

## PROBLEMS ARISE IN CHECKING THE CERTIFICATE ELECTRONICALLY IN THE PROCESS OF TRANSITIONING LAND RIGHTS AND SOLUTIONS

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### ABSTRACT

Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 16 of 2021 Third Amendment to the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration which requires checking certificates carried out entirely by electronic means by the Land Deed Making Officer (PPAT) but in practice, there are still many obstacles that must be faced by PPAT for the electronic certificate checking. This paper aims to describe various problems with electronic certificate checking by PPAT as well as solutions to all problems that occur in providing legal land guarantees and certainty and information disclosure in the community. The method used in this research is normative research using secondary data in the form of primary legal material in the form of legislation. The technique used in legal materials collection is a literature review or documentation using legal material analysis techniques as well as the deductive method. The results of this study put forward the problems that occur in checking electronic certificates, among others, physical certificates received by PPAT for checking cannot be ascertained whether or not valid, there is a discrepancy of data on the certificate checking results, the certificate data are not suitable for the land book data in the office of the National Land Agency (BPN), causing doubts and obstructing the transferring process of rights. The results of this study also offer a number of solutions that can be considered, among others: PPAT must carefully ensure the suitability of the existing data on the physical certificate or the data of results of electronic certificate checking, BPN is actively updating database system that adheres to the principle of liability, and it is expected that the BPN can minimize the error in recording juridical and physical data in the future. In the end, checking the certificate is a very effective step against the prevention of land disputes in the process of land transition and also reduces cases of land mafia in Indonesia. This will also be realized if supported by all parties both from PPAT, the community and BPN. The role of BPN is very necessary for this step, especially in the rule of the letters archived in BPN synchronized correctly when checking the certificate electronically.

**Keywords:** Land deed making officer (PPAT), Checking, Land certificate, Electronic, Land mafia, Land registration.

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### INTRODUCTION

Land is a very important source of life, both used as a place to live and as a place of business. Along with the development of a community, land needs are also increasing. The relationship between humans and land is long-term or even forever while the object of the land is still available. There must be carefully managed in the present and future to provide maximum benefits to the welfare of the people. Land that has been classified as a primary need is very vulnerable to causing problems and conflicts during people's lives, especially with the many cases of land dispute conflicts that occur in Indonesia at this time such as the case of land mafia which is intense to be eradicated in Indonesia, double ownership of land, or other land problems. The extent to which the government's authority in land management which is one of the important natural resources for human survival, human relations with the land are not just a place of life, but more than that, the land provides resources for human survival.

For this case, based on the Presidential Decree of the Republic of Indonesia Number 26 of 1988 in charge of assisting the President in managing and developing land administration, both based on the Agrarian Act (UUPA) and other laws and regulations, so that the National Land Agency (BPN) was formed or now known as the Ministry of Agrarian Agency for the National Land Agency (ATR/BPN) (Djohan, 2015). In addition, according to the Presidential Regulation of the Republic of Indonesia Number 20 of 2015 concerning the National Land Agency, BPN has the task of carrying out governmental tasks in the field of land in accordance with the provisions of the legislation ([atr.bpnkotapalu.com](http://atr.bpnkotapalu.com), 2023).

In practice, ATR/BPN Kantah cannot carry out its own land registration activities but requires the assistance of other parties, one of which is the Land Deed Making Officer (PPAT) which has been emphasized in Article 6 Section (2) Government Regulation Number 24 of 1997 concerning Registration Land, namely:

"In registering the land, the Head of the Land Office is assisted by the Land Deed Making Officer (PPAT) and other officials assigned to carry out certain activities according to the legislation concerned."

PPAT, which is a general official, is given the authority to make a transfer deed of land rights, such as the sale and purchase deed, exchange deed, business income deed, grant deed, deed of the Right to distribute, deed of building rights/rights to use the land rights, Deed of granting mortgage, and the deed of granting power of attorney charges to mortgage. PPAT Deed is one of the data sources for the maintenance of land registration data, so it must be made in such a way that it can be used as a strong basis for the registration of the transfer and imposition of the relevant rights. Therefore, before making a land sale and purchase deed or other land registration, PPAT is responsible for examining the conditions for the legal actions of the relevant legal, such as matching the data contained in the certificate by checking the certificate of the Land Office (Harsono, 2005).

This certificate checking is not only aimed at matching juridical and physical data certificates with the data in the land book in the ATR/BPN office, but also to clearly find out whether the certificate is in disputes and/or error, so in this case, checking the certificate is the first step in legal protection for those who want to carry out the Deed of Transitional/Granting Mortgage.







1. The existence of physical certificate documents received by PPAT for checking cannot be ascertained the validity or valid of a physical certificate of soil that is received by the data as long as the data can be checked electronically because the results of the checking have been listed in a separate document issued and Signed electronically from the BPN office according to the location of the certificate object. Unlike the case with the results of checking before online which is required to come directly to the local land office and the physical certificate must be brought to be able to know its authenticity and be able to get a wet stamp and be given a date by the local BPN office.
2. Checking the certificate of land rights carried out electronically, there is a discrepancy in the results of the checking. The mismatch of checking the certificate of land rights electronically such as the difference in the name of the owner of the owner of the certificate of land rights, the date of birth of the owner, or the incompatibility of the legal actions listed in the certificate of land rights.
3. Certificate data does not match the data in the land book at the BPN or Warkah office, causing doubt by PPAT, it is feared that the certificate that is the object of the transaction is not a document issued or issued from the BPN office, it actually reduces the trust of the PPAT which in this case is the power of The owner of the land rights certificate to BPN related to the provision of legal certainty data stored in the BPN database.
4. The process of buying and selling between sellers who need fast funds, constrained by the results of checking certificates that are not appropriate as a result of BPN errors who do not renew the data base system so that they must check or contact the local BPN for the truth of the data.
5. Cause a loss to the community who asks about the legal force of checking the certificate electronically the results with the original certificate. Even though the community checks the certificate with the aim of getting legal certainty, but the community must take legal action because it does not get certainty from the BPN.
6. In practice, PPAT often experiences problematic server constraints such as offline, website renewal or website is still under improvement from the Central BPN Office.
7. PPAT also must spend energy and additional costs again to ask for responsibilities from BPN related to errors due to the absence of a database system, as well as PPAT it is necessary Updating the data base is due to the manual revision system through the website of the certificate checking website has been eliminated.
5. BPN as the organizer of land registration must provide clarification by improving and frequently renewing the database system and always to guarantee the truth of land data both physical and juridical in the certificate of land rights,
6. In the future, it is expected that BPN can provide legal certainty by implementing the latest principles, so that the community will feel safe because the community gives its trust to BPN as a government that provides a guarantee of certainty from land rights. So that it can be seen that the accountability in the incompatibility of the results of the certificate checking electronically because it does not update the database system adheres to the principle of accountability based on errors, therefore BPN must be responsible if there is an error in the results of checking the certificate of land rights that have a discrepancy with the original certificate (such as the name of the name, date of birth or number of measuring documents, and the situation image).
7. Minimizing document counterfeiting by involving the court and improvement in the laws and regulations. Like, land administration that is not single, which is in several places such as in the Kelurahan (PP. 24 Years 97) which recognizes Pethuk Girik. The possibility of use in a negative direction certainly exists by certain groups. The certificate also has a gap to be falsified with the involvement of the land office;

### CONCLUSION

Every transition of ownership rights to land, which is carried out in the form of buying and selling, exchange or grants must be made in front of PPAT for registered lands (interpreted) must first check the certificate at the Land Office. Therefore, the data contained in the Land/ Warkah Book in the National Land Agency with the Certificate Data both physical and juridical data held by the community must be the same. Warkah is also a document that contains the most basic source of information or also called the basic base until the process of issuance of land rights certificates. The function of the Warkah is very important to be evidence of the issuance of the certificate of land rights. Provisions regarding the necessity of checking the certificate of land rights in the BPN office aims so that the interested parties can actually be protected and there are no dispute problems in the future such as minimizing the certificate not in accordance with the data in the Land Book at the BPN or Warkah office or it turns out that the certificate has become. The object of the transaction is not a document issued or issued from the BPN Office to also minimize the cases of land mafia that are rife. But in practice there are still many problems that arise in electronic certificate checking such as the existence of physical certificate documents received by PPAT for checking cannot be ascertained the validity or valid of a physical document of the soil certificate received by PPAT, the data from checking the certificate are different from the certificate with the certificate physical held by PPAT, there is a difference in BPN land book data with physical certificate data due to lack of renewal at the BPN Database System so that it becomes a decrease in public trust in the management of the Land Archive System in Indonesia. If the implementation of the certificate checking is in accordance with good procedures and the data base system supports, the checking of this certificate is felt to be one of the first ways in repeating cases of soil mafia in Indonesia.

In connection with this conclusion, it can be recommended to the BPN to always renew the data base system so that it will provide a sense of security to the community, and it is recommended to the notary/PPAT to always be careful in reading the results of checking the certificate of land rights electronically, because if it the certificate has a confiscation of guarantees or blocking, the results of the electronic certificate checking are still released.

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### Solutions for problems in checking certificate electronically

As for some of the solutions that the authors offer to the problems above include the following:

1. PPAT must carefully ensure the suitability of existing data in the physical certificate or data that is in the results of the certificate checking electronically. In electronic checks sometimes, there are some information that is not in accordance with the physical certificate held by the PPAT, this can affect the making of the deed, if the incompatibility of the results of checking the certificate continues to print the results of checking, then this can be avoided by ensuring that the data are appropriate, if data are not appropriate, in electronic checking services, there is an option not to continue and can submit data improvement in advance to the land office through the service. So that legal protection for parties who will carry out legal actions can be protected by PPAT in carrying out their positions.
2. To ensure legal certainty of land rights, especially legal certainty for related parties in the process of transitioning land rights should be in maintaining and recording land data to minimize the possibility of errors in recording juridical data and physical data in the land book so that such cases do not recur.
3. There needs to be a regulation that provides firmness regarding sanctions for negligence and/or intentional from the Land Office apparatus who make mistakes in carrying out their duties and authorities, especially in recording data in the land book.
4. BPN offices should improve the quality of internet networks in each system so that such network problems can be minimized and toward a transparent and accountable good governance.

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#### CONFLICTS OF INTEREST

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