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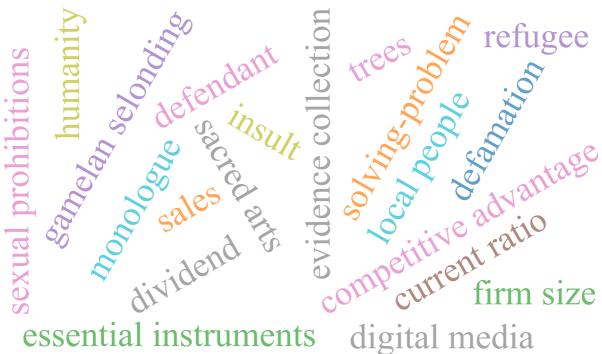
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JURIDICAL ANALYSIS OF THE TRANSFER OF LAND RIGHTS THAT WAS NOT MADE BEFORE THE PPAT

^a Endang Pandamdari

ABSTRACT

Objective: The aim of the research is to analyze the juridical aspects of the transfer of land rights which are not carried out before the Land Deed Making Official (PPAT). Transfer of land rights is a legal process that involves the transfer of ownership from one party to another. PPAT plays an important role in ensuring the validity and enforceability of land transactions by carrying out the transfer process officially and transparently. However, there are situations where the transfer of land rights is carried out without involving PPAT.

Method: The research method used is normative legal juridical analysis in this article covering aspects of validity, legal protection and consequences of the transfer of land rights that do not involve PPAT. The author identifies problems that arise when land transactions are carried out informally, such as the risk of ownership disputes and unclear legal status of land.

Results: Involving PPAT in every land transaction is a crucial step to maintain the validity and validity of the transfer of land rights, as well as preventing potential legal conflicts in the future. Thus, this article contributes to an understanding of the urgency of PPAT's role in ensuring legal certainty in the context of the transfer of land rights in Indonesia.

Keywords: transfer of land rights, ppat, land transactions, legal validity.

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ANÁLISE JURÍDICA DA TRANSFERÊNCIA DE DIREITO TERRESTRE QUE NÃO FOI FEITA ANTES DO PPAT

RESUMO

Objetivo: O objetivo da pesquisa é analisar os aspectos jurídicos da transferência de direitos fundiários que não são realizados perante a Escritura de Escritura de Terra (PPAT). A transferência de direitos à terra é um processo legal que envolve a transferência de propriedade de uma parte para outra. O PPAT desempenha um papel importante na garantia da validade e exigibilidade das transações de terras, realizando o processo de transferência de forma oficial e transparente. Contudo, existem situações em que a transferência dos direitos fundiários é realizada sem envolvimento do PPAT.

Método: O método de pesquisa utilizado é a análise jurídico-legal normativa neste artigo abrangendo aspectos de validade, proteção jurídica e consequências da transferência de

Lecturer, Faculty of Law, Trisakti University, Jakarta, Indonesia, E-mail: endang.p@trisakti.ac.id, Orcid: https://orcid.org/0009-0005-0521-7908



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direitos fundiários que não envolvem PPAT. O autor identifica problemas que surgem quando as transacções de terras são realizadas informalmente, tais como o risco de disputas de propriedade e a falta de clareza do estatuto jurídico da terra.

Resultados: Envolver o PPAT em todas as transações de terras é um passo crucial para manter a validade e validade da transferência de direitos de terra, bem como prevenir potenciais conflitos jurídicos no futuro. Assim, este artigo contribui para a compreensão da urgência do papel do PPAT em garantir a segurança jurídica no contexto da transferência de direitos fundiários na Indonésia.

Palavras-chave: transferência de direitos fundiários, ppat, transações terrestres, validade legal.

1 INTRODUCTION

In this era of rapid economic development and urbanization, the transfer of land rights has become a crucial aspect in the property law system. The Land Deed Drafting Officer (PPAT) has a central role in carrying out the legal and transparent process of transferring land rights. However, in reality, there is a phenomenon of land rights transfer that does not involve PPAT. The existence of these informal land transactions raises questions regarding juridical aspects, legal validity and legal protection for the parties involved.

In the property context, the transfer of land rights is an aspect that plays a central role in determining the sustainability of a country's property law system. The Land Deed Drafting Official (PPAT) in Indonesia has the main function of carrying out and administering the legal and legal process of transferring land rights. However, the phenomenon of land rights transfers that are not carried out before the PPAT is increasingly giving rise to complex legal problems.

Along with economic growth and urbanization, land transactions are becoming more widespread and complex. In some cases, land transactions are carried out informally without involving PPAT. This can give rise to various legal implications, including unclear legal status of land, risk of disputes, and uncertainty about legal enforceability.

The importance of looking at this background lies in the potential uncertainty and legal conflicts that may arise in the transfer of land rights without involving PPAT. Informal transfer of land rights can open up opportunities for unsustainability of the property legal system and provide loopholes for practices that are detrimental to the parties involved.

Therefore, a juridical analysis of the transfer of land rights that is not carried out before the PPAT becomes relevant for understanding and overcoming legal challenges



that arise in the context of land transactions in Indonesia. Through an in-depth understanding of this background, this research aims to contribute to increasing legal certainty and protection for parties involved in the transfer of land rights.

Even though there has been research on the transfer of land rights, there is still a gap in knowledge regarding the juridical analysis of the transfer of land rights that does not involve PPAT. This research gap provides a basis for digging deeper into the legal consequences, risk of disputes, and unclear legal status of land in the context of informal land transactions.

The importance of this research lies in the need for an in-depth understanding of the impacts and risks that may arise from the transfer of land rights without involving PPAT. Through a better understanding of this juridical aspect, society, policy makers and legal practitioners can jointly formulate preventive steps and effective conflict resolution.

Several previous studies have examined various aspects of the transfer of land rights, but the focus on the role of PPAT in land transactions has received relatively little attention. Therefore, this research will complement existing literature by providing a more in-depth analysis regarding the transfer of land rights without PPAT involvement.

The uniqueness of this research lies in its in-depth understanding of the juridical aspects of transferring land rights without involving PPAT, which is expected to provide new insights and significant contributions to the property law literature.

The main objective of this research is to analyze the juridical aspects of the transfer of land rights that are not carried out before the PPAT. Thus, it is hoped that this research can provide a more comprehensive view regarding legal consequences, dispute risks, and legal protection in informal land transactions. Its benefits include theoretical contributions to the property law literature as well as providing guidance for legal practitioners, policy makers and the public in dealing with problems related to the transfer of land rights.

2 METHOD

This research uses a normative juridical analysis approach to explore the transfer of land rights that does not involve PPAT. This approach allows researchers to assess the legal framework governing land transactions, identify relevant norms, and analyze the legal consequences of the transfer of land rights without involving PPAT.



2.1 DATA SOURCE

Primary data will be obtained through the study of legal documents related to the laws and regulations governing the transfer of land rights in Indonesia. Apart from that, this research will also utilize secondary data from legal literature, related court decisions, and the views of property law experts.

2.2 SAMPLE SELECTION

The sample in this study is not directly related to individual data, but rather to legal documents and legal decisions that reflect cases of transfer of land rights without PPAT involvement. Sample selection will be done purposively, focusing on cases that represent a variety of situations and legal problems that may arise.

2.3 ANALYSIS TECHNIQUES

Data analysis techniques will be carried out through a process of identification, classification and interpretation of the legal data obtained. A comparative approach will be used to compare various legal provisions relating to the transfer of land rights, both those involving PPAT and those not involving PPAT.

2.4 VALIDITY AND RELIABILITY

The validity of the research will be strengthened by ensuring that the data and interpretations used come from reliable legal sources. Research reliability will be strengthened by consistency in the application of methodology and data analysis.



2.5 RESEARCH ETHICS

This research will adhere to the principles of research ethics, including compliance with copyright and ethical data use policies. Through this research method, it is hoped that an in-depth understanding can be obtained regarding the juridical aspects of the transfer of land rights that do not involve PPAT, contribute to the property law literature, and provide a basis for more effective policy recommendations in maintaining legal certainty in land transactions.

3 RESULT AND DISCUSSION

3.1 LEGAL FRAMEWORK FOR LAND TRANSACTIONS

Juridical analysis reveals that the legal framework for land transactions in Indonesia specifically stipulates the obligation to involve a Land Deed Drafting Officer (PPAT) to ensure the validity and enforceability of the transfer of land rights. However, it was found that several land transactions were carried out without involving PPAT, creating uncertainty regarding the enforceability of the law.

The legal framework for land transactions refers to a series of statutory regulations and legal norms that regulate the process of transferring land rights. In Indonesia, this legal framework includes various regulations designed to provide legal certainty, protect property rights, and regulate land transactions in accordance with applicable legal principles. Some of the main aspects in the legal framework for land transactions include:

3.1.1 basic agrarian law (UUPA):

UUPA is the main legal basis that regulates agrarian affairs in Indonesia. This law provides the legal basis for land ownership, land acquisition, and transfer of land rights. UUPA covers the principles of agrarian law that underlie every land transaction in Indonesia.

3.1.2 Land Deed Making Official (PPAT):

The role of PPAT is regulated by Law Number 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions. PPAT has the task of carrying out the preparation of land deeds which include the transfer of land rights. PPAT involvement is considered important to ensure the validity and validity of land transactions.



3.1.3 Land certificate

Making a land deed is a formal process supervised by PPAT. A land deed is an official document that records the transfer of land rights. The existence of a land deed is legal evidence that confirms the owner's rights to the land and provides legal clarity.

3.1.4 Land certificate

Land certificates are given as a result of the process of transferring land rights carried out through PPAT. This certificate records information about the land owner, land boundaries, and any burdens that may exist on the land.

3.1.5 Government Regulations and Regional Regulations

Apart from UUPA, government regulations and regional regulations can provide further provisions related to land transactions. This may include special conditions, procedures, or other provisions that need to be taken into account when transferring land rights.

3.1.6 Land Registration

Land registration is regulated by Law Number 5 of 1960 concerning Agrarian Principles. This registration aims to record and provide legal certainty regarding land rights.

3.1.7 Land dispute

The legal framework for land transactions also includes procedures for resolving land disputes. Resolving this dispute can involve the National Land Agency (BPN) and judicial institutions.

It is hoped that a strong and clear legal framework for land transactions can create a conducive environment for property investment, protect the rights of land owners, and maintain legal certainty in the transfer of land rights in Indonesia.

3.2 LEGAL CONSEQUENCES WITHOUT PPAT INVOLVEMENT

Transfers of land rights that do not involve PPAT cause significant legal consequences. It was found that land transferred informally could be subject to the risk of ownership disputes, due to the uncertainty of legal status that may arise. In addition,



the legality and enforceability of these land transactions is a question mark, providing potential vulnerability to legal challenges in the future.

The legal consequences of not involving the Land Deed Drafting Officer (PPAT) in the transfer of land rights can include various aspects that have an impact on the validity, validity and legal clarity of the transaction. The following is a more detailed explanation of the legal consequences:

3.2.1 Unclear Legal Status of Land

Land transferred without involving PPAT may face unclear legal status. The resulting informal land transaction documents do not have the same legal force as land deeds made by PPAT. This can cause uncertainty regarding ownership and rights to the land in question.

3.2.2 Ownership Dispute Risk

Land transactions without PPAT involvement increase the risk of ownership disputes. Without an official land deed, the possibility of disputes arising between the parties involved in the transaction may increase. Such disputes may involve questions regarding the validity of the transaction, the boundaries of the land, and the rights of the parties involved.

3.2.3 Uncertainty of Legal Enforceability

The legal validity of land transactions depends greatly on whether the transaction was carried out with the involvement of PPAT. The land deed made by PPAT has clear legal effect and is recognized by third parties. Without a valid land deed, the validity of land transactions can be questioned and give rise to legal uncertainty.

3.2.4 Limitations of Legal Protection

Parties involved in informal land transactions without involving PPAT may face limited legal protection. The land deed made by PPAT is not only legal evidence but also provides stronger legal protection against various claims and demands from third parties.



3.2.5 Financing and Investment Difficulties

Land that does not have clear legal status and the risk of disputes can be an obstacle to financing and property investment. Banks or financial institutions may have difficulty providing financing for property without adequate legal certainty.

3.2.6 Impact on Property Market

Informal land transactions can have a negative impact on the property market as a whole. Limited legal certainty can reduce investor and buyer interest, hamper property market growth, and create an unstable environment.

3.2.7 Potential Legal Action

Parties who feel disadvantaged or have an interest in informal land transactions can take legal action against the parties involved. This may include civil suits or other legal actions aimed at clarifying or invalidating the land transaction.

Considering these various legal consequences, it is important for parties involved in the transfer of land rights to understand the crucial role of PPAT in creating legal certainty and protecting their interests. PPAT involvement is not only a formality, but also a crucial step to avoid risks and negative consequences that can arise from land transactions without the involvement of competent parties in making land deeds.

3.3 COMPARISON OF JURIDICAL ASPECTS OF LAND TRANSACTIONS WITH AND WITHOUT PPAT

Comparative analysis shows significant differences in the juridical aspects of land transactions involving and not involving PPAT. Land transactions involving PPAT have greater legal clarity, with land deeds as official and valid evidence. On the other hand, informal land transactions without PPAT involvement give rise to uncertainty and vulnerability to different legal interpretations.

A comparison of the juridical aspects of land transactions with and without a Land Deed Official (PPAT) involves an analysis of several legal elements that influence the enforceability, validity and legal certainty of land transactions. The following is a more detailed explanation of this comparison:



3.3.1 Land Deeds and Informal Documents

- With PPAT: Land transactions involving PPAT will result in an official land deed. This land deed has high legal force and is recognized by third parties.
- No PPAT: Informal land transactions produce informal documents that may not have the same legal validity as land deeds. This leaves the land in a state without strong official evidence of transfer of title.

3.3.2 Legal Applicability

- With PPAT: Land deeds made by PPAT have clear legal effect and are recognized by legal institutions.
- Without PPAT: Informal documents can create uncertainty about legal enforceability. Transferred land may not have adequate legal protection.

3.3.3 Legal Protection and Legal Certainty

- With PPAT: Land transactions involving PPAT provide strong legal protection. PPAT is responsible for ensuring that the transaction process complies with applicable legal provisions.
- Without PPAT: Without PPAT involvement, parties involved in a transaction may have a lower level of legal protection. Clarity regarding the rights and obligations of related parties may be less guaranteed.

3.3.4 Proof of Ownership

- With PPAT: The land deed issued by PPAT functions as official evidence that validates land ownership. This provides clarity regarding the legal status of land.
- Without PPAT: Land transferred without PPAT involvement may not have strong proof of ownership. This can make it difficult for parties involved in the transaction to prove their ownership rights.

3.3.5 Financing and Investment

• With PPAT: Having a valid land deed can increase the chances of obtaining financing and investment. Banks and financial institutions are



more likely to provide financial support for properties with high legal certainty.

Without PPAT: Land without official PPAT documents may be considered
a risk by the party providing financing or investors. This can limit access
to financial resources.

3.3.6 Dispute resolution

- With PPAT: If a dispute arises, the land deed made by PPAT can be a strong basis for evidence in court.
- Without PPAT: Land transferred without PPAT involvement can increase the risk of disputes and can make settlements under the law difficult.

This comparison highlights the important role of PPAT in securing land transactions and providing legal certainty. PPAT involvement is not only an administrative formality, but also an important step to protect the rights of parties involved in land transactions and maintain legal stability and certainty in the property sector.

3.4 DRIVING FACTORS FOR LAND TRANSACTIONS WITHOUT PPAT

The results of the analysis also identified the driving factors behind land transactions without PPAT involvement, including the community's lack of understanding of the role of PPAT, costs that are considered high, and formal processes that are considered complicated.

The driving factors for land transactions without the involvement of a Land Deed Making Officer (PPAT) can vary and involve a number of considerations that motivate the parties involved to carry out land transactions informally. The following is a more detailed explanation of some of these driving factors:

3.4.1 Public Misunderstanding

Some people may not fully understand the role and importance of PPAT in the process of transferring land rights. This lack of understanding can trigger a decision to avoid PPAT involvement, especially if the parties involved are not aware of the legal risks that could arise.



3.4.2 High Cost Perception

The process of involving a PPAT may be considered a significant additional cost in a land transaction. Some parties may try to reduce costs by avoiding PPAT involvement and choosing to conduct transactions informally.

3.4.3 Formal Processes Considered Complicated

Some may view the formalities involved in engaging a PPAT as complicated and time consuming. This can be a motivating factor to choose a simpler and faster route by carrying out land transactions without PPAT involvement.

3.4.4 Desire to Avoid Taxes or Duties

Parties involved in a land transaction may wish to avoid taxes or duties that may arise as a result of involving a PPAT. They may attempt to get around these additional costs by choosing informal channels.

3.4.5 Third Party Involvement

Some informal land transactions may involve unauthorized third parties or intermediaries. These parties may be motivated to avoid PPAT involvement to maintain confidentiality or avoid detection.

3.4.6 Importance of Maintaining Privacy

Parties involved in a land transaction may have a desire to maintain their privacy. Involving PPATs may require greater disclosure of information, whereas informal transactions may allow them to better maintain privacy.

3.4.7 Lack of Awareness of Legal Risks

Some parties may not be aware of the potential legal risks associated with land transactions without involving PPAT. This lack of understanding can encourage them to choose informal paths without realizing the possible consequences.



3.4.8 Local or Cultural Traditions

In some regions or cultures, there are local traditions or practices that encourage land transactions to be carried out informally without involving PPAT. This can be a strong motivating factor, especially if the practice has been a long-standing habit.

Further understanding of these driving factors can help design more effective approaches to increase public awareness, reduce cost barriers, and design more appropriate policies to encourage PPAT involvement in land transactions.

3.5 NOVELTIES AND RESEARCH IMPLICATIONS

This research contributes to an in-depth understanding of the legal consequences of land rights transfers that are not carried out before the PPAT. The novelty of the research lies in revealing the risks and legal challenges that may be faced by parties involved in informal land transactions, as well as an in-depth understanding of the urgency of the PPAT role.

Through this in-depth analysis, it can be concluded that PPAT involvement in land transactions is not only important for legal certainty but also to protect the interests of all parties involved. Policy recommendations can be formulated to increase public awareness, reduce transaction costs, and simplify the formality process so that the public is more likely to involve PPAT in the transfer of land rights.

Novelty in the context of research refers to the new or unique contribution made by the study to literature, understanding, or knowledge in the field concerned. In the context of research with the title "Judicial Analysis of the Transfer of Land Rights Not Executed Before PPAT," the novelty can include various new contributions, such as:

3.5.1 Deep Understanding of Legal Risk

Presents an in-depth understanding of the legal risks that arise from land transactions without involving a Land Deed Drafting Officer (PPAT). This research can reveal in detail the legal consequences and implications of this action.

3.5.2 Driving Factor Analysis

Identify and analyze the driving factors for land transactions without PPAT involvement in a more comprehensive manner. Provides in-depth insight into the reasons behind the decision to conduct informal land transactions.



3.5.3 Current Perspectives on Community Engagement

Provides the latest perspective on how communities respond and are involved in land transactions, especially in the context of transferring land rights without involving PPAT.

3.5.4 Comparative Analysis of Juridical Aspects

Provides an in-depth comparative analysis between the juridical aspects of land transactions with and without PPAT involvement. Compare the legal implications of the two types of transactions carefully.

3.5.5 Research Implications

Research implications refer to the impact or consequences that can arise from research findings and analysis. In the context of this research, implications may include:

3.5.6 Policy Improvements

Providing a basis for improving policies regarding the transfer of land rights and PPAT involvement. Research findings can be used by policy makers to improve regulations and incentives that support PPAT involvement.

3.5.7 Increased Public Awareness

Provide a basis for efforts to increase public awareness about the importance of involving PPAT in land transactions. The information provided by research can be used to develop educational and information campaigns.

3.5.8 PPAT Business Model Development

Provides an in-depth view of how PPAT can play a more active role in land transactions. This research can stimulate ideas for developing PPAT business models that are more effective and accessible to the public.



3.5.9 Contributions to Property Law Literature

Contributes new understanding and insights to property law literature, especially in the context of land rights transfer. Research findings can be a reference and contribution to further research in this field.

3.5.10 Increased Sustainability and Fairness

Contribute to the understanding of how PPAT involvement can improve sustainability and fairness in the transfer of land rights. These implications can provide a basis for developing initiatives that support sustainable development and social justice.

Through novelty and clear research implications, this research is expected to not only provide a better understanding of the phenomenon of land rights transfer without involving PPAT but also provide a meaningful contribution at the theoretical and practical levels.

4 DISCUSSION

The transfer of land rights that does not involve a Land Deed Drafting Officer (PPAT) results in legal complexities and challenges that need to be understood in depth. The results of the analysis show that the legal framework for land transactions in Indonesia emphasizes the obligation to involve PPAT to ensure the validity and validity of the transfer of land rights. However, informal land transactions without PPAT involvement continue to occur, and understanding the consequences is essential.

The importance of PPAT involvement in land transactions becomes clear through a comparison of the juridical aspects between transactions involving and not involving PPAT. Transactions involving PPAT have official evidence in the form of land deeds, providing legal clarity that supports certainty of land rights. In contrast, land transactions without PPAT result in informal documents, increasing the risk of disputes and unclear legal status.

Factors driving land transactions without PPAT involvement, such as community lack of understanding, perceptions of high costs, and the complexity of formal processes, highlight the challenges that need to be overcome. A deeper understanding of these factors opens up opportunities to design policies that are more effective in increasing community involvement and reducing practical barriers.



Apart from that, this research also reveals the social and economic implications of informal land transactions. The risk of disputes and legal uncertainty can hinder economic development and property investment. Therefore, PPAT involvement is not only a legal requirement but also an important strategy to support sustainable development and justice in land ownership.

The novelty of this research lies in thoroughly disclosing the risks and legal challenges that arise from land transactions without PPAT, as well as providing a new perspective regarding the urgency of PPAT's role in maintaining legal certainty and protecting the interests of all parties. The implications of this research can be used as a basis for revising laws and regulations relating to the transfer of land rights, in line with efforts to increase public understanding and provide incentives for PPAT involvement in every land transaction. Thus, this research has the potential to make a significant contribution to the formation of more effective property law policies and practices in Indonesia.

5 CONCLUSION

At the end of this research, it can be concluded that the transfer of land rights that does not involve the Land Deed Drafting Officer (PPAT) has a significant impact on legal certainty and the enforceability of land transactions. Juridical analysis confirms that PPAT involvement is not just a formality, but a crucial step to mitigate the risk of ownership disputes and provide essential legal clarity.

Informal land transactions without PPAT involvement cause uncertainty in the legal status of land and increase the risk of conflict. The questionable legal enforceability of informal documents creates an opening for varying interpretations and gives rise to the potential for future lawsuits. Therefore, the need for public awareness of the urgency of the PPAT role is becoming increasingly important to ensure that every land transaction meets the standards of legal validity and enforceability.

The factors driving land transactions without PPAT, such as community lack of understanding, perception of high costs, and complexity of the formal process, provide in-depth understanding of the practical challenges faced. This conclusion encourages the need for a holistic approach involving the government, PPAT institutions, and the community to increase accessibility, clarify the role of PPAT, and reduce bureaucratic obstacles.



This research also opens up discussion about the social and economic implications of informal land transactions. The risk of disputes and legal uncertainty can be an obstacle to economic growth and property investment. Therefore, policy reforms and a comprehensive legal approach are needed to create a legal environment that is conducive to sustainability and justice in land ownership.

By delving deeper into the legal consequences of land rights transfers that do not involve PPAT, this research contributes to the property law literature and provides a basis for policy improvements in this area. By encouraging PPAT's active involvement, this research seeks to ensure that every land transaction in Indonesia achieves an optimal level of legal certainty, providing fair protection for all parties involved.



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