

Effectiveness Of Electronic Holding Rights Registration (*Ht-El*) At The Tasikmalaya City Land Office

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Abstract.

The emergence of technological developments has forced the Government to implement a new system in all fields, one of which is Electronic Mortgage Rights (HT-el) in order to speed up the land registration process at the National Land Agency (BPN). However, the system experienced various procedural and technical problems, such as system maintenance and errors in the HT-el registration process that occurred in Kantah, Tasikmalaya City. This study aims to analyze the implementation of the cancellation of Electronic Mortgage registration due to the delay in completing the registration file and the effectiveness of the implementation of electronic Mortgage registration at the Tasikmalaya City Land Office. This research is a sociological juridical legal research and uses descriptive qualitative analysis techniques. The results of this study indicate that a) the implementation of the cancellation of the Electronic Mortgage Right will result in the cancellation of the revocation and the system will automatically delete the registration application, so that the PPAT must submit a new HT-el registration application, issue a new PNPB Deposit Order for payment of re-registration, and The PPAT will still be held liable in a civil manner if there is a loss for the parties. And b) the effectiveness of the implementation of HT-el registration at the Tasikmalaya City Land Office at this time after the COVID-19 pandemic, it is felt that the HT-el registration process is quite good but not optimal because there are still several obstacles so that the implementation of HT-el is not in accordance with existing procedures on Juknis HT-el. There needs to be a solution to overcome the obstacles that occur internally and externally.

Keywords: *Implementation, Electronic Mortgage, PPAT and Effectiveness.*

I. INTRODUCTION

Technological developments have changed the way people view life and even the patterns of life in all fields, whether social, cultural, economic or other fields. The ease of technological development is characterized by the existence of computer networks in the form of local networks or Local Area Networks (LAN) which cover limited areas and wider computer networks known as wide area networks (WAN) (Anggara et al., 2010). Various advances have occurred in various forms of e-commerce and e-governance. Transactions carried out using the internet in Indonesia are not yet fully accessible by law. So, with existing developments, an electronic system has emerged in Indonesia accompanied by the enactment of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information. In order to encourage the increasingly rapid development of the business world, the government has provided support by providing various facilities and various means including efforts to support capital by providing credit facilities. Entrepreneurs often take advantage of credit facilities provided by the government to meet capital needs and improve the smooth running of their businesses. This credit facility is channeled through financial institutions through credit agreements. All this is because banks have an important role in collecting funds from the community and managing them through providing credit until the funds are returned to the community in the form of savings. Thus, in every credit activity, the bank needs to obtain guarantees for the payment of its receivables, namely by asking debtor customers for collateral. Mortgage rights are security rights on land. Mortgage rights with a collateral agreement that arise because of a credit agreement between the debtor and the creditor, either made privately or with a notarial deed.

Before the electronic registration of Mortgage Rights takes effect, registration of Mortgage Rights is carried out at the National Land Agency, the mechanism of which is regulated in the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 5 of 1966 concerning Registration of Mortgage Rights. This ministerial regulation is an implementing regulation of Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land (UUHT). This regulation no longer applies due to the new implementation of Minister of Agrarian Affairs and Spatial Planning/Head of

National Land Agency Regulation Number 9 of 2019 concerning Electronic Integrated Mortgage Services, however this Ministerial Regulation does not yet accommodate all HT services, so conventional HT services are still used. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 5 of 2020 concerning Electronic Mortgage Services replaces Minister of ATR/BPN Regulation No. 9 of 2019, it turns out that there is still a lack of understanding on the part of individuals, banks or PPAT to use HT-el services even though previous outreach has been carried out. Since the regulations regarding HT-el were implemented, areas under the Ministry of ATR/BPN have implemented them, including the Land Office in Tasikmalaya City. In practice, it appears that most of the objects that are objects of collateral in credit agreements by banks are land. Based on data collection results, 52% of registered PPATs in West Java have made HT-el Deeds using the Mitra Application to monitor PPAT performance by the ATR/BPN Ministry. West Java. To date, the number of Electronic Mortgage Rights Certificates has amounted to more than 3,000 made by the West Java PPAT. However, unfortunately, at the beginning of 2021, 76% of PPAT deeds in West Java were registered not on time.

The next problem faced by Land Deed Making Officials (PPAT) and creditors in implementing electronic mortgage rights services is the time for checking certificates before making a deed granting mortgage rights, which is often hampered by the fact that the land title certificate which is the object of granting mortgage rights has not been validated. This can take three days or more so the Non-Tax State Revenue (PNBP) check can only be paid after validation is complete. Apart from that, the HT-el service is still unable to accommodate every request made, because the checking data does not include all requests submitted in previous practices and applications of electronic services. The registration process carried out by PPAT by uploading the Deed of Granting Mortgage Rights (APHT) on the HT-el website has a time limit of seven days for the bank to register the mortgage right. If the bank is late in registering HT, it will automatically be rejected. If the bank has registered before seven days and there are improvements from the National Land Agency (BPN) for both the PPAT and the bank, then the improvements must be made immediately. If it exceeds seven days, the system will reject it with the statement HT rejected. The code for re-submission is the code obtained during the first step in registering for HT-el (Azizah et al., 2022). And some HT-el users sometimes experience other difficulties such as entering incorrect data or a lack of understanding of the technology, which is a problem in itself. HT-el can indeed speed up the mortgage rights processing procedure, but there are still other obstacles such as system or network problems during the HT-el processing process. In this article, the author will highlight the effectiveness of electronic mortgage registration based on the precautionary principle at the Tasikmalaya City Land Office.

II. METHODS

The research used in this research is normative legal research or library research, which is carried out by examining library materials or secondary data, but will also use primary data as data that supports the author's research. Secondary data search was carried out through literature study. The problem that arises in the use of secondary data is the relationship between the data and the problems posed in the research. The research data sources were obtained from the Tasikmalaya City Land Office, Tasikmalaya City PPAT Office and Electronic Mortgage Applicants in Tasikmalaya City. The data analysis technique that will be used in this research is descriptive analysis, namely the researcher describes and explains the data found in the research. The data is then analyzed by systematically presenting the facts for the problems contained in the problem formulation. The research approach is carried out using qualitative methods by uncovering facts in depth based on the scientific characteristics of individuals or groups to understand and reveal something behind the phenomena that occur (Strauss, 2013).

III. RESULT AND DISCUSSION

A. Implementation Regarding Cancellation of Electronic Mortgage Registration (HT-el) Due to PPAT Delays in Completing Registration Requirements

Mortgage rights are security rights on land. Mortgage rights with a collateral agreement that arise because of a credit agreement between the debtor and the creditor, either made privately or with a notarial

deed. A private credit agreement means that the agreement is made by the parties, namely the creditor and debtor, without any authorized official, while a credit agreement with a notarial deed means that the agreement is made by the parties before a notary. Budi Harsono's opinion is that there are 4 requirements for land rights to be collateral: they can be valued in money, the rights are registered in a public register because they must meet publicity requirements, the property can be transferred, if the debtor defaults the collateral will be sold in public, and it needs to be designated by law. If you look at Article 4 paragraph (1) and paragraph (2) of the UUHT, it is known that those who are burdened with mortgage rights are property rights, business use rights, building use rights and use rights. To impose mortgage rights, it is necessary to make an APHT by PPAT which contains the granting of mortgage rights to certain creditors. In order to gain legal force, the mortgage rights stated in the APHT must be registered. The HT-el system is managed by the Land Office in accordance with Article 4 paragraph (1) and the types of services in the HT-el system in Article 6 determine "the types of mortgage services that can be submitted through the HT-el system, including: a. registration of mortgage rights; b. transfer of mortgage rights; c. change of creditor name; d. elimination of mortgage rights (Wiguna, 2020).

The provisions of Article 6 (1) Part Two Chapter II of the Regulation of the Head of the National Land Agency Number 9 of 2019 state that the types of HT-el Services that can be submitted through the HT-el System include: registration of Mortgage Rights, transfer of Mortgage Rights, change of Creditor name, deletion of Rights Dependents, data correction. Bearing in mind that the service providers from HT-el consist of individuals or legal entities (as creditors), PPAT, and ASN of the Ministry of Agrarian Affairs/BPN (as implementers). PPAT is required to use the application provided by the Ministry of ATR/BPN by becoming a working partner at BPN, registering and creating an account online via the working partner portal at mitra.atrbpn.go.id. If you don't update your data, you won't be able to access and register services on the land services application electronically. So PPAT cannot be a user of the Electronic Mortgage service (Nurwulan, 2021). In line with this, in accordance with Article 33 of PERMEN Number 5 of 2020, the Land Office must provide mortgage rights services electronically no later than 3 (three) months after the regulation comes into force. This shows the intention and seriousness of the Land Office to change the paradigm of land services which were previously considered complicated, complicated and expensive into land services that meet the principles of openness, timeliness, speed, convenience and affordability as part of public services, as well as to adapt to developments law and presenting new breakthroughs in the land system in Indonesia. This has an impact on changing the form of the Mortgage Rights certificate, where the Mortgage Rights certificate is just a piece of paper and the record of the Mortgage Rights encumbrance attached to the land title certificate is combined into one unit in the Mortgage Rights Certificate.

The signature of the head of the local land office is no longer affixed to the Mortgage Rights certificate, but is replaced with a barcode which contains all the information related to the certificate. Apart from that, services can be checked via the Touch Tanahku application by scanning the barcode. Especially for APHTs made by PPAT, submission can only be done electronically so that the original second sheet of APHT is kept at the PPAT office as a document. Therefore, specifically in mortgage rights, such as registration of mortgage rights, transfer of mortgage rights, and roya, the land office only stores electronic documents (softcopies) of deeds and documents. PPAT is responsible for maintaining all APHT originals and documents. The mechanism for registering Electronic Mortgage Rights is regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 5 of 2020 concerning Electronic Mortgage Rights Services. Announcements regarding postponement or cancellation of HT-el registration will be delivered via the HT-el system or other electronic media. If HT-el registration is canceled after the applicant has paid the registration fee, the fee will be refunded in accordance with applicable regulations. If a cancellation occurs, only the registration process will be cancelled, not including the APHT that has been created by PPAT, so it is necessary to repeat the HT-el registration process from the beginning again.

If there are no delays or cancellations, the Land Office will approve the HT issuance. In ensuring optimal HT-el application performance, a stable internet connection is also very important. For example, if the number of devices used by employees reaches 12 to 18, it is recommended to use a Speedy provider with

a bandwidth speed of more than 100 Mbps. However, it should be noted that 100 Mbps bandwidth can only be used by 12 to 18 devices (Supryadi, 2022). The impact of canceling the Electronic Mortgage Right is that the application is canceled and the system will automatically delete the registration application. So, PPAT must submit an application for re-registration of HT-el. Another impact is that the issuance of a new PNB Deposit Order results in repeated payments for HT-el registration. Delays in the birth of HT-el due to cancellation of the application due to delays in completing the registration documents can cause PPAT to be held responsible. Even though in the HT-el system the implementation of administrative sanctions for PPAT is no longer implemented, PPAT can still be held responsible in a civil lawsuit if losses arise for the parties because the Mortgage Rights have not yet been established.

B. Effectiveness of Implementing Electronic Mortgage Registration (HT-el) at the Tasikmalaya City Land Office

The birth of material rights on mortgage rights is registered as intended in Article 13 of Law Number 4 of 1996 (Hutagalung, 2008). As time goes by, the implementation of Mortgage Rights registration using the HT-el system at the Tasikmalaya City Land Office has been fully implemented in July 2020. So that conventional services have officially been stopped accompanied by the issuance of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 5 of the Year 2020 concerning Electronic Mortgage Services so that ATR/BPN Ministerial Regulation No. 9 of 2019 has been declared invalid. Consideration letter a ATR/BPN Ministerial Regulation No. 5 of 2020 states that this regulation is intended to implement electronically integrated mortgage services in order to improve mortgage services that meet the principles of openness, timeliness, speed, convenience and affordability for public services, as well as to adapt to developments in law, technology and community needs (Nurwulan, 2021). The change from conventional mortgage rights to electronic ones has made the mortgage application process easier for banks. Previously, the procedures for conventional mortgage rights were quite numerous and complicated. However, with HT-el, the procedure becomes simpler and makes it easier for financial services to submit applications. Apart from that, using HT-el is also effective in terms of processing time and costs. The Banking and Implementing Parties (BPN) stated that HT-el was effective in terms of process and time. Several PPATs in the Tasikmalaya City area also stated that HT-el had been effective in the area. However, according to researchers, to be said to be effective from the perspective of legal effectiveness theory, people's behavior must be in accordance with applicable law or required by law.

According to the theory put forward by Lawrence M. Friedman, whether law enforcement is effective or not depends on three important elements, namely the following legal substance, legal structure and community culture (Friedman, 2011). In terms of legal culture, if there are errors in uploading data to HT-el, this shows that the legal culture of HT-el users still needs to be improved in understanding and accuracy in uploading documents required for HT-el processing. In the past, manual procedures were too time consuming and now the online system has accelerated the processing of mortgage rights, so that the basic principles of land registration can be carried out easily and easily understood by interested parties, especially land rights holders. Based on Law Number 10 of 1998 concerning Amendments Regarding Law Number 7 of 1992 concerning Banking, the definition of credit is the provision of money or bills that can be equivalent to it, based on approval or a loan and borrowing agreement between a bank and another party that requires it the borrower to pay off the debt after a certain period of time giving flowers. In financing or credit activities, this is always followed with risks, one of which is credit risk. Credit risk arising from the Debtor, that is, there are several circumstances that make the Debtor not can pay the credit or it can be said to be bad credit.

Therefore, in an effort to minimize credit risk, banks in distributing credit must apply the principle of prudence, one of the principles prudence is the 5 C principle is to know customer's willingness and ability to repay their credit. The 5C principles in Credit application can be determined by looking at the following provisions: 2

- a) Character: This character assessment is carried out to find out the level of honesty, integrity and self-will of the prospective Debtor to fulfill obligations and run its business.

- b) Capacity: What is meant by Capacity is the candidate's ability Debtors to manage their business activities and be able to see the prospective future, so that his business will be able to run well and provides a profit, which ensures that he is able to pay off the debt credit in the specified amount and time period.
- c) Capital: This assessment focuses on how capital is distributed placed by the entrepreneur, so that all sources have been there can run effectively.
- d) Collateral: Is a guarantee for approval to grant credit is a means of security (back up) for risks that may occur for the Debtor's default in the future.
- e) Condition of Economy: In granting credit by banks, economic conditions in general and the condition of the business sector the credit applicant needs to obtain attention from banks to minimize risks.

Based on the results of interviews with PPAT in Tasikmalaya City regarding the comparison between the implementation of Conventional HT Services and HT-el, it was said that HT-el Services are more effective than Conventional HT Services. HT-el services are carried out in accordance with the technical guidelines stated in Technical Instructions 2 of 2020, from the registration process to product delivery carried out online, so that it is more practical and minimizes queues at the Land Office and helps in preventing the spread of the COVID-19 virus. Apart from that, the implementation time of HT-el Services becomes more regular because it is regulated by the system. Recording and signatures are done electronically through the system and then affixed to the Land Book and Certificate. In an effort to overcome the problems previously explained, the steps taken are as follows: 1) PPAT can follow procedures in accordance with the 2020 technical guidelines issued by the Ministry of ATR/BPN; 2) Re-verify the recording of certificates at the Land Office and other documents at related institutions to ensure the validity of the data listed on the PPAT page; 3) Ensure that the device/server is in normal condition when inputting data; 4) Ensure network availability when inputting data; 5) Ensure the suitability of the debtor data with the Land Rights Holder being pledged before entering the data; and 6) Ensure the suitability of physical data and digital data that has been confirmed with BPN before inputting data (Nurdin, 2022).

IV. CONCLUSION

The implementation of the cancellation of the Electronic Mortgage Right will result in the cancellation of the application and the system will automatically delete the registration application, so that PPAT must submit a new HT-el registration application, a new PNBPN Deposit Order will appear for payment of re-registration, and PPAT will still be held civilly responsible if there is a loss for the parties. The effectiveness of implementing HT-el registration at the Tasikmalaya City Land Office currently after the COVID-19 pandemic still requires precision and precision in the timing of its implementation and the HT-el registration process is considered quite good and effective. However, it is not yet fully optimal because there are still several obstacles so that the implementation of HT-el is not in accordance with the existing procedures in the HT-el Technical Guidelines. There needs to be a solution to overcome obstacles that occur internally and externally.

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