



REVIEW OF MALPRACTICE AMONG LAND DEED OFFICIALS FROM THE POINT OF CRIMINAL LAW (Study At The Bandar Lampung City Police Resort)

Destia Liana Putri¹, Ariawan Gunadi²

Universitas Tarumanagara. Email: destialiana@gmail.com

Abstract: *This study discusses malpractice among PPAT related to alleged violations of the law against the deed he made. This was motivated by the presence of PPAT who was suspected of committing an act that was indicated as a crime so that it was reported to the Police Investigator. In this case, it is necessary to prove the truth because the PPAT deed is an authentic deed that is binding on the parties and is perfect, then PPAT has its own Code of Ethics and Law that must be obeyed. The purpose of this study was to determine the criteria for malpractice PPAT? Criminal liability if PPAT commits malpractice? The ideal supervision reconstruction of PPAT in terms of minimizing the occurrence of malpractice among PPAT? The research method used in this research is using normative juridical research methods, namely library law research supported by interviews. The results showed that the criteria for malpractice PPAT must meet 7 legal signs which are instructions that must be obeyed by PPAT, in cases that have occurred if PPAT actually commits malpractice, criminal sanctions are applied in Article 263 of the Criminal Code regarding letter falsification, the supervisory mechanism for PPAT is divided in 3 levels, namely Regional, Regional and Central*

Keywords: *PPAT, Malpractice, Criminal Law*

I. INTRODUCTION

Land is a basic need of humans, and is useful as a house or useful for business activities, therefore it is necessary to create a legal certainty for each holder of land rights or for the community in general, through a process of systematic recording of each plot of land owned either regarding physical data as well as juridical data, and this kind of activity is known as land registration. Land is a very complex thing because it involves many aspects of people's lives. Every living person needs land, both as a place to live and a place of business. The more the population increases,

the need for land also increases, even though the area of the State is fixed or limited.¹

On July 8, 1997, Government Regulation No. 24/1997 on Land Registration was enacted, replacing Government Regulation No. 10/1961, which from 1961 regulated the implementation of land registration as ordered by Article 19 of the LoGA. The PP is enacted in the State Gazette of the Republic of Indonesia Number 57 of 1997, while the explanation is in the Supplement to the State Gazette of the Republic of Indonesia Number 3696.

In juridical data collection activities, a distinction is made between new rights and old rights. New rights are rights that have just been created since the enactment of Government Regulation Number 24 of 1997 concerning Land Registration. While the old rights, namely land rights derived from the conversion of existing rights at the start of the enactment of the Basic Agrarian Law (UUPA) and rights that have not been registered according to Government Regulation Number 10 of 1961 concerning Land Registration.

In article 1 number 24 it is stated that the Land Deed Making Official (PPAT) is a public official who is given the authority to make certain land deeds. Such as the Deed of Transfer and Assignment of Land Rights and Ownership Rights to Flat Units, as well as the Deed of Authorization to Charge Mortgage Rights. The definition of a public official is a person who is appointed by an authorized agency, with the task of serving the general public in certain fields or activities. Law functions as a means of community renewal and community protector so that the law needs to be developed in a planned manner so that the law as a means of community renewal can run in a harmonious, balanced, harmonious way and in turn legal life reflects justice, social benefits and legal certainty.²

Article 1868 of the Civil Code, an authentic deed is a deed in the form determined by law, made by law, made by or before public officials who have power for that at the place where the deed was made. The regulations that apply to Land Deed Making Officials (PPAT), namely, Law Number 5 of 1960 concerning Basic Agrarian Regulations of the President of the Republic of Indonesia, Government Regulation Number 24 of 1997 concerning Land Registration, Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning Regulation of the Position of Land Deed Maker, Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Provisions for the

¹ Sri Sayekti, *Hukum Agraria Nasional*, Universitas Lampung, Bandar Lampung, 2000, p.1.

² Liliana Tedjosaputro. *Etika Profesi Notaris Dalam Penegakan Hukum Pidana*, Biagraf Publishing, Yogyakarta, p. 4

Implementation of Government Regulation Number 37 of 1998 concerning the Regulation of Position of Official for Making Land Deeds. With this regulation, it can provide guarantees to the public that a Land Deed Making Official (PPAT) in carrying out his duties and positions is really for the benefit of the community and as a public official who must be responsible for making the deed made by the parties before the Deed Making Officer.

One of the backgrounds that underlies the granting of great authority to the profession of Land Deed Making Officer (PPAT) is because the State of Indonesia as a legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia aims to ensure certainty, order and legal protection, which core of truth and justice. For this purpose, written evidence that is authentic in nature is needed regarding legal conditions, events, or actions carried out through certain positions. The government policy above is a legal policy towards increasing the duties, authorities, and responsibilities of a Land Deed Making Official (PPAT), in making written evidence, which is authentic about an event, or legal action, which is useful for the administration of the state, and community activities. Based on this idea, the Notary is also given the authority to make and guarantee the truth of a deed which is a written evidence that has perfect power.

The existence of demands for the function and role of Land Deed Making Officials (PPAT) requires a qualified Land Deed Maker (PPAT) with good quality of knowledge, charity, faith, and piety and upholding the nobility of the Land Deed Making Official (PPAT) in providing legal services for society. For this reason, Land Deed Making Officials (PPAT) must be able to provide good or professional services because the services of Land Deed Making Officials (PPAT) are felt to be very important for the community. If a Land Deed Making Official (PPAT) is not able to provide good or unprofessional service, then there will be many parties who are harmed as a result of the law from errors or omissions that have been made by the Land Deed Making Official (PPAT).

So important is the role of the Land Deed Making Official (PPAT) given by the State, where the Land Deed Making Officer (PPAT) as a public official is required to be responsible for the deed he made. A Land Deed Making Official (PPAT) must comply with applicable regulations, namely Government Regulation of the Republic of Indonesia number 37 of 1998 Position of Land Deed Making Officer (PPAT) and obey the code of ethics of the legal profession, namely the Code of Ethics for Land Deed Maker Officials (PPAT).

If the deed made later turns out to contain a dispute, then this needs to be questioned, whether this deed is the fault of the Land Deed Making Official (PPAT) intentionally to benefit one of the parties appearing or the fault of the parties who did not provide the actual documents. If the deed made/issued by the Land Deed Making Official (PPAT) contains a legal defect due to the fault of the Land Deed Making Official (PPAT) either due to negligence or because of the Land Deed Official (PPAT) itself, the PPAT notary will provide moral and legal responsibility, and of course this must first be proven.

The definition of PPAT can be seen in Article 1 of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of PPAT, namely Land Deed Maker Officer, hereinafter mentioned PPAT is a public official who is given the authority to make authentic deeds regarding certain legal actions regarding land rights or property rights Apartment units.

An example of a case that occurred in the Bandar Lampung Sector Police, Rudi reported that Thabrani gave incorrect information on an authentic deed, according to the complainant that he bought land from Liaw Ing for 364,000,000.00. After buying, Rudi and Liang Ing came to the Land Deed Making Officer, namely Thabrani, asking for a Sale and Purchase Deed to be made, until there it turned out that Liaw Ing was a Chinese and had changed his name to an Indonesian name, namely Liawati on his Identity Card. Liawati, so that the Sale and Purchase Deed could not be made before the name change was determined, and Rudi said, let's make a name change decision first.

According to the report on the name change process, it turned out that Thabrani made the Sale and Purchase Deed (AJB) Liawati to someone else, according to Rudi to Martalina Arifin. According to Rudi's statement that after everything was handed over to Thabrani, it turned out that Thabrani made the Sale and Purchase Deed (AJB) of Liawati to Martalina Arifin so that the Ownership Certificate (SHM) was transferred to Martalina Arifin. This is where the object is and Rudi reports Thabrani. Rudi said why did I buy it, why did I change the name to Martalina Arifin. After the examination, it turned out that Martalina Arifin was deceased because Martalina Arifin was already deceased, so what was examined was her husband, Sinatra. It turns out from the testimony of witnesses that the actual incident is like this.

That it is true that Liawati and Rudi made a sale and purchase and were paid to come to the Land Deed Making Officer (PPAT) Thabrani to make a Sale and Purchase Deed (AJB) because the name was a Chinese name asking for a name change Thabrani said that the Sale and Purchase Deed (AJB) can already be done

but Rudi said don't make a Sale and Purchase Deed (AJB) first because I want to sell the land so that later I will just direct it from Liaw Ing to the buyer so it doesn't turn around several times.

Rudi has a sale and purchase agreement with the husband of Martalina Arifin, there is a letter of agreement that the sale and purchase will be paid with Bilyet Giro (BG) and the liquidation is every 1 month, 1 month for 6 months. Because with this agreement, according to Thabrani, Rudi ordered Thabrani to make a Sale and Purchase Deed (AJB) from Liaw Ing to Martalina Arifin, the wife of her husband who had an agreement with Rudi. Then the name was reversed by Thabrani on Rudi's orders.

It turned out that the first Bilyet Giro (BG) 1 was empty and there were no funds, so Rudi made a power of attorney for Mik Hersen's lawyer to make a power of attorney because he felt he had been cheated. Rudi has changed his name to his wife, why is his Bilyet Giro (BG) empty because he feels cheated by Rudi to authorize Mik Hersen to settle his case. Mik Hersen, come to the husband instead of Martalina Arifin, how do you buy the land, why is the Bilyet Giro (BG) empty and Martalina Arifin's husband says that the bank has not disbursed. Mik Hersen said okay, my client, Rudi, asked for the sale and purchase to be reversed because it had been renamed so that the sale and purchase could not be canceled. Then Mik Hersen asked Martalina Arifin to make a power of attorney to Mik Hersen as Rudi's proxy so that if Rudi wanted to sell it again, there was no need for Martalina Arifin's signature again because Martalina Arifin had already made a power of attorney to Mik Hersen, only Mik Hersen's signature was enough.

Rudi looked for another buyer and turned his name back to the buyer. It turned out that he was lied to again that the certificate had been reversed to the buyer, which was entered into the bank, not paid for by the buyer. Rudi should have reported this last buyer because the goods were auctioned by the bank. Rudi looked for a way to get the land back to him so that everything was reported. So the report because the story does not match the information from the reporting party, the case is stopped The case could not be carried out because the Sale and Purchase Deed (AJB) from Liaw Ing to Martalina Arifin was ordered by Rudi.

The Association of Land Deed Makers (IPPAT) held a hearing to summon the Land Deed Making Officer (Ppat) Thabrani and the result was that Thabrani did not commit any violations. From the information provided, there is no violation of the code of ethics of the land deed official. It can be concluded that the code of ethics alone does not violate let alone criminal. Because no crime was found, the case was not moved to the trial stage. If it is true that the Land Deed Official (PPAT)

Thabrani did indeed carry out the Sale and Purchase Deed (AJB) without Rudi's orders, then Article 266 of the Criminal Code (KUHP) can be used, namely making false statements on authentic deeds.

II. DISCUSSION

Action Criteria As Malpractice Of Land Deed Making Official (PPAT)

Land Deed Making Officials (PPAT) in carrying out their daily work have legal signs that must be obeyed, this is different from society in general. There are eight (8) legal signs for Land Deed Making Officials (PPAT), namely:

1. Law Number 5 of 1960 concerning Basic Agrarian Regulations of the President of the Republic of Indonesia,
2. Government Regulation Number 24 of 1997 concerning Land Registration,
3. Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning the Regulation of the Position of the Maker of Land Deeds,
4. Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Deed Making Officials
5. Code of Ethics for Land Deed Officials (PPAT),
6. Civil Law
7. Criminal Law

Of the seven (7) legal signs that must be followed by Land Deed Making Officials (PPAT) can be explained as Law Number 5 of 1960 concerning Basic Agrarian Regulations of the President of the Republic of Indonesia, Government Regulation Number 24 of 1997 concerning Registration Land, Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning Position Regulations for Land Deed Makers, Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Provisions for Implementation of Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Maker Officials (PPAT), namely regulating the what must be considered and obeyed by the Land Deed Making Official (PPAT) in carrying out their duties, which must be in accordance with the law, is appropriate, does not harm the rights of others.

The code of ethics for Land Deed Making Officials (PPAT) is the risk of Land Deed Making Officials (PPAT) as jobs that have institutions that protect them, namely a code of ethics that will maintain the nobility and dignity of the profession of Land Deed Making Officials (PPAT). Then regarding Civil Law Signs, it can be explained about what the Land Deed Making Official (PPAT) must pay attention to in carrying out their duties, which must be in accordance with the law, propriety, decency and

not harm the rights of others. The signs of criminal law consist of actions, laws, acts that are against the law.

In carrying out their duties, Land Deed Making Officials (PPAT) are often faced with challenges from sociological aspects in the community who need the services of the Land Deed Making Officials (PPAT). With the development of the business world today, it is very influential on the performance of Land Deed Making Officials (PPAT), often Land Deed Making Officials (PPAT) are often tempted to take actions that are contrary to the seven (7) kinds of legal signs above, namely the Law Number 5 of 1960 concerning Basic Agrarian Regulations of the President of the Republic of Indonesia, Government Regulation Number 24 of 1997 concerning Land Registration, Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning Position Regulations for Land Deed Makers, Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 Year 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Maker Officials (PPAT) for civil and criminal law.

According to IPTU EDWIN, S.H., M.H. as KANIT VI in the HARDA section that if there are 2 people who want to enter into a sale and purchase agreement, usually the Sale and Purchase Deed (AJB) or other documents which are said to be with the Contract of Sale and Purchase Agreement (PPJB) is called authentic if made by a Notary/PPAT if the Sale and Purchase Deed (AJB) both parties agreed, then there was a Sale and Purchase Deed (AJB) which means that there is no legal defect. But if it is said here that there is a legal defect, there is one party lying in submitting to make a Sale and Purchase Deed (AJB) there is an incident but not many attach a false identity.

So he pretended to use a photo scen so that if this deed was made by a notary/PPAT it was authentic but the contents or the person was not true, so usually a false statement report or a falsification of the letter was usually included in article 263 or 266 of the Criminal Code (KUHP).) provide incorrect information if it is about an authentic deed. How do we test it if someone fakes a signature, usually the giver doesn't admit that it's not my signature, I never sold it in the deed to prove it wasn't his signature, so forensics or telephone tests are carried out at the Indonesian National Police Headquarters (MABESPOLRI) whose office is in Sentul or tested in Palembang, we will test his signature, then there is a choice whether he is identical or non-identical if he is identical it means that the engagement really happened and that's the person but if it doesn't match that's what will happen the emergence of forgery in an authentic deed, the deed is really made by the Land

Deed Making Official (PPAT) or made by a notary, the fact is there is no problem but the parties who use it by falsifying.

Not only the applicant but the Land Deed Making Officer (PPAT) or his notary is also affected, meaning he missed he made a deed or agreement which at that time was not true so he was convicted. According to IPDA Eko Prasetyo as an investigator that in Article 37 of Law Number 24 of 1997 concerning Land Registration, the process of transferring rights to someone is related to us discussing a plot of land. So the transfer of land is different from moving objects, such as if you have a car or motorbike, transfer your hand by transferring it to me to sell it in a way like I bought a motorbike where the money is and the Motor Vehicle Ownership Book (BPKB) after that, give this Vehicle Number Certificate (STNK) the key is the unit, please take it away. But if the land is not because this land is attached to immovable objects, it means that the process of transferring its rights through the Land Deed Maker Official (PPAT) by means of Deeds of Sale and Purchase, Grants, and Endowments.

What is issued by the PPAT, in this case the notary/PPAT or sub-district issued is the product of the deed and the nature of the deed is the first, namely binding, why is it binding, for example, you want to buy and sell 200 m² of land and its location is in Bandar Lampung, precisely in our Sukadana sub-district. come together to a notary/PPAT my goal is to sell my land at a price of 100,000,000.00. This is the right buyer and binds both parties face to face and the stated objective is to buy and sell land.

The second nature of the deed, which is perfect, means that it does not have to be proven by investigators, it does not need to be proven, we are facing the deed issued by the Land Deed Making Official (PPAT). For example, Pak Harto as an investigator reads the Sale and Purchase Deed (AJB) today, Thursday, June 24, 2021, at around 14.30 WIB, the appearers on behalf of Destia, the place of birth, act as sellers. Second, in the name of eko and so on as the buyer transfers the land measuring 200m² to the buyer for the amount of Rp. 100,000,000.00. (one hundred million rupiah) paid in cash the attached receipt is based on certificates, Land Ownership Certificates (SKT) and others, when there is a witness, the deed is read out by a Notary/PPAT, each party is perfect and there is no untruth. , the untruth is like no deceit, no falsification, no falsified identity. For example, you and I went to a notary/ppat and the identity was falsified and as a general notary/ppat, you are really sure to tell us that Mr. Eko is right, the payment has been made, the proof is that the receipt is sounded in the deed that you are selling the attached receipt, is it true, Ms. yes sell already. This deed is complete.

If the notary/ppat is not correct from this perfect, we tricked him by how the identity was falsified, can my name be adjusted, I am usually the buyer who is harmed in relation to the Land Deed Making Official (PPAT) as the injured parties, usually you fake your identity, for example the real name is inem here, destia is made, her name is inem, what you said is correct, the priest as a notary/ppat understands, does the priest understand, he understands where he brought the Identity Card (KTP) in the name of destia, the priest said the data must be checked first, the official maker The Land Deed (PPAT) is not obliged to check the identity, the Land Deed Making Officer (PPAT) can be subject to criminal because what is it because it is not obligated to check the identity and over time, I am lazy, this is a notary / PPAT is complicated, over time, we just go to another Notary / PPAT . But the identity is the smallest effort, the error of the Notary/PPAT because there is no obligation to check with the Civil Registry Service.

Regarding the deed which is being processed by a Notary/PPAT in Bandar Lampung, if we come together with an engagement in the form of a Deed of Sale and Purchase (AJB) then we explain to the priest that you want the interests of this eco, right, I want to put it as collateral to the bank. I don't have the money yet. Give me a loan to the new bank. The money was given to me. You said this to the public. Umam said this is like the extraordinary relationship between me and Umam, the term is that the emotional closeness is very close, maybe I can be very, very close. The priest said to me that we make a fake engagement, that's a fake engagement issued by a Notary/PPAT.

The binding sale and purchase agreement (PPJB) between you releases me the binding sale and purchase agreement (PPJB) the certificate that you have given, I then make a Sale and Purchase Deed (AJB) to the public as a PPAT but the deed acts for and on my own behalf even then it is not considered a crime if the deed made is appropriate and is recorded in the reference book at the Ministry of Law and Human Rights. Repertorium, so if I need the funds urgently, I'll give you a percentage, okay, eco, this year, we are facing 2021, on Thursday, June 24, 2021, at that time. Earlier, yes, it was made 5 years ago, Umam said okay, please, Umam, who managed me, just obeyed the word eko. It was made to him that the past 5-6 years between us the PPJB transaction process looked as if it had been a long time. The copy was taken out and held in my hand and I took it to the bank, it was processed and the disbursement didn't know, hello, Ms. Dada, I took the money. Was it harmed or not, it turns out that the deed made between Destia and me is a fake because it was made 5-6 years ago now in 2021 backwards means 2017. It is as if for the past 5 years he has acted as a notary because his emotional closeness with me is very close. In the case of PPAT or Notary malpractice, which must be taken care of, we must implement Standard Operating Procedures (SOP).

The deed made by a notary as a notary is an Operational Procedure (SOP) that must be followed by a Standard Operating Procedure (SOP) that we should not as officials because of our indebtedness because of our emotional closeness, we don't run the soup, it's very, very bad, it's the same if in the legal process we only violate of the rule of law itself.

Regarding the deed that was made untrue or fake, the deed was issued by a fake notary if he didn't actually do it, in fact, that was the arrival of that hour which was retroactively enforced in the previous 5 years. Previously, 5 years ago, the Deed of Sale and Purchase (AJB) was made between us, while the deed made by one of the notaries/PPAT in Bandar Lampung, the deed was not the Deed of Sale and Purchase (AJB) numbered in the repertoire book, it was the deed of establishment of the foundation. That forgery is called malpractice from a notary as PPAT. Because the notary at the time his decree was issued by KEMENKUMHAM was appointed by the Regional Honorary Council (MKD) he was also appointed as Land Deed Making Officer (PPAT) by the National Land Agency (BPN).

And even then, I admit that in the process that we proposed, it was defended by their MKD because it was their platform. If it was like this, it was easy for me to sell the land in Enggal Sub-district, I would transfer it without the person having to come to the notary's office. So one of the notaries in Bandar Lampung named Herma Julia S.H., M.Kn. because of his emotional closeness to the person described earlier, the Standard Operating Procedure (SOP) was not carried out in the 2016 case. Making a deed in the form of a binding sale and purchase agreement (PPJB), a binding sale and purchase agreement (PPJB) was fake because the numbering in the repertory book was enforced retroactive 5 years ago so that the process of binding the Sale and Purchase Agreement (PPJB) with legal defects and forged was sentenced to 2.5 years in prison.

The Sale and Purchase Deed (AJB) at the time we have processed the Sale and Purchase Agreement (PPJB) between you and me because the Sale and Purchase Deed (AJB) is original, the Sale and Purchase Deed (AJB) I act for and on behalf of myself that's the danger, if at first we go eco, let's sell it, I'll just put it in the bank in this name, now that's a very 90% chance of happening, there must be a forgery, there's a fraud, if I don't give you the money, you're being cheated. I want you to borrow money, there is no certificate, oh yes, there is an eco here, we will make a binding sale and purchase agreement (PPJB) after that, I act as for and on my own behalf, I will pledge the money later, I will give it to you, you will be seduced like that. It's just my obligation to settle it with the bank, no one knows if I have a

business and the business is stuck in the end, it doesn't pay off, this becomes the physical execution of the land that you pledged to me.

First, the fake binding sale and purchase agreement (PPJB) was applied backwards as if the binding sale and purchase agreement (PPJB) was genuine and perfect, it turns out that whether it is fictitious or fake, the decision is 2.5 years in prison. Only the rice has turned into porridge can't finish the parties. So if in our work we put aside our emotional closeness with someone from a notary, we must be professional and must maintain the dignity of a public official.

We are dealing with the umam today, Thursday, June 24, 2021, at around 15.00 WIB. Only this umam was made 5 years ago, while the fact is that I asked the witness of this umam, which binds it, there is a witness from the witness who stated that the incident was true, the witness said this umam Never, sir, I was still in junior high, I have not worked for Pak Umam, which means that the witnesses presented by Umam are false witnesses.

The deed made is not PPJB but the recorded number is the foundation's deed, meaning that the binding of the two of us is not recorded, then why did the copy come out, why am I holding the copy I brought to the bank a copy of the PPJB with the deed because the copy that he made was a fake copy for him that's why I sentenced him to be a suspect. The actor behind the scenes 3 years in prison his emotional relationship is very close to this and he was sentenced to 2.5 years in prison by a judge.

The judge said it was great that you could sell land in Bandar Lampung without that person ever making an agreement. So we did come face to face with the agreement, but it wasn't actually made, only a copy that came out a copy of the Sale and Purchase Agreement (PPJB) binding deed, it's just like an underhand deed. Only legalized by a notary as a deed maker. That a notary may not make a deed is not actually enforced backwards.

There is only a live number in the repertoire book, so if in 2017 there is an empty space column, it just can't be a live number in a notary, for example, when umam served as a notary, we made PPJB 01 between you as the seller and me as the buyer, 02 between Harto and Sugi continued to come to terms with the notary, retiring to become a notary. So even if there is an empty space here, it can't also be certain that he will transfer it to the number that has an agreement at that time, if it is retroactively enforced, it shouldn't be carried out by a notary and it's 1001 notaries who do that who violates the soup of the notary and violates the code of

ethics and the sanctions are criminal. It's just that the process is not like that, he issued a fake deed that was not registered and not recorded in the reference book.

Based on the description above, it can be concluded that the category of Land Deed Making Official (PPAT) committing malpractice is if the notary has violated seven (7) elements which are legal signs that must be obeyed by a Land Deed Making Official (PPAT), namely: Number 5 of 1960 concerning Basic Agrarian Regulations of the President of the Republic of Indonesia, Government Regulation Number 24 of 1997 concerning Land Registration, Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning Position Regulations for Land Deed Makers, Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 Year 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Maker Officials (PPAT) for civil and criminal law.

The author can conclude that the work guidelines for Land Deed Making Officials (PPAT) must be based on Law Number 37 of 1998 concerning the Regulation of the Position of Land Deed Making Officials (PPAT) and the code of ethics for Land Deed Making Officials in which the regulations for the positions of Land Deed Maker Officials regulate The relationship between Land Deed Making Officials (PPAT) and the community while the code of ethics for Land Deed Making Officials (PPAT) regulates the relationship between Land Deed Making Officials (PPAT) and the professional organization of Land Deed Makers (PPAT)

Reconstruction of The Ideal Supervision of Land Deed Making Officials (PPAT) In Terms of Minimizing The Occurrence of Malpractices Among The Land Deed Making Officials (PPAT)

As described above, Land Deed Making Officials (PPAT) in carrying out their daily work have legal signs that must be obeyed by Land Deed Making Officials (PPAT), this is different from society in general. There are seven (7) legal signs that must be obeyed by Land Deed Making Officials (PPAT), namely: Law Number 5 of 1960 concerning Basic Agrarian Regulations of the President of the Republic of Indonesia, Government Regulation Number 24 of 1997 concerning Land Registration, Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning Regulation of Position of Land Deed Maker, Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Provisions for Implementation of Government Regulation Number 37 of 1998 concerning Regulation of Position of Land Deed Maker Official (PPAT) civil law, criminal law .

Of the seven (7) legal signs that have coercive power are criminal law because if they violate the criminal law, a lack of body sanction can be imposed for Land Deed Making Officials (PPAT) who are found guilty of committing a crime with a mechanism of evidence in court and have permanent legal force (*inkracht van gewishde*). Regarding the rules that can be imposed on Land Deed Making Officials (PPAT) who commit criminal acts, they can be imposed in Article 263, Article 322, and Article 416 of the Criminal Code.

According to IPTU EDWIN, S.H., M.H. as KANIT VI in the HARDA section, if he is said to be here with a legal defect, one of the parties lied to submitting a Sale and Purchase Deed (AJB) there was an incident but not many attached a false identity. So he pretended to use a photo scen so that if this deed was made by a notary / PPAT it was authentic but the contents or the person was not true, so usually a false statement report or a falsification of the letter was usually included in article 263 or 266 of the Criminal Code (KUHP). provide incorrect information if it is about an authentic deed.

How do we test it if someone fakes a signature, usually the giver doesn't admit that it's not my signature, I never sold it in the deed to prove it wasn't his signature, so forensics or telephone tests are carried out at the Indonesian National Police Headquarters whose office is in Sentul or tested in Palembang, we will test his signature, then there is a choice whether he is identical or non-identical if he is identical it means that the engagement really happened and that's the person but if it doesn't match that's what will happen the emergence of forgery in an authentic deed, the deed is really made by the Land Deed Making Official (PPAT) or made by a notary, the fact is there is no problem but the parties who use it by falsifying. Not only the applicant but the Land Deed Making Officer (PPAT) or his notary is also affected, which means he missed he made a deed or agreement which turned out to be incorrect at that time so he was found guilty.

According to Briпка Suryadi as an investigator in the HARDA section of the Bandar Lampung POLICE, related to an example of a case that occurred at the Bandar Lampung Sector Police, Rudi reported that Thabrani gave incorrect information on the authentic deed, according to the complainant that he bought land from Liaw Ing for 364,000,000.00. After buying, Rudi and Liang Ing came to the Land Deed Making Officer (PPAT), namely Thabrani, asking for a Sale and Purchase Deed (AJB) to be made, until there it turned out that Liaw Ing was a Chinese and had changed his name to an Indonesian name, namely Liawati on his Identity Card (KTP). Liawati, so that the Sale and Purchase Deed (AJB) could not be made before the name change was determined, and Rudi said, let's make a name change decision first.

According to the report on the name change process, it turned out that Thabrani made the Sale and Purchase Deed (AJB) Liawati to someone else, according to Rudi to Martalina Arifin. According to Rudi's statement that after everything was handed over to Thabrani, it turned out that Thabrani made the Sale and Purchase Deed (AJB) of Liawati to Martalina Arifin so that the Ownership Certificate (SHM) was transferred to Martalina Arifin. This is where the object is and Rudi reports Thabrani. Rudi said why did I buy it, why did I change the name to Martalina Arifin. After the examination, it turned out that Martalina Arifin was deceased because Martalina Arifin was already deceased, so what was examined was her husband, Sinatra.

If it is true that the Land Deed Official (PPAT) Thabrani did indeed carry out the Sale and Purchase Deed (AJB) without Rudi's orders, Article 266 of the Criminal Code (KUHP) can be used, namely making false statements on authentic deeds. According to Prof. Moeljatno, an act which is prohibited by criminal law and is threatened with a crime (to anyone who violates the prohibition), for short we call it a criminal act or offense, which in the current Criminal Code legal system

- a. Divided into two types which according to the opinion of the legislators in the Netherlands in the past 1880 each were qualitatively different in nature, namely crimes (*misdrijven*) such as theft (Article 362 of the Criminal Code), embezzlement (Article 372), persecution (Article 351) and murder) Article 338) and violations (*overtredingen*) for example: delinquency (Article 489), begging (504) and vagrancy (Article 505).
- b. In view of this, in the first national law seminar in 1963, it was suggested that in our national Criminal Code, the objectives of Indonesian criminal law would be stated as follows: "to prevent obstacles or barriers to the arrival of the people that the Indonesian people aspire to, namely by the way to determine which actions are forbidden and which cannot be done, as well as what punishments are threatened for those who violate these prohibitions.³

Then the articles are examined

a. Article 263 which reads

(1) any person who makes a forged document or falsifies a document which may give rise to a right, engagement or debt relief or which is intended as evidence of something with the intention of using the letter as if its contents were true and not falsified, shall be threatened if such use can cause harm. , for falsification of letters,

³ Moeljatno. *Asas-Asas Hukum Pidana Edisi Revisi*. Rineka Cipta, Jakarta, p. 23

with a maximum imprisonment of five years (2) is threatened with the same punishment, whoever intentionally uses a forged letter or which is faked as if it were true, if the use of the letter can cause harm.

According to Abdul Ghofur Anshori, this article needs to be understood that it is not actually the letter an sich that issues rights or obligations, but what gives rise to rights and obligations is an agreement (overeenkomst) between two parties contained in the letter concerned (deed). It would be appropriate if the deed is a limitation of what is meant in the formulation of Article 263 because the deed has the power of proof (bewijskracht)⁴

According to Soegeng Santoso, in Article 263 of the Criminal Code, there are two types of forgery of letters, namely:

- a. Making a fake letter (Valsheid in geschrift), namely the act of making a letter whose contents are not proper or whose contents are not true. In this case, a letter is made whose contents are not true but the letter itself is original or often called asphalt (original but fake) because nothing has been changed, added or subtracted.
- b. Falsifying letters (Vervalsen) is falsifying letters by changing, adding, subtracting or deleting some of the writings in a letter. So the letter already exists but the letter was later changed so that the sound and meaning are different from the original
- c. While article 264 of the Criminal Code (KUHP) is only a weighting of criminal acts regulated in article 263 of the Criminal Code (KUHP).⁵

Based on the two opinions above, the author agrees with what was stated by Abdul Ghofur Anshori and Soegeng Santoso, namely that what really matters is the substance of the contents of the agreement made by the Land Deed Making Official (PPAT) which can fulfill the criminal element in Article 263.

b. chapter 322

(1) any person who deliberately discloses a secret which he is obliged to keep because of his position or occupation, whether current or former, is threatened with a maximum imprisonment of nine months or a maximum fine of nine thousand rupiahs.

(2) if the crime is committed against a certain person, then the act can only be prosecuted on the complaint of another person.

According to Wirjono Prodjodikoro, Article 322 of the Criminal Code (KUHP) contains any tangible secrets that are entrusted to people, in this case the Land

⁴ *Ibid.* p. 41

⁵ Soegeng Santosa dkk. *Aspek Pidana dalam Pelaksanaan Tugas Notaris*, Renvoi No. 22, Maret, th, 02/, p.30

Deed Making Officer (PPAT), because of his position or job (beroep), whether he is still holding it now, as well as the former, so now have been abandoned. This act must be done intentionally and if the crime is about a certain person, the prosecution will depend on the complaint of the person who has been harmed. Article 322 of the Criminal Code (KUHP) does not specifically mention a particular job but in this case Article 322 also covers the work of a Land Deed Maker Official (PPAT).⁶

R Sugandhi explained that those who are threatened in this article are people who intentionally reveal something secret that they must keep because of their position or work, both now and in the past. In order to be prosecuted under this article, the following elements must be proven:

1. that which is notified (opened) must be a secret.
2. people really know that he is obligated and obliged to keep the secret.
3. That the obligation to keep the secret is due to the current or former position or occupation he has held.

1. The act of revealing the secret was done intentionally.

What is meant by "secret" is something that can only be known by interested parties. Who is obliged to keep a secret, each event must be reviewed individually by the judge. That person, for example: a doctor must keep a secret of his patient's illness, a priest must keep a secret from people who commit "confessions" in front of him, a keeper of secret archives must keep the confidentiality of the letters that are accountable to him. In the State Gazette 1854 No.18, among other things, it is prohibited to show, give copies or excerpts of official letters to people who are not interested.⁷

The relationship between the Land Deed Maker Official (PPAT) and the client really needs the value of honesty. And the client's honesty value is the most basic value in supporting the successful performance of the Land Deed Making Officer (PPAT) in making the authentic deed entrusted to him. Then trust contains elements of honesty itself, elements of justice and elements of truth. A concept that is closely related to the concept of legal obligation is the concept of legal responsibility, in the sense of being responsible for the sanctions imposed for actions that are contrary to the law.

Based on the description above, it can be concluded that it is very appropriate if a Land Deed Making Officer (PPAT) who discloses the secret of his client is subject to

⁶ Wirjono Prodjodikoro. *Tindak-Tindak Pidana Tertentu di Indonesia*. Bandung: Refika Aditama. p. 107-108

⁷ R. Sugandhi. *KUHP dan Penjelasannya*. Surabaya : Usaha Nasional. p. 342-343

Article 322 of the Criminal Code considering the information he gets from his client is very confidential, which if known by other parties it will harm the client.

c. chapter 416

a civil servant or other person assigned the task of running a public office continuously or temporarily, who intentionally makes false or falsify books or registers specifically for administrative examination, shall be punished by a maximum imprisonment of four years.

R. Sugandhi explained about who people are obliged to temporarily or continuously carry out public office. Usually, the falsification of documents is punishable by Article 263 and subsequent articles. Article 416 specifically threatens punishment for falsification of only "books or lists solely for administrative examination (control)", for example agenda books, cash books, crime and violation books and others.⁸

The author is of the opinion that Article 416 of the Criminal Code tries to emphasize to officials in this case the Land Deed Making Officer (PPAT) so as not to falsify the deeds he made with a fairly high penalty of a maximum of 4 (four) years. Meanwhile, regarding Article 266 of the Criminal Code paragraph (1) Whoever orders to enter false information into an official proof letter (deed) concerning matters whose truth must be stated by the deed, with the intention of using or ordering other people to use the deed, as if the statement is in accordance with the provisions of the law. with the truth, if the use of the deed can cause harm, the punishment is a maximum imprisonment of seven years. Paragraph (2) shall also be punished with the same punishment, whoever deliberately uses the deed as if the contents are in accordance with the truth, if using the deed can result in loss.

In carrying out his daily profession, a Land Deed Official (PPAT) is always visited by clients with various interests and intentions. Among those who come sometimes not all of them behave honestly, often those who come also say things that are not true, on the other hand the client gives false information to the Land Deed Making Officer (PPAT), here the question arises whether the Land Deed Making Officer (PPAT) also can be said to be part of a criminal act committed by the client in terms of falsification of information.

The author is of the opinion that the Land Deed Making Officer (PPAT) cannot be said to have committed a criminal act as stated above or the elements of article 266 of the Criminal Code, because the Land Deed Making Officer (PPAT) is only an official who records all information provided by the client in accordance with the

⁸ *Ibid*, p. 435

formal truth explained by the client. in the office of the Land Deed Maker Official (PPAT).

1. criminal liability if the Land Deed Making Official (PPAT) commits malpractice Associated with the elements involved in the supervisory organ of Land Deed Making Officials (PPAT), which consists of two (2) elements, namely elements of the Government and elements of the Association of Land Deed Maker Officials (IPPAT). With the composition involved, namely the supervisory organ of Land Deed Making Officials (PPAT) at the regional level representing the government, there are four (4) people and three (3) representing the Land Deed Making Officials Association (IPPAT). At the regional level representing the government there are five (5) people and four (4) representing the Association of Land Deed Makers (IPPAT) and the central level representing the government is six (6) people and five (5) representing the Association of Deed Makers Land (IPPAT) and those who are positioned as chairman of the Supervisory and Supervisory Council are held by elements of the government, and the deputy chairman position is held by elements of the Association of Land Deed Making Officials (IPPAT).

the authority of the supervisory organ of the Land Deed Making Officer (PPAT) At the regional level, namely the authority to provide recommendations for sanctions. As for the written warning, a warning letter will be processed by the Head of the Land Office, then for the sanction of temporary dismissal, honorable dismissal or dishonorable dismissal, the Minister will follow up on a proposal at a tiered level, by stipulating a Decree of Respectful Dismissal or Decree of Dismissal With Disrespect. The relationship with legal protection for Land Deed Making Officials (PPAT) is repressive in nature, namely through legal assistance after being processed in court.

PPAT is granted attribution authority by government regulation No. 24 of 1997 to issue certificates. In Article 1 paragraph 1 of Government Regulation Number 37 of 1998 it is stated that PPAT is a public official. This provision has been stated in the previous Government Regulation, namely government regulation Number 10 of 1961 which describes that as a public official. However, the definition also contains provisions that explain that apart from being a public official, he is also tasked with assisting the head of the land office in carrying out activities related to land.

In this case, the position between the Land Deed Making Official (PPAT) and government officials should be equivalent to the nature of assistance in the form of coordination. Looking at the development of determining the direction of land policy. The government has begun to involve Land Deed Making Officials (PPAT), which in this case is represented by the Association of Land Deed Making Officials

(IPPAT), one of which is by issuing a Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency concerning the Guidance and Supervision of Land Deed Maker Officials Number 02 Year 2018.

Namely as stated in Article 1 paragraph (11) of the Regulation of the Minister of ATR/Head of BPN Number 2 of 2018 concerning the Guidance and Supervision of Land Deed Making Officials (PPAT) that the Minister in this case delegates the supervisory authority to a body with the name of the Supervisory and Supervisory Council. Furthermore, the Minister as the original authority holder gives his authority to the PPAT Supervisory and Supervisory Council as the recipient of the authority with the responsibility for implementing the supervisory authority to the PPAT Supervisory and Supervisory Council.

Then membership in the PPAT Supervisory and Supervisory Council, involves the IPPAT element being one of the elements of the PPAT supervisory organ. Furthermore, it is seen that based on the authority of the PPAT supervisory organ as the only forum for IPPAT to carry out supervision, it is limited to providing recommendations for sanctions against the government. Based on the description above, in this case the government intends to involve other elements outside the government as a form of checks and balances, but it is not fully implemented. Because the composition between the government and other elements is not balanced, the decision-making positions remain in the hands of the government

III. CONCLUSION

The category of Land Deed Making Official (PPAT) committing malpractice is if the Land Deed Making Official (PPAT) has violated seven (7) legal signs which are guidelines that must be obeyed by a Land Deed Making Official (PPAT), namely: - Law Number 5 of 1960 concerning Basic Agrarian Regulations of the President of the Republic of Indonesia, Government Regulation Number 24 of 1997 concerning Land Registration, Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning Position Regulations for Land Deed Makers, Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Maker Officials (PPAT) for civil law, criminal law. In the case that has occurred if the Land Deed Making Official (PPAT) actually commits malpractice in carrying out his duties as Land Deed Making Officer (PPAT) criminal sanctions can be applied in the Criminal Code (KUHP) on the legal basis of article 263, 322 and 416 of the Criminal Code on falsification of letters.

The supervisory mechanism for Land Deed Making Officials (PPAT) is divided into 3 (three) levels, namely regional, regional and central. on the elements involved, the composition of members, the portion of authority, as well as legal protection. In relation to the elements involved, the PPAT supervisory organ consists of 2 (two) elements, namely the government element and the Land Deed Making Officials Association (IPPAT). With regard to the composition involved, the supervisory organs of Land Deed Making Officials (PPAT) at the regional level representing the government are 4 (four) people and 3 (three) representing the Association of Land Deed Making Officials (IPPAT). The regional level representing the government is 5 (five) people and 4 (four) representing the Association of Land Deed Maker Officials (IPPAT) and the central level representing the government is 6 (six) people and 5 (five) representing the Association of Land Deed Maker Officials (IPPAT). The position as chairman of the Supervisory and Supervisory Council is held by a government element, and the deputy chairman is held by an element of the Association of Land Deed Maker Officials (IPPAT). At the regional level, the authority is in the form of giving recommendations for sanctions, for written warnings, a warning letter will be processed by the Head of the Land Office, then for sanctions for temporary dismissal, honorable dismissal or dishonorable dismissal, the Minister will follow up on proposals at tiered levels, with stipulate a Decree of Respectful Dismissal or Decree of Disrespectful Dismissal. Then related to legal protection for Land Deed Making Officials (PPAT) it is repressive through legal assistance after being processed in court.

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