

The Effectiveness of Expansion of The Working Area of Land Deed Officials Related To Electronic Land Services

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ABSTRACT

Fulfillment of legality in legal relations and legal actions in the private sphere, the authority is given to public officials who are called PPAT. In terms of carrying out the duties of the PPAT, the aim is to provide a deed as evidence of a special legal action relating to land and buildings. To maximize this goal, the Government Regulation concerning PPAT Position Regulations was enacted in which there was an expansion of the working area into a provincial area and the convenience of electronic land information services. The existence of such expansion cannot be applied by PPAT. The formulation of the problem in this study is the effectiveness of the expansion of the PPAT's work area related to electronic land information services and the criteria for expanding the PPAT's work area that reflect legal certainty. The research method in this paper is normative juridical research. The research results obtained from this writing are that the expansion of the PPAT work area based on electronic land information services cannot run effectively because there is no coordination between Land Offices in other regions, differences in values in the application of BPHTB and no regulation regarding technical legal actions related to land in other work areas against PPAT and other parties.

Key words : expansion, PPAT, work area

1. INTRODUCTION

The life of the nation and state cannot be separated from the existence of a person's right to carry out a legal action. Particularly in the private sphere, legal acts committed by the public tend to increase day by day when compared to acts in the realm of public law.

Fulfillment of land rights in various regions is increasing due to economic development and progress of culture in society. In essence, land is a basic need for the community as mandated in the 1945 Constitution which management, designation and protection guarantees are left to the State (Woruntu et al., 2016).

Conditions regarding the increasing needs of the community for transitions and other actions related to land, on the other hand, must be accompanied by the provision of guaranteed protection and legal certainty, bearing in mind that after the enactment of Law Number 5 of 1960 concerning Basic Agrarian Regulations (hereinafter referred to as UUPA) and there is also an obligation regarding land registration as referred to in Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter referred to as PP Land Registration).



Provision of aspects of legal protection and certainty related to public legal actions in the private sphere is known for the existence of a public official who has the authority to provide legalization of legal relations and legal actions relating to the private sphere. Particularly with regard to legal actions and relations related to land rights, this authority lies with the Land Deed Official (Lubis & Ramadhani, 2021), (hereinafter referred to as PPAT).

The role and function of the PPAT in national development, especially to ensure legal certainty and protection for the parties, is very vital because the authority given to the PPAT is quite broad. Land which is one of the objects of legal action is given full authority to the PPAT in terms of transfer, encumbrance to land registration. It can also be said that the fulfillment of other people's subjective rights must also depend on the authority and competence of the PPAT (Mayi et al., 2021).

Substantially, based on the provisions of Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations for the Position of Officials for Making Land Deeds (hereinafter referred to as PP PPAT) the PPAT's authority is to carry out part of land registration matters by making a deed as proof of a legal action. regarding a land right as the basis for land registration (Sumartoputra & Endipradja, 2020).

The authority granted by the PPAT by laws and regulations is limited to the area of work as stated in Article 4 paragraph (1) PP PPAT. The work area referred to is the work area in accordance with the stipulation in the provisions of laws and regulations. Pursuant to the provisions of Article 6 paragraph (1) of the Regulation of the Head of the National Land Agency Number 23 of 2009 concerning Amendments to 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 Position Regulations for Officials Making Land Deeds (hereinafter referred to as the Minister of BPN Regulations for Implementing the Position of the PPAT) are required to choose their work area if there is division in an area and the choice of work area for the PPAT is only in 1 (one) district or municipality (Arrohim et al., 2020).

This provision is an old rule where the PPAT's working area only covers the district/city area where the PPAT's office is located. This means that all legal actions and providing evidence of legality of legal relations are only valid and can be carried out in the territorial area of the PPAT's work area as referred to in Article 6 paragraph (1) above. But in 2016 along with the changes to PP PPAT, there was an expansion of the PPAT work area to become one province based on the provisions of Article 12 paragraph (1) PP PPAT.

Such expansion of the PPAT's working area does not substantially add to the main authority of the PPAT but rather expands the PPAT's daily technical work. As is well known,

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PPAT cooperates with the Land Office where the working area is to be able to take care of anything related to land registration. Likewise, the Land Office also records and/or registers the names of PPATs in its territory (Anggraini et al., 2022).

The expansion of the PPAT's work area also poses its own challenges because currently the development of digitization through rapid information technology makes it easier for PPATs to work. One of these convenience policies is the enactment of Minister of Agrarian Affairs and Spatial Planning Regulation Number 5 of 2017 concerning Land Information Services (hereinafter referred to as Permen ATR/BPN concerning Land Information Services) wherein in terms of checking certificates, making a certificate of land registration to other information related to data land, PPAT can access easily (Wajdi & Ramadhani, 2022).

But in practice, the PPAT in carrying out its duties and authorities is still subject to the provisions of PP PPAT of 1998 and still refers to the provisions of Article 6 paragraph (1) of the BPN Regulation Regulations for the Implementation of PPAT Positions so that implementation to facilitate and effectively carry out land registration, especially the presence of land information services, is not can be implemented.

Whereas the potential obstacle to implementing the expansion of the PPAT's work area is related to checking certificates where the Land Office previously registered the name of the PPAT and then the PPAT coordinates with the Land Office in other areas where services cannot be provided directly. Then the value of the Fee for Acquisition of Land and Building Rights at the place where the PPAT practices is different from other regions. Due to such potential constraints, there is no legal certainty regarding the 2016 PP PPAT whether it will be revised or revoked, which incidentally until now the 2016 PP PPAT is still valid. How effective is the expansion of the PPAT's work area related to land information services electronically? And What are the criteria for expanding the work area that reflects legal certainty for PPATs?

2. RESEARCH METHODS

Type of Research

. This type of research is normative legal research, namely research carried out by conducting a review of applicable laws and regulations applied to a particular legal issue and a case approach. The name of the research is legal research because in legal research this is done by examining library or secondary materials only. Then the object of this study is research at the level of harmonization of law, to examine the extent to which existing written positive laws are in sync or in harmony with one another.

Research Approach

The research approach serves to separate the analysis with the theoretical basis and principles used to answer the problems of researchers. This research approach uses a statutory research approach and a conceptual approach.

Types and Materials of Law Legal

Materials are a source of research rather than legal research. Authors can find sources of research from primary legal materials and secondary legal materials.

Techniques for Tracing Legal Materials

The technique for tracing legal materials in this writing is carried out by studying the literature on legal materials, both primary legal materials and secondary legal materials. The technique of tracing legal materials is carried out by reading, understanding, studying and listening to both legal materials in the form of electronic media and internet facilities.

Techniques for Analysis of Legal Materials

In legal research, the processing or analysis of legal materials is in the form of activities to systematically conduct predetermined legal materials. In the case of processing legal materials, it is carried out by selecting primary and secondary legal materials, then classifying according to the classification of legal materials and compiling the research data in a systematic and logical manner, which means that there is a relationship and connection between one legal material and another. other legal materials to get an overview of the research results (Fajar & Achmad, 2010).

3. RESULTS AND DISCUSSION

The Effectiveness of the Expansion of the PPAT's Work Area in Relation to Land Information Services

The effectiveness of law has a major role for the development of national law. Moreover, the legal system in Indonesia does not adopt provisions regarding the legal sources of court decisions. Therefore, the existing sources of law must be measured regarding whether the community can apply the law properly and whether the functioning of the law is in accordance with the purpose of the law itself.

Assessment of legal effectiveness requires 3 (three) fundamental aspects, namely the norms or substance of laws and regulations, implementing apparatus of legal provisions and community culture. These three aspects must run continuously, in tandem and influence each other so that it can be said that the law is effective. Conversely, if one or even all of the aspects do not work as they should. Then there will be conflicts and problems one after another (Parman & Adi, 2014).

The effectiveness of the law related to the implementation of agrarian reform must be carried out in a comprehensive manner when the aspirations for people's welfare in the field of



control, allotment and management of land rights are achieved for the greatest prosperity of the people. The achievement of agrarian reform cannot be fully handed over to the Land Office as the organizer of land affairs, but there is another role, namely the role of the PPAT as a supporter and provider of legal certainty and protection to the community (Mayfitrianty & Nasseri, 2021).

The phenomenon regarding the non-implementation of the expansion of the PPAT's work area which was previously designated as one regency/city area has changed to one province area based on the provisions of Article 12 paragraph (1) PP PPAT of 2016. In carrying out its duties and functions the PPAT is required to have a strong legal basis because of the authority PPAT is making evidence regarding the existence of legal actions in the corridor of land rights. In addition, the task carried out by the PPAT is to provide certainty and legal protection for both the deed he made and for the parties who appear. Therefore, in carrying out the duties and authorities of the PPAT, it is obligatory to pay attention to the terms, duties, obligations, prohibitions, the nature of the deed made, the PPAT's work area and the PPAT's code of ethics.

That after the 2016 PP PPAT came into effect, the Land Office provided expansion and convenience regarding land information services through the ATR/BPN Ministerial Regulation No. 5 of 2017 concerning Land Information Services. It is stated that this policy rule is made directly by the Ministry which functions and applies universally to all stakeholders including PPAT in it relating to checking certificates, making documents for land registration certificates to other information relating to land objects that will be registered. The application of this land information service should make it easier for PPAT affairs in providing certainty and legal protection, especially since the PP PPAT regulation has been promulgated and land information services have been running for more than 5 (five) years. Again, the effectiveness of law enforcement and application does not only depend on substantive norms, but officials who implement them must participate in national development.

In connection with the non-implementation of the expansion of the PPAT work area into one province, there are several obstacles that can be encountered if PP PPAT regarding the expansion of the PPAT work area is carried out. *First*, regarding coordination with the Land Office in the work area of the PPAT in one registered district/city it is not that easy to transfer and/or add further coordination with the Land Office in another area. *Second*, the difference in the value of Land and Building Rights Acquisition Fees between regions and *Third*, if there is a binding legal action of the PPAT outside the working area to apply the provisions of Article 12 paragraph (1) PP PPAT 2016, where the location of the appearer must sign the deed and how to store a copy and minuta deed considering that the PPAT office is in the office or position in the old work area.

Whereas even though the promulgation of electronic land information services in 2017 was not sufficient to accommodate the needs and juridical basis of PPATs in carrying out their duties



and functions to carry out land registration in new work areas as referred to in Article 12 paragraph (1) PP PPAT of 2016. Theoretically PP PPAT, which incidentally has been in force since 2016 and has not been fully operational, is recognized as still valid and has not been constitutionally revoked.

That Article 12 paragraph (1) cannot be implemented even though there is support for the existence of an electronic land information service, which creates legal uncertainty regarding the enactment of this Government Regulation. This is not in line with the legal principles explained by Hans Kelsen that law is a system of norms and norms are statements that emphasize the imperative aspect, by regulating statements about what should be done and what is prohibited. This rule should apply to society as a guideline for behavior (Sumartoputra & Endipradja, 2020).

Regulations that become a limitation for society in burdening or taking action against an individual. The existence of rules and the implementation of these rules creates legal certainty. The aspect of legal certainty can be seen from the existence of general rules and statements regarding requirements and prohibitions. With no progress regarding the 2016 PP PPAT mandate even though it is also supported by the existence of land information services, it can be said that the expansion of the PPAT's work area is not running effectively because the PPAT itself does not want to implement breakthroughs to be able to create more extensive land registration services.

Criteria for Expansion of Work Area Reflecting Legal Certainty for PPAT

PPAT as already mentioned is a public official who is given special authority to carry out and provide evidence in the case of legal actions in the private sphere. Therefore the PPAT must have a strong legal basis so that its authority is not easy to be dimmed by anyone. Strengthening the legal basis and norms starting from the arrangements for PPAT appointments, authorities, work areas, requirements, obligations, prohibitions and codes of ethics that are formed from noble professions in the midst of this society (Saputri et al., 2020).

Whereas in terms of strengthening the function of the PPAT there must be many breakthroughs that reflect the acceleration regarding the ease of land registration to the prevention of agrarian conflicts. This must be provided by the Land Office and also the role of the PPAT to support any policies from the Land Office. Even though they have different auspices, the Land Office and PPAT are interrelated and cannot be separated from one another.

The entry into force of the latest PP PPAT in 2016 brings new hope where there is a change regarding the PPAT work area which was previously only in the regency/city area to be expanded into one province area. This change was also confirmed through the existence of a policy regarding electronic land information services which was ratified as a norm a year later through the ATR/BPN Ministerial Regulation.



The impact arising from the enactment of the PP PPAT in 2016, especially related to the aspect of the working area, turns out that it cannot run as it should because in fact the PPAT is still carrying out its duties in the district/city area. It turned out that the PP PPAT did not work in the new work area because there were potential difficulties in coordinating with the Land Office in other areas, there were differences regarding the BPHTB value in each region and the technical binding of a legal action against appearers when obtaining clients outside the PPAT work area (Flammer & Kacperczyk, 2016).

By norm, the PP PPAT is still valid and has not been revoked. It would be better if there were several solutions regarding the problem regarding the inability to apply new work areas as in PP PPAT 2016 because the PP carries the spirit of renewing land law which will then be integrated through electronic land information services. The author summarizes several criteria to be able to maximize arrangements regarding new work areas for PPATs including coordination between the Land Office through the PPAT organization namely the Association of Land Deed Making Officials (hereinafter referred to as IPPAT), the establishment of special regulations regarding technical duties outside the work area for electronic-based PPATs because in the 2017 ATR/BPN Regulation it has not yet accommodated technical PPATs outside the old working area.

4. CONCLUSION

The expansion of the PPAT work area related to electronic land information services cannot be applied at all even though it has been regulated in PP PPAT of 2016. There is potential for coordination between Land Offices, there are differences the value of BPHTB acquisitions in each region as well as the mechanism for binding a legal action against the appearers in the event of an expansion of the PPAT's work area, The criteria for expanding the PPAT's work based on electronic land information services that reflect legal certainty are increased coordination and socialization between the Land Offices by the Association of Making Officials Land Deed (IPPAT) and the formation of special regulations regarding the technical implementation of daily tasks related to the expansion of the PPAT's work area after the entry into force of the 2016 PP PPAT.

Suggestions

that can be given by the authors for this study are:

1. Formation of special regulations for the implementation of PP PPAT 2016 which provides for integration between the Association of Land Deed Making Officers and the Land Office in each province. This becomes important in managing and maximizing the role and function of the PPAT with new work areas.



2. Further arrangements regarding the expansion of the work area must also be disseminated to other institutions besides the Land Office, namely the Regional Revenue Service where PPAT often coordinates BPHTB matters.

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