

## The status of the temporary land deed official following the appointment of a permanent land deed official has been fulfilled

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### Abstract

Land registration aims to provide legal certainty regarding land rights, including the object, subject, and the status of such rights. The Basic Agrarian Law Year 1960 and Government Regulation Number 24 Year 1997 govern land registration by the National Land Agency, assisted by Land Deed Officials and Temporary Land Deed Officials in areas lacking sufficient Land Deed Officials. Sub-district heads (Camat) are appointed as Temporary Land Deed Officials, even though many graduates of notarial studies meet the qualifications to become Land Deed Officials. Nevertheless, the appointment of sub-district heads as Temporary Land Deed Officials continues to take place.

The purpose of this research is to explain and analyze the ratio or criteria that determine the existence of Temporary Land Deed Officials in Work Areas where the formation for Land Deed Officials has been fulfilled. The status of Temporary Land Deed Officials after the appointment of Land Deed Officials in the work area, and also the impact of the continuation of Temporary Land Deed Officials on the land registration system and land services.

The result indicate that the National Land Agency determines the number of Land Deed Officials and Temporary Land Deed Officials in a region based on an analysis of the need for Land Deed Officials, which is assessed by the number of land transactions and the size of the land office's jurisdiction. The position of the Temporary Land Deed Official is to assist in land services within their working area, especially in regions where the need for Land Deed Officials has not yet been fulfilled. Temporary Land Deed Officials serve as a temporary solution to address shortages of Land Deed Officials in certain areas, and the appointment of sub-district heads (Camat) as Temporary Land Deed Officials is considered valid. However, in working areas where the number of Land Deed Officials is deemed sufficient to meet the demand for land services, the existence of Temporary Land Deed Officials is considered legally flawed and may be revoked. The continued presence of Temporary Land Deed Officials in working areas where the formation of Land Deed Officials has been fulfilled results in both positive and negative impacts on business competition, as well as conflicts between Land Deed Officials and Temporary Land Deed Officials in the delivery of land services.

**Keywords:** Status, land deed official, temporary land deed official

### Introduction

Article 33 paragraph <sup>[3]</sup> The 1945 Constitution of the Republic of Indonesia.: " The earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." The control over the earth, water, outer space, including the natural resources contained therein by the state is known as the Right Control of state. <sup>[1]</sup>

The state's right to control the earth, water and space is of course to achieve the greatest prosperity for the people and in its implementation can be delegated to autonomous regions (regional governments) and customary law communities as necessary and not in conflict with national interests. <sup>[2]</sup>

The guarantee of legal certainty over people's land rights is carried out through the registration of land rights and the transfer of those rights. As a result of the land rights registration process, a proof of ownership called a certificate is issued to the registered land rights holder. The certificate serves as strong evidence, as referred to in Article 19 paragraph <sup>[2]</sup> letter c of the Basic Agrarian Law. According to Article 19 paragraph <sup>[2]</sup>, the land registration activities carried out by the Government include <sup>[3]</sup>

a. Measurement, mapping, and recording of land;

- b. Registration of land rights and the transfer of those rights
- c. Issuance of certificates of title that serve as strong evidence.

As the implementation of Article 19 of the Basic Agrarian Law, Government Regulation Number 24 of 1997 concerning Land Registration was issued. Article 6 of this Government Regulation states that:

"In carrying out land registration, the Head of the Land Office shall be assisted by Land Deed Officials (PPAT) and other officials assigned to carry out certain activities in accordance with this Government Regulation and the relevant laws and regulations." <sup>[4]</sup>

Furthermore, in Article 7 paragraph <sup>[2]</sup>, it is stated that for villages in remote areas, the Minister may appoint a Temporary Land Deed Official (PPAT Sementara). <sup>[5]</sup>

The duties of the Land Deed Official (hereinafter referred to as PPAT) are regulated under Government Regulation Number 24 of 2016 concerning the amendment to Government Regulation Number 37 of 1997 on the Regulation of the Position of Land Deed Official. Article 1 point 2 stipulates that a Temporary Land Deed Official (hereinafter referred to as Temporary PPAT) is a government official appointed by virtue of their position to

carry out PPAT duties by drawing up PPAT deeds in areas where there are not yet sufficient PPATs. Article 8 paragraph <sup>[3]</sup> states that Temporary PPATs and Special PPATs shall cease performing PPAT duties when they no longer hold their official position.<sup>[6]</sup>

Areas that do not yet have a sufficient number of Land Deed Officials (PPAT), as referred to in Article 5 paragraph <sup>[3]</sup> letter a of Government Regulation Number 37 of 1998, are areas where the number of PPATs has not yet met the quota set by the Minister in accordance with Article 14 of the said Government Regulation.<sup>[7]</sup>

The PPAT quota established by the Minister in Ministerial Regulation/Head of the National Land Agency, for each PPAT working area is determined by considering the following factors<sup>[8]</sup>

- a. The number of sub-districts (kecamatan) in the relevant area;
- b. The level of economic development in the relevant area;
- c. The number of land parcels that have been certified in the relevant area;
- d. The frequency of land rights transfers in the relevant area and projections of its growth;
- e. The average number of deeds drawn up by PPATs in the relevant working area.

The need for land must be strengthened in terms of control, ownership, use, and utilization of the land. Weaknesses in land control and ownership, as well as difficulties in defending against disturbances from other parties, pose challenges. Furthermore, land issues must be addressed because land utilization is a cross-sectoral problem that affects the development progress in this country.<sup>[9]</sup>

The presence of the Sub-District Head (Camat) as a Temporary Land Deed Official (PPAT Sementara) by virtue of their position has a noble purpose: to serve the community in creating PPAT deeds in areas where there are not yet enough PPATs and to assist in the implementation of land registration within their sub-district, while observing existing regulations. Although the assignment of duties and authority is temporary because it is *ex officio* as the Sub-District Head, the appointment as Temporary PPAT is intended to facilitate deed creation in areas lacking sufficient PPATs or where the PPAT quota has not been fulfilled. This appointment follows prior research conducted by the Head of the National Land Agency regarding the community's need for deed services in remote areas. Considering the current situation where many Land Deed Official appointments have been made and are spread across almost all regencies in Indonesia, it is necessary to conduct a reassessment of the decisions regarding the appointment of Temporary Land Deed Officials.

### Materials and Methods

This study uses normative legal research conducted by reviewing library resources or secondary data.<sup>[10]</sup> The research methods used are the statute approach, the case approach, and the comparative approach. This study employs a qualitative legal analysis method, specifically an in-depth evaluation of legal sources, as is customary in normative legal research. This study used qualitative data analysis. Qualitative data analysis is data analysis that follows norms and regulations to solve research issues. After the analysis is completed, the facts will be described

or explained deductively, with an emphasis on reasoning that begins with broad concepts and narrows down to specific ones.<sup>[11]</sup>

### Results and Discussion

The research findings reveal that the status of Temporary Land Deed Officials (PPAT Sementara) in land registration services in Indonesia, especially in areas where the quota of Land Deed Officials has already been fulfilled, is considered legally flawed. A legal defect or legally flawed is a condition in which a legal document, action, or event fails to meet applicable legal requirements, either formally or materially. This means there is a deficiency or error in the legal process or substance that renders it invalid or null and void.<sup>[12]</sup>

This is because it contradicts the regulations stated in Article 5 paragraph 3 letter a and Article 7 paragraph 2 Government Regulation Number 24 Year 1997, which specify that Temporary Land Deed Officials are appointed to assist in serving land registration in remote areas or regions that do not yet have Land Deed Officials. The determination of the quota for the number of Land Deed Officials is set by the National Land Agency. Below is a summary of the research conducted.<sup>[13]</sup>

The number or size determining the presence of Land Deed Officials (PPAT) in a certain area is decided by the National Land Agency. This determination is based on an analysis conducted by the National Land Agency itself as a form of government authority by decree to assess and review the need for Land Deed Officials. The analysis takes into account the number of land transactions as well as the size of the land office's jurisdiction. This is clearly regulated in Ministerial Regulation/Head of the National Land Agency (PMA/Ka.BPN) No. 4 of 1999, which states that the Minister of Agrarian Affairs determines the number of formations and quotas for PPAT based on the principle of effectiveness.

The position of the Temporary Land Deed Official (PPAT Sementara) as an assistant in land services within their working area is legitimate as a temporary solution to address regions lacking sufficient Land Deed Officials. However, the presence of the Sub-District Head (Camat) as a Temporary Land Deed Official in working areas where the PPAT quota has already been fulfilled is considered legally flawed but remains valid until revoked by a judge.

### Conclusion

The presence of Temporary Land Deed Officials still exists today to assist land services, especially in areas where the full quota of Land Deed Officials has been met, indicating that their appointment is considered inappropriate and contrary to the provisions of Law Number 24 of 1997. It can undermine the structure land of law and contradict with the principle of legal certainty. But the continued presence of Temporary Land Deed Officials (PPAT Sementara) in working areas where the quota of Land Deed Officials has already been fulfilled has both positive and negative impacts in terms of business competition as well as land registration services. The positive impacts include increased efficiency in services, the development of human resource quality, and the advancement of technology used in the deed-making process. With competition, the community also benefits because service prices become more reasonable and the quality of the legal products produced improves. However,

we must also acknowledge that this competition can bring negative effects. For example, there is a potential for ethical violations, monopolies, or difficulties for new Land Deed Officials to compete

### References

1. Article 33 paragraph (3) The 1945 Constitution of the Republic of Indonesia.
2. Urip Santoso, Pendaftaran dan Peralihan Hak atas Tanah, Jakarta: Kencana Prenada Media Group, 2010, 48.
3. Article 19 paragraph (3) Basic Agrarian Law.
4. Article 6 Government Regulation Number 24 Year 1997 of Land Registration.
5. Article 7 paragraph (2) Government Regulation Number 24 Year 1997 of Land Registration.
6. Article 8 paragraph (3) Government Regulation Number 24 of 2016 concerning the amendment to Government Regulation Number 37 Year 1997 on the Regulation of the Position of Land Deed Official.
7. Article 5 paragraph (3) letter a of Government Regulation Number 37 Year 1998.
8. (PMA/Ka.BPN) Number 4 Year 1999 Ministerial Regulation.
9. Muhajir Utomo, Ilmu Tanah Dasar-Dasar dan Pengelolaan, Jakarta: Predana Media Grup, 2018, 150.
10. Mardalis, Metode Penelitian (Suatu Pendekatan Proposal), Jakarta: Bumi Aksara, 2009, 24.
11. Ronny Hanitijo soemitro, Metode Penelitian Hukum dan Jurimeri, Bogor: Ghalia Indonesia, 2015, 9.
12. Black's Law Dictionary 9th Edition.
13. Article 5 paragraph 3 letter a Government Regulation Number 37 Year 1997 on the Regulation of the Position of Land Deed Official.