Jurnal Notariil

Jurnal Notariil, Vol. 10, No. 1, 2025; 45-55 P ISSN 2540 - 797X
Available Online at https://ejournal.warmadewa.ac.id/index.php/notariil E ISSN 2615 - 1545

POSITION OF GRANT DEEDS IN THE CASE OF SUPREME COURT DECISION NUMBER 175/K/PDT/2021

M. Remon Septariawan[1]*, Yuliandri[1], and Delfiyanti[1]
Faculty of Law, Andalas University, Sumatera Barat, Indonesia
Email: remonseptariawan@gmail.com

How To Cite:
Septariawan, M. R., Yuliandri., & Delfiyanti. (2025). Position of Grant Deeds in the Case of Supreme Court Decision Number 175/K/Pdt/2021. *Jurnal Notariil 10*(1), 1-6. Doi: https://doi.org/10.22225/jn.10.1.2025.45-55

Abstract

A grant of land rights is a gift from one person to another person without any compensation and is done voluntarily, without any contravention from the recipient of the gift and the gift takes place while the grantor is still alive. The act of granting land rights must be done before the PPAT with a Grant Deed is made which is the basis for registering land rights at the Regency/City Land Office. The problems that will be discussed in this research are first, what is the position of the grant deed in relation to the Supreme Court Decision Number 175/K/PDT/2021 in Papua, Second, what are the challenges in the Supreme Court Decision Number 175/K/PDT/2021. The aim of the research is to examine and analyze the position of grant deeds in the case of Supreme Court Decision Number 175/K/PDT/2021 in Papua and to study and analyze the challenges in Supreme Court Decision Number 175/K/PDT/2021 in Papua. This legal research is normative juridical research, namely normative juridical research referring to legal norms contained in laws and regulations and court decisions as well as legal norms that exist in society. The results of the research, the Land Deed Making Officer must put the grant agreement in the form of a PPAT deed, namely a grant deed as explained that every grant of land must be made with a PPAT deed as mentioned in Article 37 and Article 39 Paragraph 1 of Government Regulation Number 24 of 1997, making In the grant deed, it was seen that in the process of making the grant deed there were things that did not comply with the applicable regulations. Ms. Analyst Demotekay, who is the grant giver, said that she had never given the grant to Susilawati and there was no agreement between Ms. Analyst Demotekay and Martius Semuel Darinya, so this means that it can be suspected that there was engineering in this legal action on the part of the recipient of the grant. A series of legal cases involving fake grants, Mrs. Analis Demotekay and Martius Semuel, found that there was negligence and inaccuracy of PPAT Puspo Adi Cahayo S.H., M.Kn in making the Deed of Grant which resulted in the transfer of land rights to Susilawati's property.

Keywords: Position of grant deed; PPAT; supreme court decision number 175/K/PDT/2021; Papua

1. INTRODUCTION

The provisions of Article 2 paragraph (1) of Government Regulation No. 37 of 1998 contain the phrase "carry out part of land registration activities" in the description of the main duties of PPAT (Djumardin et al., 2023). Regarding the word "partial", it refers to the provisions of Article 6 of Government Regulation No. 24 of 1997 which basically states that land registration activities are carried out by the Head of the Land Office assisted by PPAT and other officials. From the formulation of Article 6 of Government Regulation No. 24 of 1997, it can be concluded that some of the land registration activities are carried out by the Head of the Land Office, some are carried out by PPAT, and others by other officials such as Auction Officials and Adjudication Committees.(Prawira & Yoga, 2016).

Some of the land registration activities carried out by PPAT are in the form of certain legal acts as mentioned in Article 2 paragraph (2) of Government Regulation No. 37 of 1998 (Aulia, 2022; Muchsin et al., 2020). In addition to these provisions, Article 37 paragraph (1) of Government Regulation No. 24 of 1997 states that the transfer of land rights and ownership rights to flats through sale and purchase, exchange, grants, income in the company

(inbreng) and other legal acts of transfer of rights, except that the transfer of rights through auction can only be registered if it is proven by a deed made by the authorized PPAT in accordance with the provisions of the applicable laws and regulations(Suriawan & Mariadi, 2015).

According to A.P. Parlindungan, the task of PPAT is to carry out a recording of deed conveyance, which is a recording of the making of land deeds which includes mutation of rights, binding of guarantees with land rights as dependent rights, establishing new rights to a piece of land (building use rights on property rights or use rights of ownership) plus a power of attorney holding dependent rights (Parlindungan, 1999). To carry out the main duties as referred to in Article 2 paragraph (1) of Government Regulation No. 37 of 1998, a PPAT has the authority to make authentic deeds regarding all legal acts as specified as mentioned above regarding land rights and property rights to flats located in his work area.

Regarding what deeds are the authority of PPAT, it is mentioned in Article 95 paragraph (1) of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter referred to as Perkaban No. 3 of 1997) which states:

"The land deeds made by PPAT to be used as a basis for registration of changes in land registration data are: a. Sale and Purchase Act; b. Exchange Act; c. Grants Act; d. Deed of Entry into the Company; e. Deed of Distribution of Shared Rights; f. Act on the Granting of Dependent Rights; g. Deed of Granting Building Use Rights on Proprietary Land; h. Act of Granting Right of Use on Proprietary Land."

In relation to the position, each position will be attached to authority. Based on the authority he has, the official has responsibility for the implementation of his position. Responsibility is born because of authority(Utomo & SH, 2020). If an official abuses his authority (detornement de pouvoir), then legal responsibility arises. Every official is responsible for the authority he has or in other words that the use of that authority must be carried out responsibly.

Each authority of PPAT must be able to show the legal basis on which the authority is based, so that the implementation of the PPAT position can provide legal certainty. A PPAT cannot say that he is authorized to perform certain actions, but the actions taken are not regulated by law. No matter how small the authority is, it must have a legal basis that is the basis for that authority(Prayogo, 2016).

If the PPAT performs actions other than the authority that has been given by the Laws and Regulations, then the PPAT is not authorized (onbevoegdheid) because it is limited by the material of the Laws and Regulations (ratione materie). In other words, actions that are carried out outside the material/content or type of authority that has been stipulated in the laws and regulations are actions without authority because indeed the material or type of authority is not regulated in the laws and regulations (onbevoegdheid ratione materie).

PPAT in carrying out its position also has a position area or work area. In other words, the use of authority by PPAT is limited only to the work area or position area as stipulated in Article 12 paragraph (1) of PP No. 24 of 2016 that the work area of PPAT is one provincial area. So that all legal actions taken by PPAT such as the making of deeds against objects outside their area of office are actions without authority because they are made on objects outside their area of office (onbevoegdheid ratione loci) so that the deed is null and void.

One of the authorities of PPAT is to make a Deed of Grant. The grant referred to here is a grant of land rights. A grant of land rights is a gift from a person to another person without any compensation and is carried out voluntarily, without any counter-performance from the recipient of the grant and the grant is carried out while the grantor is still alive. The act of granting land rights must be carried out in front of PPAT with the creation of a Grant Deed which is the basis for the registration of land rights at the Regency/City Land Office. The completion of the act of granting land rights is by having reversed the name of the land rights that are the object of the grant to the grantee. One of the legal acts of land rights grants that are in question is the land rights grant between Demotekay Analyst and Martinus Semuel Darinya. The PPAT that made the Grant Deed was Puspo Adi Cahyono, S.H., M.Kn. as a PPAT based in Jayapura City.

The grant of land rights was made to Certificate of Title Number 00434, as described in the survey letter dated

February 7, 2014, covering an area of 652 M2 (six hundred and fifty-two square meters), which was recorded in the name of Demotekay Analysts. The legal act of granting land rights mentioned above, cannot be carried out a name change process to the Jayapura City Land Office. The name change process could not be carried out, then Martinus Semuel Darinya filed a civil lawsuit against Puspo Adi Cahyono, S.H., M.Kn. as the PPAT of Jayapura City to the Jayapura District Court. The lawsuit has then been resolved and a decision has been issued, namely the Jayapura District Court Decision Number 182/Pdt.G/2018/PN Jap. In the Jayapura District Court Decision Number 182/Pdt.G/2018/PN Jap, the Panel of Judges issued a verdict, namely in the exception, granting the partial exclusion of the Defendants. In the subject matter, declaring the plaintiff's lawsuit unacceptable and punishing the plaintiff to pay the case fee in the amount of Rp. 896,000.00 (eight hundred and ninety-six thousand rupiah).

The plaintiff, in this case Martinus Semuel Darinya filed an appeal against the Jayapura District Court Decision. This appeal legal remedy has been handed down by the Panel of Judges, namely the Jayapura High Court Decision Number 58/ PDT/2019/PT JAP. In its decision, the panel ruled that the appeal request from the original appellant was admissible and canceled the Jayapura District Court Decision Number 182/Pdt.G/2018/PN Jap, which was requested by the appeal. The Panel of Judges by its own judgment, in the exception, declared that the exclusion of appellant I all defendants I and appellant II originally defendant II was not admissible in all, and sentenced the original appellant to pay the costs of the case arising in the two levels of justice, which in the appeal level was set at Rp150,000.00 (one hundred and fifty thousand rupiah). The appeal decision was then submitted by Martinus Semuel Darinya to the Supreme Court. The Supreme Court then issued Decision Number 175 K/Pdt/2021. In the Supreme Court Decision Number 175 K/Pdt/2021, the Panel of Judges rejected the cassation application from the cassation applicant/ plaintiff Martinus Semuel Darinya and sentenced the cassation applicant/plaintiff to pay the case fee at this cassation level in the amount of Rp500,000.00 (five hundred thousand rupiah). During the trial from the first level, namely the district court to the last level, namely the Supreme Court, the Panel of Judges has found legal facts, namely the plaintiff in this case Martinus Semuel Darinya (the grantee) has signed the Grant Deed in front of Puspo Adi Cahyono, S.H., M.Kn. as the PPAT of Jayapura City. Meanwhile, the grantor, in this case, Demotekay Analyst, never signed the Grant Deed and suspected that there was a forgery of the signature on the Grant Deed. The grantor then sent a letter to the Head of the Jayapura City Land Office regarding the request for the termination/blocking of the process of changing the name of the Property Rights Certificate Number 00434 on behalf of Demotekay Analyst (the grantor) to Martinus Semuel Darinya (the grantee)

Puspo Adi Cahyono, S.H., M.Kn. as PPAT Jayapura City has submitted an application for name change of Property Rights Certificate Number 00434 on behalf of Demotekay Analyst to Martinus Semuel Darinya. In submitting the process of changing the name of this grant legal act, PPAT of course also attaches a Grant Deed as the basis for registering the transfer of land rights. The Jayapura City Land Office was unable to carry out the application due to the blocking of the owner's name. The blocking was carried out by the owner, namely the Demotekay Analyst (the grantor) who was on trial stating that he objected to the legal act of the grant.

2. METHOD

The approach method used is a normative juridical approach method (Arnawa et al., 2024), This research is descriptive, the type and source of data consists of secondary data and primary data, the source of this research comes from the Literature, the data collection technique used in this study is a document study. The document study in this study includes the study of primary legal materials, secondary legal materials, and tertiary legal materials. Data processing techniques by means This research uses techniques or methods of processing and analyzing qualitative data. In general, the description of data processing and analysis activities includes data reduction; simplification and presentation of data; verification of research results, as well as drawing conclusions. Data analysis activities are carried out simultaneously with the data processing process, and have even started from the beginning of data collection.

3. RESULT AND DISCUSSION

Position of the Grant Deed in the Case of the Supreme Court's Decision Number 175k/PDT/2021

PPAT Puspo Adi Cahayo S.H., M.Kn Grant Deed, which is the basis for the Plaintiff to apply for SHM Number 00434 belonging to Mrs. Analyst Demotekay was carried out without the permission and knowledge of Mrs. Analyst Demotekay and will be transferred ownership rights in the name of Martius Semuel From it by the Plaintiff, namely Martius Semuel From it, it needs to be observed that the Grant Deed is already an authentic deed or not, and it is in accordance with the form prescribed by the applicable Law. Therefore, external evidence is evidence that is very easy to prove true because it can be reviewed from the events that take place.

It can be seen that in the process of making the grant deed there are things that are not in accordance with the applicable rules. Mrs. Analyst Demotekay, who is the grantor, said that she had never given a grant to Martius Semuel and there was no agreement between Mrs. Analyst Demotekay and Martius Semuel Darinya, so it could be suspected that there was engineering in this legal act from the grantor. With the statement of Mrs. Analyst Demotekay, it means that in the process of making a grant deed made without the presence of the grantor. As has been explained, PPAT Puspo Adi Cahayo S.H., M.Kn, as the general official who made the grant deed in this case is not responsible in terms of material truth, PPAT Puspo Adi Cahayo S.H., M.Kn, only has the obligation to make a deed in accordance with the blank deed that has been determined in the Attachment to the Deed 8 of 2012 and thereafter is obliged to read the contents of the deed to the party and sign it in front of him.

Then, in this case that is not appropriate is based on the explanation of the grantor, it can be concluded that the signing of the parties in the Grant Deed made by PPAT Puspo Adi Cahayo S.H., M.Kn was not done in the presence of the grantor, because in accordance with the statement of Mrs. Analyst Demotekay as the grantor who said that she did not know the making of the grant deed, then the reading and signing of the grant deed made by PPAT Puspo Adi Cahayo S.H., M.Kn is done not in the presence of one of the parties, namely the grantor. So in this case, it can be concluded that in the process the deed was not read and explained to the party, and PPAT did not really see in front of it the parties who signed and paraphrased it in the deed or from the statements of other heirs also did not give power of attorney or did not know at all about the existence of the grant. In fact, an authentic deed is said to have the power of formal proof if PPAT as a public official guarantees the formal truth stated in the deed, namely PPAT reads and describes what is contained in the deed to the parties, and the parties who have agreed and understood the contents of the deed sign it in front of PPAT. In this case, it can be concluded that the deed was not read and signed in front of the parties so that the Deed of Grant does not have formal evidentiary force, so proof of its contents needs to be further proved.

Execution of Agreement

A Grant Agreement is a legal relationship between the grantor and the grantee to give their wealth voluntarily or free of charge. The granting of parental land grants to children sometimes experiences obstacles as mentioned above, which is related to the provisions of Article 211 of the Compilation of Islamic Law which emphasizes that the gift of parents to their children can be counted as inheritance. Even though this provision is intended to prevent parents who give more property to their favorite children than to other biological children. In addition, to avoid the emergence of disputes between brothers and to create justice in the property that is their common right.

A parent's gift to their child is sometimes followed by an agreement whereby after they receive a certain amount of grant, they agree not to receive a portion of the inheritance later if the grantor dies. This type of agreement is known as a waiver. This waiver is an agreement made by the heirs to remove one of the heirs after receiving a portion of the inheritance by providing a service, regardless of whether the service comes from the inheritance to be distributed. The purpose of giving grants indirectly is to avoid disputes or disturbances about the distribution of parental inheritance for the future Giving a grant is a form of parental gift to their child with the consideration that the child will receive his rights in the future.

In a common law perspective, parents are bound by what they inherit under their wealth, which means that all children are entitled to inheritance from their parents.

In the distribution, parents are completely free to determine the share of the grants given to their children, but the distribution must be uniform i.e. all children receive a share of everything (Ter Haar, 1983). Anyone can give or receive grants except those who have been declared incapable of doing so. In addition, the willingness to take legal channels without coercion from other parties is an element that must be present in the implementation of grants (Meliala, 2014).

Before making a grant deed, the Land Deed Making Office must ensure that the elements and conditions of the grant are met. If you look at the provisions of grants according to civil law, there are 3 (three) conditions that must be met in the grant of parental land to recognized children out of wedlock, namely the grantor, the grantee and the goods or objects granted.

Creation of Grant Deeds

After the conditions for the validity of the parent's land grant agreement to the recognized out-of-wedlock child are met, then the Land Deed Making Officer must pour the grant agreement in the form of a PPAT deed, namely a grant deed as explained that every land grant must be made with a PPAT deed as mentioned in, Article 37 and Article 39 Paragraph 1 of Government Regulation Number 24 of 1997. Article 1682 of the Civil Code also states that no grant except as referred to in Article 1687 of the Civil Code can be made without a notary deed, the minuta (original manuscript) must be kept at the notary and if it is not done then the grant is invalid.

In practice, the Land Deed Making Officer before making a land grant deed must ensure that the tax payment has been made and has been validated by the tax office. If this has been fulfilled, the deed of grant for the land can be immediately made by the Land Deed Making Officer and signed by the parties, namely the grantor and the grantee witnessed by 2 (two) witnesses and the Land Deed Making Officer himself. Meanwhile, in practice PPAT that the granting of land grants must be completed with the following requirements:

Proof of Land Ownership in the form of a certificate or grant deed;

Getting married, it must be completed with an Identity Card and Taxpayer Identification Number and if the grantor is married, it must be completed with a Spouse Identity Card, Marriage Certificate and Family Card;

Identity of the Grantee. If the grantee is his own child, it must be completed with a Identity Card, Birth Certificate and/or Taxpayer Identification Number and for children out of wedlock, it can be completed with a letter of acknowledgment from the court and a parental guardianship letter to the child if he is still not of age;

Building Land Tax (SPPT and STTS) for the last 3 years;

Building permit (IMB) if there is indeed a building on it.

Regarding land grant deeds, basically land grant deeds have been enforced in their form by the Government, in this case the National Land Agency as outlined in the Regulation of the Head of the National Land Agency Number 8 of 2012 concerning Amendments to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency of the Republic of Indonesia Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration.

Regarding the making of grant deeds, the Land Deed Making Officer must ensure that the grant deed made by him is in accordance with the provisions of laws and regulations as described above. If the grant deed made by PPAT is not in accordance with the form that has been determined by the law, the grant deed can be null and void. This is due to the nature of the PPAT deed which can be used as valid evidence in the event of a lawsuit in the future. The land grant deed is strong evidence that the donated land has become the property of the grantee. After the land grant deed is made and read in front of the parties by PPAT and signed by the parties, witnesses and PPAT, then PPAT immediately registers the transfer of land rights to the local National Land Agency.

Concession as a legal act in the form of transferring land rights is an act by one party who has the right to the land to another person who intends to transfer the right to the land to another party who has the power to own it, namely the right to the land with all rights and obligations related to the right to the land. Registration of land rights must be carried out to obtain legal certainty as well as legal protection in the event of a lawsuit, interference of parties who question the

validity of the concession granted by the parties. With the registration of the transfer of land rights, a land certificate was created which is strong evidence of the holder's knowledge.

Implementation of the Making of Grant Deeds by Land Deed Making Officials in Relation to the Supreme Court Decision Case Number 175/K/PDT/2021

Case Position

On September 9, 2015, the Plaintiff has signed a Grant Deed before the Defendant as a Notary/PPAT on Certificate of Title No. 00434, on a piece of land as described in the survey letter dated February seven two thousand fourteen (07-02-2014) covering an area of 652 M2 (six hundred and fifty-two square meters), Identification Number 26.10.03.13.00447, registered in the name of Demotekay Analyst, which certificate is in the process of returning the boundary at the City Land Office Jayapura, and the certificate verification process will be carried out, and after completion the certificate will be renamed the Grant in the name of the Plaintiff Marthinus Semuel, through the Office of Defendant I as the Land Deed Making Officer (PPAT); That the Plaintiff strongly believes in Defendant I as a Notary who already has a big and well-known name in Jayapura City, so for the process of Baliknama Grant of Property Rights certificate Number 00434, the Plaintiff submits it completely to Defendant I.

Originally, the Certificate Issue process between the Plaintiff and the Mother. The Demotekay Analyst has been completed which with a Statement of Willingness to Return the Certificate to the Rightful Heirs, namely the Plaintiff dated May 11, 2014 at the Abepura Police Station, as a follow-up to the agreement in point 1 (one) above, a Grant Deed Letter was made for the object of the certificate as contained in the Certificate Number: 16/PAC/XI/2017, issued by the Defendant. After the Statement dated May 11, 2014, the process of Name Return of the certificate did not run as per the content of the agreement. The plaintiff thinks that due to the slowness of the Jayapura City BPN in processing the Balik Nama for the issuance of the certificate, the plaintiff complained about this problem to the Ombusman of the Republic of Indonesia Representative of Papua through his letter dated August 18, 2015 regarding the request for clarification related to the issuance of the certificate Number: 00434 An. Demotekay analyst.

That based on the Obusmen Letter of the Republic of Indonesia, it was then responded by the Jayapura City BPN with a Letter dated September 9, 2015, which is essentially that based on the Statement Letter at the Abepura Police Station dated May 11, 2014, the Jayapura City BPN handed over the Certificate to the Plaintiff and was advised to be able to change the name, from the name of the mother. Demotekay Analyst on behalf of the Plaintiff, through the Plaintiff's legal representative has written to BPN Jayapura City, dated March 8, 2018 to ask for an explanation about the issuance of the certificate, but there was no answer from BPN Jayapura City, then on May 3, 2018, the Legal Attorney of the Plaintiff again wrote to BPN Jayapura City and asked for an explanation of the development of the Certificate Issuance Process, but the Legal Counsel Team did not receive an answer/reply from the letter, When the Plaintiff's attorney went to the Office of Defendant I and Defendant II to inquire about the process of renaming the certificate, the Plaintiff's attorney met with Defendant II and was answered that the file had been submitted to the Jayapura City BPN. On August 20, 2018, Attorney Martinus Samuel returned to the Jayapura City BPN office to check the progress of the Certificate Name Return Process, but Mrs. Yeni and Mr. Baharudin were not at the place with the reason that Mrs. Yeni was in Makassar because she was grieving while Pak Baharudin was performing the Hajj, because there was no information from the progress of the process of Changing the Name of the Plaintiff's certificate from the Jayapura City BPN Office, so on September 17, 2018, the Plaintiff then filed a Positive Fictitious Lawsuit to the Jayapura State Administrative Court and was registered with Number: 03/P/ FP/2018/PTUN Jayapura. On September 18, 2018, the Plaintiff's Attorney wrote to Defendant I to be willing to be a witness. The letter was received by Defendant I's Staff named Mrs. Kiki, then Mrs. Kiki gave Defendant II's mobile phone number so that the Legal Attorney could directly coordinate and after coordinating with Defendant II, it turned out that Defendant II objected on the grounds that the Notary could not be a witness in court. On September 22, 2018, the Plaintiff's Attorney returned to the office of Defendant I and Defendant II to coordinate the letter evidence but the

person concerned was not at the place. Then on September 28, 2018 after hearing the objections of Defendant I and Defendant II, the Legal Attorney then wrote to the Supervisory Board of the Indonesian Notary Association in Jayapura and on October 1, 2018 before the trial took place, the Legal Attorney again contacted Defendant I and Defendant II to attend the trial. Defendant II stated that he was willing to be a witness and was currently on his way to Waena Cuma blocked by traffic jams, but it turned out that until the trial ended Defendant II never appeared. The Legal Attorney then contacted Defendant II again by phone and was answered by phone by Defendant II that he admitted that he had not registered an application for Certificate Name Return at BPN.

The process of proving the Jayapura State Administrative Court in Waena, the Plaintiff again contacted Defendant I and Defendant II II so that they could come or send one of their staff to be able to be present as a witness in the trial and convey the process of changing the name of the Plaintiff's certificate as conveyed by telephone, but it turned out that until the trial process was completed with the reading of the Decision, Defendant I or Defendant II had no good intentions to attend at all provided information at the PTUN hearing and the absence of good faith from Defendant I and Defendant II to present to testify as witnesses at the Jayapura PTUN trial in Number: 03/P/ FP/2018/PTUN Jayapura has proven that Defendant I or Defendant II have never provided correct information and data to the Plaintiff regarding the Process of Changing the Name of the Plaintiff's Certificate.

Jayapura High Court Decision Number 58/Pdt/2019/PTJAP

After reading, researching and listening to the entire Plaintiff's Lawsuit, both from the point of view of the formal requirements of the lawsuit and the material requirements, it turns out that the Plaintiff's lawsuit has an error in determining who it will sue and in addition the Plaintiff's Lawsuit is also not meticulous, unclear and unclear as stipulated in the Civil Procedure Law, and for more details we can detail as follows:

About the mistake of the party who was drawn as the Defendant (Exceptio in Persona); That if we look at the postulates of the Plaintiff's lawsuit where the Plaintiff withdraws Defendant II as a party to this case is a very big mistake because, Defendant II is only an employee who works for Defendant I where in carrying out his work Defendant II only follows the orders of his superiors where he works, if we relate to this case and follow the line of thought from the Plaintiff's legal representative, therefore, all employees who work in Defendant I's office should be withdrawn as parties because all employees in Defendant I's office all have a contribution and role in the process of changing the name of the certificate requested by the plaintiff. so that only pulling Defendant II as a party to this case is a mistake. Furthermore, if we look at the content of article 1340 of the Civil Code which reads as follows, "the agreement is only binding or valid between the parties who make it", then the position of Defendant II cannot be withdrawn at all as a party that must be responsible because Defendant II has never signed a cooperation agreement at all, where the interrelated in terms of this work is between the Plaintiff and Defendant I only. "It is wrong to withdraw the Defendant in the lawsuit when it should be known that the defendant has absolutely no legal relationship with other defendants". 101 that the key word in attracting someone as a party to the lawsuit is the legal relationship itself, so that the withdrawal of Defendant II as a party who is known only as an employee of Defendant I's office and does not have a legal relationship with the interests of the plaintiff is a mistake;

About the lack of parties withdrawn in the lawsuit (Plurium litis consortium); That for the exception of the less parties withdrawn in this lawsuit, we can explain as follows. That it is very clear in the postulates of the lawsuit that the Plaintiff said that the plaintiff obtained the right to the certificate from the demotekay Analyst who gave the plaintiff the right to the certificate by granting it. Furthermore, if it is related to the problem in casu where the Plaintiff's objection is the slow process of changing the name carried out by Defendant I, but it should be known that the delay is caused by a diversion to the Jayapura City Land Office carried out by the Grantor (demotekay analyst), so it is not appropriate if the grantor does not withdraw as a party in this case, This is in line with the Supreme Court decision No.1125 K/Pdt/1984 where the grantor also has the urgency to prove his ownership rights and transitional rights;

About premature lawsuits; That further to this exception we can explain as follows, if we return to the exception in the point above, it is clear that the postulate of Defendants I and II is due to the blocking of the Jayapura City BPN, then when it is connected with the above exception where a lawsuit is said to be premature if there are other legal factors that suspend the existence of the application/lawsuit, if we look at the factors described above, then the fact that there is still a blocking carried out by the grantor makes Defendant I unable to carry out the name change process at BPN, so that it cannot or cannot be said that Defendant I's actions are unlawful, because it is very clear that the cause of the delay in making the name change is due to the blocking of the grantor, so that there is no legal basis if the actions of Defendant I are said to be unlawful;

Regarding the Obscuur libel Lawsuit (Escape Lawsuit), the amount of loss is unclear from where the source is; That in point 24 of the Plaintiff's lawsuit, the Plaintiff postulates that it suffered losses of Rp 5,300,000,000.00 (five billion three hundred million rupiah) where material losses amounted to Rp 300,000,000.00 (three hundred million rupiah) and intangible losses amounted to Rp 5,000,000,000,000.00 (five billion rupiah). However, the Plaintiff has been negligent and caused a formal defect in his lawsuit where the Plaintiff did not explain where the number came from. The plaintiff is only interpreting as he pleases and hopes that the Panel of Judges will grant the application for material and material losses, because it does not clearly detail the source of material losses of Rp300,000,000.00 (three hundred million rupiah) and intangible losses of Rp5,000,000,000,000.00 (five billion rupiah) making this lawsuit unclear aka vague (Obshcuur Libel)

Judge's Considerations in the Case of Supreme Court Decision Number 175/K/PDT/2021

Considering that based on the memory of the cassation received on November 19, 2019 which is an integral part of this decision, the Cassation Petitioner/Plaintiff basically requests that:

Receiving the cassation and cassation memory of the Cassation Applicant;

Canceling the Appeal Decision of the Jayapura High Court, Number 58/ PDT/2019/PT JAP., dated October 10, 2019;

Examine and adjudicate itself and grant all claims of the Cassation Petitioner a quo;

Regarding the cassation memory, the Cassation Respondents/Defendants I and Defendant II have filed a counter-cassation memory dated November 28, 2019 which basically begs the Supreme Court to reject the cassation application from the Cassation Applicant/Plaintiff.

On these grounds, the Supreme Court held:

The grounds for cassation from the Cassation Applicant/Plaintiff cannot be justified, because after reading and examining the cassation memory dated November 19, 2019 and the counter cassation memory dated November 28, 2019 it is connected to the consideration of Judex Facti in this case the Jayapura High Court which invalidated the decision of the Judex Facti of the Jayapura District Court by rejecting the Plaintiff's lawsuit did not misapply the law, With the following considerations:

- That based on the facts in the case of a quo Judex Facti, the Jayapura High Court has given sufficient consideration and is not contrary to the law, where it turns out that Defendant I in his duties and responsibilities as the Land Deed Making Officer (PPAT) has carried out his duties by submitting an application for the renaming of the object of the Property Rights dispute Number 00434 on behalf of the Demotekay Analyst to the Plaintiff based on his Grant Deed to the National Land Agency (BPN) Jayapura City, and by the Jayapura City National Land Agency, the application could not be implemented due to the blocking in the name of the owner of the object of dispute who was also a witness The Defendants (Demotekay Analyst) stated at the trial basically objected to the grant, so that based on these considerations, Defendant I in relation to his duties and responsibilities as PPAT could not be declared to have committed an unlawful act.

Considering, that based on the above considerations, it turns out that the decision of the Judex Facti/Jayapura High Court which upholds the decision of the Judex Facti of the Jayapura District Court in this case is not contrary to the law and/ or the law, then the application for cassation filed by the Cassation Petitioner/ Plaintiff MARTINUS SEMUEL FROM HIM

must be rejected;

Considering, that because the application for cassation from the Petitioner/Plaintiff was rejected and the Petitioner/Plaintiff was on the losing side, the Petitioner/Plaintiff was sentenced to pay the cost of the case at this cassation level So that in the process of making the PPAT Puspo Adi Cahayo S.H., M.Kn Grant Deed, it can be said that the grant deed was made without the presence of the grantor, Mrs. Analyst Demotekay, and stated that she never gave a grant and there was no agreement between Mrs. Analyst Demotekay and Martius Semuel Dari. This means that in the process it is not in accordance with the existing provisions where the parties must be present in the making of the grant deed and before the deed is signed, the deed must be read to the party and give an explanation of the content and purpose of making the deed and then it is signed by both parties.

Challenges In Supreme Court Decision Number 175/K/PDT/2021 In Papua

The challenges faced by PPAT in the Case of the Supreme Court Decision Number 175/K/PDT/2021, PPAT Puspo Adi Cahayo S.H., M.Kn as the defendant did not know the truth of the Statement Certificate of Willingness to Return the Certificate to the Rightful Heirs, namely the Plaintiff dated May 11, 2014 at the Abepura Police Station. The Plaintiff has signed a Deed of Grant before the Defendant as a Notary/PPAT on the Certificate of Ownership Number 00434, on a piece of land as described in the survey letter dated February seven thousand fourteen (07-02-2014) covering an area of 652 M2 (six hundred and fifty-two square meters), Identification Number 26.10.03.13.00447, registered in the name of Analyst Demotekay, which certificate is in the process of returning the boundary at the Jayapura City Land Office, and a certificate checking process will be carried out, and after completion the certificate will be renamed the Grant in the name of the Plaintiff Marthinus Semuel Darinya.

PPAT must be responsible for what it does when PPAT has made a mistake in its actions that may result in disputes between grantees, grantees and other parties who feel aggrieved. PPAT is required to work with a sense of responsibility, independence, honesty, and impartiality as mentioned in article 3 letter f of the PPAT code of ethics No. 112/ KEP4.1/IV/2017.

If PPAT is found guilty, the PPAT can be held to civil or administrative responsibility. In this case, there is no criminal element that is met, because there is only a mistake of a PPAT in conducting a legal analysis of the deed he made. PPAT has erred to the point of misinterpreting the law, in the event that the PPAT grant can be subject to civil or administrative liability:

Civil liability

Civil liability, as a sanction for a negligence or mistake of PPAT in making a grant deed that results in the cancellation of the grant deed. The sanctions that will be imposed are in the form of reimbursement and compensation by PPAT with the aggrieved party, because the deed has the force as a deed under hand or a deed that becomes null and void. Regarding the total compensation and costs that will be borne by PPAT, it must be with a court decision first while a grant deed that is null and void for the sake of the law will be considered as never existing.

Administrative responsibilities

This administrative responsibility for PPAT for these violations will be subject to sanctions such as written reprimands, honorable dismissal or dishonorable dismissal depending on the decision of the PPAT Supervisory Panel, because the instrument of supervision in enforcing PPAT administrative sanctions is the PPAT Supervisory Panel.

Heirs whose absolute rights are harmed, the heirs can sue the grantor based on the principle of legitieme portie. Legally, if the grant violates the legitieme portie, it will be null and void, but there is a rule made by the Supreme Court that if there is a violation of the legitime portie of the heir, if the heir feels that he is not harmed then the nature becomes voidable, if the heir does not claim his share in the court then the deed can be considered valid (Suryadini & Widiyanti, 2020).

The legal remedy that can be taken by the aggrieved party whose right to grant grants that exceed the limit of legitime portie is to file a lawsuit with the court, namely asking the judge to examine and decide the disputed case so that the grant that has been given by the grantor is canceled by the judge to be returned to the grantor so that the revocation and

cancellation procedures run concurrently, namely in a lawsuit for grant cancellation and grant revocation from the recipient grants to be returned to the donor.

The plaintiff must prove the truth of the events that have been submitted, both the plaintiff and the defendant have the same position before the court. The plaintiff tries to claim his right in the form of an achievement that is his right, while the defendant himself tries not to give an achievement or reject what is the plaintiff's demand. It is intended so that in proving and in imposing a verdict made by the judge can provide justice for the parties to the litigation in court whose purpose is to obtain legal certainty, because the court is considered the last place for justice seekers and is considered to be able to provide legal certainty, because the court decision has permanent legal force and is binding on the parties (Winarta, 2022).

Dispute resolution can be carried out through the litigation process or the non-litigation process. Dispute resolution through the litigation process is the process of resolving disputes through the courts. Meanwhile, settlement through nonlitigation is a dispute resolution process that is carried out outside the court or often referred to as alternative dispute resolution. Challenges and legal remedies for the granting of grants that exceed the legitime portie limit can be done through 2 (two) settlement routes, namely:

Settlement by Litigation

Dispute resolution due to grants that exceed the legitime portie limit through litigation has advantages and disadvantages. The process of resolving inheritance disputes through the courts results in an adversarial decision that has not been able to embrace the common interest because it produces a win-lose solution. So that there will definitely be a winning party and the other party will lose, as a result some will be satisfied and some will not so that it can cause a new problem between the parties to the dispute. Not to mention the slow dispute resolution process, long time and uncertain costs so that it can be relatively more expensive. The long process is not only because the number of cases that must be resolved is not proportional to the number of employees in the court, but also because there is a level of legal remedies that can be taken by the parties as guaranteed by existing laws and regulations in Indonesia, starting from the first level in the District Court, Appeal in the High Court, Cassation in the Supreme Court and finally Review as the last legal remedy. So that the principle of fast, simple and low-cost courts is not achieved.

Non-Litigation Settlement

Outside dispute settlement has a legal basis regulated in Law Number 30 of 1999 concerning Arbitration. Although in practice, the settlement of disputes outside the courts is a cultural value, custom or custom of the Indonesian people and this is in line with the ideals of the Indonesian people as stated in the 1945 Constitution. The way to solve it is by deliberation and consensus to make a decision (Lestari, 2013). The legal remedy of the aggrieved party for the granting of grants that exceeded the legitime portie limit in this study is to use litigation efforts in resolving disputes between heirs.

4. CONCLUSION

The legal position of a grant deed made before PPAT that violates the legitime portie is that the grant deed is null and void. However, in the Case of the Supreme Court Decision Number 175K /PDT/2021, the Plaintiff said that the plaintiff obtained the right to the certificate from the demotekay Analyst who gave the plaintiff the right to the certificate by granting it, then if it is related to the problem in casu where the Plaintiff's objection is the slow process of changing the name carried out by Defendant I, but it should be known that the delay was caused by a deviation to the Jayapura City Land Office carried out by the Grantor (Demotekay Analyst) which is caused by the grantor feeling pressured and threatened. That a grant deed is valid even if it contains a violation of the legitieme portie of the heirs, as long as it has not been canceled by the aggrieved heir, the process of canceling the grant must use a court decision and with a court decision that has permanent legal force, the grant becomes null and void.

Legal challenges for parties aggrieved by the deed of grant in accordance with Article 1688 of the Civil Code, a grant is possible to be canceled in the event that the conditions with which the grant is granted. In the case of the Supreme Court's Decision Number 175K/PDT/2021, the grantor (Demotekay Analyst) Where when the marker of the challenge and the statement letter were under pressure and threatened, the grantee had been guilty of

committing or participating in committing a crime to take advantage of the grantor or other crimes against the grantor. The grantor may apply for the cancellation of the grant if it can be proven in court that the conditions of the grant are not met by the grantee. The process of canceling the grant must use a court decision and with a court decision that has permanent legal force, the grant becomes null and void.

REFERENCES

Arnawa, I. M., Kosasih, J. I., & Utama, I. W. K. J. (2024). Pembatalan Land Lease Agreement yang dialihkan kepada Pihak Ketiga. *Jurnal Ilmu Hukum, Humaniora dan Politik*, *4*(6). https://doi.org/https://doi.org/10.38035/jihhp.v4i6.2565

Aulia, A. (2022). Prinsip Kehati-hatian PPAT Dalam Proses Pengikatan Jual Beli Tanah Sebagai Perwujudan Kepastian Hukum. *Recital Review*, *4*(1), 244–278.

Djumardin, D., HS, H. S., & Sili, E. B. (2023). Kekuatan Mengikat Akta Jual Beli Di Desa Ongko. *Private Law*, *3*(3), 871–877.

Lestari, R. (2013). Perbandingan Hukum Penyelesaian Sengketa secara Mediasi di Pengadilan dan di luar pengadilan di Indonesia. *Jurnal Ilmu Hukum Riau*, *3*(2), 9080.

Meliala, D. S. (2014). *Hukum Perdata Dalam Perspektif BW*. Nuansa Aulia.

Muchsin, T., Saliro, S. S., Manullang, S. O., & Miharja, M. (2020). Pejabat Pembuat Akta Tanah Dalam Hal Pendaftaran Tanah: Sebuah Tinjauan Kewenangan Dan Akibat Hukum. *Madani Legal Review*, *4*(1), 63–80.

Parlindungan, A. P. (1999). *Pendaftaran tanah di Indonesia:(berdasarkan PP 24 Tahun 1997) dilengkapi dengan Peraturan Jabatan Pejabat Pembuat Akta Tanah (PP 37 Tahun 1998)*. Mandar Maju.

Prawira, I., & Yoga, G. B. (2016). Tanggung Jawab PPAT Terhadap Akta Jual Beli Tanah. *Jurnal Ius*, *4*(1), 69–77.

Prayogo, R. T. (2016). Penerapan asas kepastian hukum dalam peraturan mahkamah agung nomor 1 tahun 2011 tentang hak uji materiil dan dalam peraturan mahkamah konstitusi nomor 06/PMK/2005 tentang pedoman beracara dalam pengujian undang-undang. *Jurnal Legislasi Indonesia*, *13*(2), 191–201.

Suriawan, K., & Mariadi, N. N. (2015). *Proses Peralihan Hak Atas Tanah Dalam Bentuk Akta Hibah*.

Suryadini, Y., & Widiyanti, A. T. (2020). Akibat hukum hibah wasiat yang melebihi legitime portie. *Media Iuris*, *3*(2), 241–256.

Ter Haar, B. (1983). *Asas-asas dan susunan hukum adat*. Pradnya Paramita.

Utomo, H. I. W., & SH, M. K. (2020). *Memahami Peraturan Jabatan Pejabat Pembuat Akta Tanah*. Prenada Media.

Winarta, F. H. (2022). *Hukum Penyelesaian Sengketa Arbitrase Nasional Indonesia dan Internasional: Edisi Kedua*. Sinar Grafika.