



## Legal consequences of notaries' responsibilities as PPATS toward disputed land deeds in Banda Aceh city

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### Abstract

The responsibility of a notary as a PPAT in the Article 16 section (1) letter f of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary (henceforth referred to as LPN) states that a notary is obliged to keep "everything regarding a deed that is made and all information obtained for making the deed in accordance with the oath/promise of office, unless the law provides otherwise", but in practice, the provisions of these norms are not fully implemented by a notary as a PPAT that causes losses for the client. This study aims to find and explain the factors that must be considered by a notary as a PPAT in making land deeds to prevent violations of the law and code of ethics as well as to analyze and explain the legal responsibilities of a notary as a PPAT for disputed land deeds in Banda Aceh City. This study uses a sociological juridical method, namely legal research that will provide a complete understanding of the law in the context of norms and when applied in a social context with a legal sociology approach. The data obtained from the field research and the library research were analyzed using a qualitative research approach. The result of the first study indicates that the factors that PPAT must consider in making a land deed are prioritizing laws provisions, a code of ethics, and considering the formal and material requirements to avoid errors in the ratification of the deed by PPAT. The result of the second study is the legal responsibility of a notary as a PPAT to the client depends on the level of error committed by the PPAT, which afterward can be punished in the form of civil law, administrative law, or criminal law. The responsibility provides a sense of justice and legal protection to clients, where the severe punishment for mistakes made by PPAT is the dismissal of PPAT as a deed maker official. It is recommended to PPAT to be more liable in making deeds that are following the laws and regulations as well as their oath of office, and also to always pay attention to the rights and obligations of the parties who want to make the deed to prevent the risk of problems in the future.

**Keywords:** PPAT, land deed, dispute

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### Introduction

Land is one of the sources of livelihood and livelihood for humans and society so it becomes the most basic human need with the belief that it is valued and useful for human life, even land and humans cannot be separated because humans live and develop and carry out activities on land so that every when humans come into contact with the ground.

Land deeds are all letters made by authorized officials (officials appointed for that by laws and regulations) in the context of recording a legal act on land, as referred to in Article 37 paragraph (1) Government Regulations Number 24 of 1997 concerning Land Registration, which confirms that: "the transfer of rights to land and rights to apartment units through buying and selling, exchanging, grants, income in the company and other legal acts of transferring rights, except the transfer of rights through auction can only be registered if it is proven by a deed made by the authorized PPAT according to the provisions of the applicable laws and regulations". An authentic deed is "binding" evidence, in the sense of what is written in the deed must be trusted by the judge, that is, it must be considered true, as long as the untruth is not proven. An authentic deed is a deed (made) in the form determined by law, made by or in the presence of public officials who have the power to do so, at the place where the deed was made.

Proof in writing is done with authentic writings or by writing under the hand. Article 1866 of the Civil Code stipulates that the first order of evidence is written evidence. It is clear that written evidence is the main and most important evidence at the stage of evidence in court. A notary is an extension of the Government in this case. The state has given the trust to the Notary to carry out some state affairs or duties, especially in the field of civil law.

Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary (henceforth abbreviated as LPN) stipulates the authorized public officials to make authentic deeds and other authorities as referred to in the law. Article 15 section 1 of the LPN states that "A notary has the authority to make authentic deeds regarding all acts, agreements, and stipulations required by laws and/or desired by the interested parties to be stated in authentic deeds, to guarantee the certainty date of making the deed, to save the

deed, to provide grosse, and to provide grosse and quotations of the deed, all of which as long as the deed is made, neither is it assigned or excluded to other officials or other people stipulated by law".

### Research Methods

According to Mukti Fajar, sociological legal research is legal research that will provide a complete understanding of law in the context of norms and when it is applied in a social context. To rephrase it research conducted on the actual situation or real conditions that have occurred in the community to know and find the facts and data needed. This study uses a legal sociology approach. The data collection technique is carried out through library research and field research, whose analysis is carried out inductively and will be directed to non-mathematical data. The composition of the research result is executed using a descriptive method, namely providing a real picture of the reality found in practice by describing the results of field research accompanied by a description of the applied legal basis and linking it with library data.

### Result and Discussion

Disputes commonly occur due to errors or omissions of the PPAT/Notary in making the deed as a result of ignoring the formal and material requirements, or the parties who do not meet directly with the PPAT/Notary who issues and ratify the authentic deed so that one of the parties takes advantage by transferring ownership rights to another party. PPAT as a public official who is authorized to make a deed to be used as a certificate, especially in Banda Aceh City to consider the factors previously described to the parties to provide protection for a person's right to the ownership of a legal certificate, provide legal certainty, justice, and security of ownership object stated in the authentic deed.

There were 2 cases in the form of a court decision on a claim toward ownership of land rights based on a deed held by each party, or a occurred dispute occurred due to a procedural error in making the deed that impact the parties' dispute, this can be seen from the two disputed cases in Banda Aceh City which has obtained decisions Number 1399/K/Pdt/2014 and Number 1803/K/Pdt/2018 over land as stated in the certificate.

PPAT involvement because of the authentic deed issued by PPAT as the authorized official to make the deed, should always pay attention to the formal and material requirements in making share and purchase deed (AJB, which means Akta Jual Beli in Indonesian) and other deeds, which involve the transition and or transfer of rights from A to B to avoid future conflict due to negligence or PPAT's inaccuracy in recording land objects resulted in double deeds and errors in the contents of the deed which benefited one of the parties.

The occurrence of land disputes is due to overlapping deeds. For instance, A makes a deed at a temporary PPAT while B makes a deed at a PPAT/Notary, or the same PPAT but a different applicant with the same object because the PPAT did not directly see the object of the deed. This incident has happened before and must be anticipated properly, otherwise the certificates will overlap, resulting in a dispute between the two parties holding the certificate.

There is also a case in the making of a deed where the interested party should meet directly with the PPAT. However, the parties did not meet directly with PPAT, but with agents (brokers) to make a PPAT deed so that legal actions occur on the deed that are not in accordance with the parties who have been aggrieved by the agent. The agent takes advantage of this opportunity to gain profit by reversing the facts on the land deed so that the land object becomes property rights and transfers ownership to the agent or can be on behalf of a third party (purchaser) who has agreed with the agent.

The parties must be able to prove that the PPAT and the authentic deed are invalid and the PPAT is guilty by proving it. First, the formal proof of an authentic deed proves the truth of what PPAT officials see, hear and do. The proof in question is proof of the truth of the official's statement regarding how much has been done and seen because it is certain about the date and place where the deed was made and the authenticity of the signature.

Second, the PPAT material evidence only proves the truth of what is seen and recorded. If an official hears the statement of the concerned party, it can be ascertained that the party concerned has explained so. Apart from the truth of the statement, it should be emphasized that the contents of the deed do not contain the statements of the parties because, in essence, the deed contains matters concerning legal actions (transfer of rights or transfer of rights) of both parties from A to B.

Commonly, disputes occur because a PPAT violates the formal aspect. The violations related to the formal aspects of the PPAT deed in making the deed are followed in several examples below:

1. Making fake or falsified documents and using fake or falsified letters (Article 263 section (1) and (2) of the Criminal Code)
2. Forging an authentic deed (Article 264 of the Criminal Code)
3. Instruct to include false information in an authentic deed (Article 266 of the Criminal Code)
4. Doing, instructing, participating in doing (Article 55 Jo. Article 263 section (1) and (2) of the Criminal Code or Article 264 or Article 266 of the Criminal Code)
5. Assist in making fake/or falsified documents and using fake/forged letters (Article 56 paragraphs (1) and (2) in conjunction with Article 263 paragraph (1) and (2) of the Criminal Code or Article 264 or Article 266 of the Criminal Code)

These five actions are factors that cause disputes between the parties in court because they have ignored the procedures in making the deed. Moreover, also because it does not meet the requirements in making the deed, changes in the content and meaning of the deed can impact two things, namely, the transfer of ownership of the

object in the deed to another party and has no legal power both inside and outside the court which results in annulment of the deed.

It is expected that the PPAT of Banda Aceh City will always prioritize procedures and professionalism because Banda Aceh is the capital city of Aceh Province, whose population continues to increase and has a myriad of problems including land disputes. Along with the increase in population, the vacant land in Banda Aceh City is decreasing. Therefore, The Land Office of Banda Aceh City should always carefully accept the land registration file provided by the PPAT to avoid overlapping land certificates which result in losses to the legal owner of the land object based on the original certificate it has.

### Conclusion

Factors that must be considered by a notary as a PPAT in making land deeds to prevent violations of the law and code of ethics are public officials who are given the authority to make authentic deeds regarding certain legal actions regarding land rights or property rights of flat units must prioritize a code of ethics and procedures in the making of the deed, other factors in the making of the deed are material truth and formal truth to avoid errors in the ratification of the deed by the PPAT, due to unfulfilled requirements based on the laws and regulations. PPAT's legal responsibility to the parties depends on the level of error committed by the PPAT, then later the punishment given can be known whether it is in the form of civil law, administrative law, and criminal law. This responsibility provides a sense of justice and legal protection to the aggrieved parties. Severe punishment for mistakes made by PPAT is a dismissal of PPAT as a deed maker official. It is expected from PPAT to be more responsible in making deeds to suit the laws and regulations as well as in accordance with their oath of office, along with always paying attention to the rights and obligations of the parties who want to make the deed to prevent problems that could happen in the future.

### References

1. Dewi Rasda, Muhammad Sabir Rahman, Bakhtiar Tijjang, "Tanggung Jawab Pejabat Pembuat Akta Tanah (PPAT) Dalam Pendaftaran Peralihan Hak Milik Atas Tanah", *Litigasi*, 2021, 9(1).
2. Habib Adjie, *Hukum Notaris Indonesia, Tafsir Tematik Terhadap UU No. 30 Tahun 2004 tentang Jabatan Notaris*. Bandung: Refika Aditama, 2008.
3. Junaedi, Gunawan Djajaputra, "Tanggung Jawab PPAT Sementara Dan Akibat Hukum Akta Jual Beli Yang Dibatalkan Melalui Putusan Pengadilan", *Jurnal Suara Hukum*, 2021, 4(1).
4. Kohar A. *Notaris Dalam Praktek Hukum*, Bandung: Penerbit Alumni, 1983.
5. Niniek Suparni, *Kitab Undang-Undang Hukum Perdata*, Jakarta: Rineka Cipta, 1991.
6. Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah. (LN Nomor 59 Tahun 1997. TLN 3696).
7. Rosdalina Bukido, "Kedudukan Alat Bukti Tulisan Terhadap Penyelesaian Perkara di Pengadilan Agama Manado", *Jurnal Ilmiah Al-Syir'ah*, 2011, 9(1).
8. Siahaan, Marihot Pahala., *Bea Perolehan Hak Atas Tanah dan Bangunan Teori dan Praktek*, Jakarta: Raja Grafindo Persada. 2003.
9. Tjukup, Ketut I, Wayan Bela Siki Layang I, Nyoman A Martana, Ketut Markeling I, Nyoman Satyayudha Dananjaya, I Putu Rasmadi Arsha Putra, Komang Widiyana Purnawan, Made Diah Sekar Mayang Sari, Ketut Nihan Pundari dan Putu Ayu Ratih Tribuana. Akta Notaris (Akta Otentik) sebagai Alat Bukti dalam Peristiwa Hukum Perdata, *Jurnal Ilmiah Prodi Magister Kenot ariatan, Acta Comitas*, ISSN: 2502 -8960I e - ISSN: 2502 -7573., 2016.
10. Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris. (LN Nomor 117 Tahun 2004. TLN Nomor 4432)
11. Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria. (LN Nomor 104 Tahun 1960. TLN Nomor 2043)