

JURIDICAL ANALYSIS OF THE ROLE OF PPAT IN THE TRANSITION AND IMPROVEMENT OF THE STATUS OF BUILDING USE RIGHTS TO PROPERTY RIGHTS (Study at the Notary Office/PPAT Medan City)

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ABSTRACT

The change from Building Use Rights (HGB) to Property Rights Certificate (SHM) can be done by meeting several applicable conditions and procedures. This process involves applying to the local Land Office, paying the registration fee, and measuring and inspecting the land. The formulation of the problem in this study is how to regulate the legal arrangement of the transfer of building use rights to property rights, what are the legal consequences of the transfer of building use rights to property rights, how is the accountability of the Land Deed Making Officer if there is a rejection of increasing the building use rights to property rights. The research method used is descriptive analysis that leads to normative juridical legal research, namely research conducted by referring to legal norms, namely researching literature materials or secondary materials. Secondary data by processing data from primary legal materials, secondary legal materials and tertiary legal materials. The results of the study show that the transfer of Building Use Rights (HGB) to Property Rights (SHM) is regulated in Government Regulation (PP) Number 18 Years. The legal consequence of the transfer of the building use rights deed to the title deed is that with the change of the right, the HGB certificate becomes a property title certificate that has the strength of proof of the land title certificate as proof of ownership of land rights. The responsibility of the Land Deed Making Officer if there is a refusal to increase the right to use the building to property is to include the required conditions

1. Introduction

Land has a big role in the dynamics of development, so in the 1945 Constitution Article 33 paragraph (3) it is stated that the earth and water and the natural resources contained in it are controlled by the state and used for the greatest prosperity of the people. Provisions regarding land can also be seen in the Basic Regulation of Agrarian Principles or commonly known as the UUPA (Law Number 5 of 1960). Respect for individual rights is generally recognized in the 1945 Constitution of the Republic of Indonesia as stated in Article 28H paragraph (4) "that everyone has the right to have personal property rights and such property rights must not be taken arbitrarily by anyone". With this principle, the right to land owned by a person in accordance with national land law is protected from

interference by other parties. Likewise, one's land rights should not be taken arbitrarily and unlawfully, including by the ruler.¹ Land is an important aspect of life and a source of well-being for humans. This definition gives the meaning that humans as living beings need land or land, whether it is used as a place to live, a place to cultivate, or a place for other businesses, while the existing land supply is very limited.²

Land given to and owned by a person with the rights provided by the UUPA, is to be used or utilized. The granting and ownership of land with these rights will not be meaningful if its use is limited to land as the surface of the earth only.³ Land rights are rights that authorize the right holder to use the land and/or benefit from the land to which he or she is entitled. The word "use" contains the sense that the right to the land is used for the benefit of the building (non-agricultural), while the word "take benefit" contains the sense that the right to the land is used for the benefit of not erecting the building.⁴ PPAT as a general official is an official who is given the task and authority to serve the public interest in making authentic deeds in accordance with the services and professional expertise they have. PPAT as a general official has the authority to solve all existing problems according to its capacity and because of its expertise, public officials are trusted to solve all legal affairs and phenomena that are currently increasingly complex in society.⁵ Based on Government Regulation Number 37 of 1998 and amended to Government Regulation Number 24 of 2016 concerning Position Regulations, Land Deed Making Officials have the authority to make authentic deeds regarding certain legal acts regarding land rights. Article 2 of Government Regulation Number 24 of 2016 states that PPAT has the main task of carrying out part of land registration activities by making a deed as evidence that certain legal acts have been carried out regarding a land right, which will be used as a basis for the registration of changes in land registration data resulting from the legal act.⁶ The Basic Agrarian Law (UUPA) as the legal umbrella *act* of the land registration system that gave birth to the PPAT position actually does not mandate the existence of a new position in land registration. PPAT carries out the task of assisting the Head of the Land office to order the administration/data regarding

¹ Maria S.W.Sumardjono, *Land in the Perspective of Economic, Social and Cultural Rights*, Kompas, Jakarta, 2018, p. 269.

² Effendi Perangin, *The Practice of Land Rights Certificates*, Jakarta: Rajawali, 2012, p. 22.

³ Boedi Harsono, *Indonesian Agrarian Law: The History of the Formation of UUPA, Its Content and Implementation*, Djambatan, Jakarta, 2014, p.18

⁴ Urip Santoso, *Agrarian Law Comprehensive Study*, Kencana, Jakarta, 2012, p.84.

⁵ Sutrisno and Wiwin Yulianingsih, *Ethics and Legal Profession*, Andi, Yogyakarta, 2016, p. 35.

⁶ Samsaimun, *PPAT Position Regulation*, Pustaka Rekcipta, Bandung, 2018, p.94

land registration, which is the authority of the National Land Agency to issue land rights certificates.⁷

The transfer of building use rights can be done in front of the Land Deed Making Officer and must be registered at the local Land Office, as for the registration of the transfer of land rights as referred to above, it is further regulated in Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration which stipulates: "transfer of land rights and ownership rights to flats through sale and purchase, exchanges, grants, income in the company and other legal acts of transfer of rights, except for the transfer of rights through auction, can only be registered if proven by a deed made by the authorized PPAT in accordance with the provisions of the applicable laws and regulations."

The transfer of land rights is an activity to maintain land registration data. The transfer of land rights regarding the Building Rights certificate causes legal problems when the term of the Building Rights Certificate ends and may result in legal problems in the future. Building rights are the right to erect and have buildings on land that does not belong to them, with a maximum period of 30 years and can be extended for a maximum period of 20 years. The Building Use Rights is a right that has a time limit so that the holders of the Building Rights must extend the period again. The extension of the building rights period is regulated in the provisions of Article 27 Paragraph (1) of Government Regulation Number 40 of 1960 concerning Business Use Rights, Building Rights, and Land Use Rights, which states that the application for an extension of the building use right or its renewal is submitted no later than 2 years before the end of the building use rights or its extension.

The phenomenon of increasing the status of HGB to property rights that often occurs in the community are:

1. On the land that was proposed to be owned by him, it turned out to be a shophouse, not a residential house. This is massive because in the increase in rights, there is no location check or remeasurement of land plots by the Land Office.
2. The ignorance of the public is that one Building Permit (IMB) applies to one house on a plot of land. The incident of the applicant buying two plots of land for two different houses and the one attached to the IMB Land Office is the same. There was also an incident of the applicant forging the IMB, which after being checked by the officer turned out to be the IMB belonging to his neighbor.⁸

⁷ *Ibid*, p. 104

⁸ Atik Winanti, *Improving the Status of Building Use Rights to Property*, Journal of Indonesian Community Service, Vol.3 No. 2 Year 2022, p.157.

The status of land ownership which is the strongest, hereditary, fulfilled, and as the right to land is superior to other land rights, so that the owner of land rights will feel much safer, happy, prosperous, and more peaceful to own the rights to the land without the need to think about the constraints of HGB extension. Taking care of the upgrade of the Building Rights Certificate (SHGB) to a Certificate of Property Rights (SHM) is actually not complicated and can be done by the party who wants it at the local Land Office⁹, but in practice there are obstacles, namely:

1. Sometimes the certificate owner does not have free time, especially to go back and forth to the Land Office to check the certificate.
2. The assumption is that the management bureaucracy at the Land Office is convoluted.
3. The ignorance of the community/certificate holder that the status of their land rights can be upgraded to property rights.¹⁰

Facing these obstacles, the alternative that is often taken by residents/certificate owners is to ask for the help of other parties who they consider qualified and have expertise in the field of land to take care of improving the status of their land rights, namely by using the services of a Land Deed Making Officer (hereinafter referred to as PPAT) as a General Officer recognized and appointed by the state. The management of increasing the status of HGB to property ownership is not the main task and authority of PPAT because it is not enshrined in the laws and regulations that govern the position so that PPAT acts as the power of attorney of the client who comes to use its services so that the question, in terms of the acceptance of power of attorney here, plays a role as whether the PPAT, whether as a 'Public Official' (PPAT) or as an individual so that this is no different from actions of brokers and brokers. Based on this, the title "Juridical Analysis of the Role of PPAT in the Transition and Improvement of the Status of Building Use Rights into Property Rights (Study at the Notary Office/PPAT Medan City)" was chosen". The formulation of the problem in writing this thesis is as follows: 1) How is the legal arrangement for the transfer of building use rights to property rights? 2) What are the legal consequences of the transfer of building use rights to property rights? 3) What is the accountability of the Land Deed Making Officer if there is a refusal to increase the building use rights to property?

2. Research Method

⁹<https://www.kompas.com/properti/read/2021/03/29/160000621/no-need-to-use-someone-else-s-services-here-s-how-to-easily-change-HGB-to-SHM?page=all>, accessed Thursday, May 08, 2025 at 12.30 WIB..

¹⁰<https://irmadevita.com/2017/Upgrade-of-status-from-business-use-rights-to-property-rights-for-residential-houses>, accessed Thursday, May 08, 2025 at 12.30 WIB.

Research methods are research that presents how methods or procedures and steps must be taken in a research systematically and logically so that the truth can be accounted for.¹¹ Legal research is basically divided into 2 (two) types, namely normative research and empirical research. Normative research is research using secondary data so it is also called literature research, while what is meant by empirical research is direct research in the community, some through questioners (list of questions) or direct interviews.¹²

This research uses a type of legal research with a normative juridical approach method. Research with normative juridical methods is by using a statutory approach (statue approach), doctrinal legal research that refers to legal norms, this research emphasizes secondary sources of materials, both in the form of regulations and legal theories, which focuses on the collection of all related laws and regulations in books, conducting a study of laws and regulations related to legal regulations and implications implementation in Indonesia as well as the law decided through the research process.

Data collection is an important part of a research, because data collection will obtain the necessary data to be analyzed according to the expected will. This study uses a literature data collection method.¹³ In searching and collecting the data required in writing this thesis using secondary data consisting of:

- a. Primary legal materials are related and binding legal materials¹⁴, namely Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, Law Number 30 of 2004 concerning the Position of Notary, Law Number 4 of 1996 concerning Dependent Rights on Land and Objects Related to Land, Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Making Officials, Government Regulation Number 24 of 1997 concerning Land Registration.
- b. Secondary legal materials are legal materials from textbooks that contain the basic principles of law and the calcified views of scholars who have high calcification.¹⁵ Secondary legal materials consist of all publications on law that are not official documents that provide explanations of primary legal materials as contained in a collection of literature that is a support for primary legal materials. This secondary legal material can come from books, research results and scientific works from the legal community.

¹¹Sutrisno Hadi, *National Research Methodology*, Akmil, Magelang, 2007, p. 8 The Gospel of Jesus

¹²Soerjono Soekanto and Sri Mamudji, *Normative Law Research*, Rajawali Press, Jakarta, 2015, p.

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¹³Bambang Sunggono, *Op.Cit.*, p.10

¹⁴Ronny Hanitjo Soemitro, *Legal Research Methodology and Jurimetry*, Ghia Indonesia, Jakarta, 2011, p. 55

¹⁵ Peter Mahmud Marzuki, *Legal Research*, Kencana Prenada Media Group, Jakarta, 2008, p. 141.

- c. Tertiary legal materials, which are legal materials that provide instructions and explanations of primary legal materials and secondary legal materials, such as dictionaries, encyclopedias and magazines related to the theme being studied.¹⁶

In order to obtain objective results that can be proven to be true and can be held accountable for the results, the data in this study was obtained through a Literature Study. The data collection techniques carried out are by:

- a. Library research is carried out on secondary data, namely collecting data by studying literature materials or secondary data as described above. This literature research is to look for concepts, theories, opinions or discoveries that are closely related to the subject matter.¹⁷
- b. Field research, to obtain primary data related to the problem in the thesis by means of interviews. This research will be more perfect, so supporting data obtained from informants and resource persons, namely PPAT/Notary as many as 3 (three) people, in Medan City

The data collection tools used to collect the data needed to support are in the form of:

- a. Document studies are used to obtain secondary data by reading, studying, researching, identifying and analyzing secondary data related to the object of research.
- b. Interview guidelines are a systematically compiled list of questions that are used as a guide for conducting interviews.

3. Results and Discussion

A. Rejection of the Increase of Building Use Rights to Property Rights

The process of changing land rights from Building Rights to Property Rights actually every application submitted by the applicant does not have to be granted, there are certain things that are the reason for the Land Office to reject the application, the lack of conditions submitted by the applicant is the most likely thing to happen. This is due to the applicant's lack of knowledge about the procedure for applying for a change of land rights from Building Use Rights to Property Rights. This is as expressed by Mujiono as the applicant when he came to the Land Office with the intention of changing the land of the Building Use Rights to Property Rights the requirements attached are incomplete, and do not attach the Land and Building Tax Payable Tax Notice, because according to the applicant in

¹⁶ *Ibid*, p. 142.

¹⁷ Bambang Waluyo, *Op.Cit*, p. 14.

changing the land rights from Building Use Rights to Property Rights does not require a Land and Building Tax Payable Tax Notification (SPPT PBB).¹⁸

Basically, the rejection of the change of land rights from Building Rights to Property Rights is indeed permissible if the reason for refusing to change land rights from Building Rights to Property Rights is considered strong enough, this can be seen from the provisions of Article 13 paragraph (5) of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 which states that in the event that the decision to grant property rights has been delegated to the Head of the Office Land as intended in Article 3 paragraph (2): "After considering the opinion of the head of the land rights section or the appointed official or the land research team or the land inspection committee A, as intended in paragraph (3), the head of the land office issues a decision to grant Title to the land requested or a decision to refuse it accompanied by the reasons for its rejection".

Based on the results of an interview with Mrs. Inneke Tania Arsyad, S.H., M.Kn Head of the Administration Sub-Division of the Medan City Land Office said that "the official who is authorized to change land rights from Building Use Rights to Property Rights and also the rejection is the Head of the Regency Land Office.¹⁹ This is also in accordance with the provisions of Article 6 of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency number 3 of 1999 which reads "The Head of the Regency/Municipality Land Office shall make a decision on all changes in land rights, except for the change of the Right to Use of Business to other rights".

Some of the cases that often occur at the Medan City Land Office are the refusal at the registration stage, namely the refusal to change the land rights from Building Use Rights to Property Rights over land due to the lack of requirements that should be included by the applicant, so that the applicant must complete it if they want to continue to change the status of land rights from Building Rights to Property Rights over the land. This is as expressed by Mrs. Inneke Tania Arsyad, S.H., M.Kn who said that applicants who want to change land rights from Building Use Rights to Property Rights at the registration stage must include the required conditions, if the conditions submitted are incomplete, the Medan City Land Office has the right to reject the application.²⁰ Thus, the applicant who will change the land rights from Building Rights to Property Rights in this case is a resident of Medan City, it

¹⁸ Interview Results with Mujiono Applicant for the Transition of HGB to Property Rights in Medan, Monday 05 May 2025

¹⁹ Interview Results with Inneke Tania Arsyad, S.H., M.Kn Head of the Administrative Sub-Division of the Medan City Land Office in Medan, Wednesday 07 May 2025

²⁰ Interview Results with Inneke Tania Arsyad, S.H., M.Kn Head of the Administrative Sub-Division of the Medan City Land Office in Medan, Wednesday 07 May 2025

is mandatory to know the procedures for changing land rights from Building Rights to Property Rights over land.

Based on the information that has been mentioned by the source, it can be seen that the community in this case is the residents of Medan City in general who want to own land with a Title of Ownership certificate. The high desire of the residents of Medan City to change their land rights from Building Rights to Property Rights that they have is not balanced by knowledge of the procedures for changing land rights from Building Rights to Property Rights over land so that some of the residents of Medan City who will change the Building Rights to Property Rights over their land must be rejected.

Basically, residents of Medan City who do not know the procedure for changing land rights from Building Use Rights to Land Ownership Rights can also ask for help from third parties, which is generally often done by Land Deed Making Officials (PPAT). From the results of the interview with Mujiono as the applicant, he said that after the application for the change of land rights from Building Use Rights to Property Rights submitted by himself was rejected due to the lack of requirements included, he asked for help from the Land Deed Making Officer with consideration because he considered that PPAT better understood the procedures for changing land rights from Building Use Rights to Land Rights.²¹ This is indeed not prohibited because the Standard Operating Procedure (SOP) has also stated that one of the main requirements in changing land rights from Building Use Rights is the existence of a power of attorney if in the process of changing land rights from Building Rights to Property Rights is carried out by a third party.

The rejection of the change of land rights from Building Rights to Property Rights that occurred at the Medan City Land Office was indeed not a final rejection because the applicant could still submit the application after the conditions that had not been met were immediately completed. From the results of the interview with Mr. Teguh Pranata, a resident of Medan Tembung District, Medan City, said that because the land of the Building Use Rights was burdened with the Rights of Dependents, I first paid off the debt at the Bank, and after that the Bank provided a certificate that the land of the Building Rights was not burdened with the Rights of Dependents, then returned my application file to the land office.²²

This is also the same as what was expressed by Inneke Tania Arsyad, S.H., M.Kn who said that applicants who at the registration stage have not submitted certain conditions are given the opportunity to complete these requirements and then the applicant can submit their application back to the Medan City Land Office with

²¹ Interview Results with Mujiono Applicant for the Transition of HGB to Property Rights in Medan, Monday 05 May 2025

²² Interview Results with Teguh Pranata Applicant for the Transition of HGB to Property Rights in Medan, Monday 05 May 2025

complete conditions.²³ From this information, Medan City residents who will apply for a change of land rights from Building Use Rights to Property Rights have a greater chance of being granted than being rejected, this is due to the importance of residents' needs for housing as one of the guarantees for the future. This can be known from the results of interviews with the resource persons who stated that the Building Rights land that will be changed to Property Rights is intended for residential houses.

Based on the description that has been explained above, the factors that are the basis for the rejection of the increase of land rights from Building Rights to Property Rights at the Medan City Land Office are the lack of conditions attached by the applicant. Basically, the Building Use Rights are not obliged to be changed to Property Rights because the change will only be made if there is a request from the applicant, from the results of the interview with Mujiono said that he wanted to change the land rights from Building Use Rights to Property Rights because land with Property Rights status does not have a certain period of time, besides that the price of Property Rights land is higher in the market when compared to Building Rights land.²⁴

Some of the rejections of the change of land rights from Building Rights to Property Rights over land due to the lack of requirements at the Medan City Land Office are applicants who after their application file is returned and then do not complete it and do not continue with the change of land rights from Building Rights to Property Rights over their land, because there are other factors that are considered by the applicant not to proceed with the change of land rights from Building Rights to Rights, because there are other factors that are considered by the applicant not to proceed with the change of land rights from Building Rights to Rights. Ownership of the land, this is evident from the results of an interview with Budianto who said: "After the application file for the change of land rights from Building Rights to My Property Rights was returned, I did not proceed with the change of land rights from Building Rights to Property Rights over my land due to personal considerations from the family, namely because actually the Building Rights land was inherited land from my parents who died in 2005, In addition to the land, the parents also left an inheritance in the form of land/farming worked by my brother, while the applicant and his wife who occupied the house, the applicant considered it fair enough when the applicant got the Building Rights land and my brother got the land/plantation, but when the applicant's brother knew that the building rights land would be changed to the property rights, the

²³ Interview Results with Inneke Tania Arsyad, S.H., M.Kn Head of the Administrative Sub-Division of the Medan City Land Office in Medan, Wednesday 07 May 2025

²⁴ Interview Results with Budianto Applicant for the Transition of HGB to Property Rights in Medan, Tuesday, May 06, 2025

petitioner's brother considered the distribution unfair. Then to avoid a dispute, it was agreed to sell the Building Rights and plantation land then the proceeds from the sale of the two lands were divided equally.²⁵

The case experienced by Budianto as one of the applicants who was rejected for the application to change his land rights from his Building Use Rights to Property Rights was basically also due to the lack of conditions included, but due to personal dispute factors that caused Budianto not to proceed with the application for a change of his rights. Based on this case, it can be seen that after the rejection of the change of land rights from Building Use Rights to Property Rights, the applicant's land still remains in the status of Building Use Rights, because after the rejection the applicant did not make efforts to complete the missing conditions. The rejection of the change of land rights from Building Use Rights to Property Rights will inevitably arise as consequences that have an impact on the subject and object. The subject of the application for the change of land rights from Building Rights to Property Rights is the applicant who in this study is a resident of the City of Medan, while the object of the rejection of the change of land rights from Building Rights to Property Rights is land that will be upgraded from Building Rights to Property Rights.

Based on the results of an interview with Mujiono as one of the residents of Medan City who was once denied an application to change land rights from Building Use Rights to Property Rights over his land, he said that because of the rejection of the application for change of land rights a only because of the lack of conditions that I included, namely the SPPT PBB, the applicant only completed it and then submitted an application to the Medan City Land Office. Meanwhile, the situation experienced by Teguh Pranata is slightly different from Mujiono, namely the rejection of the application to change the right to land from the Right to Use Building to the Right of Ownership of his land because the land to be changed in status has first been burdened with the Right of Dependency, so that before changing the status of his land rights, Teguh Pranata must first pay the debt in order to get a certificate that his land has been free from the right of dependency After getting a certificate from the bank, Teguh Pranata applied again at the Land Office. Different from the two cases above, the case experienced by Budianto was actually a reasonable refusal to occur at the Land Office, namely the lack of conditions proposed to change the land rights from Building Rights to Property Rights, it was just that due to a personal dispute on the part of his family so that Budianto chose not to proceed with the change of Building Rights to Property Rights over his land" rather than having a bad relationship with my family, so we as a family agreed to sell the land.

²⁵ Interview Results with Mujiono Applicant for the Transition of HGB to Property Rights in Medan, Monday 05 May 2025

B. Responsibilities of Land Deed Making Officials If There is a Rejection of Land Rights Increase by the Land Office

In the field of land, there are land registration activities, in order to provide legal certainty to land rights holders, flats or other rights transfers, so that they can easily prove themselves as the holder of the rights concerned. For the implementation of this land registration, the Head of the Land Agency needs assistance from other officials in the provision of land deeds, so that it can be easier and lighter in carrying out land registration, especially in the process of transferring land rights. Because not a few people who own land or hold land rights want to register their land to get legal certainty for their land. Officials who assist the Head of the Land Agency Office, in this case the Land Deed Making Officer (PPAT). The Land Deed Making Officer has the task of making a land deed, which is authentic, i.e. its validity is highly recognized. To make it easier for the people to carry out legal acts regarding land, in certain circumstances determined by the Minister, namely in remote areas and have not been appointed by PPAT Temporarily, as an exception the Head of the Land Office can register the transfer of rights to land parcels of Property Rights carried out among individual Indonesian citizens, which is evidenced by a deed that is not made by PPAT, but according to the Head of the Land Office the degree of truth is considered sufficient to register for the transfer of the rights concerned. For example, it is proven under the hands made by the parties who carry out the legal act of transfer of rights, which is corroborated by the relevant Village Head.²⁶

PPAT in carrying out its duties has the same responsibility regarding its duties and obligations. Responsibility is an obligation that must be fulfilled and carried out. The responsibilities of PPAT itself are none other than the obligations of PPAT which have been stipulated in the Regulation of the Head of BPN Number 1 of 2006, namely Article 45, namely that PPAT has the following obligations:

1. Upholding Pancasila, the 1945 Constitution, and the Unitary State of the Republic of Indonesia
2. Participating in the inauguration and appointment of the oath of office as PPAT
3. Submit a monthly report on the deed made to the Head of the Land Office, the Head of the Regional Office and the Head of the local Land and Building Tax Service Office no later than the 10th of the following month
4. Submit the PPAT protocol in the event of:

²⁶ Boedi Harsono, *Indonesian Agrarian Law History of the Establishment of the Basic Agrarian Law, Content and Implementation*, Volume I, Djambatan, Jakarta, 2015, p. 506

- a. PPAT who ceases to hold office as referred to in Article 28 paragraph (1) and paragraph (2) to PPAT in his work area or to the Head of the Land Office
 - b. Temporary PPAT who quits as Temporary PPAT to the Temporary PPAT who replaces him or to the Head of the Land Office
 - c. Special PPAT that ceases as Special PPAT to the Special PPAT that replaces it or to the Head of the Land Office
5. Exempting service money to the underprivileged, which is legally proven.
 6. Open its office every weekday unless it is carrying out leave or official holidays with working hours at least equal to the working hours of the local Land Office.
 7. Have offices only in 1 (one) office in the work area as stipulated in the PPAT appointment decision.
 8. Submit the address of the office, sample signature, sample of the paraf and impression of the stamp/stamp of the position to the Head of the Regional Office, Regent/Mayor, Chairman of the District Court and Head of the Land Office whose area includes the work area of the PPAT concerned within 1 (one) month after taking the oath of office.
 9. Carry out the position immediately after taking the oath of office.
 10. Install nameplates and use stamps whose shape and size are determined by the Head of Agency.
 11. Others in accordance with laws and regulations

In addition to the obligations that are the responsibility of PPAT as mentioned in Article 45 of the Regulation of the Head of BPN No.1 of 2006, other responsibilities of PPAT are also mentioned in the Regulation of the Head of the National Land Agency Number 6 of 1989 and Government Regulation Number 37 of 1998, several legal changes have been emphasized that are the responsibility of PPAT, namely:

1. Regarding the seriousness of the incident contained in the deed, for example regarding the type of legal act intended by the parties, regarding the payment that has been made in the sale and purchase, and so on.
2. Regarding the object of legal acts, both physical data and juridical data.
3. Regarding the identity of the witnesses who are the parties who committed the legal act

The obligations of PPAT other than those mentioned in article 45 of the Head of BPN Regulation No.1 of 2006 above, which are also the responsibility of a Land Deed Making Official, are:

1. Obligations in Conducting Data Checks

According to Boedi Harsono, the PPAT deed is one of the data sources for the maintenance of land registration data, therefore PPAT is responsible for checking the conditions for the validity of the legal act concerned. Among other things, matching the data contained in the certificate with the lists in the Land Office.²⁷ Judging from the results of the author's research at the Land Office, not all PPATs in Medan City that match or check the data contained in the certificate with the lists at the Medan City Land Office on the grounds that the data about the deed of transfer of rights to be carried out has been checked first by other PPATs so that they think that there is no need to check again. And PPAT that does not carry out checks should ask for a letter of willingness from PPAT who has checked that the deed was made by PPAT that did not carry out the check.

If, after checking the certificate according to article 97 of the Regulation of the Minister of Agrarian Affairs/Head of BPN 4/1997 concerning Provisions for the Implementation of PP 24/1997, there is a change in the land registration data recorded in the land book, but not recorded in the certificate, then the Head of the Land Office is obliged to notify in writing to the registration applicant that his application is rejected. The changes in question could be:

- a. The abolition of land rights that will be used as the object of legal acts of transfer of rights
 - b. The existence of records as referred to in Article 126 or Article 127 that has not been deleted or deleted by itself due to the passage of time
 - c. The existence of a status quo order or the placement of a seizure by the Court
- Another change that can occur after the certificate check is carried out is if the certificate is a document issued by the Land Office but the physical data and/or juridical data contained in it is no longer in accordance with the data recorded in the land book and/or the survey letter concerned, then the PPAT concerned is issued a Land Registration Certificate according to the data recorded at the Land Office.

2. Obligations in Delivering Deeds

Article 61 paragraph (1) of the Regulation of the Head of BPN RI No.1 of 2006 states that: PPAT is obliged to submit the PPAT deed and other documents necessary for the purpose of registering the deed of law made by it to the Head of the Land Office no later than 7 (seven) working days from the signing of the deed concerned. Based on the obligation of PPAT, it is the responsibility of PPAT itself to submit the deed and documents to the Land Office, so that the registration process can be carried out immediately.

This is stipulated in Article 40 of Government Regulation No. 24 of 1997 which in the explanation of the article states that the obligation that is also the responsibility

²⁷ Boedi Harsono, *Op.Cit.*, p.507

of PPAT is only limited to the submission of the deed concerned and its files to the Land Office. The registration of the next activity and the receipt of the certificate are the business of the interested party. However, in reality, the responsibility of the PPAT mentioned above is not only to the submission of the deed, but even more so until the certificate is issued so that the party who has the right to the land only needs to receive the completed land certificate. This is because PPAT rights holders do not want to take care of it to the National Land Office.

After PPAT submits the deed and documents to the Land Office, the Land Office gives a certificate of acceptance to PPAT regarding the written notification of the delivery of the deed and documents to the parties concerned, not only to the beneficiaries. This provision does not mean that if the file is submitted after 7 days, the registration will or must be rejected. If the conditions are met, registration is mandatory.²⁸

However, it may occur that PPAT does not submit the deed and documents within the specified period of time, namely within 7 days from the date of signing the deed in question. Like PPAT in Medan City, some of them submit deeds and these documents can take more than 7 days, due to various reasons stated. One of them is because the deed or document is held by the right owner and is not submitted by the right owner to BPN.

According to Agus SH. MKn PPAT in Medan City, indeed, PPAT's responsibility is only limited to making deeds and submitting the deed to the Head of the Land Office. However, not a few PPAT made the deed until the certificate was issued. This is because not only from the desire of the right holder who does not want to bother as mentioned above, but also the PPAT does not want to take the risk of getting a reprimand from the Head of the Land Office. Because most of the rights holders do not understand what next actions must be taken by the rights holder (PPAT service users) after they receive the deed and receive a receipt from the scattered PPAT. So that the deed that has been submitted by PPAT to the right holder who should have reached the hands of the Head of the National Land Office within 7 days, can exceed the deadline. Violations of the time limit can be in a short period of time, namely 2 (two) or 3 (three) days from the specified time limit, and can also occur for a long time, namely months.²⁹

If PPAT violates the provisions regarding the time of submission of the deed of transfer of rights to BPN, then the PPAT is subject to administrative sanctions, namely in the form of a written reprimand.

3. Obligations in Preparing a Deed List

Another responsibility of a PPAT that is also an obligation of PPAT is to make a list of deeds using 1 (one) deed list book for all types of deeds that he makes, in

²⁸ Adrian Sutedi

²⁹ Interview Results with Agus, SH., MKn Notary/PPAT in Medan, Thursday 08 May 2025

which the number of all deeds made is listed in a row along with other data related to the making of deeds. This is stated in Article 56 of the Regulation of the Head of BPN No.1 of 2006. Likewise done by all PPATs in Medan City, they are responsible for making a list of deeds on every working day. The creation of the list of deeds was carried out by PPAT in order to account for how many deeds were made by PPAT within one day.

C. Solutions Due to the Rejection of the Increase in Building Use Rights to Property Rights

The implementation of increasing land rights often has obstacles experienced by the City of Medan with parties who will propose an increase in land rights. The obstacles experienced by the City of Medan in the process of increasing land rights are:

1. The applicant in the process of increasing land rights is often not equipped with an application file with a Building Permit (IMB) from the land that is requested to be increased.
2. The Building Permit (IMB) attached by the applicant was mostly issued in the 1970s, thus raising doubts whether the building was still for a high-rise house or had undergone changes.
3. In submitting an application for an increase in land rights, there is often a difference in terms of the address of the land with the address listed in the payment of the Land and Building Tax (PBB) with the one listed in the Building Permit (IMB) even though the actual or in fact in the field shows the same object, because there is often a change in the name of the road where the land is located.
4. The SPPT PBB and the certificate show that the use of the land is still in the form of vacant land, this causes doubts to the City of Medan, whether the land is still in the form of vacant land or there is already a building on it.
5. Lack of knowledge from the community about the importance of the process of increasing land rights.
6. The lack of cooperation between the City of Medan and the village officials caused the village officials to know little about the increase of land rights.

Based on these obstacles or obstacles, there can be a solution for the applicant who does not complete the requirements that are still lacking and does not continue to change the Building Use Rights to Property Rights over their land, then the land will remain as a Building Use Rights or return to state land status if the term has ended, this is because the Building Rights submitted by the applicant is attached to state land. This is also in accordance with the formulation of Article 40 of the Basic Agrarian Law on the abolition of the Building Use Rights which states that

one of the things that causes the abolition of the Building Use Rights is that the period has expired.

The Medan City Land Office must play an active role in providing a warning to residents that the term of the building use rights will expire, this is because the extension of the Building Use Rights or change of rights is the individual right of the right holder and the Land Office processes the application submitted by the applicant. Meanwhile, if the residents are going to change their land rights from Building Rights, the Land Office will provide an explanation of the conditions and processes in changing land rights from Building Rights to Property Rights. Thus the Medan City Land Office has fulfilled the principle of openness in land registration. The way to resolve the obstacles faced in changing the building use rights to property rights is as follows: The role of the notary/PPAT is needed in providing an understanding of the change in ownership status from HGB to property rights, at the time of buying and selling, namely by explaining to the new HGB owner, that the HGB can be applied for as a property right. The National Land Agency needs to socialize to the general public about the rules regarding the transfer and improvement of rights, by conducting regular counseling to the community both by

4. Conclusion

1. The legal regulation of the transfer of building use rights (HGB) to property rights (SHM) is regulated in Government Regulation (PP) Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration. HGB used for residential houses, shop houses, or office houses can be converted into property at the request of the rights holder, subject to certain conditions.
2. The legal consequence of the transfer of the building use rights deed to the title deed is that with the change of the right, the HGB certificate becomes a property title certificate that has the strength of proof of the land title certificate as proof of ownership of land rights. The certificate of ownership of land has legal force as long as the issuance of the certificate meets the requirements and procedures in accordance with the applicable rules, on the other hand, if the issuance of the certificate does not meet the requirements and procedures, the certificate is administratively defective and legally invalid.
3. The responsibility of the Land Deed Making Officer if there is a refusal to increase the right to use the building to property is to include the required conditions, if the conditions proposed are incomplete, then PPAT is obliged

to meet the requirements that are still incomplete by following the procedures for the distribution in the change of land rights from Building Use Rights to Property Rights.

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