

LEGAL ASPECTS OF ELECTRONIC PPAT DEED IN THE LAND REGISTRATION SYSTEM IN INDONESIA

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ABSTRACT: *The Indonesian government is implementing an electronic system in every aspect of government activities, and the land registration system in our country is no exception. The dynamics of the policy were turbulent in the community, Electronic land registration for community land was suspended because the regulation was rejected by some community members. The effort of government services in electronic form is the digitalization of government which refers to the transformation of manual systems and processes to digital systems in governance. This transformation aims to improve public services that are efficient, effective, transparent and accountable. Since the law regulating electronic land registration is still relatively new and has become a debated issue in the community, the author is interested in examining how the juridical aspects of electronic PPAT deeds in the land registration system in Indonesia relate to these issues. The research method used is normative juridical with a statutory approach. The results show that Ministerial Regulation No.3 of 2023 concerning the Issuance of Electronic Documents in Land Registration Activities is the latest reference in the land registration system in Indonesia which aims to convert land certificates into a digital system to oversee land activities, but there is no legal certainty in PPAT's policy to make authentic deeds electronically at this time because it does not have a legal basis.*

Keywords: *ppat, land registration, electronic, authentic deed.*

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I. INTRODUCTION

In its development, the Indonesian government applies electronic systems to every aspect of government activities, including the land registration system in Indonesia. The emergence of an electronic land registration system initially began with the policy of the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic

of Indonesia Number 1 of 2021 concerning Electronic Certificates or commonly called Permen ATR / Head of BPN No.1 of 2021. Electronic land registration for individual and community-

owned land was temporarily suspended because the regulation was rejected by some members of the public, but the policy continues to be implemented on land owned by the state or agencies, because state-owned land does not take much legal action on land rights. The security of electronic certificates and lack of socialization are the main causes of citizen opposition to electronic registration of land rights. (Tetama, 2023)

Seeing based on Article 84 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Housing Units, and Land Registration or commonly referred to as PP No.18 of 2021 states that the implementation of land registration can be carried out electronically, then the matter is strengthened by Minister of ATR / BPN Regulation Number 3 of 2023 concerning Issuance of Electronic Documents in Land Registration Activities (hereinafter referred to as Permen ATR / BPN concerning Electronic Documents) explaining that there are 2 (two) systems that are carried out electronically, namely the initial land registration system and the land registration data maintenance system. This system requires the Land Deed Official (PPAT) to be able to transfer documents, namely document files that are transferred into digital form. This is done to help government initiatives that will eventually produce electronic goods by implementing an electronic system. (Yusuf et al., 2024)

The electronic system implemented by the Ministry of Agrarian and Spatial Planning/BPN, which is tasked with coordinating government activities in the land/agrarian sector and spatial planning, is finding new ways to organize its public services, especially in the land service sector, one of which is by using a data integration and interoperability service system between applications held by the Ministry of Agrarian and Spatial Planning/National Land Agency. Some of the electronic systems that have been implemented are the Intan and Mitra applications. "Intan" is an application or web used by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency for the purpose of Land Registration Certificate Services, Land Value Information, and Certificate Checking. While "Mitra Kerja" is an application or website owned by the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency that is used by PPAT, Surveyors, Land Appraisers, Creditors, Agencies, Legal Entities, Individuals, Social Subjects.

The quality of public services can be improved by carrying out periodic monitoring and evaluation of the competence of Land Deed Officials (PPAT) who have been validated in the Partner application. Verification of the Mitra application also seeks to foster public trust, anticipate identity forgery, facilitate the public in determining the best PPAT with the best service in peace and protected from danger, and facilitate the public in identifying PPATs that have been verified by the Ministry of ATR / BPN to avoid the public from fake PPATs on behalf of other PPATs.

Similarly, land rights management also uses computerized means to manage taxes. The purpose of online services is to provide convenient services to the taxpaying public. In this

regard, it is intended that taxpayers can utilize the convenience of better internet facilities to save money and time. Saving money by not having to print the tax return form and pay transportation costs, and saving time by not having to visit the tax office directly. In addition,

this online service will reduce the administrative burden at the tax office, especially considering that there are currently more than 25 million taxpayers. Tax officers no longer need to re-enter tax data in the SPT because it has been filled in electronically. (Sakti, 2015)

Another thing is the provision of online services with a user-friendly concept. This design can be seen in the e-filing application facility, where taxpayers are guided in a gradual manner, thus it is not difficult to fill out the Annual Tax Return which is their responsibility to pay taxes. Through the procedure of filling out the community tax return by answering the questions available online, the taxpayer has unwittingly filled out the tax return automatically. With the provision of online facilities, taxpayers are also given the means to facilitate access to these services. Through the internet, taxpayers can register, pay, and report taxes wherever they are as long as they are connected to the data network or internet. The same thing also applies when taxpayers submit tax obligations. What we know is that currently the submission of taxpayers is done directly through the state tax office in the area of residence and is limited to office working hours. However, now through an online system, taxpayers can be submitted at any time as long as it does not exceed the specified time limit. (Sakti, 2015)

However, in certain cases there is still an obligation for each taxpayer to come to the tax office. The obligation is required as a form of data validation that can prove the correctness of taxpayer data. For example, when a taxpayer registers and then obtains a Certificate of Registration (SKT), the taxpayer is required to come to the state tax office to submit copies of data documents as proof of registration. This is unavoidable, considering that authentic data is still needed as a reference for the data that has been submitted online. (Sakti, 2015)

The description above regarding services in electronic form is the digitization of government which refers to the transformation of manual systems and processes to digital systems in governance. This transformation aims to improve public services that are efficient, effective, transparent, and accountable. In this connected era, digitalization has become a keyword in modernizing government and improving the quality of public services, namely information. The concept of public information based on Law No. 14/2008 on Public Information Disclosure explains that public information is information produced, stored, managed, sent, and/or received by a public agency relating to the organizers and administration of the state and the organizers and administration of other public agencies in accordance with this Law, other information relating to the public interest can also be called public information.

The context of digitization in government is not just a transition from manual to electronic processes, but a complete transformation that changes the way governments interact with their citizens, manage resources, and make policies. (Zein & Septiani, 2024) This policy is supported by Government Regulation No. 71/2019 on the Implementation of Electronic Systems and Transactions, which states that an Electronic System is a set of electronic devices and procedures that are useful for preparing, collecting, processing, analyzing, storing, displaying, announcing, sending, and/or disseminating Electronic Information.

Cybersecurity issues, data privacy, and the digital divide are just some of the difficulties that arise from the shift to digital administration. To properly manage and use digital technologies, a strategic framework is required, which should consist of strong technological infrastructure,

supportive policies, and human capital capability development. In this regard, the realization of good governance is significantly accelerated by the digitalization of government. A key step towards developing an empowered society and future-focused governance is the integration of digital services, which enables local governments to improve operational effectiveness while strengthening relationships with their constituents. This will result in a more inclusive, transparent and accountable governance system. (Zein & Septiani, 2024)

Based on Article 1 point 8, which states that an electronic certificate is a document created using an electronic system, the implementation of electronic land registration produces an output in the form of an electronic certificate, also known as an e-pertificate. It is hoped that this output will eventually develop into a land database that can reduce the reasons for land disputes and increase the validity of land certificates that can be used as security for ownership of land rights. In connection with this, legal policy is basically expected to be able to issue legislation that can guarantee legal certainty both in substance and application when associated with the current situation, modern times, and the rapid development of science, technology and information. One of the legal policies that is expected to be able to equalize this phenomenon, in the land sector, is the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates. To determine whether a Ministerial Regulation provides a guarantee of legal certainty, we must examine it based on the definition of legal certainty.

Based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia No. 1 of 2021 on Electronic Certificates Article 1 Point 1 to Point 5, which regulates electronic systems, electronic documents, data, databases and electronic signatures, the e-Certificate should meet these requirements. Measurement drawings, spatial drawings, land parcel maps, spatial maps, measurement letters, plan drawings, spatial measurement letters and certificates in the form of electronic documents are examples of the situations detailed in this electronic land registration activity. Thus, it is clear that Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 has fulfilled the formal and material requirements for electronic documents to be accepted as evidence. (Alimuddin, 2021)

In addition to the renewal of electronic registration instruments, the government has also issued updates related to Mortgage Rights services, the government issued Minister of Agrarian and Spatial Planning / National Land Agency Regulation Number 5 of 2020 concerning Electronically Integrated Mortgage Rights Services, hereinafter referred to as (Permen ATR / BPN Number 5 of 2020).(Kurniawati, 2024) The government's efforts to make it easier for citizens who want to obtain land security services for business purposes without having to visit the local Land Office are reflected in the simplification of the electronic Mortgage registration service process carried out through the issuance of Permen ATR/BPN No. 5 of 2020. Mortgage Rights are registered online based on Permen ATR/BPN Number 5 of 2020, the policy eliminates the need for physical documents to be presented at the Land Office counter.

The first step in the implementation of HT-el is the validation and verification of user accounts, for example the accounts of creditors and PPATs who are here as partners of the Ministry of ATR/BPN. This is followed by systematic HT-el registration until the issuance of the HT-el certificate, in which all procedures and requirements that must be met in accordance with Permen ATR/BPN Number 5 of 2020 are completed electronically. The proactive involvement of the Land Office, which includes PPATs and lenders, is important in HT-el service activities. The implementation of a service or program that includes several stakeholders and is a new offering provided by PPAT in various regions. (Azizah et al., 2022) As the law regulating electronic land registration is still relatively new and has become a contentious issue in society, there is not much research on the implementation of electronic land registration. The author wishes to examine how the juridical aspects of electronic PPAT deeds in Indonesia's land registration system relate to these issues.

II. METHOD

The research uses a normative juridical method. Normative legal research focuses on rules or principles derived from laws and regulations, court decisions, and doctrines from legal experts. Peter Mahmud Marzuki, *Penelitian Hukum*, cetakan ke-15 (Jakarta: Kencana, 2021). Normative legal research or also called library legal research is legal research conducted by examining library materials or secondary data. Descriptive analytical research provides systematic and logical explanations with a statutory approach (statue approach). In this research, secondary materials are obtained by conducting an inventory of regulations and provisions as well as literature that provides arrangements regarding the legal analysis of electronic PPAT deeds in the land registration system in Indonesia, then a thorough study will be carried out to obtain pragmatic truth and / or coherence, in the form of complete descriptions of the legal issues studied. Legal principles, theories, concepts, doctrines and references are used as references for the study of primary legal materials and secondary legal materials so that they can be used to solve the legal issues at hand.

III. RESULT AND DISCUSSION

1. Kebijakan PPAT Dalam Membuat Akta Otentik Elektronik

PPAT is a public official who has the authority to make authentic deeds whose objects are land rights or property rights over apartment units with a total of 8 types of deeds based on Article 2 Paragraph (2) of Government Regulation Number 37 of 1998, which include deeds of sale and purchase, exchange, grants, entry into the company (inbreng), division of joint rights, granting Building Rights / Use Rights on land of Property Rights, granting Mortgage Rights, granting power of attorney to impose Mortgage Rights. (Permata et al., 2024) In locations where there are not enough PPATs, a state official appointed by virtue of his or her office can perform the functions of a PPAT by making PPAT deeds. Such an official is known as a Temporary PPAT. (Thea, 2022)

There is a special PPAT, which is an official of the National Land Agency appointed by virtue of his/her position to fulfill the function of PPAT by making certain PPAT deeds, especially those related to the implementation of certain government activities or tasks. The main responsibility of a PPAT, as stated in Government Regulation No. 37 of 1998, is the

implementation of some land registration activities by making deeds that prove the existence of specific legal acts relating to land rights or property rights over apartment units. This deed will be the basis for registering changes in land registration data caused by the legal action. (Thea, 2022)

PPAT's power to make authentic deeds according to Article 1868 of the Civil Code (KUHPerdota) states that deeds made in the manner prescribed by law, by or before an authorized public official, and at the place where the deed is made are considered valid. In other words, an authentic deed is a deed made by an authorized public official, in a place in accordance with his authority, and in accordance with the law.

Akta Jual Beli is one example of a deed made by a PPAT. This deed can be used as a basis for changing rights and replacing the name of the old land rights holder with the new land rights holder. In a Land Sale and Purchase Deed, a PPAT has the ability to perform some of the tasks of land registration, including making an authentic deed as evidence that the legal procedures related to the ownership rights of a flat unit or land rights have been completed. A PPAT deed made by a PPAT whose area is the same as the working area of the Land Office becomes the basis for registering changes in land registration data caused by legal acts in its working area as determined by the government (absolute competence).

The general provisions of a deed of sale and purchase made by a PPAT are basically as follows:

- a. Each deed can only be used for the purpose of selling or buying one plot of land, or part of one plot of land, one flat title, or part of a joint title that has been registered separately.
- b. The deed shall be made in original form as many as 2 (two) copies, each stamped, and signed by the parties, witnesses, and PPAT. The PPAT concerned keeps 1 (one) copy, namely the first sheet, and submits 1 (one) copy to the Land Office for the purpose of recording the transfer of rights, namely the second sheet. Copies are distributed to interested parties. The copy is sufficiently signed by the PPAT and made in sufficient quantity as required.
- c. Each duplicate deed includes several deed sheets, which are sorted and numbered starting from the first page and so on as needed.
- d. On each page of the deed the PPAT, the parties, and the witnesses shall affix their initials in the lower right corner.

After that, in the process of transferring rights, the buyer will be subject to the Land and Building Acquisition Duty (BPHTB) and the seller will be subject to Income Tax (PPh). In principle, the Income Tax and BPHTB must be paid prior to the signing of the Sale and Purchase Deed in the presence of a PPAT. The roles and responsibilities of PPATs are very important in land registration as they are responsible for assisting the head of the Land Office with certain activities related to land registration, such as guiding, directing and explaining the Income Tax and BPHTB that must be paid by the seller and buyer. (Sulistiyowati & Rijadi, 2024)

Based on this description, we can know that the process of making deeds is not done electronically but is still done conventionally. According to Article 86 of Government Regulation No. 18 of 2021, what is meant by "electronic" is electronic creation, not just

archiving or storage. Therefore, since the PPAT deed only handles registration, it cannot be said that the deed applies electronic creation, which used to be done conventionally but is now done online, so the PPAT deed in this case cannot be claimed to be made electronically. As a result, the application and implementation of the requirements of Article 86 of Government Regulation No. 18 of 2021 are still unclear. (Kamal, 2023)

In the event that the deed is made in the form and procedure determined/regulated by the Laws and Regulations, if referring to Article 21 of Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning Regulations on the Position of Land Deed Officials, in this regard the form and format of the PPAT deed is determined by the Minister. However, there is no legal certainty in this regard, because until now there are no rules that regulate the exact format and form of PPAT deeds and the types of deeds that can be made electronically. Therefore, it can be said that the electronic deed does not meet the requirements as an authentic deed. It can be concluded that making an authentic deed electronically is not a fully electronic procedure, but only electronic data collection which is then converted into a deed by a traditional PPAT.

2. Juridical Aspects of Electronic Land Registration System

The ATR/BPN Ministry aims to replace land certificates with a digital system for all land-related operations. This will make it easier for the Ministry to monitor the activities of the land mafia and those that contravene the law. To prevent malicious intent and data input errors, land registration should also be done electronically. The use of electronic certificates will make it easier for authorities to detect misuse of data or modifications to identifying information. (Sudarto, 2022)

The urgency or importance of electronic land registration or the creation of an electronic certificate is primarily to reduce the number of disputes to prevent frequent forgery, ensure legal certainty of land rights, and as evidence of landowner data. In this case the government has issued a regulation Permen ATR / BPN No.3 of 2023 concerning the Issuance of Electronic Documents in Land Registration Activities as a form of legal protection to citizens who will register or renew their land rights certificates electronically. Like conventional certificates, electronic certificates are also protected by law. (Naja, 2012)

Land certificates that were previously issued on paper (analog) but are now electronic are regulated in Minister of Agrarian and Spatial Planning/National Land Agency Regulation Number 1 of 2021 concerning Electronic Certificates. This regulation aims to realize the ease of public services in the land sector in order to realize modernization, improve community business indicators, and take advantage of developments in information and communication technology by implementing electronic-based land services.

In fact, VATs are helping the government fulfill its commitment to implement the continuation of electronic certificates. VATs play an important role in assisting the government in meeting some of its obligations. The role of the PPAT in the Electronic Certificate Service includes informing the public about legal actions on certificated land, preventing identity forgery through the use of biometric recording technology with the assistance of the government in

identity verification, adjusting the Certificate with integrated data information, and adjusting the deed with respect to the parties and the subject of rights.

In addition to the role of the PPAT described, it includes but is not limited to the division of rights, registration of deeds, transfer of rights and maintenance of data on land registration. It is also possible to convert manual (analog) certificates, previously held by most individuals, into electronic certificates. The following is a brief description of the process, which starts with registration, followed by implementation, and ultimately approval by the appropriate authorities 1. Only applicable to (Land Title, Management Rights, Ownership Rights over Flat Units or Waqf Land) 2. Registration of Deeds together with Manual Certificates (requesting data maintenance and land registry services) 3. Validation of right holders, physical and juridical data, and if the data matches 4. Issuance of eL Certificate.

This transformation of PPAT work patterns can be seen through services that previously required a visit to the PPAT office. In addition to the electronic registration service, the PPAT must first check the land book and land parcel, then make an announcement to the PPAT to carry out the check, and finally use the "Touch My Land" application to help improve the quality of the data to be electronically ready. The PPAT reviews the certificate and electronic data for accuracy, then verifies that the right holder is the actual owner of the land, pays income tax and/or BPHTB tax (confirming the applicant's payment), draws up the deed, uploads the deed or other supporting documents. If necessary, the result of the check can be immediately printed from the physical data and legal data, followed by archival storage and public documents. If there are data discrepancies in the draft certificate check, the PPAT can verify them with the Land Office. (Destriana & Allagan, 2022)

Based on Article 1 paragraph (8) of Permen ATR / BPN No. 3 of 2023 states that an electronic certificate is a "Certificate issued through an Electronic System in the form of an Electronic Document". Furthermore, the definition of electronic documents is contained in Article 1 paragraph (2) "Electronic Documents are any electronic information created, forwarded, sent, received, or stored in manual, digital, electromagnetic, optical, or similar form, which can be seen, displayed, and/or heard through a computer or electronic system, including but not limited to writings, sounds, images, maps, designs, photographs or the like, letters, signs, numbers, access codes, symbols or perforations that have meaning or meaning or can be understood by a person capable of understanding them.

Before Ministerial Regulation No. 3 of 2023 came into force, applicants for land certificates in Indonesia still had to register their land manually by submitting PPAT data to the local District Land Office. In addition to the period of conventional land registration, adjustments need to be made to the current regulations on electronic land registration so that the results of electronic land registration can produce electronic certificates. It is not limited to land registration carried out through electronic systems, data maintenance activities both physical data and juridical data are also carried out in a manner stipulated by law according to Article 29 paragraph (1) of Permen No.3 of 2023, "Recording the maintenance of Land Registration Data is carried out by recording changes in Physical Data and / or Juridical Data on BT-el management rights, land rights, waqf land, ownership rights to apartment units, and

mortgage rights in the form of new Data Blocks whose endorsement is carried out at the same time on the e-Certificate. (Putra & Winanti, 2024)

The challenges and regulatory readiness of Indonesia's electronic land titling policy, however, continue to raise many public concerns. The public continues to debate the pros and cons of the ATR/BPN Ministry, which oversees the electronic land registration system and issues electronic certificates. In addition, since conventional land certificates are still useful today and still offer legal benefits to their holders, it is not advisable to replace them with electronic certificates in a hurry. This is because conventional land certificates are still useful today. Conventional and electronic land certificates offer almost the same advantages; the only difference is that electronic certificates offer more useful advantages to their owners.

It turns out that there are still problems with electronic certificates in Indonesian society even after PermenATR/BPN No.3 of 2023 was issued. The National Defense Agency may experience difficulties in implementing this regulation due to several factors, including the uneven distribution of land officials across regions, which makes the government less responsive when dealing with specific land dispute issues, the readiness of human resources in relation to facilities and infrastructure in the regions, and the uneven distribution of technology and public opinion regarding technology. (Aji, 2016) In general, the electronic land registration system in Indonesia still requires further socialization to the public.

IV. CONCLUSION

There is no legal certainty of PPAT's policy to make authentic deeds electronically at this time because it does not have regulations that explicitly regulate the structure and form of PPAT deeds and what types of deeds can be made electronically. Therefore, it can be said that, the deed does not meet the requirements as an authentic deed. It can be concluded that making an authentic deed electronically is not a fully electronic procedure, but only electronic data collection which is then converted into a deed by a PPAT in a conventional manner. Ministerial Regulation No.3 of 2023 on the Issuance of Electronic Documents in Land Registration Activities is the latest reference in the land registration system in Indonesia which aims to convert land certificates into a digital system to monitor activities related to the land mafia and data errors and facilitate the performance of the Government and the community. However, in its implementation there are still obstacles in the community related to the understanding and absorption of technology. This is due to a lack of infrastructure and knowledge about technology, which is a challenge for the government in implementing this regulation.

The advantage of this research is that considering the urgency of the electronic land system in Indonesia is currently not working optimally, with this research, hopefully it can become government and public literacy to understand the electronic land registration system, and can also be applied as a source of literature for further articles on the same topic.

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