

The existence of the sub-district head as the temporary land deed official in Lhokseumawe

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Abstract

Article 5 paragraph (3) of the Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Temporary Land Deed Officials grants authority to the Sub-District Head as a Temporary Land Deed Official (PPATS) to perform the functions of a Land Deed Official in areas where there are not enough PPATs. However, field data show that in areas where there are already enough PPATs, PPATS still exist, such as in the City of Lhokseumawe, where, despite having enough PPATs, the authority is still granted to the District Head as a PPATS. This indicates a gap between legal norms and the reality on the ground. This research aims to analyze and explain the existence of district heads as PPATS in Lhokseumawe. The research method used is normative-empirical juridical, with a statutory approach, a conceptual approach, and a socio-legal approach. The data sources in this research consist of primary legal data and secondary legal data. The research results show that the position of the Sub-district chief as PPATS is recognized juridically. The Sub-district chief, as PPATS, is no longer relevant in the City of Lhokseumawe, both juridically and sociologically. The legal implications of the land deed creation by the Sub-district chief as PPATS are the transfer of land rights from one party to another, the emergence of payment obligations, and the creation of binding authentic evidence that serves as the basis for the registration of the transfer of rights at the Land Office.

Keywords: Existence, temporary land deed official

Introduction

The legal norms regarding PPAT have been detailed in various regulations. Such as the Minister of Agrarian Affairs/Head of the National Land Agency Regulation Number 33 of 2021 concerning Amendments to the Minister of Agrarian Affairs/Head of the National Land Agency Regulation Number 2 of 2018 concerning the Guidance and Supervision of Land Deed Officials; Government Regulation Number 24 of 1997; 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; Presidential Regulation Number 48 of 2020 concerning the National Land Agency.

Specifically, the legislation thru Government Regulation Number 24 on Land Registration grants authority to the Temporary Land Deed Official (PPATS) to perform the functions of a PPAT in remote village areas. This is in accordance with Article 7, paragraph (2) of the government regulation, which states that "for villages in remote areas, the Minister may appoint a Temporary Land Deed Official (PPATS)."^[1] Article 5 paragraph (3) of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Officials also explains the same thing.

The presence of the sub-district head as a PPAT is sometimes integrated in the context of the need for accelerated land services and the simplification of land deed creation procedures, especially in developing areas with a shortage of professional PPATs.^[2] In essence, the existence of PPATS is a temporary and administrative solution to provide equitable land services, particularly in areas not yet reached by professional PPATs. In other words, PPATS is a transitional instrument designed to ensure that communities

in remote areas can still obtain legitimate land deed creation services.

The distribution of Professional PPATs at this time shows a very significant increasing trend, both in terms of quantity and the scope of their work areas. This condition has substantively reduced the urgency of the existence of PPATS, especially in areas where the need for land deed services by professional PPATs has been met. However, until now, there has been no regulatory update that explicitly regulates the mechanism for evaluation, limitation, or revocation of the Sub-district chief's authority as PPATS in areas that already have a sufficient number of professional PPATs.^[3]

As a result, the presence of the sub-district head as a PPATS in areas that are already saturated with PPAT has the potential to create overlapping authority, legal uncertainty, and disparities in the quality of land legal services.^[4] In addition, this practice also carries the risk of abuse of power, non-compliance with applicable procedures, and potential conflicts of interest, especially if the process of making deeds is not carried out by competent officials who meet professional standards.^[5]

Based on field data analysis, there is a legal disparity in the provisions of Article 7 paragraph (2) of the Government Regulation on Land Registration and Article 5 paragraph (3) of the Government Regulation on the Position of PPAT. This disparity can be seen in the city of Lhokseumawe, which is one of the developing areas in Aceh and already has enough PPATs to perform the function of making land deeds at the sub-district level. This indicates that the need for PPATS imposed on the sub-district heads in each district and city is no longer relevant to the current social development. This research aims to analyze and explain the existence of district heads as PPATS in Lhokseumawe.

Research Method

The type of research used in this study is normative-empirical research (normative with empirical support), with approaches including the statutory, conceptual, and socio-legal approaches.^[6] The data sources for this research are based on primary and secondary data, which were collected thru literature review and interviews with respondents and informants deemed capable of providing answers to the research problems. This research is located in the city of Lhokseumawe, Aceh Province. Secondary and primary data obtained are then arranged in an orderly, systematic manner for subsequent qualitative analysis, to provide verbal descriptions of the findings.

Results and Discussions

a. The Position of the Subdistrict Head as a Temporary Deed Official

In order to create orderly land administration, the importance of land deeds should be recognized as a means of proof and which will provide certainty or legal strength of a land right. These land deeds are made by and in the presence of the Sub-district chief, who has been appointed as the Temporary Land Deed Maker. The performance of the Sub-district chief in making these land deeds is expected to provide the best possible service to the community in the creation of land deeds.

The legal basis for appointing the Sub district chief as a Temporary PPAT can be found in Government Regulation No. 24 of 1997 on Land Registration, Government Regulation No. 37 of 1998 on the Regulation of PPAT Positions, and the Minister of Agrarian Affairs/Head of the National Land Agency Regulation No. 1 of 2006 on the Implementation Provisions of Government Regulation No. 37 of 1998 on the Regulation of the Position of Land Deed Officials. Based on these legal regulations, the Subdistrict chief has the authority to create authentic deeds regarding certain legal actions related to land rights or ownership rights over apartment units in areas where there are not enough PPATs, acting as a temporary PPAT.^[7]

b. The Relevance of the District Head as the Temporary Land Deed Official

From the perspective of legal authority theory, the existence of the Sub-district chief as a Temporary PPAT has a legitimate basis because his authority is attributive and granted directly by legislation to fill the gap in land service provision.^[8] This legal basis aligns with the real sociological needs of the community in areas where the formation of notary PPATs is inadequate, as shown by various empirical studies. The presence of Temporary PPATs increases the community's access to authentic and legally valid land services.^[9] This point of convergence is the main argument for the relevance of the District Head as a Temporary PPAT: the legal norm that attributes this authority essentially responds to the social reality of the disparity in the distribution of notary PPATs between urban areas and suburban/district areas.

Based on Radbruch's Theory of Legal Certainty, there is a balance between the value of certainty (*rechtmatigheid*) and the value of utility (*doelmatigheid*), even tho doctrinally the status of "temporary" carries the risk of legal uncertainty. The existence of this institution can still be justified as long as it truly functions as a transitional bridge toward the fulfillment of the definitive PPAT formation, not as a

permanent institution that continuously replaces the function of the notary PPAT. However, this relevance is not absolute and unconditional. Some recent studies actually show a tension between legal certainty and sociological needs, for example, the practice of appointing district heads as temporary PPATs in areas where the formation of notary PPATs has already been fulfilled, as well as significant differences in competence between district heads and notary PPATs in terms of education and notarial training.^[10]

Consequently, the relevance of the Sub-district chief as a Temporary PPAT in Lhokseumawe should be understood as a conditional-transitional relevance. The sub-district head as a temporary PPAT is relevant legally as long as the attributive condition (the lack of PPAT formation) is truly met factually, and the sub-district head as a temporary PPAT is relevant sociologically as long as the community in the respective sub-district truly needs access to land services that have not yet been reached by notary PPATs. When one of these conditions is no longer met, the relevance of that authority should also end in accordance with its attributive-functional nature, in order to maintain the consistency of the application of the principle of legal certainty and to prevent overlapping authority with the available notary PPAT.

The research findings confirm that the formation of Notary PPAT in Lhokseumawe City has been fulfilled. This finding cannot be treated as a mere footnote, but rather must be used as a starting point to reassess the validity and urgency of the continuation of the Sub-District Head's authority as a Temporary PPAT in all sub-districts within the administrative area of Lhokseumawe City. As emphasized in Subsection A, the authority of the Subdistrict chief as a Temporary PPAT is attributive but conditional; it is only validly exercised as long as the formation of the PPAT in the relevant work area has not been fulfilled, as regulated by Article 5 paragraph (2) of Government Regulation Number 37 of 1998 Jo. Government Regulation Number 24 of 2016. If the objective conditions have indeed been met as found in the research in the City of Lhokseumawe, then doctrinally, the basis for the continuation of that attributive authority (*ratio legis*) has been lost. The general legal principle asserts that when the reason underlying the validity of a norm is no longer present, the norm itself loses its binding force (*cessante ratione legis, cessat ipsa lex*). Thus, this finding indicates that the appointment and/or continuation of the duties of the Sub district chief as Temporary PPAT in the sub-districts of Lhokseumawe, where the PPAT formation is complete, is at risk of losing its legal legitimacy.

The findings in Lhokseumawe are in line with the pattern identified in the research by Fitria Sari and Sa'adah regarding the appointment of Subdistrict chiefs as Temporary Land Deed Officials (PPAT) in areas where the formation of PPAT has been fulfilled. Based on the description of the juridical and sociological aspects above, it can be concluded that the relevance of the Sub district chief as the Temporary Land Deed Official in Lhokseumawe lies in its function as an instrument for the transition of land policy, which is legally valid thru the mechanism of authority attribution, and sociologically needed as a bridge to access legal land justice for the community in sub-districts that have not yet been reached by notary PPAT services. However, the empirical finding that the formation of Notary PPAT in Lhokseumawe City has been fulfilled confirms that this relevance is now at a critical point; the attributive basis of the sub-district chief's authority as a

Temporary PPAT should be periodically re-evaluated per sub-district by the Aceh Provincial BPN Regional Office thru the Lhokseumawe City BPN.

c. Legal Implications of Land Deed Creation by the Subdistrict Head as a Temporary Land Deed Official

Theoretically, legal implications or legal consequences (*rechtsgevolg*) are the consequences that arise from a legal act or a specific legal event, which by law, are recognized to create rights and obligations for the legal subjects involved. R. Soeroso emphasizes that every legal action has consequences that must be accounted for by the perpetrator, so legal actions are never free from the consequences that follow.^[11] Soedjono Dirdjosisworo added that legal consequences arise from the existence of a legal relationship, where legal actions can be unilateral (for example, making a will) or bilateral (for example, buying and selling), and in both forms, the law has determined binding consequences for the parties involved.^[12] In the legal literature, as stated by Jazim Hamidi, there are two main categories of legal consequences, namely legal consequences in the form of the birth, change, or disappearance of a certain legal status, and legal consequences in the form of the birth, change, or disappearance of a certain legal relationship.

This framework is relevant for analysing the creation of land deeds by the Sub-district chief as the Temporary PPAT, because the deeds he creates, whether sale and purchase deeds, grants, or other land deeds, are essentially legal acts intended to produce legal consequences in the form of the transfer of land rights. The question then is: what legal consequences arise if the legal act is performed by an official whose authority is of an attributive-temporary nature and has limited competence? As long as the Sub district chief, acting as the Temporary PPAT, operates within the limits of their attributive authority and meets the formal-material requirements for the creation of the deed, the legal consequences that arise are constitutive and valid, namely the transfer of land rights from one party to another, the emergence of payment obligations, and the creation of binding authentic evidence that serves as the basis for the registration of the transfer of rights at the Land Office. In this condition, the deed made by the District Head has the same legal standing as a PPAT deed because the evidentiary power of an authentic deed is not determined by who the official is, but by the fulfillment of the valid requirements for the creation of the authentic deed itself. The issue of legal implications becomes complex when the deed made by the sub-district head contains formal or material defects. Recent studies classify the legal consequences of PPAT deeds with formal defects into three categories that cannot be generalized:^[13]

1. Act null and void (null and void): The legal consequence is that the deed loses its evidentiary power as an authentic deed from the beginning, so the transfer of land rights is considered never to have occurred legally, and the situation must be restored to its original state (*restitutio in integrum*)^[14] This category usually applies to violations of substantive conditions, such as the seller not being the rightful holder of the right, or the object of the transfer being joint property sold without the consent of the spouse as required by the

Minister of Home Affairs Instruction Number 14 of 1982.

- 2. Voidable deed (*vernietigbaar*):** Unlike the first category, this type of deed remains valid and binding as long as no party has raised an objection and it has not been annulled by the competent court. This principle reflects the tenet of procedural justice, where administrative errors do not automatically nullify the substance of legal acts, but still allow for correction thru judicial mechanisms.^[15]
- 3. Deed that simply cannot be registered:** This category is a minor administrative defect that does not affect the validity of the legal act's substance, but hinders the process of registering the transfer of rights at the Land Office until the administrative deficiencies are rectified.

The classification emphasizes that the legal implications of the deed made by the Sub-district chief as a Temporary PPAT cannot be generalized uniformly; the severity of the legal consequences depends on the type and level of seriousness of the defect that occurs. From the perspective of the responsible subject, normative studies show that the responsibility of the Sub-district chief for the deed he created is multidimensional, encompassing administrative, civil, and criminal domains, depending on the reason for the annulment of the deed.

1. Administrative responsibility arises because the Sub-district chief holds the position as an official appointed and supervised by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency thru the local Regional Office, so procedural violations can result in reprimands, temporary suspension, or revocation of appointment as a Temporary PPAT based on Government Regulation Number 24 of 2016^[16].
2. Civil liability arises if the negligence of the Sub-district chief in verifying material requirements causes' loss to another party, so that they can be sued based on the construction of unlawful acts as regulated by Article 1365 of the Civil Code, which mandates compensation for the losses caused by such unlawful acts.
3. Criminal liability is only relevant if it is proven that there is an element of intent, such as data forgery or false statements in the creation of the deed, not merely an administrative procedural error.^[17]

This tripartite classification is important to prevent incorrect generalizations; not every void act automatically results in criminal liability for the sub-district head. Just as minor administrative errors should not burden the Sub-district chief with civil liability in the form of compensation. Another dimension of legal implications that is characteristic of the Temporary PPAT, as opposed to the notary PPAT, is the issue of responsibility for the deeds that have been made after the relevant Sub-district chief is no longer in office, whether due to transfer, retirement, or changes in structural positions. Studies on this matter indicate that the legal consequences of the deed that has been made remain attached to the deed as an authentic document and do not automatically become void simply because the official who created it has changed positions.

However, issues related to the handover of the deed protocol and subsequent accountability for problematic deeds often lead to normative ambiguities, considering the character of the Temporary PPAT position, which is attached to a government structural position and not to the individual independently, unlike the notary PPAT.^[18]

The legal risks that are detrimental, whether in the form of null and void deeds, civil lawsuits, or ambiguity in post-office responsibilities, essentially stem from the previously identified gaps in competence and unclear boundaries of authority. Thus, the greater the potential legal implications that harm the community, the stronger the normative argument to limit the presence of the Sub-district chief as a Temporary PPAT in Lhokseumawe only to the objective condition of a shortage of notary PPAT formations, accompanied by strengthened supervision, adequate technical training, and clarity in post-office accountability mechanisms.

Conclusion

In conclusion, the position of the Sub-district chief as a PPATS is recognized juridically, so the Sub-district chief has the authority to create authentic deeds regarding certain legal actions concerning land rights or Ownership Rights over Apartment Units in areas where there are not enough PPATs, serving as Temporary PPATs. The Sub-district chief as a Temporary PPAT is no longer relevant in the City of Lhokseumawe, both juridically and sociologically. This is because legal regulations state that the Sub-district chief, as a PPATS, is no longer needed if an area has met the PPAT formation. Therefore, from a sociological perspective, the need for PPATs in every area of the City of Lhokseumawe has been fulfilled. The legal implications of the land deed creation by the Sub-district chief as PPATS are the transfer of land rights from one party to another, the emergence of payment obligations, and the creation of binding authentic evidence that serves as the basis for the registration of the transfer of rights at the Land Office.

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