

The relevance of sub-district head as a temporary land deed official on current development especially in Wonogiri Regency

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Abstract

This study aimed to determine the implementation and relevance of Sub-district Head as the Temporary Land Deed Officials in Wonogiri Regency and determine the relationship between the Temporary Land Deed Officials' functions and the number of formations required for the Land Deed Officials in Wonogiri Regency. Government Regulation Number 24 of 2016 stated that the Sub-district Head as the Temporary Land Deed Officials is the appointed official because of their position by making Land Deed Officials (PPAT) in areas where PPAT is not sufficient. In 2019, PPAT was no longer appointed in Wonogiri Regency because it was considered that the quota had met, but the Sub-district Head still served as the Temporary Land Deed Officials. This study was empirical and descriptive research, which aimed to obtain knowledge by a direct path to the object. Primary data was obtained directly through interviews, and secondary data was collected through literature books and statutory regulations. In this study, the sample was taken at the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency office in Wonogiri Regency. Wonogiri Regency is an area located in Central Java Province which has a government administration area based on the Local Government Regulation in Wonogiri Regency Number 3 of 2002 with 25 Districts and 294 Villages. All Sub-district Heads also serve as Temporary Land Deed Officials. In the announcement of the test for the appointment of Land Deed Officials from January to June, Wonogiri Regency requires 7 job formations for Land Deed Officials. In the test for the appointment of Land Deed Officials from August to December, Wonogiri Regency no longer needs the PPAT Position Formation. Thus, there is a mismatch between regulations and implementation in the field.

Keywords: Land Deed Officials, Temporary Land Deed Officials (PPAT), Sub-District Head

1. Introduction

Land is a basic human need in carrying out productive activities, either as a place to live or as a production factor. Thus, with the increasing number of people, land is also increasingly needed. In daily life, we often find land into disputes, even up to court proceedings. Therefore, it is clear that the systematic recording of land and land rights is an essential matter both for planning and using the land itself and for legal certainty over the land.

The Basic Agrarian Law No. 5/1960 has ordered the government to conduct land registration. The implementation of land registration is contained in the Government Regulation Number 24 of 1997 concerning Land Registration has been determined by the Position of Land Deed Officials (PPAT) which is given the authority to produce evidence regarding certain legal actions land rights and ownership rights over apartment units which will be used as the registration basic. It is stated that in accordance with the provisions of Article 7 of Government Regulation Number 24 of 1997 concerning Land Registration, it is necessary to regulate the Position of Land Deed Officials with a Government Regulation, so Government Regulation Number 37 of 1998 concerning the Position of Land Deed Officials is stipulated as the main regulation governing the position of PPAT in addition to various other laws and regulations related to the PPAT position. The main core task of the PPAT is to conduct some of the activities of the National Land Agency regarding land registration by making land deeds as evidence of certain legal actions regarding land rights. The term "public official" is a

translation of the term *Openbare Ambttenaren* contained in the Regulation of Notary Position and Article 1868 of the Civil Code, translated by R. Subekti and R. Tjitrosudibio^[1]. The Land Deed Officials (PPAT) itself is divided into 3 parts, namely:

1. Regular PPAT is a PPAT appointed to serve the community in terms of making land deeds which have met the requirements determined by the regular PPAT can concurrently serve as a Notary or legal advisor
2. Temporary PPAT is a PPAT appointed to serve the community in making land deeds in areas where PPAT does not yet exist. The temporary PPAT can double as a Sub-District Head or as a Village Head
3. Special PPAT is an official of the National Land Agency appointed because of its position to carry out PPAT duties by making certain PPAT deeds, specifically in implementing certain government programs or tasks.

Legal relationship is created when the parties come to PPAT, and then the legal action is formulated into an authentic deed as desired by the parties, this indicates that there has been a legal relationship with 2 parties. This makes PPAT obliged to keep the interests of these parties confidential. This is the responsibility of PPAT, Temporary

¹ Habib Adjie, 2009, *Sekilas Dunia Notaris dan PPAT Indonesia* (Kumpulan Tulisan), Cetakan Kesatu, CV. Mandar Maju, Bandung (selanjutnya disingkat Habib Adjie II), hal. 15

PPAT, and Special PPAT ^[2].

The focus of discussion is on the Temporary PPAT held by the PPAT. Based on the researcher's data, the number of PPATs in the Wonogiri Regency is considered sufficient so that it does not require the opening of quotas for new PPATs. However, the Sub-district Head as interim PPAT is still serving as interim PPAT. As in Article 1 paragraph 2 of PP regarding PPAT which states that Temporary PPAT is appointed in the framework of implementation in regions where there is not yet enough PPAT.

2. Research Methods

This study used empirical legal research as a method that aims to obtain empirical knowledge by plunging directly into the object. This legal research used analytical descriptive research ^[3]. The study approach used was qualitative; namely, an approach that used data expressed verbally, which was intended to understand the phenomena of what was experienced by the subject. The researcher, such as behavior, actions, perceptions, and others in a holistic way, was described in the form of words and narrative in a specific natural context and utilizing various scientific methods ^[4]. This study was conducted at the Agrarian Affairs and Spatial Planning/National Land Agency office in Wonogiri Regency.

3. Discussion

The position with officials is closely related and inseparable. On the one hand, the position has a permanent character (a permanent work environment). On the other hand, the position can be run by humans as support for rights and obligations. In short, officials are those who exercise their rights and obligations, so that all actions taken by officials in accordance with their authority are the implementation of their position ^[5]. According to Boedi Harsono, a public official is someone who has been appointed by the government to provide services to the public in certain fields with their duties and authorities ^[6].

Wonogiri Regency is an area located in Central Java Province which has a government administration area based on Local Government Regulation in Wonogiri Regency Number 3 of 2002 with 25 Districts and 294 Villages. In this case, the Sub-district Head's role is very important to ensure that services to the community are fulfilled. The Sub-district Head is considered to understand the ins and outs of the area he/she is dreaming of. The Sub-district Head is also asked for assistance to become a provisional PPAT, for areas where the PPAT is not sufficient.

To become a Temporary Land Deed Officials (PPAT), the Sub-district Head must register at the Agrarian Affairs and Spatial Planning/National Land Agency Office Regency with the following requirements:

- a. Photocopy of the excerpt of Regent's Decree number xxx.x/xxxx in xxx regarding the appointment or appearance of an administrator in echelon III or Local Sub-district Head;
- b. Photocopy of letter of inauguration statement (availability of the Sub-district Head to be inaugurated and accept the PPAT protocol);
- c. Photocopy of family card and identity card;
- d. Photocopy of Taxpayer Identification Number;
- e. Photocopy of Temporary PPAT training certificate.

A Sub-district Head who wants to register as a Temporary PPAT has the requirements to participate in the training carried out to get a certificate to register. The training itself is carried out free of charge by the Agrarian Affairs and Spatial Planning/National Land Agency office or free of charge to the Sub-district Head who follows the training as a Temporary PPAT. This is intended so that the Sub-district Head understands the main duties and functions of PPAT, considering that a person who is a Sub-district Head does not necessarily have an educational background as a Law Degree. At this point, it can be highlighted that a Sub-district Head with various educational backgrounds who are not necessarily law graduates can become a Temporary PPAT. In article 6 of Government Regulation Number 2 of 2014, a PPAT must have a law degree and graduate from a bachelor's degree in a notary or graduate from the PPAT special education program organized by the government in the agrarian or land sector. It would be better if Temporary PPAT has experience in the field of law. In the community, PPAT is considered someone who lives to fill in blanks, even though PPAT has responsibility for deeds that have been made throughout his life. According to Sudikno Mertokusumo, deed is a signed letter containing the events that constitute the basis of a right or words that are made from the beginning on purpose for the making as a legal act ^[7].

The Temporary PPAT term of office itself ends when the term of office as Sub-district Head ends or gets a Decree (SK) to move assignments, since then it is no longer a Temporary PPAT status and does not have the authority to make a PPAT deed again. To extend the Temporary PPAT status, if you get a Decree (SK) to move your assignment and still get the position of Sub-district Head in a different sub-district, then you will extend to the ATR/BPN office with the same conditions mentioned above, without having to follow the PPAT training again. After the Decree (SK) is issued and the inauguration is carried out, then they will reserve as a temporary PPAT. Wonogiri Regency consists of 25 sub-districts, and all of the Sub-District Head in the area serve as Temporary PPAT. This is because several subdistricts do not have PPAT at all. The distribution of PPAT is still focused on the center of Wonogiri City, and this has resulted in sub-districts that are far from the city, untouched. The community feels the Temporary PPAT function.

The Temporary PPAT has a temporary term so that the number of PPATs in a region is sufficient. It discusses the quota issue needed by PPAT in Wonogiri Regency in 2019 by holding PPAT Appointment Test 2 times, namely, the first is based on Announcement Number 7/Peng-

² Ariuddin, Hanif Nur Widhiyanti, Hariyanto Susilo. Implikasi Yuridis Terhadap Pejabat Pembuat Akta Tanah Penerima Kuasa Menyetero Pajak Penghasilan/Bea Perolehan Hak Atas Tanah dan Bangunan dari Wajib Pajak. JIPPK Jurnal, Volume 2. Nomor 1. Halaman 18-25. 2017

³ Soerjono Soekanto, *Pengantar Penelitian Hukum*, Jakarta : UII Perss, 2012, hlm.42

⁴ Setiono, *Pemahaman Terhadap Metodologi Penelitian Hukum*, Program Studi Ilmu Hukum, Pascasarjana Universitas Sebelas Maret Surakarta, 2005, hlm. 10

⁵ Habib Adjie, 2009, Sanksi Perdata dan Administratif Terhadap Notaris Sebagai Pejabat Publik, Refika Aditama, Bandung, hal. 18

⁶ Boedi Harsono, 2007, "PPAT Sejarah dan Kewenangannya", Majalah RENVOI, Nomor 844, IV, Januari 2007, hal. 11

⁷ Sudikno Mertokusumo, 2009, *Penemu Hukum Sebuah Pengantar*, Yogyakarta : Liberty, hlm. 106

400.18.HR.03/V/2019 concerning the Implementation of Deed Land Official Tests in 2019 and the second is based on Announcement Number 4/Peng-400.20.HR.03/XII/2019 concerning the Implementation of Land Deed Official Tests in Stage II in 2019. In the first test, a general number of PPAT needed in 1997 with 82 formations in Central Java, especially in Wonogiri Regency which requires 7 formations. In Stage I, it is still acceptable if there is still a Temporary PPAT in the Wonogiri Regency area. One of the requirements for a temporary PPAT is that there is still a shortage of PPATs in the area.

It still happened in 2019, on the PPAT appointment test in Stage II, Wonogiri Regency area no longer needed the PPAT formation again, or in other words, the number of PPATs in Wonogiri Regency was deemed sufficient for the working area. However, there is still a Sub-district Head as a Temporary PPAT in Wonogiri Regency. In contrast, if seen from the need for formation, Wonogiri Regency no longer needs PPAT formation again. In this case, it is contrary to Article 1 paragraph 2 of Government Regulation Number 24 of 2016 concerning Regulation of Notary Position, "Temporary PPAT is a Government Official appointed because of its position to carry out PPAT duties by making PPAT deeds in areas where there is not enough PPAT" and in Article 8 paragraph 3 "Temporarily PPAT and Special PPAT stop carrying out PPAT duties if they no longer hold the positions as referred to in Article 5 paragraph (3) letters a and b, or are dismissed by the Minister. Therefore, it can be concluded that, if the PPAT needs have been met or fulfilled in an area, the Temporary PPAT should no longer be in office. However, why is there still a temporary PPAT? One of the actors is the inequality of the number of PPATs in the District, Wonogiri Regency [8].

Based on the discussion above, the Temporary PPAT should not exist or cannot be appointed again based on these factors. This is recalled in article 1 paragraph 2 of Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning the Position Regulation for Land Deed Officials, and the Temporary PPAT is a government official appointed to carry out PPAT tasks by making PPAT deeds in areas where PPAT does not yet exist.

Even though the temporary PPAT is appointed if the area does not yet have enough PPAT, the Sub-district Head, especially in Wonogiri Regency, is still deemed necessary for the Sub-district Head to be appointed as temporary PPAT. Several factors influence it, including:

- a. Total population
- b. Economic growth speed;
- c. Number of deeds that have been made by PPAT in Wonogiri Regency;
- d. Development of community needs for transfer of rights;
- e. Location of placement in Wonogiri Regency.

Of course, this should be a particular concern for the ATR/BPN Office to take part and function to equalize the number of PPATs in the regions so that each District has a minimum of two PPATs. This is intended so that the distribution in each area is evenly distributed and also has

the function of PPAT to provide education, especially in the field of law, for the community, therefore, there are still many people who are unfamiliar with legal problems in general.

If the distribution of PPAT formations has met the criteria that are considered good, then the Sub-district Head can be suspended from the temporary PPAT. Moreover, it is hoped that PPAT can meet the needs that exist in the community without the need to involve government officials to complete the work of PPAT. According to the researcher, if a sub-district already has more than one PPAT, it would be nice if the Sub-district Head in that area is not allowed to register as a temporary PPAT but, if in a Sub-district Head where there is no PPAT then the Sub-district Head can register himself as a temporary PPAT.

The PPAT resigns from the position based on PP Number 24 of 2016, if he/she died at the age of 65, it is appointed and taken an oath of office or carries out duties as a notary with a domicile in a level II district in another area and is dismissed by the Minister. According to Mrs. Wartiyem, the Sub-district Head has finished serving as PPAT. When he/she has finished serving as the Sub-district Head in a certain area, when he/she is retired, the post as a temporary PPAT will automatically finish following his/her job position. However, if he/she is transferred to duty, then he/she must again apply for requirements to be appointed as PPAT temporarily back to the ATR/BPN office of Regency [9].

4. Conclusion

The number of PPATs in the Wonogiri Regency is 52 people who are spread over 25 Sub-districts, and all Sub-district Heads register themselves as Temporary PPAT. To become a temporary PPAT, the Sub-district Head must register at the local ATR/BPN office and then be appointed by the Minister through the local ATR/BPN office. In 2019, Wonogiri Regency in the PPAT appointment exam no longer needed a new PPAT because the quota was deemed to have met. However, information from the ATR/BPN office of Wonogiri Regency still has a temporary PPAT. If seen, certain things contradict the rules of PP Number 24 of 2016 which explain that the Sub-district Head as a Temporary PPAT is only valid until the PPAT quota in a region/city has not been fulfilled, if it has been fulfilled the Temporary PPAT is no longer valid.

Based on the results of the interview, the Regional Head has the right to be able to assess and propose the number of PPAT needs in the area he/she leads. Given that Wonogiri Regency is a contoured mountainous area and has 25 Districts, PPAT is still focused on the district capital area, and several districts do not yet have PPAT in their regions. Therefore, based on this assessment, the Sub-district Head is still very much needed to help the people in the area.

Indonesia itself adheres to formal proof, while the facts in the field are material proof. It can be concluded that the application of the law must be based on statutory regulations, if there is no conformity then the material facts must be one of the bases for issuing new formal rules.

⁸ The result of interviews with Mrs. Wartiyem, the Head of Land Data Maintenance Guidance Subsection and PPAT Development at the ATR/BPN office in Wonogiri Regency.

⁹ The result of interviews with Mrs. Wartiyem, the Head of Land Data Maintenance Guidance Subsection and PPAT Development at the ATR/BPN office in Wonogiri Regency.

5. Suggestion

It is hoped that the Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) office of District or City will assist in the PPAT placement process in order to create a balance between one sub-district and another. The result expects the entire community to meet their needs and services, especially in land administration. This problem can be coordinated with the Land Deed Officials Association (IPPAT), especially in Wonogiri Regency, to be able to carry out an assessment and conclude priority areas that must immediately be met with PPAT quotas in that area.

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