

Challenges and Role of Land Deed Officials in Blocking the Attorney General's Office in Upgrading Residential Building Use Rights to Freehold Rights in Semarang City

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Abstract. *Upgrading Building Use Rights (HGB) to Ownership Rights for residential homes is an essential step to ensure legal certainty for the community. However, this process often experiences administrative deadlocks due to the intersection between civil law regimes and criminal public law, such as the phenomenon of "derivative blocking" (pro-justitia) from the Attorney General's Office on the master certificate that holds hostage the fragmentary certificates owned by third parties. This study aims to analyze the challenges and roles of Land Deed Officials (PPAT) when facing the Attorney General's Office's blocking in the process of upgrading rights in Semarang City, as well as analyzing the legal responsibility of PPAT towards the land object based on positive law and Islamic law perspective. The research method used is empirical juridical (socio-legal) with analytical descriptive research specifications. Primary data were obtained through field observations and interviews with PPAT, BPN, and the Semarang City District Attorney, while secondary data were obtained through literature studies. Data analysis was conducted qualitatively using the Theory of Authority, Theory of Legal Responsibility, and the Maqashid al-Shari'ah approach. The results of the study indicate that based on the Theory of Authority, the attributive authority of the Land Deed Official (PPAT) is suspended by law when the land object is blocked by the Prosecutor's Office. In facing this challenge, the role of the PPAT is transformed into an administrative investigator who prioritizes the principle of tabayyun across agencies to find material truth, so that the block can be lifted and the community's rights restored. Regarding legal responsibility, the PPAT is obliged to apply the principle of prudence (prudent person rule) absolutely. The attitude of forcing the issuance of a deed on blocked land is an ultra vires action that can abolish the protection of office to become personal responsibility (the threat of obstruction of justice).*

Keywords: *Authority of PPAT; Hifz al-Mal; Increased Rights; Legal Certainty; Prosecutor's Block.*

1. Introduction

Land is a fundamental entity inseparable from human existence, survival, and civilization, and the state holds a constitutional mandate to guarantee legal certainty over its control. From an Islamic legal perspective, protecting legitimate property ownership is a manifestation of the Maqasid al-Shari'ah pillar, namely Hifz al-Mal, or the protection of wealth. Previous research by Sekarsari, Budhiawan, and Nurasa (2019) showed that the implementation of blocked land registration at the land office often creates administrative complexities that affect the legal status of community land. This becomes relevant when state protection instruments actually conflict with citizens' civil rights.

Normatively (*das sollen*), the government has provided an affirmative policy through Decree of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 6 of 1998 which allows the public to upgrade the status of residential Building Use Rights (HGB) to Ownership Rights (HM) in order to guarantee permanent certainty of rights. In this ecosystem, the Land Deed Official (PPAT) is mandated as a gatekeeper or guardian of legal certainty who is obliged to apply the principle of prudence (*prudent person rule*) before processing changes to land legal data. The PPAT plays the role of *Kâtib bi al-'Adl* (fair recorder) who holds the mandate to ensure that land objects are free from legal defects. However, empirical facts (*das sein*) in the field show a strong clash between the administrative legal regime and criminal law enforcement. This phenomenon is clearly visible in the Puri Gedawang Indah Housing Complex, Semarang City, where residents' demands to convert HGB to Ownership Rights have reached a dead end due to the "Prosecutor's Block" record in the BPN's Computerized Land Activities (KKP) system. Research by Kurniasih, Yuherman, and Ismed (2023) emphasizes that legal protection for buyers in good faith becomes very vulnerable when land objects are involved in blocking and confiscation records, especially in the public or *pro-justitia* dimension.

The problem is further complicated by the phenomenon of "derivative blocking," where a block placed by the Prosecutor's Office on a master certificate due to a past developer corruption case also holds residents' fragmentary certificates hostage. The KKP system at the National Land Agency (BPN) does not yet have a data isolation mechanism, resulting in the block burden on the master certificate automatically "downgrading" (auto-locking) to all fragmentary certificates held by good-faith third parties. This situation causes requests to verify Land Registration Certificates (SKPT) to be systematically rejected, thus paralyzing the process of improving rights administratively. In this legal deadlock, Land Deed Officials (PPAT) find themselves in a legal dilemma that threatens the security of their positions. The PPAT's attributable authority is suspended by law by the coercive instruments of public law enforcement. If PPATs insist on processing deeds for blocked land, they risk being caught in the crime of inclusion or obstruction of justice (hindering investigations). However, if they remain completely passive, residents will lose their legal basis when the HGB expires, which directly violates the principles of social justice and property protection.

Based on these gaps, identifying the anatomy of "derived blocks" and the limitations of the Land Deed Officials' (PPAT) role in mediating public interests with law enforcement agencies is crucial. The author argues that in-depth identification of these issues is crucial for finding an appropriate legal protection formula for affected communities and providing risk mitigation guidance for PPATs in carrying out their duties without violating criminal jurisdiction.

The purpose of this study is to determine and analyze the role of Land Deed Officials (PPAT) in the process of upgrading residential building use rights to ownership rights that are blocked by the Semarang City District Attorney's Office. Furthermore, this study aims to identify and analyze the challenges faced by PPATs when facing systemic obstacles in the form of such blockages in order to provide legal certainty for land rights holders.

2. Research Methods

This research uses an empirical legal research method, which according to Soerjono Soekanto (2003) emphasizes the legal behavior of society and how the law works in reality on the ground. The approach used is a sociological approach (socio-legal approach) to observe the operation of law in the reality of society (law in action) and reveal the gap between the legislation (*das sollen*) and the reality of practice (*das sein*). In addition, an empirical case study approach is used to examine in depth the phenomenon of real legal disputes that occurred in the research locus, namely the Puri Gedawang Indah Housing Complex, Semarang City. The data in this study consists of primary data and secondary data. Primary data was obtained directly from the field through observation techniques and semi-structured interviews with PPAT (Public Land Deed Officials), Land Office

officials, the Prosecutor's Office, and community land rights holders. Meanwhile, secondary data was collected through literature studies which included primary legal materials such as the Basic Agrarian Law (UUPA) and Government Regulations on the Position of PPAT, secondary legal materials such as law books and scientific journals, as well as tertiary legal materials in the form of legal dictionaries.

The data analysis process was conducted qualitatively, following the Miles and Huberman model, which consists of three main stages: data reduction, data presentation, and conclusion drawing. Researchers grouped data by category, linked legal norms to field practices, and drew inductive conclusions. These steps were taken to identify relevant legal provisions, analyze the real challenges faced by Land Deed Officials (PPAT), and formulate the roles and responsibilities of PPATs in these situations to provide legal certainty for the community.

3. Results and Discussion

3.1. Procedural Review of Land Rights Improvement and Blocking Regulations in Semarang City

Normatively (*das sollen*), the transformation of land's legal status from Building Use Rights (HGB) to Ownership Rights is an affirmative state policy to provide essential legal certainty for residential homeowners. Based on Article 35 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), HGB has a temporal characteristic with a maximum term of 30 years that can be extended. Considering the sociological vulnerability of citizens if these rights expire, the government through Decree of the Minister of State for Agrarian Affairs/Head of BPN Number 6 of 1998 provides procedural relaxation for Indonesian citizens to upgrade the quality of their rights to Ownership Rights which are permanent, complete, and hereditary. From an agrarian law perspective, this improvement of rights aims to eliminate the element of uncertainty (*gharar*) and protect community assets (*Hifz al-Mal*) in full.

In its implementation in Semarang City, the rights enhancement procedure requires strict due diligence by the Land Deed Official (PPAT) and the Land Office. The most crucial stage in this mechanism is checking the land register to ensure the object is free from legal burdens (clean and clear) through an application for a Land Registration Certificate (SKPT). According to Harsono (2008), land registration aims to provide legal protection for rights holders, so checking the legal status serves as a determinant filter to detect any disputes, encumbrances, or blocking records before the change in rights status is processed.

However, empirical evidence (*das sein*) shows that the smooth running of these administrative procedures is often hampered by preventive legal protection instruments in the form of blocking. Regulations regarding this governance are

stipulated in Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 13 of 2017, which distinguishes between private-dimension blocking and public-dimension or pro-justitia blocking. Unlike private blocking, which expires in 30 days, pro-justitia blocking, proposed by law enforcement agencies such as the Attorney General's Office, is imperative and has no time limit until officially revoked. This instrument is generally used as a measure to save state assets (asset recovery) in corruption cases to prevent objects suspected of being linked to the crime from being transferred.

The case study at the Puri Gedawang Indah Housing Complex in Semarang City reveals a systemic anomaly known as "derivative blocking." This phenomenon occurs when a criminal block placed by the Prosecutor's Office on the master certificate due to a past developer corruption case automatically "decreases" and holds hostage all of the residents' fragmentary certificates. Sumardjono (2001) emphasized that land regulations must be able to implement policies fairly, but in practice, the lack of a data isolation feature in the Computerized Land Activities (KKP) system results in the rights of buyers in good faith being administratively frozen. This condition causes the system to automatically reject (auto-reject) every registration service, leaving residents trapped in legal paralysis as their HGB validity period approaches its expiration in 2025.

Identifying the procedural anatomy and the phenomenon of "derivative blocking" is crucial because it concerns the fate of innocent citizens' asset ownership. The author argues that a thorough understanding of the conflict between public law enforcement instruments and public land services is crucial to finding the right legal protection formula for the community. Identifying this problem is an essential first step in maximizing the role of Land Deed Officials (PPAT) in mediating the process of providing material evidence to law enforcement agencies, thus achieving justice for land rights holders.

3.2. Analysis of the Role of Land Deed Officials (Ppat) in the Process of Increasing Building Use Rights Blocked by the Semarang City District Attorney's Office

The results of the study indicate that the role of the Land Deed Official (PPAT) in the process of upgrading Building Use Rights (HGB) to Ownership Rights on objects blocked by the Semarang City District Attorney is not only limited to being the deed maker, but also develops into the applicant's attorney, due diligence implementer, and facilitator for resolving legal issues. Although normatively upgrading HGB to Ownership Rights does not require the involvement of PPAT, the community still entrusts the administration to PPAT because the process is often related to other legal actions, such as transfer of rights and legalization of transactions that require certainty of land status.

In carrying out their duties, Land Deed Officials (PPAT) apply the principle of prudence by examining the legal status of the land by submitting a Land Registration Certificate (SKPT). This step is a form of due diligence that serves to ensure that the land object is in a clean and clear condition before further processing. In the case of SHGB Number 544 in the Puri Gedawang Indah Housing Complex, the SKPT examination revealed a block by the Attorney General's Office originating from a derivative block of the parent certificate. This finding demonstrates that the PPAT's function as a gatekeeper is crucial in preventing legal actions that have the potential to give rise to disputes or legal defects.

Viewed from the perspective of the Theory of Authority, the PPAT's action in stopping the process of increasing rights after learning of the blocking is an implementation of the principle of legality. The PPAT's attributive authority based on Government Regulation Number 24 of 2016 only applies within the scope of land administration and does not include the authority to ignore or revoke blocks determined by law enforcement officials. Therefore, when a land object has the status of blocking *pro justitia*, the PPAT's authority to process the transfer or increase of rights is suspended by law. The PPAT's attitude of refusing to continue the process is not a form of refusal of service, but rather an effort to maintain legal certainty and avoid *ultra vires* actions that can result in the resulting legal product being flawed or null and void.

However, these limited administrative authority does not prevent the Land Deed Official (PPAT) from fulfilling its role. The study found that PPATs continue to provide legal assistance by facilitating communication between rights holders and the Semarang City District Attorney's Office. Through document verification and case history tracing, it was discovered that residents' SHGB (land title) were not included in the list of assets confiscated by the state, but were only affected by the systemic impact of the blocking of the master certificate. This fact formed the basis for efforts to lift the block so that the rights enhancement process could continue.

From an Islamic legal perspective, this role reflects the implementation of the concept of *Kâtib bi al-'Adl* (just recorder) and the principle of *tabayyun*. PPAT not only performs administrative functions but also acts as a party that ensures the material truth of a legal object before further legal action is taken. The assistance provided to obtain clarity on land status is a form of effort to realize justice and protect community rights. Thus, the role of PPAT in this case is not only oriented towards formal legal certainty, but also on protecting community ownership rights (*hifz al-mal*) as one of the main objectives of the *maqashid sharia*. Overall, this study shows that the role of PPAT in the case of blocked HGB does not stop at the limits of its administrative authority. PPAT functions as a legality supervisor, a guardian of prudence, and a facilitator for the resolution of cross-agency administrative disputes. This role is a crucial factor in ensuring that the rights of

well-intentioned communities remain protected without neglecting the principles of law enforcement and certainty of land law.

3.3. PPAT's Challenges to the Prosecutor's Office's Blockade of Rights Improvement

The most fundamental challenge faced by Land Deed Officials (PPAT) in untangling the tangled web of pro-justitia blocking stems from the stark clash between the sociological realities of society and the rigidity of the legal system. Sociologically, residents of housing estates generally hold the position of good-faith buyers (*derden te goeder trouw*) who acquired land through legal transactions, but are now gripped by panic as the validity period of their Building Use Rights (HGB) Certificates is about to expire (Harsono, 2008). This situation creates massive pressure for PPATs to immediately process the rights upgrade even though legally, the Computerized Land Activities (KKP) system at the National Land Agency (BPN) automatically rejects (auto-reject) due to the "derivative blocking" phenomenon. The absence of a data isolation feature results in the burden of blocking the parent certificate due to past developer corruption cases systematically holding hostage the pure rights of residents, leaving PPATs in a situation of administrative paralysis.

When this administrative deadlock fails to be resolved through the conventional land registration system, the case is forced to enter the corridor of special criminal law (*lex specialis*) which recognizes the principle of reverse burden of proof (*omkering van het bewijslast*). Based on the doctrine of procedural law, when an asset is blocked due to suspected corruption, the burden of proof shifts to the party controlling the asset (Hamzah, 2005). This presents a significant professional challenge because PPAT is required to provide technical assistance to construct evidence that the object of the division is an asset free from criminal elements. PPAT must guide clients who are not familiar with the law to collect historical evidence of past transactions to convince the Prosecutor's Office that the asset is not an instrument of money laundering by the developer as the main perpetrator.

From the perspective of the Theory of Legal Responsibility, this challenge places Land Deed Officials (PPAT) on a very thin line between official responsibility (*ambtelijke aansprakelijkheid*) and personal responsibility (*persoonlijke aansprakelijkheid*). According to Hadjon (2011), official responsibility protects officials as long as they act according to procedure, but this protection is lost if there is an act that exceeds their authority (*ultra vires*). If a Land Deed Official acts compromisingly by postponing the deed date (backdating) or facilitating the transfer of land that is being blocked, then their responsibility changes to personal responsibility. This reckless action carries a high risk of ensnaring the Land Deed Official in a special criminal area, namely the offense of obstruction of justice as regulated in Article 21 of the Corruption Eradication Law.

From a sharia perspective, the PPAT mitigation step which chooses to postpone formal legal action until the land status is completely clean is a form of application of the rules of *Dar'ul mafasid muqaddamun 'ala jalbil mashalih fiqh*, namely prioritizing preventing harm rather than taking advantage (Az-Zuhaili, 1986). The economic benefits from the honorarium for making the deed or temporary client satisfaction are not comparable to the long-term harm in the form of legal cancellation of the deed or involvement in hiding assets resulting from crime. Through the application of *Sadd al-Dza'riah* rules, PPAT proactively closes the gap for future disputes and eliminates the element of uncertainty (*gharar*) in transactions (Auda, 2008). Thus, PPAT's mitigation stance in facing the Prosecutor's blocking is not just an effort to protect itself, but rather a real implementation of the *Hifz al-Mal* principle to ensure that community assets are managed fairly and in accordance with sharia guidelines.

4. Conclusion

The conclusion of this study shows that the role of the Land Deed Making Officer (PPAT) in dealing with the phenomenon of pro-justitia "derivative blocking" has transformed from merely a passive administrator to a proactive legal facilitator who implements the principle of *Tabayyun* across agencies to restore the civil rights of the community. Based on the theory of authority, the attributive authority of the PPAT is automatically suspended by law when faced with a blocking record from a law enforcement agency, so that the PPAT's action to delay the creation of the deed amidst the status quo is a legally justified step to avoid defects in authority or *ultra vires*. The multidimensional challenges faced by PPAT include sociological pressure due to the Building Use Rights (HGB) expiration threshold and the obligation to assist clients to fulfill the principle of reverse burden of proof (*omkering van het bewijslast*), where the PPAT's mitigation stance is in line with the *fiqh* principle of *Dar'ul mafasid muqaddamun 'ala jalbil mashalih* in order to prioritize the prevention of greater legal harm to society (Az-Zuhaili, 1986). As a solution, it is recommended that Land Deed Officials (PPAT) optimize their preventive role through the comprehensive application of the prudent person rule from the initial stage and consistently mitigate legal risks by refusing to process deeds on land that is blocked by criminal law to avoid the risk of personal liability or *persoonlijke aansprakelijkheid*. In addition, there is an urgent urgency for land authorities and law enforcement agencies to harmonize the land database system to create a data isolation or clearing mechanism that is able to clearly separate assets owned by genuine buyers in good faith from assets that are the object of state confiscation (Sumardjono, 2001). This synchronization of regulations and data integration between institutions is crucial to ending the prolonged administrative deadlock and ensuring the realization of legal certainty in land and the protection of community property or *Hifz al-Mal* in a just manner.

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