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Implementation of Empowerment and Supervision towards Land Registrar Officials in Banda Aceh

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Abstract

The Land Registrar is a public official authorized to draw up and validate an authentic act, one of the officials of the land registrar of the notary authorized in accordance with the provisions of Law Number 2, 2014 on the Department of Notaries and Government Regulations Number 37, 1998 as amended by Government Regulation Number 24, 2006 on the Land Registrars Official. In its implementation still found errors both formally and materially that occurred in the drafting of the act carried out by public officials. Development and supervision should be carried out by the relevant parties to the officials in accordance with the provisions of Ministerial Regulation Number 2, 2018 on Education and Supervision of Land Registrar Officials (PPATs) to regulate the code of ethics, aimed at avoiding abuse of authority that entails legal consequences later on. This is the empirical juridical research looking at the applicable legal provisions as well as what is happening in reality in a society that remains guided by existing legal

principles and foundations. The purposes of this study is to explain the Implementation of education and supervision of the officials in Banda Aceh. The implementation of these are carried out by the Head of the Land Agency Office of Banda Aceh is to visit several of the existing PPATs in the Banda Aceh City and give instructions to the tasks of the PPAT but its implementation is still not optimal. The lack of empowerment and supervision of PPAT is caused either by its rules, systems, nor by its insufficient estimates on the part of the BPN. The lack of harmonious cooperation between the Head of the Land Office of the Banda Aceh and PPAT caused the difficulty of holding supervision of PPAT in terms of the drafting of acts and also the delivery of instructions for the implementation of the PPAT tasks, in addition, in empowering efforts against PPAT only often carried out ineffective socialization processes in monitoring PPAT so vulnerable to violations.

Keywords: Implementation, Empowerment, Supervision, Land Registrar Official, Banda Aceh

Introduction

We have known together that the legal professions in Indonesia in particular are very diverse with their respective duties, functions and authorities. One of them is the Land Registrar Officials (later called as the PPAT) which belongs to the public officials who are engaged in the field of their profession related to the making of land documents. The PPAT itself is divided into three types, where the three types have the same authority and are subject to the provisions of the PPAT which bind them. However, the three types of PPAT have differences from their appointment mechanisms, as follows: Type A is a PPAT who is appointed and or is a Notary who is then appointed to be PPAT. Type B is the PPAT appointed from a retired National Defence Agency (BPN), which because of its experience in dealing with land problems is considered intended to enter into the qualification to be an PPAT and Type C is a *Camat* (head of subdistrict) and or the Head of the village, this type of PPAT is appointed in order to meet the needs of the community that in its area there are few PPATs.¹

A PPAT who is appointed and or is a notary who is then appointed to be a PPAT has an important role in the authenticity of the document. In practice, a notary or civil servant is included in the class of public officials who operate in the field of their profession and have their own duties and powers appointed in accordance with the law. The term "General Office" is a

¹ Leny Agustan and Khairulnas, *Tata Kelola Kantor Notaris/PPAT*, UII Press, Yogyakarta, 2018, p. 5.

translation of the term "*Openbare Ambtenaren*" contained in Article 1 of the Act Number 2, 2014 of the Public Notary Profession Act. (Later called as the UUJN). The provision states that a notary is a public officer, as it refers to the duties and authority exercised by a notary.

This means that the notary has a duty as a public official and has the authority to confirm authentic acts and other authority as determined by the UUJN.² Such authority is the responsibility of the public official who makes an authentic act to ensure the legality of ownership of an object and entails legal consequences.

The existence of PPAT in this case Notaries with the entry into force of Law Number 5, 1960 on Agrarian Act (later called as the UUPA) and Government Regulations Number 10, 1961 as amended by Government Regulation Number 24, 1997 on Land Registrar Official are derivatives of the implementation of the UUPA.³

Article 1 point 24 of the Government Regulations Number 24, 1997 on Land Registration states that the PPAT is a public official authorized to make certain land acts. Article 2 point 1 of the Government Regulation Number 37, 1998 on the Regulations of the Department of PPAT as amended by the Regulation Number 24, 2006 states that what is meant by PPAT are public officials authorised to make authentic acts concerning certain legal acts relating to the right to land or ownership of the unit of houses.

Most of the rules violated by PPAT are professionalism as a profession to seek personal gain and colleagues and because of the proximity of PPAT with certain parties so that professionalism in carrying out its essential tasks is lost, PPAT should be obliged to carry out its duties and authority in accordance with the procedures and regulations that regulate the drafting of acts.

As a result of the PPAT's lack of professionalism in carrying out its basic duties and authority as it should, a dispute arose between the two sides, in which one party felt detrimental to the actions of PPAT that cooperated with the other party to gain personal gain and colleagues. One example of what happened to Ratna Sary as a plaintiff with Maidin Rahmad as the 1st Claimant and PPAT as the 2nd Plaintiff that occurred in the Decision No. 42/Pdt.G/2020/PN Bna. Since the lack of good faith of PPAT provides all forms of information during the process of drawing up the bill of sale so that it raises a dispute, PPAT should provide all information during drafting the bill, so that the parties facing know the information of their rights and obligations as the authors.

In the case, based on the outcome of the judgment contained in the No. 42/Pdt.G/2020/PN Bna that admitted the petitioner's claim for part, stating that the 1st and 2nd defendants (PPATs) had committed acts against the law, the court also sentenced the 1st Defendant to pay cash and immediate material loss to the Defensor in the amount of Rs. 179.550,000, and punished the 2nd defendant to pay the

cash and temporary immaterial damage to the defender in the size of Rs.10,000,000,-.

According to the judgment, PPAT violates the code of ethics and regulations of legislation which are procedures in the lawmakers. Because of the absence of a professional PPAT in carrying out the basic duties and authority of the law maker officials affected the legal conflict between the parties.

If this continues to happen and continue to be done by the PPAT as a public official with the authority to make acts, it must have an impact on the act issued by PPAT has no legal force both inside and outside the court, which means that there is no legal certainty about the act held by the parties. (Penghadap PPAT). Of course, this is a loss to the party that filed a lawsuit to the court to obtain justice and its rights back.

This is because PPAT violates the code of ethics in his profession because of claims by another party or other parties to give false testimony to PPAT then the wrongful act occurs. Therefore, there is also a need for legal protection to the PPAT for false testimonies given by other parties. Therefore, it is important to carry out periodic surveillance to PPAT if such violations are found can be constructed by the Head of the BPN Territory Office, the Department of Land and IPPAT.

Research Method

This method of research includes empirical jurisprudence, i.e. the study of applicable legal provisions as well as what is happening to reality in society.⁴ Still guided by existing legal principles and foundations, empirical jurisprudence is the study of law concerning the enforcement or implementation of normative legal provisions in action on any particular legal event that occurs in society.⁵ The research is located in Banda Aceh City, especially at the Banda Aceh's Land Office.

Results and Discussions

1. Sort of Empowerment and Supervision of PPAT in Banda Aceh

Empowerment and supervision of PPAT at the regional level is carried out by the MPPD. MPPD is the building and monitoring assembly of the PPAT which is formed and established by the head of the regional office of the BPN on behalf of the Minister and is located in the Land Office. The MPPD of the City of Banda Aceh was formed in 2019 with a membership of 7 people consisting of 4 members from the Land Office and 3 members from PPAT.⁶

Empowerment and supervision carried out by the Assembly and Supervision of PPAT against PPAT in the City of Banda Aceh, Aula Pambudi said that implementation of empowerment and surveillance against the PPAT is to make visits to several PPATs that are performed at least once a year or every six months once by performing periodic inspections like performing direct supervision to the office PPAT.

² Deviana Yunitasari, "*The Role of Public Notary in Palembang Legal Protection or Standard Contracts for Indonesia Consumers*". *Jurnal Sriwijaya Law Review* Vol. 1, No. 2, 2017, p. 188

³ Muhammad Adha Ridodi, "*Batas Kewenangan Notaris dan PPAT dalam Membuat Akta yang berkaitan dengan Tanah*", *Jurnal Lambung Mangkurat Law*, Vol. 2, No. 1, 2017, p. 120.

⁴ Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan Praktek*, Rineka Cipta, Jakarta, 2012, p. 126.

⁵ Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, Citra Aditya Bakti, Bandung, 2004, p. 134.

⁶ Aula Pambudi, Coordinator in the field of establishment of rights and transition of the BPN Provincial Office of the province of Aceh, *Interview*, on 15 February 2024.

Indirectly, the activities reviewed how the PPAT office was carried out, providing training regarding the latest regulations issued through government regulations on the CPAT office itself. In order to provide training to the PPAT so that in the execution of the duties and duties of PPAT they carry out in accordance with the regulations of the laws and regulations in force.

Empowerment by the head of the Land Office of the City of Banda Aceh as head of MPPD can be:

1. Socialize the latest BPN Regional Office programmes such as the use of electronic systems and their limitations;
2. Report on strategic programmes in the Ministry;
3. Inspection to the PPAT office in the framework of periodic supervision;
4. Empowerment on the implementation of the tasks and functions of PPAT in accordance with the Code of Ethics.

The supervision of the implementation of the PPAT mandate is carried out to ensure that PPAT fulfils its obligations and mandates in accordance with the provisions of the regulations of the legislation. Thus, BPN has the duty through the Head of the Farm Office to carry out supervision over PPAT according to Article 32 paragraph (2) of Government Regulation Number 24, 2016 to regulate the arrangements of empowerment and supervision against PPAT in the Ministerial Regulations carried forward by the Minister of Land and Spacial Administration/Head of the National Land Agency Number 2, 2018 on Empowerment and Supervision of Land Registrar Officers.

One of the tasks in carrying out the empowerment and supervision is to help communicate and explain the policies and regulations of landing as well as technical instructions for the implementation of the PPAT tasks that have been established by the BPN and the legislative regulations that are established as the guidelines for the execution of its tasks so that unwanted things do not happen.

Seeing the number of cases that adversely affected the client caused by the negligence of the PPAT that did not follow the rules or guidelines of its duties as the established PPAT. According to Nurdhani, S.H., SpN. A public notary, empowerment and supervision carried out by BPN to PPAT almost nothing just give notice about the presence of the latest regulations.⁷

Therefore, this shows that the empowerment and supervision carried out by the head of the Finance Office is ineffective and comprehensive so that it is less optimal for the Head of Finance Office to oversee the PPAT. The role of the Assembly of Builders and Supervisors in building and overseeing PPAT to the optimization of its role then the factors that influence become considerations that must be taken logically in accordance with the conditions of the dynamics of the organization of the Farm Office.

Factors influencing the role of the Head of Land Office in building and supervising PPAT are the substance of the rules of empowerment authority and supervision of PPAT by the head of the Land Office, human resources and means and supplies.

The framework of thought is empowerment and supervision:⁸

- a. Empowerment:
 1. Act Empowerment;
 2. Monthly report.
- b. Supervision:
 1. book inspection;
 2. Act result binding;
 3. Evidence result check supervision.
- c. Punishment.

Surveillance is any attempt to find out and evaluate the actual facts of the performance of a task or activity. Surveilling is the process of observing the execution of the entire organization's activities in order to ensure that all employees are executed in accordance with a previously determined plan.⁹

2. Factors that are being Hurdles in Implementing Supervision of the PPAT in Banda Aceh

The implementation of the supervision of the task of PPAT by the Chief of the Land Office is still less optimum, i.e. the lack of supervision against PPAT where in Banda Aceh City there are 42 PPATs, the number of the PPAT in Banda Aceh is the most compared to other cities/districts in Aceh.

It can be one of the obstacles so not monitored thoroughly. In addition, according to the Pambudi Aula, the factors that hinder the implementation of surveillance and empowerment of PPAT are also affected by the PPAT still working on the basis of the habits of years so that the latest regulations are difficult to follow and still use the system manually so it is hindering in terms of monitoring PPAT because it requires more funds or budgets in its implementation, the Chief of the Department of Land through the BPN Territorial Office is developing a digital yet imperfect monitoring system, which was just formed in 2019.

The lack of transparency of the PPAT in terms of its implementation is also one of the factors that impede the Chief of the Land Office in carrying out supervision. The lack of harmonious cooperation between the Chief of the Land Office and the PPAT has made it difficult to supervise PPAT in terms of the drafting of acts and also the delivery of instructions for the implementation of PPAT tasks.

The research shows that the inhibitor factor in the application of surveillance PPAT Banda Aceh City are:

1. Non-continuous surveillance can be caused by the number of PPATs in the territory of Banda Aceh City so that only a few of the CPATs are being investigated;
2. The Chief of the Farm Office only performs monitoring through documents or reports by PPAT so that the data obtained is inaccurate to identify the violations committed by the PPAT;
3. The PPAT is still working on the basis of previous habits, so the new rules established are difficult to follow;
4. In the reporting process, the manual system is still used so that it captures the monitoring;

⁸ Asmarani Ramli, "Penerapan Fungsi Pembinaan dan Pengawasan Pejabat Pembuat Akta Tanah Oleh Pejabat Pada Badan Pertanahan", *Jurnal Legal Pluralism, Journal of Law Science*, 2012.

⁹ Sujanto, *Aspek-aspek Pengawasan di Indonesia*, Sinar Grafika, Bandung, 1987, hlm. 53.

⁷ Nurdhani, Notary in Kota Banda Aceh, *Interview*, on 19 February 2024.

5. The funds used by the Head of Farm and MPPD to carry out empowerment and oversight are still limited;
6. The lack of less harmonious cooperation between the Chiefs of Farm Office and PPAT makes it difficult to monitor PPAT.

Conclusion

To sum up, the Chief of the Bureau of Land implements empowerment and supervision by visiting various PPATs in the City of Banda Aceh and providing instructions to the PPATs. However, the implementation is not yet optimal due to insufficient supervision and empowerment. This is caused by deficiencies in the rules, system, and estimates of the BPN regarding the PPATs.

The main obstacle to implementing empowerment in the territory of Banda Aceh city is the continued reliance on traditional practices by PPAT, making it difficult to comply with the latest regulations. Additionally, the manual system used by PPAT and the limited budget further hinder the implementation of empowerment. The absence of harmonious collaboration between the Chief of the Land Office and PPAT has hindered the effective supervision of PPAT in terms of drafting acts and providing instructions for the execution of PPAT tasks. Furthermore, the efforts to empower PPAT have often been ineffective due to inadequate socialization processes, making the monitoring of PPAT susceptible to violations.

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