

Implementation of The Precautionary Principle In The Making of Land Deeds To Avoid This Occurrence Land Certificate Duplication In Ambon City

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Abstract. *This study examines the application of the precautionary principle by Land Deed Officials (PPAT) in making land deeds to prevent duplication of land certificates in Ambon City. Duplication of land certificates is a serious problem in Ambon City with 8 cases recorded in the last 14 years (2010-2023), although the number is smaller compared to big cities in Indonesia. This situation is exacerbated by several factors unique to Ambon City, namely the customary land ownership system (petuanan land/state land), the impact of the 1999 social conflict which caused many land documents to be damaged or lost, and weaknesses in land administration. The study used an empirical legal method with a statutory and conceptual approach. Data were obtained through interviews with PPAT and officials of the Ambon City Land Office, as well as documentation studies. The results of the study indicate that PPAT in Ambon City has implemented the principle of prudence through several steps: checking the identity and authority of the parties, checking the validity of land certificates, verifying supporting documents, coordinating with the Land Office and related agencies, providing legal counseling to the parties, and refusing to make a deed if there is an indication of incorrect data. Efforts to improve the effectiveness of the implementation of the precautionary principle include: increasing science and knowledge, modernizing the land service system, standardizing services and procedures, empowering professional organizations, strengthening law enforcement, and strengthening supervision and coaching mechanisms. Based on the SWOT analysis, increasing the effectiveness of the implementation of the precautionary principle of PPAT in Ambon City requires a comprehensive approach by utilizing existing strengths and opportunities, as well as overcoming weaknesses and anticipating threats.*

Keywords: Duplication of Certificates; Land Deed; Principle of Prudence; PPAT.

1. Introduction

Land ownership rights according to the provisions of Article 20 paragraph 1 of the UUPA are hereditary, strongest, and most complete rights that a person can have over land. Strongest means that land ownership rights are stronger than other land rights, do not have a specific time limit, are easy to defend from interference from other parties, and are not easily erased. Fullest means that land ownership rights give the owner broader authority when compared to other land rights, can be the parent for other land rights, and the use of the land is broader when compared to other land rights.¹

Legal subjects who can obtain land ownership rights are regulated in the provisions of Article 21 paragraph 1 of the UUPA, namely only Indonesian citizens and several legal entities as stipulated in Article 8 paragraph 1 letter b of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Cancelling Rights to State Land and Management Rights.

In Article 3 letter a of Government Regulation Number 24 of 1997 concerning Land Registration, it is stipulated that: Land registration aims to...provide legal certainty and protection to rights holders of a plot of land, apartment units and other registered rights so that they can easily prove it himself as the holder of the rights concerned.

For this reason, land registration is carried out as regulated in Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration. In carrying out land registration, the Head of the Land Office is assisted by PPAT and other officials assigned to carry out certain activities according to this Government Regulation and the prevailing laws and regulations. concerned.²

A land certificate is proof of legal and legally valid ownership of land rights in Indonesia.³ However, in practice, problems still often occur in the form of duplication of land certificates which can cause legal uncertainty and land disputes.⁴ Ambon City, as one of the rapidly developing cities in Indonesia, is not

¹ Melianawaty, 2013, "Ownership Rights to Land" <https://www.kompasiana.com/land-rights-to-land-by-melianawaty>, accessed on December 14, 2023 at 16.16 WIT

² Government Regulation Number 24 of 1997 concerning Land Registration, Article 6 number 3.

³ Urip Santoso, 2010, Registration and Transfer of Land Rights, Kencana, Jakarta, p. 261.

⁴ Irawan Soerodjo, 2003, Legal Certainty of Land Rights in Indonesia, Arkola, Surabaya, p. 186.

free from this problem.⁵

The case of land certificate duplication in Ambon City, although on a smaller scale compared to big cities in Indonesia, remains a significant problem in local land administration. The problem of duplication of land certificates recorded at the Ambon Land Office amounted to 8 cases in the last 14 years (2010-2023).⁶This number shows that the problem of duplication of land certificates is still a fairly serious issue in Ambon City.

Faced with land problems in Ambon City, The Land Deed Making Officer (PPAT) has a crucial role in the land registration process and the making of deeds related to land.⁷In the complex context of Ambon City, PPAT is required to apply a higher level of caution in order to prevent errors or deviations that could result in duplication of land certificates.⁸

Based on this background, the researcher is interested in discussing a study entitled **The Principle of Caution in Making Land Deeds To Avoid Duplication of Land Certificates in Ambon City.**

2. Research Methods

This study uses an empirical legal method, which combines a normative legal approach with field research to analyze the implementation of the PPAT's precautionary principle in preventing duplication of land certificates in Ambon.⁹ This method does not only focus on the analysis of written regulations, but also emphasizes how the law is applied in society through the collection of factual data such as interviews, observations, or surveys. The advantage of this approach is its ability to provide an in-depth understanding of the gap between the law theoretically (law in books) and its implementation (law in action), thus producing more comprehensive research by looking at the effectiveness of the law in the social, political, economic, and cultural context of the society where the law applies.

⁵National Land Agency of Ambon City, 2024, Annual Report on Land Issues of Ambon City 2023, Ambon, p. 12.

⁶Interview with the Head of the Land Problem Handling and Control Section of the Ambon City Land Office, April 10, 2025.

⁷Habib Adjie, 2009, Observing the Treasury of Indonesian Notaries and PPATs, Citra Aditya Bakti, Bandung, p. 108.

⁸Philipus M. Hadjon, et al., 2011, Introduction to Indonesian Administrative Law, Gadjah Mada University Press, Yogyakarta, p. 270.

⁹Soerjono Soekanto and Sri Mamudji, 2015, Normative Legal Research: A Brief Review, Rajawali Pers, Jakarta, p. 14.

3. Results and Discussion

3.1. Implementation of the Principle of PPAT's Caution in Making Land Deeds to Avoid Duplication of Land Certificates in Ambon City

Based on research into duplication cases Land certificates that occurred in Ambon City in the last 14 years (2010-2023), several case typologies can be identified as follows:¹⁰

- a. Duplication Due to Multiple Registration.
- b. Duplication Due to Careless Land Splitting or Separation.
- c. Duplication Due to Issuance of Replacement for Lost Certificate.
- d. Duplication Due to Document Forgery.
- e. Duplication Due to Administrative Error.

Faced with land problems in Ambon City, as a form of application of the principle of caution carried out by the PPAT of Ambon City in making the Deed is as follows:

- a. Verification of Identity and Authority of the Parties

The first step taken by PPAT in Ambon City in implementing the precautionary principle is to check the identity and authority of the parties. PPAT checks the identity of the parties through the Resident Identity Card (KTP) or other identity documents, and checks the authority of the parties to carry out legal acts, especially if the party acts for and on behalf of another party.

The PPAT is required to verify whether the person appearing is acting for himself or as an attorney for another person, as a manager or representative of a legal entity, as a guardian of a minor, or in another capacity that provides the authority to act.¹¹ This examination is very important considering that carelessness in verifying the authority to act can result in the deed made not having perfect legal force or even being null and void by law.

Based on Article 35 paragraph (1) of Law Number 1 of 1974 concerning Marriage, assets acquired during a marriage become joint assets unless otherwise specified in the marriage agreement. The PPAT is required to ensure the marital status of the parties to determine whether legal actions regarding the land require the consent of the spouse (husband/wife) as a party who also has rights to the land that is the object of the transaction.

¹⁰Ibid.

¹¹Habib Adjie, 2014, *Weaving Thoughts in the World of Notaries and PPAT*, Citra Aditya Bakti, Bandung, pp. 108-109.

b. Land Certificate Validity Check

Certificate checking through the Land Office includes checking the certificate number, name of the rights holder, land area, land boundaries, and whether or not there are records in the land book regarding encumbrances, seizures, or blocks. After the check is carried out, the Land Office will provide a stamp and initials on the certificate change page indicating that the certificate has been checked and is in accordance with the data at the Land Office.¹²

As regulated in the Supreme Court Jurisprudence of September 5, 1973 Number 702 K/Sip/1973, there is no material obligation for PPAT to ensure the accuracy of the data shown by the parties. The PPAT's task is limited to ensuring the accuracy of formal data only. However, as is appropriate for land that has not been certified, it is also necessary for the PPAT to ensure the material accuracy of the data submitted by the parties. Likewise, the PPAT in Ambon City based on the existing formal data, so that it did not conduct a physical check of the land in the field, considering that the stages of physical checking of the land in the field will be carried out by the Land Office during the land measurement process.

c. Verification of Supporting Documents

The PPAT examines supporting documents such as proof of payment of Land and Building Tax (PBB), proof of payment of Land and Building Acquisition Fee (BPHTB), and other documents related to the legal act to be carried out.

d. Coordination with the Land Office and Related Agencies.

PPAT actively communicates and coordinates with the Ambon City Land Office and other related agencies to ensure there are no problems in making land deeds.¹³

e. Provision of Legal Counseling to the Parties.

PPAT provides an explanation regarding the procedures and requirements for making land deeds, the rights and obligations of the parties, as well as the legal consequences of the legal actions to be carried out.¹⁴

f. Rejection of Deed Making if There is an Indication of Incorrect Data

The refusal to make this deed is carried out based on Article 39 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, which states that the PPAT is obliged to refuse to make a deed if other conditions are not met or if the prohibitions specified in the relevant laws and regulations are violated.

¹²Interview with PPAT Ambon City, April 15, 2025.

¹³Ibid.

¹⁴Ibid.

g. Attendance of the Parties and Reading of the Deed

Article 38 paragraph (1) Perkaban no. 1 of 2006 confirms that the making of a PPAT deed must be attended by the parties carrying out the legal action or the person authorized by a written power of attorney. The presence of these parties is important to ensure that the legal actions outlined in the deed reflect the wishes of the parties.

h. Fulfillment of Administrative and Tax Requirements

The PPAT must ensure that the administrative requirements required by statutory regulations have been met before making the deed.

- 1) Proof of payment of Land and Building Tax (PBB) for the last year.
- 2) Proof of payment of Land and Building Acquisition Fee (BPHTB) for the acquisition of rights, and proof of payment of Income Tax (PPh) for the transfer of land rights as regulated in Law No. 28 of 2009 and PP No. 34 of 2016.
- 3) Permit to transfer rights from the authorized agency if required, such as a permit to transfer Land Use Rights, a permit to transfer rights for foreign nationals, or a permit to transfer rights for land in certain areas.

i. Submission of Deeds and Documents to the Land Office

After signing the deed, the PPAT is obliged to submit the deed and the documents required for registration of the transfer of rights to the Land Office. Article 40 of PP No. 24 of 1997 states that the PPAT is obliged to submit the deed he made along with the relevant documents to the Land Office for registration, no later than 7 (seven) working days from the date the deed was signed.

j. Protocol Storage and Document Confidentiality

PPAT is required to store the PPAT protocol, which consists of various documents including the original deed, deed minutes, deed list, and other supporting documents, properly and safely. This storage aims to ensure the security and availability of documents if needed in the future, both for the benefit of the parties, the interests of examination by authorized agencies, and for the benefit of evidence in the event of a dispute.

3.2. Efforts to Increase the Effectiveness of the Implementation of the Principle of Prudence in the Making of Land Certificates to Prevent Duplication of Land Certificates in Ambon City

In order to improve compliance and caution of PPAT in Ambon City in making deeds, it is necessary to implement several steps as follows:

a. PenLevel of Science and Knowledge

Future prospects show a positive trend with the increasing integration of PPAT education into the higher education system, strengthening of land research, and the use of digital technology in the development of land science.¹⁵ PPAT who has a strong scientific foundation will become an agent of change in land reform and the realization of good land governance in Indonesia.¹⁶

b. Modernization of P Service Systemland

Of the 10 types of digital services of the Ministry of ATR/BPN that currently exist, especially the Land Certificate Checking service through the Intan application (Land Information Service), it provides convenience and speed of process for PPAT in carrying out the certificate checking stages before carrying out the creation of the Land Rights Transfer Deed. This digital service greatly assists PPAT in implementing the principle of prudence, especially to cross-verify land data, monitor land status in real-time, and minimize administrative errors that can lead to duplicate Certificates.¹⁷

c. Standardization of Services and Procedures

Development of comprehensive minimum service standards and standard operating procedures (SOPs) for PPAT practices.¹⁸ This standardization ensures consistency in service quality and provides certainty for the community using PPAT services.¹⁹ However, until now there have been no regulations regarding standard operating procedures (SOP) for PPAT in carrying out their duties.

d. Empowerment of Professional Organizations

Strengthening the role of the Association of Land Deed Officials (IPPAT) in providing guidance, supervision and advocacy for its members.²⁰ Strong professional organizations are able to become partners with the government in efforts to improve the quality of PPATs as a whole.²¹ This is as stated in Article 4 and Article 5 of the Articles of Association of Land Deed Making Officials.

¹⁵Center for Land Studies, 2023, Roadmap for the Development of PPAT Science and Knowledge 2023-2028, Ministry of ATR/BPN, Jakarta, pp. 57-65.

¹⁶Winoto, Joyo, 2022, PPAT as an Agent of Change in Indonesian Land Governance, Yayasan Pustaka Obor Indonesia, Jakarta, pp. 168-179.

¹⁷Interview with the Head of the Section for Determination of Rights and Registration of the Ambon City Land Office, April 21, 2025.

¹⁸Abdurrahman, 2020, Legal Aspects of Land Registration in Indonesia, CV. Mandar Maju, Bandung, pp. 184-192.

¹⁹Directorate General of Agrarian Infrastructure, 2021, PPAT Service and Regulation Standards, Ministry of ATR/BPN, Jakarta, pp. 53-59.

²⁰Harahap, M. Yahya, 2021, Position, Function and Role of PPAT in the Land Registration System, Sinar Grafika, Jakarta, pp. 156-163.

²¹Yubaidi, Rizal, 2023, "The Strategic Role of IPPAT in Improving the Professionalism of PPAT", Jurnal Pertanahan, Vol. 9, No. 1, pp. 79-94.

e. Strengthening Law Enforcement

Weak law enforcement creates the perception that the chances of being caught and punished for committing a violation or crime are low. This condition reduces the deterrence effect that the legal system should create.²²

To improve compliance and caution of PPAT in making deeds, law enforcement must be carried out. The regulation of law enforcement against Land Deed Making Officials (PPAT) is regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 2 of 2018.

f. Strengthening Supervision and Guidance Mechanisms

Strengthening sanctions needs to be supported by an effective monitoring mechanism to detect violations of the precautionary principle by PPAT.²³ This mechanism can include periodic and sudden inspection of PPAT protocols, audits of deeds that have been made, and investigations of reports or complaints from the public. Supervision can be carried out by a special team at the Land Office that has high competence and integrity, and is independent from the influence of the PPAT being supervised.²⁴

4. Conclusion

Ambon City has unique land characteristics due to the influence of geographical, historical and socio-cultural factors, including the customary land ownership system (*tanah petuanan*) and the impact of the 1999 social conflict which caused many land documents to be damaged or lost. The Land Deed Making Officer (PPAT) in Ambon City has implemented the principle of caution in making land deeds through several steps, including: 1. Verification of the identity and authority of the parties. 2. Land certificate validity check. 3. Verification of supporting documents. 4. Coordination with the Land Office and related agencies. 5. Providing legal counseling to the parties. 6. Rejection of deed issuance if there is an indication of incorrect data. 7. Attendance of the Parties and Reading of the Deed. 8. Fulfillment of Administrative and Tax Requirements. 9. Submission of Deeds and Documents to the Land Office. 10. Protocol Storage and Document Confidentiality. However, the implementation of the precautionary principle by PPAT in Ambon City still faces several obstacles, such as limited material verification, less than optimal coordination between related institutions, and the existence of individuals who exploit loopholes in the land

²²Raymond Paternoster, 2010, "How Much Do We Really Know About Criminal Deterrence?", *Journal of Criminal Law and Criminology*, Vol. 100, no. 3, pages. 765-824.

²³Interview with the Head of the Section for Determination of Rights and Registration of the Ambon City Land Office, April 21, 2025.

²⁴Interview with the Head of the Land Problem Handling and Control Section of the Ambon City Land Office, April 10, 2025.

administration system. Efforts to increase the effectiveness of the application of the precautionary principle in the preparation of land deeds include increasing science and knowledge, modernizing the land service system, standardizing services and procedures, empowering professional organizations, strengthening law enforcement, and strengthening supervision and guidance mechanisms.

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