

Legal Implications for PPAT Employees Serving as Instrumental Witnesses in Title Transfer Agreements

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Abstract

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Employees or instrumental witnesses of PPAT play a crucial role, particularly in service provision. Not only can Land Deed Officials be defendants, but employees or instrumental witnesses may also become defendants if there is a tort claim due to slow services causing harm to their clients. The presence of instrumental witnesses is vital as it can help maintain the safety of the PPAT's position in the event of contested deeds. The purpose of this study is to determine the legal consequences for PPAT employees who act as instrumental witnesses in title transfer agreements. This research employs a normative juridical method with a statutory approach and a conceptual approach. The findings of this study indicate that if an issue arises after the service is provided by the Land Deed Official to the client and involves employees or instrumental witnesses, the Land Deed Official must ensure the safety of their employees. PPAT employees who act as witnesses in title transfer agreements bear significant legal responsibilities, particularly if they are involved in unlawful acts. They may face legal liability under Article 1365 of the Indonesian Civil Code, which states that any unlawful act causing damage to another obliges the person who committed the act to compensate for the damage.

1. Introduction

Land deed official (hereinafter referred to as PPAT) is one of the important professions in the field of land law. PPAT is a public official authorized to make deeds of transfer of land rights and other deeds in the context of encumbering land rights as evidence of certain legal actions regarding land located within their respective working areas. One of the roles and authorities of PPAT is to make authentic deeds in the process of transferring land rights and property rights over apartment units. In the legal practice of transferring rights, PPAT plays a crucial role as a legal intermediary in making agreements to transfer land and other property rights. As a body that has special authority and expertise in making land deeds, PPAT is governed by various provisions and regulations that make it a respected and reliable entity in property transactions. Regarding PPAT based on Government Regulation No. 24/2016 on the Amendment of Government Regulation No. 37/1998 on the Regulation of the Position of Land Deed Official (hereinafter referred to as PP PJPPAT), PPAT is a public official who is authorized to make authentic deeds regarding certain legal acts concerning land rights or property rights over apartment units. As an authorized public official, the deed made by PPAT must be in accordance with the applicable laws and regulations and is an authentic deed.

An authentic deed is a deed that has perfect evidentiary power, because the deed is made by an authorized public official, one of which is a PPAT. PPAT is a public official because it is appointed by the government with the duty and authority to provide services to

the public in certain fields, namely appointed by the Head of the National Land Agency. As an authentic deed, the deeds made by PPAT when used later in evidence, can be used in court and are sufficient for the judge without having to ask for other evidence. Based on Article 4 of PP PJPPAT, PPAT is only authorized to make authentic deeds regarding land rights or property rights over apartment units located within its working area. Based on this, PPAT as a party authorized to make authentic deeds as a form of state document at the request of the community is expected to assist the community in making authentic deeds, because PPAT has a role as a representative of the state to achieve community welfare.

The PPAT is authorized to make deeds regarding land rights and ownership rights over apartment units as stipulated in Article 2 paragraph (1) of PP PJPPAT that "PPAT has the main duty to carry out some land registration activities by making deeds as evidence of certain legal actions regarding land rights or ownership rights over apartment units, which will be used as the basis for registering changes in land registration data caused by the legal action". The meaning of "certain legal actions regarding land rights" in Article 2 paragraph (1) of PP PJPPAT is described in Article 2 paragraph (2) of PP PJPPAT which consists of sale and purchase, exchange, grants, entry into the company (inbreng), division of Joint rights, granting of Building Rights / Use Rights on land of Property Rights, granting of Mortgage Rights; granting power of attorney to impose Mortgage Rights. The authority of PPAT for land registration also includes the authority and obligation of PPAT to manage the process of transferring land rights. The transfer of land rights is the transfer of ownership status of land rights from one party as the grantor of the right and to the second party as the recipient of the right¹.

As an authorized public official, a PPAT is required to carry out its duties and authorities as stipulated in the laws and regulations and code of ethics. PPATs are not only required to comply with the rules of legislation but must also prioritize ethics and professionalism regulated in the PPAT professional code of ethics. The obligations of the PPAT are expressly regulated in the Code of Ethics of the Association of Land Deed Officials Number 112/KEP-4.1/IV/2017 (hereinafter referred to as the PPAT Code of Ethics), one of the PPAT's obligations is regulated in Article 3 letters f and g of the PPAT Code of Ethics, namely working with a full sense of responsibility, independence, honesty, and impartiality and providing the best possible service to the community that requires its services. Based on these provisions, PPATs are required to have an attitude of responsibility for their work and high professionalism in carrying out their duties and work².

The position of PPAT in society plays a very crucial role in meeting the needs of the community in making authentic deeds and providing services. The community needs someone with an honorable position who can answer their needs in making authentic deeds and providing services, can provide legal certainty, and can provide confidence in the making of written evidence, so that in addition to being responsible for themselves, they are

¹ Maria Avelina Abon, Komang Febrinayanti Dantes, and Ni Ketut Sari Adnyani, "Akibat Hukum Peralihan Hak Atas Tanah Waris Berdasarkan Pasal 20 Ayat (1) Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria," *Jurnal Komunitas Yustisia* 5, no. 3 (2022): 64-80, <https://doi.org/10.23887/jatayu.v5i3.51871>.

² Boedi Harsono, "PPAT Sejarah Tugas Dan Kewenangannya," *Majalah Renvoi* (Jakarta, 2007).

also responsible for others. The duties and role of the PPAT in the community are needed for the enforcement and protection of law to obtain justice and security as a legal subject in accommodating the needs of the community for welfare and prosperity. So the deed made by or before the PPAT must provide a sense of security to the parties and other parties.

PPAT has the authority to make deeds on various legal acts concerning land rights and property rights over apartment units so that ideally PPAT in carrying out its duties is assisted by its employees. This PPAT employee is not only tasked with assisting the PPAT in making authentic deeds and the registration process but also serves as an instrumenter witness. Instrumenter witnesses (*Instrumentaire Getulgen*) are witnesses who are in charge of the authentic deed, they must be present at the making of the deed, namely at the time of reading and signing the deed. PPAT employees who are also instrumentary witnesses witness the process of making the deed and also provide testimony or statements that they have seen the process in making the deed. Instrumental witnesses are also obliged to ensure the validity and completeness of the land deed and to protect the interests of all parties involved in a particular land deed or deed. The PPAT employee who also acts as an instrumentary witness can testify that the PPAT is appropriate in providing services to certain communities and has read out the deed in front of certain parties, and is attended by 2 (two) witnesses, in addition to ensuring that the contents in the deed can be understood by the parties and have been signed. The obligation to sign an authentic deed that must be witnessed by 2 (two) instrumental witnesses is regulated in Article 22 of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Maker jo. Article 16 paragraph (1) letter m jo. Article 40 of Law Number 2 of 2014 Concerning the Amendment to Law Number 30 of 2004 Concerning the Position of Notary (hereinafter referred to as Law No 2/2014).

However, in some situations, PPAT employees may be involved in functions that go beyond being a land deed maker. One additional role that is often encountered is as an instrumental witness in a title transfer agreement. This is a significant concern because of the legal implications that may arise from the involvement of PPAT employees in such functions. When there is a problem that occurs due to the negligence of PPAT employees or instrumentary witnesses, the PPAT will also be entangled, but apart from that, in addition to a PPAT protecting himself from legal problems, but also still a PPAT must be responsible if his employees make mistakes, this is in line with Article 1367 BW³.

This research aims to examine the legal responsibility of instrumental witnesses in the process of making authentic deeds by PPAT. The role of instrumental witnesses is very important because they witness the process of making a deed and provide testimony about the validity and completeness of the deed. Instrumental witnesses must ensure that the deed has been made in accordance with the procedure and that its contents are understood by the parties involved. In some situations, PPAT employees acting as instrumental witnesses may be involved in more than just witnessing, which raises certain legal implications in the event of negligence. This research will discuss the legal responsibilities of instrumental witnesses

³ Fernando Manulung, *Legisme Legalitas Dan Kepastian Hukum* (Prenada Media Group, 2023).

and the role of PPAT in protecting its employees and ensuring that the process of making authentic deeds runs in accordance with applicable legal provisions.

In this research the author uses a comparison of 3 previous studies. First, research by Ida Ayu Kade Kusumaningrum with the title "Obligation of Instrumental Witnesses to Keep the Contents of the Deed Secret Based on the Notary Position Law" this research focuses on knowing whether instrumental witnesses have an obligation to maintain the confidentiality of the contents of the deed as carried out by a notary, and to find out the responsibility of instrumental witnesses for the confidentiality of the notarial deed they signed⁴. Second, research by Puteri Chintami Oktavianti with the title "The Position of the Instrumenter Witness in Keeping the Authentic Deed Secret and Legal Protection for Instrumenter Witnesses" in this study focuses on instrumenter witnesses who do not maintain the confidentiality of notarial documents, their actions are classified as illegal acts, but if one day the instrumenter witness is used as a witness in a legal matter related to the deed he signed, he gets protection in accordance with the Witness and Victim Protection Law regarding his position as a witness⁵. Third, research by Tauratiya with the title "Juridical Review of the Responsibility of Instrumenter Witnesses for the Content of Notarial Deeds" this research focuses on the responsibility of instrumentary witnesses in notarial deeds which are considered a formal requirement in making notarial deeds⁶.

2. Methods

The research method used in this research is normative juridical with a statutory approach, and a conceptual approach. This is because the main data used is secondary data, namely in the form of data obtained based on literature studies⁷. The research specification used in this writing is descriptive analysis, which provides an overview of the legal consequences for PPAT employees who act as instrumental witnesses in title transfer agreements⁸.

3. Results and Discussion

3.1. The Position of Instrumental Witnesses in the Transfer of Rights Agreement

Transfer of land rights is the transfer of land rights from the old right holder to the new right holder according to the provisions of the applicable laws and regulations. There are 2 (two) ways of transferring land rights, namely switching and transfer. Switching indicates the transfer of land rights without any legal action taken by the owner, for example through

⁴ Ida Ayu Kade Kusumaningrum, I Gusti Ngurah Wairocana, and I Dewa Made Suartha, "Kewajiban Saksi Instrumenter Merahasiakan Isi Akta Undang-Undang Jabatan Notaris," *Acta Komunitas* 2 (2017): 237-46.

⁵ Puteri Chintami Oktavianti, "Kedudukan Saksi Instrumenter Dalam Merahasiakan Akta Otentik Dan Perlindungan Hukum Bagi Saksi Instrumenter," *Syntax Literate ; Jurnal Ilmiah Indonesia* 6, no. 5 (2021).

⁶ Tauratiya Tauratiya and Rahmat Danni, "Tinjauan Yuridis Tanggung Jawab Saksi Instrumentair Terhadap Isi Akta Notaris," *Refleksi Hukum: Jurnal Ilmu Hukum* 8, no. 1 (March 17, 2024): 1-16, <https://doi.org/10.24246/jrh.2023.v8.i1.p1-16>.

⁷ Irwansyah, *Penelitian Hukum Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2021).

⁸ I Made Pasek Diantha, *Metode Penelitian Hukum Normatif: Dalam Justifikasi Teori Hukum, Cetakan Ke-1* (Jakarta: Prenada Media Group, 2017).

inheritance. Meanwhile, transfer refers to the transfer of land rights through legal actions taken by the owner, for example through sale and purchase⁹.

Based on Article 37 paragraph (1) of Government Regulation No. 24/1997 on Land Registration (hereinafter referred to as GR No.24/1997), the transfer of land rights and ownership rights over apartment units can occur due to sale and purchase, exchange, grants, inclusion in companies and other legal acts of transfer of rights. Transfers of land rights and ownership rights over apartment units due to these reasons can only be registered if proven by a deed made by an authorized PPAT¹⁰.

PPAT is a public official who has the authority to make a deed of transfer of land rights, a deed of acquisition of land rights, and a deed of granting power to encumber a mortgage according to the prevailing laws and regulations. So based on this, all things that become the authority of the PPAT are intended for the encumbrance of land rights in the form of a deed that is determined as evidence of certain legal actions regarding land located in their respective working areas. In its position as a PPAT, the deeds that have been made by PPAT are authentic deeds. The deed made by a PPAT is evidence of the implementation of certain legal actions regarding land rights or property rights over apartment units that will be used as the basis for registering changes in land registration data caused by the legal action¹¹.

The definition of legal acts of encumbrance of land rights for which the making of deeds is the authority of PPAT, includes the making of deeds of encumbrance of building use rights on land of property rights as referred to in Article 37 of Law Number 50 of 1960 concerning Basic Regulations on Agrarian Principles (hereinafter referred to as Law. 50/1960) and the making of deeds in the context of encumbrance of mortgage rights regulated in this law. Based on the provisions of Article 1 of Government Regulation No. 24 of 2016 on the Amendment to Government Regulation No. 37 of 1998 on the Regulation of Land Deed Officials (hereinafter referred to as GR No.24/2016), that PPAT is a public official who is authorized to make authentic deeds regarding certain legal acts concerning land rights or Property Rights Over Flat Housing Units. Meanwhile, referring to Article 22 of Government Regulation No. 37 of 1998 on the Regulation of Land Deed Officials (hereinafter referred to as GR No.37 /1998) confirms that the Deed of Mortgage is a legal deed regarding certain legal acts concerning land rights or Property Rights Over Flat Housing Units. /1998) confirms that the PPAT Deed must be read out/explained to the parties in the presence of at least 2 (two) witnesses before it is signed immediately by the parties, witnesses and PPAT¹².

Then the witness is a witness in the deed who is a witness who participates in the making of a deed or instrument and this is the background of the naming of the instrumentary witness itself, he affixes a signature, testifies to the truth of a deed and the process of making a deed until it becomes a valid authentic deed through existing formalities

⁹ Tauratiya and Danni, "Tinjauan Yuridis Tanggung Jawab Saksi Instrumentair Terhadap Isi Akta Notaris."

¹⁰ Tauratiya and Danni.

¹¹ Widya Amanda, "Pidana Kerja Sosial Dalam Pembaharuan Hukum Pidana Nasional" (Universitas Sumatera Utara, 2010).

¹² G.H.S Lumban Tobing, *Peraturan Jabatan Notaris* (Jakarta: Erlangga, 1992).

which are in accordance with the relevant laws and regulations, then the instrumentary witness is referred to in the deed and signs the deed¹³.

PPAT Instrumenter Witnesses are usually PPAT employees. PPAT employees who act as instrumenter witnesses are not without reason, because the applicable laws and regulations mandate that the instrumenter witness must be someone known by public officials who are authorized to make authentic deeds¹⁴. PPATs and notaries are public officials who have different authorities, but usually a notary also works as a PPAT, although not all of them, so that notaries who also act as PPATs in making authentic deeds implement the rules in the Law No 2/2014. This is as regulated in Article 7 paragraph (1) of PP PJPPAT which stipulates that PPATs may concurrently hold positions as notaries, consultants or legal advisors. Article 40 paragraph (3) of the Law No 2/2014 states that "Witnesses as referred to in paragraph (1) must be known by the Notary or introduced to the Notary or explained about their identity and authority to the Notary by the confronter". Article 40 paragraph (3) of the Law No 2/2014 is then the background that most instrumental witnesses are employees of PPAT or notaries. In determining the eligibility of witnesses in making a deed of transfer of land rights, it is not uncommon for the instrumentary witnesses used by the PPAT to be employees or employees of the PPAT concerned. This is because the use of PPAT employees who act as instrumental witnesses in the inauguration of the deed must be known by the PPAT, especially in relation to trust, identity, and credibility and meet the requirements to be a witness in the inauguration of the deed¹⁵.

As an authentic deed, the PPAT deed product must be read and its contents explained to the parties in the presence of at least 2 (two) witnesses at the time or before the signing of the deed, where the deed will be signed by both the parties, witnesses, and the PPAT itself, this is as regulated in Article 22 of PP PJPPAT¹⁶. The authenticity of a deed is of course the reading of the deed carried out by the PPAT and then after that the deed is signed by both the parties, witnesses, and also the PPAT. The role of instrumental witnesses in every PPAT deed is still needed. Because the existence of an instrumental witness in addition to functioning as evidence can also help a PPAT's position to be safe in the event that a deed made by a PPAT is contested by one of the parties to the deed or a third party. The instrumentary witness, by affixing his signature, testifies to the truth of the contents of the deed and testifies that the formal requirements required by law have been fulfilled. Two kinds of witnesses are known in the scope of the notary public, namely identifying witnesses and instrumental witnesses. The instrumentary witness is required by law to be present at the making of the Notarial deed the duties of the instrumentair action include:

1. The instrumentary witnesses must be present at the making of the deed, in the sense of reading and signing (*verlijden*) of the deed in their presence, they can testify that it is true that the formalities prescribed by law have been fulfilled, namely that before being

¹³ Tauratiya and Danni, "Tinjauan Yuridis Tanggung Jawab Saksi Instrumentair Terhadap Isi Akta Notaris."

¹⁴ J A B Atan and N O Taris, "KEWAJIBAN SAKSI INSTRUMENTER MERAHSAIKAN ISI AKTA BERDASARKAN UNDANG-UNDANG JABATAN NOTARIS," *Acta Comita S 2* (2018): 219-27.

¹⁵ Samun Ismaya, *Pengantar Hukum Agraria* (Yogyakarta: Graha Ilmu, 2011).

¹⁶ Bernhard Limbong, *Hukum Agraria Nasional* (Jakarta: Margaretha Pustaka, 2012).

signed by the parties, the deed has first been read by the Notary to the parties, then signed by the parties, all done in the presence of the instrumentary witnesses.

2. From the nature of their position as witnesses, the witnesses also listened to the reading of the deed, also witnessed the act or fact that was confirmed and the signing of the deed. In that the witnesses do not need to understand what is read out and also for them there is no obligation to keep the contents of the deed in his memory.

Witnesses listed in the Notarial deed are only limited to instrumenter witnesses (*instrumentair getuigen*), meaning witnesses who are required by the laws and regulations. The presence of two instrumentary witnesses is absolute, but it does not mean that there must be two, more may be allowed if circumstances require.

An instrumental witness must be present at the inauguration of an authentic deed. In this case, the responsibility of the instrumentary witness is to witness whether the deed has been prepared, read and signed by the parties in the presence of an authorized public official, as required by the applicable laws and regulations. The responsibility of the instrumental witness in this case is not only limited to witnessing the inauguration of the deed, but also as a party who knows that the deed made by the authorized public official is in accordance with the applicable rules and regulations.

Although the instrumentary witness is a party who must be present at the making of the deed, in the sense of reading and signing the deed, the instrumentary witness is not responsible for the contents of the authentic deed made by the authorized public official. The witnesses do not necessarily have to understand what is read out and there is no obligation for them to keep the contents of the deed in their memory. PPAT employees who act as instrumentair witnesses do not need to understand the contents of the deed and are not responsible for the contents of the deed, but are responsible during the inauguration of the deed, namely when they see and hear the deed being read to the parties by an authorized public official. The responsibility that must be borne by witnesses in connection with the actions of witnesses in exercising their rights and obligations utilizes the principle of liability based on fault, namely the principle of responsibility for the general principles that apply in criminal and civil law. Evidence by witness or testimony is a trial of an event, incident or certain circumstances that he heard himself, saw himself and experienced himself. The responsibility of witnesses in the transfer of land rights before PPAT is as one of the instruments in making a deed of transfer of land rights before PPAT, which has the responsibility to provide true information about the subject and object of the legal action in this case the witness must provide information that is known, seen, and heard¹⁷.

3.2. Legal Consequences for PPAT Employees Acting as Instrumental Witnesses in Transfer of Rights Agreements

Legal consequences refer to the consequences arising from a legal act or non-legal act. In the daily activities at the PPAT office, not only the PPAT plays a role, but also the team of employees who assist him. The role of employees in the office is crucial, assisting in the process of creating legal documents, preparing files, managing payments, and other tasks.

¹⁷ Tauratiya and Danni, "TINJAUAN YURIDIS TANGGUNG JAWAB SAKSI INSTRUMENTAIR TERHADAP ISI AKTA NOTARIS."

Their presence substantially supports the PPAT in carrying out his duties and improves the quality of service. However, sometimes mistakes can be made by these employees, which are not always related to the direct actions of the PPAT itself. PPAT employees are directly involved in the process of drafting legal documents. In some cases, unlawful acts committed by these employees can have serious consequences not only for the individual who committed the act, but also for the PPAT responsible for the office.

PPAT employees who act as instrumentary witnesses usually not only play a role during the deed reading process, but are also involved in the process of authentic deed formalities such as in preparing the deed draft, witnessing the reading, signing the deed, and signing the deed related to their function as instrumentary witnesses. Although PPAT employees may be aware of the drafting of the deed, if in the future the authentic deed raises legal issues, PPAT employees who act as instrumentary witnesses cannot be held liable because instrumentary witnesses under current law do not need to understand what is being read out and also for them there is no obligation to keep the contents of the deed in their memory. Instrumental witnesses are obliged to see the preparation of the deed, the reading out of the deed, and the signing of the deed by the interested party in front of an authorized official as prescribed by law in order to fulfill the authenticity of the deed. The responsibility of the witness in the deed is that the witness cannot be prosecuted legally related to the substance of the deed whose signing involves him, considering that his capacity is only an employee who is functioned by the authorized official to prepare the deed. PPAT is fully responsible for the substance of the deed even though the validity of the deed requires the presence of an instrumental witness as in Article 22 PP PJPPAT and Article 40 Law No 2/2014¹⁸.

In PP PJPPAT, Law No 2/2014 and the current laws and regulations do not regulate the responsibility of an instrumental witness for the content of an authentic deed, because Law No 2/2014 and PP PJPPAT mandate that those authorized to make authentic deeds are public officials authorized by law, namely in this case PPAT and notaries. Even though in practice a PPAT employee is asked to draft a deed, the one responsible for the validity of the deed is still the authorized public official because the deed comparison reads the legal position between the parties and the authorized public official, not the comparison between the parties and the instrumenter witness¹⁹. Likewise, the position of the instrumental witness in the deed is as a witness, not as a party making the deed because as Article 2 of PP PJPPAT states that "PPAT has the main duty to carry out some land registration activities by making deeds". So that if in the future there is a legal problem due to an authentic deed whose instrumentary witness is a PPAT official, then the one who should be responsible is the PPAT as a public official authorized to make deeds. This is in line with the provisions of Article 1367 paragraph (1) BW which stipulates that "A person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of those for whom

¹⁸ Ketut Sukawati Lanang Prabawa and I Nyoman Hutri Wibawa, "Kedudukan Dan Tanggung Jawab Saksi Akta Yang Dibuat Oleh Pejabat Pembuat Akta Tanah," *Jurnal Penelitian Dan Pengembangan Sains Dan Humaniora* 7, no. 1 (2023): 24-30, <https://doi.org/10.23887/jppsh.v7i1.61563>.

¹⁹ H. Salim HS, *Teknik Pembuatan Akta Pejabat Pembuat Akta Tanah (PPAT)* (Jakarta: PT Raja Grafindo Persada, 2016).

he is responsible ...” jo. Article 1367 paragraph (3) BW that “Employers and those who appoint others to represent their affairs are responsible for losses incurred by their subordinates in performing work...”

The responsibilities of a PPAT are not only focused on the deed-making stage. They are also responsible for the storage of the documents produced, ensuring that they are kept safe and registered in accordance with the applicable regulations. In addition, in carrying out their duties, PPATs are required to maintain high standards of ethics and professionalism. Honesty, accuracy, and compliance with the law and professional code of ethics are the cornerstones of every action they take. Not only that, their responsibilities also extend to the supervision of their office staff. They are responsible for actions taken by employees within the scope of their work authority related to PPAT duties²⁰. In the event of suspicious activity, PPATs have an obligation to report or even refuse to conduct transactions that are indicated to be illegal or suspicious. The legal consequences borne by a PPAT in the event of an error in making a deed, such as a legal defect in the document it makes or dishonest actions. Violation of the law by a PPAT can cause the deed it makes to lose its authenticity. Deeds that are not in accordance with the correct data and are not supported by documents can be considered invalid and legally invalid. This mistake can lead to a civil lawsuit or administrative sanctions from the National Land Agency (BPN). PPATs are supervised by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). They must comply with the rules set by ATR/BPN regarding the making of land deeds. PPATs who violate the provisions can be subject to sanctions ranging from reprimands, suspensions, to revocation of licenses as PPATs. PPATs must comply with the professional code of ethics established by ATR/BPN. Violation of the code of ethics may result in administrative sanctions²¹.

The PPAT's obligation to comply with the PPAT code of ethics as stipulated in the Code of Ethics of the Association of Land Deed Officials Number 112/KEP-4.1/IV/2017 because PPAT is a legal profession, a PPAT is an official authorized to make a deed of transfer of land rights and ownership rights to an apartment unit. As an authorized official, in carrying out its duties PPAT acts as a representative of the state dealing with the parties, namely the community so that it is the obligation of PPAT to be professional in carrying out its work. PPATs are not only required to make deeds, but are also required to have a good personality and uphold the dignity and honor of PPATs as stated in Article 3 letter a of the PPAT Code of Ethics. Article 3 letter f of the PPAT Code of Ethics requires a PPAT to work with a full sense of responsibility, independence, honesty, and impartiality²². The phrase that

²⁰ Rahmat Danni, “Instrumentair Terhadap Isi Akta Notaris Juridical Review Of Instrumentair Witness Responsibility Towards The Content Of Notarial,” *Refleksi Hukum* 8, no. 1 (2023): 1–16.

²¹ Ananda Puteri Utami, “Tanggung Jawab Notaris-Ppat Atas Akta Yang Dibuat Di Luar Wilayah Jabatannya (Suatu Penelitian Di Kota Banda Aceh) THE RESPONSIBILITY OF THE NOTARY-PPAT FOR THE DEEDS CREATED OUTSIDE THEIR JURISDICTIONS (A Research In The Banda Aceh City) PENDAHULUAN,” *JURNAL ILMIAH MAHASISWA BIDANG HUKUM KEPERDATAAN* 6, no. 1 (2022): 84–92.

²² M. Haris Hasyim and Rusdianto Sesung, “Peranan Notaris Dalam Kepastian Hukum Prinsip Pemilik Manfaat (Beneficial Ownership) Berdasarkan Permenkumham Nomor 13 Tahun 2018,” *Jurnal*

requires a PPAT to work with a full sense of responsibility means that a PPAT in making a deed of transfer of land rights must be guided by the rules and provisions of the applicable laws and regulations. PPATs must be responsible for all legal acts they have committed, especially in making deeds and certifying deeds under their authority because deeds made by PPATs are authentic deeds that have perfect evidentiary power²³. Although in the law, PPATs who do not have a sense of responsibility; independent; honest and impartial cannot be subject to direct sanctions, but as an authorized official PPAT must guide the professional code of ethics because the professional code of ethics is a complement to statutory regulations. Then Article 3 letter g of the PPAT Code of Ethics stipulates that the PPAT is obliged to provide the best possible service to the community that requires its services. The obligation to provide the best possible service is one of the main duties of a PPAT in carrying out its duties, because if the PPAT does not provide maximum service to the community, the PPAT will be considered unprofessional. As an important legal profession, PPATs are required to work according to the rules and regulations in force and prioritize ethics and professionalism in carrying out their work because both are an inseparable unity.

Considerations of ethics and professionalism in the context of legal violations by employees of PPAT offices have significant implications. As enforcers of compliance with legal documents, PPATs hold the primary responsibility in ensuring legal compliance in every deed/agreement of transfer of rights. When an office staff is involved in an unlawful act, the ethical responsibility of the PPAT becomes the focus of attention. They have a moral obligation to ensure that all activities in their office are within high ethical boundaries²⁴.

Professional ethics involve broad social responsibilities towards society, including considering social, environmental and general welfare impacts in decision-making. Based on article 3 letter h of the PPAT Code of Ethics, PPATs have an obligation to provide legal enlightenment to individuals or groups in need of their services. This aims to provide the public with a better understanding of their rights and obligations as citizens and community members. For example, in drafting legal documents, PPATs have the responsibility to ensure that property transactions are not only legally valid but also not detrimental to the surrounding environment or local communities. By considering social, environmental and general welfare aspects in every decision they make, they can help prevent negative consequences that may arise from property transactions that lack social ethics²⁵.

As an instrumental witness, the PPAT employee has the responsibility to affix signatures, testify to the correctness of the contents of the agreement, and fulfill the formalities required by law. The PPAT employee as an instrumental witness has a legal responsibility to ensure the correctness of the contents of the deed. In the legal practice of

Pendidikan Dan Ilmu Sosial (Jupendis) 2, no. 2 (2024): 350–61, <https://doi.org/10.54066/jupendis.v2i2.1663>.

²³ Atan and Taris, "Kewajiban Saksi Instrumenter Merahasiakan Isi Akta Berdasarkan Undang-Undang Jabatan Notaris."

²⁴ Hatta Isnaini et al., "Tanggung Jawab Mantan Karyawan Notaris Sebagai Saksi Akta Terhadap Kerahasiaan Akta," *RES JUDICATA* 2, no. 1 (2019): 213–26.

²⁵ Danni, "INSTRUMENTAIR TERHADAP ISI AKTA NOTARIS JURIDICAL REVIEW OF INSTRUMENTAIR WITNESS RESPONSIBILITY TOWARDS THE CONTENT OF NOTARIAL."

transfer of rights, PPAT employees are often asked to act as instrumental witnesses in the process of making land deeds. This dual role may arise due to practical needs or specific requests from the parties involved in the deed-making process. Although the PPAT employee is not the same legal entity as the PPAT, it still plays an important role in the land deed process²⁶.

Although the instrumental witnesses work under the supervision of the PPAT, lack of qualifications may result in errors or deficiencies in the creation of the land deed, which in turn may impact on their legal liability. PPATs are liable for unlawful acts that cause harm. Civil sanctions are imposed on PPATs who commit unlawful acts. PPAT employees who act as instrumental witnesses in title transfer agreements have significant legal responsibilities, especially if they are involved in unlawful acts as stipulated in Article 1365 of the Civil Code. The article states that any unlawful act that results in harm to another person requires the perpetrator to compensate for the harm caused. If PPAT employees act unlawfully, for example by providing false testimony or engaging in manipulation in the process of making land deeds, then they may be subject to legal liability in accordance with Article 1365 of the Civil Code. This liability includes the obligation to compensate the losses caused to the affected parties as a result of the unlawful act.

4. Conclusions

The role of instrumental witnesses in PPAT deeds is to help ensure the authenticity of the deed and provide evidence in case of disputes. They are required to be present at the making of the deed, read its contents, and sign it along with the parties involved. The presence of instrumental witnesses is important as it can help maintain the safety of the PPAT's position in case of contested deeds. PPATs have a moral obligation to ensure that all activities in their office are within high ethical boundaries. These employees are directly involved in the process of drafting legal documents and are responsible for ensuring that they are kept safe and registered in accordance with applicable regulations. They are also required to maintain high standards of ethics and professionalism, including honesty, accuracy, and compliance with the law and professional code of ethics. Professional ethics involve a broad social responsibility towards society, including considering social, environmental, and general welfare impacts in decision-making. PPAT employees who act as instrumental witnesses in title transfer agreements have significant legal responsibilities, especially if they are involved in unlawful acts. They may be subject to legal liability in accordance with Article 1365 of the Indonesia Civil Code, which states that any unlawful act that results in harm to another person requires the perpetrator to compensate for the harm caused.

5. Reference

- Atan, J A B, and N O Taris. "Kewajiban Saksi Instrumenter Merahasiakan Isi Akta Berdasarkan Undang-Undang Jabatan Notaris." *Ac t a Comi t a S 2* (2018): 219-27.
- Bernhard Limbong. *Hukum Agraria Nasional*. Jakarta: Margaretha Pustaka, 2012.
- Boedi Harsono. "PPAT Sejarah Tugas Dan Kewenangannya." *Majalah Renvoi*, Jakarta, 2007.
- Danni, Rahmat. "Instrumentair Terhadap Isi Akta Notaris Juridical Review Of Instrumentair

²⁶ Atan and Taris, "KEWAJIBAN SAKSI INSTRUMENTER MERAHASIAKAN ISI AKTA BERDASARKAN UNDANG-UNDANG JABATAN NOTARIS."

- Witness Responsibility Towards The Content Of Notarial." *Refleksi Hukum* 8, no. 1 (2023): 1-16.
- G.H.S Lumban Tobing. *Peraturan Jabatan Notaris*. Jakarta: Erlangga, 1992.
- H. Salim HS. *Teknik Pembuatan Akta Pejabat Pembuat Akta Tanah (PPAT)*. Jakarta: PT Raja Grafindo Persada, 2016.
- Isnaini, Hatta, Wahyu Utomo, Fakultas Hukum, Universitas Yos Sudarso, Magister Kenotariatan, Fakultas Hukum, and Universitas Narotama. "Tanggung Jawab Mantan Karyawan Notaris Sebagai Saksi Akta Terhadap Kerahasiaan Akta." *RES JUDICATA* 2, no. 1 (2019): 213-26.
- Kusumaningrum, Ida Ayu Kade, I Gusti Ngurah Wairocana, and I Dewa Made Suartha. "Kewajiban Saksi Instrumenter Merahasiakan Isi Akta Undang-Undang Jabatan Notaris." *Acta Komunitas* 2 (2017): 237-46.
- M. Haris Hasyim, and Rusdianto Sesung. "Peranan Notaris Dalam Kepastian Hukum Prinsip Pemilik Manfaat (Beneficial Ownership) Berdasarkan Permenkumham Nomor 13 Tahun 2018." *Jurnal Pendidikan Dan Ilmu Sosial (Jupendis)* 2, no. 2 (2024): 350-61. <https://doi.org/10.54066/jupendis.v2i2.1663>.
- Manulung, Fernando. *Legisme Legalitas Dan Kepastian Hukum*. Prenada Media Group, 2023.
- Maria Avelina Abon, Komang Febrinayanti Dantes, and Ni Ketut Sari Adnyani. "Akibat Hukum Peralihan Hak Atas Tanah Waris Berdasarkan Pasal 20 Ayat (1) Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria." *Jurnal Komunitas Yustisia* 5, no. 3 (2022): 64-80. <https://doi.org/10.23887/jatayu.v5i3.51871>.
- Oktavianti, Puteri Chintami. "Kedudukan Saksi Instrumenter Dalam Merahasiakan Akta Otentik Dan Perlindungan Hukum Bagi Saksi Instrumenter." *Syntax Literate; Jurnal Ilmiah Indonesia* 6, no. 5 (2021).
- Prabawa, Ketut Sukawati Lanang, and I Nyoman Hutri Wibawa. "Kedudukan Dan Tanggung Jawab Saksi Akta Yang Dibuat Oleh Pejabat Pembuat Akta Tanah." *Jurnal Penelitian Dan Pengembangan Sains Dan Humaniora* 7, no. 1 (2023): 24-30. <https://doi.org/10.23887/jppsh.v7i1.61563>.
- Samun Ismaya. *Pengantar Hukum Agraria*. Yogyakarta: Graha Ilmu, 2011.
- Tauratiya, Tauratiya, and Rahmat Danni. "Tinjauan Yuridis Tanggung Jawab Saksi Instrumentair Terhadap Isi Akta Notaris." *Refleksi Hukum: Jurnal Ilmu Hukum* 8, no. 1 (March 17, 2024): 1-16. <https://doi.org/10.24246/jrh.2023.v8.i1.p1-16>.
- Utami, Ananda Puteri. "Tanggung Jawab Notaris-PPAT Atas Akta Yang Dibuat Di Luar Wilayah Jabatannya (Suatu Penelitian Di Kota Banda Aceh) The Responsibility Of The Notary-Ppat For The Deeds Created Outside Their Jurisdictions (A Research In The Banda Aceh City) Pendahuluan." *Jurnal Ilmiah Mahasiswa Bidang Hukum Keperdataan* 6, no. 1 (2022): 84-92.
- Widya Amanda. "Pidana Kerja Sosial Dalam Pembaharuan Hukum Pidana Nasional." Universitas Sumatera Utara, 2010.