

THE URGENCY OF THE DEED OF SHARING OF JOINT RIGHTS IN THE SEPARATION AND DISTRIBUTION OF JOINT RIGHTS ON LAND

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ABSTRACT

Joint rights to land means that there are two/more people whose names are recorded as rights holders in the certificate. Separation and distribution of joint rights must use a PPAT deed, namely a deed of sharing joint rights. The purpose of this writing is to find out and examine the urgency of a deed of sharing joint rights in the separation and distribution of joint rights over land. This writing uses normative legal research. According to Article 1 number 4 of Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Officials, PPAT Deed is a deed made by PPAT as proof that certain legal acts have been carried out regarding land rights or ownership rights to apartment units. The Deed of Sharing of Joint Rights is a deed made by the PPAT to prove the agreement between the holders of joint rights regarding the distribution of joint rights to the land.

Keywords: Land rights, Land Registration, PPAT Deed

INTRODUCTION

Land is a natural resource that is important for human life. Every human being needs land both as a place to live and for their livelihood. Thus, the land has a high selling value. Land can be owned by people, either alone or together with other people and legal entities. Legal certainty is needed regarding legal actions and legal events related to land.

As land is an immovable object, transfer and handover cannot be carried out directly. According to Article 616 of the Civil Code (hereinafter referred to as the Civil Code) the transfer of immovable objects is carried out through the announcement of the deed in question in the manner specified in Article 620 of the Civil Code, including posting it in the register, in land rights referring to the provisions of Law Number 5 1960 concerning Basic Regulations on Agrarian Principles (hereinafter referred to as UUPA).

According to Article 19 paragraph (1) UUPA, "To ensure legal certainty, the Government will carry out land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulations." The meaning of Land Registration is regulated in Article 1 of Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter referred to as PP No. 24 of 1997), namely a series of activities carried out by the Government continuously, continuously and regularly, including collection, processing, bookkeeping and presentation, as well as maintaining physical data and juridical data, in the form of maps and lists, regarding plots of land and apartment units including the provision of certificates of proof of title for plots of land to which there are already existing rights and ownership rights over apartment units and certain rights that burden him. Land registration activities carried out to ensure legal certainty include:

- Land measurement, mapping, and bookkeeping.
- Registration of land rights and transfer of those rights;
- Issuance of letters of proof of valid rights as a powerful means of proof.

The objects of land registration regulated in Article 9 PP No. 24 of 1997 include:

- Right of ownership;
- Cultivation Rights;
- Building rights;
- Usage Rights;
- Land Management Rights;
- Waqf Land;
- Ownership Rights to Flat Units;
- Mortgage right;
- State Land.

In principle, land rights can be transferred and transferred to other parties as described as follows: (Urip Santoso; 2011):

- Transfer is the transfer of land rights or property rights from the right holder to another party because the right holder dies or through inheritance. This transfer of rights to land or property rights occurs by law, meaning that with the death of the right holder (subject), the heirs obtain rights to the land or property rights. Where the subject of the transfer of land rights or property rights must fulfill the requirements as the holder of land rights or property rights.
- Transferring/transferring rights is the transfer of land rights or property rights from the holder (subject) of the rights to another party due to a legal act that is deliberately carried out with the aim of ensuring that the other party obtains those rights. In transferring/transferring rights here, the party transferring/transferring the rights must have the right and authority to transfer the rights, while the party obtaining the rights must fulfill the requirements as the holder of land rights or property rights.

Joint rights to land means that there are two/more people whose names are recorded as rights holders in the certificate. Separation and distribution of joint rights must use the PPAT Deed, namely the Deed of Sharing of Joint Rights. According to Article 1 point

4 of Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations on the Position of Officials Making Land Deeds (hereinafter referred to as PP No. 24 of 2016), PPAT Deed is a deed made by PPAT as proof that certain legal acts have been implemented regarding land rights or ownership rights to apartment units. Based on the explanation above, the author is interested in examining the urgency of the deed of sharing joint rights in the separation and division of joint rights over land.

METHOD

The type of research used by the author in this writing is legal research. Legal research is a scientific activity based on certain methods, systematics and thinking which aims to study one or several particular legal phenomena by analyzing them. The approaches used are the statutory approach and the conceptual approach. This writing uses primary legal materials and secondary legal materials as research sources. The technique for collecting legal materials used in this writing is literature study or document study and electronically. Through this legal research, the author will research and examine the urgency of deeds of sharing joint rights in the separation and distribution of joint rights on land using legal materials, both primary legal materials and secondary legal materials, which in the end will be able to provide answers.

DISCUSSION

The Urgency of the Deed of Sharing of Joint Rights in the Separation and Distribution of Joint Rights on Land

In law, there is the term joint ownership, where an object is owned by two or more people. Usually, joint ownership is due to a certain goal, so that the togetherness of these people is caused by the same goal. However, not all of this togetherness is due to the same goal. In the case of inheritance, the togetherness of the heirs does not have the same goal but is the result of another legal event, namely the death of the testator. Joint ownership occurs in assets inherited from the heirs that have not been distributed. The law recognizes two main forms of joint ownership which we can call free joint ownership and bound joint ownership (A Pitlo; 1969).

- Free joint ownership occurs if there is only one legal bond, namely the bond as co-owners because they own an object together. This joint ownership is only a result of the legal relationship between them. There are no other legal ties between them except as owners. Usually this joint ownership occurs due to purchasing an object together. Separation of the free distribution of joint assets by making a deed of separation and division, then the separation and division is in the nature of a "translative" transfer of rights (Herlien Budiono; 2007),
- Joint ownership is bound, apart from the legal ties as co-owners, because they own the property together, there are other legal ties that already exist between them. Other pre-existing legal ties include legal ties as husband and wife, as partners in a company and as co-heirs in an open inheritance. In terms of inheritance, if there is more than one heir, it is included in bound joint ownership, because they are joint heirs (Herlien Budiono, 2007). Separation and division of joint ownership is declarative in nature and has retroactive effect, namely from the time the testator dies and/or the dissolution of the marriage, or the dissolution of the civil partnership/unincorporated association.

The Land Deed Making Official (hereinafter referred to as PPAT) is one of the public officials who is given the authority to make authentic deeds. According to Article 1 number 1 of PP No. 24 of 2016, PPAT is a public official who is given the authority to make authentic deeds regarding certain legal acts regarding land rights or ownership rights to apartment units. These legal acts relate to the transfer and encumbrance of land rights. Boedi Harsono stated that a general official is someone appointed by the government with the task and authority to provide services to the public in a particular field (Salim HS; 2016). PPAT's authority to make authentic deeds is regulated in Article 2 paragraph (2) of Government Regulation Number 37 of 1998 concerning Position Regulations for Officials Making Land Deeds (hereinafter referred to as PP No. 37 of 1998), covering the following legal acts:

- Buying and selling,
- Exchange,
- Grant,
- Income into the Company (Inbreng),
- Sharing of Joint Rights,
- Granting Building Use Rights/Use Rights on Freehold Land,
- Granting Mortgage Rights, and
- Power of Charge for Mortgage Rights.

In terms of authority, PPAT has the authority to make the eight types of deeds mentioned above, including deeds of transfer of land rights and deeds of assignment of land rights. This confirms that a PPAT cannot make deeds other than the eight types of deeds mentioned above or that the authority to make such deeds rests with other officials in accordance with the provisions of the applicable laws (Citra Ayuningtyas; 2023).

Authentic deeds have evidentiary powers attached to them, including the strength of external evidence, the strength of formal evidence and the strength of material evidence. First, the strength of external evidence, an authentic deed that is shown must be considered and treated as an authentic deed, unless it can be proven otherwise, that the deed is not an authentic deed. As long as it cannot be proven otherwise, the deed is attached to the strength of external evidence (M. Yahya Harahab; 2015). Second, the strength of formal evidence. The strength of formal evidence attached to an authentic deed is explained in Article 1871 of the Civil Code which states: "An authentic deed does not provide perfect proof of what is contained in it as a mere narrative. Apart from just what is said, there is a direct connection to the main content of the deed. If what is contained there as a mere narrative has no direct connection with the main contents of the deed, then it can only be useful as a preliminary proof in writing." This

means that all the information contained in it is truly given and conveyed by the signatory to the official who made it. Third, the strength of material evidence. Regarding the strength of this material evidence, it concerns the issue of whether the information contained therein is true or not. Thus, the strength of material evidence is the main issue of authentic deeds (M. Yahya Harahab; 2015).

Sharing of joint rights is a legal act in the form of handing over land rights or ownership rights to an apartment unit which is inherited property forever by one or more than one heir to one or more than one other heir. In this distribution of joint rights, one or more than one other heir gives approval that the inheritance property will be given to one or more than one other heir (Urip Santoso; 2016). The distribution of joint rights does not always come from inherited assets but can be obtained through buying and selling or other means of acquisition. The deed of sharing joint rights is made as proof of agreement regarding the sharing of joint rights over land which is then used as a basis for registering the transfer at the land office.

CONCLUSION

Land is an immovable object so it cannot be transferred directly. Every transfer or assignment of land rights must use a PPAT Deed as proof that certain legal acts regarding land rights have been carried out. The Deed of Sharing of Joint Rights is a PPAT deed which proves the agreement between the holders of joint rights to land regarding the distribution of rights to the land.

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