

Responsibility of Land Deed Officials for Changing The Name of Ownership Certificates from Auction Results Without The Owner's Consent

Nia Kartika

Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-mail: niakartika119@gmail.com

Abstract. *The transfer of title to a Land Title Certificate from an auction proceeds is a legal act that must be carried out in accordance with statutory provisions to ensure legal certainty and protection for land rights owners. In practice, it is not uncommon for the transfer of title to a land title certificate from an auction proceeds to be carried out without the consent of the landowner, thus giving rise to legal issues and potential losses for the entitled parties. This study aims to analyze the responsibility of Land Deed Officials (PPAT) for the transfer of title to a Land Title Certificate from an auction proceeds without the consent of the landowner and to examine legal protection measures for landowners who are harmed. The research method used is normative juridical with a statutory, conceptual, and court decision study approach. The results of the study indicate that PPATs have legal responsibility for every deed and title transfer process they carry out, both administratively, civilly, and criminally if there is evidence of negligence or a violation of authority. In addition, landowners who are harmed have the right to obtain legal protection through preventive and repressive measures to ensure legal certainty and justice.*

Keywords: Auction; Legal Liability; Legal Protection; PPAT; Transfer Of Title.

1. Introduction

Land is an asset with high economic value and plays a vital role in the lives of Indonesians. Therefore, through Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), the state guarantees legal certainty over land ownership through a land registration system administered by the National Land Agency (BPN).

In the implementation of land registration and transfer of rights, the role of the Land Deed Official (PPAT) is very important because the PPAT is authorized to

issue authentic deeds as the basis for the transfer of rights. However, in practice, legal problems often arise regarding the transfer of ownership certificates based on auction results, especially when the auction is conducted without the consent of the legal owner of the land. Such conditions can occur, for example, when land is used as collateral for debt and auctioned by creditors without the knowledge or explicit consent of the legal owner, or when administrative errors occur in the implementation of the auction or the transfer of ownership process at the land office.¹

In such situations, the Land Deed Official (PPAT) plays a crucial role because the deed they draft serves as the basis for the transfer of rights at the National Land Agency (BPN). The PPAT is obligated to ensure that all documents and formal and material requirements are met, including ensuring the validity of the auction and the approval of the landowner. If the PPAT is negligent or careless in exercising their authority, this can lead to legal disputes that are detrimental to the owner and may even result in legal liability for the PPAT himself.

The issue of the PPAT's accountability in cases like this is important to examine because it concerns the validity of the deed, legal certainty for the parties, and legal protection for landowners who are harmed. Furthermore, this issue also relates to the professional responsibilities of PPATs as stipulated in Government Regulation Number 37 of 1998 concerning the Regulations on the Position of PPATs, as well as the PPAT Association's Code of Ethics (IPPAT), which requires PPATs to act honestly, independently, and impartially. This issue indicates the potential for abuse of authority or negligence by PPATs, which can result in the issuance of new certificates that are legally invalid. As a result, the legal certainty of land rights is compromised, and public trust in the land administration system may decline.²

In the Indonesian agrarian legal system, every transfer of land rights must be carried out through a legal mechanism that is valid and administratively orderly. One of the elements that guarantees legal order in the transfer of land rights is the role of the Land Deed Making Officer (PPAT) as a public official who is given the authority to make authentic deeds regarding certain legal actions regarding land and ownership rights to apartment units. PPAT functions as the spearhead of enforcing the principle of legal certainty in every land transaction carried out by the community. According to Article 2 paragraph (1) of Government Regulation Number 37 of 1998 concerning the Regulations on the Position of PPAT, as amended by Government Regulation Number 24 of 2016, PPAT is responsible for ensuring that every deed made is in accordance with applicable legal provisions.

The position of a Land Deed Official (PPAT) as a public official carries significant legal responsibilities. The deed drawn up by the PPAT not only serves as evidence of a legal act but also serves as the basis for registering the transfer of rights at

¹ Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA).

² Government Regulation Number 24 of 2016 concerning Amendments to PP Number 37 of 1998 concerning the Position of PPAT.

the Land Office. Therefore, the validity of the deed drawn up by the PPAT is crucial for determining the validity of the transfer of land rights. The PPAT is required to conduct a thorough examination of the physical and legal data of the land object, as well as the identities of the parties to the transaction. Failure by the PPAT to carry out this verification can result in disputes, deed cancellation, and even lawsuits for unlawful acts.

Problems arise when auctions are conducted on land that is still under dispute, or when the legal owner of the land does not provide consent and is unaware of the auction process for the object they own. In such situations, the auction buyer can obtain the auction minutes from the auction official and then submit a request for a change of title to the Land Deed Official (PPAT) and the National Land Agency (BPN). However, the PPAT's actions in processing the change of title based on procedurally flawed auction minutes raise questions regarding the PPAT's legal responsibilities, both civilly, administratively, and ethically.³

On the other hand, Land Deed Officials (PPATs) often argue that auction minutes are state documents with permanent legal force and their validity cannot be questioned. However, according to the principle of prudence, PPATs are required to conduct at least a minimal check on the validity of the auction minutes and the status of the land to be transferred. Failure to verify this could constitute professional negligence, giving rise to legal liability.⁴

2. Research Methods

This research uses a normative juridical research method, namely research that focuses on the study of applicable legal norms related to The responsibility of the Land Deed Making Officer (PPAT) for the process of changing the name of the land title certificate from the results of an auction carried out without the consent of the land owner. The approach used includes a statute approach by examining the provisions in the Notary Law, Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA).and related laws and regulations, as well as a conceptual approach to analyze the concept of the authority of land deed making officials in the Indonesian legal system.

The legal materials used consist of primary legal materials, namely relevant laws and court decisions; secondary legal materials, in the form of legal textbooks, scientific journals, and opinions of notary experts, as well as tertiary legal materials that serve as supporting materials. The legal material collection technique is carried out through literature studies, while the legal material analysis is carried out qualitatively using descriptive-analytical methods, namely by describing, interpreting, and drawing conclusions regarding the problems studied.

³ "Implementation of Execution Auctions for Mortgage Guarantees in Indonesian Legal Practice," IUS QUIA IUSTUM Law Journal, Vol. 28 No. 3 (2021).

⁴ "Legal Issues in the Implementation of Land Rights Execution Auctions," Journal of Law and Notary Affairs, Vol. 7 No. 2 (2020).

3. Results and Discussion

3.1. Accountability of Land Deed Officials (PPAT) for the Process of Changing the Name of Ownership Certificates from Auction Results Carried Out Without the Land Owner's Consent

A Land Deed Official (PPAT) is a public official authorized by the state to issue authentic deeds concerning legal acts related to land rights and ownership rights to condominium units. One of the PPAT's functions is to process changes to land registration data, including applications for changing the title of a certificate, which represents the legal transfer of land rights. In the context of land law, changing the title of a certificate is an administrative process that strengthens the legality of changes in land rights before the law and the public.⁵

The Concept of Legal Accountability in the Position of Land Deed Official (PPAT). The legal accountability of PPATs relates not only to administrative aspects, but also to civil, administrative, and criminal aspects if there is an element of error, negligence, or abuse of authority. This accountability is based on legal norms applicable in national agrarian law, procedural law, and the principles of public official responsibility.⁶

Deeds prepared by a Land Deed Official (PPAT) are authentic and have full evidentiary force, as stipulated in Article 1878 of the Civil Code (KUHPerdota). The PPAT is required to conduct an examination of the principles of legality, good faith, and the completeness of formal and material requirements before drafting the deed. Failure to conduct this examination could potentially result in a legally flawed deed and expose the PPAT to legal liability.

Changing the title on a certificate is part of maintaining land registration data, ensuring that the land title status consistently reflects the actual situation. Without a change of title, changes in title are not administratively recorded and provide no legal certainty for the new title holder.

An auction is a public sale mechanism aimed at obtaining the best price for the object being auctioned. Auctions conducted in the context of executing a court decision can result in changes to land rights if the auction is legally and procedurally valid. The transfer of rights must be registered at the Land Office based on a PPAT deed.

In land law, the consent of the landowner is a fundamental requirement for the legal transfer of rights. Legal actions resulting in the transfer of rights without the owner's consent violate the principles of legality and freedom of contract. If an auction is conducted without valid consent, the legal basis for the auction is questionable.

⁵ Article 1 number 1 of Government Regulation Number 37 of 1998 concerning the Position of Land Deed Making Official

⁶ Sudikno Mertokusumo, *Understanding the Law, Liberty*, Yogyakarta, 2010, p. 45;

Civil liability arises if a Land Deed Official (PPAT) issues a deed that does not conform to the actual legal situation or is based on an invalid document. Consequently, the injured party can sue for material and immaterial losses resulting from the PPAT's actions. Under civil law, unlawful acts committed by public officials, including Land Deed Officials (PPAT), can be sued. Article 1365 of the Civil Code stipulates that any unlawful act that harms another party must be compensated.⁷

Compensation can take the form of restitution (return of land and certificates to the rightful owner), compensation for financial and non-financial losses, and other costs arising from the PPAT's actions. In addition to civil liability, PPATs may be subject to administrative sanctions by supervisory agencies (e.g., the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency or PPAT professional organizations) for violating the code of ethics or official procedures. PPATs may be subject to reprimands, warnings, suspension, or revocation of their practice permits.

In practice, the Land Deed Official (PPAT) doesn't always act alone. Joint liability can exist between the PPAT, the auction official, and the party applying for the title change. The concept of joint liability can be applied if there is evidence of collusion or joint negligence that harms the landowner.

Land certificates are indeed strong evidence, but not absolute proof. If the certificate is obtained through a legally flawed process, it can be revoked by a court decision. If the certificate is revoked, the Land Deed Official (PPAT) involved can be held accountable: civilly through a lawsuit for damages, administratively through official sanctions, and ethically through the IPPAT professional organization. Certificate cancellation also impacts the credibility of the national land registration system.

Landowners who are harmed due to a change of name without consent have several legal remedies, including: Civil lawsuits for cancellation of PPAT deeds, lawsuits for unlawful acts against PPAT, administrative reports to the Ministry of ATR/BPN, criminal reports if there are criminal elements. This legal protection is a manifestation of the principle of property rights as a basic right guaranteed by the constitution.

To prevent the recurrence of similar cases, it is necessary to reconstruct the accountability of PPAT through, Confirmation of auction document verification standards, Digitalization and integration of auction data with BPN, Strengthening administrative sanctions against negligent PPAT, Continuous education regarding auction and execution law, This reconstruction is important so that PPAT does not only play a role as an administrative implementer, but also as a protector of legal certainty.⁸

⁷ Article 1878 of the Civil Code

⁸ Boedi Harsono, Indonesian Agrarian Law, Djambatan, Jakarta, 2008, p. 478.

3.2. Legal Protection Efforts for Landowners Who Suffer Losses Due to the Implementation of Change of Name on Auction Certificates Without Their Consent

Land rights are civil rights that have both public and private dimensions. The state, through its land registration system, is obligated to provide legal certainty and protection to land rights holders. However, in practice, this legal protection is not always optimal, particularly in cases of title transfers resulting from auction proceeds without the landowner's consent.

The illegal auction process, followed by the transfer of title to the certificate, has caused serious losses for landowners, both material losses in the form of loss of land rights and immaterial losses in the form of legal uncertainty and a disturbed sense of justice. Therefore, a comprehensive study is needed regarding the legal protections available to aggrieved landowners.⁹

Land ownership rights are the strongest and most comprehensive rights, as stipulated in Article 20 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). This right grants the holder full authority to use, utilize, and defend their land from encroachment by other parties.

Furthermore, Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia affirms that every person has the right to own private property and that such property rights may not be taken arbitrarily. Therefore, any auction or transfer of title to a certificate that ignores the consent of the landowner constitutes a violation of this constitutional guarantee.

The implementation of changing the name of the certificate from the auction results without the consent of the land owner causes various forms of losses, including: Legal losses, in the form of administrative loss of land ownership rights, Economic losses, in the form of loss of land value and its potential use, Social and psychological losses, in the form of disruption of the sense of security and trust in the law, Administrative losses, in the form of another party being recorded as the rights holder in the land registration system, These losses are the basis for the land owner to demand legal protection and recovery.¹⁰

Preventive measures are implemented through the application of the principle of prudence by all officials involved in the transfer of rights, including Land Deed Officials (PPAT) and the Land Office. Strict examination of auction documents, the legal basis for the auction, and the land ownership status must be carried out to prevent unauthorized transfers of title. Landowners must be given access to information regarding the status of their land, including if the land is being

⁹ Philipus M. Hadjon, *Legal Protection for the Indonesian People*, Bina Ilmu, Surabaya, 1987, pp. 25–27.

¹⁰ Philipus M. Hadjon, *Legal Protection for the Indonesian People*, Bina Ilmu, Surabaya, 1987, p. 25.

auctioned. This transparency is crucial as a form of initial protection, allowing landowners to file objections before their rights are transferred.¹¹

The state has a constitutional obligation to guarantee legal protection for citizens' property rights. In this context, the state must: Strengthen the land registration monitoring system, Ensure the accountability of land officials, Provide effective redress mechanisms for victims of land rights violations, and Failure of the state to provide legal protection can undermine public trust in the legal system and government.¹²

Legal protection for landowners who suffer losses due to the transfer of title to auction certificates without their consent can be achieved through various legal mechanisms, both preventive and repressive. This legal protection includes civil, administrative, and criminal proceedings, as well as support through fair and legally certain court decisions.

Auction winners, Land Deed Officials (PPAT), and land officials are required to act in good faith. If the transfer of title to a certificate is carried out without the landowner's consent, it is reasonable to suspect a violation of the principle of good faith, which results in the loss of legal protection for the party acquiring the rights. Parties who acquire land rights in bad faith are not protected by law. The Supreme Court, in various decisions, has emphasized that land registration obtained through illegal means can still be revoked even if a certificate has been issued. This confirms that legal protection is not provided to parties acting in bad faith.

Legal certainty is the primary goal of land registration. However, legal certainty should not be interpreted merely in formalistic terms. Certificates, as strong evidence, should not be used to legitimize a legally flawed process. Boedi Harsono emphasized that legal certainty must go hand in hand with material truth. If the title of a certificate obtained from an auction is changed without the landowner's consent, legal certainty is compromised because the legal data listed does not reflect the actual legal situation.

One of the reasons for the transfer of title to auction certificates without the landowner's consent is the lack of synchronization in the application of auction law, agrarian law, and land administration law. Therefore, legal protection must be achieved through harmonization of these three legal regimes. Land Deed Officials (PPAT) and the Land Office must ensure that every auction that forms the basis for the transfer of title meets the requirements of agrarian law and does not conflict with the landowner's civil rights.¹³

¹¹ Peter Mahmud Marzuki, *Introduction to Legal Science*, Kencana Prenada Media Group, Jakarta, 2017, p. 136.

¹² R. Subekti, *Contract Law*, Intermasa, Jakarta, 2005, p. 41.

¹³ AP Parlindungan, *Land Registration in Indonesia*, Mandar Maju, Bandung, 2009, p. 102.

4. Conclusion

1) As a public official authorized by statutory regulations, the Land Title Deed Officer (PPAT) has an inherent legal responsibility in every deed and transfer of title to land title certificates. In carrying out the transfer of title to land title certificates resulting from auctions, the PPAT is required to ensure that all formal and material requirements have been met, including the validity of the auction procedure, the basis for the applicant's rights, and the absence of any violations of the rights of the previous landowner. Therefore, the PPAT's responsibility is not only formal administrative, but also reflects professional responsibility and job ethics to ensure legal certainty, justice, and the protection of land rights for the community. 2) Landowners who suffer losses due to the transfer of title to a certificate from an auction without their consent are entitled to legal protection as a manifestation of the principles of the rule of law and the protection of human rights. This legal protection can be achieved in two forms: preventive legal protection and repressive legal protection. Preventive legal protection is realized through the obligation of the Land Deed Official (PPAT) and the land office to conduct a careful and thorough examination of the validity of the auction documents and legal data of the land before the transfer of title to the certificate is carried out. Meanwhile, repressive legal protection can be achieved through filing a lawsuit with the court to cancel the auction process or the transfer of title to the certificate that is legally flawed, as well as demanding compensation from the responsible parties.

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