [nurmawatimurdi@gmail.com](mailto:nurmawatimurdi@gmail.com)

**Abstract.** *The aims of this study were: (1) to find out and analyze the effectiveness of implementing electronically integrated mortgage transparency through digital archive management at the National Land Agency of Salatiga City; (2) to find out the obstacles faced by the Salatiga City National Land Agency in implementing transparency of electronic integrated mortgage rights through digital archive management and solutions. The approach used is sociological juridical. The results of the study conclude that: (1) HT-el services are more effective than conventional HT services, because they can be carried out online, so that users, namely creditors (Banks) or Notaries (PPAT) do not have to come to the local BPN Office to take care of Mortgage Rights, and HT-el application data is stored in a database to facilitate the document search process, and electronic documents (HK-el) have the same legal force as printed documents; (2) Obstacles encountered in HT-el services can be caused by internal factors (reliability of the BPN computer network system to serve HT-el) and external factors (user capacity in operating HT-el computer networks).*

*Keywords: Digital; Electronic; Integrated; Mortgage; Transparency.*

### 1. Introduction

The Ministry of ATR/BPN conducted land services electronically starting in 2017 by issuing Ministerial Regulation ATR/BPN Number 5 of 2017 concerning Electronic Land Information Services consisting of 9 types of land information services that are carried out electronically. Then issued Ministerial Regulation ATR/BPN Number 3 of 2019 concerning Application of Electronic Signatures which are useful in the process of issuing electronic certificates.

After that, by issuing Ministerial Regulation ATR/BPN Number 9 of 2019

concerning Electronic Integrated Mortgage Services (Permen ATR/BPN Number 9 of 2019) which was promulgated on June 21 2019 as the basis for HTel services. Then on April 6 2020 the regulation was repealed and replaced with Permen ATR/BPN Number 5 of 2020 concerning Integrated Mortgage Services Electronically. The meaning of the Integrated Electronic Mortgage System, which is then called the HT-el system in Permen ATR/BPN Number 5 of 2020, is: "A series of processes for servicing mortgage rights in the context of maintaining land registration data which is carried out through an integrated electronic system."

The HT-el service was first launched on September 3 2019. At the start of the launch of HT-el, the Ministry of ATR/BPN appointed 42 district/city land offices as pilot projects for HT-el services (Djalil in Andiyanto, 2020, 2). The launch of HT-el as mentioned by the Head of the ATR/BPN Ministry of Data and Information Virgo Eresta Jaya in an interview at the ATR/BPN Podcast event was based on two reasons. First, the Mortgage is a service that has a multiplier effect, meaning that people who own land can borrow money from the bank with the guarantee of their land certificate, then the money obtained can be used as investment capital or to open jobs.

Then starting on July 8 2020 Electronic Integrated Mortgage Services must be implemented throughout Indonesia. According to 3 Mustofa and Aditya in Exaudia (2020, 5), the existence of support and interrelationships between the Ministry of Agrarian Affairs/BPN and other organizations as partners is the key to the success of public services in the land sector. This mutual support and interrelationship is then realized through the cooperation of the Land Office with partners in the context of HT-el services, namely by providing an integrated service system that can be accessed by creditors and PPAT (Land Deed Making Officials) as users of HT-el services.

Implementation of HT-el begins with verifying and validating user accounts such as creditors and PPAT as partners of the Ministry of ATR/BPN then proceed with the HT-el registration process until the issuance of HT-el certificates, where all processes must comply with procedures and requirements in accordance with Permen ATR /BPN Number 5 of 2020 which is done electronically. The active role of the Land Office including creditors and PPAT is very important in the implementation of HT-el services. The implementation of a program or service that involves many parties, plus a service that has just been carried out by the West Tanjung Jabung Regency Land Office, of course, cannot be separated from problems in implementation and procedures.

Electronic Mortgage services since July 8 2020 were implemented simultaneously without going through an adequate transition and socialization period, resulting in problems with users of electronic Mortgage services for

Creditors and PPATs. Previously, we must first understand that computer network technology is growing rapidly, marked by the existence of a LAN (Local Area Network), namely a network in a local area as well as a larger computer network called a WAN (Wide Area Network). In general, the rapid development of the internet has also led to various serious legal disputes and conflicts for its users, namely the many unexpected problems that have turned out to be popping up in the last few years. This is due to the rapid acceleration in the field of information technology. One of them is the unexpected progress in forms of e-commerce including e-governance.

There are many obstacles faced by users of Electronic Mortgage Services both by PPATs and Creditors, it seems that many PPATs and Creditors are not ready, due to the lack of socialization from the Government, in a very short time all of a sudden the burden must be carried out simultaneously with the Granting of Mortgage Rights Electronically.

The objectives of this study are: (1) To find out and analyze the effectiveness of implementing electronically integrated mortgage transparency through digital archive management at the National Land Agency of the City of Salatiga; (2) To find out the obstacles faced by the National Land Agency for the City of Salatiga in implementing transparency of electronic integrated mortgage rights through digital management of records and their solutions.

## **2. Research Methods**

In this study the approach used in solving the problem is to use a sociological juridical approach, namely research that studies the influence of society on law. "Sociological juridical research is a type of sociological legal research and can be referred to as field research, which examines the legal provisions that apply and what has occurred in people's lives". , which is intended to provide as accurate data as possible about a condition or other symptoms,<sup>2</sup> so that it can provide a clear picture of the problem under study.

## **3. Results and Discussion**

### **3.1. The effectiveness of the implementation of electronically integrated Mortgage transparency through digital archive management at the Salatiga National Land Agency**

#### **a. Implementation of Mortgage Transparency**

The Land Office of the City of Salatiga conducts regular guidance/Monitoring to Land Deed Officials made on site/at the location of the PPAT service office to determine the suitability of the work system and management of warkah as

mandated by the PPAT Board of Trustees and Supervisors. Following up on this activity, the Land Office of the City of Salatiga exposed the results of the guidance by inviting all Land Deed Making Officials in Salatiga. At the beginning of 2020, the Land Office of the City of Salatiga has provided Mortgage services electronically so that applicants, in this case banks, can register and upload their own complete files independently through the electronic HT application.

The momentum of the birth of Mortgage Right registered through the HT-el system, it can refer to the principles of Mortgage. Mortgage rights have several main characteristics, namely: a) Giving preference to creditors; b) Always follow the object in the hands of whoever is in it; c) Fulfill the principle of speciality and publicity; and d) Easy and certain implementation of the execution.

Then in more detail Sutan Remy Sjahdeini mentions the principles of mortgage rights that are spread in various articles of the Mortgage Law, namely: 1) Mortgage rights give priority to creditors holding mortgage rights; 2) Mortgage rights cannot be divided; 3) Mortgage rights can only be imposed on land rights that already exist; 4) Mortgage rights can be imposed in addition to the land as well as the following objects related to the land; 5) Mortgage rights can also be imposed on objects related to new land that will exist in the future; 6) Mortgage rights are accessory; 7) Mortgage rights can be used as collateral for new debts that will exist. 8) Mortgage rights can guarantee more than one debt; 9) The Mortgage follows the object in the hands of whoever the object of the Mortgage is in; 10) The above Mortgage cannot be confiscated by the court; 11) Mortgage rights can only be imposed on certain land (principle of speciality); 12) Mortgage must be registered (principle of publicity); 13) Mortgage rights can be given accompanied by certain promises; 14) The mortgage object may not be agreed to be owned by the mortgage holder if the debtor defaults; 15) The execution of mortgage rights is easy and certain. Basically, an electronic system is a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, transmit, and/or disseminate Electronic Information, so that the implementation Electronic systems can be carried out by state administrators, individuals, business entities and/or the public.

In realizing an effective and efficient system, it requires comprehensive cooperation from interested parties. There are three pillars for the implementation of Electronic Mortgage Rights, including: 1. These three elements, namely the Bank, PPAT, Land Office, are HR elements that determine the implementation of HT-E easily and in accordance with what is faced by the Government and society. The three pillar elements mentioned above, namely Bank, PPAT, Land Office have the function of assisting the Government's tasks;

2. In providing HT-el services, it is necessary to be supported by sophisticated equipment that can be a means of data storage and data transmission so that regional Land Offices can be integrated with each other with Regional Offices of the Provincial National Land Agency. HT-el service is a form of service delivery from the Ministry of ATR/BPN in facilitating services to the public by utilizing information technology developments; 3. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 9 of 2019 concerning Electronically Integrated Mortgage Services is a series of Mortgage service processes in the context of maintaining land registration data which is organized through an integrated electronic system.

From the description of the Mortgage principles above, it can be seen that the Mortgage principle is attached to the principle of publicity. The principle of publicity (*openbaarheid*) applies to immovable objects that are granted property rights. The principle of publicity is "announcement" to the public regarding ownership status. Announcement of rights to fixed objects (land) occurs through registration in the land book, while announcements of movable objects occur through actual possession of the object.

The principle of publicity has an important influence on material guarantee agreements made by debtors and creditors. Fulfillment of the publicity principle results in that the material guarantee agreement is not only valid and binding on the parties, but will also bind third parties so that there is an obligation that is borne on their shoulders, namely the obligation to respect the material rights in question. This principle of publicity is important so that material guarantee agreements made by creditors and debtors also have binding force against third parties even though they are not parties to the agreement.

The principle of publicity can be interpreted that the Mortgage can bind third parties and provide legal certainty to interested parties, if it has been registered at the land office so that it is open and known by the public.

Material guarantees such as Mortgage Rights are material rights granted on a *jura in real linea* basis, and therefore must comply with the principles of recording and publicity in order to give birth to the rights to the guaranteed object. The birth of material rights to material rights that provide guarantees, that is depending on the application of the principle of publicity, by registering with the Land Office, material rights are born.

Therefore, Article 13 paragraph (1) of the Mortgage Law states that "The granting of a Mortgage must be registered at the Land Office." And in the elucidation of this article it is said that one of the principles of Mortgage is the principle of publicity. Therefore, the registration of the Mortgage is an absolute requirement for the birth of the Mortgage and binds the Mortgage to third

parties.

With the HT-el system that allows creditors to self-print issued by the HT-el system and then attach it to the Certificate of Land Rights or Flat Ownership Rights, this does not necessarily result in a Mortgage being born, if it has not been recorded in the book. land by the Head of the Land Office, because the recording in the land book is done to fulfill the principle of publicity which makes the Mortgage open and public, so that other parties who are not bound by the guarantee agreement know that there are material rights over the land right, namely the Mortgage .

The principle of publicity is related to the concept of transparency. The concept of transparency refers to a situation where all aspects of the service delivery process are open and can be known easily by users and stakeholders who need them. If all aspects of the service delivery process, such as the requirements, costs and time required, method of service, as well as the rights and obligations of service providers and users of services are published openly so that they are easily accessible and understood by the public, then the practice of providing these services can be considered to have high transparency. . Conversely, if some or all aspects of the service delivery process are closed and the information is difficult to obtain by users and other stakeholders, then the implementation of the service does not meet the principles of transparency. Therefore, at least according to Dwiyanto, there are three indicators that can be used to measure the transparency of public services. 13

The first indicator is to measure the level of openness in the process of administering public services. The assessment of the level of openness here covers the entire process of public service, including the requirements, costs and time required as well as service mechanisms or procedures that must be met. Terms of service must be published openly and easily known by users. The service provider should try to explain to the users regarding the requirements that must be met along with the reasons for the need for these requirements in the service process.

The second indicator of transparency refers to how easily the service regulations and procedures can be understood by users and other stakeholders. The purpose of being understood here is not only in the literal sense but also the meaning behind all those procedures and regulations. An explanation of the requirements, procedures, costs and time required as they are is very important for users. If the rationality of all these things can be known and accepted by users, compliance with procedures and rules will be easily realized.

The third indicator of service transparency is the ease of obtaining information about various aspects of public service delivery. The easier it is for users to

obtain information about various aspects of public service delivery, the higher the transparency. For example, when users can easily obtain information about costs and time needed to complete services, public services can be assessed as having high transparency. Likewise, when information about procedures, requirements and how to obtain services can be obtained easily by users, then the implementation of these services can be said to have a high level of transparency.

#### **b. Electronically Integrated Mortgage**

There are several laws and regulations that form the legal basis for electronic services, including Act No. 19 of 2016 concerning Amendments to Act No. 11 of 2016 concerning Electronic Information and Transactions, Government Regulation Number 82 of 2012 concerning Electronic System Operators and Transactions, Regulation of the Minister of Agrarian Affairs and Planning/Spatial/Head of the National Land Agency Number 5 of 2017 concerning Electronic Information Services, Regulation of the Minister of Agrarian Affairs and Planning/Spatial/Head of the National Land Agency Number 3 of 2019 concerning Electronic Signatures and Regulation of the Minister of Agrarian Affairs and Planning/Spatial/Head of the National Land Agency Number 7 of 2019 concerning the Second Amendment to the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration.

Article 1 paragraph 12b: Electronic System is a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, transmit, and/or disseminate electronic information.

Regulation of the Minister of Agrarian Affairs and Planning/Spatial/Head of the National Land Agency Number 5 of 2020 concerning Electronic Integrated Mortgage Services, hereinafter referred to as the HT-el System, is a series of Mortgage service processes in the context of maintaining land registration data which is carried out through an integrated electronic system. Service type Rights Dependents that can be submitted to HT-el are: 1. Registration of Mortgage Rights; 2. Transfer of Mortgage Rights; 3. Change of creditor's name and 4. Elimination of Mortgage Right

The organizer of the HT-el system also regulates the legal force. This regulation requires the Head of Office to validate all textual data and digital data in the KKP. Based on Article 26 paragraph (2) the regulation also regulates the legal force of the results of data validation. As for the text of the paragraph, namely: "data validation results as referred to in paragraph (1) are electronic documents that have the same legal force as printed documents".



### **c. Comparison of the Implementation of Conventional and Electronic Mortgage Rights**

Mortgage rights are collateral rights on land. Mortgage rights with collateral imposition agreements that arise due to credit agreements between debtors and creditors, either made privately or by notarial deed. An underhand credit agreement means that the agreement is made by the parties, namely creditors and debtors without any authorized official, while a credit agreement with a notary deed means that the agreement is made by the parties before a notary. The object of the mortgage is land. Budi Harsono's opinion there are 4 conditions for land rights in order to become collateral: it can be valued in money, the right is registered on the public register because it must meet publicity requirements, the nature can be transferred, if the debtor defaults the collateral object will be sold in public, and it needs to be appointed by law - Invite.

If seen from Article 4 paragraph (1) and paragraph (2) of the Mortgage Law, it is known that the mortgage rights are burdened with property rights, usufructuary rights, building use rights, and usufructuary rights. In order to impose mortgage rights, it is necessary to prepare an APHT by the PPAT which contains the granting of mortgage rights to certain creditors. In order to get legal force, the mortgage rights set forth in the APHT must be registered. The HT-el system is managed by the Land Office in accordance with Article 4 paragraph (1) and the types of services in the HT-el system in Article 6 determine "types of mortgage services that can be submitted through the HT-el system, including: a. registration of mortgage right; b. transfer of mortgage right; c. change of creditor's name; d. abolition of mortgage rights.

Mortgage rights as land tenure rights that contain authority for creditors to do something about the land that is used as collateral, but not to be physically controlled and used, but to sell it if the debtor defaults and takes the proceeds, either in whole or in part as payment pay off the debt owed to him. In Article 1 figure

7 Regulation of the Minister of ATR/BPN RI Number 5 of 2020 Concerning Electronic Integrity Mortgage Services, hereinafter referred to as Ht-el, is a series of mortgage service processes in the context of maintaining land registration data carried out through an integrated electronic system.

Since the law on electronic Mortgage Rights was enacted, the Salatiga Land Office is still preparing both from the land office and from the Land Deed Making Officer (PPAT) and Financial Services such as banking. There is prior introduction socialization carried out by the Regional Office of ATR/BPN in Central Java targeting the PPAT. The land office has also carried out



socialization related to HT-el for financial services, so that the application of HT-el has taken effect at the Land Office in the City of Salatiga since January 2020. In addition to the socialization, it is also added to the practical implementation of how to use HT-el, so that Such users understand more from HT-el.

Mortgage rights are regulated in Act No. 4 of 1996 concerning Mortgage Rights on Land and Objects related to Land, but there are no implementing regulations or technical instructions. Public demands for the Government to continue to improve the quality of services are natural in the ATR/BPN Ministerial Regulation Number 9 of 2019 concerning Electronically Integrated Mortgage Services. This regulation was later revoked and replaced with Ministerial Regulation ATR/BPN Number 5 of 2020 concerning Electronic Integrated Mortgage Services because it was considered unable to meet the needs related to its implementation. Based on this regulation, Technical Instructions Number 2/Juknis-400.HR.02/IV/2020 were issued as guidelines and standardization in the implementation of HT-el services. The differences between Conventional Mortgage Rights and Electronic Mortgage Rights are as follows.

Table 1

Comparison of Conventional and Electronic Mortgage Implementation

No	Difference	Conventional HT	HT Electronics HT-el)
1	Implementing Regulations	UU no. 4 of 1996	- Regulation of the Minister of ATR/BPN No. 5 of 2020  - Technical Instructions No. 2 years 2020
2	Registration	- Implemented by PPAT through the Land Office  - Held on weekdays  - Document	- Implemented by Creditors and PPAT through the HT-el system  - Executed according to calendar days (weekdays and holidays)  - Scanned softcopy

No	Difference	Conventional HT	HT Electronics HT-el)
		original application and a photocopy of it	application documents
		submitted to Land Office	and uploaded on the System HT-el
3	APHT second sheet	<ul style="list-style-type: none"> <li>- Implemented by PPAT through the Land Office</li> <li>- Held on weekdays</li> <li>- Original and photocopy of application document submitted to the Land Office</li> </ul>	<ul style="list-style-type: none"> <li>- Implemented by Creditors and PPAT through the HT-el system</li> <li>- Executed according to calendar days (weekdays and holidays)</li> <li>- Scanned softcopy application documents and uploaded on the HT-el System</li> </ul>
4	Mortgage Certificate	<ul style="list-style-type: none"> <li>- Published more than 7 (seven) days</li> <li>- In the form of a blank certificate such as a certificate of Right to Rights</li> </ul> <p>other land</p>	<ul style="list-style-type: none"> <li>- Automatically published on the 7th day after SPS payment</li> <li>- In the form of one sheet of electronically signed document</li> </ul> <p>electronic</p>

5	Registration of land books and certificates	<ul style="list-style-type: none"> <li>- Recording the date when it falls on a holiday is changed to a working day date</li> <li>- Executed by the Land Office then the certificate is returned to the creditor</li> <li>- The signature is executed manually</li> </ul>	<ul style="list-style-type: none"> <li>- Recording date according to the 7th day according to the calendar even though it falls on a holiday</li> <li>- Notes on the certificate are printed using a sticker and pasted by the Creditor then notes on the land book are printed using a sticker and pasted by the Land Office officer</li> <li>- The signature is carried out electronically</li> </ul>
6	book	Documents are kept in hardcopy form at the Land Office so they require space to save it.	Documents are stored in softcopy in the application system so it doesn't take up space to save it.

When viewed from the duties of the PPAT and the Bank, the comparison of the duties of the PPAT and the Bank in conventional and electronic Mortgage services can be seen in the following table:

Table 2 Comparison of PPAT and Bank Duties

Conventional HT		HT Electronics	
Bank	PPAT	PPAT	Bank
Authorize the PPAT	The power of attorney came to the Land	Using the deed to the Land Office	Make an application file electronically (without

	Office		coming)
Deposit the HT registration fee	Pay the registration fee	Submit a copy of the deed and land certificate to the bank	Pay the registration fee
Accept certificate from PPAT	Take the registration fee	-	Accept electronic certificate
Receive certificate after day 7	Take the certificate on 7th day	-	Automatically accepted on the 9th day
Analog product certificate in media paper	-	-	The product certificate is in the form of a PDF file with a digital signature
Received certificate already note given	-	-	Print and attach registration notes on HAT certificate

Based on the comparison between the implementation of Conventional HT Services and HT-el Services, it shows that HT-el Services are more effective than Conventional HT services. The implementation of HT-el services is guided by Technical Instructions 2 of 2020, the registration process to product delivery is carried out online so that it is more practical because applicants do not need to queue to come to the Land Office to register an application. In addition, the implementation time for HT-el Services becomes more standardized because it is regulated by the system. Recording and signatures are carried out electronically through the system and then affixed to the Land Book and Certificate. HT-el application documents are stored by the system so that they do not require space for storage and make it easier to find documents.

Considering that the service delivery from HT-el consists of individuals or legal entities (as creditors), PPAT, and ASN of the Ministry of Agrarian Affairs/BPN (as executors). PPATs are required to use the application provided by the Ministry of ATR/BPN by becoming a partner at BPN, registering and creating an account online through the work partner portal in a browser at the address: <https://mitra.atrbpn.go.id/datappat/login>. If you do not update the data, you cannot access and register services in the land service application electronically. So that the PPAT cannot become a user in the Electronic Mortgage Service. However, for the general public who are not directly users of ht-el, socialization is not held, but individual creditors must know about the ht-el system and how to use and register their accounts through application provided by the land office.

#### **d. Electronic Mortgage Management Implementation Mechanism**

Ht-el registration mechanism starts with the bank or financial services entering into a credit agreement with the debtor, then set forth in the PPAT deed regarding data from creditors and data from debtors. The PPAT checks the applicant's certificate with the National Land Agency (BPN). The aim is to carry out the making of the deed concerning the transfer or encumbrance of land rights or ownership rights to apartment units,

After checking the certificate of land rights online as in the procedure above, the point is to see whether the land has a problem or not. If there are no problems with the certificate, then the mortgage right is installed. The first procedure is from the Bank after a credit agreement from the creditor and debtor made by a notary, then the Bank makes an order to notify the PPAT partner to carry out a certificate check at the BPN. In accordance with the procedure for checking the certificate above, then after checking is complete, the PPAT uploads the applicant's data, such as; Identity Card (KTP) of the Applicant/debtor, Family Card (KK) of the Applicant/debtor, credit agreement, Power of Attorney for Imposing Mortgage Rights (SKMHT), Deed of Imposing

### Mortgage Rights (APHT).

If there is an error in the data uploaded by the PPAT during the HT-el process, the PPAT is confirmed by the BPN or is called a suspension process. The suspension process contains incorrect data that was informed by BPN and PPAT who then corrected the wrong data. After being repaired, it is then sent through the HT-el system. If there are no more problems related to the data uploaded by the PPAT, then the PPAT confirms the financial services (Bank). The financial services (bank) which then registers through the HT-el system and the PPAT only make a mortgage deed and upload the data that has been received from the financial services (bank).

Then after being uploaded by the PPAT a Letter of Introduction to the Deed (SPA) will come out. The issuance of this Letter of Introduction to the Deed (SPA) which is entered in the PPAT system, then the SPA is sent by the PPAT to the financial services party. The financial services party inputs data from the SPA and the financial services party inputs only the application letter for the installation of mortgage rights. Registration from financial services (banks) in uploading data may not take more than 7 (seven) working days, because if it takes more than 7 (seven) working days, the PPAT deed can be cancelled. In accordance with the provisions of Article 40 paragraph 1 PP 24 of 1997 concerning land registration which states that no later than 7 (seven) working days from the date the relevant deed is signed,

After input by the financial services party, an SPS (Deposit Order) will be issued which will be paid by the financial services party in accordance with the value of Non-Tax State Revenue (PNBP) within 3 (three) days. After being paid, then the data will be entered at the executor section of the Salatiga National Land Agency. Then the executor (BPN) corrects the submitted data.

The executor (BPN) will correct the deeds and data uploaded by the PPAT and those approved by the financial services (Bank). The data submitted by the PPAT is appropriate or not. If it doesn't match, the implementer (BPN) has the right to submit a rebuttal, for example because the scan results were blurry and the wrong data was uploaded. Disclaimers submitted by the implementing party (BPN) are submitted via e-mail, both PPAT and Financial Services depending on which party uploaded the wrong data and which was declared inappropriate by the implementing party (BPN). Then those who are declared to have uploaded the data incorrectly, then correct the data and upload it again.

If the party declared to have uploaded the data incorrectly by the implementing agency (BPN) does not change or correct the data which is declared incorrect and is given 4 (four) days to amend, but if it is not heeded, the system will

automatically be closed and repairs cannot be made. Then if there are no more data problems, the mortgage right will be issued within 7 (seven) days.

If the executor (BPN) does not carry out the inspection until the 7th (seventh) day (14 Paragraph 1) and the results of the HT-el Service are published by the HT-el System, it is deemed to have given approval and/or ratification. The implementing party (BPN) is administratively responsible for the results of the HT-el Service (Article 14 Paragraph 2).

After the completion of the payment process from the financial services (bank), then 7 (seven) days after the payment, an electronic mortgage certificate will be issued. Banks or financial services are given 30 (thirty) days to check the correctness of the HT-el certificate and propose corrections to the HT-el certificate. Mortgage documents that can be repaired include ratings, Deed Numbers, Rightsholders, Pointers, Partial Values, Types and Numbers of Rights and Other Objects, the form of this repair note is also printed and attached to the Notes of Encumbrance in the Certificate of Land Rights which are the Object of Collateral.

Article 1 Number 8 Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates called E-Certificates are Certificates issued through an electronic system in the form of electronic documents. Electronic Documents are any electronic information that is created, forwarded, sent, received, or stored in analog, digital, electromagnetic, optical, or the like, which can be seen, displayed, and/or heard through a computer or Electronic System, including but not limited to in writing, sound, pictures, maps, designs, photos or the like, letters, signs, numbers, access codes,

Then in Article 12 paragraph 1, it states that land whose rights have been assigned to become land rights, management rights, ownership rights to apartment units, mortgage rights or waqf land are registered through the Electronic System and issued an e-certificate. Paragraph 2 states that a collection of e-certificates stored in the Database sequentially according to the edition as a history of land registration becomes an electronic land book. Electronic Mortgage Certificate, hereinafter referred to as HT-el Certificate, is proof of mortgage in the form of an Electronic Document containing information on mortgage rights.

In accordance with Article 15 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 5 of 2020 concerning Electronically Integrated Mortgage Services, states that the results of HT-el services are in the form of electronic



documents issued by the HT-el system, including: HT certificates -el, Records of Mortgage Rights in the land book of land rights or Ownership Rights of Flat Units, and Records of Mortgage Rights in Certificates of Land Rights or Ownership Rights of Flat Units.

The recording of Mortgage Rights in the land book of land rights or Ownership Rights of Flat Units as referred to in paragraph (1) letter b is carried out in the Electronic Land Book by the Head of the Land Office or an authorized official. The recording of mortgage rights on land title certificates or flat property rights is carried out by creditors on land title certificates or flat property rights which are guaranteed as one unit with the land title certificate or flat property rights. Results of HT-el Services are submitted to Creditors through the HT-el System and/or through Electronic Domiciles. The results of the HT-el Service as referred to in Article 15 are ratified with an Electronic Signature by the Head of the Land Office or an authorized official,

The Electronic Mortgage Right is currently starting to take effect in early January 2020 until now it is effective. Changing manual mortgages to electronic mortgages facilitates the performance of financial services (Banks) in applying for mortgages, which at the beginning of the process of manual mortgages there are many procedures, but with the presence of electronic mortgages, the procedure becomes simpler, making it easier for financial services in apply for mortgage rights. In addition, effective in terms of time and minimize costs in managing the HT-el. In addition to the financial services (Banks) and Implementing Parties (BPN) stating that there is an effective electronic mortgage both in terms of process and time, this is coupled with statements from several PPATs whose work areas are in Salatiga which state that electronic mortgages have been effective in Salatiga. Even though it has been so effective as stated by several informants, according to researchers, if related to the Theory of Legal Effectiveness, then a law can be said to be effective if the behavior of citizens is in accordance with applicable law or decided or desired by law, then it can be said that the law in question is effective.

According to the theory put forward by Lawrence M. Friedman (2011), that law enforcement is effective or not depends on three important elements, namely as follows.

First, legal substance. Rules, norms and patterns of human behavior in the system are composed of rules and regulations that can be required by law. Electronic Mortgage Rights (HT-el) are contained in the Ministerial Regulation ATR/BPN RI Ministerial Regulation Number 5 of 2020 concerning Electronic Integrated Mortgage Services. The contents of these laws and regulations are good and it is proven that users from HT-el have not misinterpreted the meaning of the Ministerial Regulation. Clear rules governing the HT-el. For

Executors (BPN), Financial services (Banks), PPAT parties stated that it was effective, so according to researchers in terms of the content of the rules it was effective and clear, and did not cause multiple interpretations of the candy.

Second, the legal structure (law enforcement officials). Structure is an institutionalization into legal entities, related to law enforcement apparatus in the form of a system of work procedures and implementation of the provisions stipulated in the legal substance, such as courts of first instance, appellate level, and cassation level. Also included in the institutional structure and institutional performance, the legal structure does not only cover law enforcement officials but also includes facilities and infrastructure that support law enforcement officials. HT-el users have held a socialization on how to use HT-el, both BPN, PPAT and Financial Services (Banks) who use HT-el. Minister of ATR/BPN Regulation Number 5 of 2020 concerning Electronic Integrity Mortgage Services was welcomed by the Salatiga BPN, it is evident that prior to implementing the HT-el process at the Salatiga Land Office, the BPN had previously prepared various needs, both in terms of facilities and infrastructure, human resources who would be trained in using HT-el. In addition to holding training for the BPN (Executor), the Salatiga BPN has implemented the rules of Permen ATR / BPN Number 5 of 2020 concerning electronically integrated Mortgage services and has been since January 2020. Currently the Salatiga BPN (Executor) is no longer accepting applications Mortgage rights manually, even though this is a problematic network condition from the HT-el, but the application is still carried out by HT-el. Legal structure (law enforcement) in implementing the Permen ATR/BPN Number 5 of 2020 concerning services Electronic Integrated Mortgage has been running effectively.

Third, culture (community culture). Legal culture is an element of social attitudes and values, legal culture refers to the parts that exist in general culture, customs, opinions, ways of acting and thinking that lead to social forces towards or away from certain laws and ways. Seeing the implementation of Ht-el management at the land office as executor and user of financial services and PPAT said that Ht-el is quite effective, but there are still problems such as blurry scan results, user technical errors and every day there are mistakes in uploading data . According to the researcher, if we study it from the legal culture, it can still be said that it is not effective, because there are still obstacles that occur in the process of managing HT-el, such as someone uploading the wrong data. this is a legal culture for HT-el users, it still needs to be given an understanding and care for users in uploading the documents needed in managing HT-el. It cannot be denied because before the existence of the HT-el, the management of the Mortgage was still done manually, namely the user directly came to the BPN to arrange the Mortgage. This change is a change in legal culture, which used to be handled manually, then developed

and changed into an electronic legal culture. In the past, the manual system was too long for the procedure and now the online system makes it efficient for managing mortgage rights so that the simple principle of land registration can be carried out, which means that the main provisions and procedures can be easily understood by interested parties, especially the holders of land rights. The legal culture plays an important role in the effectiveness of a rule of law, so an adaptation is needed in the use of the HT-el.

After the write-off of the debt secured by the Mortgage Right, the Land Office crosses out the said Mortgage record in the land title book and the certificate. With the abolition of the Mortgage, the related Mortgage certificate is withdrawn and together with the land book of the Mortgage Right is declared no longer valid by the Land Office (Article 22 Paragraph 2 of Act No. 4 of 1996 concerning Mortgage Rights on Land and Related Objects with Land). Application for write-off (Roya) as submitted by the interested party by attaching a certificate of Mortgage which has been noted by the creditor that the Mortgage is deleted because the receivables guaranteed for repayment with the Mortgage have been paid off, or a written statement from the creditor that the Mortgage has been deleted because the receivables guaranteed for repayment with the Mortgage have been paid off or because the creditor has released the Mortgage in question. The Land Office writes off the Mortgage Right according to the procedure specified in the applicable laws and regulations within 7 (seven) working days from the receipt of the application (Article 22 Paragraph 8 of Act No. 4 of 1996 Concerning Mortgage Rights on Land and Objects relating to land).

### **3.2. Obstacles faced by BPN Salatiga in the process of digitizing and analog Mortgage certificates to Electronic Mortgage certificates and BPN's efforts to resolve these obstacles.**

Since the regulations regarding HT-el were issued, at that time the environment under the ATR/BPN ministry, namely land offices throughout Indonesia, implemented the rules regarding the HT-el. One of the Land Offices that implements this is the Land Office in Salatiga.

The purpose of implementing HT-el is to facilitate and streamline the user's time in managing HT-el. But in practice there are several obstacles that are often encountered in managing the HT-el. Based on the results of interviews at the Salatiga Land Office, that initial information, there were obstacles faced, namely the User, both the PPAT and the creditor using the HT-el, who entered the data incorrectly, so that the Salatiga BPN (National Land Agency) was hampered from completing the HT arrangement quickly. -el. HT-el users who input data incorrectly, sometimes from older parties, so they don't understand technology. This becomes a problem, on the one hand there are already rules

governing HT-el. It can indeed speed up the procedure for obtaining mortgage rights, but there are still other obstacles such as an error in the system or network during the HT-el processing. Moreover, it can be said that the electronic Mortgage Right (HT-el) has just been implemented, it is necessary to make adjustments from the user and executor, in this case the local land office, to the electronic mortgage right. The existence of an obstacle will also affect the performance of the PPAT, because within seven days after the signing of the deed of granting mortgage rights, the PPAT is required to register the deed at the local Regency/City land office.

If the user inputs the wrong data, then the service time target set in the law cannot be implemented, and the user must re-manage it offline (come directly to the BPN Office). The solution that needs to be done is that the Salatiga City BPN Office is intensively conducting outreach about HT-el, providing consultations about HT-el to users, and increasing the professionalism of HR (technicians) regarding computer network system technology.

#### 4. Conclusion

At the beginning of 2020, the Land Office of the City of Salatiga has provided Mortgage services electronically so that applicants, in this case banks, can register and upload their own complete files independently through the electronic HT application. The Certificate Checking Service is also carried out electronically to make it easier for Land Deed Officials in the process of checking certificates it is no longer necessary to come to the Land Office.

#### 5. References

##### Journals:

Aziz Bahri, (2019), *"Kajian Yuridis Pelaksanaan Pelelangan Objek Hak Tanggungan secara Elektronik"*, Jurnal Hukum (online), Universitas Mataram.

I Wayan Jody Bagus Wiguna, (2010), *"Tinjauan Yuridis Terkait Pendaftaran Hak Tanggungan Secara Elektronik"*, Acta Comitas: Jurnal Hukum Kenotariatan, Vol. 05 No. 01.

Jurnal Hukum *Ius Quia Iustum* NO. 1 Vol. 28 January 2021: 183 - 202

Nadia Imanda, (2020), "*Lahirnya Hak Tanggungan Menurut Peraturan Pemerintah Agraria Tentang Pelayanan Hak Tanggungan Terintegrasi Secara Elektronik*", *Notaire: Jurnal Hukum Kenotariatan*, Vol. 3 No. 1.

Nurul Nadira, (2019), "*Pendaftaran Hak Tanggungan Elektronik yang Akan Mulai dilaksanakan di Badan Pertanahan*", *Fairness and Justice: Jurnal Ilmiah Hukum*, Vol. 17 Nomor II, November.

Phillipus M. Hadjon (1997). *Tentang Wewenang*, *Jurnal Pro Justisia, Yuridika*, No. 5. dan 6 Tahun XII, September-December: 1-6

Sambas Ali Muhidin, Hendri Winata, dan Budi Santoso, (2016), *Pengelolaan Arsip Digital*, *Jurnal Pendidikan Bisnis dan Manajemen*, Volume 2, Nomor 3, November 2016: 178-189.

Setyaningsih, Hidayat Abdulah, and Anis Mashdurohatun, (2018). "Peranan Notaris Dalam Pembuatan Akta Pemberian Hak Tanggungan (APHT) Terhadap Perjanjian Kredit Antara Kreditur dan Debitur Dengan Jaminan Hak Tanggungan di Purwokerto," *Jurnal Akta* 5, No. 1 (2018): 187–96.

#### **Books:**

Agung Kurniawan, *Transformasi Pelayanan Publik*, Bumi Aksara, Jakarta, 2005.

Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, Edisi Revisi, Jakarta: PT. Raja Grafindo Persada, 2016.

Anggara, et. al., *Kontroversi UU ITE: Menggugat Pencemaran Nama Baik di Dunia Maya*, PT. Penebar Swadaya, Jakarta, 2010.

Arifin Tahur, *Kebijakan Publik dan Transparansi Penyelenggaraan Pemerintah Daerah*, Alfabeta, Bandung, 2015.

Bahder Johan Nasution, *Metodologi Penelitian Ilmu Hukum*, Bandung: Mandar Jaya, 2008.

Bintoro Tjokroamidjojo, *Reformasi Nasional Penyelenggaraan Good Governance dan Perwujudan Masyarakat Madani*, Lembaga Administrasi Negara, Jakarta, 2003.

Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan UUPA, Isi dan Pelaksanaannya*, Djambatan Edisi Revisi, Jakarta, 1999.

Eugenia Liliawati Mulyono, *Tinjauan Yuridis Undang-undang Nomor 4 tahun 1996 tentang Hak Tanggungan dalam Kaitannya dengan Pemberian Kredit oleh Perbankan*, Harvarindo, Jakarta, 2003.

Hans Kelsen, (terjemahan: Somardi). *General Theory Of law and State, Teori Umum Hukum dan Negara, Dasar-dasar Ilmu Hukum Normatif Sebagai Ilmu Hukum Deskriptif-Empirik*, BEE Media Indonesia, Jakarta, 2007.

Hasannudin Rahman, *Aspek-aspek Pemberian Kredit Perbankan di Indonesia*, Citra Aditya Bakti, Bandung, 1995.

Hendra Karianga, *Partisipasi Masyarakat dalam Pengelolaan Keuangan Daerah*, PT Alumni, Bandung, 2011.

I Gusti Nyoman Guntur, *Modul Pendaftaran Tanah*, Yogyakarta : Sekolah Tinggi Pertanahan Nasional, 2014.

Iman Sjahputra, *Problematika Hukum Internet Indonesia*, PT. Prenhallindo, Jakarta, 2002.

Irfan Islamy, *Prinsip-Prinsip Perumusan Kebijakan Negara*, Bina Aksara, Jakarta, 2004. Joshep Tobing, *Kiat Menjadi Supervisor Handal*, Erlangga, Surabaya, 2011.

L. Misbah. Hidayat, *Reformasi Administrasi Kajian Komparatif Pemerintahan Tiga Presiden*, Gramedia Pustaka Utama, Jakarta, 2007.

M. Syamsudin, M., *Operasional Penelitian Hukum*, Raja Grafindo Persada, Jakarta, 2007.

Mahmudi, *Manajemen Kinerja Sektor Publik*, Alfabeta, Bandung, 2005. Nasution, *Sosiologi Pendidikan*, Bumi Aksara, Jakarta, 2013.

Phillipus M. Hadjon, *Hukum Administrasi dan Good Governance*, Universitas Trisakti, Jakarta, 2010.

Riant Nugroho. Dwijowijono, *Kebijakan Publik: Formulasi, Implementasi, dan Evaluasi*, Elex Media Komputindo, Jakarta, 2013.

Richard M. Steers, *Efektivitas Organisasi*, Pustaka Pelajar, Yogyakarta, 1999.

Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Jurimetri*, Jakarta: Ghalia Indonesia, 1990.

S. A. Muhidin dan Hendri Winata, *Manajemen Kearsipan: untuk Organisasi Publik, Bisnis, Sosial, Politik, dan Kemasyarakatan*, CV. Pustaka Setia, Bandung, 2016.

Sirajudin, *Hukum Pelayanan Publik Berbasis Partisipasi Dan Keterbukaan Informasi*, Setara Press, Malang, 2012.

Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif*, Rajawali, Jakarta, 1985.

Soerjono Soekanto, *Pengantar Penelitian Hukum*, UI-Press, Jakarta, 2016.

Wolfgang Friedmann, *Teori dan Filsafat Hukum, Telaah Kritis Atas Teori-Teori Hukum*, Rajawali Press, Jakarta, 1990.

Yunus Husein *et al.*, *Pedoman Umum Good Public Governance Indonesia*, Komite Nasional Kebijakan Governance, Jakarta, 2008.

### **Regulation:**

Act No. 5 of 1960 concerning Agrarian Principles, State Gazette of the Republic of Indonesia of 1960 Number 104, Supplement to State Gazette Number 2043.

Act No. 4 of 1996 concerning Mortgage Rights, State Gazette of the Republic of Indonesia of 1996 Number 42, Supplement to the State Gazette of the Republic of Indonesia Number 3632.

Government Regulation Number 24 of 1997 concerning Land Registration, State Gazette of the Republic of Indonesia of 1997 Number 59, Supplement to the State Gazette of the Republic of Indonesia 3696.

Government Regulation 37 of 1998 in conjunction with PP 24 of 2016



concerning Regulations for the Position of Officials for Making Land Deeds, State Gazette of the Republic of Indonesia of 2016 Number 120, Supplement to the State Gazette of the Republic of Indonesia Number 5893.

Permen ATR/Ka BPN Number 5 of 2020 concerning Electronic Mortgage Services, State Gazette of 2020 Number 349.

**Etc**

Internet: <http://statistik.atrbpn.go.id> Summarized from the various problems presented by participants at the Webinar on Electronic Mortgage via zoom organized by SahabatDIY-INC Collaboration with IDLC and BPN/Sleman Regency Land Office, Friday 17 July 2020. Accessed 10 July 2020