

## **THE NOTARY'S ROLE IN AGRARIAN LAW NAVIGATING LAND TRANSACTION COMPLEXITIES**

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### **Abstract**

*A notary can authenticate deeds and other legal responsibilities as a public official. With the enactment of UUJN no. 30 of 2004, discussions arose regarding the notary's jurisdiction in drafting deeds on land matters. This study aims to assess the efficacy of notaries' roles and duties in facilitating land registration processes in Indonesia, utilizing normative juridical methods to inventory, review, analyze, and comprehend legal norms governing notarial functions. It elucidates that, according to PP No. 24 of 1997, the individual assisting the Head of the Land Office is referred to as PPAT, with no mention of notaries as officials authorized to draft deeds for land registration. Nonetheless, certain deeds require notarial authentication when the PPAT lacks authority, serving as an essential component for land registration. Notaries' pivotal role and responsibility in land registration activities lie in the function of the deeds they produce, serving as evidence of legal actions and foundational documents for land registration at land offices. Consequently, the absence of notarial deeds could impede land registration data maintenance, as they are indispensable prerequisites for land registration processes.*

**Keywords:** *Notary Authority; Land Registration; Legal Norms; Deeds Authentication; Jurisdiction Discussion.*

### **INTRODUCTION**

A notary plays a crucial role in agrarian law, as it is essential to ensure the enforceability of agreements and the stability of civil transactions (Muri et al., 2018). The notary's specific role in ensuring the stability of civil transactions underscores the importance of civil law norms. (Biraro et al., 2021). Furthermore, notarial deeds are created to prevent litigation in property, inheritance, family, commercial, and corporate law and are enforceable in court (Noor, Nuryadi, et al., 2023). Moreover, the importance of interpreting notarial deeds in the legal domain is crucial to ensure the enforcement of agreements. This significance stems from the use of legal

sources such as statutes and court decisions. In this context, notarial deeds serve as documents that strengthen the evidence of agreements between the parties involved in legal transactions. With a clear and strong interpretation of the contents of the notarial deed, the agreement can be executed and enforced in accordance with the applicable legal provisions. Therefore, accuracy in interpreting notarial deeds is vital in maintaining the validity and legal strength of the agreements made (Valeev et al., 2022). The responsibility for drafting authentic deeds falls under the jurisdiction of a public official, namely a notary. This authority is outlined in Article 1, number 1 of Law Number 2 of 2014 on Amendments to Law Number 30 of 2004



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concerning the Notary Position (after this referred to as the UUJN). 'A notary is a public official authorized to draft authentic deeds and other authorities as referred to in this law or based on other laws.' The notary is the party capable of providing essential knowledge and information (Muri et al., 2018; Santiago, 2017). However, notaries are appointed by the government and act as public servants. They wait for the public to approach them to consult on legal documents and inclusive legal protection rights in order to carry out their duties as public officials (Lubis et al., 2022). The transfer of ownership of a parcel of land can be broadly understood as one of the notary's responsibilities, which includes providing legal advice on the documents they will draft, including those related to land ownership. This is explicitly regulated in Article 15 of the Republic of Indonesia Law Number 2 of 2014 on Amendments to Law Number 30 of 2004 concerning the Notary Position. The role of a notary, as a public official appointed by the minister or designated authority, becomes increasingly important as the number of individuals registering land continues to rise. This trend is linked to the notary's authority to facilitate land registration, thus protecting the parties involved in future land registration. According to the law, a notary is a public official who conducts the land registration process (Muri et al., 2018).

When it comes to disputes over the transfer of ownership of a parcel of land, a notary plays a crucial role in providing legal advice and ensuring that the documents they draft comply with the applicable legal provisions. This is essential to prevent future disputes and

ensure that all parties' rights are protected. Article 15 of the Republic of Indonesia Law Number 2 of 2014 on Amendments to Law Number 30 of 2004 concerning the Notary Position emphasizes that one of the responsibilities of a notary is to provide legal advice on the documents they will draft, including those related to land ownership. In this context, the notary is a guarantor of legal certainty in transactions, ensuring that all legal requirements are met before the transfer of ownership occurs. As the number of individuals registering land increases, the role of the notary becomes even more significant. A notary not only functions as an authenticator of documents but also as a facilitator in the land registration process.

A notary's authority to facilitate land registration helps protect the rights of the parties involved in land transactions, both sellers and buyers and ensures that the applicable law conducts the process. Legally, a notary is a public official responsible for the land registration process. As a public official, the notary is appointed by the minister or the competent authority and is responsible for ensuring that all land transactions are carried out transparently and fairly. This role includes verifying the validity of documents, ensuring compliance with legal procedures, and maintaining accurate records of all transactions conducted. Amid the rising number of land registrations and the increasing complexity of related laws, notaries face various challenges. One of the main challenges is ensuring that all documents drafted and authenticated comply with the applicable law, given the variety of cases and field conditions. However, this also

presents an opportunity for notaries to strengthen their role within Indonesia's agrarian legal system by providing better services and ensuring that each land transaction is conducted with high legal certainty. Competent and highly identifiable notaries are essential to prevent land disputes. By providing proper legal advice and ensuring that all documents drafted are legally valid, notaries help reduce the risk of future disputes. This not only protects the rights of individuals involved in land transactions but also enhances public trust in the land registration system in Indonesia. Overall, the role of notaries in providing legal advice and facilitating land registration is critical to maintaining the stability and integrity of Indonesia's rural legal system. By ensuring that all land transactions are conducted in accordance with the law, notaries contribute to the protection of individual rights and the prevention of land disputes, which ultimately supports sustainable economic and social development.

Land registration formally records and maintains information about land ownership and related transactions; it serves as a formal recognition and documentation of land rights, which is essential for regulating the relationship between people and land and promoting secure land ownership (Biraro et al., 2021). This process involves updating the Land Information System (LIS) to recognize and document land rights, ensuring sustainable social change. Land registration aims to protect the land rights of underrepresented citizens and enhance land tenure security through alternative approaches, such as the Social Tenure Domain Model (STDM). However,

challenges remain, including balancing diverse land ownerships and adapting institutional norms in land governance (Ginting, 2016). Additionally, localized land registration, which recognizes and records user rights through community-based procedures, is being explored as an alternative to centralized updates to promote secure ownership in various regions of Indonesia (Valeev et al., 2022). This approach may reduce land disputes but also create new opportunities for land claims, institutional competition, and political intervention in land ownership relations. The land is a vital source of life and livelihood for communities, with diverse rights and uses (Berry, 2023; Ivanova, 2023; Sanchez-Ayala & Areiza-Tapias, 2019). Human history can be viewed as a story of securing access to and utilizing land, which has been the original form and source of wealth in human societies (Berry, 2023). The dominant view of land as a scarce resource for personal gain contrasts with the minority perspective, which emphasizes the relationship between individuals and their identification with the land (Ramayana et al., 2019). Approaches to reducing land disputes have the potential to create new opportunities for land claims, institutional competition, and political intervention in land ownership relations. Land is a vital source of life and livelihood for communities with diverse rights and uses. Human history demonstrates that securing access to and utilizing land has been a source of wealth in society. The dominant view of land as a scarce resource for personal gain contrasts with perspectives that emphasize the relationship between individuals and the land. Concerns

regarding this approach include the increased potential for conflict due to overlapping land claims, institutional competition to control strategic land, and political intervention that may influence land ownership and use decisions. Inequities in the distribution and utilization of land could rise, threatening environmental sustainability and social welfare. Therefore, policies and regulations are needed to effectively address these potential conflicts and balance economic, social, and environmental interests.

Access to land is crucial for income, food security, and social cohesion in rural households (Ivanova, 2023). Careful land management and professional policies are emphasized due to its limited availability and the growing global population (Alkan et al., 2017; Sadjadi, 2017).

Furthermore, the role of land in economic development and its significance for individuals' livelihoods and life projects is emphasized (Sadjadi, 2017; Sanchez-Ayala & Areiza-Tapias, 2019). However, in Wicke's research, which provides insights into the importance of land for human life and livelihoods, the significance of land control and utilization for survival is not explicitly discussed. In Indonesia, the role of notaries in land registration is of utmost urgency. Land registration by notaries ensures land transactions' validity and legal strength, thereby preventing future ownership conflicts. Additionally, changes in land use, such as the expansion of palm oil plantations, underscore the importance of notarial oversight and regulation in managing and protecting land rights. Therefore, the role of notaries in land registration is becoming

increasingly crucial in addressing the complex dynamics of land use and the protection of property rights (Wicke et al., 2011).

Given Indonesia's agrarian nature, the central role of land in Indonesia is crucial. The land is highly significant in Indonesian society, as every community requires it to meet various life needs, ranging from housing and business purposes to facilitating social interactions among community members. Land serves as a foundation for human well-being and a primary provider of essential resources, acting as the center of diverse community activities (Rist et al., 2010).

Specifically, conflicts may arise when regulating, exploiting, and utilizing land, causing issues in the land sector, including disputes, where the role of notaries is crucial. Notaries often play a key role in the authentication of documents and legal deeds related to land transactions, conflicts, or other issues that may arise regarding land ownership. This is important as it can prevent the escalation of issues into disputes between the parties involved. The government has taken steps to address these issues by issuing the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11 of 2016 on Land Dispute Resolution, known as Agrarian Regulation 11/2016. This measure aims to provide a clear framework for resolving land disputes and help reduce potential conflicts related to land ownership.

This regulation implements the principles of the Agrarian Constitution, which emphasizes democratic principles where the state acts as the people's representative to manage all valuable

assets, including land, ensuring their proper organization as a sincere effort to protect the rights and welfare of all individuals, regardless of their status or social standing. (Sukmawati, 2022).

According to Wahanisa's research, disputes over land rights, whether occurring before or after the transfer of land ownership, are common occurrences (Wahanisa et al., 2021). These situations often result in financial losses for buyers who are unaware of the disputes surrounding the land they purchase. Furthermore, research conducted by Firmansa highlights that land disputes have become inevitable due to the high demand for land and limited land availability (Firmansa et al., 2020). This necessitates improved land planning and utilization to enhance societal welfare, particularly by ensuring legal certainty regarding land ownership rights. The increasing number of land disputes can be attributed to various dominant factors, including incomplete regulations, inconsistencies in regulations, unresponsiveness of land officials to land-related needs, inaccurate and incomplete data, incorrect land records, and the limited human resources allocated for resolving land disputes and overseeing land transactions, all of which pose significant challenges to the effective management of land-related issues (Wahanisa et al., 2021). Kondisi ini sering kali menyebabkan kerugian finansial bagi pembeli yang tidak menyadari adanya sengketa tentang tanah yang mereka beli. Selain itu, penelitian yang dilakukan oleh Firmansa menyoroti bahwa sengketa tanah telah menjadi tidak terhindarkan karena tingginya permintaan akan tanah dan keterbatasan ketersediaan lahan

situations often result in financial losses for buyers who are unaware of the disputes surrounding the land they purchase. Furthermore, research conducted by Firmansa highlights that land disputes have become inevitable due to the high demand for land and limited land availability (Firmansa et al., 2020). This calls for improved land planning and utilization to enhance societal welfare, particularly by ensuring legal certainty regarding land ownership rights. The increasing number of land disputes can be linked to various dominant factors, including incomplete regulations, inconsistencies in regulation, unresponsiveness of land officials to land-related needs, inaccurate and incomplete data, incorrect land records, and the limited human resources allocated for resolving land disputes and supervising land transactions, all of which present significant challenges to the effective management of land-related issues.

The legal concept of land ownership has been conceptualized to form a constitution focused on social welfare through land governance in Indonesia. This idea underscores the importance of the legal validation of land ownership rights, as reflected in the land rights registration process, thereby ensuring proper control and management of land. (Dostal & Naskoshi, 2023). In reality, merely having a land registration system does not guarantee that a land buyer will automatically acquire the right to own and use the land securely. From a legal perspective, land registration regulations are crucial to ensuring accurate legal protection of land ownership rights. This is because the law can regulate conflicts that may arise between various interests

and individual autonomy concerning land ownership. (Sumarto, 2017).

The requirements for Indonesian citizens (WNI) to register land control rights are regulated in Article 19, paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Regulations (Silvana, 2019). This article emphasizes the government's role in ensuring legal certainty through the land registration process, which varies across the Republic of Indonesia due to differences in administrative systems, regional regulations, and the complexity of land ownership arrangements. The outcome of this registration process is the issuance of a land certificate, which serves as proof of ownership. According to Article 32, paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, a land ownership certificate serves as legal proof of ownership, providing strong evidence regarding the physical and legal data it contains, as long as these details align with the facts recorded in the official documents and land rights statements for the respective land (Yubaidi et al., 2022).

The classification of land-related issues, including challenges associated with inaccurate or incomplete land ownership data, incorrect land records, and suspicious illegal transactions, requires further exploration. The role of notaries in addressing these issues, particularly those related to inaccurate or incomplete data and suspicious transactions, is still not well understood. The sociological aspects inherent in resolving land disputes within the framework of national land ownership law require deeper investigation to ensure continued protection of land rights.

Addressing this gap is essential for developing effective strategies to reduce land disputes and improve the integrity of land transactions. Understanding notaries' specific roles and responsibilities in handling inaccuracies and suspicious transactions can enhance land governance and legal compliance. Exploring the sociological dimensions of land disputes is crucial for ensuring fair and equitable outcomes within the framework of national land ownership law.

## **RESEARCH METHOD**

The normative juridical approach involves the inventory, study, analysis, and understanding of law as a set of positive norms within the legal framework governing notarial matters. This study follows the specification of descriptive-analytical research, aiming to describe scientific developments, communicate, and analyze issues illustratively. The research utilizes secondary data from literature relevant to the study. Secondary data includes primary legal materials, secondary legal materials, and tertiary legal materials. Data is collected through a literature review examining relevant materials addressing the research problems. Subsequently, the data is analyzed using a qualitative-normative approach (Noor, 2022). The specific analysis in this research will focus on the role of notaries in land registration and dispute resolution. This study will evaluate the effectiveness of notaries in ensuring legal certainty in land transactions and examine how notaries can assist in preventing and resolving disputes related to land ownership. Additionally, this research will explore the relationship between

notaries and Land Deed Officials (PPAT) in the context of land registration and the legal implications of documents produced by notaries. Case studies and real-world examples will be used to illustrate the practical role of notaries in Indonesia's rural legal system, with the aim of providing policy recommendations to improve the efficiency and reliability of land registration processes and dispute resolution.

## **RESULTS AND DISCUSSION**

Land registration plays a central role in affirming the validity of land rights and establishing legal ownership of those rights. Additionally, the purpose of land registration, per Article 19 of the Basic Agrarian Law (Law No. 5 of 1960), is to ensure simplicity in administration (Muri et al., 2018). Therefore, all land, whether owned by individuals, groups, or legal entities, including land ownership rights in alignment with Book II of the Civil Code, must conform to the land rights stipulated by the Basic Agrarian Law (UUPA) and be registered to ensure certainty and simplicity. The implementation of land registration is carried out continuously and regulated by the government, involving the collection, processing, recording, and presentation of data in tangible forms, as well as legal regulations such as maps and registers concerning parcels of land and apartment units. This also includes the issuance of certificates as proof of land ownership and ownership rights over apartment units, along with other associated rights. Thus, land registration ensures order in ownership, control, and usage (Noor, 2021).

Land registration does not guarantee ownership security, as evidenced by studies showing differing findings regarding the relationship between land registration and rights security (Kurwakumire, 2018). Principles of land registration, such as the function of publication and guarantees provided by the government, have been critically analyzed and found incapable of ensuring ownership security (Abdulai & Owusu-Ansah, 2014). In some cases, land registration can even be a source of ownership insecurity. This challenges the common assertion that land registration guarantees land ownership security. Furthermore, the role of land registration in validating land rights is crucial, as it provides legal proof of ownership and helps define and protect land rights (Abdulai & Ochieng, 2017). Challenges in managing the land registration process, such as inefficiencies, high costs, and lengthy procedures, can lead to insecure land transactions and a failing property market. Nevertheless, land registration is essential in determining and protecting land rights despite these challenges.

Land registration is a crucial process in Indonesia that provides legal certainty regarding land ownership and control, whether owned by individuals or legal entities. This process involves submitting land to the Land Office to undergo a series of continuous and organized activities conducted by the government. These activities include collecting, processing, recording, reviewing, and maintaining physical and legal data related to land and apartment units, such as maps and registers. Additionally, the issuance of documents serves as proof of ownership rights over land and apartment

units and specific rights associated with them (Aditya et al., 2021). Further information on land registration procedures is regulated in Article 19, paragraph (1) of the Basic Agrarian Law (UUPA). Regulated by Government Regulation No. 10 of 1961 on land registration, State Gazette of 1961 No. 28 - Supplement to State Gazette No. 2171, Government Regulation No. 10 of 1961 was replaced by the issuance of Government Regulation No. 24 of 1997 on Land Registration, State Gazette of 1997 No. 59 - Supplement to State Gazette No. 3696. Government Regulation No. 24 of 1997 was enacted on July 8, 1997, but only became effective on October 8, 1997. Government Regulation No. 24 of 1997 is implemented through the Minister of Agrarian Affairs/Head of National Land Agency Regulation No. 3 of 1997, which addresses the implementation of Government Regulation No. 24 of 1997 concerning Land Registration, providing detailed provisions and guidelines for land registration process in Indonesia. These regulations likely cover various aspects of land registration, including procedures, requirements, documentation, and the roles and responsibilities of the authorities and stakeholders involved in the process. These regulations aim to ensure the effective and efficient implementation of land registration activities nationwide, thereby enhancing legal certainty and land governance. (Santoso, 2005).

Land registration activities involve two main components: the initial registration process and ongoing maintenance efforts. During the initial registration phase, tasks include collecting

and processing physical data, documenting rights, issuing certificates, presenting physical and legal information, and securely storing the related documents. Meanwhile, maintenance activities involve updating records to reflect the transfer of rights or encumbrances and registering any changes in existing land registration data. These activities generate two types of data: physical and legal. Physical data relates to the location, boundaries, and size of the registered land plots and apartment units, including information about any existing structures. Legal data pertains to the legality of the land and registered property units, the rights holders, encumbrances, and other relevant legal aspects.

Land registration allows stakeholders to easily access crucial information such as the legal status, location, size, boundaries, ownership, and encumbrances of the land they manage. Given the increasing population, safeguarding land rights is crucial to avoiding disputes. Therefore, ensuring legal certainty through a proper land registration process is essential. (Martono et al., 2021).

The Head of the District Land Office cannot carry out the land registration process alone but requires assistance from other parties, such as a notary or Land Deed Official (PPAT) and other officials assigned specific tasks according to applicable regulations. Other officials involved in the land registration process include officials from the auction office, Wakaf Mortgage Deed Officials, and the Adjudication Commission. The Land Deed Official (PPAT) role is crucial in the land registration process, particularly in supporting the Head of the District/City



Land Office in certain registration tasks. However, even though the term "assisted" is used in Article 6, paragraph (2) of Government Regulation Number 24 of 1997, this serves as a basis that the PPAT operates under the jurisdiction of the National Land Agency and can be directed by it (Helda, 2008). In Indonesia's agrarian legal system, notaries and Land Deed Officials (PPAT) have distinct yet complementary roles in the land registration process and dispute resolution. Notaries are public officials authorized to draft authentic deeds required for various legal transactions, including land transactions. Meanwhile, the PPAT is a specially appointed official responsible for drafting deeds related to the transfer of land rights, such as sale and purchase, donation, exchange, incorporation into a company, and the division of joint ownership rights.

Notaries and Land Deed Officials (PPAT) often need to collaborate in the land registration process. Notaries are responsible for drafting and authenticating the necessary documents in a transaction, while PPATs play a role in certifying the deeds of transfer, which are then used to register ownership changes at the land office. This cooperation ensures that all required documents meet legal requirements before being submitted for registration, thereby providing legal certainty and smooth processing in land transactions.

Although PPATs operate independently in carrying out their duties, they are under the jurisdiction of the National Land Agency (BPN) and can be directed by the BPN in the execution of certain tasks. This ensures that PPATs work in accordance with the policies and

standards set by the government, maintaining the integrity and legality of the land registration process.

In the event of a dispute related to land ownership, notaries and PPATs play a crucial role in providing valid documents that can be used as evidence in court. Notaries can offer legal advice and ensure that all transactions are conducted in accordance with applicable laws, while PPATs ensure that the deeds of transfer they draft are legally valid and can be recognized by the court. This collaboration helps to establish legal certainty and prevent potential conflicts over land ownership.

The relationship between notaries and PPATs in the land registration process has significant legal implications. Documents drafted by notaries and PPATs must comply with all legal requirements to be used in the registration process and recognized as valid evidence. Failure to meet these requirements can lead to legal disputes and cause harm to the parties involved in the transaction.

Therefore, a clear understanding of the roles and relationship between notaries and PPATs is essential to ensure that the land registration process runs smoothly and in accordance with the applicable laws and prevent and resolve disputes related to land ownership.

Conversely, PPAT operates independently and impartially in carrying out its duties and exercising its authority in land registration matters. The definition of new land registration is found in Article 1, paragraph 1 of Government Regulation Number 24 of 1997, which describes a series of activities carried out by the government continuously and regularly, including the collection,

processing, recording, as well as presentation and maintenance of physical and legal data, in the form of maps and registers regarding land plots and apartment units. This also includes providing ownership certificates for land with rights and ownership rights over apartment units and certain rights encumbering them. Land Deed Officials (PPAT) play an important role in land registration by assisting the Head of the District/City Land Office in specific registration activities. Additionally, notaries are responsible for authenticating the deeds they draft by ensuring compliance with the requirements for the validity of the deed. This includes verifying the data presented in the certificate with the land registration records at the Land Office. (Helda, 2008).

The Land Deed Official (PPAT) role also extends to increasing state revenue in the taxation sector. Furthermore, a PPAT plays a critical role in ensuring that Land and Building Tax (PBB), Income Tax (PPh), and the Duty on the Acquisition of Land and Building Rights (BPHTB) are settled as a result of property rights transfers before the deed is drafted. A PPAT must exercise caution when performing their duties to avoid future disputes or issues, especially considering the growing demand for their services. This increased demand has led many individuals to seek the services of a PPAT for various purposes, including attempts to manipulate the PPAT's position for unlawful purposes. Notaries and PPATs often face several challenges in carrying out their duties. These include administrative and management issues in land offices, such as undetected losses of land records (Muljadi, 2005).

Land Deed Officials' (PPAT) role also extends to enhancing state revenue in the taxation sector. Furthermore, a PPAT plays a crucial role in ensuring that Land and Building Tax (PBB), Income Tax (PPh), and the Acquisition of Land and Building Rights Duty (BPHTB) have been settled from the proceeds of property rights transfers before drafting the deed. A PPAT must exercise caution when performing their duties to avoid future disputes or issues, especially given the increasing demand for their services. This rising demand has led many individuals to use the services of PPATs for various purposes, including attempts to manipulate their position for unlawful objectives.

Notaries and PPATs frequently face several challenges in carrying out their duties. These challenges include administrative and management disarray at the land office, such as undetected lost land records. Such issues emphasize the need for a structured and well-managed system to ensure the smooth processing of land-related transactions and to maintain public trust in land registration and tax compliance. (Sutedi, 2007).

The author suggests that to address these issues, the recording of land rights transfers and transitions must strictly adhere to procedural guidelines through official channels. This approach ensures that all public interests are served and land office staff operate in accordance with established regulations. Additionally, land offices need to improve the administrative and management systems to provide quick, efficient, and professional services to the public. Ideally, land registration procedures should encompass all regions in

Indonesia. Comprehensive record-keeping will simplify land rights management, minimize disputes, and maintain the integrity of land ownership records (Urip Santoso & others, 2019).

The distinction of national boundaries, including forest and privately owned land, must be clarified quickly to avoid boundary disputes and create legal certainty and protection for landowners and other registered rights holders. As Article 19 of the Agrarian Law stipulated regarding the necessity of land registration for legal certainty, Government Regulation 24 of 1997 on Land Registration was issued as an implementing regulation. The land registration process requires evidence that clarifies the rights and obligations of the public as legal subjects. The land registration system a country uses depends on the legal principles adopted by that country in transferring land rights. (Murni, 2018).

Two fundamental legal principles are often considered in land registration systems: the principle of good faith (principle of bona fides) and the principle of *Nemo plus juris*. Each country may lean toward one of these principles in its land registration framework. However, countries that strictly adhere to either principle have their own advantages and disadvantages, leading to varied approaches to land registration. Inland registration activities, not all land plots are registered; only specific objects are determined by law. These objects are determined in Article 9 of Government Regulation 24 of 1997 concerning Land Registration. These objects typically include plots of land governed by ownership rights, land use rights, building

rights, land management rights, *wakaf* land, apartment unit ownership rights, mortgage rights, and state land (Adrian Sutedi, 2023).

Unlawful actions often trigger land dispute cases. In Indonesia, common types of land ownership status include land ownership certificates (*sertifikat hak milik*), building use rights certificates (*sertifikat hak pakai bangunan*), business use rights certificates (*sertifikat hak pakai usaha*), and land cultivation rights certificates (*sertifikat hak guna usaha*). Many land disputes in Indonesia frequently arise due to disagreements over land ownership certificates. A land ownership certificate is an important document that legally confirms land ownership status. Holding a certificate registered with the National Land Agency (Badan Pertanahan Nasional) can reinforce legal ownership of land. (Mustofa et al., 2022).

Article 4, paragraph (1) of the Basic Agrarian Law Number 5 of 1960 regulates various types of land rights, such as ownership rights (*hak milik*), business use rights (*hak pakai usaha*), building use rights (*hak pakai bangunan*), cultivation rights (*hak guna usaha*), lease rights (*hak sewa*), land exploitation rights (*hak penggarapan tanah*), and forest product acquisition rights (*hak perolehan hasil hutan*) (Suhadi et al., 2022). Land ownership can be obtained through purchasing and selling land, inheritance, or *wakaf*. Meanwhile, land in Indonesia is classified into two categories: state and privately owned.

Land law in Indonesia is characterized by its complexity, as it involves various rules, laws, and regulations that often overlap or conflict

with one another. Judges' or courts' interpretations of these regulations can result in differing rulings. Land disputes are frequently related to proof of ownership, the history of transactions, and legal documents serving as the basis for land rights. Limited data and accurate information available in courts or law enforcement agencies can lead to inconsistent decisions. Both general courts and state administrative courts often face challenges in handling complex and diverse land disputes. beragam (Sumardjono, 2007).

In 2015, a land inheritance dispute occurred in South Jakarta involving several heirs who each claimed rights to a piece of land. The case began when one of the heirs sold the land without the consent of the other heirs. The sale and purchase documents were later contested in court because the signatures of several heirs were allegedly forged. The court eventually ruled that the sale transaction was invalid and that the land had to be returned to all the heirs. In this case, a notary could have ensured that all heirs provided valid consent and signatures before the transaction took place, thereby preventing the dispute.

In 2019, a land dispute occurred between a housing developer and the original landowner in Surabaya. The developer claimed to have purchased the land through a legitimate process and held a land certificate issued by the National Land Agency (BPN). However, the original landowner claimed that the land was sold without their consent and accused of fraudulent practices in the sale process. The court ruled that the developer's land certificate was invalid, as evidence showed that the document was

obtained through fraudulent means. A notary could have ensured that all documents related to the land transaction were valid and compliant with legal requirements and provided legal advice to the parties involved to prevent fraudulent practices.

Thus, the role of a notary is crucial in ensuring legal certainty, reducing the potential for disputes, and protecting the rights of all parties involved in land transactions. Notaries help maintain the integrity of Indonesia's rural legal system by ensuring that every land transaction is carried out properly and legally.

These limitations can affect the quality of decisions, particularly because judges and court officials may have differing understandings of land law. The lack of specialized education and training in land law can also undermine the quality of decisions. Furthermore, time and resource constraints often hinder legal processes, leading to less thorough and comprehensive handling of land disputes (Noor, Nuryadi, et al., 2023).

Land dispute cases often require resolutions involving civil aspects, such as determining land ownership status and land rights, as well as criminal aspects if criminal actions are related to the dispute. The resolution of land disputes in general courts aims to resolve conflicts related to these rights. In some cases, when criminal acts or legal violations occur in connection with land disputes, general courts may also handle these issues within the criminal law domain.

Penggunaan HIR atau RBg sebagai hukum acara dalam menyelesaikan sengketa tanah mengikuti tradisi hukum Indonesia, yang berakar pada masa kolonial. Namun, perlu diingat bahwa

penerapan hukum ini juga dapat berubah sesuai dengan perkembangan hukum di Indonesia. Peraturan Menteri ATR/BPN Nomor 21 Tahun 2020 tentang Penyelesaian Perkara Tanah memungkinkan kemungkinan penyelesaian sengketa tanah melalui proses mediasi, sebagai inisiatif dari Kementerian Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional (BPN). The use of HIR (Herziene Indonesisch Reglement) or RBg (Rechtsreglement voor de Buitengewesten) as procedural law in resolving land disputes follows Indonesia's legal tradition, which has roots in the colonial era. However, it is important to note that the application of this law may evolve in line with legal developments in Indonesia. The Ministerial Regulation of ATR/BPN No. 21 of 2020 on Land Dispute Resolution allows for the possibility of resolving land disputes through mediation, as an initiative by the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN).

Mediation is an effort to facilitate the resolution of land disputes by involving the parties engaged in the dispute. Since land disputes often involve multiple parties, documents, evidence, and complex legal aspects, the collection and analysis of evidence become more complicated. However, courts often face limitations in human and technical resources, which, in some cases, can slow down the judicial process. Dispute Resolution (DR) law requires all parties' active participation. The process may proceed more slowly if the parties have busy schedules or encounter difficulties in attending court hearings. As mentioned,

land dispute resolution typically involves several stages, including first-instance court proceedings, appeals, and possibly cassation. Each of these stages requires significant time and effort. The existence of various complex and multi-layered legal provisions and regulations related to land can also affect the length of the judicial process.(Noor, Solihah, et al., 2023).

Litigation in court is a dispute resolution process carried out through legal channels and brought before a court. The disputing parties present their case to the court, where a judge will examine the evidence and arguments from both sides and render a decision. The advantage of litigation is that court rulings carry legally binding force, providing legal certainty. However, this process often requires significant time and costs and carries the risk of exacerbating the relationship between the disputing parties.

Notaries are crucial in reducing the potential for land disputes and ensuring that land transactions are conducted properly and legally. Notaries act as guarantors of legal certainty in every land transaction by verifying documents, providing legal advice, and ensuring that all processes are carried out in accordance with applicable regulations.

A notary is responsible for verifying all documents related to land transactions, including ownership certificates, sale and purchase agreements, and other supporting documents. By conducting this verification, the notary helps prevent the use of forged or invalid documents, which could later become a source of disputes. For example, in an inheritance land dispute in South Jakarta, a notary can ensure that all heirs have provided valid

consent and signatures before the transaction is completed.

Notaries also provide legal advice to the parties involved in land transactions, explaining their rights and obligations, and ensuring they understand the legal implications of the transaction. In the case of a plantation land dispute in North Sumatra, a notary can educate indigenous communities about their rights and assist them in the legal process to defend their rights over customary land.

A notary plays a crucial role in drafting and legalizing the deeds required in land transactions, such as sale and purchase deeds, grant deeds, and transfer of rights deeds. These deeds carry significant legal weight and can serve as valid evidence in court. In a housing land dispute in Surabaya, a notary can ensure that the sale and purchase process is carried out correctly and according to procedure, ensuring the certificate's legal validity.

Notaries can also play a role in dispute resolution and mediation between disputing parties. With their deep legal knowledge and mediation skills, notaries can help all parties find fair and satisfactory solutions, reducing the need to take the dispute to court.

When a land dispute arises, the role of a notary becomes increasingly important. A notary can act as a neutral mediator and help the disputing parties reach a fair agreement. By leveraging their expertise in law and mediation, notaries can facilitate negotiations and propose solutions that are acceptable to all parties. They can also provide objective legal advice and assist in drafting a legally binding settlement agreement.

Additionally, a notary can help collect and verify the necessary evidence in the dispute resolution process, including ownership documents, agreements, and transaction records. By ensuring that all evidence is properly verified and documented, the notary helps reduce the risk of inconsistent and unfair decisions in court.

Thus, the role of a notary is crucial in ensuring legal certainty, reducing the potential for disputes, and protecting the rights of all parties involved in land transactions. Notaries help maintain the integrity of Indonesia's rural legal system by ensuring that every land transaction is conducted properly and legally. In the event of a dispute, a notary can act as both mediator and legal advisor, facilitating a fair and effective resolution. This protects individual rights and enhances public trust in Indonesia's land registration system.

The judicial process often takes a long time, especially when cases are complex or involve extensive evidence. Moreover, land disputes frequently involve intricate facts and laws, which can further slow down the process. The costs associated with preparing and presenting a case in court can be very high, posing a barrier for individuals or groups with financial limitations. Although court rulings carry legal authority, conflicting decisions can arise at different levels of the judiciary or even within the same level, leading to legal uncertainty for the disputing parties.

Land disputes often involve multiple stakeholders, including individuals, groups, companies, and government entities, complicating quick and efficient resolution efforts. An inadequate land registration system further complicates

the complexity of resolving disputes. While land ownership evidence typically forms the basis of decisions, verifying such evidence may be limited. In some cases, a shared understanding of fundamental land ownership issues becomes essential, facilitating the creation of fairer and more sustainable decisions.

## CONCLUSION

Notaries and Land Deed Officials (PPAT) play a vital role in assisting the Head of the Land Office in the land registration process. Their responsibilities include drafting land deeds with high professionalism, ethical conduct, and a strong sense of responsibility. Land deed officials contribute to society by providing a sense of security and confidence by fulfilling these responsibilities. This commitment helps achieve legal certainty and stability in property ownership.

Notaries and PPAT offices are official institutions appointed by the state to oversee land rights owned by individuals and legal entities by issuing certificates. Often, individuals seeking legal recognition of their rights engage the services of a Notary or PPAT to facilitate processes such as the transfer of rights, the drafting of wills, or conducting land transactions. These transactions are then registered with the National Land Agency (BPN). Notaries and PPAT handle all required documents, ensuring compliance with regulatory requirements. They guide applicants through the process, offering advice on related costs until the requested certificate is issued.

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