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The Existence of Land Deed Officials in Government Land Acquisition Following the Establishment of the Land Office

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Abstract

The development of Land Offices in multiple regions has introduced various variables that influence the role of PPAT in the government land purchase process. The Land Office, as an authoritative organisation in land management, has been assuming various functions previously held by PPAT, particularly regarding land administration for public interest. This necessitates the reorganisation of the duties and authorities of PPAT to avert overlapping or conflicting jurisdictions. According to Article 6 of Law Number 2 of 2012 about Land purchase for Public Interest, the government is required to execute the land purchase process efficiently, equitably, and transparently. Consequently, examining the existence of PPAT concerning land acquisition following the founding of the Land Office is crucial for comprehending the position and strategic significance of PPAT in facilitating government initiatives. This study employs a normative legal methodology utilising

both legislative and philosophical frameworks. This paper aims to analyse and elucidate the role of Land Deed Officials in governmental land acquisition since the formation of the Land Office. The research findings indicate that PPAT encounters obstacles, including ambiguous authority boundaries, the lack of cohesive operational guidelines, inadequate coordination, a unified land information system, and increased expectations for professionalism to ensure the validity and regulatory compliance of the deeds produced by both institutions. Consequently, synergy and harmonisation among BPN, the Land Office, and PPAT are essential through the creation of coordination forums, the development of explicit regulations, the augmentation of human resource capabilities, and the establishment of an integrated information system to attain legal certainty, justice, and efficient and equitable land services for the community.

Keywords: Existence, Land Deed Official, Government Land Acquisition, Land Office Land Affairs

Introduction

Land management is one of the important aspects of national development, especially for public interests such as infrastructure and public facilities. In Indonesia, government land management involves two main agencies: The Regional Land Office, which is responsible for land acquisition, and the National Land Agency (BPN), which plays a role in land certification and inventory ^[1]. In practice, a dualism of authority causes various legal issues related to the status and management of land acquired by the Land Office. This dualism results in overlapping authorities and legal uncertainties in the inventory and certification of land acquired for public purposes ^[2].

Land acquisition for government purposes is a crucial aspect in supporting national development. Land becomes a strategic element for the implementation of infrastructure projects, both on a national and regional scale. In this process, regulations regarding land rights and the legality of the transfer of rights become important issues regulated by various legal instruments, one of which is through the Land Deed Official (PPAT). In this context, the Land Deed Official (PPAT) plays an important role in ensuring legal certainty regarding the transfer of rights and encumbrances on land.

Land acquisition by the government is a complex process and must meet strong legal aspects for legal certainty. In practice, the status of land ownership becomes the main factor that determines whether the transaction must go through the Land Deed Official (PPAT) or can be done at the district head's office. If the land is already certified, such as Ownership Rights (HM) or Building Use Rights (HGB), then the sale and purchase deed must be made by the Land Deed Official (PPAT) as a legally

valid, authentic document. This deed is then used for the name transfer process at the National Land Agency (BPN) so that the land officially becomes a government asset. Conversely, if the land is still in the form of customary land or girik land that has not been certified, the transaction can be carried out with a private deed legalized by the Subdistrict Head or Village Head, but it must still be registered with the National Land Agency (BPN) to obtain a clear legal status.

With this system, the government ensures that every land acquisition proceeds according to regulations, avoids ownership conflicts, and accelerates the development process. Although in some conditions transactions at the sub-district level are still permitted, the use of PPAT remains a safer choice because it provides stronger legal power in the long term. This is also in line with the principles of transparency and legal certainty, which are fundamental in the management of land for public interest. Therefore, to ensure legality and avoid legal issues in the future, government land procurement should still involve PPAT in the land sale and purchase process, especially for land that is already certified.

As a state official, PPAT is a public officer authorized to create authentic deeds regarding certain legal actions related to land rights or ownership rights of apartment units. PPAT itself is divided into three categories: General PPAT, Special PPAT, and Temporary PPAT^[3]. Special PPAT is a PPAT appointed because the concerned PPAT is involved in a government program or performing government duties. Temporary PPAT is a PPAT that performs the task of creating PPAT in areas where there are not enough PPAT. PPAT has a significant role as an authorized official to create certain deeds related to land and building rights under legal regulations^[4]. In land procurement for government purposes, PPAT plays a role in ensuring the legality and validity of documents, as well as facilitating the orderly and structured process of transferring rights. This role is regulated by Government Regulation Number 24 of 1997 concerning Land Registration, which emphasizes the importance of the PPAT deed as an authentic document in the process of transferring land rights.

With the establishment of Land Offices in several regions, various dynamics have emerged that affect the existence of PPAT in the government's land acquisition process. The Land Office, as an institution with authority in land management, has begun to take over several functions that were previously the domain of PPAT, particularly in the context of land administration for public purposes. This creates a need for a reorganization of the roles and authorities of PPAT to prevent overlapping or conflicting jurisdictions.

Based on Article 6 of Law Number 2 of 2012 concerning Land Acquisition for Public Interest, the government is mandated to ensure that the land acquisition process is carried out quickly, fairly, and transparently. Therefore, the study of the existence of the Land Deed Official (PPAT) in the context of land acquisition after the establishment of the Land Office becomes important to understand the position and strategic role of PPAT in supporting government programs. The purpose of this research is to analyze and explain the existence of the Land Deed Official (PPAT) in government land procurement following the establishment of the Land Office.

Research Method

This research uses a normative legal research method with a legislative and conceptual approach, relying on primary, secondary, and tertiary legal materials. The data collection technique in this research is the library technique. Library research is the collection of data through the examination of library materials. Based on all the data that has been collected, the data will be analyzed using qualitative analysis methods, which involve understanding the data by analyzing, interpreting, and drawing conclusions under the issues discussed in this research^[5].

Results and Discussions

The establishment of the Land Office in Aceh, based on Law Number 11 of 2006 on the Governance of Aceh, indeed brings a new dynamic to land management in Indonesia. The transfer of some authority that was originally centralized in the National Land Agency (BPN) to the Aceh Land Office creates the potential for dualism in authority, which directly impacts legal certainty in land acquisition for public purposes^[6].

In this context, Gustav Radbruch's theory of legal certainty becomes relevant for analysis. According to Gustav Radbruch, legal certainty is one of the main elements in law, alongside justice and utility. Gustav Radbruch argued that law must provide certainty for society, so legal rules must be clear, firm, and predictable in their application^[7].

The dualism of authority between the BPN and the Land Office has the potential to erode legal certainty, as feared by Gustav Radbruch, because it creates ambiguity in the execution of the duties and powers of each institution. For example, in the issuance of land rights certificates, unclear jurisdictional boundaries can trigger duplicate certificates or overlapping land rights, leading to legal conflicts and uncertainty in ownership status.

This situation shows a conflict between legal certainty and substantive justice. In Gustav Radbruch's theory, if there is a conflict between positive law (written law) and justice, then positive law must be prioritized unless the law is extremely unjust or fundamentally denies justice^[8]. In the context of Aceh, differences in regulations between the central government and the regions have the potential to create "administrative injustice" even if they are formally legitimate, thus requiring a coordination mechanism that bridges legal certainty and substantive justice.

The role of the Land Deed Official (PPAT) in this situation becomes the guardian of legal certainty in the field. PPAT is required to ensure that the deeds made comply with the regulations of both institutions (BPN and the Land Office), while also being able to prevent legal violations that harm the interests of the community and the state. The absence of integrated operational guidelines or SOPs will increase the risk of legal uncertainty, as warned by Gustav Radbruch that "without legal certainty, justice will become an illusion^[9]".

Therefore, the effort to establish a coordinated framework, including the preparation of cooperation agreements, SOPs, and integrated information systems, is a concrete step to realize legal certainty as intended in Gustav Radbruch's theory. With this mechanism, the law is not only formally strict but also guarantees certainty and justice in practice.

Legally, the BPN has a strong legal basis as a non-ministerial government agency directly responsible to the President, as stipulated in Presidential Regulation Number

20 of 2015 concerning the National Land Agency. However, with the existence of Land Offices in the regions, there needs to be an adjustment in the division of tasks and functions to prevent dualism of authority that could hinder land administration processes. This is in line with the principle of regional autonomy, which grants local governments the authority to manage their affairs, including in the field of land administration^[10].

The repositioning of BPN in this context should be directed towards a coordinative and supervisory function over the Regional Land Offices. BPN needs to establish standards and technical guidelines that serve as a reference for the Land Office in carrying out its duties. Thus, even though land administration is carried out by the Land Office, the BPN still plays a strategic role in maintaining the consistency and integrity of national land data. This change in institutional structure also impacts the role of the Land Deed Official (PPAT), who has been a partner of the BPN in land registration. With the establishment of the Land Office, the Land Deed Official (PPAT) needs to adjust its working mechanisms to continue coordinating effectively, both with the National Land Agency (BPN) and the regional Land Office. This is important to ensure that the process of making deeds and land registration runs smoothly and under the applicable legal provisions^[11].

In the context of land acquisition for public interest, coordination between BPN, the Land Office, and PPAT becomes crucial. Every stage of land acquisition, from planning to execution, requires synergy between these three parties to avoid conflicts and ensure legal certainty for all involved. The repositioning of the BPN as the main coordinator in this process can strengthen a transparent and accountable land acquisition system. However, the challenges faced in the repositioning of BPN are not trivial. There is a need for regulatory harmonization between the central and regional levels, as well as an increase in human resource capacity at the Land Office so that it can perform its duties effectively. BPN also needs to develop an integrated land information system to facilitate data and information exchange between the central and regional levels^[12].

In addition, there needs to be an effective monitoring and evaluation mechanism to ensure that the Land Office carries out its duties under the standards set by the BPN^[13]. This is important to maintain the quality of public services in the land sector and to prevent deviations or abuse of authority at the regional level. The repositioning of BPN must also consider the aspects of customary law and local wisdom that apply in each region. In this case, BPN can play a role as a facilitator in accommodating local values into the national land administration system, thereby creating a system that is inclusive and responsive to the needs of the community. Thus, the repositioning of BPN amidst institutional structural changes is a strategic step to strengthen the national land system. Through its roles in coordination, supervision, and facilitation, the BPN can ensure that land administration in Indonesia operates effectively, efficiently, and in accordance with the principles of good governance. In conclusion, the presence of Land Offices in the regions provides an opportunity to improve public services in the field of land management, but it also demands the repositioning of BPN to adapt to these changes. With the right role, the BPN can become the director and controller of the national land system, capable of addressing the

challenges of the times and meeting the needs of the community fairly and equitably.

The existence of the Land Office at the regional level is an implementation of the spirit of regional autonomy as regulated in Law Number 23 of 2014 concerning Regional Government. The establishment of this office aims to bring land services closer to the community and improve the efficiency and effectiveness of land management in the region. However, juridically, this has consequences for the authority of the National Land Agency (BPN) as the institution that has held sole authority in land affairs in Indonesia. Presidential Regulation Number 20 of 2015 concerning the National Land Agency stipulates that the BPN retains authority in the implementation of government duties in the field of land nationally, regionally, and sectorally. Thus, there is a potential overlap of authority between the Land Office and the BPN that needs to be regulated to avoid conflicts of authority in the field^[14].

The legal consequences of the existence of the Land Office on the BPN encompass aspects of the division of authority, responsibility, and coordination in the execution of land tasks^[15]. In practice, the Land Office often takes over some functions of the National Land Agency (BPN), such as land data management, issuance of technical recommendations, and implementation of land procurement for public interest. This can create a dualism of authority that has the potential to hinder land administration processes and cause legal uncertainty for the community. Therefore, clear regulations regarding the boundaries of authority between the Land Office and the National Land Agency (BPN) are needed to ensure synergy and harmonization in land administration in Indonesia.

One alternative to strengthen the synergy between the Land Office and the National Land Agency (BPN) is through the establishment of a land coordination forum at the regional level that involves both agencies and other related institutions^[16]. This forum can serve as a platform to develop joint work plans, resolve land issues in an integrated manner, and formulate land policies that meet regional needs. With the establishment of this coordination forum, it is hoped that effective and efficient communication can be created between the Land Office and the National Land Agency (BPN), thereby minimizing the potential for jurisdictional conflicts and accelerating the land service process for the community.

In addition, the harmonization of authority between the Land Office and the National Land Agency (BPN) can also be achieved through the formulation of regulations that specifically govern the division of tasks and responsibilities between the two agencies. These regulations must be drafted with the involvement of various stakeholders, including local governments, academics, legal practitioners, and the community, to ensure that the regulations are accepted and effectively implemented on the ground. With clear and comprehensive regulations in place, it is hoped that legal certainty can be created in land administration in Indonesia^[17]. In the context of land acquisition for public interest, synergy between the Land Office and BPN is crucial to ensure the smooth process of land acquisition and the protection of community rights. The Land Office can play a role in conducting socialization and mediation with the community, while the BPN is responsible for the aspects of legalization and land registration. With a clear division of roles and good coordination, the land acquisition process

can proceed in a more transparent, accountable manner, and under the principles of social justice.

The role of the Land Deed Official (PPAT) in this context cannot be overlooked either ^[18]. As a public official authorized to create authentic deeds regarding certain legal actions related to land rights, PPAT has a strategic role in ensuring the legality of land transactions. Therefore, the synergy between PPAT, the Land Office, and BPN needs to be strengthened through effective coordination and data exchange mechanisms. Thus, an integrated land administration system that is responsive to the needs of the community can be created.

To strengthen the synergy and harmonization of land agency authorities, it is also important to pay attention to the aspect of human resource capacity. Training and competency enhancement for the staff of the Land Office and BPN need to be conducted continuously to ensure that they possess adequate knowledge and skills in carrying out land-related tasks. In addition, the utilization of information technology and integrated land information systems can be a solution to improve efficiency and accuracy in land data management. Strengthening the synergy between the Land Office and the National Land Agency (BPN) must also be supported by political commitment from the central and regional governments. The government needs to provide adequate policy and budgetary support to facilitate the implementation of land management tasks in the regions. In addition, there needs to be an effective evaluation and supervision mechanism to ensure that the synergy and harmonization of authority between the Land Office and the National Land Agency (BPN) can operate according to the expected goals.

In the long term, the synergy between the Land Office and the National Land Agency (BPN) can serve as a model for collaboration between the central and regional governments in the administration of governmental affairs. By leveraging the strengths of each institution and building an effective coordination mechanism, it is hoped that better, more transparent land governance that favors the interests of the community can be achieved. This is in line with the spirit of bureaucratic reform and decentralization, which serve as the foundation for governance in Indonesia.

In conclusion, the presence of the Land Office in the region is a positive step in bringing land services closer to the community. However, to avoid conflicts of authority and ensure the smooth implementation of land administration, strong synergy and harmonization between the Land Office and the National Land Agency (BPN) are necessary. Through the establishment of coordination forums, the formulation of clear regulations, the enhancement of human resource capacity, and strong political support, it is hoped that an effective, efficient, and just land system can be created in Indonesia.

Conclusion

To sum up, the creation of the Land Office in Aceh under Law Number 11 of 2006 has led to legal ramifications characterised by a duality of authority with the National Land Agency (BPN), affecting legal certainty, administrative efficiency, and institutional coordination in land matters, including the function of Land Deed Officials (PPAT). PPAT encounters challenges, including ambiguous authority boundaries, lack of cohesive operational guidelines, inadequate coordination, absence of an

integrated land information system, and the necessity for enhanced professionalism to ensure the validity of deeds in compliance with the regulations of both institutions. Consequently, synergy and harmonisation among BPN, the Land Office, and PPAT are essential through the creation of coordination forums, the establishment of explicit regulations, the augmentation of human resource capabilities, and the development of an integrated information system to attain legal certainty, justice, and efficient and equitable land services for the community.

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