



## The Urgency of Regulation Regarding the Obligation of Land Deed Officers (PPAT) Attaching or Attaching Letter and Fingerprint Documents on the Original Deed as an Effort to Prevent the Criminal Action of Letter Fraud

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<http://dx.doi.org/10.18415/ijmmu.v9i10.4168>

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### **Abstract**

Deed is a letter as evidence that is signed and contains legal events that form the basis of a right or an agreement made from the beginning intentionally for proof. In carrying out his position, PPAT makes a Deed, that the PPAT Deed is only signed by interested parties, does not regulate obligations such as in the position of a Notary Attaching Letters and Fingerprint Documents to the Original Deed. Fingerprints are very important, regarding this because in its development in terms of carrying out legal actions regarding the making of the Deed by PPAT, it turns out that the signature even facing is not the person concerned. So there are legal norms that have not been regulated in Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Regulations Government Number 37 of 1998 concerning the Position Regulations for Land Deed Maker Officials. This research uses normative juridical research with a research approach, namely the statutory approach and the conceptual approach. The types and sources of legal materials in this study are primary, secondary and tertiary sources of legal materials. The technique of tracing legal materials uses library research and document studies. The technique of analyzing legal materials in this study uses grammatical, systematic and teleological and futuristic interpretation methods. The results of this study, namely, the regulation regarding the obligation to affix or attach fingerprints needs to be applied to the PPAT deed because it is considered very helpful, especially in the process of proving in the Criminal Procedure Code and the Civil Procedure Code so that the parties concerned also get legal certainty.

**Keywords:** *Obligations of Land Deed Officials; Fingerprints; Original Deeds*

### **Introduction**

Law functions as a means of community renewal and community protector so that the law needs to be developed in a planned manner so that the law as a means of community renewal can run in a harmonious, balanced, harmonious way and in turn legal life reflects justice, social benefits and legal certainty.<sup>1</sup> To guarantee legal certainty, the parties who wish to take legal actions then make a legal

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<sup>1</sup> Mochtar Kusumaatmadja, **Fungsi dan Perkembangan Hukum Dalam Pembangunan Nasional**, Binacipta, Bandung, 2001, hlm. 11.

determination in a written form, where the writing can later be used as evidence for the interests of the parties. The form of writing can be stated in an authentic deed or an underhand letter, this is based on the extent to which the needs of the parties who wish to carry out the legal action, if in the future want to make the writing into evidence before the trial.<sup>2</sup>

Deed is a letter as evidence that is signed and contains legal events that form the basis of a right or an agreement made from the beginning intentionally for proof.<sup>3</sup> Meanwhile, according to Veegen Oppenheim Pollak, a deed is "a writing that is signed and made to be used as evidence", while writing according to Asser Anema, a deed is "a bearer of punctuation that contains meaning and is useful for describing a thought."<sup>4</sup>

There are two types of deeds, namely:

1. An authentic deed is "a deed made in a form determined by law by or before a public official authorized for that at the place where the deed was made" (Article 1868 of the Civil Code).
2. An underhand deed is "a deed made and signed by the parties only without the help of a public official"<sup>5</sup>

According to Boedi Harsono, what is meant by a public official is a person appointed by an authorized institution, with the task of serving the general public in certain fields or activities. Thus, it can be concluded that the Land Deed Official (PPAT) is a public official who is given the authority to make certain land deeds as regulated in the relevant laws and regulations, namely the deed of transfer and assignment of land rights and Ownership Rights to House Units. Compile, and deed of power of attorney for Mortgage Rights.<sup>6</sup>

Land Deed Maker Officials, according to Article 1 point 1 Government Regulation Number 24 of 2016 concerning amendments to Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Making Officials, Land Deed Making Officials, namely, public officials who are authorized to make authentic deeds regarding certain legal actions regarding land rights or property rights over flat units.

The duty of the Land Deed Maker Official is to provide assistance regarding making authentic deeds, PPAT in carrying out his position in providing services to the community should act according to the applicable regulations, because PPAT performs his position not solely for personal interests, but also for the benefit of the community, therefore a PPAT is required more sensitive, honest, fair and transparent in making a deed in order to ensure all parties directly involved in making an authentic deed.

The goal is that the deed can be used as strong evidence if one day there is a dispute between the parties or there is a lawsuit from another party. Land Deed Making Official as one of the legal professions is one of several elements in the implementation of the law which part of its authority is to issue a document in the form of a deed with the power as an authentic deed.<sup>7</sup> An authentic deed is a deed made and inaugurated in a form according to law, by or before public officials, who are authorized to do so at the place where the deed was made.<sup>8</sup>

<sup>2</sup> Lilia Tedjosaputro, **Etika Profesi Notaris Dalam Penegakan Hukum Pidana**, Bigraf Publishing, Yogyakarta, 2006, hlm.4

<sup>3</sup> Abdul Ghofur Anshori, **Lembaga kenotariatan Indonesia Perspektif hukum dan Etika**, UII Press, Yogyakarta, 2009, hlm 18

<sup>4</sup> Tan Thong Kie, **Studi Notariat Serba Serbi Praktek Notaris**. Ichtar Baru Van Hoeve, Jakarta, 2007, hlm 441.

<sup>5</sup> Rachmadi Usman, 2009, **Hukum Jaminan Keperdataan**. Sinar Grafika, Jakarta, hlm 87

<sup>6</sup> Boedi Harsono, **Hukum Agraria Indonesia Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi Dan Pelaksanaanya**, Djembatan, Jakarta, 2003, hlm. 486.

<sup>7</sup> Komar Andasmita, **Notaris Selayang Pandang**, Alumni, Bandung, 1993, hlm 2.

<sup>8</sup> A. Kohar, **Notaris dalam Praktek**, Alumni, Bandung 1983, hlm 5.

Fingerprints are the lines on the skin of the fingertips. Fingerprints serve to provide greater friction so that the fingers can hold objects more tightly. Fingerprint is one of the most important elements in the identification process, in the science of fingerprints (Dactyloscopy) it is stated that no human being has the same fingerprint and will not change for the rest of his life. Because of its permanent nature, a person's fingerprint is used as a steady and convincing means to determine a person's identity.

When carrying out his duties and positions, Article 22 of the Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning the Regulation of the Position of the Official Making Land Deeds, states that:

"The PPAT deed must be read/explained its contents to the parties in the presence of at least 2 (two) witnesses before being signed immediately by the parties, witnesses and PPAT."

Based on the article above that the PPAT Deed is only signed by the interested parties, it does not regulate obligations such as the position of a Notary Attaching Letters and Fingerprint Documents to the Original Deed.

The fingerprints of the appearer or the parties who are interested in carrying out legal actions, especially in making the Deed made by the Land Deed Making Official need to be regulated, this is to explain that the appearer or the interested parties or the parties have actually faced the Land Deed Maker Official and sign the deed. Fingerprints can be used as evidence, evidence is defined as something that states the truth of an event.<sup>9</sup>

In the legal dictionary, *bewijs* is defined as everything that shows the truth of certain facts or the untruth of other facts by the parties in a court case, in order to provide material to the judge for his assessment. Meanwhile "prove" means to show evidence and "proof" is defined as a process, action, or method of proving.

In the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 23 of 2009 concerning Amendments to the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of the Official Making the Land Deed, it does not regulate the Official Making the Land Deed In carrying out his position, the deed does not require the parties to attach fingerprints.

This is based on article 53 of 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 Regulation of the Position of the Official Making the Land Deed (hereinafter referred to as the Regulation of the Position of the Official Making the Land Deed) which states that:

- “(1) The PPAT deed is made by filling out the available deed form completely according to the instructions for filling it out.
- (2) Filling in the form of the deed in the framework of making the PPAT deed as referred to in paragraph (1) must be carried out in accordance with the correct incident, status and data and supported by documents in accordance with the laws and regulations.
- (3) The making of the PPAT deed is carried out in the presence of 2 (two) witnesses who testify regarding:

<sup>9</sup> M. Marwan dan Jimmy, *Kamus Hukum: Dictionary of Law Complete Edition*, (Surabaya: Reality Publisher, 2009), hlm 566.

- a. The identity and capacity of the presenter;
- b. the presence of the parties or their proxies;
- c. The truth of the physical data and juridical data of the object of legal action in terms of the object before being registered;
- d. The existence of the documents shown in the making of the deed; e. the legal action has been carried out by the parties concerned.

Based on the explanation above that the article above does not regulate the obligation to affix or embed fingerprints in the deed of the Land Deed Making Official, the existence of a legal norm void that regulates the Obligation of the Land Deed Making Official (PPAT) to attach the fingerprint document to the Deed made by PPAT such as which is regulated in Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 causes a legal issue, namely the crime of forging letters.

Researchers are interested in conducting research on the implementation of the position of Land Deed Making Officer in making a deed which is known to have not regulated the obligation of the Land Deed Making Officer to affix or affix letters and documents as well as the fingerprints of those who appear on the Original Deed which is intended to avoid the occurrence of the criminal act of forging letters, so there is a vacancy legal norms in the Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning the Regulation of the Position of the Official Making Land Deeds. Fingerprints are very important, regarding this matter because in its development in terms of carrying out legal actions regarding the making of the Deed by PPAT, it turns out that the signature is not even the person facing the person concerned. From the description above, the researcher formulates the problem, namely, what is the urgency of regulation regarding the obligation of land deed officials (PPAT) to affix or attach letters and fingerprint documents to original deeds as an effort to prevent the crime of forgery of letters?

### ***Research Method***

This research uses normative legal research methods, this research exists because there is no legal norm yet. The focus of this research is to describe and analyze the urgency of regulation regarding the obligation of Land Deed Making Officials (PPAT) to affix or attach letters and fingerprint documents to original deeds as an effort to prevent the crime of forgery of letters. In this paper, the approach used is a statutory approach and a conceptual approach. The types and sources of legal materials in this study are divided into 3 (three) namely primary, secondary, and tertiary sources of legal materials. The technique of tracing legal materials uses library research and document studies. The technique of analyzing legal materials in this study uses a grammatical, systematic and teleological and futuristic interpretation method.

### ***Results and Discussion***

#### **a. Obligations of Land Deed Officials**

The term public official is a translation of the term *openbare ambtenaren*, which is contained in Article 1868 of the Civil Code (BW). According to the legal dictionary, one of the meanings of *ambtenaren* is official. Thus the task of *openbare ambtenaren* is an official who has duties related to the public interest so it is appropriate if *openbare ambtenaren* is defined as a public official. Specifically, *openbare ambtenaren*, which is translated as a public official, is defined as an official who is entrusted with the task of making an authentic deed that serves the public interest. Thus, a public official is a

position that is carried or given to those who are authorized by the rule of law in making an authentic deed.<sup>10</sup>

The meaning of "public official" is a person who is appointed by the authorized agency, with the task of serving the general public in certain fields or activities.<sup>11</sup> Boedi Harsono said that a public official is someone who is appointed by the government with the task and authority to provide services to the public in certain fields.<sup>12</sup>

Article 1 point 24 of Government Regulation Number 24 of 1997 concerning Land Registration, states that:

"Official Land Deed Maker, hereinafter referred to as PPAT is a public official who is given the authority to make certain land deeds".

Article 1 paragraph 1 of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Making Official which was later amended by Government Regulation Number 24 of 2016 concerning Amendment to Government Regulation Number 37 of 1998 that what is meant by "Official Land Deed Maker, hereinafter referred to as PPAT is:

"Public officials who are given the authority to make authentic deeds regarding certain legal actions regarding land rights or Ownership Rights to Flat Units".

The position of the Land Deed Making Official (PPAT) as a public official was reaffirmed in Government Regulation No. 24/1997 on Land Registration which stipulates that PPAT is a public official who is authorized to make certain land deeds. Then the status and position of PPAT was strengthened again with the issuance of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Maker Officials which emphasized that PPAT is a public official who is given the authority to make authentic deeds regarding certain legal actions concerning land rights or property rights. on the apartment unit.<sup>13</sup>

The Land Deed Maker Official (PPAT) has the main task of carrying out some land registration activities by making a deed as evidence that certain legal actions have been carried out regarding land rights or Property Rights on Flat Units, which will be used as the basis for registering changes in land registration data caused by actions. law. The legal actions referred to above are buying and selling, exchanging, grants, entry into the company (inbreng), sharing of joint rights, granting building rights/use rights over land with property rights, granting mortgage rights, and granting power of attorney to impose rights. dependents.<sup>14</sup>

To carry out this main task, a PPAT has the authority to make an authentic deed regarding all legal actions concerning Land Rights and Ownership Rights to Flat Units located within his working area. The obligation of the PPAT, in addition to the main task, is to maintain a list of the deeds he has made and keep the originals of the deeds he has made.<sup>15</sup> To maintain and prevent the PPAT in carrying out his position does not cause consequences that give the impression that the official has disturbed the balance of interests of the parties. This provision is made so that PPAT can carry out its duties as well as possible in order to serve the public interest in order to carry out a sense of independence and impartiality.

<sup>10</sup> Habib Adjie, **Sekilas Dunia Notaris dan PPAT (Kumpulan Tulisan)**, Mandar Maju, Bandung: 2009, hlm. 16.

<sup>11</sup> Husni Thamrin, **Pembuatan Akta Pertanahan Oleh Notaris**, Laksbag Pressindo, Yogyakarta, 2011, hlm. 42.

<sup>12</sup> Salim HS, **Teknik Pembuatan Akta Tanah Pejabat Pembuat Akta Tanah**, Rajawali Pers, Jakarta 2016. Hlm 78

<sup>13</sup> *Ibid.*,

<sup>14</sup> A. P. Parlindungan, **Pendaftaran Tanah di Indonesia**, Mandar Maju, Bandung, 1999, hlm. 180

<sup>15</sup> Effendi Perangin, **Hukum Agraria Di Indonesia**, Raja Grafindo Persada, Jakarta, 1994, hlm. 6-7.

In carrying out its duties and functions, the PPAT's obligations in accordance with Article 45 of the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Provisions for the Implementation of Regulation Number 24 of 2016 concerning the Regulation of the Position of the Official Making Land Deeds are as follows:

1. Upholding the Pancasila of the 1945 Constitution and the Unitary State of the Republic of Indonesia.
2. Following the inauguration and appointment of the oath of office as PPAT.
3. Submit a monthly report regarding the deed made to the Head of the Land Office, Head of Regional Office and Head of the local Land and Building Tax Service Office no later than the 10th of the following month.
4. Submit the PPAT protocol in terms of:
  - a. The PPAT who ceases to serve shall submit it to the PPAT in his working area or to the Head of the Land Office.
  - b. Temporary PPAT who ceases to be a temporary PPAT to a temporary PPAT who replaces him or to the Head of the Land Office.
  - c. a special PPAT that ceases to be a special PPAT to a special PPAT that replaces it or to the Head of the Land Office.
  - d. Freeing service fees for people who are not able to be legally proven.
5. Opens his office every working day unless he is on leave or official holidays with working hours at least equal to the working hours of the local land office.
6. Having an office only in 1 (one) office within the work area as stipulated in the PPAT Appointment Decree.
7. Submit his office address, sample signature, initial sample and stamp/stamp of his position to the Head of Regional Office, Regent/Mayor, Head of District Court and Head of Land Office whose territory covers the working area of the PPAT concerned within 1 (one) month after taking the oath of office.
8. Carry out the actual position after taking the oath of office.
9. Install a nameplate and use a stamp whose shape and size are determined by the Head of the National Land Agency.

### **b. Legal Norm Emptiness**

Emptiness or vacuum, according to the Big Indonesian Dictionary, "emptiness is a matter (state, nature and so on) empty or emptiness," which in the legal dictionary is defined as vacuum which is translated or interpreted the same as "empty or vacant". "Legal vacuum" can be interpreted as "an empty state or absence of legislation (laws that regulate (certain) order in society," so that the legal vacuum in positive law is more accurately said to be "void of laws or legislation."<sup>16</sup>

The cause of the legal vacuum occurs because things or circumstances that occur cannot be regulated in a statutory regulation, or even though it has been regulated in a statutory regulation, it is not clear or even incomplete. This cannot be separated from the fact that the formation of a statutory regulation is always left behind or backward compared to events in the development of society.

In this case, there is a legal norm void in Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Officials, it can be seen that in carrying out the position of PPAT, based on Article 22 of the

<sup>16</sup> Gamal Abdul Nasir. **Kekosongan Hukum & Percepatan Perkembangan Masyarakat**. Jurnal Hukum Replik Volume 5 No. 2, September 2017. Hlm 173

Government Number 24 of 2016 concerning Amendments to Regulations Government Number 37 of 1998 concerning the Regulation of the Position of the Land Deed Maker Official, the PPAT Deed is only signed by the parties, the regulation does not regulate the obligation to affix or attach letters and fingerprint documents to the original deed. Because in the development of society in carrying out legal actions by PPAT, it is important that fingerprints are affixed directly attached to the PPAT Deed, this is an effort to prevent the crime of forgery of letters.

In the absence of regulations governing the obligation to affix or attach letters and fingerprint documents to the original deed, irresponsible people will use it or it can be called the Land Mafia.

As a result of not regulating the obligation to affix or attach fingerprints on the original deed, it does not change the authenticity of the PPAT deed, but the requirement to affix or embed fingerprint documents on the original deed is intended to further support the strength of proof of signature affixed in the PPAT deed as Perfect evidence, if there is a legal problem, the proof of the PPAT Deed can be formally verified in court evidence. Regulation on the obligation to affix or attach letters and fingerprint documents to the original deed as an effort to prevent the crime of forgery of letters.

According to Syamsuddin Pasamai in his book *Sociology of Law*, the issue of legal effectiveness has a very close relationship with the problem of implementing, implementing and enforcing law in society in order to achieve legal goals. This means that the law really applies philosophically, juridically and sociologically. When discussing the problem of the effectiveness or functioning of a law in the sense of a law or other legal product, in general the mind is directed to the fact whether the law is really applicable or not in society. In legal theories, it is usually distinguished between three things that apply the law as a rule.<sup>17</sup> Arrangements concerning the Obligation to Affix or Attach Fingerprint Letters and Documents to the Original Deed, in the three legal aspects, juridically, sociologically and philosophically, namely:

1. Juridically, the arrangement regarding the position of the Land Deed Making Officer is regulated in:
  - a. Government Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Maker Officials.
  - b. Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Maker Officials.
2. Sociologically, the need for dynamic laws needed by the community, especially to achieve legal certainty, especially in making the PPAT Deed, regulates the obligation to affix or attach letters and fingerprint documents to the original deed.
3. Philosophically, as a result of the void of legal norms regarding the Deed made by PPAT in carrying out its position, it does not regulate the obligation to affix or attach letters and fingerprint documents to the original deed, creating a gap for someone to commit the crime of forging letters.

### **c. The Urgency of Regulation Regarding the Obligation of Land Deed Making Officials (PPAT) Affixing or Attaching Letters and Fingerprint Documents to the Original Deed**

Article 3 paragraph (1) Government Regulation Number 37 of 1998 concerning the Position Regulation of Land Deed Maker Officials explains that the PPAT Deed made is an authentic deed

<sup>17</sup> Soerjono Soekanto dan Mustafa, *Sosiologi Hukum dalam Masyarakat*, Rajawali, Jakarta, 1982, Hlm 80

regarding land rights and property rights to apartment units located within the working area. Based on Article 1868 of the Civil Code, an authentic deed is a deed in the form determined by law, made by or before public officials who have power for that at the place where the deed was made.

The urgency of the need for strong and written evidence is expressly explained in Article 1865 of the Civil Code which states that:

"Everyone who postulates that he has a right, or in order to confirm his own right or to refute a right of another person refers to an event, is obliged to prove the existence of that right or event."

In order to provide strong evidence in civil relations, the Land Deed Making Officer as a public official has the authority to make an authentic deed and is also given other powers which authority is regulated in the provisions of Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 2016 1998 concerning the Regulation of the Position of the Land Deed Making Officer and also based on other laws.

PPAT deed is a deed made by PPAT as evidence that certain legal actions have been carried out regarding land rights or property rights to flat units, this is based on Article 1 point 4 of Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Maker Officials in conjunction with Article 1 point 4 Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions of Government Regulation Number 37 of 1998 concerning Regulation of the Position of Land Deed Making Officials.

In Article 22 of the Government Regulation Government Regulation Number 37 of 1998 concerning the Regulation of the Position of the Official for Making Land Deeds, it is stated that:

"The PPAT deed must be read/explained its contents to the parties in the presence of at least 2 (two) witnesses before being signed immediately by the parties, witnesses and PPAT."

This explains that in carrying out his position the PPAT carries out the task of making the PPAT deed, it must be witnessed by at least 2 (two) witnesses who according to the provisions of the applicable laws and regulations meet the requirements to act as witnesses in a legal act, who testify, among others regarding the presence of the parties or their proxies, the existence of the documents shown in the making of the deed, and the implementation of the legal action by the parties concerned. PPAT is obliged to read the deed to the parties concerned and provide an explanation of the content and purpose of making the deed, and the registration procedure that must be carried out subsequently in accordance with applicable regulations.

Based on the explanation above, it can be seen that Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning the Position Regulation of Land Deed Maker Officials has not regulated the Obligations of Land Deed Making Officials (PPAT) to Affix or Attach Letters and Fingerprint Documents to the Original Deed

The regulation regarding the obligation of affixing or affixing fingerprints to the original of this deed is considered very important, because fingerprints will never change, the function of affixing or affixing fingerprints in this case is also as a reinforcement of evidence against the original deed. The regulation regarding the obligation to attach fingerprints to the Original Deed has no direct effect on the validity of the deed itself because the authenticity of a PPAT deed is only based on Government Regulation Number 37 of 1998 concerning the Regulation of the Position of the Land Deed Maker Official. certain laws regarding land rights or Ownership Rights to Flat Units (Article 1 point 1 in conjunction with number 4 PP No. 37 of 1998 concerning the Regulation of the Position of the Official Making the Land Deed); and the PPAT Deed will be used as the basis for registering changes in land



registration data to the Regency/City Land Office (Article 2 paragraph (1) PP No. 37 of 1998 concerning the Regulation of the Position of the Land Deed Maker Officer).

Fingerprint affixing or fingerprint affixing on the Original Deed is very necessary. If there is a dispute or legal problem, one of them is as perfect evidence that someone has actually signed the PPAT Deed. If it is only the signature, then it can be denied or said to be fake even though it is true that the person who signed the deed first, because there is no other evidence stating that the signature was done by him/herself. Even though the signature is not in the exact same form, if it is done by the same person then it is still recognized as a signature. But if the signature is in the exact same form but if it is done by a different person then it is considered fake.

The regulation regarding the obligation to affix or attach fingerprints needs to be applied to the PPAT deed because it is considered very helpful, especially in the process of proving in the Criminal Procedure Code and the Civil Procedure Code so that the parties concerned also get legal certainty. Besides that, as an effort to prevent the crime of falsifying authentic certificates as stated in Article 264 of the Criminal Code

To respond to this, the government should be able to take concrete actions, namely by adding legal norms, namely regulating the obligation to affix or attach fingerprint documents to the PPAT Deed, because the fingerprint is to strengthen a proof of the signature on the Deed.

Therefore, it is necessary to amend Government Regulations, especially Regulations concerning the Obligation of Land Deed Making Officials (PPAT) to Affix or Attach Fingerprint Letters and Documents to Original Deeds in Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Official Position Regulations Land Deed Maker.

#### **d. Efforts to Prevent the Crime of Forgery of Letters**

The obligation to read and explain the contents of the deed is to ensure that the appearers have fully understood what is contained in the deed. The deed must be read and explained by the PPAT because not all of the appearers who come to the PPAT can read and easily understand what is written in the deed to be signed. PPAT's obligation to read and explain the contents of the deed will make it easier for the parties to understand what they are doing and is expected to be able to provide a sense of justice for all parties because each party's rights and obligations are explained by PPAT through the reading of the deed. The reading of the deed by PPAT is expected to make the appearers better understand what is contained in the deed to be signed and be able to avoid a lawsuit from one of the parties in the future due to differences in interpretation of the things written in the deed.

It can be seen 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 Regulation of the Position of the Official for Making Land Deeds. The provisions of Article 22 of the PPAT Position Regulations are re-elaborated 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 Regulation of the Position of the Land Deed Maker Official which is the implementing regulation. One form of elaboration of Article 22 of the PPAT Position Regulation is found in Article 53 and Article 54 of the Regulation of the Head of the National Land Agency (Perkaban) No. 1 Year 2006.

Article 53 and Article 54 of 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 Regulation of the Position of the Official Making Land Deeds states that:

- “(1) The PPAT deed is made by filling out the available deed form completely according to the instructions for filling it out.
- (2) Filling in the form of the deed in the framework of making the PPAT deed as referred to in paragraph (1) must be carried out in accordance with the correct incident, status and data and supported by documents in accordance with the laws and regulations.
- (3) The making of the PPAT deed is carried out in the presence of 2 (two) witnesses who testify regarding:
- a. Identity and capacity of the presenter;
  - b. The presence of the parties or their proxies;
  - c. The truth of the physical data and juridical data of the object of legal action in the event that the object is registered before it is registered;
  - d. The existence of the documents shown in the making of the deed;
  - e. The legal action has been carried out by the parties concerned.
- (4) Those who can become witnesses are people who have fulfilled the requirements in accordance with the laws and regulations.

- “(1) Prior to making a deed regarding legal actions as referred to in Article 2 letters a to g, PPAT is obliged to check the suitability/legitimacy of certificates and other records at the local Land Office by explaining its aims and objectives.
- (2) In making the deed as referred to in paragraph (1) PPAT is not allowed to contain the words "according to or according to the statements of the parties" unless supported by formal data.
- (3) PPAT has the authority to refuse the making of a deed, which is not based on formal data.
- (4) PPAT is not allowed to make the deed as referred to in Article 2 letters a to g, on part of the registered land parcels or customary land, before being measured by the Land Office and given a Land Sector Identification Number (NIB).
- (5) In making the deed, the PPAT is obligated to state the NIB and or the number of the land title, the number of the Tax Return Tax Payable (SPPT) of PBB, the use and utilization of the land according to the field conditions.”

The two articles are the implementation procedure in making the PPAT Deed, the PPAT prudence principle can be implemented through these two articles in order to provide legal certainty for parties who carry out legal actions.

PPAT as the official authorized to make the deed of transfer of land rights is expected to be able to play a professional role in being able to become a basic legal consultant for the community who uses its services regarding the transfer of ownership rights to land, from making the initial agreements until the deed of transfer of ownership rights is made. soil. In the process of making the deed, PPAT must examine and observe from the legal aspect both from the subject and object side so that when it is formulated into a deed, it will have perfect authenticity as evidence and minimize the potential risk of legal relations of buying and selling transactions from the people who do it.<sup>18</sup>

However, in terms of carrying out their positions, according to PPAT researchers, making a deed requires affixing or attaching a fingerprint document to the original deed, this serves to anticipate if one day the appearers deny their signatures on the deed, then as additional evidence, fingerprints of the appearers are used. Affixing or attaching the fingerprint document of the appearer to the Deed is indeed beneficial and is an attitude of caution for PPAT to carry out legal actions, considering that fingerprints

<sup>18</sup> Pandam Nurwulan, “Aspek Hukum Transaksi Jual Beli Rumah Susun Atau Apartemen di Daerah Istimewa Yogyakarta Kaitannya dengan Peran Notaris-PPAT”, Jurnal Hukum Ius Quia Iustum, No. 4 Vol. 22 Oktober 2015, hlm. 674-697

do not function as the validity and authenticity of a legal act but to provide legal certainty of the correctness of the identity of the appearer.

Human fingerprints are used for identification purposes because no two humans have exactly the same fingerprints. Fingerprints can be used as confirmation of the identity of the parties carrying out legal actions. From the perspective of legal certainty, fingerprints are closer to legal certainty than signatures because everyone has different fingerprints, so that if in the future there is a dispute, the parties concerned can't deny it.

So, it is necessary to update the legal norms regarding the Obligation of Land Deed Making Officials (PPAT) to Affix or Attach Letters and Fingerprint Documents to Original Deeds, PPAT in carrying out his position makes the Deed provide legal certainty for the parties and will be able to provide legal protection for the parties in the future. days from the possible occurrence of the dispute.

According to Fitzgerald quoting the term legal protection theory from Salmond that the law aims to integrate and coordinate various interests in society because in a traffic of interests, protection of certain interests can be done by limiting various interests on the other hand. The interest of the law is to take care of human rights and interests, so that the law has the highest authority to determine human interests that need to be regulated and protected. Legal protection must look at the stages, namely legal protection born of a legal provision and all legal regulations provided by the community which are basically an agreement by the community to regulate behavioral relations between community members and between individuals and the government which are considered to represent the interests of the community.<sup>19</sup>

If it is linked according to the Legal Protection Theory, the establishment of regulations concerning the Obligation of Affixing or Attaching Fingerprints by Appearers in Deeds Made by Land Deed Making Officials (PPAT) provides many legal benefits for the community, especially in carrying out legal actions in the land sector, namely in terms of proving Authentic Deed made by PPAT if in the future a dispute occurs. This is an anticipation for the future so that the appearers are not easy to deny, therefore it needs to be regulated as an effort to prevent the Crime of Forgery of Letters.

The existence of affixing fingerprints will also give more legal force to the PPAT Deed, so that it will have an impact on more legal protection for the parties concerned. In addition, the precautionary principle that has been described can be a means of preventing disputes in the transfer of land rights and as a means of preventing disputes in the transfer of land rights. Efforts to Prevent the Crime of Forgery of Letters.

## **Conclusion**

Based on the discussion above, the researchers draw the following conclusions:

The urgency of regulation regarding the obligation to affix fingerprints or affix fingerprints to the original deed made by PPAT is very necessary, in the event of a dispute or legal problem, including the following:

- a. The PPAT Deed can be used as perfect evidence that someone has actually signed the PPAT Deed
- b. The regulation regarding the obligation to affix or attach fingerprint documents to the original deed is intended to further support the strength of proof of signature affixed in the PPAT Deed if there

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<sup>19</sup> Satjipto Rahardjo, *Ilmu Hukum*, Citra Aditya Bakti, Bandung. 2000, h. 53

is a denial made by the interested parties, this is supporting data that becomes additional evidence in strengthening the process. proof of the authenticity of the original deed

- c. Fingerprints will never change and nothing will be the same for everyone, therefore Affixing or Attaching Fingerprint Documents to the Original Deed as an effort to prevent the crime of falsifying letters even though it is true that someone had signed the deed. In addition, the Land Deed Official in making the PPAT Deed must apply the precautionary principle in an effort to prevent the crime of forgery of letters. The purpose of the Regulatory Formulation Concerning the Obligation of Land Deed Making Officials (PPAT) Affixing or Attaching Letters and Fingerprint Documents to the Original Deeds that the appearers/appearers/parties have actually dealt with the Land Deed Making Official and signed the Deed and affixed a thumbprint on the PPAT deed. This is important in order to ensure legal certainty of land rights. The presence of fingerprints will also give more legal force to the PPAT Deed, so that it will have an impact on more legal protection for the parties concerned.

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