EXPANSION OF WORKING AREAS OF LAND DEED MAKING OFFICIALS (PPAT) BASED ON GOVERNMENT REGULATION NUMBER 24 OF 2016

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Abstract: The purpose of this study is to find out and explain the arrangement and implementation of the expansion of the working area of the Land Deed Officer (PPAT) and analyze and explain the supervision of the Provincial National Land Agency and District / City Land Offices towards Land Deed Officers after the enactment of Government Regulation number 24 year 2016.

The research method used in writing this thesis is normative legal research with a study of the expansion of the working area of the Land Deed Making Officer (PPAT). The approach method used is the method of statutory approach and conceptual approach. The source of legal material from this thesis consists of primary legal material, secondary legal material and tertiary legal material. The legal material collection technique used in the study traces and reviews the relevant laws and regulations that are the object of study as primary legal material, and by reviewing and tracing secondary legal materials through library studies, Analysis of legal materials used is to use legal interpretation methods according to language (grammatical) to find answers to these legal issues.

This thesis consists of five chapters, namely: Chapter I which contains an introduction, Chapter II contains Regulations on Implementation of Expansion of PPAT Working Areas After the enactment of Government Regulation Number 24 of 2016, Chapter III contains Supervision of Regional Offices of the National Land Agency of West Nusa Tenggara Province towards Officials Land Deed After the Enactment of Government Regulation Number 24 of 2016. Chapter IV contains the closing.

The conclusion of this study is the first problem, namely the absence of a regulation from the Minister of Agrarian Affairs and Spatial Planning which specifically regulates the new PPAT work area as instructed by PP No. 24 of 2016 led to a legal vacuum so that the PPAT's obligations could not be fulfilled to make changes regarding the place of domicile and its area of work. Then for the second problem that is due to the absence of Minister of Agrarian and Spatial Planning that regulates the new PPAT work area, supervision has not been adjusted to supervision based on the new PPAT work area, but supervision is still in the corridor of the old PPAT work area namely before change.

Keywords: PPAT, regional work, supervision
I. INTRODUCTION

Land registration is conducted by the National Land Agency (BPN). In Article 2 of the Presidential Regulation Number 10 of 2015 concerning the National Land Agency, it is stated that the National Land Agency has the task of organizing government duties in the land sector in accordance with the provisions of the legislation. In the framework of implementing this land registration, the task of implementation rather than land registration is carried out by the Head of the Land Agency Office, except for certain activities which are assigned to other officials by the relevant legislation. In carrying out land registration, the Head of the Office of the Land Agency is assisted by PPAT and other officials assigned to carry out certain activities according to the relevant legislation.

Based on Article 2 of Government Regulation Number 24 of 2016 concerning Amendment to Government Regulation Number 37 of 1998 concerning Occupational Rules for Land Deed Officials, it is determined that PPAT has the main duty to carry out part of land registration activities by making a deed as proof that certain legal actions have been made regarding the right to land or ownership rights over a flat unit, which is used as a basis for registration of changes to land registration data caused by the legal act.

In Article 4 paragraph (1) Government Regulation Number 24 of 2016 concerning Amendment to Government Regulation Number 37 of 1998 concerning Occupational Regulations for Land Deed Officers it is determined that PPAT is only authorized to make deeds regarding land rights or Ownership of Unit Flats located in his working area. Furthermore, in Article 4 paragraph (2) relating to Exchange Swap Deed, entry deed into the company, and joint rights deed regarding several rights to land and Ownership Rights over Flats Unit not all located in the working area of a PPAT can be made by the PPAT the area of work includes one of the plots of land or apartment units whose rights are the object of legal actions in the deed.

Based on the description above, explain that PPAT has an important role in land registration, namely helping the Head of the Land Office within the scope of the Province and within the Regency / City to carry out certain activities in land registration. As an official who carries out duties in the field of land registration, the PPAT position is always associated with a certain land registration area which is his working area. Based on Article 1 point 8 of Government Regulation Number 24 of 2016 concerning Amendment to Government Regulation Number 37 of 1998 concerning Occupational Regulations for Land Deed Makers referred to as PPAT work areas is an area that shows the authority of a PPAT to make deeds regarding land rights and rights Belongs to Upper Unit of Flats located inside. In other words, within the working area of a PPAT there is the authority of a PPAT in his position as an Acting Land Acting Officer.

Before changes to Government Regulation Number 37 of 1998 concerning the Occupational Regulation of the Land Deed Maker Officer relating to the PPAT work area regulated in Article 12, namely that the PPAT work area is a working area of the Regency / Municipality Land Office. After making changes to Government Regulation No. 37 of 1998 concerning Position Regulations of Land Deed Officers with Government Regulation No. 24 of 2016 concerning Amendments to Government Regulation No. 37 of 1998 concerning Occupational Regulations for Land Deed Officers there are changes to the PPAT work area

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where one of the articles those who experience changes in government regulations are Article 12.

In Article 12 paragraph (1) of Government Regulation Number 24 of 2016 concerning Amendment to Government Regulation Number 37 of 1998 concerning Occupational Regulations for Land Deed Making Officials, it is stated that the PPAT Working Area is a province. This government regulation provides an extension of the PPAT work area where the former is one working area of the Regency / Municipality Land Agency Office after the enactment of government regulations concerning changes in the position rules of the Land Deed Maker PPAT working area becomes more widespread, namely one province. In other words, the authority of a PPAT in his position as an Acting Land Deed Officer which originally was a working area of the Regency / Municipality Land Agency Office is now one provincial area.

In addition, this relates to the PPAT work area in Article 12 paragraph (3) Government Regulation Number 24 of 2016 concerning Amendment to Government Regulation Number 37 Year 1998 concerning Position Regulations for Land Deed Making Officials. It is stated that further provisions regarding PPAT work areas are regulated by Ministerial Regulation. This Government Regulation mandates further provisions regarding the PPAT work area to be regulated by a Ministerial Regulation which will be the basis for implementation of Article 12 of this government regulation relating to the PPAT work area.

The change in the PPAT work area as explained above certainly has consequences because it relates to the implementation of the duties and authority of a PPAT in his position as Land Deed Making Officer. Until now, further provisions regarding the PPAT work area have not been regulated by Ministerial Regulation. This shows that there is no guarantee of legal certainty in implementing PPAT work area expansion as stipulated in Article 12 of Government Regulation Number 24 of 2016 concerning Amendment to Government Regulation Number 37 of 1998 regarding the Position Regulations for Land Deed Officials so that it is necessary to know about the arrangement for implementing the working area of the Land Deed Officer (PPAT) after the enactment of Government Regulation number 24 of 2016 concerning Amendment to Government Regulation No. 37 of 1998 concerning the Land Acting Official guarantee of legal certainty regarding the implementation of the duties and authorities of the PPAT in accordance with the area of work which will then be followed by reviewing the implementation of the provisions of Article 12 of Government Regulation number 24 of 2016 concerning Amendment to Government Regulation Number 37 In 1998 concerning the Occupational Regulations for Land Deed Makers in West Nusa Tenggara Province.

Then considering that PPAT is an official determined based on the provisions of legislation as an official given the task of assisting the Head of the Land Office in the scope of the Province and within the Regency / City to carry out certain activities in land registration, it will certainly have an influence on the implementation of his duties and authorities. Especially related to the supervision of the Regional Office of the Provincial National Land Agency and the Regency / City Land Office towards PPAT.

Legal certainty, effectiveness and efficiency of the PPAT work area expansion are important things that need to be studied, the expansion of the PPAT work area also has the potential to cause problems for PPAT namely difficulties when dealing with the National Land Agency, PPAT ethics related issues where there is no Technical arrangements regarding
the expansion of the PPAT work area have the potential to cause unhealthy competition between PPAT.

II. RESEARCH METHOD

2.1 Types of research

The type of research used by compilers is a type of normative legal research which is then supported by data obtained from field research on the implementation of a statutory provision that is hierarchical compliance with the legal structure to be able to provide a legal opinion on changes in the work area (PPAT). Normative legal research puts the norm system as the object of study, the norm system referred to in this case is the whole element of a legal norm that contains values about how humans should behave. Nomative legal research will examine these norms and examine the systematics based on obedience to the legal structure in a hierarchical manner to provide a legal opinion in the form of justification (perspective) on a legal event.²

2.2 Research approach

The approach is interpreted as an effort in the framework of research activities to establish relationships with those studied or methods to reach understanding of research problems.³ Based on the type of legal research in this study, to answer legal issues that have been formulated, the approaches used in this study include:

a. Statute approach. With this approach the researcher will be able to study whether there is a conflict between the laws and regulations relating to the problem in this study, is there a vagueness of norms in the relevant legislation or a vacuum of norms that are the basis of the implementation of duties and authorities rather than the Land Deed Making Officer make a deed regarding land rights within its scope of work as there is a change to the working area of the Land Deed Making Officer (PPAT) involving the Government that has the task of carrying out government duties in the field of agrarian/land and spatial planning.

b. Conceptual approach. The conceptual approach departs from the views and doctrines that develop in law.⁴ Researchers will be able to find ideas, give birth to notions in law, build legal concepts and understand legal principles that are in accordance with legal issues faced by studying doctrines and views that are in law.

2.3 Legal Material Collection Techniques

Collection of legal materials in this case is part of processing legal materials. In normative legal research, the processing of tangible material activities to conduct a systematization of written legal materials.⁵ In this case the processing of legal materials is done by selecting legal materials and then classifying according to the classification of legal materials and compiling data from the research results in a systematic manner that is done

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logically, meaning that there is a relationship and interrelationship between one legal material and the other legal material to get a general picture of the results of these studies.

2.4 Legal Material Analysis

Analysis is a follow-up of data processing that has been obtained by a researcher that requires accuracy and optimal thinking power. The process of data analysis starts with examining everything available from various data sources.

Data analysis or normative research referred to as legal material analysis is an activity in research in the form of conducting a study or review of the results of processing legal materials assisted by theories that have been obtained previously.\(^6\)

III. RESULT AND DISCUSSION

3.1 Basic Strength of Binding Laws and Regulations

The presence of law as a scheme goes hand in hand with the increasingly strong image of society as a “structured and constructed life”. By de Beus and van Doorn, such a society was called “De geconstrueerde samenleving”. Modern society is increasingly full of artificial constructions, including its laws.\(^7\) Therefore modern law cannot avoid the creation and use of rationally made texts.

Laws as accepted and implemented in Indonesia fall into the category of modern law. Modernity appears in its characteristics as follows.\(^8\)

(1) The written form is desired, as shown in the Opening of the 1945 Constitution which states that Indonesian national independence should be compiled in a Basic Law.
(2) The law applies to all regions of the country; a statement can also be concluded from the words in the Constitution which states that the Constitution was drafted to “protect the entire Indonesian nation and the entire Indonesian bloodshed”. The statement is in accordance with one of the characteristics of modern law made by Marck Galanter, namely that modern law consists of uniform rules and is applied without recognizing variations. These regulations are more territorial than personal, meaning the same rules are applied to members of all religions, ethnicities, classes, regions and genitals. If there are recognized differences, then the law is not something that is caused by intellectual qualities, such as between nobles and slaves or between Brahmins and lower classes, but is caused by functions, conditions and results of work obtained by someone in worldly life.
(3) Law is a means that is used consciously to realize the political decisions of its people. This can be seen in the formulation of the previous REPELITA.

One of the important properties of the written law lies in its rigidity (Lex dura sed tamen scripta - The law is hard / rigid, but that is the written nature). Once the law is written

\(^6\) Ibid, p. 183
\(^7\) Satjipto Rahardjo, Hukum dan Perilaku; Hidup Baik Adalah Dasar Hukum yang Baik, Kompas, Jakarta, 2009, p. 17.
down or becomes a written document, then the attention shifts to the complicated use of it as a written document.9

Law as a written document is a product of decision making that is mapped by functions of state power that bind legal subjects with legal rights and obligations in the form of prohibitions (prohibere), or compulsory (obligatere), or permits (permittere).10

Furthermore, for a regulation to be known, and people no longer feel that there are no rules that bind them around, then the regulation must be promulgated through a method that can reach and have binding capacity to all components of society.

In the legal community, everyone is considered aware of the existence and validity of the Law. A person's ignorance of the law does not forgive him. As a consequence, in Indonesia a statutory regulation that has been ratified or stipulated must be promulgated in a State Gazette or announced in a State Gazette so that it can be valid and binding on the public. So, for a binding of laws and regulations it is necessary to enact steps.

In lexical terms, promulgation implies an order so that a statutory regulation is enacted and announced. According to A. Hamid S. Attamimi, promulgation is a formal notification of a state regulation by placing it in an official publication specifically for that purpose in accordance with the applicable provisions.11

In Article 81 of Law Number 12 of 2011 concerning the Establishment of Legislation Regulations (Law no. 12 of 2011) stated that; In order for everyone to know it, legislation must be promulgated by placing it in: (1) State Gazette of the Republic of Indonesia; (2) Addition to the State Gazette of the Republic of Indonesia; (3) State News of the Republic of Indonesia; (4) Additional State Gazette of the Republic of Indonesia; (5) Regional Gazette; (6) Addition to the Regional Gazette; or (7) Regional News.

With the promulgation of the laws and regulations in the official sheets as referred to in this provision, everyone is considered to have known them.

The function of placing legislation in official sheets is: (1) As a single requirement so that certain laws and regulations have binding powers. (2) As a condition to be known publicly. (3) Requirements to have legal and binding powers.12

Kansil explained that a law that requires or requires promulgation or announcement does not or does not have binding power as long as it has not been promulgated or announced. So that if the function of the enactment or announcement is withdrawn in a series of processes for the formation of legislation, then the enactment or announcement is a chain of links that cannot be separated in the form of legislation. Because legislation that requires promulgation, but not promulgated has no binding power.13

From the explanation above, it can be concluded that a statutory regulation will have behavior to the community after it has been promulgated. That is, the community cannot be bound by a regulation if the regulation has not been promulgated.

12 Jimly Asshiddiqie, Op. Cit. p. 100
3.2 Implementation of Government Regulation number 24 of 2016

In general provisions, explanation of PP No. 24 of 2016 stated that in the framework of supporting the deregulation policy in the Agrarian / Land Affairs sector and in the context of accelerating the implementation of the government's economic policy package, it was necessary to amend PP No. 37 of 1998, where one of the scope of the amendment is concerning the expansion of the PPAT work area which was originally located in 1 (one) Regency / City working area into 1 (one) Provincial work area as stated in Article 12 paragraph (1) PP No. 24 of 2016 the PPAT work area is a province.

According to the Imam\textsuperscript{14}, “The regulation has not been implemented due to the absence of a Ministerial Regulation which regulates the expansion of the PPAT working area”, as stated in the provisions in Article 12 paragraph (3) PP No. 24 of 2016 which states that “further provisions regarding the PPAT work area are regulated by a Ministerial Regulation”.

The Ministerial Regulation referred to in PP No. 24 of 2016 is the legislation as referred to in Article 8 paragraph (2) of Law no. 12 of 2011 which is recognized as being and has binding legal force insofar as it is ordered by higher legislation or formed based on authority.

Ministerial regulations which are formed on the basis of orders from government regulations are categorized as statutory regulations on the basis of delegation (delegated legislation), considering the position of Government Regulations in the regulation hierarchy is higher than the Ministerial Regulation as stipulated in Article 7 paragraph (1) of the Law no. 12 of 2011 in which the legal force of the statutory regulations is in accordance with its hierarchy. Meanwhile the position of ministerial regulations is regulated in Article 8 paragraph (1) and paragraph (2) of Law No. 12 of 2011.

However, the absence of a Ministerial Regulation has resulted in a vacuum of legal norms, so that the obligation of PPAT to adjust the seat and work area of PPAT within a maximum period of 6 (six) months after the enactment of PP No. 24 of 2016 cannot be fulfilled.

3.3 Constraints faced by the Regional Office of the National Land Agency of the Province of West Nusa Tenggara in implementing the provisions of Article 12 PP No. 24 of 2016

According to Mochtar Kusumaatmadja, the main and first objective of the law is order. The need for order is a fundamental requirement for an organized human society. In addition to order, another goal of the law is the achievement of justice, which varies in content and size according to society and time.\textsuperscript{15} Furthermore, to create order, there is a need for certainty in carrying out legal actions by legal institutions to fulfill the interests of legal subjects.

In an effort to fulfill the objectives of the law, as explained in the consideration weighing the letter a PP No. 24 of 2016 states that “to increase the role of Land Deed

\textsuperscript{14} Interview with Imam Sunaryo, Head of the Legal and Land Relations Office of the West Nusa Tenggara Provincial Regional Office.

Officials and to improve public services for land registration, it is necessary to make changes to some provisions in Government Regulation Number 37 of 1998 concerning the Land Deed Making Officials Regulation” a series of related regulatory changes is made One of the PPAT is about changes to the work area as referred to in Article 12 paragraph (1) PP No. 24 of 2016 which states that “the PPAT work area is one province”.

According to Imam, the expansion of the working area has not been implemented throughout Indonesia because the ministerial regulation that regulates it does not yet exist. Therefore, the obligation to obey the law is not only applicable to the community, PPAT, but also applies to State Ministries and Institutions, including the Minister of Agrarian Affairs and Spatial Planning who are required to immediately form a Minister of Agrarian and Spatial Planning so that the obstacle is emptiness the norm so far can be overcome.

3.4 Legal Certainty for PPAT Related to Implementation of Article 12 PP No. 24 of 2016

With the existence of conflicting potential between ideal and reality (das sein, das sollen) that can cause tension, then of course the legal task of concocting the two conflicting worlds is not an easy job. Because in essence the community cannot wait until an ideal conformity is found between the two. This is due to the legal need to fulfill the vacancy in its arrangement.

Thus comes the more practical demands of its nature, namely the necessity of regulation. If this is referred to as a demand, the demand is in the form of legal certainty. The necessity for regulation in the community is a basic requirement for legal certainty so that regulations are a separate category that does not originate from ideal or reality. The goal is not to meet the demands of philosophical ideas or considerations, nor is it a practical daily requirement but for the rules to exist.

The term legal certainty principle in legal terminology is usually found in two senses namely in English called the principle of legal security and in Dutch called rechtszekerheid beginsel. Both of these terminologies contain the same notion of legal certainty, namely the principle to know exactly what rules apply and what is desired from them. In the dictionary legal terms Fockema Anderea is found the word rechtszekerheid which is defined as a guarantee for members of the public that he will be treated by the State/Ruler based on clear, permanent, consistent and consistent legal rules, whose implementation cannot be influenced by subjective conditions.

Legal certainty according to Van Apeldorn has two meanings, namely: first, the matter can be determined (bepaalbaarheid) law, in concrete matters. The parties seeking justice (Yustisiabelen) want to know whether the law is in a certain situation or thing, before it starts with the case. Both legal certainty also means legal security, meaning protecting the parties against the arbitrariness of judges.

Based on the above, the necessity for a rule is a very important and must be part of fulfilling legal certainty as referred to in Article 12 paragraph (3) and Article II PP No. 24 of 2016 which mentions further provisions regarding the PPAT work area regulated by

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16 Interview with Imam Sunaryo, Head of the Legal and Land Relations Office of the West Nusa Tenggara Provincial Regional Office.
18 SF. Marbun, Ibid, p. 150.
19 Irawan Sorodjo dalam SF. Marbun, p. 166.
ministerial regulations and the obligation for PPAT to adjust the location and work area of PPAT within a period of 6 (six) years since the enactment of PP No. 24 of 2016.

Related to the above, since it was promulgated on 27 June 2016 up to now the Minister of Agrarian and Spatial Planning as an order of Article 12 paragraph (3) PP No. 24 of 2016 to regulate further provisions regarding the new PPAT work area that has not yet been published. Therefore PPAT's obligation to adjust the work area for a maximum period of 6 (six) years cannot be fulfilled because there is no guarantee of legal certainty from the Government (Minister of Agrarian Affairs and Spatial Planning) regarding when the Minister of Agrarian and Spatial Planning is established.

IV. CONCLUSION

Renewed Government Regulation Number 37 of 1998 became Government Regulation Number 24 of 2016 concerning PPAT Position, especially in Article 12 concerning expanded work areas to provinces causing uncertainty for PPAT. As we all know, one purpose of law is to realize legal certainty. Legal certainty can be realized, one of which is through the establishment of legislation. As for this matter with the absence of the regulation of the minister of agrarian and spatial planning which specifically regulates the new PPAT work area as ordered by PP No. 24 of 2016 led to a legal vacuum so that the PPAT obligation could not be fulfilled to make changes regarding the place of domicile and its work area as referred to in Article II number 3 PP No. 24 of 2016.

REFERENCES

Expansion of Working Areas of Land Deed Making Officials (PPAT) Based on Government Regulation Number 24 of 2016


