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The Responsibilities of the Land Deed Maker Official (PPAT) Against the Signing of the Deed on a Blank Certificate (Case Study on Supreme Court Decision No. 959 K / Pdt / 2010)

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Abstract

The aim of this research is to identify the responsibilities of Land Deed Makers officials to sign the certificate on a blank blank. The method used in conducting research is the normative method with a statutory approach and a case approach. The results of this study are first, the legal arrangements the responsibility of PPAT in making the deed of transfer of rights namely civil liability, regulated in PP No. 24 of 1997 concerning Land Registration and Civil Code. Administrative responsibility, regulated in PP No. 24 of 1997 concerning Land Registration and Regulation of the Head of BPN No. 1 of 2006 concerning Provisions for the Implementation of PP No. 37 of 1998 concerning Regulations of Position of Land Deed Making Officer. Criminal responsibility, regulated in the Criminal Code. Responsibilities according to the Code of Ethics are regulated in the PPAT Code of Ethics. Second, the judge's consideration of the deed signed on a blank blank according to the Decision of the Supreme Court No. 959 K/Pdt/2010 is a deed of legal defect that is declared invalid and null and void by law.

Keywords: Responsibility; PPAT; Blank Certificate

Introduction

Land Deed Making Officials are general officials who are given task and authority to help carry out certain activities to serve the needs of the community in terms of land registration. This is as stated in Article 6 paragraph (2) Government Regulation Number 24 of 1997 concerning Land Registration.

The task of PPAT is to assist the Head of the District / City Land Agency Office in carrying out some of the land registration activities by making a deed as evidence of certain legal actions regarding land rights.¹

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¹ Salim HS, *Teknik Pembuatan Akta Pejabat Pembuat Akta Tanah (PPAT)*, PT Raja Grafindo Persada, Jakarta, 2016, Book I, p. 1.

The PPAT has the function of ratifying a legal act among the parties having the substance of ratifying the signatures of those who have carried out the legal act and guaranteeing the certainty of the date of signing the deed.² The PPAT deed is a perfect, strongest and fullest means of proving that in addition to ensuring legal certainty, the PPAT deed can also avoid disputes.³ So in carrying out his position PPAT is required to always be honest, fair, transparent, and behave according to the rules in order to guarantee the fulfillment of the goals and obligations of all parties directly related to the deed.

The PPAT deed is made by filling out the complete deed according to the filling instructions based on complete data.⁴ Pembuatan akta ini disaksikan oleh para pihak dan 2 (dua) orang saksi, yang kemudian dibacakan dan dijelaskan isi akta kepada semua yang hadir. Setelah sesuai dengan keinginan para pihak maka akta tersebut ditandatangani oleh para pihak, para saksi dan PPAT.⁵

The deed making of PPAT in its implementation is often done not according to the specified method. One form of things that is often done is signing on a blank blank. Signing on a blank blank will not be a problem if the parties don't question it. But if there is one of the parties who denies the signing or disputes, it will cause problems and demands in court to cancel the deed that has been made. Then how is PPAT's responsibility for the deed declared null and void by law?

One example of a case that has befallen PPAT is the making of a Purchase Deed on a plot of land along with a building on it covering an area of 120 m2 owned by Mr. Rachmadi Prayogo made by PPAT Richardus Nangkih Sinulingga. The deed was made on the basis of blank blanks that had been signed by Tjai Sofiandi and Rachmadi Prayogo. Rachmadi Prayogo wants to sign this because according to Tjai Sofiandi it is only a condition to be able to lend Rachmadi Prayogo some money followed by the handover of Rachmadi Prayogo's land certificate as a guarantee of debt repayment. But without Rachmadi Prayogo's knowledge, by Tjai Sofiandi the blank blank was made into a Deed of Sale and Purchase.

In this case PPAT Richardus Nangkih Sinulingga, played a role in making / issuing and ratifying the Sale and Purchase Deed that had been signed by both parties previously. Based on this, Rachmadi Prayogo filed a civil lawsuit against the parties involved, including PPAT Richardus Nangkih Sinulingga as PPAT who was deemed responsible for having made / issued a Land Purchase Deed without his knowledge, thereby causing harm to Rachmadi Prayogo as the owner of the land certificate.

Result and Discussion

1. Legal Arrangements the Responsibilities of the Official for Drafting of Land Deeds in Making the Deed of Transfer of Rights

PPAT, to carry out their duties is given the authority to take legal action in the form of making a deed relating to legal actions regarding land rights or ownership rights on flats based on statutory regulations. The authority or authority exercised by the Land Deed Making Official in making the deed is declared valid if it is based on statutory regulations.⁶ This is as regulated in Article 3 of Government Regulation No. 37/1998 concerning the Regulation of the Official Position of Land Deed Maker, which reads:

² Urup Santoso, *Pejabat Pembuat Akta Tanah: Perspektif Regulasi, Wewenang dan Sifat Akta*, Prenadamedia Group, Jakarta, 2016, p. 98 (2nd ed.).

³ Andi Perangin, *Praktek Jual Beli Tanah*, 2nd printing, CV. Rajawali, Jakarta, 1990, p. 27.

⁴ Samsaimun, *Peraturan Jabatan PPAT: Pengantar Peraturan Jabatan Pejabat Pembuat Akta Tanah (PPAT) dalam Peralihan Hak Atas Tanah*, Penerbit PRC, Bandung, 2018, p. 207.

⁵ Kian Goenawan, *Panduan Mengurus Izin Tanah dan Properti*, Pustaka Ghratama, Yogyakarta, 2008, p. 91.

⁶ *Ibid.*, p. 112.

“(1) To carry out the main tasks referred to in Article 2 a PPAT has the authority to make an authentic deed regarding all legal actions referred to in Article 2 paragraph (2) concerning land rights and ownership rights of Flats in the working area.
 (2) Special PPAT is only authorized to make deeds regarding acts the law specifically mentioned in his appointment. “

Aspects of legal actions whose clarity is the responsibility of the PPAT, based on the Circular Letter of the Minister of Agrarian Affairs³ Head of the National Land Agency Number 640-1198 of 1999 Regarding Submission of Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 4 of 1999 concerning Regulation of Implementing PP 37 of 1998 regarding PPAT Position Regulations, namely:

- a. “Concerning the truth of the events contained in the deed, for example regarding the type of legal action referred to by the parties, regarding the payment has been made in the sale and purchase, and so forth;
- b. Concerning the object of legal actions, both physical data and juridical data;
- c. Regarding the identity of the parties that are parties who carry out legal actions.

In the event that the PPAT does not personally know about such matters, he can seek witnesses from witnesses who are required in making the deed. (Article 18 paragraph 3) “.

The responsibility of the PPAT in carrying out its position in making the deed is related to the obligations that must be carried out and must be in accordance with the terms, procedures, and regulations in force. The form of accountability of PPAT can be in the form of civil, administrative, criminal liability as well as the Professional Code of Ethics.

1.1 Civil Liability

Civil liability occurs because there is a violation of rights and usually requires an element of error or intent on the party¹⁶ who committed the violation and harming others. An essential element of civil error is that the plaintiff has suffered loss as a result of the defendant's actions.⁷

Acts against the law when viewed from the Civil Code regulation, the civil liability model is as follows:⁸

- a. Liability with an element of error (intentional negligence), as contained in Article 1365 of the Civil Code. The PPAT is said to be responsible based on Article 1365 of the Civil Code in the event that the PPAT commits an unlawful act due to an error (mainly due to deliberate actions) which results in losses incurred by the parties.
- b. Liability with an element of error, especially the element of negligence, as contained in Article 1366 of the Civil Code. The PPAT is said to be responsible under Article 1366 of the Civil Code in the event that the PPAT commits an illegal act due to an error due to negligence. This error arises because of PPAT's lack of prudence in carrying out its duties.
- c. Absolute responsibility (without error) in a very limited sense is found in Article 1367 of the Civil Code. The PPAT is said to be liable under Article 1367 of the Civil Code if losses arising from mistakes made by employees are carried out within the scope of their duties.

⁷ *Ibid.*, p. 200.

⁸ Munir Fuady, *Perbuatan Melawan Hukum*, 3rd printing, Publisher PT. Citra Aditya Bakti, 2010, p. 3.

The liability imposed on the PPAT for committing an act against the law is in the form of payment of compensation to the injured party. The compensation is given if the PPAT court is proven to have committed an unlawful act. PPAT's civil liability for the deed making which is not in accordance with the provisions so that the deed becomes invalid and causes losses is also regulated in Government Regulation No. 24 of 1997 concerning Land Registration Article 62.

1.2 Administrative Liability

Land Deed Making Officials in carrying out their duties to make a deed can also be held administratively liable if they do not follow the existing rules related to the making of the deed as regulated in Article 38, Article 39 and Article 40 Government Regulation Number 24 of 1997 Concerning Land Registration and causing the deed to become problematic and null and void.

Administrative responsibility is regulated in Article 62 of Government Regulation Number 24 of 1997 concerning Land Registration. In addition, it is also regulated in the Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 Concerning the Position of the Official of the Land Deed Maker.

Dismissal with respect imposed on PPAT when committing a minor violation as regulated in Article 28 paragraph (1) letter c of the Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for Implementing Government Regulation Number 37 of 1998 Concerning the Position of the Acting Officer for Land Deed.

Dismissal of PPAT with disrespect for committing gross violations committed by PPAT is regulated in Article 28 paragraph (2) letter a of the Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for Implementing Government Regulation Number 37 of 1998 Concerning the Position of the Acting Officer for Land Deed.

1.3 Criminal Liability

If there is a PPAT deed at issue by the parties or other parties, then often PPAT is considered as a party participating in committing or assisting in committing a criminal act that is making or giving false information in the deed. So that PPAT is often charged with falsifying a letter as regulated in the Criminal Code, namely:

- a. Article 263 of the Criminal Code, making a false letter or falsifying a letter that can give rise to right or make someone else use the letter as if the contents are true and not falsified, is subject to a maximum imprisonment of six years.
- b. Article 264 Paragraph (1) number 1, forgery of a letter shall be punishable by a maximum imprisonment of eight years, if it is carried out on authentic deeds.
- c. Article 266 Paragraph (1) of the Indonesian Criminal Code, which is ordering the insertion of false information in an authentic deed regarding a matter whose truth must be declared by the deed and with the intention to use or order others to use the deeds as if the statement is in accordance with the truth is threatened with criminal a maximum of seven years in prison.
- d. Article 56 Jo. Article 263 of the Criminal Code, Article 264 of the Criminal Code or Article 266 of the Criminal Code, which is to help make fake / or falsified letters and use fake / falsified letters.

1.4 Accountability in the Code of Professional Ethics

The ethical responsibility of PPAT can be seen from the presence or absence of violations of the code of ethics. If the PPAT violates the code of ethics of its profession, it can damage the image, dignity and dignity of PPAT as an official of the official deed. In Article 6 of the PPAT Code of Ethics in the Appendix to the Decree of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number: 112 / KEP-4.1 / IV / 2017, Date: 27 April 2017 states that:

(1) Sanctions imposed on IPPAT association members who violate the Code of Ethics can be:

- a. Reprimand;
- b. Warning;
- c. Schorsing (temporary dismissal) of IPPAT association membership;
- d. Onzetting (dismissal) from the membership of the IPPAT association; and
- e. Dishonorable discharge from IPPAT association membership.

The PPAT responsibility for the deed he made in the example of the case the author adopted, namely the Decision of the Supreme Court Number 959 K/Pdt/2010, PPAT as Defendant III has been found guilty of committing an unlawful act and sentenced to pay the court fee at all levels of justice. If seen from the cases above.

If the analysis is based on the concept of responsibility based on the existence of an element of error (based on fault liability theory) by Amad Sudiro, who said that responsibility is based on acts that violate the law and bring harm to others who oblige the person who incurred a loss to pay compensation,⁹ in addition to paying the fees for these PPAT cases, the following sanctions can also be imposed:

1. Civil Sanctions. Civil sanctions that can be imposed are compensation payments. This compensation payment can be given to the PPAT because the PPAT has committed an illegal act based on Article 1365 of the Civil Code. Where the making of a deed by PPAT is done by filling out the certificate deed in accordance with the instructions that have been there attended by the parties witnessed by 2 (two) witnesses then read / explained its contents to the parties before signing the deed.
2. Criminal sanctions. PPAT Richardus Nangkih Sinulingga, SH may be subject to sanctions from Article 56 jo. article 264 paragraph (1) of the Criminal Code. Because article 264 paragraph (1) of the Criminal Code is a falsification of a letter that is exacerbated because the object of forgery in this case is in the form of an authentic deed, threatened with imprisonment for a maximum of eight years.
3. Administrative sanctions. By making a deed based on a blank blank and not in accordance with the provisions of the legislation, PPAT can be sanctioned with dismissal.
4. Ethical sanctions. Land Deed Making Officials can be dishonorably discharged from IPPAT membership because the Land Deed Making Official has committed a gross violation of the prohibition or obligation as PPAT.

2. Judge's Grounds for Canceling the Deed Signed on a Blank Blank According to the Supreme Court's Decision No. 959 K / Pdt / 2010

The Panel of Judges in their appeals stated in their consideration that the reasons for the appeal of the cassation applicants I and II / defendants II and IV could not be justified because Judex Facti was not

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⁹ Salim HS & Erlies Septiana Nurbani, *Buku Kedua Penerapan Teori Hukum Pada Penelitian Disertasi dan Tesis*, PT RajaGrafindo Persada, Jakarta, 2014, p. 215.

wrong in applying the law. The legal considerations of the Central Jakarta District Court Judges used as the basis for deciding this case are as follows:

That based on evidence of letters and statements of witnesses submitted by the Plaintiff after being connected with the plaintiff's claim, the Judge's panel has found legal facts and after being connected with the understanding of acts against the law, it has been found that the Plaintiff only borrows money to Defendant I with Certificate Guarantee and not sell the land and building owned by the Plaintiff (HGB certificate No.2011 / Kelapa Gading).

That because the Defendant I and the Defendant I never took part in the sale of land and houses, Defendant III has granted the request of Defendant I for making and issuing the sale and purchase deed no. I036 / Koja / 1992 without confirmation / present the Plaintiff in the making / issuance of the sale and purchase certificate or requesting supporting evidence for the issuance of the sale and purchase agreement but this was not done by Defendant III, therefore the actions and actions of Defendant III are included as unlawful acts.

That because the process of making / issuing the sale and purchase deed NO.I036 / Koja / 1992 dated 30 October 1992 issued by Defendant III at the request of Defendant I was carried out by carrying out acts against the law as considered above, the sale and purchase deed no. 1036 / Koja / 1992 dated 30 October 1992 made in Defendant III of Notary R²² HARDUS NANGKIH SINUUNGGGA, SH is containing legal defects and therefore must be declared **invalid and null** and void **by law**.

In the concept of process-based theories by Randy E. Barnett, the validity of the contract is seen in the procedures or processes in the preparation of the contract and the substance of the contract made by the parties, and assesses whether the rights and obligations made by the parties are in accordance with existing procedures. Then the factors behind the cancellation of the PPAT deed can be seen from the non-fulfillment of the conditions stipulated by the law for the type of formal agreement which results in the null and void agreement and the non-fulfillment of the legal agreement regarding the agreement of the parties and halal reasons.

2.1 Non-Fulfillment of the Conditions Set by Law for This Type of Formal Agreement, Which Resulted in the Agreement Null and Void

The violation committed by PPAT when viewed from the case described above, namely the making of the Sale and Purchase Deed No. I036 / Koja / 1999 on 30 October 1992 made by Defendant III as PPAT has violated the procedure of making the deed specified in the legislation. . Where PPAT did not prepare and make its own act but made the deed based on the blank blank deed which was signed by the Plaintiff and Defendant I at the request of Defendant I without the Plaintiff's knowledge.

The PPAT also violated the provision that the making of the deed was not attended by both parties, was not made before the PPAT, was not attended by 2 (two) witnesses, and the PPAT read the deed a²³ explained the contents and intent of making the deed to the parties. As regulated in Article 101 of the Regulation of the ¹⁰ Minister of Agrarian Affairs / Head of BPN No. 3 of 1997 concerning Provisions for the Implementation of PP No. 24 of 1997 concerning Land Registration, Article 53 paragraph (3) Regulation of the Head of BPN No.1 of 2006 concerning the Provisions for the Implementation of PP No.37 of 1998 concerning the Position of the Official for Land Drafting Authorities, and Article 22 of the Government Regulation No. 37 of 1998 concerning Position Regulations Land Titles Registrar.

2.2 Non-fulfillment of Legal Terms of Agreement

Conditions for ²⁷ the validity of the agreement as stipulated in the provisions of Article 1320 of the Civil Code are:

- ⁸ a. Their agreement which binds them;
- b. The ability to make an engagement;
- c. A certain subject matter;
- d. A reason that is not forbidden.

The conditions that are not fulfilled in accordance with the case outlined above are regarding the agreement of the parties and a non-prohibited or halal cause.

a. Agreement of the Parties

Defendant I in this case violated the provisions regarding the agreement of the parties. Where should be between the Plaintiff and Defendant I is a debt agreement agreement not a sale and purchase agreement. The Plaintiff signed the blank blank deed only as a condition for Defendant I to lend money, not as an agreement or agreement of the Plaintiff if he wants to sell his land.

b. For the Lawful

Defendants I and Defendant III, based on the case described above, have committed violations determined by law. This is because Defendant I had a bad intention because he ordered the Plaintiff to sign the blank deed certificate given by Defendant I. The Defendant said that the signing on the blank blank was only as a condition for loaning money. Subsequently, Defendant I made the form of a blank certificate of sale and purchase without the plaintiff's knowledge.

Defendant III as PPAT has made or issued the deed without confirming / presenting the Plaintiff in making / issuing the deed or requesting supporting evidence for the issuance of the deed. The deed was signed not before PPAT and at the time of signing, the deed was still in the form of a blank blank.

The PPAT also violated the provision requiring the PPAT to read the deed in the presence of the registrants, which was attended by at least 2 (two) ¹⁸ witnesses and was signed at that time by the parties, witnesses and PPAT. So that the sale and purchase agreement between the Plaintiff and Defendant I was null and void by law or from the beginning it was deemed never to have occurred.

Conclusion

1. Legal arrangements for the responsibilities of the Land Deed Makers Official in making ⁷ the deed of transfer of rights are as follows:
 - a. Civil liability. ⁴ Regulated in Article 62 of Government Regulation Number 24 of 1997 concerning Land Registration. It is also regulated in the Civil Code Article 1365, Article 1366, and Article 1367.

- b. Administrative responsibility. Regulated in Article 62 of Government Regulation Number 24 of 1997 Concerning Land Registration and Article 28 of Regulation of the Head of National Land Agency Number 1 of 2006 concerning Provisions for Implementing Government Regulation Number 37 of 1998 Concerning Position of Official Position of Land Deed Maker.
 - c. Criminal liability. Regulated in Article 263, Article 264, Article 266 of the Criminal Code and Article 56 Jo. Article 263, Article 264 or Article 266 of the Criminal Code.
 - d. Responsibility according to the Code of Ethics. Regulated in Article 6 of the PPAT Code of Ethics in the Appendix to the Decree of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number: 112 / KEP-4.1 / IV / 2017, Date: 27 April 2017.
2. Judge's consideration of the deed signed on a blank blank according to Decision of the Supreme Court No. 959 K / Pdt / 2010 is a deed of legal defect that is declared invalid and null and void by law. The cancellation of this deed was due to an element of illegal acts committed by the PPAT. Based on the analysis that has been described, the deed does not meet the requirements factors stipulated by the law for the type of formal agreement and does not fulfill the legal requirements of the agreement regarding the agreement and legal reasons.

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