



JLPH:
**Journal of Law, Politic
and Humanities**

E-ISSN: 2962-2816
P-ISSN: 2747-1985

<https://dinastires.org/JLPH> [✉ dinasti.info@gmail.com](mailto:dinasti.info@gmail.com) [☎ +62 811 7404 455](tel:+628117404455)

DOI: <https://doi.org/10.38035/jlph.v6i2>
<https://creativecommons.org/licenses/by/4.0/>

The Interaction of Authority Between Notaries and Land Deed Officials (PPAT) in Land Transactions: An Analysis of Legal Certainty and Normative Solutions

Dedy Alexander Lado^{1*}, Indrati Rini²

¹Fakultas Hukum, Universitas Narotama, Surabaya, Indonesia, 61dedi@gmail.com

²Fakultas Hukum, Universitas Narotama, Surabaya, Indonesia, indratirini1956@gmail.com

*Corresponding Author: 61dedi@gmail.com

Abstract: This study aims to analyze the interaction of authority between Notaries and Land Deed Officials (PPAT) in the execution of land transaction deeds, emphasizing the aspect of legal certainty and the accountability of public officials. The issue arises due to overlapping authorities in practice, particularly when a Notary simultaneously holds the position of a PPAT in transferring land rights. This dual function often results in differing interpretations regarding the validity of deeds, the legitimacy of the officiating authority, and the resulting legal consequences for the parties involved. In addition, the Indonesian legal system has not yet firmly delineated the jurisdictional boundaries between the Notary and PPAT offices, creating potential uncertainty in the execution of authentic deeds. This research employs a normative juridical method with a combination of statute, conceptual, and case approaches. The statute approach examines the harmonization between the *Law on Notary Office* and the *Regulation on PPAT Office*. The conceptual approach interprets legal theories of competence, public responsibility, and legal certainty, while the case approach analyzes five key Supreme Court decisions that deal with the validity of deeds and overreach of authority. The results reveal an urgent need for legal harmonization and the establishment of concrete implementation guidelines that clarify the separation of authority between Notaries and PPATs. Furthermore, the study proposes the strengthening of professional supervision and accountability to prevent authority conflicts and to ensure a consistent standard of legal protection for the public.

Keyword: Notary, PPAT, authority, land deed, legal certainty.

INTRODUCTION

The role of Notaries and Land Deed Officials (PPAT) in Indonesia is integral to ensuring legal certainty in civil and property transactions. Both offices are established by law to create authentic deeds that serve as strong evidence in legal relationships between individuals. However, while both are categorized as public officials, their jurisdictions differ in nature and scope. The Notary is governed by Law No. 2 of 2014 concerning the Notary Office (*UUJN*), granting general authority over civil legal acts, whereas the PPAT derives its specific mandate from Government Regulation No. 24 of 2016 concerning the PPAT Office, limited to deeds related to land rights and their encumbrances.

In theory, the distinction between the two offices appears clear, yet in practice, overlaps frequently occur, particularly when a Notary also serves as a PPAT. This dual capacity, though legally permitted, often creates interpretative ambiguity regarding the scope of each role. A Notary performing a land transaction may inadvertently exceed the scope of authority defined for PPATs, leading to questions concerning the validity and enforceability of such deeds. These issues have led to various legal disputes and even judicial reviews at the Supreme Court level, reflecting the need for clarity in the relationship between the two professions.

The dual authority of Notaries and PPATs also raises concerns from an administrative law perspective. The principle of *lex specialis derogat legi generali* suggests that the specific regulation governing PPATs should prevail in matters related to land, whereas the Notary Act provides a general framework. However, because both roles share overlapping procedural responsibilities, misinterpretations are common. The absence of a comprehensive coordination mechanism between the Ministry of Law and Human Rights (which supervises Notaries) and the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (which regulates PPATs) further exacerbates inconsistencies in the field.

The existing regulatory structure therefore creates a vacuum of responsibility in cases where a deed is deemed invalid due to procedural errors or overreach of authority. This problem is aggravated by the lack of an explicit harmonization clause between the *Notary Act* and the *PPAT Regulation*. Consequently, disputes often arise when land transactions executed by Notaries are later challenged in court, particularly on the grounds that the Notary acted outside the scope of PPAT authority. Such cases undermine public trust in the authenticity of deeds and the institutions meant to safeguard legal certainty.

From a jurisprudential perspective, the function of a Notary or PPAT is not only to formalize legal acts but also to uphold justice through procedural integrity. The degradation of deed validity due to overlapping authority jeopardizes not only the individual transaction but also the broader principle of *legal certainty (rechtssicherheit)*. The theoretical foundations of Hans Kelsen's *Pure Theory of Law*, Gustav Radbruch's notion of legal certainty, and Utrecht's concept of the rule of law all emphasize that the legitimacy of a legal system depends on the clarity and predictability of official authority.

Several Supreme Court decisions demonstrate the practical consequences of authority conflicts between Notaries and PPATs. Some courts have annulled deeds made outside proper jurisdiction, while others have upheld them to protect third parties acting in good faith. The inconsistency among judicial decisions reflects a broader issue: the need for a coherent legal interpretation and consistent policy direction regarding the interaction of these two offices. Without such harmonization, the risk of conflicting precedents will continue to threaten the predictability of land transactions and the stability of property rights in Indonesia.

This research is therefore conducted to explore the normative interaction between the Notary and PPAT offices, focusing on the scope, limits, and harmonization of their respective authorities. It aims to answer the central question of how legal certainty can be preserved in situations where authority overlaps, and how normative and policy reforms can establish a clearer division of responsibility. By analyzing statutory frameworks, doctrinal theories, and relevant Supreme Court decisions, this study seeks to provide both academic and practical contributions to the ongoing discourse on professional accountability and the rule of law in Indonesia's notarial and land administration systems.

METHOD

This research uses a normative juridical method, focusing on laws as written (*law in books*). It aims to analyze the interaction of authority between Notaries and Land Deed Officials (PPAT) through the lens of statutory provisions, legal theories, and case law. Three approaches are applied. The statute approach examines the *Law on Notary Office* (Law No. 2

of 2014), the *Regulation on PPAT Office* (Government Regulation No. 24 of 2016), and related ministerial decrees. The conceptual approach explores doctrines of authority, competence, and legal certainty from scholars such as Kelsen and Radbruch. The case approach analyzes five Supreme Court decisions concerning deed validity and overreach of authority. Legal materials are obtained through document study and analyzed qualitatively using deductive reasoning, moving from general legal norms toward specific conclusions about the harmony and conflict between the authority of Notaries and PPATs in land transactions.

RESULTS AND DISCUSSION

Normative Basis of Authority Between Notary and PPAT

The legal positions of Notaries and Land Deed Officials (PPAT) in Indonesia are both based on public authority granted by law, yet they differ in substance and scope. A Notary, under Law No. 2 of 2014 concerning Notary Office, holds general competence to draw up authentic deeds related to civil legal acts. In contrast, a PPAT, based on Government Regulation No. 24 of 2016 concerning PPAT Office, has limited competence to prepare deeds concerning the transfer and encumbrance of land rights. Both are categorized as public officials (*openbare ambtenaren*), whose authority originates directly from legislation rather than delegation.

The existence of dual legal regimes one governing Notaries and another for PPAT has caused ambiguity when both offices are held by the same individual. Although the law allows a Notary to be appointed as a PPAT, it does not explicitly regulate the boundaries of such dual capacity. As a result, the overlap of functions becomes inevitable in practice, particularly in land transactions that require both civil and agrarian legal elements. The lack of a harmonized clause between the Notary Act and the PPAT Regulation opens the door to interpretation conflicts and potential procedural errors.

From the perspective of administrative law, each public official must act within the limits of *atribusi* (authority directly granted by law) and may not perform *delegated* or *mandated* acts beyond their assigned domain. The principle of *ultra vires* acting beyond one's legal power applies to both Notaries and PPATs. When an official creates an authentic deed outside their legal competence, such act becomes *void ab initio* and cannot be validated retroactively. The Supreme Court has repeatedly emphasized this in its rulings, underscoring the need for strict adherence to statutory competence.

The theoretical basis for separating Notary and PPAT authority also lies in the principle of *lex specialis derogat legi generali*. The PPAT Regulation serves as *lex specialis* governing land affairs, while the Notary Act provides a more general framework for civil acts. Thus, in cases of overlap, PPAT provisions should prevail over general notarial rules. However, due to the lack of interpretive guidance and coordination between the Ministry of Law and Human Rights (which oversees Notaries) and the Ministry of Agrarian Affairs/National Land Agency (which supervises PPATs), this principle is inconsistently applied in practice.

The normative overlap between these two legal frameworks ultimately creates uncertainty not only for practitioners but also for the parties relying on the authenticity of deeds. The public's confidence in authentic deeds depends on the clarity of official authority. Therefore, a harmonized regulation is essential to prevent authority conflicts and ensure that both Notaries and PPATs can exercise their roles without undermining each other's jurisdiction.

Analysis of Supreme Court Decisions on Authority Overreach

The jurisprudence of the Supreme Court provides important interpretive guidance regarding the exercise of authority by Notaries and PPATs. In several landmark decisions, the Court affirmed that a deed made by an official acting outside their legal competence may be

declared *null and void*. One notable example is Supreme Court Decision No. 2569 K/Pdt/2019, where the Court annulled a deed of transfer executed by a Notary who did not hold PPAT authority at the time of execution. The Court reasoned that although the deed was formally authentic, its substance was tainted by *ultra vires* action, rendering it legally invalid.

A similar approach appears in Decision No. 1615 K/Pdt/2020, which involved a sale and purchase deed executed under a defective power of attorney. The Supreme Court ruled that the defect in authority extended to the entire deed, thereby nullifying it in its entirety. This case established the principle that authenticity alone does not guarantee the validity of a deed; the competence of the official and the procedural integrity of the act are equally decisive.

Earlier jurisprudence also reflects consistency in the Court's reasoning. In Decision No. 3148 K/Pdt/1988, the Court held that a deed loses its binding force when the official fails to comply with statutory formalities prescribed for their office. The ruling emphasized that public officials especially Notaries and PPATs bear an obligation to act strictly within the law, as their acts carry public evidentiary weight. A subsequent decision, No. 3176 K/Pdt/1988, reaffirmed this position, stressing that procedural irregularities are sufficient grounds for declaring a deed invalid.

A more recent development can be observed in Decision No. 3200 K/Pdt/2015, where the Court balanced strict legal formalism with equitable considerations. Although it confirmed that exceeding authority is a serious procedural defect, the Court also recognized the need to protect third parties who acted in *good faith* and relied on the authenticity of the deed. This shift indicates an emerging trend in judicial reasoning toward harmonizing *legal certainty* with *substantive justice*.

Across these rulings, a consistent pattern emerges: the Supreme Court prioritizes the principle of legality in public authority. However, inconsistency arises in the application of that principle when the Court faces cases involving innocent third parties. Some panels uphold the sanctity of formal authority, while others emphasize fairness to protect bona fide parties. Such inconsistency creates interpretive uncertainty for both legal practitioners and the public relying on authentic deeds.

The above cases demonstrate that *jurisprudence* functions as a vital interpretive tool in Indonesian administrative and civil law. Even though Supreme Court decisions are not formally binding precedents (*stare decisis*), in practice they exert persuasive authority that shapes notarial and land administration practices. Therefore, consistent judicial reasoning is crucial to ensuring uniform application of law and fostering public confidence in official deeds.

From a doctrinal standpoint, these decisions also reinforce the importance of *competence theory* in administrative law. As Utrecht notes, competence defines both the authority and the limit of an official's actions; exceeding that limit transforms a lawful act into an unlawful one. The Supreme Court's rulings reaffirm this theoretical framework, confirming that procedural legality is inseparable from substantive justice. Thus, in order to achieve sustainable legal certainty, harmonization between the *Notary Act* and the *PPAT Regulation* is indispensable, supported by consistent jurisprudential interpretation.

Implications for Legal Certainty and Party Protection

The overlap of authority between Notaries and PPATs directly affects the principle of *legal certainty (rechtssicherheit)*, which is the cornerstone of any modern legal system. In the context of land transactions, certainty is essential not only for the parties involved but also for the broader economy. When an authentic deed is later annulled due to procedural defects or questions of competence, the entire chain of transactions may be jeopardized. This situation undermines trust in public institutions and creates a chilling effect on the reliability of authentic deeds as instruments of proof.

The invalidation of deeds also has significant implications for *party protection*. Individuals who rely on the authenticity of a deed particularly buyers, lenders, or creditors are placed in a vulnerable position when the deed is declared void. Although they may have acted in good faith, they bear the risk of losing legal rights because of an error committed by the public official. Such outcomes are inconsistent with the fundamental purpose of having public officials: to ensure security, stability, and fairness in legal transactions.

From a jurisprudential perspective, this dilemma reflects the tension between *formal legal certainty* and *substantive justice*. The Supreme Court's tendency to protect bona fide parties, as seen in several decisions, suggests an effort to balance strict legality with equitable considerations. However, without clear statutory guidance, this judicial discretion risks creating uneven outcomes. Uniformity in the application of law can only be achieved if both the Notary Act and PPAT Regulation are synchronized to provide a consistent normative framework for the judiciary to follow.

Furthermore, the absence of clear procedural boundaries invites administrative inefficiency and potential misuse of authority. When a Notary acts beyond the PPAT's legal scope, the burden of rectifying the resulting disputes often falls on the Ministry of Agrarian Affairs/National Land Agency (ATR/BPN) or the courts. This not only increases administrative workload but also diminishes public confidence in the reliability of land registration. Therefore, clarifying the jurisdictional boundaries between Notaries and PPATs is an urgent administrative necessity as well as a normative one.

Finally, the implications of these authority overlaps extend to the overall credibility of Indonesia's legal and economic systems. Land remains a primary form of wealth and security in Indonesian society. Any uncertainty regarding ownership or the validity of land deeds can have far-reaching effects on investment, credit access, and social stability. Thus, the harmonization of authority between Notaries and PPATs is not a mere bureaucratic reform it is a fundamental requirement for sustaining public trust and legal order.

Normative and Policy Solutions

The recurring overlap of authority between Notaries and PPATs underscores the urgent need for regulatory harmonization. The most viable normative solution is the issuance of a *joint regulation* between the Ministry of Law and Human Rights and the Ministry of Agrarian Affairs/National Land Agency (ATR/BPN). Such a regulation should serve as a bridge between the *Notary Act* and the *PPAT Regulation*, explicitly defining the procedural limits and scope of each office, particularly for officials who concurrently hold both titles. A clear framework would eliminate interpretive ambiguity and standardize practices across Indonesia.

Beyond regulatory reform, strengthening institutional supervision is equally vital. Both Notaries and PPATs operate under the principle of *functional accountability* their acts are manifestations of state authority. Therefore, an integrated supervisory mechanism between the Ministry of Law and Human Rights and ATR/BPN should be developed. This coordination could include shared data systems, periodic audits, and the enforcement of disciplinary actions to ensure compliance with jurisdictional boundaries. Improved professional ethics education and certification renewal programs would further reinforce the competence and integrity of public officials.

From a broader policy perspective, harmonizing the relationship between Notaries and PPATs also contributes to the development of legal certainty and public trust. When the boundaries of authority are clear and supervision is effective, authentic deeds regain their function as instruments of legal security. Ultimately, this reform would not only resolve administrative ambiguities but also strengthen the foundational principles of justice, equality before the law, and public confidence in Indonesia's legal institutions.

CONCLUSION

The interaction of authority between Notaries and Land Deed Officials (PPAT) reflects an unresolved legal tension in Indonesia's regulatory framework. Although both offices are public officials authorized to create authentic deeds, the absence of clear jurisdictional boundaries often leads to procedural conflicts and uncertainty regarding the validity of deeds.

Supreme Court decisions consistently affirm that acts performed beyond legal competence (*ultra vires*) render the deed void. However, inconsistent judicial reasoning particularly in cases involving bona fide parties shows the need for harmonized regulations. Establishing a joint regulation between the Ministry of Law and Human Rights and the Ministry of Agrarian Affairs/National Land Agency (ATR/BPN) would clarify authority limits and prevent overlapping responsibilities.

In essence, strengthening supervision, improving coordination, and reaffirming professional accountability are essential to restore legal certainty and public confidence in authentic deeds. Harmonization between the *Notary Act* and *PPAT Regulation* is therefore not merely technical reform, but a prerequisite for achieving justice and sustaining the integrity of Indonesia's legal order.

REFERENCE

- Law No. 2 of 2014 concerning Amendment to Law No. 30 of 2004 on Notary Office (State Gazette of 2014 No. 3).
- Government Regulation No. 24 of 2016 concerning Amendment to Government Regulation No. 37 of 1998 on PPAT Office.
- Supreme Court Decision No. 2569 K/Pdt/2019.
- Supreme Court Decision No. 1615 K/Pdt/2020.
- Supreme Court Decision No. 3148 K/Pdt/1988.
- Supreme Court Decision No. 3176 K/Pdt/1988.
- Supreme Court Decision No. 3200 K/Pdt/2015.
- Mertokusumo, S. (2010). *Penemuan Hukum: Suatu Pengantar*. Yogyakarta: Liberty.
- Soekanto, S., & Mamudji, M. (2006). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Rajawali Pers.
- Subekti, R. (2011). *Hukum Perjanjian*. Jakarta: Pradnya Paramita.
- Harahap, M. Y. (2009). *Hukum Acara Perdata di Indonesia*. Jakarta: Sinar Grafika.
- Utrecht, E. (1982). *Pengantar dalam Hukum Indonesia*. Jakarta: Ichtar Baru Van Hoeve.
- Radbruch, G. (1950). *Gesetzliches Unrecht und Übergesetzliches Recht*. Süddeutsche Juristen-Zeitung.
- Kelsen, H. (1960). *Reine Rechtslehre*. Vienna: Franz Deuticke.
- Rato, D. (2013). Customary Land Dispute Settlement in the Perspective of Local Wisdom. *Masalah-Masalah Hukum*, 42(3), 302–309.
- Lobo, L., et al. (2022). Local Wisdom in Minimizing Land Conflicts. *Gatranusantara Journal*, 20(2), 48–55.
- Rade, S. D., Lay, B. P., & Geme, M. T. (2023). Alternative Dispute Resolution Based on Local Wisdom. *JHSS*, 7(3), 723–727.
- Nasution, M. R. P. (2021). *Settlement of Cultivation Land Disputes through Non-Litigation*. Master Thesis, University of North Sumatera.
- Sulistiyono, D. (2022). Customary Law Values in National Land Law. *Media Bhakti Law Journal*, 4(1), 71–88.
- Utomo, S. (2018). *Nilai-Nilai Kearifan Lokal dalam Hukum Tanah Nasional*. Surabaya: Airlangga University Press.
- Rahardjo, S. (2009). *Hukum dan Perubahan Sosial*. Bandung: Alumni.

- Asshiddiqie, J. (2012). *Teori Hans Kelsen tentang Hukum dan Negara*. Jakarta: Konstitusi Press.
- Atma, R. (2021). Mediation as a Manifestation of Local Wisdom in Law. *Bilancia*, 15(2), 281–306.