

# Position of Subdistrict Head as Temporary Land Deed Making Official in Land Registration Implementation

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*Abstract:* - Position of Subdistrict Head as Land Deed Making Officer While tied to professional ethics The Land Deed Making Official, but in an organization, the Temporary notary is not part of the Association of Indonesian Land Deed Making Officials, so that in his position as Temporary The Land Deed Making Official, the Subdistrict Head cannot be sanctioned by the Indonesian The Land Deed Making Official Association. The purpose of this study was to analyze the position of the Subdistrict Head as a temporary land deed maker in implementing land registration. This research method uses juridical empirical, namely analyzing various laws and regulations in the land sector that have a relationship with the Head of the Sub-District as The Land Deed Making Official while making authentic deeds on land. Subdistrict Head is a civil servant that means concurrently having a position. The Subdistrict Head as a Temporary The Land Deed Making Official needs to be reviewed because it has violated Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning the Prohibition of Concurrent Positions. In Article 27 of the Government Regulation of the Republic of Indonesia, Number 24 of 2016 for Temporary The Land Deed Making Officials that stop as Temporary The Land Deed Making Official is required to submit the Temporary The Land Deed Making Official protocols that replace them. The Subdistrict Head as a Temporary The Land Deed Making Official after stopping is obliged to submit/report The Land Deed Making Official protocol. In the Law on Notary Position, it does not cause the end of the authority of the Subdistrict Head and the Village Head as The Land Deed Making Official, because the basis for the authority that the Subdistrict Head and the Village Head have as The Land Deed Making Official is delegative in casuistic nature, depending on the situation and conditions in which The Land Deed Making Official deed was drawn up.

*Key-Words:* - Subdistrict Head, Temporary Land Deed Maker, Land Registration

## 1 Introduction

Registration is carried out by the National Land Agency, a non-departmental institution whose field of duty includes the land sector. Land Office is a work unit of the National Land Agency in a regency or municipality, which carries out land registration. In carrying out its duties, the National Land Agency is assisted by the Official for Making Land Deeds, after this referred to as The Land Deed Making Official, namely general officials who are given the authority to make land deeds[1].

The National Land Agency carries out land registration. The Official assists this action for Making Land Deeds and other officials, where other officials appointed to assist the National Land Agency to carry out actions regarding land registration[2]. Other officials referred to carry out land registration according to Article 5 number (3) Government Regulation Number 37 of 1998 concerning Regulation of Officials for Making Land

Deeds which amended into Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning The Regulation on the Position of Land Deed Making Official is that the Subdistrict Head is appointed as the Temporary Land Deed Making Officer [3].

The Subdistrict Head as the Temporary Land Deed Making Officer is appointed by the Minister who is associated with government affairs administration in the special division of land if there are not enough Land Deed Making Officials in the area[4]. This Land Deed Making Official is, of course, his duty to serve the community in connection with the making of authentic deeds that are made or legalized by the Land Deed Making Official.

The sub-district head apart from being the Temporary Land Deed-Making Officer has the task

of being the Head of the District, where this task has a very large responsibility burden and a big risk in government [5]. The sub-district head apart from being a representative of the central government also has a very important and broad role in the agrarian sector is linked to political and legal interests [6].

The position of the Subdistrict Head as Temporary Land Deed Making Officials is bound to the professional ethics of Land Deed Making Officials, but organizationally the Temporary The Land Deed Making Official is not part of the of Association Indonesian Land Deed Making Officials so that in his position as Temporary The Land Deed Making Official, Subdistrict Head cannot be sanctioned by the Indonesian The Land Deed Making Official Association. Article 1 point 3 of The Land Deed Making Official Code of Ethics states that The Land Deed Making Official is any person who carries out his/her job duties who carries out the functions of a public official. Based on the above problems, the purpose of this study is to analyze the position of the sub-district head as an official for making temporary land deeds in implementing land registration.

## 2 Methodology

This study used an empirical juridical research approach. The juridical approach analyses various laws and regulations in the land sector that have a relationship with the Head of the Sub-District as The Land Deed Making Official while doing authentic deeds concerning land [7]. Whereas the empirical approach is used to analyze law not merely as a set of normative laws and regulations, but law is seen as a symptom of community behaviour and patterns in people's lives, always interact with and relate to social aspects such as politics, economics, social and cultural. Various findings in the field will be used as the main source and material in expressing the problems studied by adhering to normative provisions[8]. The author's empirical research conducted at the National Land Agency Office of Pekalongan City, Kendal Regency National Land Agency Office, Semarang City National Land Agency Office (Mijen District Office Semarang City, West Semarang District Office), Java Province National Land Agency Regional Office Tengah, and the Notary Office / The Land Deed Making Official Semarang City.

## 3 Results and Discussion

Acts of transfer of land rights are carried out while the right holder is still alive and constitutes legal acts of transfer of rights in cash or direct nature, except for a will. This means that by carrying out the legal

act, the land's rights in question are transferred to another party. In a will grant, the right to the land in question is transferred to the will's recipient when the right holder dies [9].

In buying and selling, exchanging, grants, giving according to customs and income in the company, as well as the implementation of wills, are carried out by the parties before the Land Deed Making Official, who is in charge of doing the deeds. The legal action concerned before The Land Deed Making Official has fulfilled the clear requirements (not a "dark" legal act, which is carried out in secret).

The deed signed by the parties shows the real or "real" act of the law of sale and purchase carried out. The nature of buying and selling, namely cash, clear and real, is fulfilled. The deed proves that it is true that the legal act in question has been committed. The legal action taken is a legal act of transferring rights, then the deed implicitly proves that the right recipient has become the new right holder[10].

In obtaining a stronger and broader proof of evidence, the transfer of rights is registered at the Regency/City Land Office, to be recorded in the land book and the certificate concerned. With the transfer of rights on the title certificate, the strong proof is obtained[11]. A study of the administrative aspect of the transfer of land rights in the Regency/City land office is open to the public, so by recording the transfer of rights in the land title book, it is not only the person who transfers the rights and their inheritance, but the third party is also considered to know that the recipient rights are the new rights holders[12].

Arie S. Hutagalun's view is that the statements contained therein have legal force and must be accepted as true information as long as and as long as there is no means of evidence to prove otherwise. A study from the normative aspect based on the provisions of Article 19 point (2) letter c of the Basic Agrarian Principles which states that registration includes the provision of certificates of proof of rights, which act as a powerful means of proof showing that the land registration system prevailing in Indonesia is a negative publication system. which contains positive elements. Such a statement would not exist in a land registration system with a purely negative publication system [13].

According to Salim HS, the imposition of land rights related to property security includes collateral for movable and immovable objects. states that the material security that is still valid is a pledge, fiduciary security, and mortgage as one of the security guarantees is a security right imposed on the right to land as referred to in the Basic Agrarian Principles as well as other objects that are an integral

part of the land to pay certain debts, give a certain creditor a position of priority over other creditors[14].

The existence of a Temporary, The Land Deed, Making Official is very much needed, especially in remote areas where there is not enough The Land Deed Making Official, even in remote areas far from the City the Village / Lurah is appointed as a Temporary The Land Deed Making Official (Article 18 point (1) Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 concerning Implementing Rules for the Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning the Position Regulation of Land Deed Making Officials, with the consideration that the Village Head is deemed to know the area where the Subdistrict Head serves, thus facilitating the activity of making a certificate stating land ownership by society.

Article 66 of Law Number 22 of 1999 on Regional Government said that the sub-district is the head of the majority districts' delegation that receives government authority of the regent or mayor. The position of district head as a The Land Deed Making Official While for status as a district head in the sub-district head of the subdistrict where he tow al to do his job[15].

In the General Indonesian Dictionary, the definition of position is status, namely the state or level of a person, body or state. Position can also be interpreted as a place where an employee lives to do his job or position. The Subdistrict Head position as a Provisional, The Land Deed, Making Official is the same as that of The Land Deed Making Official, namely as a general officer. In Article 126 point (2) Government Law states that "In addition to the task referred to in point (2), District led by the district head who in the performance of its duties derive the delegation part of the authorities regent or mayor to handle the affairs of regional autonomy.

Article 126 point (3) of the Regional Government Law states that; in addition to the tasks referred to in number (2) the Subdistrict Head shall carry out general government tasks including Coordinating community empowerment activities; Coordinating efforts to organize public order and order; Coordinating the implementation and enforcement of statutory regulations; Coordinating maintenance of infrastructure and public service facilities; Coordinating the administration of government activities at the sub-district level; Fostering the administration of village or sub-district government; and Carrying out community services that fall within the scope of their duties and which cannot be implemented by the village or sub-government.

The district head of the sub-district has other duties, including serving as the Temporary The Land Deed Making Official. The Subdistrict Head position as The Land Deed Making Official is the same as the position of The Land Deed Making Official / Notary. The Subdistrict Head position as a Provisional The Land Deed Making Official is the same as The Land Deed Making Official/Notary Public, but a Temporary Land Deed Making Official is only authorized to do deeds regarding lands located within his working area[16].

The function of the Subdistrict Head as The Land Deed Making Official is to make land deeds. This function was created because of the job title being carried out, namely, head of the sub-district. The Subdistrict Head as the Temporary, The Land Deed Making Official, provides a monthly report which is given regularly every month. The decree for the Subdistrict Head appointment as The Land Deed Making Official is signed by the head of the Regional Office on behalf of the Minister in the form that has been determined.

The responsibility of the sub-district head as a temporary The Land Deed Making Official is the same as for other The Land Deed Making Official, namely to the Head of the Regional Office of the Provincial National Land Agency, Head of City or Regency Land Office, Head of Land and Building Tax Service Office and Head of Tax Service Office. Accountability as a temporary The Land Deed Making Official is in the form of a monthly report given regularly every month. The Head of the Regional Office signs the Decree of the Subdistrict Head's Appointment as the Official for Making Temporary Land Deeds on behalf of the Minister according to the stipulated form.

In the provisions of Article 19 number (1) junto Articles 23, 32, 38 Basic Agrarian Principles states that "to ensure legal certainty by the government, land registration is held in all parts of Indonesia according to the provisions stipulated by Government Regulation". In the contents of Article 19 point (1), it is known that land registration is very important to guarantee the legal certainty of land rights. Therefore land registration must be carried out in all parts of Indonesia. To meet the needs of The Land Deed Making Official deficiency, a sub-district that has not been appointed a The Land Deed Making Official, a Subdistrict Head in that sub-district due to his position can be appointed as a Provisional The Land Deed Making Official. The Subdistrict Head as the Temporary, The Land Deed Making Official, has the same duties and obligations as The Land Deed Making Official[17].

Based on the provisions of Article 6 number (2) Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration states that "In carrying out land registration, the Head of the Office is Land assisted by The Land Deed Making Official and other officials assigned to carry out certain activities according to this Government Regulation and statutory regulations. -related legislation ". Article 40 number (1) Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration states that: "At the latest 7 (seven) working days after the signing of the deed concerned, THE Land Deed Making Official is obliged to submit the deed it has drawn and the documents concerned to Land Office to be registered ". Number (2) states that: "The Land Deed Making Official is obliged to deliver a written notification regarding the delivery of the deed as referred to in number (1) to the parties concerned"[18].

#### 4 Conclusion

The sub-head district's position as the Temporary Land Deed Making Official in the implementation of land registration has resulted in some problematic legal actions. This is because the sub-head district is not provided with full knowledge of Temporary Land Deed Making Official and there is a lack of guidance for the Temporary Land Deed Making Official. The absence of time for coaching at the sub-head district is due to the tight schedule and work so that there are problems with scheduling adjustments between the sub-head district and the Team of Trustees who are in charge of inspecting the sub-head district's office. This problem arises because Land Deed Making Official has concurrently concurrent positions as Head of Sub-District. In contrast, the prohibition of concurrent positions is regulated as in Article 7 numbers (2b) and (2c) Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Land Deed Making Official Position Regulations for Civil Servants and Government Officials. In the Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning Prohibition of Concurrent Positions as Land Deed Making Official for Civil Servants. In the Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning Prohibition of Concurrent Positions as The Land Deed Making Official for Civil Servants.

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