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### RESEARCH ARTICLE

#### LEGAL CONSEQUENCES OF AUTHENTIC DEED FORMATION BY LAND DEED OFFICIALS (PPAT) ON THE QUALITY OF THE POWER OF PROOF OF DEEDS AND THE PPAT'S CODE OF CONDUCT SANCTIONS IN THE REPUBLIC OF INDONESIA

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#### Abstract

Notary is a position of trust given by law to a notary who has been legally entrusted with making an authentic deed. The PPAT has the main task of carrying out some of the land registration activities by making deeds as proof that certain legal actions have been taken regarding land rights or ownership rights over flat units. Not infrequently the PPAT as a Public Official deals with criminal law processes such as being questioned as a witness or suspect in relation to the contents of the deed drawn up by him. One of the cases of forgery of authentic deed is the criminal case of forgery of authentic deed committed by PPAT namely in principle the defendant SA as PPAT has been charged with forging a letter in the form of deed of grant Number 15/2013 dated 12 December 2013 in the form of deed of grant for a plot of land from the grantor Mrs. . Tuminem and Mr. Sutikno to the beneficiary Mr. Riyanto. Based on this, there are interesting formulations of the problem. First, the legal consequences of fake authentic deeds on the quality of the strength of evidence for authentic deeds in Indonesia. The conclusion of the first problem is that the responsibilities of Notaries and PPATs in carrying out their profession require Notaries to always be careful and careful in every action they take. Second, apart from being subject to sanctions according to laws and regulations, PPATs will also be subject to sanctions in the PPAT Code of Ethics based on Article 4 letter (r) of the PPAT Code of Ethics where a PPAT has committed an act that violates the PPAT's Code of Ethics.

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#### Introduction:-

PPAT has been known since the enactment of Government Regulation Number 10 of 1961 concerning Land Registration, which is Law Number 5 of 1960 concerning Basic Agrarian Regulations. In this regulation it is stated that the PPAT is an official whose function is to make deeds that intend to transfer land rights, grant new rights or impose land rights. PPAT, which in Dutch is called a land title registrar, has a very important position and role in the life of the nation and state because this official is authorized by the state to make deed of transfer of land rights in the Republic of Indonesia. Article 1 paragraph (1) Government Regulation Number 24 of 2016 concerning

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Amendments to Government Regulation Number 37 of 1998 concerning Regulations for Officials Making Land Deeds states that: Over Land or Ownership Rights over Flats Units.”

The PPAT has the main task of carrying out some of the land registration activities by making deeds as evidence that certain legal actions have been carried out regarding land rights or ownership rights to flats, which will be used as the basis for registering changes to land registration data caused by legal actions. The legal actions referred to above are buying and selling, bartering, grants, entry into the company (inbreng), distribution of joint rights, granting building use rights/use rights over privately owned land, granting mortgage rights, and granting power of attorney to impose mortgage rights. The PPAT in carrying out a legal action must always act carefully so that the PPAT before making a deed, must examine all relevant facts in its considerations based on the applicable laws and regulations. Examining all the completeness and validity of the evidence or documents shown to the PPAT, as well as hearing the statements or statements of the appearers must be carried out as a basis for consideration to be included in the deed. If the PPAT is not careful in examining important facts, it means that the PPAT is acting in a careless manner.

The PPAT precautionary principle is only explained in Article 22 of Government Regulation Number 37 of 1998 concerning the Position Regulations for Land Deed Deed Officials that the PPAT deed must be read/explained to the parties in the presence of at least 2 (two) witnesses before it is signed immediately. also by the parties, witnesses and PPAT. Meanwhile, the PPAT does not only ensure that the parties face the PPAT as an official who makes, reads, and explains the deed, but according to the principle of prudence, the PPAT can avoid and prevent mistakes that cause problems in making authentic deed.

PPAT in carrying out their duties must be professional, namely carrying out their duties always prioritizing expertise based on a code of ethics and provisions of applicable laws and regulations, performance can be trusted and trustworthy, working according to applicable legal regulations from starting work, carrying out and producing accurate results. Apart from being professional, the PPAT must also be able to provide appropriate and good legal counseling for appearers. Aspects of PPAT authority cannot be used beyond what has been specified in the applicable regulations. This means that not mixing up this authority requires that the PPAT not use its authority for other purposes, other than those specified in the applicable regulations or use authority that exceeds the limit.

Not infrequently the PPAT as a Public Official deals with criminal law processes such as being questioned as a witness or suspect in relation to the contents of the deed drawn up by him. Such as cases involving PPATs that were reported to the Police regarding criminal acts, such as allegations of criminal acts of forgery, or entering false statements, as stipulated in Book II CHAPTER XII of the Criminal Code concerning forgery of letters from Article 263 to Article 276. being prosecuted to the PPAT as an official authorized to make authentic statements, usually is the forgery of an authentic deed as stipulated in Article 264 paragraph (1) 1 of the Criminal Code or the act of ordering to enter false information into an authentic deed Article 266 paragraph (1) of the Criminal Code or the crime of forgery in general regulated in Article 263 paragraph (1) of the Criminal Code is in the form of making fake letters or forging letters.

In connection with the crime of forging letters committed by PPAT, stated by Lysanza Salawati, Abdul Manan, and Dhody AR Widjajaatmadja, that the same is the case with Article 263 and Article 264 of the Criminal Code, in essence talking about false statements in authentic deeds and the use of these false statements which can cause harm to those who use it, because they are not aware that the information is fake. In this case the PPAT intentionally or unintentionally together with the parties/ appearers to draw up a deed with the intent and purpose to benefit only certain parties or appearers or harm other appearers must be proven in court [1].

One of the cases of forgery of authentic deed is the criminal case of forgery of authentic deed committed by PPAT namely in principle the defendant SA as PPAT has been charged with forging a letter in the form of deed of grant Number 15/2013 dated 12 December 2013 in the form of deed of grant for a plot of land from the grantor Mrs. . Tuminem and Mr. Sutikno to the beneficiary Mr. Riyanto. This case was decided by the Cilacap District Court Case Number 44/Pid.B/2021/PN Clp. The Cilacap District Court, which has the authority to examine and adjudicate the case against defendant SA, has forged letters on authentic deeds. The defendant has been indicted by the Public Prosecutor with an alternative indictment, First the actions of the defendant SA have been charged with committing the crime of forging an authentic deed as stipulated and punishable by a crime in Article 264 paragraph (1) 1 of the

Criminal Code or Second the actions of the defendant SA have been charged with the crime of forging letters as regulated and subject to criminal penalties in Article 263 paragraph (1) of the Criminal Code.

The case was examined and decided by the Cilacap District Court, where the Defendant, who works as a Notary and PPAT with the Cilacap Regency Working Area, was stated by the Panel of Judges in their decision that the defendant SA had been legally and convincingly proven guilty of committing the crime of "Fake Authentic Deeds" Article 264 paragraph (1) 1st of the Criminal Code, as in the first Public Prosecutor's indictment and sentenced the Defendant therefore to imprisonment for 4 (four) months.

Based on the description above, the author intends to conduct research with the title: "Legal Consequences of Forgery of Authentic Deeds by Officials Making Land Deeds (PPAT) Against the Quality of the Strength of Proof of Deeds and Sanctions of the PPAT's Code of Ethics"

### **ResearchMethod:-**

The type of research used is normative legal research or it can also be called doctrinal legal research. approach in normative legal research. The research specifications used in this study are prescriptive in nature. The analysis used in this research is normative-qualitative. According to Jonny Ibrahim, the qualitative normative data analysis method is a discussion and elaboration that is arranged logically on the results of research on norms, rules, and legal theories that are relevant to the subject matter.

### **Method deep data collection writing This are:-**

Studies document, that is method get data about something problem with browse and learn regulation legislation, books, literature , journals , articles Good print as well as online as well other related ingredients with research .

### **ResultsandDiscussion:-**

#### **The legal consequences of fake authentic deeds on the quality of the strength of evidence in Indonesia.**

The position of a notary is a position of trust given by law to a notary who has been legally entrusted with making an authentic deed. If the Notary has an error in his position, whether intentional or unintentional, then there are consequences that must be borne by him. Authentic deed is the strongest and most complete evidence and plays a crucial role in all legal relations in society. The notary has the authority to formulate the wishes of the parties to the deed.

Notaries in carrying out their profession must be guided by the provisions in UUJN. Notaries have personal and social responsibilities, especially those related to positive legal norms or rules and must follow professional norms, thereby strengthening the applicable positive legal norms[2]. These aspects are the perfection of the Notary's deed to become an authentic deed and whoever the parties are bound by the deed. if it can be proven at a court hearing that there is one wrong aspect, then the deed only has the power of proof to become a private deed. The notarial deed is evidence so that it has strong evidentiary power, if all the provisions of the procedure for making a deed are met. If there are procedures that have not been met, and the procedural requirements that have not been met can be proven, the deed can be processed by court. declared to be a deed that has the power of proof to be a deed under the hand which is decided by a judge.[3]

An authentic deed is a perfect evidentiary force, the legal basis of a deed, namely agreement and competence as stated in Article 1320 of the Civil Law, as stated in the Article, namely:

1. Deal
2. Proficiency
3. A certain thing
4. Halal reasons

A deed must fulfill the sound of the article, the contents of the article can also be referred to as subjective and objective requirements. Forgery of an authentic deed, of course, has bad consequences for the deed, because it does not fulfill all the subjective and objective requirements of a deed and it is certain that the deed does not meet the requirements as a deed and the maker of the deed must be proven and violate Indonesian law, both civil and criminal law and professional code of ethics.

The difference between fake and original authentic deed will be explained by the author below, including:

1. Fake authentic deed
  - a. Does not meet the subjective and objective elements of 1320 of the Civil Code
  - b. Signature does not match
  - c. Deed number does not match
2. Original authentic deed
  - a. Fulfills the subjective and objective elements of 132 of the Civil Code
  - b. The signatures of the parties are appropriate
  - c. The deed number matches the original

After knowing the characteristics of the deed, the legal consequences that need to be known from an authentic deed that are forged include:

1. The deed is null and void
2. The parties involved must face the law
3. Decreased trust in the Notary
4. Material and formal losses experienced by parties who feel aggrieved.

Forgery of documents that are often carried out by Notaries and are often questioned by the parties or other parties as participating parties committing or assisting in committing a crime, namely making or providing false statements in a notarial deed. Notaries often falsify the aspects mentioned above, and notaries generally consider this to be an ordinary administrative violation. However, if investigated in more depth, what was done by the Notary can be qualified as a crime.[4]

One of the cases of forgery of authentic deed is the criminal case of forgery of authentic deed committed by PPAT namely in principle the defendant SA as PPAT has been charged with forging a letter in the form of deed of grant Number 15/2013 dated 12 December 2013 in the form of deed of grant for a plot of land from the grantor Mrs. . Tuminem and Mr. Sutikno to the beneficiary Mr. Riyanto. This case was decided by the Cilacap District Court Case Number 44/Pid.B/2021/PN Clp. The Cilacap District Court, which has the authority to examine and adjudicate the case against defendant SA, has forged letters on authentic deeds.

If a notary worker commits forgery of letters so that it can result in the notary committing deviations from a deed he made, giving rise to a criminal case, the notary must be criminally responsible for what the worker has done. Criminal responsibility arises with the continuation of objective reproach (*verwijbaardheid*) for actions that are declared as criminal acts based on the applicable Criminal Law, and subjectively to perpetrators who meet the requirements to be subject to punishment for their actions. This is based on the principle of not being punished if there is no mistake or "*actus non facit reum nisi mens sit rea*". It is impossible for a person to be held accountable and sentenced to a sentence if he has not made a mistake. However, someone who commits a criminal act may not necessarily be punished. who commits a criminal act will be punished if he has a mistake. A notary who is proven to know that his worker committed a crime of forgery of documents, a notary in carrying out his profession must be held accountable for the actions he committed.[5]

In the Decision of the Case the Panel of Judges stated that the Defendant Neni Sanitra, S.H., M.Kn, mentioned above was proven legally and convincingly guilty of committing the crime "Forgery of Authentic Certificates has been proven legally and convincingly guilty of committing the crime of Forgery of Authentic Deeds based on the provisions Article 264 paragraph (1) of the Criminal Code. The magnitude of the responsibility of a Notary in carrying out his profession requires that the Notary is always careful and prudent in every action. However, as an ordinary human being, of course a Notary in carrying out his duties and positions sometimes does not escape mistakes either on purpose or due to negligence which can then harm other parties. In imposing sanctions on a Notary, there are several conditions that must be met, namely the Notary's actions must comply with the formulation of the act being prohibited by law, there is a loss arising from the Notary's actions and the act must be against the law, both formal and material.

#### **Legal consequences for PPAT perpetrators of forgery of authentic deeds from the perspective of applying sanctions to the PPAT Code of Ethics in Indonesia.**

Legal consequences are consequences caused by a legal event, which can be in the form of:

1. Birth, change or disappearance of a legal situation.

2. Birth, change or disappearance of a legal relationship between two or more legal subjects, where the rights and obligations of one party conflict with the rights and obligations of the other party.
3. The birth of sanctions when actions are against the law.

Legal consequences are events that arise due to a cause, namely actions committed by legal subjects, both actions that are in accordance with the law, or actions that are not in accordance with the law. Legal facts related to forgery of authentic deeds carried out by a Notary/PPAT In criminal law, regarding the forgery of the contents of an authentic deed Number 149 is regulated in the provisions of Article 264 paragraph (1) of the Criminal Code, which states that:

(1) Forgery of letters is punishable by a maximum imprisonment of eight years, if committed against:

- a. authentic deeds;
- b. debentures or certificates of debt from a country or part of it or from a public institution;
- c. share or debt certificate or share certificate or debt from an association, foundation, company or airline;
- d. talon, proof of dividends or interest from one of the letters described in 2 and 3, or proof issued in lieu of said letters;
- e. letter of credit or trade letter intended for circulation.

The PPAT Code of Ethics also explains the sanctions given to PPATs who falsify authentic deeds or violate the PPAT's code of ethics, including:

Article 6 (1) of the PPAT Code of Ethics states the following sanctions:

1. Reprimand;
2. Warning;
3. Schorsing (temporary dismissal) from membership of the IPPAT association;
4. Onzetting (dismissal) from association membership;
5. Disrespectful termination of membership of the IPPAT association

In connection with the case in this study, based on the author's analysis, a PPAT in making an authentic deed which is legally flawed causing harm to interested parties can be held responsible. According to Article 10 paragraph (3) PP No. 24 of 2016 states that a PPAT can be dishonorably discharged if he commits a serious violation of the prohibitions or obligations as a PPAT. This serious violation can take the form of:[6]

1. Assist in carrying out a conspiracy that results in land disputes or conflicts;
2. Make a deed as a conspiracy that results in land disputes or conflicts;
3. Violating the oath of office as a PPAT;
4. Make a PPAT deed without being attended by the parties.

Regarding the termination of the PPAT for the reasons in Article 10 paragraph (2), (3) PP No. 24 of 2016 concerning PPAT, carried out after the PPAT under examination was given the opportunity to submit a defense to the Ministry of Agrarian Affairs and Spatial Planning. Meanwhile, if a PPAT who stops or resigns at a personal request can be reappointed as a PPAT[7].

Meanwhile, besides being subject to sanctions according to laws and regulations, PPATs will also be subject to sanctions in the PPAT Code of Ethics based on Article 4 letter (r) of the PPAT Code of Ethics where a PPAT has committed an act that violates the PPAT's Code of Ethics, including violations of:

1. Violating the rules of office as a PPAT or other relevant statutory provisions.
2. Violating the provisions of the oath of office;
3. Violating the rules contained in the AD/ART of the IPPAT organization may not be carried out by members of the IPPAT association[8].

So, the PPAT has committed a serious violation, therefore it has drawn up an authentic deed which is legally flawed, giving rise to land disputes or conflicts, in this case a civil lawsuit, where a land owner has been harmed by the PPAT's actions, while the PPAT is subject to sanctions according to laws and regulations. The invitation will also be subject to sanctions in the PPAT Code of Ethics based on Article 4 letter (r) of the PPAT Code of Ethics where a PPAT has committed an act that violates the PPAT Code of Ethics.

**Conclusion:-**

The notary has responsibility for what is witnessed, seen and heard and done by the notary himself as a public official. The notary's responsibility is limited to formal truth which includes conditions such as certainty regarding the day, date, month, year, what time the parties appear, initials and signatures of the appearer as well as public order. PPAT is also responsible as a whole, in the sense that it must be responsible for what is made and done, both in terms of law and the Code of Ethics. Notaries and PPATs who falsify authentic deeds can be subject to criminal, civil and notary and PPAT sanctions.

**Acknowledgment:-**

A Notary should be more careful in carrying out his position, especially making authentic deeds. Although a notary is not required by law to be accountable for material truth so that in the future there will be no legal cases that ensnare the notary. PPAT must hold more responsibility, role and obligation and honesty as a public official, in order to improve the quality of legal products and keep away from legal cases in the future.

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