



Implementation of Development and Supervision Against the Head of the Sub-District (Camat) as Temporary Land Deed Maker Official (PPATS) in Implementing Its Authority (Study in North Lampung Regency)

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Abstract

The problems regarding the weaknesses of the PPATS deed faced by the Head of the Sub-District as the Temporary Land Deed Maker Official (PPATS) are very varied. There are several legal products made by PPATS that either have deficiencies or are flawed. This study uses a sociological and empirical juridical approach. Sources of data in this study are through library research and field research; and the data used are primary data and secondary data. The samples in this study were 5 PPATS in North Lampung Regency, 1 (one) employee or head of the National Land Agency of North Lampung Regency, and 3 residents in North Lampung Regency. The results of this study indicate the weaknesses of the deed made by PPATS in North Lampung. There are still deeds made by PPATS in Lampung Utara district that do not attach supporting data for the deed; such as the identity of the husband or wife on the deed, the requirements for supporting a certificate of heirs in terms of transfer of rights, and the lack of signatures from the parties included in the legal act. The factors that led to the weakness of the deed stem from (1) lack of guidance and supervision of PPATS in North Lampung; (2) PPATS educational background which is not from a Law degree, so that legal awareness to exercise authority in accordance with the rules is very low; (3) lack of legal awareness of PPATS and its people to obey the law; (4) lack of PPATS knowledge in updating the latest information on PPATS authority; and (5) the many tasks of the Head of Sub-District in the field of Government, which cause matters regarding the Transfer of Rights to Land are neglected and often delegated to District Staff, so that the Head of Sub-District as the Temporary PPAT does not directly check the perfection of his authentic deed even though the legality of the Deed made must be an authentic Deed.

Keywords: *PPATS; Authentic Deed*

Introduction

Natural resources, especially land resources of every nation are increasingly important. To get the maximum benefit for prosperity, the Indonesian people must be able to utilize and use land resources wisely. The 1945 Constitution of the Republic of Indonesia clearly stipulates that Indonesia is a constitutional state. One of the objectives of national land law is to lay the groundwork for providing

legal certainty regarding land rights. This legal certainty is realized by implementing a land registration system.

Land registration data maintenance activities use a deed made by the official land deed maker (PPAT) as the basis for registering a change in data that will occur, to prove that it is true that a legal act or legal event has occurred that causes the change to occur. In this case, the deed must be an authentic deed in order to have perfect evidentiary power. What is stated in the deed must be trusted by the judge, that is, it must be considered as something true.

According to Thamrin (2011), authentic deeds are deeds made by officials who are authorized to do so by the authorities according to stipulated provisions, either with or without assistance from interested parties. This official record what the parties want to include in the deed. Meanwhile, according to Subekti (1991) an authentic deed is binding evidence, in the sense that what is written in the deed must be trusted by the judge, that is, it must be considered true, as long as its untruth cannot be proven.

With regard to land registration, the head of the land office is assisted by the Official for Making Land Deeds (PPAT), in Regulation of the Minister of Agrarian Affairs Number 10 of 1961 concerning Land Registration and its rights and obligations. Government officials who are referred to as Temporary Land Deed Making Officials, according to article 5 point 3 of the Government Regulation concerning the registration of land for the sub-district or village head to serve the making of land deeds in remote areas or where there are not enough Land Deed Making Officials (PPAT).

According to Government Regulation Number 37 of 1998 concerning Land Registration, Temporary Land Deed Making Officials (PPATS) are government officials appointed because of their position to carry out PPAT duties by making PPAT deeds in areas where PPAT is not sufficient. The purpose of appointing a Temporary Land Deed Making Official is to serve the community in making deeds. Land deed-making officials in areas where there are not enough Land Deed Making Officials (PPAT) or to serve certain groups of people in making Certain Land deeds.

The problems faced by the sub-district head as PPATS vary widely in each district; to overcome this, it depends on the background of the problem, the criteria of the community, the location of land rights, and the proximity of the Camat to the community. Some of the legal products made by the Temporary Land Deed Authorities (PPATS) have many deficiencies or the legal products are flawed.

Several realities in the field regarding the implementation of PPAT duties still have several problems. One of the problems that arose was in the process of transferring land rights in North Lampung. In the sale and purchase of land or transfer of rights to land by an heir, do not include a certificate of inheritance, even though we all know that one of the documents or requirements for buying and selling inherited land or transferring rights to inherited land is to use a certificate of inheritance.

This problem shows that there is a mismatch between implementation and coaching when compared with the field practice carried out by PPATS in exercising its authority. One of the reasons the researcher took the title of this study departed from the problems described above.

Lampung Province, where there are still remote villages whose areas are very large, but lack of Land Deed Officials (PPAT). The distance between one village and another, or between one sub-district and another is very far and difficult to pass. In fact, transportation is still very rare in these remote areas. With the Head of Sub-District as the Temporary Land Deed Maker (PPATS) in the area, this should facilitate and reduce the large costs that should be incurred by the community when transferring rights or registering their land.

In connection with the problems of legal products made by the Head of Sub-District as the Temporary PPAT, there is a need for guidance and supervision of the Head of Sub-District as PPATS in the process of exercising their authority. This is important to do, considering that the legal product issued by PPATS is an authentic deed or deed that can be binding evidence.

The need for guidance and supervision of products issued by the Head of District, in order to protect parties who are involved in the legal product and reduce the occurrence of legal problems in the future. This is in line with what is stated in article 18 number 2 to number 4 of the Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for Implementing Government Regulations concerning Land Deed Making Officials.

From the things that have been described in the background, the authors are interested in researching and discussing the implementation of coaching and supervision of the Head of Sub-District as the Temporary Land Deed Making Official (PPATS) in exercising his authority in North Lampung Regency.

Research Method

This research is an empirical juridical research, which is an unwritten positive law study regarding the behavior of community members in social life relationships (Muhammad, 2004). The analysis technique in this research is descriptive qualitative which describes or depicts the object of research based on the facts that are visible or as they are (Effendi & Ibrahim, 2018).

The appropriate approach taken at this time of writing is the sociological empirical approach. The results of this study can be used as a formulation of legislation (Saputro, 2008). This method analyzes the results of research in the form of descriptive analysis data. The type of data in this study was obtained through semi-structured interviews with the National Land Agency and Temporary Land Deed Making Officials (PPATS) in Surakarta Village, Abung Timur District, North Lampung Regency. Secondary data are also obtained from books, scientific papers and literatures as well as statutory regulations. The population of this research is the Temporary Land Deed Making Officials in North Lampung Regency. The sampling method in this study was purposive random sampling. This research originated from 4 Temporary Land Deed Making Officials in North Lampung Regency, 1 (one) employee or head of the National Land Agency of North Lampung Regency and 3 residents in North Lampung Regency.

Research Results and Discussion

Implementation of guidance and supervision of the sub-district head as the Temporary Land Deed Maker (PPATS) in North Lampung

Guidance is the effort, action and activity carried out by the Minister towards PPAT. This is done effectively and efficiently to achieve better PPAT quality. The aim of coaching PPAT is to create a professional PPAT with integrity and carry out PPAT positions in accordance with the governing rules.

Based on the results of field research and interviews with 5 PPATS in North Lampung, coaching and socialization activities regarding the duties and functions of the PPATS were carried out the day after the PPATS oath of office was taken. Mrs. Renggalita, Head of the Sub-Section of Data Maintenance and Development of PPAT in North Lampung Regency, especially at BPN North Lampung, said that the coaching process has been running according to the applicable rules and regulations, in this case in accordance with the Regulation of the Minister of Agrarian Affairs Number 2 of 2018 concerning

guidance PPAT supervision. However, Mrs. Renggalita further said that the results of the coaching were returned to her human resources, the process of receiving the material presented, and returning to the knowledge and technological development capabilities possessed by PPATS.

According to the Regulation of the Minister of Agrarian Affairs Number 2 of 2018 concerning the guidance and supervision of PPAT, it does not regulate the long duration of coaching time. However, in this study, PPATS coaching and supervision was only carried out within 1 day so that it did not show the effectiveness of the Minister of Agrarian Regulation Number 2 of 2018 concerning guidance and supervision. This also does not show the suitability of the theory of legal effectiveness with the implementation of regulations on guidance and supervision. Mrs. Renggalita added that the coaching process was appropriate, but again the human resources were different in terms of understanding the material presented by the BPN. This is what causes the ineffectiveness of the coaching and implementation that has been carried out, resulting in weaknesses in the deeds made by PPATS.

The lack of effective guidance and supervision of PPATS causes weaknesses in the legal products produced, especially the deeds made by PPATS in North Lampung. The author of this study interviewed 4 sub-district heads in North Lampung regency who were appointed as PPATS, namely the Head of Abung Surakarta, the Head of Bumi Kota, the Head of Abung Selatan, and the Head of Abung Tengah. The four PPATS confirmed that there was oversight of the process of implementing the authority and duties of the Sub-District Head as PPATS by the North Lampung National Land Agency. However, the supervision is limited to reporting the number of PPATS deeds and the number of deeds that have been issued, and this is not done regularly every year. This gave an opening for the ineffective supervision of the North Lampung BPN on PPATS in North Lampung.

The Reality of the Weaknesses of Deeds Made by PPATS in North Lampung Regency

The birth of a Temporary Land Deed (PPATS) cannot be separated from land registration activities in Indonesia, which is formulated in Article 19 Paragraph 1 of the UUPA which states that to ensure legal certainty by the government, land registration is held throughout the territory of the Republic of Indonesia according to the provisions stipulated in Government regulations.

The Official for Making Land Deeds, which is then abbreviated as PPAT as Citizens as well as Officials who are authorized to make authentic deeds regarding all legal actions related to the transfer of Land Rights, are subject to the applicable laws and regulations.

The deed acts as a strong means of proof, meaning that the deed is a proof of right which acts as a strong means of proof regarding the physical data and juridical data contained therein, as long as the physical data and juridical data are in accordance with the data contained in the land measurement certificate and land book available. Thus, if it cannot be proven otherwise, then the physical data and juridical data contained in the measuring letter and land book must be accepted as true and certain data. In other words, what can be proven from a certificate is:

- a. Land Physical Data. Represents data regarding the physical land concerned, concerning: land location, land boundaries, and land area;
- b. Land Juridical Data. It is the juridical data of the land concerned, regarding: what rights, who owns it, and whether or not there are other rights that impose it.

N.G Yudara said that the General Official is an independent State organ and has the authority to make authentic deeds regarding all acts of treaties and decisions in the civil sector required by a general regulation or by interested parties to be stated in an authentic deed.

According to Article 1 Number 1 Regulation of the Minister of Agrarian Affairs Number 10 of 1961 concerning the appointment of officials referred to in Article 19 of Government Regulation Number 10 of 1961 concerning Land Registration and its Rights and Obligations, regulates the appointment of an official in charge of making deeds, namely.¹

According to Article 1 Number 1 Regulation of the Minister of Agrarian Affairs Number 10 of 1961 concerning the appointment of officials referred to in Article 19 of Government Regulation Number 10 of 1961 concerning Land Registration and its Rights and Obligations, regulates the appointment of an official in charge of making deeds, namely:

“(1) for each sub-district or region equivalent to it (hereinafter referred to as Kecamatan), an official is appointed who is assigned to make the deed of agreement as referred to in Article 19 PP concerning land registration.

The task and authority of the PPAT is to assist the Head of the Land Office in carrying out some land registration activities by making deeds which will be used as the basis for registering changes to land data. The PPAT position is as a General Officer. PPATS cannot be separated from the PPATS Deed as a legal product which is an important evidence in proving a legal action which is the basis for the emergence of rights or agreements. The PPATS deed is an authentic deed. It is known that a valid proof is made by the official land deed maker, in other words, the authentic deed is required not to have weak evidence or a legal flaw which still lacks in it.

Authentic deeds are always considered to be true, unless proven otherwise in court. Regarding this 'proof', it is regulated in Article 1866 of the Civil Code. Based on Article 1866 of the Civil Code, valid evidence recognized by law consists of:

1. Written evidence;
2. witnesses;
3. prejudices;
4. recognition;
5. oath.

Written evidence is placed first because the type of letter or deed has a very important role in a civil case. Written proof is done by authentic writing. In activities related to the field of civil law, it is deliberately written in a letter or deed. This is done with the aim that the letter or deed can be used as strong and valid evidence in the event of a dispute between the parties in the future.

According to Irwan Soerojo, there are 3 essential elements in order to fulfill the formal requirements of an authentic deed, namely:

1. In a form determined by law
2. Made by and in front of General Officials
3. Deeds drawn up by or in front of the Public Officials authorized to do so and at the place where the deeds were made.²

According to C.A Kraan, authentic deeds have the following characteristics:

¹ N.G Yudha, **Kedudukan akta PPAT sebagai alat bukti tertulis yang otentik**, makalah: jakarta, 2010, hal 3

² Herlin soerojo, **kepastian hukum hak atas tanah di indonesia**, arloka: surabaya, hlm 148

1. A writing which is deliberately made solely to be used as evidence of the situation as stated in the writing is made and declared by the competent authority. The writing is also signed by or only signed by the official concerned;
2. Any writing until there is evidence to the contrary, is deemed to have originated from an authorized official;
3. Legislative provisions that must be fulfilled, these provisions regulate the procedures for their preparation which at least contain provisions regarding the date and place of the deed as well as the position of the official who made it;
4. An official who is appointed by the State and has the character and work that is independent and impartial in carrying out his office;
5. A statement of the facts or actions mentioned.
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Based on the author's research, North Lampung Regency has 23 districts and there are 8 PPATS; and only 5 PPATS are actively serving as PPATS, in this case not all Camat serve as PPAT. Because becoming PPAT goes through several fairly long processes, such as submitting proposals to the Regent, then submitting them to the local district BPN, then submitting them back to the provincial office which then goes through the approval process of the regional office head.

After the PPATS application is approved by the head of the regional office, the PPATS reports to the local Regency BPN, if no reporting is made within 3 months, then the appointment is null and void by law. PPATS carries out an oath of office in front of the head of the land office in the local Regency as stipulated in Article 15 of the PP regarding PPAT positions.

The first interview was conducted in Abung Surakarta Sub-district with PPATS Mr. Muhammad Nur who has served as PPATS for 4 years in the sub-district. According to his explanation, in Abung Subdistrict, Surakarta, the awareness of the indigenous people to register their land is still very low because the people are still very primitive, lack of education, and still use applicable customary laws regarding land registration or transfer of rights and some even only use the foundation of belief between party 1 with other parties because it can still be said to be relatives of their own families.

In this case, the head of the sub-district as PPATS in the Abung Surakarta sub-district also makes efforts to make the community enthusiastic about registering their rights. What PPATS has done is like visiting the villages to provide socialization about the importance of the right to avoid disputes and guarantee legal certainty.

The second research of the authors was in Kota Bumi Kota Subdistrict with PPATS Mr. Nujum Masya who has served as PPATS for 5 years in the district. According to his explanation, in the sub-district of the city of Bumi Kota, the enthusiasm of the community is very high because the community has advanced in terms of legal awareness, as well as high community concerns about the legal status of their rights. In addition, their interests are in matters of banking administration requirements which require them to register their rights with PPATS which produces a product called 'Akta'. Due to the very high enthusiasm of the Kota Bumi kota sub-district community regarding land registration, Mr. Nujum explained the number of deeds that were submitted in a period of 2 years totaling 120 deeds.

The third research of the authors was in Abung Selatan District with PPATS Mr. Rohim Pauzi who served as PPATS for 6 months in the district. According to his explanation, the awareness of the community is very high because the majority of the people in the sub-district work as the Air Force.

According to his explanation, the knowledge and education of the residents in this sub-district was already very high, thus encouraging the community to register land. In addition, in the Abung Selatan sub-district, most of the people are also dominated by transmigrants who have a high fear of land control by the indigenous people, so they are enthusiastic about registering their land. Due to the very high enthusiasm of the people of Abung Selatan sub-district regarding land registration, Mr. Rohim explained the number of deeds that were submitted in a period of 6 months, totaling 10 deeds.

Then, the author was in Abung Tengah District with PPATS Mr. Syarullah who had served as PPATS for 4 years in the district. According to his explanation, the enthusiasm of the community is very high because the people in the sub-district are aware that the value of the objects they have is very high and increases every year and the objects they have can be used as collateral for loans at the bank for the community. Mr. Syarullah explained the number of deeds that were included in a period of 2 years totaling 70 deeds. Based on the results of an interview with the head of the land relations section, Mr. Ahmad Fauzi, who has served for 1 year at BPN North Lampung, the reality of the weakness of the deed made by PPATS is in accordance with the author's field research data from 4 sub-districts in North Lampung, namely Abung Surakarta, Kota Bumi Kota District, Abung Selatan District, and Abung Tengah District; there are still deeds that are not attached supporting the deed such as the identity of the husband or wife on the deed which should be written or attached to the deed as stipulated in article 58 number (2) Letter b Regulation of the head of the National Land Agency Number 1 of 2006 concerning provisions the implementation of PP, which regulates the PPAT position regulations.

In the results of the field research and the results of the author's interviews with National Land Agency employees, the authors found weaknesses in the legal products or deeds made by PPATS in North Lampung. In this case, the authors find a weakness in the PPATS Deed where the supporting requirements for the heir certificate are not attached in terms of transfer of rights. Requirements for supporting a certificate of inheritance must be included by the authorized party to take legal actions. This must be fulfilled based on article 58 number (2) Letter a Regulation of the head of the National Land Agency Number 1 of 2006 concerning provisions for implementing PP on PPAT position regulations.

The next weakness is the lack of initials on the part of the applicant or the party authorized to commit legal acts. From the facts regarding this second weakness, because it is not in accordance with the provisions of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 2 of 2018 concerning Guidance and Supervision of Land Deed Making Officials.

The next weakness that the writer found during field research was the absence of the identity of the spouse (husband or wife) in the transfer of rights. From the weaknesses that have been found and described, if it is related to the theory of authority, PPATS in North Lampung has not implemented the theory of authority. If only PPATS in North Lampung had exercised its authority in accordance with the theory of authority, there should no longer be any weaknesses that occurred in the manufacture of legal products made by PPATS or deeds made by PPATS in North Lampung.

Analysis of the Factors for the occurrence of Deed Weaknesses made by PPATS in North Lampung Regency

When talking about rules and implementation in the field, of course, it cannot be separated from the effectiveness of the law, which means talking about the power of the law in regulating and / or forcing people to obey the law. The law can be effective if the factors that influence the law can function properly. The measure of whether or not the prevailing laws and regulations are effective can be seen from people's behavior. A law or legislation can be said to be effective if community members behave according to the goals expected and desired by the laws and regulations.

From this research, it can be seen the weaknesses of the deed made by PPATS in North Lampung. There are several factors that led to the weakness of the deed, which was not only due to the PPATS factor, but factors from other parties including the North Lampung National Land Agency (BPN) and the community who administered the deed to the PPATS.

As it is known, deeds are strong evidence, there should be no defects in the deed creation process, deed comparisons, until the deed is issued. In our opinion, the main thing that causes weaknesses that exist in legal products or deeds made by PPATS is the lack of time to coach PPATS before carrying out their positions, so that in the end, many weaknesses occur in PPATS legal product deeds.

In addition, there is another main factor that causes this weakness, namely the lack of supervision carried out by the BPN in North Lampung to PPATS in North Lampung. Researchers see that supervision in the process of conformity to the implementation of PPATS authority according to the applicable code of ethics or regulations, and supervision of legal products issued by PPATS in North Lampung is still lacking and minimal. The author found in the results of his interviews with several PPATS in North Lampung that the supervision was only carried out by telephone and only included monitoring of the number of deeds that were submitted within a period of one to two months. This creates a gap for PPATS to exercise its authority without paying attention to existing codes of ethics and regulations.

Furthermore, the factors that influence the occurrence of the lack of deeds made by PPATS in North Lampung are the PPATS educational background, which on average are not from the background of law degree education. This has resulted in the absence of application of deed comparisons or checks of deed requirements that are not legally flawed. Even though there had been previous coaching, researchers felt that it was not enough, because coaching was only carried out in 1 day.

Furthermore, the factors that caused the weakness of the PPATS deed were the local community in North Lampung Regency who lacked legal awareness. The author is of this opinion, because in the field research that has been carried out, there are still areas that are still very primitive and lack of socialization and knowledge about this matter.

The last factor that the researchers found in this study was the lack of knowledge about technology by PPATS, so that if there is a socialization or update about a new policy regarding deeds, the PPATS is too late to update the information. In addition, the many tasks of the Head of Sub-district in the field of Government also cause matters regarding the Transfer of Rights Process to be often neglected and ultimately delegated to District Staff. The Camat as the Temporary PPAT often cannot immediately check the completeness of the authentic deed.

The researcher considers that the weaknesses in the deed made by PPATS as described above, should be minimized and eliminated. So, researchers expect the follow-up by BPN, both regarding guidance that is more emphasized in the process of implementing deeds, as well as monitoring that is carried out periodically so that the legal certainty of rights holders is protected by the State. Furthermore, due to these weaknesses, it is feared that the deed will be inauthentic and ultimately cannot be recognized as legal proof of land ownership. And if it is questioned, it is possible that it will harm not only the right holders, even PPATS and the BPN will be carried away in this problem. This can happen because during the registration process and / or transfer of rights; rights holders, PPATS and BPN Parties are connected and bound to one another.

Conclusion

Based on the results and discussion presented, the following conclusions can be drawn:

1. The process of coaching and supervising PPATS in North Lampung is in accordance with the Regulation of the Minister of Agrarian Affairs Number 2 of 2018 concerning PPAT guidance and supervision, but obstacles arise because the ability of selected PPATS varies in understanding the material presented by BPN. This has resulted in ineffective guidance and implementation in the field. There are many weaknesses in the deeds made by PPATS. In implementing the regulations of the Minister of Agrarian Affairs Regulation Number 2 of 2018 concerning the guidance and supervision of PPAT, it has not shown the conformity of the theory of legal effectiveness with the implementation of rules on guidance and supervision. In terms of supervision, the Regulation of the Minister of Agrarian Affairs Number 2 of 2018 concerning the guidance and supervision of PPAT has not been implemented effectively and according to the provisions. In North Lampung Regency, the supervision of PPATS by BPN is limited to supervising reports of incoming and outgoing deeds, it can be once a year or every few months, and this is only done by phone.
2. The factors that influence the weakness of the deeds made by PPATS in North Lampung are (1) lack of guidance on PPATS from BPN. (2) Lack of supervision of PPATS which causes weakness of deeds. (3) The educational background factor of the PPATS who is not from a law degree so that the understanding of the requirements or procedures regarding deed making is low. (4) Most of the areas in North Lampung are areas that are still very primitive and have little interest in the community to increase knowledge about land deeds and their management processes, so that this factor causes public awareness to obey the law. (5) There is a lack of technological knowledge from the PPATS in North Lampung, so that if there is a notification of information or the latest update regarding the PPATS authority, it is usually left behind for the information. And the last factor, namely (6) the many tasks of the sub-district head in the field of government, causing matters regarding the Transfer of Rights to Land to be neglected and often delegated to District staff. The Camat as the Temporary PPAT is often unable to immediately check the perfection or weakness of the authentic deed, even though the legality of the deed must be authentic.

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