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### The Position of Temporary Land Deed Making Officials in Regional has Fulfilled Quota Ratio

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#### Abstract

Article 5(3a) of Government Regulation (PP) No. 37 of 1998 regarding the regulations on the position of Land Deed Drafting Officer (PPAT) provides that they assist communities in the preparation of PPAT deeds within the area. If the PPAT is insufficient to serve a particular community group, the Minister may appoint these officers as interim officers or special PPATS. Temporary PPAT sub-

district head or village chief and land office head as special PPAT. But when implemented in Banda Aceh Municipality, it will be enough to meet the needs of PPAT. Under this scenario, there will be 40 active PPATs in Banda Aceh Municipality in 2023. This study aims to analyze PPATS authorities in areas where PPAT quotas have been met.

**Keywords:** PPAT Quota Ratio, PPAT Work Area, PPATS Authority

#### 1. Introduction

One of the things that is important in human life is the issue of land rights. The more advanced a society is, the denser its population will be, thus increasing the importance of land rights for its owners. To ensure the establishment of legal certainty regarding land rights throughout Indonesia, the process of land registration is imperative. Land registration holds great importance for those who hold land rights. The government carries out land registration in accordance with regulations to guarantee legal certainty. The purpose of land registry entry extends beyond providing legal protection and certainty to property rights holders or individuals with registered rights. It also has the additional purpose of providing relevant parties with information, including between governments and parties wishing to establish legal relations with respect to property and/or housing units and other rights, such as the establishment of orderly property management within a framework of orderly government management.<sup>1</sup>

These provisions are mandatory and the government's obligation to regulate and carry out land registration. This Land Registration issue has been regulated by the Indonesian Government, namely with the issuance of Government Regulation (PP) No.24 of 1997 which replaced PP No.10 of 1961, providing special limitations and conditions regarding Land Registration.

The government has the authority to regulate land use and then appoints an agency or body that has the authority to do so. In terms of land registration, the government appoints the National Land Agency to carry it out, as intended in Article 5 of PP No. 24 of 1997 which states that: "Land registration is carried out by the National Land Agency".

The main purpose of land registration is to provide communities with security of ownership of land rights and subsequent transfer of rights.<sup>2</sup> Article 6(2) of PP No. 24 of 1997 provides: "In conducting land registration, the person in charge of the Land Registry shall be consulted by the PPAT Land Registration Officer and other officials entrusted with carrying out certain activities under the Land Registration Act Assistance. This Government Regulation" and relevant legal provisions.

<sup>1</sup> Nurhayati dan Linus, E. "Kajian Hukum Terhadap Camat Sebagai Pejabat Pembuat Akta Tanah (PPAT) Sementara Ditinjau Dari Peraturan Pemerintah Nomor 37 Tahun 1998 Tentang Peraturan Jabatan Pejabat Pembuat Akta Tanah", *Yuriska Jurnal Ilmiah Hukum*, Vol 5 No.1, (2013), hlm 33.

<sup>2</sup> Sutedi, A. *Sertifikat Hak Atas Tanah*, Jakarta: Sinar Grafika, 2003, hlm 18

In implementing the land registration exercise, the Land Deed Drafting Officer (PPAT) plays a very important role in the land registration exercise to achieve the government objectives. PPAT is one of the state-appointed officials responsible for registering land before forwarding the registration to the Land Registry. Juridically, there are three PPAT groupings in Indonesia, as follows:

1. PPAT is classified as a general official, where the PPAT is given the authority to make authentic deeds regarding certain legal acts relating to land rights or ownership rights to apartment units.
2. PPAT classified as Temporary PPAT (PPATS), namely government officials who because of their position are appointed to carry out PPAT tasks such as making PPAT deeds in certain areas that still lack PPAT.
3. PPAT classified as Special PPAT, namely National Land Agency officials who because of their position are appointed to carry out PPAT duties, but specifically to make certain deeds in the context of implementing certain government tasks or programs.<sup>3</sup>

The appointment of the sub-district head as Temporary PPAT aims to help the community with land administration services, namely making land deeds which are authentic deeds regarding all legal acts which include sale and purchase deeds, exchange deeds, grants, inbreng, joint division deeds, deeds granting mortgage rights, granting rights. building use/usage rights over proprietary land and granting authority to impose mortgage rights.

The PPAT formation is determined by the Minister for each PPAT work area by considering several factors, including:

- a. Quantity of the number of sub-districts in the relevant district/city area.
- b. Quantity and quality of types of legal acts relating to land rights that occur in the sub-district.
- c. The level of economic development of the area concerned
- d. Number of applications to be appointed as PPAT in the relevant district/city area
- e. Number of existing PPATs in each district/city area concerned
- f. Other factors considered important by the Head of the Agency.

On March 5 1998, PP No.37 of 1998 was issued. This Government Regulation is essentially a Government Regulation as required by Article 7 paragraph (3) of PP No. 24 of 1997, dated 8 July 1998.

Furthermore, Article 5 (3) PP No.37 of 1998 states: In order to address the shortage of PPATS in certain areas and cater to specific community groups, the Minister has the authority to appoint designated officials as Temporary Officials or Special PPATS. The Sub-District Head or Village Head can be appointed as PPATS to facilitate the creation of deeds in areas where there is a lack of PPATS. Similarly, the Head of the Land Office can be appointed as a special PPAT to handle the creation of deeds required for community service programs or for friendly countries, based on the principle of reciprocity and in accordance with the Ministry of Foreign Affairs' considerations. Temporary PPATS are typically

found in rural areas where there is a shortage of regular PPATS. However, it is worth noting that even in areas like Banda Aceh Municipality, where regular PPATs already exist, there are still instances of PPATS being utilized. This is evident in Banda Aceh, which has a total of 9 sub-districts. The existence of PPAT in every sub-district in the Municipality of Banda Aceh is considered sufficient. As is known, Banda Aceh Municipality is the capital of Aceh province with an area covering 9 (nine) sub-districts and there is already a PPAT formation with a total of 40 people, the need for the existence of PPAT is considered sufficient. but in reality in the Municipality of Banda Aceh there is still the appointment of the Subdistrict Head as a PPATS and the existence of a PPATS still operating in the Municipality of Banda Aceh refers to the Decree of the Minister of State for Agrarian Affairs/Head of the National Land No.4 of 1999 dated 26 February 1999 concerning Determination of the Formation of Officials Making Deeds Land, the number of PPAT formations for Banda Aceh Municipality is 15 people. Based on the problems above, the researcher will carry out further writing with the title "Authority of Officials to Make Temporary Land Deeds in Work Areas That Have Fulfilled the Quota Ratio".

## 2. Research Methods

This study is a type of empirical legal research or field research that involves an examination of applicable legal regulations and social reality.<sup>4</sup> Empirical legal research is the legal research on the application or implementation of normative legal provisions to any specific legal events in society in practice.<sup>5</sup> In other words, it is the study of actual or real situations in society with the purpose of understanding and discovering necessary facts and data. Once the necessary data is collected, the problem that arises is identified and ultimately resolved.<sup>6</sup>

The research methodology of this study, the legal and regulatory approach, was conducted by examining several laws and regulations relevant to the legal issue under consideration. This conceptual approach is based on ideas and doctrines developed in legal scholarship.

A method that researchers can use to collect data is fieldwork. The aim was to obtain primary data through surveys of respondents and informants. Library research is then conducted, i.e. obtaining secondary data by studying textbooks, laws and regulations, theories and relevance to the problem being studied. Qualitative data analysis is a research method that provides analytical descriptive data, i.e., written or oral statements and actual behaviors of respondents, which are studied and examined as a whole. This means that the data obtained are systematically compiled and then analyzed qualitatively in order to clarify the issues to be discussed.

<sup>3</sup> Baharuddin. "Kewenangan Pejabat Pembuat Akta Tanah (PPAT) dalam Proses Jual Beli Tanah" *Jurnal Akta*, Volume. 5, Nomor 1, 2014.

<sup>4</sup> Suharsimi Arikunto, 2012, *Prosedur Penelitian Suatu Pendekatan Praktek*, Jakarta: Rineka Cipta, hlm. 126

<sup>5</sup> Abdulkadir Muhammad, 2004, *Hukum dan Penelitian Hukum*, Bandung: Citra Aditya Bakti, hlm 134

<sup>6</sup> Bambang Waluyo, 2002, *Penelitian Hukum Dalam Praktek*, Jakarta: Sinar Grafika, hlm. 15

### 3. Result and Discussion

#### Authority of Officials to Make Temporary Land Deeds in Office Areas That Have Fulfilled the Quota Ratio

Land issues are a central and strategic problem in human life. So this land often causes conflict in society, various problems such as control of land without rights, disputes over ownership of land rights, overlapping certificates, evictions or demolition and land grabbing, as well as many other problems related to land. Therefore, it is appropriate that in customary law various regulations regarding rights to objects center on land rights. Rights to land are treated in a rather special way, different from rights to other objects that are not land.<sup>7</sup>

The sub-district head is a government official or State Administrative Officer whose appointment is carried out by the Regent or Mayor, while the appointment of the sub-district head as PPATS is carried out by the Head of the BPN Regional Office in the work area where the sub-district head carries out his duties. The sub-district head's position as PPATS is not ex officio attached to his position as sub-district head, because the sub-district head still has to submit an application for appointment as PPATS to the Head of BPN.<sup>8</sup>

The purpose of appointing the sub-district head as PPATS is to help the smooth implementation of administrative tasks related to land, and prevent or minimize land problems that occur in the community. Moreover, the legal culture of Indonesian society does not recognize the transfer of land rights by means of a deed made by and before the PPAT. So there is no authentic evidence in the event of a transfer of land rights. Therefore, if in an area there is not enough or a shortage of PPAT, then in that area the sub-district head can be appointed as PPAT (PPATS). This is intended to make land deeds for all legal actions such as acts of buying and selling land rights, grants, sharing of joint rights, exchange, entry into a company (*inbreng*), granting building use rights or use rights on someone's land, with the work area covering the work area of his position as sub-district head in a particular sub-district. The deed will be an authentic deed regarding the legal action, so it is proof of the occurrence of a legal action regarding the rights to the land in question.<sup>9</sup>

It is mandatory that every government administration must have legitimacy. Either by attribution, delegation or mandate. According to Bagir Manan, authority and power in legal language are not the same. Power describes the right to do or not do, while authority simultaneously means rights and obligations (*rechtenen plichten*).<sup>10</sup>

PPATS's authority only covers its work area as a government official, so that when PPATS wants to make a deed outside the sub-district of its position it is not

permitted. The positions of PPATS and PPAT/Notaries are the same, the difference is that the boundaries of PPATS's authority area are smaller, only in one work area, namely in one sub-district, while PPAT/Notaries have a work area as large as a district/city. PPATS and PPAT/Notary still have the same authority in making authentic deeds and include similarities in the substance of the deed, the only difference being the letterhead on each deed.<sup>11</sup>

As the results of interviews conducted with Mrs. Novi Sri Wahyuni as an academic and Notary/PPAT practitioner explained that the PPATS work area includes the government's work area according to the sub-district, for example the Syiah Kuala District PPATS cannot make deeds in the Lueng Bata District area. This is the limit of PPATS authority, so it is different from Notary/PPAT whose work area covers districts/cities. PPATS's authority is only at the level where he holds office, if it is Ulee Kareng District, then only in that sub-district, PPATS can make deeds regarding land located within its working area, not land in other sub-districts.<sup>12</sup>

Mrs. Novi Sri Wahyuni emphasized that the appointment of the sub-district head as a temporary PPAT should be carried out in areas where there is not enough PPAT. Areas where there is already sufficient PPAT presence should not appoint sub-district heads as PPATS. The number of PPATs in Banda Aceh Municipality is considered sufficient and is no longer needed.

The initial existence of PPATS was to assist PPATs/Notaries in making authentic deeds related to land if there were not enough PPATs/Notaries in the area to carry out land duties. If there are already a lot of PPATs/Notaries and new PPATs/Notaries are no longer accepted, then the sub-district head should not be appointed again as PPATS, because according to the Notary/PPAT Mrs. Gita Melisa, the PPAT's current work load is not heavy due to the transfer of land rights in Banda Aceh. that much and the number of PPATs in Banda Aceh currently has 40 Notary/PPAT offices, PPATS should no longer be needed because PPATs in Banda Aceh Municipality are sufficient.<sup>13</sup> This explanation can be strengthened by the Decree of the Minister of Agrarian Affairs/Head of the BPN No. 4 of 1999 concerning the Determination of the Formation of Officials Making Land Deeds in Regency/Municipality, that for the Municipality of Banda Aceh there are only 15 PPATs, then it is also regulated therein if in the regency/municipality that has is an area that is closed to PPAT appointments, if there is a change of sub-district head then the new sub-district head cannot be appointed as PPATS. However, the problem is when this rule is an old rule whose validity has not been revoked and has not been updated in accordance with social and community developments in the Municipality of Banda Aceh.

<sup>7</sup> Muhammad Iqbal Akbar Nugraha, Edith Ratna M.S, "Penunjukan Camat Sebagai Pejabat Pembuat Akta Tanah Sementara Di Kota Tasikmalaya", *Jurnal Notarius*, Volume 15 Nomor 2, 2022 hlm. 638.

<sup>8</sup> Ibnu Izzah, "Pertanggung Jawaban Camat Sebagai PPAT Sementara dalam Pembuatan Akta Jual Beli Tanah di Kabupaten Jeneponto", *Jurnal Al-Qadau*, Volume 7 Nomor 2, hlm 135, 2020.

<sup>9</sup> Wirantia, Darmawan, Suhaimi, "PPAT'S Legal Responsibility for the Creation of Empty Deed", *Syiah Kuala Law Journal*, Vol.4(3) Desember 2020, pp.351-368.

<sup>10</sup> Ridwan HR, *Hukum Administrasi Negara*, Jakarta: Raja Grafindo, 2013. Hlm.99

<sup>11</sup> Wahyu Fitri Wibowo, "Peran Camat Sebagai Pejabat Pembuat Akta Tanah (PPAT) Sementara Dalam Proses Pendaftaran Tanah di Kabupaten Karanganyar." *Tesis Magister Kenotariatan*, Semarang: Universitas Diponegoro, 2003, hlm. 25.

<sup>12</sup> Wawancara dengan Notaris/PPAT Novi Sri Wahyuni yang berkedudukan di Lampeuneurut Ujong Blang, Kabupaten Aceh Besar, pada tanggal 26 Februari 2024.

<sup>13</sup> Wawancara dengan Notaris/PPAT Gita Melisa yang berkedudukan di Peuniti, Kota Banda Aceh, pada tanggal 26 Februari 2024.

Another of the most recent regulations is contained in the Decree of the Head of the National Land Agency No. 4 of 2006 concerning Determination of the Formation of Officials Making Land Deeds, stating that for the Municipality of Banda Aceh the formation of PPATs can be accepted as many as 30 PPATs and if the appointment of PPATs is before the enactment of this decision which will result in the number of PPATs in a PPAT work areas that are larger than the formation specified for that work area are still valid. This regulation provides an increase in the opening of PPAT offices in Banda Aceh Municipality, but its implementation has been revoked and to date it has not been replaced by other new regulations.

As long as the Decree of the Minister of Agrarian Affairs/Head of the BPN No. 4 of 1999, has not been revoked on the official website [jdih.atrbpn.go.id](http://jdih.atrbpn.go.id), nor has it been replaced or amended by other regulations, then the decision is still valid and must be adhered to and implemented. The decision states that when the PPAT appointment has been closed or is no longer accepted, the PPATs should not be reappointed when an application is submitted from the new sub-district head. If new PPAT appointments have been closed or no longer accepted, the implied meaning is that the area has met the quota ratio and the number of PPATs is "sufficient" so that the existence of the sub-district head as PPATs is no longer necessary.

However, based on the results of interviews with the Regional Office of the Aceh Province BPN, the Decree of the Minister of Agrarian Affairs/Head of the BPN No. 4 of 1999 concerning Determination of the Formation of Officials Making Land Deeds in Regency/Municipalities, has been revoked at the close of PP No.24 of 2016 concerning Amendments Land Registration in Article II, namely all provisions regarding formation as intended in PP No.37 of 1998 and its implementing regulations, is revoked and declared invalid. The Provincial BPN Regional Office is directly responsible and is under the Minister of Agrarian Affairs and Spatial Planning/BPN.<sup>14</sup>

According to the Notary/PPAT, Mrs. Yuniarti, there is no problem when the sub-district head is appointed as PPATs with the quota being fulfilled in a sufficient PPAT area, because according to her, PPATs is attached to his position as sub-district head which will automatically become PPATs when he is appointed as sub-district head. This assumption is based on PPATs and PPAT having nothing to do with each other, because PPATs exists in its own forum and rules as well as PPAT which has its own forum and rules. When the PPAT quota in Banda Aceh has closed and a new sub-district head applies to become a PPATs, there is no problem when applying because PPATs is attached to the sub-district head's position.<sup>15</sup>

According to him, what needs to be limited at this time is the appointment of PPATs/Notaries and he hopes that there will need to be regulations regarding restrictions because the

area is not too wide because not much work can be completed if there are too many PPATs/Notaries. The solution that can overcome this problem is from the Ministry of Agrarian Affairs and Spatial Planning/BPN of Banda Aceh Municipality to look at the economic condition of the community, land area, and then the livelihood of the population. This condition is a consideration for increasing and limiting the PPAT/Notary quota in Banda Aceh Municipality. This view was conveyed so that there would be no overlapping of work and management, no land mafia and other bad impacts due to too many PPATs/Notaries.

A different explanation from Mrs. Novi Sri Wahyuni is to focus more on PPATs restrictions because when PPAT/Notaries are sufficient in an area, there is no longer a need for PPATs. This view is based on the provisions of Article 1 number 2 of PP No.24 of 2016, unless in a remote area where there are not many PPATs then PPATs are really needed. As Indroharto said, this authority is facultative in nature, because it applies if the basic regulations determine when and under what circumstances this authority can be used.<sup>16</sup>

As the center of government, center of economic, political, social and cultural activities, as well as the capital of Aceh Province, applications for opening a PPAT office in Banda Aceh Municipality are in greater demand. So, the sub-district head can focus on carrying out the duties and mandate of his position as a Civil Servant in his sub-district. Currently there are 40 PPATs and the PPAT acceptance quota is no longer accepted, thus the PPAT quota has been fulfilled and new PPAT/Notary appointments are no longer open. This situation states that PPATs authority applies when the situation in Banda Aceh Municipality does not meet the Professional PPAT or PPAT/Notary quota and currently the situation in Banda Aceh is "sufficient".

Even though the position of Temporary PPAT held by the Subdistrict Head has been around for a long time, the conditions in the past do not absolutely apply to the current era, it is not certain that the concept of Temporary PPAT in the past is relevant to the present. At the beginning of independence, of course, there were not many PPAT officials, so officials were appointed in the government body to assume the PPAT position.<sup>17</sup> The appointment of the sub-district head as Temporary PPAT is no longer relevant due to the potential for conflicting norms. Currently, it is clearly constructed that the PPAT is a public official so that the PPAT can be called a general official and cannot hold the same position as a government official. Thus, the sub-district head as a government official appointed because of his position to carry out PPAT duties is a matter of legal uncertainty.

PPAT's authority is limited to holding concurrent positions as Civil Servants and will be dismissed if they violate the rules of Article 7 of PP No.24 of 2016. This prohibition is intended to safeguard and prevent the PPAT from carrying out its office from causing consequences that give the impression that the PPAT has disturbed the balance of

<sup>14</sup> Mila Hayati, Suhaimi, Sulaiman, "The Role of the Regional Office of the National Land Agency Aceh Province in Settlement Land Disputes", *International Journal of Multicultural and Multireligious Understanding*, Vol. 8 Issue 6, Juni 2021, p. 558.

<sup>15</sup> Wawancara dengan Notaris/PPAT dan ketua IPPAT Aceh Yuniarti yang berkedudukan di Jln. Dr. Mr. Mohd Hassan, Darul Imarah, Kota Banda Aceh, pada tanggal 16 November 2023.

<sup>16</sup> Indroharto, *Usaha Memahami Undang-Undang tentang Peradilan Tata Usaha Negara Buku I Beberapa Pengertian Dasar Hukum Tata Usaha Negara*, Jakarta: Sinar Harapan, 1994, hlm. 90-100.

<sup>17</sup> Irfan Iryadi, "Kepastian Hukum Kedudukan Camat sebagai PPAT Sementara" *Jurnal Negara Hukum*, Volume.11 Nomor 1, 2020. Hlm.12.



interests of the parties. This provision is also intended so that PPAT can carry out its duties as well as possible in order to serve the public interest in order to exercise a sense of independence and not take sides with any of the parties.

Likewise, the sub-district head's authority as PPATS has been limited by the availability of PPAT/Notary positions in Banda Aceh Municipality and the sub-district head no longer needs to hold the same position as PPATS whose duties have been carried out directly by experts in their field. This limitation is necessary to provide balance and fairness in the division of authority between the Professional PPAT or PPAT/Notary and the sub-district head as PPATS, to avoid competition in honorarium fees and to minimize problems that occur as a result of managing land rights, in addition to ensuring that there is no inequality of authority.

The sub-district head as a civil servant can carry out his main authority and responsibilities to the maximum, in accordance with the provisions of Article 152 (5) Banda Aceh Municipality Qanun No.2 of 2008 concerning the Organizational Structure and Work Procedures of Banda Aceh Municipality Regional Apparatus and Aceh Governor's Instruction No.06/INSTR/2009 concerning the Delegation of Partial Authority for Regency/Municipality Regional Autonomy Affairs to Subdistrict Heads in the Aceh Region, the Banda Aceh Mayor Regulation No.38 of 2010 concerning Delegation of Partial Mayoral Authority to Subdistrict Heads was stipulated.

This regulation means that the mayor's authority is delegated to the sub-district head which covers 6 areas, namely the field of control, the field of developing mukim and gampong government, the field of basic education, the health sector, the field of people's economic empowerment, and the field of increasing Regional Original Income (PAD). The many duties of the sub-district head, coupled with the delegation of the mayor's authority to the sub-district head, it is best that land duties should be given in full to the PPAT/Notary in Banda Aceh Municipality, and the sub-district head can carry out his duties with a full sense of responsibility, trust and as best as possible.

#### 4. Conclusion

Article 5 (3) of PP No.37 of 1998 regulates the authority granted to PPATS. According to this regulation, in areas where there is a shortage of Professional PPAT, the Minister has the power to appoint PPATS and Special PPATs, including Subdistrict Heads or Village Heads as PPATS and the Head of the Land Office as Special PPATs, to assist the community in creating PPAT deeds. Both PPATs and PPATs possess the same authority when it comes to creating authentic deeds, and the content of the deeds remains similar. The only difference lies in the letterhead used for each deed. Additionally, it is important to note that PPATs' authority is limited to their designated work area as government officials, while PPATs have a much broader work area, encompassing entire districts or cities. So, PPATS authority applies when the situation in Banda Aceh Municipality does not meet the PPAT quota and currently the situation in Banda Aceh is "sufficient".

#### 5. Suggestion

It is recommended that the government, through the Head of the Banda Aceh BPN, review the appointment of sub-district heads as PPATS and look at the market ratio requirements of an area, especially in urban areas, as in Banda Aceh the

area is not too wide, there are not many land rights transfer transactions. Apart from that, there is a limitation on the authority of the sub-district head as PPATS if there are sufficient PPAT positions in Banda Aceh Municipality, then the sub-district head no longer needs to hold the same position as PPATS whose duties have been carried out directly by experts in their field to avoid competition for honorarium costs, minimizing problems that occur due to the management of rights to land and there is no inequality of authority.

It is also hoped that in the case of making deeds related to legal actions regarding a plot of land, the public should no longer use the services of PPATS, because not all PPATS understand the legal problems that will occur with a plot of land. It would be better if people used PPAT services, because they are more professional in their field and understand the legal issues regarding a plot of land in the future. This can be understood, because PPAT has a law degree and has taken a master's degree in notarial education for approximately 2 (two) years, plus an internship at the Notary/PPAT Office for 2 (two) consecutive years and an internship at the Land Office for 6 (six) months. Therefore, it is natural to say that PPAT is more professional than PPATS (which in this case is the sub-district head), where the sub-district head has a bachelor's degree (S1) from various disciplines, such as a Bachelor of Education, a Bachelor of Agriculture, a Bachelor of Engineering, a Bachelor of Economics, and others. etc.

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