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Registration of Mortgage Rights that Exceed the Time Limit at the Agrarian and Spatial Planning Office/National Land Agency Based on Law Number 4 of 1996 in Tasikmalaya City

Aslan Noor¹, Dewi Anita², Anandya Tasya Wijaya³, Ratna Sari Putri Adiwijaya⁴¹Universitas Pasundan, West Java, Indonesia, nooraslan@yahoo.com²Universitas Pasundan, West Java, Indonesia, dewianita56@gmail.com³Universitas Pasundan, West Java, Indonesia, anandyatasyawijaya89@gmail.com⁴Universitas Pasundan, West Java, Indonesia, ratnasputria@gmail.comCorresponding Author: nooraslan@yahoo.com

Abstract: Mortgage is defined as a security right imposed on land rights. On 19 April 1996, Law Number 4 of 1996 on Mortgage Rights over land and objects related to land (UUHT) was enacted. This system is regulated in PMATR/KBPN Number 5 of 2020 concerning electronically integrated Mortgage Rights Services, which aims to provide certainty and legal protection in utilising land as an object of Mortgage Rights. This research examines how the registration of Mortgage Rights that exceeds the time limit at the ATR / BPN Office based on UUHT Number 4 of 1996 in Tasikmalaya City and what are the legal consequences if the registration of the Deed of Granting Mortgage (APHT) exceeds the time limit at the Agrarian and Spatial Planning Office / National Land Agency. The research method used is Empirical Juridical, with data sources from the ATR / BPN Office of Tasikmalaya City, PPAT, and Mortgage Rights Applicants in Tasikmalaya City. The data collection technique uses primary and secondary data. The results show that the process of encumbering Mortgage Rights in Tasikmalaya City often exceeds the time limit of 7 working days stipulated by UUHT article 13 paragraph (2), with an average delay of 0.28% during January to July 2024. The legal consequences are administrative sanctions in the form of verbal warnings. This delay does not cause the cancellation of Mortgage Rights, but the law cannot provide optimal protection to creditors according to the purpose of the certificate of mortgage rights.

Keyword: Registration of Mortgage Rights, APHT, Time Limit

INTRODUCTION

As a form of economic development which is part of National Development, one of the efforts to realise the welfare of a just and prosperous people, based on Pancasila and the 1945 Constitution. In order to maintain the balance of development, the perpetrators include both the government and the community as individuals and legal entities, large amounts of funds are needed. (Papatungan, 2016)

With the increase in development activities, there is also an increase in the need for the availability of funds, most of which are obtained through credit activities. (Patrik, 2008) Given the importance of the position of credit funds in the development process, it is appropriate if the lender and recipient of credit and other related parties are protected through a strong security rights institution and which can also provide legal certainty for all interested parties. (Sutedi, 2006)

One of the strong security institutions that can be imposed on land rights is Mortgage Rights. Mortgage Rights are security rights over land for the repayment of certain debts, which give priority to certain creditors over other creditors. The position of precedence means that if the debtor is in default, the creditor holding the mortgage right has the right to sell through a public auction the land used as collateral according to the provisions of the relevant laws and regulations, with rights that take precedence over other creditors. (Asril, 2020)

According to the provisions of Article 1 paragraph (1) of Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (UUHT), Mortgage Rights on land and objects related to land are security rights imposed on land rights as referred to in Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), following or not following other objects that are an integral part of the land, for the repayment of certain debts, which give priority to certain creditors against other creditors. The definition of mortgages above is not limited to focusing on land only, but also on other objects related to or forming an integral part of the land, including buildings standing on it. This is different from the provisions in the UUPA, which adheres to the principle of horizontal separation, namely the separation between the land and the building above it. (Parlindungan, 1996)

Regarding the procedure for registration of Mortgage Rights, it is explained in Article 13 of the UUHT which is as follows:

1. The granting of Mortgage Rights must be registered at the Land Office.
2. No later than 7 (seven) working days after signing the Deed of Grant of Mortgage as referred to in Article 10 paragraph (2), the PPAT must send the relevant Deed of Grant of Mortgage and other necessary documents to the Land Office.
3. The registration of the Mortgage Right as referred to in paragraph (1) shall be carried out by the Land Office by making a book-land of the Mortgage Right and recording it in the land book of the land right which is the object of the Mortgage Right and copying the record on the certificate of the land right concerned.
4. The date of the land-book of the mortgages as referred to in paragraph (3) shall be the date of the seventh day after the complete receipt of the documents required for its registration and if the seventh day falls on a holiday, the land-book concerned shall be dated the next working day.
5. The Mortgage Right shall be born on the date of the book-land of the Mortgage Right as referred to in paragraph (4).

The provisions of Article 13 of the UUHT above are further elaborated in the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 5 of 1996 concerning Registration of Mortgage Rights, Government Regulation Number 24 of 1997 concerning Land Registration, Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 27 of 1997 concerning Land Registration and Regulation of the Head of the National Land Agency Number 6 of 2008 as well as Number 1 of 2010 concerning Service Standards and Land Regulations. (Widjaja et al., 2020)

After the granting of Mortgage Rights is made and signed before a PPAT, the Deed of Granting Mortgage Rights (APHT) must be registered at the local land office to fulfil the publicity requirement, namely "No later than 7 (seven) working days If the seventh day falls on a holiday, then the next working day shall be counted, after the Deed of Granting

Mortgage Rights is signed by both parties, the PPAT must submit the APHT along with other documents to the Land Office." The registration is mandatory, because it determines the birth of the relevant Mortgage Right. This means that from the date of registration, the creditor becomes the holder of the Mortgage Right. As evidence of the existence of the Mortgage Right, the Land Office issues a title deed, called a "Mortgage Right Certificate". (Muljadi & Widjaja, 2005)

What also needs to be observed is the legal protection for creditors holding Mortgage Rights. Legal protection is considered important for holders of Mortgage Rights or creditors in order to ensure the certainty of returning the money borrowed by the debtor or the certainty that the creditor can execute the object of the Mortgage Rights guarantee if the debtor defaults, so that its implementation in the issuance of the Mortgage Rights Certificate must be in accordance with applicable legal provisions. (Guntoro et al., 2020)

Furthermore, based on information from one of the Tasikmalaya City Land Office Staff said that the implementation of Mortgage Rights registration in Tasikmalaya City from a list of approximately 58 (fifty-eight) Land Deed Making Officials based on data registered at the Tasikmalaya City Land Office, of which more than 50% carry out the process of registering Mortgage Rights on the authority of the parties. and some are still carrying out the role of the old habit, namely PPAT in accordance with the provisions of the deed delivery as well as the registration of Mortgage Rights assigned to PPAT based on the power of attorney from the creditor parties even though the task of implementing the registration is in accordance with Permen ATR / KBPN Number 5 of 2020 electronically or called HT-el, which there are still delays or not in accordance with the provisions of the law with various obstacles.

From the results of the temporary analysis of researchers, that in the ATR / BPN Office of Tasikmalaya city there are also problems related to the implementation of registration of mortgage rights that exceed the time limit set by law, from these problems arise due to several things and various reasons.

Based on the problems described above, the researcher is interested in ensuring further analysis of the implementation of Mortgage Registration that exceeds the time limit and the author raises the title in this study "Registration of Mortgage Rights that Exceed the Time Limit at the Agrarian and Spatial Planning Office / National Land Agency based on Law Number 4 of 1996 in Tasikmalaya City".

METHOD

In research, including legal research, there are various types and types of research. The determination of the type or type of research can be considered important because it is closely related between the type of research and the systematics and methods and any data analysis that must be carried out for each research, all of which must be done in order to achieve high data validity value, both from the data collected to the final results of the research conducted. (Waluyo, 2008)

According to Soerjono Soekanto, "research is a scientific activity related to analysis and construction that is carried out methodologically, systematically and consistently. (Soekanto & Mamudji, 2000) Mastery of research methods will be of real benefit to a researcher in carrying out research tasks. Researchers will be able to conduct research better and correctly, so that the results obtained are of prime quality". (Waluyo, 2008)

So the author uses a research method, namely the Approach Method used in this research is Empirical Juridical. The research subject is the actor related to the object of research, who is the subject in this study as an informant is the Head of the Tasikmalaya City Land Office (Primary Subject), PPAT in Tasikmalaya City (Secondary Subject), Creditor of PT BPRS AL-WADIAH Tasikmalaya City, Research Object is something that becomes the subject of discussion and writing and becomes the target of research, namely the Implementation of Registration of Mortgage Rights that exceeds the 7 (seven) Day Time

Limit at the Tasikmalaya City Land Office. The data used in this research are primary data and secondary data.

RESULTS AND DISCUSSION

Registration of Mortgage Rights that Exceed the Time Limit Under Law Number 4 of 1996

Mortgage on land and objects related to land is a security right imposed on land rights as mentioned in Law Number 5 of 1960 concerning Basic Agrarian Regulations. (Siswosoediro, 2009) Prior to the enactment of UUHT Number 4 of 1996, what was known as mortgage rights imposed on land rights regulated in Article 1162 to Article 1232 of the Civil Code and Article 224 HIR or Article 258 RBG and for Creditverbank regulated in Stb. 1908 number 452 then amended Stb. 1908 number 452. 1908 number 452 then amended by Stb. 1937 Number 190. (Parinduri, 2022)

St. Remy Sjahdeini said that the provisions on Hypotheek and Credietverband are no longer in accordance with the principles of national land law and in reality cannot accommodate the developments that occur in the field of credit and security rights as a result and progress of economic development. As a result, different views and interpretations have arisen regarding various guarantees over land. For example, the inclusion of executorial title, execution and so forth, so that the legislation is deemed to provide less assurance of legal certainty in credit activities (General Elucidation of UUHT). (Sjahdeini, 1999)

Registration of Mortgage Rights at the Land Office is an implementation of the principle of Publicity in Mortgage Rights because Mortgage Rights must be registered at the local land office in accordance with Article 13 of Law Number 4 of 1996 concerning Mortgage Rights. Registration of Mortgage Rights must first be made a Deed of Encumbrance of Mortgage Rights at the Office of Notary PPAT (Land Deed Official), after obtaining the Deed, it is then registered at the local Land Office within 7 (seven) days after the Deed is made by Notary PPAT.

Satjipto Rahardjo's theory of legal protection is inspired by Fitzgerald's legal objectives. The purpose of law according to Fitzgerald is to integrate and coordinate various interests in society by regulating the protection and limitation of these various interests. From this concept, Rahardjo defines legal protection as an effort to protect a person's interests by allocating a human right the power to act in the context of that interest. (Teori Perlindungan Hukum Menurut Para Ahli, 2024)

As the purpose of the issuance of a certificate of mortgage rights gives priority to certain creditors against other creditors, and to legal protection for creditors holding mortgage rights in order to guarantee the certainty of returning the money borrowed by the debtor or guarantee certainty for creditors can execute against the object of mortgage rights collateral if the debtor defaults.

Mortgage encumbrance begins with the granting of a Mortgage Right and then its registration is carried out by the BPN/ATR Office. Because the process of registering a Mortgage Right must first begin with the granting of a Mortgage Right which is made by an APHT by a PPAT.

From the results of the author's research at the Tasikmalaya City BPN/ATR Office obtained from interviews with the Head of the Land Rights Section explained that the process of encumbering Mortgage Rights consists of two stages, namely the stage of granting Mortgage Rights carried out in front of a PPAT and the stage of registration of Mortgage Rights carried out by the BPN/ATR Office.

As for the encumbrance process, namely the Granting stage carried out before a PPAT according to the applicable laws and regulations, PPATs or public officials are authorised to make deeds of granting Mortgage Rights (APHT) and other deeds in the context of encumbrance of land rights, the form of which has been determined, as a book for certain

legal acts concerning land located within their respective working areas. UUHT article 1 paragraph (4).

In its position as mentioned above, the deeds contained by PPAT are authentic deeds. The granting of Mortgage Rights is carried out by making a Deed of Granting Mortgage Rights (APHT) made by a PPAT in accordance with applicable laws and regulations, namely Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 8 of 2012 concerning Amendments to Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration article 96 paragraphs 2 and 1 and article 11 paragraph (1b) concerning the enactment of the APHT draft form APHT draft is provided by the ATR / BPN Office before the Deed of Granting Mortgage Rights (APHT) is made by the PPAT, The Land Deed Official (PPAT) has the obligation to collect juridical data, namely concerning the subjects (prospective debtors and creditors as well as prospective grantors and recipients of Mortgage Rights) and physical data from the object of Mortgage Rights. Based on this data, the PPAT can determine whether or not the parties are authorised to carry out legal actions on their rights, which in turn can provide a decision to accept or refuse to make the APHT.

Before registering a Mortgage Right, the PPAT is obliged to check the certificate of land rights / Unit Ownership Rights of Flats that become the object of the Mortgage Right at the Land Office.

In granting Mortgage Rights, the party must appear before the PPAT. If for some reason he cannot be present, he is obliged to appoint another party as his proxy, with a power of attorney to impose a mortgage (SKMHT) in the form of an authentic deed. The deed made by the PPAT must be witnessed by at least 2 witnesses who, according to the provisions of the prevailing laws and regulations, are qualified to act as witnesses in a legal action, testifying, among other things, to the presence of the parties or their proxies, the existence of the documents presented in the deed, and the execution of the legal action by the parties concerned. The PPAT is obliged to read the deed to the parties concerned and also provide an explanation of the content and purpose of the deed of granting Mortgage Rights, and the registration procedures to the Land Office that must be carried out subsequently in accordance with the applicable provisions.

According to the information from Mr Gunawan Agusdaryono, S.H., M.H., as the Head of Sub Section of Mortgage Rights of the ATR/BPN Office of Tasikmalaya City, the provision was made to provide early opportunities for land rights holders to obtain credit. It is also to encourage the tying up of unregistered lands, of which there are many. (Rachmah & Sudiro, 2024)

This APHT (Akta Pemberi Hak Tanggungan) is made in triplicate, of which 2 (two) sheets are stamped, 1 (one) sheet is used as an archive at the PPAT Office (Land Deed Official) and 1 (one) sheet is used to register with the ATR / BPN Office of Tasikmalaya City. Meanwhile, one more sheet is made unstamped to be given to the debtor and creditor, each holding one APHT (Deed of Mortgagee) sheet. Then after it is made, the obligation is to immediately register it at the Tasikmalaya City Land Office, which is to fulfil the principle of publicity as a condition for the birth of a Mortgage Right. The submission of Mortgage Rights registration at the Tasikmalaya City BPN/ATR Office is no later than 7 (seven) working days after the signing (Article 13 paragraph (2) of Law Number 4 Year 1996). (Status Hukum Pembebanan Hak Tanggungan Terhadap Eigendom Verponding Dihubungkan Dengan Undang-Undang Nomor 4 Tahun 1996 Tentang Hak Tanggungan, 2017)

According to the statement of the Head of the Land Rights Section (HAT) of the Tasikmalaya City BPN/ATR Office, the deed that has been made by the official must be sent to the Land Office along with other necessary documents. Because the Tasikmalaya City

Land Office applies 5 working days, namely Monday to Friday, if the seven days fall on Saturday or Sunday, it can be processed again on Monday. The time period is a specified time limit and may not exceed in accordance with the provisions of the UUHT. (Agus Antoni et al., 2024)

Registration of Mortgage Rights carried out by the Tasikmalaya City BPN/ATR Office is by making a land book of Mortgage Rights and recording it in the land book of the land title which is the object of the Mortgage Rights and copying the record on the certificate of the land title concerned.

Mortgage Rights are born on the date of the land-book of the Mortgage Rights. As evidence of the existence of a Mortgage Right, the Tasikmalaya City Land Office issues a certificate of Mortgage Rights in accordance with applicable laws and regulations, namely Government Regulation Number 24 of 1997 concerning Land Registration Jo Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 3 of 1997.

The certificate has the same executorial power as a court decision that has obtained permanent legal force and is valid as a substitute for the *grosse acte hypotheek* as far as land rights are concerned. The certificate of Mortgage Rights is given to the holder of the Mortgage Rights (the creditor). (Iskandar Soewito & Djajaputra, 2024)

As a form of change, the Electronic Registration of Mortgage Rights is implemented with the aim of maximising an effective and efficient service system regarding the procedure for registering Electronic Mortgage Rights, which starting on 8 July 2020 Electronically Integrated Mortgage Rights Services must be implemented throughout Indonesia. The HT-el system as referred to in PMATR / BPN Number 5 of 2020 is the latest amendment to the Regulation of the Minister of ATR / BPN Number 3 of 2019 concerning the Application of Electronic Signatures which is useful in the process of issuing electronic certificates. After that, by issuing Regulation of the Minister of ATR / BPN Number 9 of 2019 concerning Electronically Integrated Mortgage Rights Services (Permen ATR / BPN Number 9 of 2019) promulgated on 21 June 2019 as the basis for HTel services is a series of Mortgage Rights service processes in the context of maintaining land registration data held through an integrated electronic system. Several types of services contained in the HT-el System include registration of Mortgage Rights, transfer of Mortgage Rights, change of name of creditors and elimination of Mortgage Rights.

The mechanism for registering Mortgage Rights carried out by PPAT to the Tasikmalaya City BPN Office is as follows: the registration system in the submission of APHT to the Land Office which is the duty of the PPAT, where so far (before the PMATR / KBPN Number 5 of 2020) the act of submitting the deed as well as registering the Mortgage is assigned to the PPAT, whereas after the enactment of electronically integrated HT services, the PPAT only submits the deed made according to the time limit specified electronically and for the registration of the Mortgage is carried out by the Creditor. (Dewi & Ardani, 2020)

The stage of guaranteeing Mortgage Rights with the HT-el System carried out by the Tasikmalaya City PPAT is the stage of granting Mortgage Rights. This is related to the duties, functions and authorities as a PPAT, namely the preparation and submission of APHT along with all files to the Land Office online. It is an obligation of the PPAT with the threat of sanctions stipulated in the UUHT if not carried out. In the process of securing Mortgage Rights, the Tasikmalaya City PPAT only submits the APHT along with the files related to the Mortgage Rights guarantee to the Tasikmalaya City Land Office online. The PPAT registers the APHT with the Land Office through an online system by logging in to the Working Partner Application (<https://mitra.atrbpn.go.id>). Through the Working Partner Application, the PPAT uploads several scanned documents required into the system until the issuance of the Deed Introduction Letter (SPA).

This is in accordance with what is stipulated in PMATR/KBPN number 5 of 2020 that those who can register HT at the Land Office are Creditors. This means that based on the

PMATR/KBPN, PPAT cannot register HT at the Land Office, the work of registering Mortgage Rights will be carried out by the Creditor. In the HT-el service system, the creditor is a party that is indebted in a certain debt-debt relationship. The Creditor applies for HT-el Service registration by logging in to the Self Service Application (<https://htel.atrbpn.go.id>) using the operator account that has been registered in the Working Partner Application. In the Self Service Application, the Creditor can check the documents uploaded by the PPAT, if there are no errors in the documents made by the PPAT, the Creditor will forward the application to the Land Office by first uploading the Creditor Application Letter and making payment in accordance with the Non-Tax State Revenue (PNBP) fee stated in the online Deposit Order (SPS).

The BPN/ATR Office then records the record in the land book that is the object of the Mortgage and copies the record on the relevant land title certificate (the record is in the form of a barcode listed in the HT-el system). The date of the land book of the Mortgage is the seventh day after receipt of the complete requirements necessary for the registration of the Mortgage Right, then the Land Office issues a certificate of Mortgage Rights as evidence of the existence of the Mortgage Right.

Based on the interview with the Head of the HAT Subsection, the registration of Mortgage Rights that exceeds the time limit is where the submission of the registration file of Mortgage Rights carried out by the PPAT to the BPN/ATR Office of Tasikmalaya City and the registration by the creditor according to the HT-el system, in practice in Tasikmalaya City in accordance with what is outlined in the legislation, which is for no later than 7 (seven) working days after the signing of the deed is submitted to the BPN/ATR Office of Tasikmalaya City.

The results of the author's interview with the respondent as the grantor of the Mortgage Rights met in his office, said that the deed taken or promised by the Tasikmalaya City PPAT is usually approximately 2 weeks or 12 (twelve) working days, with the interview actually the grantor of the Mortgage Rights as a respondent already knows the delay in registration, but the respondent does not mind it, the important thing is that the Mortgage Rights certificate can be taken by the respondent from the PPAT concerned.

However, in reality, in the author's research at the Tasikmalaya City BPN/ATR Office based on an interview with the Head of the HAT Subsection. There are still some delays in delivery.

Based on the data, the number of delays has indeed decreased, unlike in previous years when there were up to 2 (two) years that have not been registered with the HT-el system, the number of delays in registration has decreased with the last report in 2024, it is concluded that during 2024, an average of 0.72% (percent) of timeliness in registering mortgage rights in Tasikmalaya City was carried out, and the remaining 0.28% (percent) of mortgage registration exceeded the time limit specified in accordance with the law. Against these delays, the Land Office accepts and issues Mortgage Rights. (Daniel Tanati, 2024)

Next, the delay is due to the problems faced by PPATs and Creditors in this Electronic Mortgage Service, including the problem of checking the certificate before making the Deed of Granting Mortgage, which is often constrained by the fact that the land title certificate has not been validated as the object of granting Mortgage Rights (it can take three days or sometimes more), so that the PNBP for checking can only be paid a day after the validation is complete. Problems will then arise again when after the APHT is signed, the parties are then registered through the electronic system, server disruptions often appear when PPAT uploads Deed documents and others. Even though they only have 7 (seven) working days after the deed is signed to immediately register in the system.

From Creditors, the problem is often faced because it has not been registered and has not been validated in the Electronic HT service system. The purpose of the implementation of encumbrance by granting Electronic Mortgage Rights which must be carried out

simultaneously nationally is to fulfil the principles of openness, timeliness, speed, convenience and affordability in the context of public services. In addition to adjusting the development of law and technology. Many obstacles are faced by users of Electronic Mortgage services by both PPATs and Creditors, it seems that many PPATs and Creditors are not ready, due to the lack of socialisation from the Government, in a very short time suddenly simultaneously must be carried out by granting Electronic Mortgage Rights.

The method of registration is further elaborated in the explanation of Article 13 paragraph (2) and Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 5 of 1996 on the Registration of Mortgage Rights. Letter of the Minister of Agrarian Affairs/Head of the National Land Agency Number 110-1544 dated 30 May 1996 regarding the submission of Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 5 of 1996 on the Registration of Mortgage Rights which states as follows: "The PPAT is obliged to send the files required for the registration of Mortgage Rights no later than 7 (seven) working days after the signing of the Deed of Granting Mortgage Rights. Therefore, the PPAT is responsible for all consequences, including losses suffered by the parties concerned, caused by the delay in sending the file.

Article 40 paragraph (1) of Government Regulation 24/1997 on Land Registration states that: "No later than 7 (seven) working days from the date of signing of the deed concerned, the PPAT is obliged to submit the deed made by him along with the documents concerned to the Land Office to be registered."

Obstacles in the implementation of HT-el services according to the author of the efforts made by the Tasikmalaya City Land Office, namely: disruptions to the HT-el System with periodic system refresh efforts and reporting system disruptions to Pusdatin, for checking and repairing the system, errors in HT ranking data with efforts to re-validate the data in accordance with the physical HT land book, the file is cancelled because it does not match the requirements, the efforts made are to build commitment for PPAT and Creditors to be proactive in implementing HT-el services.

Based on the description above, the author concludes that the registration of mortgage rights at the Tasikmalaya City Land Office is not carried out in accordance with Article 13 paragraph (2) of the UUHT because it is known that information during January to July 2022 there were 0.28% (per cent) registration of mortgage rights exceeds the time limit, namely more than 7 (seven) working days after the signing of the deed. For this delay, according to Satjipto Rahardjo's theory of legal protection, the law cannot provide protection to creditors as the purpose of the mortgage title certificate is made. (Supryadi, 2022)

Legal Consequences If the APHT Registered Exceeds the Time Limit Based on Law Number 4 of 1996

The legal consequences used in this research are legal consequences in the form of the end, change, or disappearance of a certain legal situation and legal consequences in the form of the end, change, or disappearance of a certain legal relationship. (Yuslim et al., 2023)

According to Jazim Hamidi. The word legal impact / legal effect implies the impact or legal effect directly, strongly, or explicitly. (Hamidi, 2006) The legal literature recognises three types of legal effects, as follows:

1. Legal effect in the form of the birth, change, or disappearance of a certain legal situation;
2. Legal effect in the form of birth, change, or cessation of a certain legal relationship;
3. Legal consequences in the form of sanctions, which are not desired by the subject of law (unlawful acts).

Legal consequences which are all the consequences that occur from legal actions carried out if the registration of Mortgage Rights is registered beyond the time limit. Which is required by the statutory provisions on Mortgage Rights. Regarding the Registration Provisions, it can be found in:

1. Article 13 paragraph (2) of Law Number 4 Year 1996 on Mortgage Rights, which states that no later than 7 (seven) working days after the signing of the APHT as referred to in Article 10 paragraph (2), the PPAT is obliged to send the relevant APHT and other necessary documents to the Land Office;
2. Article 40 paragraph (1) of Government Regulation No. 24/1997, which states that no later than 7 (seven) working days from the date of signing of the relevant deed, the PPAT is obliged to submit the deed made by him along with the relevant documents to the Land Office for registration.

Although the submission to the Tasikmalaya City BPN/ATR Office as practised by most of the officials in Tasikmalaya City is not in accordance with the applicable laws and regulations, it does not result in cancellation and there is no legal provision stating that the late submission makes the relevant deed void.

Based on information from Mr Yana Maulana, S.H., M.Kn., and Heri Hendriyana, S.H., M.Kn., as officials in Tasikmalaya City with late registration, the legal consequences do not result in the process in the registration becomes void, but still continue to be processed until the certificate of Mortgage that experienced the delay signed by the Head of the Office of BPN/ATR Tasikmalaya City and can be taken by the person concerned.

Although the delivery is late, the Head of the Tasikmalaya City Land Office is still obliged to process it. But the official is responsible for all consequences, including losses suffered by the parties concerned, caused by the late delivery of the file. Certainty about when the Mortgage is registered is very important for the creditor. Not only does it determine its position of priority (*droit de preferent*) over other creditors, but it also determines its ranking in relation to other creditors who are also holders of the Mortgage Right, with the land as collateral.

The issuance of an electronic Mortgage Title Certificate contains the words "For the Sake of Justice Based on God Almighty". This is intended by the Land Office so that the electronic Mortgage Title Certificate has the same executorial power as a court decision that has obtained permanent legal force. However, the delay in the registration process must also affect the birth of the Mortgage Right, where during the period when the Mortgage Right has not been registered, a lawsuit may arise against the object. This causes losses, especially for creditors because as long as the Mortgage Rights Certificate has not been issued, the creditor's position is still a concurrent creditor, so that the creditor's rights are the same as other creditors and do not take precedence in repaying the debtor's debt. The creditor's rights are only limited to the general guarantee contained in Article 1131 of the Civil Code, namely that all existing and existing assets of the debtor become collateral for all of their obligations.

Registration of the deed aims to ensure that the title deed can be born and the creditor as an interested party is protected by the Mortgage Law. However, late registration also affects the time of birth of the Mortgage Right, during which time there may be a lawsuit from a third party, court seizure, or bankruptcy imposed on the Mortgagee, where creditors and PPAT do not always know the economic situation of the Debtor. Of course, this causes losses for the creditor as the provider of receivables. (Musadad & Marbun, 2024)

For example, the Mortgage cannot be registered, because the land that is the object of the Mortgage has already been subject to bail seizure. Then the evidence used by PPAT in making APHT and what documents must be submitted to the Head of the BPN/ATR Office of Tasikmalaya City. In the provisions of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997, which depends on the condition of the object of Mortgage Rights. The submission is done with a cover letter, which is made in duplicate and clearly mentions the type of documents submitted. (Jennyola Savira & Gunawan Djajaputra, 2024)

This has more or less affected the performance of the authorised officials in Tasikmalaya City in submitting the deed to the Tasikmalaya City Land Office. This is

supported by the provisions of Article 114 paragraph (7) of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 which states that the provisions referred to in paragraphs (3), (4), (5), and (6) must also be implemented by the Land Office, even though the delivery of files by the PPAT is done after the time stipulated in paragraphs (1) and (2). (Utomo, 2020)

Since the above concerns the implementation of a legal provision, in addressing the matter, it should be returned to the legal provision that regulates it. As stipulated in Article 23 paragraph (1) UUHT, that Officials who violate or neglect to fulfil the provisions referred to in Article 11 paragraph (1), Article 13 paragraph (2), and Article 15 paragraph (1) of this Law and/or its implementing regulations may be subject to administrative sanctions, in the form of:

1. Verbal reprimand;
2. Written reprimand;
3. Temporary dismissal from office;
4. Dismissal from office.

In addition to the above provisions, Article 62 of Government Regulation No. 24 of 1997 also expressly states that PPATs who in carrying out their duties ignore the provisions referred to in Article 38, Article 39 and Article 40 of Government Regulation No. 24 of 1997 as well as the provisions and instructions given by the Minister or a designated official are subject to administrative action in the form of a written warning until dismissal from their position as PPAT, without reducing the possibility of being sued for compensation by parties who suffer losses caused by ignoring these provisions.

Addressing the performance of such a PPAT cannot be separated from the function of the Head of the Tasikmalaya City BPN/ATR Office as an agency authorised to provide guidance and supervision to PPATs in the region.

Based on the results of interviews with the Head of the HAT Section of BPN/ATR Tasikmalaya City Gunawan Agusdaryono, S.H., M.H., that in overcoming the lack of office registration efforts so far the administrative sanctions that have been given are only verbal warnings and written warnings, for temporary dismissal from office and termination of office have not been dealt with firmly by the Head of the BPN/ATR Office.

The Head of the Tasikmalaya City BPN/ATR Office as well as coaching for officials and banks on a regular basis.

The following interview results from the Tasikmalaya City PPAT and PPAT staff in the Mortgage Registration section explain that the administrative witnesses received so far are only verbal and, even during the last few years, this sanction has rarely been carried out by the Tasikmalaya City BPN/ATR Office, for written sanctions there may be given but very rarely, due to various considerations and policies of the Tasikmalaya City BPN/ATR office.

If the oral warning given by the Head of the Tasikmalaya City BPN/ATR Office is ignored by the PPAT concerned and repeats its negligence in the delay in registering, then the Head of the Land Office gives a written warning stating that the person concerned has violated the provisions based on Article 13 paragraph (2) of Law Number 4 of 1996 concerning Mortgage Rights. And has ignored the oral warning in accordance with the minutes that have been made by the Head of the Land Rights Section of the Tasikmalaya City BPN/ATR Office. After all that has been described in practice from the results of the author's research on the legal consequences if registered by PPAT to the Tasikmalaya City BPN/ATR office exceeds the period of 7 (seven) days and also how to resolve it.

It is known from the results of the research above that there are no obstacles that cause it to be cancelled and not processed by the Land Office, but it continues to be processed until the release of the Mortgage Rights certificate which has been signed by the Head of the Tasikmalaya City Land Office. (Setya et al., 2023a)

According to the author, registration that exceeds the period of 7 (seven) days turns out that the administrative sanctions imposed are only in the form of verbal warnings and written warnings, but more severe sanctions such as temporary dismissal from office and dismissal from office have not been implemented by the Head of the Tasikmalaya City BPN/ATR Office. (Setya et al., 2023b)

The author's opinion disagrees with the administrative sanctions given to PPATs who are negligent in the late submission of Mortgage Registration to the Tasikmalaya City BPN/ATR Office, because in Article 23 paragraph (1) there are 4 (four) administrative sanctions that must be given, but the administrative sanctions given are only written warnings and oral warnings, in which case there are still other administrative sanctions, namely temporary dismissal from office and dismissal from office.

The efforts made by the Tasikmalaya City BPN/ATR Office to overcome violations of Article 13 paragraph (2) of the UUHT in conjunction with Article 40 paragraph (1) of Government Regulation Number 24 of 1997, which states that no later than 7 (seven) working days is to apply administrative witnesses and periodic guidance to PPAT and Creditors.

The author's final conclusion is that the delay in registration results in a delay in the birth of the Mortgage Right, but does not affect the validity of the registered APHT. The consequences of missing the deadline for registering, causing administrative sanctions to PPAT and also losses to creditors because registration of mortgage rights determines the birth of the Mortgage Rights, the delay does not result in the cancellation of the mortgage rights. (Mariane et al., 2024)

CONCLUSION

From the description of the Implementation of Mortgage Registration Exceeding the 7 (Seven) Day Period at the BPN/ATR Office of Tasikmalaya City, the following conclusions can be drawn The registration of Mortgage Rights at the Tasikmalaya City Land Office is not in accordance with UUHT article 13 paragraph (2) because it exceeds the time limit of no later than 7 (seven) working days, during January to July 2024, an average of 0.28% (per cent) exceeded the time limit set by the law, and the Agrarian and Tataruang Office of the Tasikmalaya City Land Agency still issued a certificate of mortgage rights, and the legal consequences did not result in the cancellation of the mortgage rights, but only delayed the issuance of the certificate of mortgage rights, and there was an administrative witness but the land office only applied an administrative witness in the form of an oral warning. In order to ensure protection for creditors in the implementation of execution as the theory of legal protection Satjipto Rahardjo argues related to the purpose of the law that exists, if it is late then the theory can not apply.

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