

Termination Of The Office Of The Land Deed Maker (PPAT) Who Are Otherwise Unable To Perform Their Duties Due To Health Conditions

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Abstract

The legal issue is motivated by the existence of arrangements related to the dismissal of PPAT with respect contained in Article 10 paragraph (2) letter B which states that PPAT can be dismissed with respect from his position because he is no longer able to carry out his duties due to the state of his health or mental health, after being declared by the authorized health examination team at the request of the Minister/Head or appointed official. The problem then is how when there is a PPAT who is dismissed with respect for health reasons in accordance with Article 10 paragraph (2) letter b, then the PPAT in question successfully recovers from his illness. The purpose of this study was to analyze and find whether PPAT that was dismissed with respect due to health problems can be reappointed after being declared cured and formulate future regulatory formulations related to PPAT dismissal regulations due to health problems. This research uses normative juridical research method, legislation research approach and conceptual approach, and legal materials used consist of primary, secondary, and tertiary legal materials obtained through literature studies in the library of the Faculty of law, Universitas Brawijaya, and also internet access. The results of this study were analyzed by the method of legal discovery, namely the method of interpretation and construction. The results of this study are PPAT dismissed with respect in accordance with Article 10 paragraph (2) letter B PP No. 24 of 2016 if the PPAT has recovered, it still cannot be reappointed to his position as PPAT because there are no rules governing it. This would have been contrary to the theory of legal certainty according to Nurhasanah Ismail. For the formulation of future arrangements related to PPAT dismissal regulations due to health problems can be constructed into a new provision that PPAT who experience health problems, changed from the previous one dismissed with respect, is changed to become a temporary dismissal.

Keywords: *Office Of The Land Deed Maker (PPAT), Perform , Health Conditions*

INTRODUCTION

In land administration activities, the National Land Agency of the Republic of Indonesia (hereinafter referred to as BPN) is a government agency that has the authority related to this matter. BPN has a work unit in each district or city, namely the Land Office. In carrying out land registration, for certain activities the head of the Regency/City Land Office cannot carry out it alone, but requires the help of other parties. This is confirmed in Article 6 paragraph (2) of Government Regulation No. 24 of 1997, namely: "In carrying out land registration, the head of the Land Office is assisted by the land deed making officer (PPAT) and other officials who are assigned to carry out certain activities according to this government regulation and the relevant laws and regulations."

PPAT is a public official who is given the authority to make authentic deeds regarding certain legal acts regarding land rights or rights to flats and has the authority to make a deed of transfer of land rights, deed of encumbrance of land rights and deed of authorization to charge mortgage rights according to applicable legislation. PPAT main duty is to carry out some of the activities of land registration by making a deed as evidence that certain legal acts have been carried out regarding land rights or property rights to Apartment Units, which will be the basis for registration of changes in land registration data caused by the legal act. Based on Government Regulation No. 37 of 1998, the legal acts in question are as follows:

- a. Sell buy;
- b. Switch Switch;
- c. Grants;
- d. Entry into the company (inbrenng);
- e. Division of joint rights;
- f. Grant of right to use building/right to use land title;
- g. Grant Of Liability; h. The granting of authority imposes liability.

PPAT deed has an important role in creating legal certainty in every legal relationship, because PPAT deed is authentic, and also as the strongest evidence and fulfilled in every case related to the deed. The authentic deed in the rules must be made from an authority, which authority must have accountability. Having an authentic deed means having evidence or a strong foundation before the law, because an authentic deed is made before a state public official who does not have an alignment in making the deed, so that its legality can be ascertained.

PPAT was appointed and dismissed by the Minister of Agrarian Affairs and Spatial Planning/head of the National Land Agency. Terms appointed as PPAT regulated in Article 6 PP No. 24 of 2016, while PPAT dismissal is contained in Articles 8, 9 and 10 consisting of: temporary dismissal, dismissal with respect and dismissal with disrespect. Seeing the terms of appointment and dismissal PPAT one of the conditions that must be met is healthy physically and spiritually, even a PPAT can be dismissed with respect for reasons of physical and spiritual health.

The dismissal of PPAT is respectfully regulated in PP No. 24 of 2016 article 10 paragraph (2) which states that : PPAT honorably discharged from office because:

- a. own request;
- b. no longer able to carry out their duties due to the state of health of the body or mental health, after being declared by the authorized health examination team at the request of the Minister/Head or appointed official;
- c. concurrently the position as meant in Article 7 Paragraph (2);
- d. declared bankrupt based on a court decision that has obtained permanent legal force; and / or
- e. being under continuous supervision for more than 3 (three) years.

Based on the above provisions, that the state of health of a PPAT is very important because it can affect the deed product made. Health supervision of a PPAT is needed to prevent disease disorders so that treatment can be done quickly.

In general, healthy is understood as full well-being (perfect state) both physically, spiritually, and socially. While in Indonesia, Health Law Number 17 of 2023 in Article 1 Number 1 states that: "health is a healthy state of a person, both physically, mentally, and socially and not just free from disease to enable productive life'.

Furthermore, under Article 74 paragraph (1) states that : "Mental health is a condition in which an individual can develop physically, mentally, spiritually, and socially so that the individual is aware of his own abilities, can cope with pressure, can work productively and is able to contribute to his community'.

In the regulations governing PPAT, there are no rules governing the reappointment of PPAT, except for PPAT who quit at their own request, which provisions are contained in Article 10 paragraph (7) PP No. 24 of 2016, it was explained that PPAT who stopped at their own request could be reappointed as PPAT. This means that of the various PPAT stops, only PPAT stops that stop at their own request can be reappointed to PPAT.

Incomplete norms governing the reappointment of PPAT, cause harm and injustice to PPAT who have recovered from illness, who had previously been dismissed from office due to health conditions as contained in Article 10 paragraph (2) letter b.

Healing from illness is a hope that always exists in the human soul. Although illness often brings suffering and anxiety, the miracle of healing is always the light at the end of that dark tunnel. In the long course of human history, we have witnessed how medical research and technological advances have brought cures for diseases that were previously considered incurable.

In the medical world, there are many examples of patients who recover from their illness. This is of course pursued with appropriate and targeted actions so that patients can recover and can live a better life. The following is a list of notable people who have served on the board of Directors of the United States House of Representatives (<https://www.bbc.com/indonesia/majalah/2016/02/160217>) the journey of a 'mentally ill' patient who managed to recover, Edi is a 30-year-old man who at the end of 2014 experienced a mental disorder and was treated at one of the orphanages in Bekasi city. But with treatment and therapy, in August 2015 Edi's condition improved significantly and he was officially declared mentally stable.

The real example that the author gives is one example of someone who can be cured of his mental illness. This does not rule out the possibility that it can occur within the scope of PPAT, so that in the absence of arrangements regarding the reappointment of PPAT who are dismissed respectfully due to health problems of body and soul, causing a blur of norms. This is because in the government regulation, the position of the land deed officer only regulates the dismissal of PPAT at their own request which can be reappointed to PPAT, while the regulation on the reappointment of PPAT who were dismissed due to health problems has not been regulated

RESEARCH METHODS

In the process of collecting data for research sebuat. It is important to choose the appropriate method so that the goals and targets of research can be achieved precisely and can be scientifically justified. In the discussion of the problem in this thesis, the author adopts the following research methodology approach:

1. Types Of Research

This type of research is normative juridical research. Normative juridical research is a method of legal research conducted by analyzing the articles in the laws and regulations. The use of normative juridical research this study examines the dismissal of land deed officials who are otherwise unable to carry out their duties due to health conditions

2. Research Approach

Legal research (legal research) is using the approach of legislation (statute approach) and conceptual approach (conceptual approach). The research approach used by the author will be the author describes clearly as follows:

- a. Statutory approach (statute approach) is an approach that is done by reviewing the legislation and legal products to be studied and also the arrangements relating to legal issues being addressed (Peter, 1999). The approach of legislation is also not only to see and examine the form of the law, but more emphasis on the content of the content of legislation. So that we can see that the law is not always complete and there must be a void or ambiguity in the norm, then through this legislative approach PPAT can make an interpretation of the issues raised.
- b. The conceptual approach is an approach that moves from the views and doctrines that are always evolving in the science of law, and thus the author will find ideas that give birth to legal notions, legal concepts, and legal principles that are relevant to the issues faced

(Philipus, 199). Conceptual approach is an approach used to obtain clarity and scientific justification based on legal concepts derived from legal principles. In using a conceptual approach, the author needs to refer to the principles of law that can be found in legal doctrine and the views of legal scholars.

RESULT AND DISCUSSION

1. PPAT dismissal with respect for health reasons

Based on the provisions of Article 6 paragraph (1) letter e of Government Regulation Number 24 of 2016 concerning amendments to Government Regulation Number 37 of 1998 concerning regulations on the position of land deed officials, the requirements to be appointed as PPAT are physically and spiritually healthy.

- a. Provisions regarding the dismissal of PPAT with respect contained in PP No. 24 of 2016 article 10 paragraph (2), namely: "PPAT dismissed with respect as meant in Paragraph (1) letter a, because: a. own request;
- b. no longer able to carry out their duties due to the state of health of the body or mental health, after being declared by the authorized health examination team at the request of the Minister/Head or appointed official;
- c. concurrently the position as referred to in Article 7 paragraph (2);
- d. declared bankrupt based on a court decision that has obtained permanent legal force; and / or
- e. being under continuous supervision for more than 3 (three) years."

Law Number 17 of 2023 on health in Article 1 Number 1 states that: "health is a healthy state of a person, both physically, mentally, and socially and not just free from disease to enable productive life' While Article 74 paragraph (1) provides a mental health definition which states that : "Mental health is a condition in which an individual can develop physically, mentally, spiritually, and socially so that the individual is aware of his own abilities, can cope with pressure, can work productively and is able to contribute to his community'.

To find out whether a person is healthy or unhealthy soul can be seen from 4 aspects, namely (Zakiyah, 2001):

- a. Feelings. Viewed from the aspect of feelings, healthy or unhealthy soul of a person can be seen from the emergence or absence of conditions such as feeling disorders: anxiety (anxiety), envy, sadness, feeling inferior, grumpy and doubt or indecision.
- b. Mind or intelligence. Viewed from the aspect of the mind or intelligence, healthy or unhealthy soul of a person can be seen from the emergence or not of the conditions of mind disorders such as: frequent forgetfulness, difficulty concentrating and decreased ability to think.
- c. Behavior. Viewed from the aspect of behavior, healthy or unhealthy soul of a person can be seen from the emergence or not of behavioral disorders conditions such as: disturbing the peace and rights of others, stealing, hurting and slandering.
- d. Body health. Viewed from the aspect of health, healthy or unhealthy psyche of a person can be seen from the emergence or absence of Psychosomatic diseases that cause health problems such as heart palpitations, dizziness, nausea and vomiting.

The health condition of a PPAT is important because it can affect the deed products it makes. This is the reason why a PPAT can be dismissed with respect from his position.

2. PPAT reappointment arrangements

The Office of the land deed maker (PPAT) is appointed and dismissed by the Minister. PPAT is appointed for a particular work area, in order to serve the community in making PPAT deeds in areas where there are not enough PPAT or to serve certain groups of people in making certain PPAT deeds. Reappointment as PPAT is an appointment given to PPAT who has stopped as PPAT for certain reasons and has qualified to be reappointed as PPAT (regulation of the Minister of Agrarian Affairs, 2018).

Based on Article 10 paragraph (7) of Government Regulation No. 24 of 2016 concerning amendments to Government Regulation No. 37 of 1998 concerning regulations on land deed officials, regulating the reappointment, namely: "PPAT who quit at their own request can be reappointed to PPAT."

That related to the reappointment of PPAT has been set regulation of the Minister of Agrarian Affairs and Spatial Planning / head of the National Land Agency Number 20 of 2018 concerning procedures for examination, internship, appointment, reappointment, and extension of the term of Office of land deed officials, as the latest provisions of the regulation of the Minister of Agrarian Affairs and Tata Ruang/head of the National Land Agency Number 10 of 2017 concerning procedures for examination, internship, appointment, and extension of the, which was born as an implementing provision of Government Regulation No. 24 of 2016 concerning amendments to Government Regulation No. 37 of 1998 concerning regulations on the position of land deed officials.

The regulation on PPAT reappointment is mentioned in the regulation of the Minister of Agrarian Affairs and Spatial Planning / head of the National Land Agency Number 20 of 2018 on examination procedures, internships, appointment, reappointment, and extension of the term of Office of the land deed officer Article 23, namely:

Reappointment as PPAT can be given to:

- a. PPAT who doubles as a notary who moved to another work area for adjustment to his position as a notary;
- b. PPAT who quit at their own request with a view to moving to another work area, provided that they have carried out their duties for at least 3 (three) years;
- c. PPAT whose work area changes in the event of territorial expansion; and;
- d. PPAT dismissed with respect at his own request."

PPAT can apply to move to another work area, after the person concerned submits a request to stop as PPAT in the original work area. Application for reappointment as PPAT, submitted by the person concerned to the minister, with a copy to the head of the Regional Office and the head of the Land Office in the original work area and work area destination for PPAT whose work area changed Application as referred to in paragraph (3) is equipped with:

- a. photocopy of the relevant appointment decision as PPAT and minutes of appointment PPAT oath of office in the area of Re-Work;
- b. photocopy of the relevant appointment decision as a notary and minutes of Notary oath of office, for PPAT who also serves as a notary;
- c. a photocopy of the minutes of the PPAT protocol submission in the original work area known/witnessed by the head of the Land Office or in the case of the head of the Land Office being legally unable, by his appointed officer;
- d. Enough sealed statement letter from PPAT in the reworking area stating the willingness to accept the protocol from the PPAT concerned;
- e. A certificate from a professional organization explaining that the PPAT in question during his tenure has never violated PPAT professional ethics, which is proven in writing

by the Regional Board or regional board if there is no PPAT Professional Organization Board in the area concerned;

- f. A statement from the head of the Local Land Office explaining that the PPAT concerned during his tenure PPAT never received administrative sanctions;
- g. Certificate from the head of the Local Land Office regarding the assessment of the quality and quantity of deeds made during his tenure as PPAT;
- h. For PPAT who have stopped at their own request, must be equipped with a recommendation from the head of the Local Land Office which explains that the PPAT in question is eligible in accordance with the provisions to be reappointed as PPAT.

3. Can a PPAT that is honorably discharged due to health problems be reappointed after being declared cured

Of the various PPAT dismissal, the provisions regarding PPAT reappointment are regulated in Article 10 paragraph (7) of Government Regulation Number 24 of 2016 concerning amendments to Government Regulation Number 37 of 1998 concerning regulations for land deed officials which states that PPAT who stops at their own request can be reappointed as PPAT.

The absence of arrangements related to the reappointment of PPAT who were honorably discharged due to health problems and have recovered from their illnesses, according to the author, is very detrimental to the rights of PPAT as Indonesian citizens. As is known, one of the characteristics of the rule of law is to ensure the protection of human rights. So that the existence of a legal certainty on government administration, especially related to the regulation of PPAT positions and professions, becomes something that must be fulfilled.

As the occurrence of legal ambiguity above, the author will review this issue based on the theory of legal certainty according to Nurhasanah Ismail. Legal certainty is needed in society for the creation of order and Justice. Nurhasanah Ismail explained that legal certainty requires efforts to make legal regulations in the law by authorized and authoritative parties. It is intended that the resulting rules have a strong juridical dimension and are able to guarantee that the law functions as a rule that must be obeyed by society or citizens.

Nurhasanah Ismail explained that to create legal certainty in legislation, several requirements related to the internal structure of the legal norm are needed. The internal structure is a barometer of the author in conducting a legal certainty analysis related to whether PPAT who was dismissed with respect due to health problems can be reappointed after being declared cured.

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The internal requirements mentioned by Nurhasanah Ismail are as follows:

a. clarity of the concepts used

the clarity of the concepts used is an important role in the regulation of legislation. The concepts used in legislation should be clear and unambiguous to ensure that all parties understand their rights and obligations as well as the consequences of the law itself. Clarity of concept includes:

- Precise definitions: legal concepts should have clear and non-confusing definitions. For example, what is meant by “respectful dismissal” compared to “temporary dismissal”.
- Criteria and procedures: the procedures and criteria used in the application of the law must be clearly stated so that there is no room for different interpretations. It covers how these concepts are applied in practice.
- Transparency: all parties should have clear and transparent access to information about how decisions are made, including their legal basis and consequences.

In the context of PPAT dismissal due to illness, clarity of concept is very important to ensure that the concept that should be used for PPAT dismissal due to illness is the concept of “temporary dismissal”, as a situation where PPAT is temporarily dismissed from his duties for health reasons in the hope of returning to work after recovering. Rather, “respectful dismissal ” should be understood as an act of a permanent nature. So that if it has been declared to be honorably dismissed, it cannot be reappointed and is considered to have stopped with honor.

b. Clarity of the hierarchy of authority of institutions forming legislation

The clarity of this hierarchy is important because it is related to legality and binding or not the laws and regulations it makes. The clarity of the hierarchy will provide guidance to law makers who have the authority to make certain laws and regulations.

The regulation of PPAT dismissal due to illness requires clarity in the hierarchy to ensure that the administrative process is carried out appropriately and legally. Some important elements are:

- Decision-making authority: determine the party or authority that has the authority to decide on the dismissal of PPAT, whether dismissal with respect, disrespect or temporary. In the case of PPAT dismissal due to health problems, it has been clearly regulated regarding the authority of decision makers which can be seen in PP 24/2016 Article 10 paragraph (2) letter B which states that there is a health inspection team authorized at the request of the Minister/Head or appointed official.
- Dismissal and reappointment procedures: develop clear procedures related to PPAT dismissal and reappointment. In terms of PPAT reappointment procedures have been clearly regulated in the regulation of the Minister of Agrarian Affairs and Spatial Planning/head of the National Land Agency Number 20 of 2018 on examination procedures, internships, appointments, reappointment, and extension of the term of Office of the land deed officer. As for the PPAT dismissal procedure mentioned in PP 24/2016 Article 10 paragraph (8) which states that “further provisions regarding PPAT

dismissal procedures are regulated by ministerial regulations”, which until now the Ministerial Regulation has not been issued so that there is a legal vacuum related to it.

c. Consistency of legal norms.

Consistency of norms is important for creating legal certainty and justice in the legal system. Legal norms should be consistent with higher legislation. For example, government regulations must be in accordance with the law and higher than it. In the case of PPAT dismissed with respect for health reasons and can not be reappointed when it has recovered, it has violated the Constitution of 1945 as Grundnorm that has guaranteed the rights of every citizen. Section 28D states that:

- (1) Everyone has the right to fair recognition, guarantee, protection and legal certainty and equal treatment before the law.
- (2) Everyone has the right to work and to be rewarded and treated fairly and appropriately in the employment relationship.
- (3) every citizen has the right to equal opportunities in government.

Based on the current rules, PPAT dismissed with respect in accordance with Article 10 paragraph (2) letter B PP No. 24 of 2016 if the PPAT has recovered, it still cannot be reappointed to his position as PPAT because there are no rules governing it. In this context, if it is associated with the theory of legal certainty by Nurhasanah Ismail about the internal requirements of legal certainty above, in the third part about the consistency of legal norms and legislation, there is inconsistency of norms in setting PPAT dismissal for health reasons because it is contrary to Article 28D paragraph (2) which states that everyone has the right.

In connection with the ambiguity of this law, the author tries to do the method of legal argumentation with the analogy method (*argumentum per analogian*). In the analogy method, a special regulation in the law is made public that is not written in the law, then the *asa* contained in it is excavated and deduced from the general provisions of the special event (Abiantoro Prakoso, 2016).

In Article 10 paragraph (7) it is stipulated that a PPAT who quits at his own request can be reappointed to PPAT. The author analogizes that the cessation of PPAT on its own request is one of the reasons for the dismissal of PPAT with respect, in this case the same as its position with PPAT declared unable to carry out their duties due to health conditions. In addition, the two reasons for dismissal are not permanent, PPAT stops because of its own request one day can be reappointed if the person concerned submits an application for reappointment as PPAT. If it is associated with the context of PPAT who quit because they were unable to carry out their duties due to health conditions, it is also a legal condition that is actually not permanent, so when the PPAT has recovered from his illness, the PPAT concerned should be able to apply to be reappointed as PPAT. In addition, the sanctions received by the PPAT, according to the author, are also very contrary to the provisions contained in Article 28D paragraph (2), Concerning Human Rights which stipulates that everyone has the right to work and receive compensation and fair and decent treatment in labor relations, so that it can actually also be a reference for PPAT to be reappointed from his position.

Therefore, if indeed the appointment of PPAT who stopped respectfully from his position because he was declared unable to carry out his duties due to health conditions cannot be possible and there are no rules governing this matter, here the author wants to contribute thoughts, that after the Minister of ATR / KBPN RI issued a dismissal decision for PPAT who was dismissed because of, The PPAT concerned can file a lawsuit against the PPAT dismissal decision letter issued by the Minister of ATR/KBPN RI to the State Administrative Court to cancel the decision letter.

CONCLUSION

1. Based on the current rules, PPAT dismissed with respect in accordance with Article 10 paragraph (2) letter B PP No. 24 of 2016 if the PPAT has recovered, it still cannot be reappointed to his position as PPAT because there are no rules governing it. In this context, if it is associated with the theory of legal certainty by Nurhasanah Ismail about the internal requirements of legal certainty above, in the third part about the consistency of legal norms and legislation, there is inconsistency of norms in setting PPAT dismissal for health reasons because it is contrary to Article 28D paragraph (2) which states that everyone has the right to work and receive rewards and fair and decent treatment in employment relationships. So that it can actually also be a reference for PPAT to be able to carry out their duties again from their positions after being declared cured of their illnesses.
2. Given the absence of rules governing PPAT-related previously dismissed with respect for health reasons and has recovered from his illness to be able to carry out his duties again as PPAT, the condition still does not reflect the formation of good legislation as Hans Kelsen's theory, which states that norms should have a tiered hierarchy, which means that norms are higher in the barlaku hierarchy and based on higher norms, and so on. So that in this context, the current arrangements related to PPAT dismissal for health reasons have violated the 1945 Constitution as Grundnorm, which provides guarantees that everyone has the right to work and receive fair and decent remuneration and treatment in the employment relationship. So in formulating future arrangements related to PPAT dismissal regulations because of health problems can be constructed into a new provision that PPAT who have health problems, changed from the previous one dismissed with respect, is changed to become a temporary dismissal.

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