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Critical Review of Officials Making Land Deeds Who Do Not Comply With The Procedure For Making Authentic Deeds of Land Sale and Purchase Agreements

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Abstract: The responsibilities of the Land Deed Official (PPAT) include administrative and legal responsibilities. Procedures that are not in accordance with the regulations for making authentic deeds of land sale and purchase agreements will have an impact on the strength of the deed of agreement and even on the Land Deed Making Official himself in accordance with Government Regulation Number 24 of 2016 concerning the Position of Land Deed Making Officials and regulations regarding the Code of Ethics for the Association of Deed Making Officials. Land. The implication of errors in the procedure for making the deed is that the PPAT was dishonorably dismissed from his position, and weakened the strength of the authentic deed of sale and purchase to become a private agreement. Factors that influence PPAT in violating the regulations for making authentic deeds, there are actions that PPAT must take in order to save the sale and purchase transaction, There is mutual trust between the parties including PPAT officials, Time factors and strong relationships cause PPAT to make authentic deeds that are not in accordance with procedures and procedures for making deeds in accordance with applicable regulations.

Keyword: Land Sale and Purchase Agreement, PPAT, Authentic Deed.

INTRODUCTION

Land is a natural resource that is very important for human life. Land is a source of livelihood and income for the community. Land has economic, social, political, cultural and ecological elements that have a special position in society. In fact, land and humans cannot be separated because humans live and develop and carry out activities on the land so that humans are in contact with the land at all times (Siahaan,2023). Land is so important and valuable in the fabric of society's life that there needs to be management and regulation of land in order to create just conduciveness.

The state as the ruling body will always be able to control or direct the management of the functions of the earth, water and space as well as the natural resources contained therein in accordance with existing regulations and policies, namely within the scope of juridical control with a public aspect (Bakri, 2007). This is stated in Article 2 paragraph (1) of the Basic Agrarian Law which states that: "Earth, water and outer space, including the natural resources contained therein, are controlled at the highest level by the State as the ruling organization of all the people.

The National Land Agency is an agency that has the right and authority to register land and issue proof of land rights (Kartini, 2021). Meanwhile, those who are given the authority to make deeds of transfer of land rights in the Republic of Indonesia are Land Deed Making Officials or better known as PPAT (Salim, 2016). An authentic deed is a deed made in a form determined by law by or before a public official authorized to do so in the place where the deed was made according to Article 1868 of the Civil Code. The implementation of making an authentic PPAT deed as proof of land transfer is based on the Regulation of the Minister of State for Agrarian Affairs, Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration, which is contained in Articles 95 to Article 102. Procedures and procedures Making an authentic land deed is binding and coercive in that the officials who make the deed must submit and comply with the rules and procedures that have been determined. If there is a deviation from the rules and procedures, it will have legal consequences for the strength of the authentic deed.

One of the areas where deviations occurred in the procedures for making authentic deeds carried out by PPAT was the City of Tasikmalaya. Tasikmalaya City is a division city of Tasikmalaya Regency. This city is one of the most developed cities in the East Priangan area. The East and South Priangan areas account for 40% of the total area of West Java, which means that more than a third of the economic center in West Java is in this city (Putra, 2022). This indication can be seen from the large number of entrepreneurs who are looking for large areas of land around the route that will pass through the toll road to become factories with territorial support capacity and adequate infrastructure. This has resulted in many transfers of land rights occurring in Tasikmalaya City. This phenomenon is interesting to observe regarding how officials who make land deeds do not comply with the procedures for making authentic deeds of land sale and purchase agreements in Tasikmalaya City.

METHOD

The method used is the analytical descriptive method, namely systematically describing and explaining all the problems, then analyzing them based on existing regulations, as the basis for the juridical consequences for officials who make land deeds who do not comply with the procedures for making authentic deeds of land sale and purchase agreements. This writing is intended to obtain normative clarity by identifying and analyzing the procedural order of making deeds based on Government Regulation (PP) Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Making Officials and the Code of Ethics for Land Deed Making Officials (PPAT). This research was conducted using normative juridical research is library legal research carried out by examining library materials or secondary data alone (Soekanto, 2003). The approach method in this research is normative law, that is, this research has as its object the study of legal rules and regulations as a foundation for viewing legal phenomena or legal events.

This research was carried out library research (Library Research), namely this research was carried out by collecting secondary data consisting of Primary legal materials, namely legal sources that have binding force, and consist of norms (basics) or basic principles, namely the preamble to the 1945 Constitution; Basic Rules; Legislation; legal

materials that are not codified, such as customary law; jurisprudence; treaty; and legal materials from the colonial era which are still valid today. The primary legal materials in this research include:

1. 1945 Constitution of the Republic of Indonesia 4th Amendment;
2. Civil Code (Civil Code)
3. Government Regulation (PP) Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Officials
4. Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 112/KEP-4.1/IV/2017 concerning Ratification of the Code of Ethics for the Association of Land Deed Officials. The data analysis method used in this research is the qualitative normative analysis method. Normative because the research starts from existing regulations such as positive law, legal principles, legal understanding and customs (Soemitro,1990).

RESULTS AND DISCUSSION

Results

Critical Analysis of Officials Making Land Deeds Who Do Not Comply with Procedures for Making Authentic Deeds of Land Sale and Purchase Agreements, namely the legal theory of agreements, Government Regulation (PP) Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Position Regulations for Officials Making Land Deeds and Decisions Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 112/KEP-4.1/IV/2017 concerning Ratification of the Code of Ethics for the Association of Land Deed Officials.

An agreement is an event where one person promises to another person or where two people promise each other to carry out something (Subekti, 1987). Contract law adheres to an open system, which means that people are given the freedom to make agreements that do not deviate from the law, including the Third Book of the Civil Code. Article 1313 of the Civil Code reads: An agreement of agreement is an act by which one or more people bind themselves to one or more people (Raharjo,2009). The conditions for the validity of an agreement are regulated in Article 1320 of the Civil Code. First, an agreement is the basis for the birth of an agreement. Second, Competency, according to Article 1329 of the Civil Code, every person is competent to make agreements, if he is not declared incompetent by law. Third, a certain matter. The third condition for the validity of an agreement is that the agreement must concern a certain matter which is the subject of the agreement, namely regarding the object of the agreement. Article 1333 of the Civil Code determines that the subject of an agreement in the form of goods must at least specify its type. Fourth, is a halal cause. The requirement for a halal cause is not meant to be a cause in the sense that causes a person to make an agreement, but rather the content or purpose of the agreement.

The Land Deed Making Official or abbreviated as PPAT, which in Dutch is called land title registrar, has a very important position and role in the life of the nation and state because this official is given the authority by the state to make deeds of transfer of land rights in the Republic of Indonesia (Salim, 2016). In article 1 of the Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations on the Position of Officials Making Land Deeds, PPAT is referred to as a general official who is given the authority to make authentic deeds regarding certain legal acts regarding land rights and rights. ownership of the apartment unit. A public official is a person appointed by an authorized agency, with the task of serving the general public in certain fields or activities.

Provisions of PP No. 24 of 2016 concerning Amendments to PP No. 37 of 1998 concerning Regulations for Officials Making Land Deeds does not mention the PPAT code of ethics or professional ethics at all. However, in further regulations, namely the provisions of

Article 28 paragraph (2) letter c Head of BPN Regulation No. 1 of 2006 concerning Provisions for the Implementation of PP No. 37 of 1998 explained that PPAT was dishonorably dismissed from his position by the Head of BPN for violating the professional code of ethics.

Discussion

Making a Land Sale and Purchase Deed that is not in accordance with the Procedures for Making a PPAT Deed

Based on the provisions of Government Regulation no. 24 of 1997, in Article 1 number 24, it is stated that the Land Deed Making Official (PPAT), is a general official who is given the authority to make certain land deeds. The function of the sale and purchase deed made by the Land Deed Drafting Officer (PPAT) is as proof that the relevant legal act has indeed been carried out and because of that act, it is cash in nature as well as proving the transfer of rights to the land in question to the recipient of the rights. The transfer of rights can only be registered if proven by a Deed from the Land Deed Official (PPAT). As stipulated in Article 37 paragraph (1) PP No. 24 of 1997, it is clear that the existence of a Land Deed Official's Deed (PPAT) is a requirement for registration of the transfer of rights. In the sense that without a Land Deed Making Official's Deed (PPAT), the head of the land office is prohibited from registering it.

Tasikmalaya City has 59 Land Deed Making Officials (PPAT) (Widjawan,2021). The authority of the Tasikmalaya City PPAT is to carry out activities related to the land registration process whose land objects are in the Tasikmalaya City area. PPAT's position in Tasikmalaya City each has an office as a place to carry out PPAT's duties and functions. There have been several cases where authentic deeds were made by PPAT which did not comply with the procedures and procedures for making them according to the established regulations. Based on information from the Tasikmalaya City Land Deed Officials Association (IPPAT), including:

1. The signing of the Deed of Sale and Purchase by the Parties is carried out not in the presence of the PPAT who is signing the Deed of Sale and Purchase or Deposit of the Deed. Government Regulation Number 37 of 1998 concerning Position Regulations for Deed-Making Officials. Article 12 states that signing by the PPAT is not permitted outside its work area. There are many cases where in the process of buying and selling land with construction of a sale and purchase, the parties, seller and buyer have agreed to hold a sale and purchase of a plot of land located in an area. To continue the land sale and purchase process, the parties agreed to sign the sale and purchase deed at the PPAT office. The PPAT chosen is a PPAT whose working area is outside where the land rights object is located. The reason for selecting the PPAT in question is that the parties or one of the parties have been clients of the PPAT for a long time, so they have great confidence in the PPAT, therefore even though the land rights object to be traded is located outside the PPAT's working area, the parties or one of the parties still insists on using the PPAT services. The dynamic process that occurs before the PPAT is signed collects the files needed to make an authentic deed from the client. At the time of signing the deed, the deed form has been filled in with the name of the PPAT along with witnesses from the PPAT whose working area includes the area where the land rights object is located (the PPAT to which the deed will be entrusted) and has been filled in based on the documents and data provided has been submitted by the parties. The PPAT will then entrust the deed to the parties and the parties are asked to sign it. After the parties have signed the deed, the deed is entrusted by PPAT, which entrusts the deed, along with all supporting data, and then handed over to PPAT who will receive the deed deposit for further processing. Three respondents stated that they had made a deed using this type of deposit method. The respondent is the PPAT who received the deed deposit.

2. The signing of the Sale and Purchase Deed by the Seller and Buyer is not carried out at the same time before the PPAT. This kind of buying and selling process can occur for various reasons. The main reason is because the parties are busy so that the parties cannot come to the PPAT office at the same time to sign the deed. According to Article 101 of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration, the signing of the deed must be carried out by the parties (seller and buyer) before the PPAT. A situation like this occurs in the process of buying and selling with construction. After a sale and purchase agreement has been reached between the seller and the buyer and all the documents required to implement the agreement have been submitted to the PPAT, then the time for making the sale and purchase deed before the PPAT is determined. At the appointed time, one of the parties was unable to come to the PPAT office for some reason. Then the PPAT reads the deed he has made to the party who has arrived. After knowing and understanding the purpose and contents of the deed, the party who has come to the PPAT office signs the deed first. After that, some time later the other party came to sign the deed. After the PPAT read the deed again to that party. Making a PPAT deed like this results in the time when the deed is signed by the parties and when the deed is inaugurated are different.

Factors That Influence Officials Making Land Deeds Who Do Not Comply With Procedures for Making Authentic Deeds of Land Sale and Purchase Agreements

The phenomena of the cases that occur and the implications for officials who make land deeds who do not comply with the procedures for making authentic deeds of land sale and purchase agreements, it is necessary to explain the factors that influence them. These factors include:

1. There is a situation that requires PPAT to make a sale and purchase deed which is not in accordance with the procedures for making a PPAT deed, which is necessary to save a sale and purchase transaction.
2. There is a very high level of mutual trust between fellow PPATs and between the parties and PPAT, "esprit de corps".
3. The time factor and busyness of the parties causes PPAT to adapt to the time and busyness of the parties.
4. The existence of strong relationship factors such as family, friendship.
5. People power factor or high-class clients who have strong influence with large transactions.

CONCLUSION

Based on the results of the research and discussion, it can be concluded that the land deed making official (PPAT) is fully responsible for making the sale and purchase deed as a form of agreement on land rights, both procedurally, mechanically and in terms of procedures. The responsibilities of the Land Deed Official (PPAT) include administrative and legal responsibilities. Procedures that are not in accordance with the regulations for making authentic deeds of land sale and purchase agreements. The signing of the sale and purchase deed by the parties is not carried out in the presence of the PPAT who signs the sale and purchase deed or entrusts the deed and the signing is carried out at different times and the signing is done outside the PPAT office area without presenting witnesses. -witnesses will result in the PPAT being dishonorably dismissed from his position, and weaken the strength of the authentic deed of sale and purchase to become a valuable underground agreement which could be exploited by parties who take advantage of procedural errors.

Factors that influence PPAT's actions in violating the regulations for making authentic deeds are actions that must be taken by PPAT to save buying and selling transactions. There

is mutual trust between the parties, including PPAT officials. Time factors and strong relationships cause PPAT to make authentic deeds that are not in accordance with procedures and procedures for making deeds in accordance with applicable regulations.

Some recommendations from the results of the discussion and conclusions are as follows:

1. Official who makes land deeds

As a PPAT, when making a sale and purchase deed, you should always rely on existing provisions because what will be made is an authentic deed which greatly influences legal certainty regarding the transfer of land rights. PPAT also needs to better understand the existing provisions to prevent PPAT from being sanctioned with dismissal either honorably or dishonorably as well as demands for compensation from the parties. PPAT in carrying out its duties must always be based on high morality and integrity towards its profession and position as PPAT.

2. The parties

The parties should ask the PPAT about the correct procedure for making the deed so as to avoid the possibility of jeopardizing the certainty of rights to the land they have acquired. The parties must be able to cooperate with PPAT in carrying out the sale and purchase deed so that the resulting deed can guarantee certainty of rights to the land being traded.

3. Government.

The factors that influence PPAT in making land sale and purchase deeds, both legal and non-legal factors, are very diverse, so procedures for making deeds that are solely based on elements of legal certainty should be reviewed or reconsidered. This is because there will be many client interests that cannot be served if we only pay attention to the element of legal certainty. It is necessary that the dynamics that develop in the making of PPAT deeds be accommodated or accommodated in laws or regulations so that in making PPAT deeds the element of legal certainty can be fulfilled and conversely the element of service to the community using PPAT services can also be accommodated properly..

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