

DOI: <https://doi.org/10.31933/unesrev.v6i2>

Received: 15 December 2023, Revised: 21 December 2023, Publish: 22 December 2023

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## Legal Implications of APHT Registered by PPAT More Than 7 (Seven) Working Days

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**Abstract:** This research aims to analyze the legal implications of APHT registered by PPAT for more than 7 (seven) working days at the Luwu Regency Land Office. This research was conducted using Normative research methods. The data obtained, both primary data and secondary data, are categorized according to the type of data. The results of this research show that late registration of the Deed of Granting Mortgage Rights (APHT) will affect the birth time of the Mortgage Rights thereby causing losses for the parties, based on Article 23 paragraph (1) Law Number 4 of 1996 concerning Mortgage Rights, Officials Land Deed Makers (PPAT) will be subject to administrative sanctions, in the form of: verbal warning; written warning; temporary dismissal from office; dismissal from office. The guarantee itself provides legal protection for creditors. 4) Late registration of the Deed of Granting Mortgage Rights (APHT) does not cause the deed to be null and void.

**Keyword:** Deed; Registration; Mortgage Right.

### INTRODUCTION

It has become a necessity as a human being to always make efforts or try to meet the needs of life. But on the other hand, humans cannot fulfil all their needs alone. Of course, as humans, we need other people, and in business activities we also need capital to be able to run the business. Usually, some entrepreneurs face difficulties in getting enough capital to support their commercial ventures. Islam as a religion contains concepts that regulate life in general and cover it as a whole, both about the Creator and in relations with fellow human beings. One of the things that is often done between humans is carrying out transactions related to services and property, which in Islamic law are also called muamalah transactions. Transactions in Ramallah have a very broad scope and have the principle of helping each other without harming one party to another, as is the case in rahn or pawn contracts. The rahn or self-pledge contract was also carried out in ancient times by the Prophet Muhammad SAW. which is reinforced by the Muslim HR which reads (Rozalinda, 2016) :

God willing, God willing, God willing, God willing, God willing. أَجَلٌ إِلَى يَهُودِيٍّ مِنْ مَّا حَدِيدٍ مِنْ دِرْعًا وَرَهْنَهُ

Translation: "Indeed, the Prophet Sallallahu 'alaihi wa sallam bought from a Jew foodstuffs on debt and pawned his armour."

Basically, Islam allows all muamalah activities as long as there are no verses or hadiths that prohibit it. Regarding pawning activities, Allah says in the Al-Quran Surah Al-Baqarah verse 283 (Ministry of Religion of the Republic of Indonesia, 2019) :

عَلَيْمٌ تَعْمَلُونَ بِمَا لَكُمْ اللَّهُ **prayer God willing Home** فَرِهَانَ كَاتِبًا تَجِدُوا وَلَمْ يَكُنْ عَلَى كُنْتُمْ وَإِنْ

Translation: "If you are on a journey (and don't pay in cash) and you don't have a writer, then there should be collateral in the possession (by the debtor). However, if some of you trust others, then let those who are trusted fulfill their mandate (debt) and let them fear Allah, their Rabb; and do not you (witnesses) conceal your testimony. And whoever hides it, then indeed he is a sinner at heart; and Allah knows what you do."

Land guarantee agreements in Indonesia have permanent legal force, one of which is in the form of a mortgage rights agreement. Provisions relating to mortgage rights are regulated in Law Number 4 of 1996 which is officially entitled "Mortgage Rights on Land and Objects Related to Land". This statutory regulation is hereinafter referred to as the Mortgage Rights Law which stipulates that Mortgage Rights are collateral rights which give certain creditors a preferred position over other creditors. This means that if the debtor defaults, the creditor holding the Mortgage Rights has the right to sell through a public auction the land used as collateral according to the provisions of the relevant laws and regulations, with pre-emptive rights over other creditors. This priority position certainly does not reduce the preference for State receivables according to the applicable legal provisions (Sjahdeni, 1999) .

The Basic Agrarian Law designated as land rights that can be used as collateral for debts with the burden of Mortgage Rights are Ownership Rights, Business Use Rights, and Building Use Rights, as land rights that must be registered and according to their nature can be transferred.

The act of granting mortgage rights is preceded by a commitment to offer mortgage rights as collateral for the repayment of a certain obligation. This commitment is expressly stated in and is an inseparable part of the relevant debt agreement or other agreement that gave rise to the debt. The act of granting Mortgage Rights is carried out by signing a legal document called APHT or Deed of Granting Mortgage Rights by the Land Deed Making Officer (PPAT) as intended in Article 10 paragraphs (1) and (2) of the Mortgage Rights Law.

The existence of the PPAT role has been established since the enactment of Government Regulation Number 10 of 1961 which is an additional regulation to Article 19 of Law Number 5 of 1960 which is usually called the Basic Agrarian Regulation (so abbreviated to UUPA). Even though the specific term "PPAT" is not stated explicitly, it is instead referred to as "Official". Furthermore, the role of the PPAT as a public official is increasingly strengthened by the implementation of various laws and regulations.

The Mortgage Rights Law highlights the role of the Land Deed Making Officer (PPAT) as a public official who is entrusted with responsibility for making various types of land deeds, including those relating to the transfer of land rights, and land encumbrances. rights, and granting authority to impose mortgage rights. This authority is granted by relevant laws and regulations. Apart from the above, Government Regulation Number 24 of 1997, hereinafter referred to as PP 24 of 1997, functions as a substitute for Government Regulation Number 10 of 1961 concerning Land Registration. PP 24/1997 also established Land Deed Making Officials, abbreviated as PPAT, as general officials. These regulations state that PPAT is a public official who is given the authority to make certain land deeds.

Provisions regarding PPAT are further regulated in Government Regulation Number 37 of 1998 concerning PPAT Position Regulations (hereinafter referred to as PP 37/1998). These regulations state that PPAT is a public official who is authorized to make authentic deeds regarding certain legal transactions regarding land rights or ownership rights to apartment units. To increase the advantages of PPAT and improve public services related to land

registration, it is necessary to make changes to various provisions in PP 37/1998. Therefore, it is necessary to stipulate Government Regulation of the Republic of Indonesia Number 24 of 2016 in conjunction with Government Regulation Number 37 of 1998 concerning regulations governing the role of officials who make land deeds (hereinafter referred to as PP 24/2016).

The process of assigning mortgage rights based on the Mortgage Law goes through two stages, first, the stage of granting mortgage rights by making a Deed of Granting Mortgage Rights (APHT) by the PPAT beforehand a debt and receivables agreement is made which is the basis of this mortgage right; second, the registration stage by the Land Office, this registration is important because it proves the birth of the mortgage right being charged.

No later than 7 (seven) working days after signing the Deed of Granting Mortgage Rights as intended in Article 10 paragraph (2) of the Mortgage Rights Law, the PPAT is obliged to send the Deed of Granting Mortgage Rights in question and other necessary documents to the Land Office. The National Land Agency (BPN) is a state administrative institution whose authority only carries out tasks in the government sector (Adrian, 2012). PPAT is obliged to use the best and safest method by paying attention to the condition of the area and existing facilities, and always be guided by the aim of registering the mortgage right as quickly as possible. Other documents referred to in this paragraph include letters of evidence relating to the object of the mortgage right and the identity of the parties concerned, including land title certificates and/or certificates regarding the object of the mortgage right. PPAT is obliged to implement the provisions of this paragraph because of his position. Sanctions for violations will be determined in the laws and regulations governing the PPAT position.

However, please note that registration of mortgage rights is currently done electronically. Based on Agrarian Ministerial Regulation/KBPN No. 5 of 2020 concerning Electronically Integrated Mortgage Rights Services, Electronic Systems are a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, send and/or disseminate electronic information. Electronic devices can link registration between authorized public officials and banks as creditors at the local BPN office. There is no change in the physical procedure for making a deed, changes only occur at the time of registration carried out by PPAT, the Bank as Creditor.

This is to improve mortgage rights services that meet the principles of openness, timeliness, speed, convenience and affordability in the context of public services, as well as to adapt legal developments to technology according to community needs, it is necessary to utilize information technology so that mortgage rights service procedures can be integrated electronically so that become more effective and efficient.

Types of Mortgage Rights services that can be processed through the HT-el System include: HT registration, Changing creditor names, Roya mortgage rights, and Correction/change of data. The types of HT services mentioned above are included in the HT-el system, while HT objects that can be processed through electronic HT services are regulated in Law Number 4 of 1996 concerning Mortgage Rights over land and Objects Related to Land.

The first implementation of Electronic Mortgage Rights is by confirming and verifying the user's account using the ATRBPN Partner application as a PPAT work partner application. Then the HT-el registration process continues until the issuance of the HT-el certificate, all of these processes must fulfill the procedures and comply with the Agrarian Ministerial Regulation/KBPN No. 5 2020. In this case, the position of the National Land Agency, including creditors and PPAT, is very important in implementing HT-el services.

Significant differences between conventional mortgage services and electronic mortgage services include the following (Nurasa & Majiburohman, 2020) :

1. Conventional Mortgage Rights:

- a. It requires interaction of all related parties.
  - b. The counter at BPN is open on working days and hours
  - c. There is a queue at the registration counter
  - d. Bring data and complete documents
  - e. Mortgage Rights Certificate is completed within 7 (seven) days or more
  - f. The Mortgage Rights Certificate can be taken at the Land Office
  - g. Land certificates that have been recorded can be taken back to BPN
  - h. Requires storage space / archive of Mortgage Rights registration results
2. Electronic Mortgage:
- a. Applications are made through the system so they don't come to the counter
  - b. Registration can be done at any time
  - c. Register via the Electronic Mortgage System
  - d. Data and complete documents are created as a file and then uploaded
  - e. The Mortgage Rights Certificate will be issued within 7 (seven) days
  - f. Mortgage Rights Certificate will be sent via email
  - g. If there is a note on the certificate, it will be sent via email, and attached by creditors.
  - h. Warkah is stored in digital form

Even though it has changed to an Electronic Mortgage, the registration process has not changed much, and still refers to the Mortgage Rights Law, and its position remains as an additional agreement, not a main agreement.

The provision quoted is Article 10 paragraph (1) of the Mortgage Rights Law. This special provision stipulates that Mortgage Rights are additional agreements that are closely related to the main agreement, especially agreements relating to debts and receivables. In the banking sector, it can be seen that the credit grant agreement which functions as the main agreement, and the guarantee agreement which functions as a supplement, are usually documented in different forms or deeds. Therefore, the existence, assignment, and termination of the mortgage privilege depend on the underlying debt whose payment is guaranteed. Fulfilling mortgage rights requires the completion of two stages as mentioned above.

Purwahid and Kushadi explained that the stage of granting mortgage rights, with the APHT being made by PPAT, which is preceded by a debt and receivables agreement guaranteed. Then, the registration stage is carried out by the Land Office, which is at the birth of a dependent who is charged with the stage of granting Mortgage Rights by PPAT (which contains mandatory substance and facultative promises) which is preceded by a principal agreement, namely a debt and receivables agreement (Patrik & Kashadi, 2008) .

To provide legal certainty as a form of legal protection, the mortgage guarantee must be registered at the Land Office, to fulfil the element of publicity for the collateral, and make it easier for third parties to control if the collateral is transferred.

In Islam, the order for conveying mandates to people who have the right to do so is regulated by Allah, SWT. has said in the Al-Quran Surah An-Nisa verse 58 which reads (Ministry of Religion of the Republic of Indonesia, 2019) :

**God willing, God willing, God willing, God willing, God willing. بَيْنَ حَكْمَتُمْ وَإِذَا لَهَا بِصِيرًا سَمِيْعًا بِالْعَ تَحْكُمُوا أَنْ النَّاسَ**

Translation: "Indeed, Allah has commanded you to convey the message to those who are entitled to receive it, and when you establish a law between people, you must determine it fairly. Indeed, Allah is the best who teaches you. Indeed, Allah is All-Hearing, All-Seeing."

So the Land Deed Making Officer should carry out his position by applicable laws and regulations and comply with his professional code of ethics. Likewise, the Land Office as the party carrying out the registration of Mortgage Rights is obliged to comply with applicable laws and regulations to achieve legal certainty.

However, in daily practice, some PPATs are late in registering APHT with the Land Office. This is of course not by the legal objectives, namely legal certainty, especially if it causes consequences for creditors as interested parties in the repayment of their receivables, based on the information provided. received from the Luwu Regency Land Office regarding applications for registration of Mortgage Rights from January 2023 to October 2023, it was found that the percentage of delays in registration of the Deed of Granting Mortgage Rights always occurred every month. Some of these delays came from delays in PPAT registering APHT at the Luwu Regency Land Office and some delays occurred due to the system at the Luwu Regency Land Office where starting on June 8 2020, Electronic Integrated Mortgage Rights Services, hereinafter referred to as HT-el Services, have been implemented ( Electronic Mortgage Rights) is a series of mortgage rights service processes in the context of maintaining land registration data which is organized through the integrated HT-el (Electronic Mortgage Rights) System. If the Deed of Granting Mortgage Rights is not registered then the mortgage rights were never born/never existed. If the collateral for mortgage rights is never created, then the creditor does not have the status of a priority creditor (separatist creditor) to obtain repayment of the debtor's debt.

Regarding this delay, the UUHT clearly states the sanctions. Article 23 UUHT states that officials who violate or fail to fulfil the provisions as intended in Article 11 paragraph (1), Article 13 paragraph (2), and Article 15 paragraph (1) of this Law and/or its implementing regulations may be subject to administrative sanctions. , in the form of: verbal reprimand; written warning; temporary dismissal from office; dismissal from office.

The delay in APHT registration referred to is in Article 13 paragraph (2) which reads that "no later than 7 (seven) working days after signing the Deed of Granting Mortgage Rights as intended in Article 10 paragraph (2), PPAT is obliged to send the Deed of Granting Mortgage Rights concerned and other documents required to the Land Office." If these provisions are not implemented then Article 23 UUHT applies.

Apart from the sanctions for PPAT, PPAT's delay in submitting APHT to BPN can open up space for aggrieved parties to prosecute in court against PPAT's mistakes in not carrying out their duties as mandated by the Mortgage Law.

## **METHOD**

Normative legal research where normative research is research that emphasizes the use legal norms in writing and is supported by the results of interviews with sources and informants (Ibrahim, 2006).

### 1. The statutory approach (*statute approach*),

In the legislative approach method, researchers need to understand the hierarchy and principles in statutory regulations (Marzuki, 2005). According to Peter Mahmud, what is meant by *statute* is legislation and regulations. If so, the statutory regulatory approach is an approach using legislation and regulations (Marzuki, 2005) .

### 2. Conceptual approach ( *conceptual approach* )

A conceptual approach is used when the researcher does not depart from existing legal regulations. This was done because there were no or no legal regulations for the problems being faced. In using a conceptual approach, researchers need to refer to legal principles. These principles can be found in the views of scholars or legal doctrines (Marzuki, 2005).

## **RESULTS AND DISCUSSION**

The granting of mortgage rights must be registered and is an absolute requirement for the birth of mortgage rights and the binding of mortgage rights to third parties. At the stage of granting Mortgage Rights by the person giving the Mortgage Rights to the creditor, the Mortgage Rights in question have not yet been created. The Mortgage Right is only born

when it is recorded in the land book at the Land Office. Therefore, certainty regarding when the Mortgage Rights will be registered is very important for creditors. At that time, it not only determines its priority position relative to other creditors, but also determines its ranking about other creditors who are also Mortgage Rights holders, with the same land as collateral.

In principle, the burden of mortgage rights must be carried out by the person giving the mortgage rights himself. Only if necessary, namely if the person giving the Mortgage Rights is unable to appear before the PPAT, is it permissible to use a Power of Attorney to Encumber the Mortgage Rights ("SKMHT"). In line with this, the power of attorney must be given directly by the mortgage provider and must meet the requirements regarding its content as stipulated in article 15 of Law no. 4/1996. Failure to fulfill this requirement will result in the relevant power of attorney being null and void, which means that the relevant power of attorney cannot be used as a basis for making a Deed Granting Mortgage Rights. PPAT is obliged to reject the application to make a Deed of Granting Mortgage Rights if SKMHT is not made personally by the mortgage provider or does not meet the requirements referred to above. Related to this, Article 15 of Law no. 4/1996 regulates that:

1. SKMHT must be made with a notarial deed or PPAT deed and fulfil the following requirements:
  - a. does not contain the power to carry out legal actions other than imposing mortgage rights.
  - b. does not contain the power of substitution.
  - c. clearly state the object of the Mortgage Right, the amount of the debt and the name and identity of the creditor, the name and identity of the debtor if the debtor is not the provider of the Mortgage Right.
2. The power to impose mortgage rights cannot be withdrawn or expire for any reason except because the power has been exercised or because the term has expired.
3. SKMHT regarding land rights that have been registered must be followed by making a Deed of Granting Mortgage Rights no later than 1 (one) month after being granted, and those that have not been registered must be followed by making a Deed of Granting Mortgage Rights no later than 3 (three) months after being given. However, this provision does not apply in the case that SKMHT is given to guarantee certain credit as stipulated in the applicable laws and regulations.
4. SKMHT which is not followed by making a Deed of Granting Mortgage Rights within the specified time or time determined according to the provisions as referred to above will be null and void by law.

After SKMHT is obtained, the obligation to make an APHT is limited to one month for registered land rights and three months for unregistered land rights. Missing the APHT deadline will cause the SKMHT to be worthless. Only after the power of attorney has been exercised or the APHT time limit has passed can the SKMHT be revoked. In this section, it is revealed that SKMHT itself does not bind the collateral, but merely gives the owner the power to charge the Mortgage Rights to the recipient. APHT binds the collateral object and requires the owner to return it to pay off the debt. SKMHT must be given directly by the Mortgage Rights provider and fulfil the requirements of the Mortgage Rights Law.

Without these criteria, the applicable SKMHT becomes null and void, so the power of attorney cannot be used to make APHT. If the SKMHT is not made by the Mortgage Rights Holder, PPAT is obliged to reject the APHT application. Missing the APHT registration deadline does not reduce or affect the validity of the Mortgage Rights; only frees third parties from promises by creditors and owners, which only bind the parties agreeing. If the PPAT is late in registering the APHT, it can still be done with a postponement letter, which does not cancel the mortgage right. Thus, if the collateral received by the Bank is fully bound by the Mortgage Law, then the bank has a priority position compared to other creditors. However, if

APHT is not registered immediately, it can cause problems if the owner loses authority over the object and third parties do not know that the object has been registered. (Harinata, 2015) .

However, late registration of the APHT does not necessarily invalidate the APHT registered by the APHT and can be treated as proof of mortgage. In the UUHT, as in other regulations, there is no legal provision that states that late submission of the APHT will invalidate the document in question.

The non-registration of APHT does not bind third parties to promises made by creditors and mortgage rights holders. Registration of mortgage rights is intended so that proof of mortgage rights can be created and creditors as parties have rights protected by the UUHT as priority debts, which take priority in repayment of the debtor's debts.

Thus, as long as the APHT has not been registered, the creditor's rights are limited to the general guarantee contained in Article 1131 of the Civil Code, namely all of the debtor's assets, both existing and future, as collateral for all obligations.

APHT registration aims to ensure that a certificate of Mortgage Rights can be created and that creditors as interested parties have their rights protected by the Mortgage Rights Law. However, late APHT registration also affects the birth time of the Mortgage Rights, where during this time a lawsuit may arise from a third party, court confiscation, or bankruptcy of the Mortgage Rights giver, where creditors and PPAT do not always know the debtor's economic situation. Of course this will cause losses for the creditor as the creditor (Harinata, 2015).

If before the issuance of the mortgage rights certificate, the debtor defaults, the creditor does not have the right to conduct an execution auction as intended in Article 6 UUHT, because a copy/photocopy of the Mortgage Rights Certificate and the Deed of Granting Mortgage Rights are special documents at the time of the auction request based on the attachment to the Minister of Finance Regulation Republic of Indonesia number 213/PMK.06/2020 concerning Instructions for Implementing Auctions.

Based on applicable regulations, APHT registration is no later than 7 (seven) working days after signing the APHT, but in practice according to PPAT Andi Riza Alief Waldany, SH, M.kn., there is a delay that exceeds the specified period, this is due to When the bank signs the file that has been submitted by PPAT, it sometimes has to wait while the number used has started running. In this way, the implementation of the APHT registration has passed the stipulated period, but Andi Riza Alief Waldany, SH, M.kn., continued that this is not a problem and there are no consequences from the Land Office, the Land Office still accepts or tolerates what The worry is that if there is a confiscation, for example there is a confiscation before registration, then the risk will be to PPAT and the bank. When there is a delay in APHT registration, the Land Office will require the PPAT to make a late statement including the reasons for the delay.

Apart from the obstacles mentioned above, according to PPAT Alimuddin Mandas, SH, M.kn., delays in APHT registration can also be caused by unclear data, because the customer previously gave it to the bank which was then handed over to PPAT. After the PPAT inputs the data, it is then sent to the BPN which can ultimately be rejected by the BPN because the files are not clear. With the online system which is carried out through the application, if the period exceeds 7 (seven) working days after signing the APHT, it will be rejected automatically. This is different from the previous online system, APHT registrations that passed the period still had a policy to be accepted.

Regarding the online system, if the 7 (seven) day period exceeds it, it will automatically be rejected. However, according to PPAT Najemiah Muhammad Said, SH, MH, first look at the BPN elements because usually there are sediments. If it is electronic, it is still confirmed by BPN, and input at the Pusdatin is also usually late. With the rules of the online system, sometimes creditors do not position themselves, there are delays, apart from that, PPAT in

this case has too much trust in staff, while never controlling whether the staff is working or not, this is one of the indicators because it is not being implemented because lack of files.

In PMATR/KBPN No. 5/2020 regulates that the head of the land office can refuse *HT-el services* if there is a confiscation and/or block during the *HT-el* service process period, and there are other reasons based on the provisions of statutory regulations. In the event of an emergency beyond human control (*force majeure*) and/or certain circumstances that cause the *HT-el* System to be disrupted and the *HT-el* Service results cannot be published, then the *HT-el* Service application is declared cancelled. Rejection and cancellation of the service is notified to the creditor via the *HT-el System*, Electronic Domicile and/or other electronic media.

Since the enactment of PMATR/KBPN No. 5/2020, APHT registration is carried out using the online system. Regarding the research area, the online system came into effect in 2020 and was carried out in stages starting from Belopa District as a pilot, this could be caused by supporting factors such as servers.

In practice, online systems are more efficient because they are faster and require less operations, more efficient than traditional systems. Before the online system, certificates could be issued no later than 2 months after registration. Unlike network systems, it immediately exits and prints once ready. Apart from paying the PNPB value of the pawn, there are no additional or other fees and payments are made directly at the bank.

Furthermore, according to PPAT Andi Dirwani, SH, M.kn., currently there are 3 (three) parties in APHT registration, previously only 2 (two) parties, namely PPAT and the Land Office, are now also involved with other parties. Bank. Roya's bank even did it themselves to print the certificates, as the creditors can print the certificate, it is no longer from the Land Office that prints it. Apart from that, before the system goes online, after payment PPAT will take it to the Land Office, or the debtor can also go directly to the Land Office. Not now, the bank is so paid off, you can go straight to Roya, because it already has an application so it's effective.

With the online system, if there is a data error, it will be delegated to PPAT because PPAT is the one who inputs the data, whereas before the online system PPAT only prepared files, KTP and all related documents which then BPN would print certificates. Technically, PPAT inputs related data which then BPN will check whether it is complete and all data can be read. After confirmation by BPN to PPAT regarding the input data, PPAT will convey to the bank to input the data related to the bank and print a Deposit Order ("SPS") whose PNPB will appear depending on the value of the Mortgage. After payment is made, the bank will print a mortgage certificate, not a land certificate.

PPAT in carrying out APHT registration has been focused, with a new system that has been developed by the District Land Office. Luwu is computerized, making the APHT registration process easier.

As a public official who creates APHT and sends letters in electronic mortgage services, PPAT is obliged to enter APHT data into the Ministry of ATR/BPN's Working Partner program. Article 20 paragraph (4) PMATR/KBPN No. 5/2020 states, that if an electronic mortgage certificate is issued based on a fake document, the sender is criminally and civilly responsible because it guarantees the material truth of the document. PPAT must attach a statement stating its responsibility for the validity and correctness of the data provided in the mortgage electronic system, including uploading images of the documents in question. (Natania et al., 2020).

PPAT will ask for original KTPs, marriage certificates and certificates from the parties when making the deed, for example APHT. This is the application of caution towards one's duties to guarantee the authority to behave towards a land object. PPAT's cautious approach of requiring applicants to show the original letter does not guarantee the validity of the letter. By Supreme Court Decision Number 702K/Sip/1973, PPAT only records/writes the wishes of

the parties based on formal data. PPAT has no obligation to investigate the material truth of the parties' statements and cannot guarantee their accuracy (Triyono, 2019).

As to enforce the registration period, namely 7 (seven) working days, PPAT Alimuddin Mandas, SH, M.kn., said that in land registration there is a principle of publicity which in essence is " everyone does it because in this case, we adhere to negative land registration system ", everyone can do it and can check the certificate , in public .

Furthermore, PPAT Alimuddin Mandas, SH, M.kn., explained that in the Minister of Agriculture Regulation Number 3 of 1997 Article 97 with Ministerial Regulation Number 16 of 2021, it is explained that " it is mandatory to check the certificate". If you have checked when registering within 7 (seven) days, the mortgage will be born 7 days after registration. So, 7 (seven) days after it is registered, a mortgage book and mortgage certificate will be produced, so this does not prevent it because the certificate is not the only piece of evidence so it has a more negative tendency. To compensate for the weaknesses of this system, the provisions of PP 24/1997 in Article 32 paragraph (2) regarding the " *rechtsverwerking* " institution are regulated, if it has been 5 years, it can no longer be sued.

As a civil servant, PPAT must carry out its duties and functions by applicable laws and regulations. Legal obligations are closely related to legal obligations. If PPAT violates or fails to fulfil its obligations in carrying out its office, PPAT can be held legally accountable. Determination of legal responsibility for PPAT is a legal consequence if PPAT violates its obligations. Legal responsibility is a type of responsibility imposed on legal entities that have committed unlawful acts or criminal acts, so that the person concerned can be held liable for compensation and/or criminal prosecution.

PPAT's responsibility as the sender of documents is a logical consequence of its position as a land agency and the signing of a statement stating responsibility for the validity and correctness of the data entered into the electronic mortgage system. PPAT must understand the subject and object before issuing an authentic deed of ownership of land or flats. According to Article 39 paragraph (1) of the PP on Land Registration, PPAT has the right to refuse to make a deed if one or more parties who want to carry out legal action do not have the right or fulfill the requirements to do so or cannot submit the original certificate. PPAT.

In general, administrative sanctions can be divided into 3 (three) types, namely (Adjie, 2011) :

1. Reparative sanctions. This sanction is aimed at correcting violations of legal regulations. It can be in the form of stopping prohibited actions, the obligation to change attitudes/actions so that the previously determined state is achieved, or actions to correct something contrary to the rules. For example, coercion to do something for the government and forced payment of money as a punishment.
2. Punitive sanctions. Punitive sanctions are an additional burden. Punitive sanctions are classified as retaliation and preventive measures that create fear for the same offender or possibly other offenders. For example, payment of fines to the government, harsh warnings.
3. Regressive sanctions. Sanctions as a reaction or disobedience, the revocation of rights to something decided according to law, as if it were returned to the actual legal situation before the decision was taken. For example, revocation, change or suspension of a decision.

Regarding APHTs that are registered more than 7 (seven) working days, Law 4/1996 regulates sanctions for PPATs who are late or negligent in fulfilling these obligations, namely in Article 23 paragraph (1) of the Mortgage Rights Law , which regulates that officials who violate or Failure to do so may be subject to administrative sanctions, in the form of: verbal warning; written warning; temporary dismissal from office; dismissal from office.

Apart from that, sanctions provisions for PPAT are also regulated in PP No. 37 / 1998, as regulated in P 23, namely:

1. PPAT was honourably dismissed from his position because:
  - a. own request;
  - b. is no longer able to carry out his duties due to his physical or mental health, after being declared by the authorized medical examiner team at the request of the Minister or appointed official;
  - c. commits a minor violation of the prohibitions or obligations as a PPAT;
  - d. appointed as a civil servant or ABRI;
2. PPAT was dishonorably dismissed from his position, because:
  - a. commits a serious violation of the prohibitions or obligations as a PPAT;
  - b. sentenced to imprisonment/imprisonment for committing a crime which is punishable by imprisonment or imprisonment for a maximum of 5 (five) years or more based on a court decision that has permanent legal force.

These sanctions provisions are imposed on PPAT by the Minister, as regulated in article 5 paragraph (1) PP No. 37/1998 namely " *PPAT is appointed and dismissed by the Minister* ". These sanctions , they are further regulated in the Regulation of the Head of the National Land Agency No. 1 of 2006 concerning provisions for the implementation of Government Regulation Number 37 of 1998 concerning Position Regulations for Officials Making Land Deeds .

If the PPAT is late in registering the APHT, it can send a late letter to the Head of the Land Office, it is rarely subject to sanctions and the same registration can be handled again. The provisions registered within 7 days contain the aim and effect of promoting legal certainty and preventing losses for the parties. Habib Adjie said "There is no point in enforcing legal rules if these rules cannot be enforced through sanctions and enforcing these rules procedurally (procedural law)" if a regulation does not have sanctions and practical application. Regulations and legislation will not be effective without real punishment and implementation because they will not deter violators or create legitimate orders (Harinata, 2015) .

According to Hastak, at BPN there is an institution called the Regional PPAT Advisory and Supervisory Council, hereinafter abbreviated as MPPD, which is the PPAT Advisory and Supervisory Council which is located at the Land Office.

The Regional Advisory and Supervisory Council (MPPD) has the authority to impose sanctions on Land Deed Drafting Officials (PPAT), however, before these sanctions are given, guidance and supervision is carried out first by the MPPD. Furthermore, the MPPD can carry out investigations into alleged violations committed by PPAT starting from the level of the Regional Supervisory and Supervisory Council (MPPD) if it is proven that violations have been committed by PPAT. 2) The decision issued by the Regional Supervisory and Supervisory Council (MPPD) in imposing sanctions on PPAT can be tested in the State Administrative Court. As an agency that receives delegation of authority from the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, which is a State Administrative position, MPPD is of course a State Administrative Agency.

According to Andi Dirwani, SH, M.kn, the implications of APHT being registered more than 7 (seven) working days do not have much of an impact on the HT registration process at the Land Office but perhaps the impact is more of a loss to the parties involved in the APHT. Parties who experience losses due to delays in APHT registration, can sue civilly based on PPAT errors . Based on the Civil Code , the element of fault is an absolute requirement where the perpetrator of the unlawful act must compensate for all losses, regardless of the severity of the perpetrator's mistake. (Prodjodikoro, 1984) . Thus, the delay in APHT registration specified in the Mortgage Law, namely 7 days after the APHT is

signed, can be an element of error for the PPAT, regardless of the severity of the error. (Harinata, 2015) .

PPAT's civil liability is related to gaps, omissions and/or negligence in making deeds that deviate from formal and material requirements. Civil sanctions are imposed on PPAT if the actions carried out cause losses. Thus referring to the provisions of Article 1365 of the Civil Code require the fulfilment of 4 (four) elements, namely the existence of an act, the existence of an element of error, the existence of a loss suffered, the existence of a causal relationship between the error and the loss (Aditama, 2018) . As stipulated in Article 1365 of the Civil Code that " every act that violates the law and brings loss to another person, requires that the person, because of his fault in causing the loss, compensate for the loss . "

provision obliges every person who causes harm to another person to compensate the loss according to the loss caused by him or herself. The losses referred to are losses of assets in general which include: a. losses suffered by the sufferer, and; b. profits that should be obtained (Setiawan, 1982). A if the action PPAT causes losses or does not obtain profits that should be obtained, the PPAT as a public official can be held civilly responsible, then PPAT is also obliged to compensate for losses caused by it (Harinata, 2015) .

PPAT is fully responsible if it violates its duties and causes losses to certain parties. Criminal sanctions can only be imposed on PPAT if they have made a fake letter or deed. Articles 263, 264, and 266 of the Criminal Code ("KUHP") regulate fake letters. Forgery of a valid deed is a criminal offence under Article 263 of the Criminal Code Article 20 PMATR /KBPN No. 5 / 2020 regulates that if a document is declared fake and is used as a basis for issuing an electronic mortgage certificate, the land office employee cannot be held legally responsible and is fully responsible for the sender of the document both criminally and civilly. (Natania et al., 2020) .

Thus, the legal consequences of registering mortgage rights exceeding the statutory time limit can be classified as (Tamala, 2018) :

1. Legal Consequences for PPAT Article 23 paragraph (1) UUHT, that: Officials who violate or neglect to comply with the provisions as intended in Article 11 paragraph (1), Article 13 paragraph (2), and Article 15 paragraph (1) of this Law and/or its implementing regulations may be subject to administrative sanctions, in the form of: verbal warning; written warning; temporary dismissal from office; d. dismissal from office.
2. Legal Consequences for Creditors. To protect creditors, it is not enough just to make it in the form of a deed, it must also be followed by registration at the Land Office to find out that the land has truly been charged with a Mortgage. With the birth of Mortgage Rights, if the debtor defaults then repayment of the receivables takes priority. Delays in registration cause the creditor's Preference Rights to be suspended, thereby creating a risk if in the future there is a request for collateral confiscation from the court regarding the object of the Mortgage Rights. So after signing the APHT by the parties, the PPAT which made the deed sends the file to the Land Office to be registered so that it is known that there is a Mortgage Rights imposed on the Land Rights. This has been outlined in the provisions of Article 13 paragraph (4) of the Mortgage Rights Law, that the date of the Mortgage Rights land book is the seventh day after complete receipt of the documents required for its registration and if the seventh day falls on a holiday, the land book concerned is given the date of the next working day. This means that the time of submission of the APHT and its completeness has a direct impact on the date of publication of the Mortgage Rights land book in question. The consequence of late registration of the APHT and other certificates is that the longer the registration takes, the longer it will take to issue the Mortgage Rights certificate.

In essence, the Legislative Regulations provide a time limit for the registration of APHT and other certificates to provide legal certainty for the collateral itself and ensure legal

protection for creditors. To ensure legal certainty and protect interested parties, statutory regulations regulate sanctions imposed on the implementers concerned, for violations or negligence in fulfilling various provisions for the implementation of their respective duties. The Mortgage Rights Law provides legal clarity to creditors by determining when mortgage rights arise based on registration. The priority of creditors over other creditors depends on the certainty of mortgage rights. The Mortgage Rights Law regulates sanctions for parties who do not register mortgage rights because the birth of mortgage rights depends on their registration. (Natania et al., 2020).

## CONCLUSION

The implications of APHT being registered by PPAT more than 7 (seven) working days will affect the birth time of the Mortgage Rights so that it can cause losses to the parties, namely the third party is not bound by the promises made by the creditor and the owner of the Mortgage Rights object. Thus, as long as the APHT has not been registered, the creditor's rights are limited to the general guarantee contained in Article 1131 of the Civil Code, namely all of the debtor's assets, both existing and future, as collateral for all obligations. Apart from that, the implication is that if before the issuance of the mortgage rights certificate, the debtor defaults, the creditor does not have the right to conduct an execution auction as intended in Article 6 UUHT, because a copy/photocopy of the Mortgage Rights Certificate and the Deed of Granting Mortgage Rights are special documents at the time of the auction request.

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