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IMPLEMENTATION OF ROYA PARTIAL OBJECTS OF COLLATERAL RIGHTS AFTER THE APPLICATION OF REGULATION OF THE MINISTER OF AGRARIA AND SPATIAL PLANNING / HEAD OF THE NATIONAL LAND AGENCY OF THE REPUBLIC OF INDONESIA NUMBER 5 YEAR 2020 CONCERNING ELECTRONIC INTEGRATED COLLATERAL RIGHTS SERVICES
(Study at Land Office of Malang City)

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Abstract:
In this digital era, the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency seeks to keep abreast of developments by launching electronic services that can be used by Financial Institutions, regarding electronic Mortgage Rights, hereinafter referred to as HT-el, regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of Agency National Land Affairs Number 5 of 2020 concerning Electronic Integrated Mortgage Services which also regulates partial royalties. Article 17 Paragraph (2).
Formulation of the problem 1) How to Implement Roya Partial Mortgage Objects Integrated Electronically in the Land Office of Malang City for Creditors and PPAT. 2) What are the Obstacles in the Implementation of Roya Partial Objects of Mortgage Rights Integrated Electronically Faced by Users of Electronic Mortgage Services and Their Settlement Efforts. This research method uses an empirical juridical method with a statutory and sociological approach.
The results of research on the Implementation of Roya Partial Mortgage Objects Integrated Electronically in the Land Office of Malang City for Creditors and PPATs are carried out in accordance with regulations. Namely a partial Roya can be done if in the APHT, in which there are several mortgage objects that are guaranteed, a roya agreement (crossing out) is stated for some (partial) mortgage objects whose debt payments have been paid off. The inclusion of this agreement is actually the basis for enacting a partial royalty in the mortgage certificate by the land office. Because if it is not agreed upon, what will apply are the provisions for the implementation of the roya as a whole, as stipulated in Article 2 paragraph (1) of the Mortgage Law, which states: "The mortgage has the nature of not being divided, unless it is agreed in the deed of granting mortgage rights as referred to in paragraph (2).
Constraints in the Implementation of Roya Partial Objects of Mortgage Rights Integrated Electronically. Obstacles 1) overlapping rules, 2) the roya process sometimes exceeds 5 working days this is caused by a) high electronic roya submissions, b) lack of public awareness, c) NIK that is not validated, d) unpreparedness from related agencies (ATR BPN) e) system from the ministry which sometimes often errors. The efforts to overcome this are 1) if the guarantee is more than 1 guarantee, it can be used as long as it is promised 2) it is conveyed to the debtor or creditor to take care of the loan as soon as possible 3) For obstacles regarding

the readiness of the ATR / BPN Malang City HR, namely by held training and on the implementation of electronic-based Roya Partial, besides that the ministry held improvements to the HT-el and roya HT-el systems.

Keywords: Partial Roya, Mortgage-Electronic Rights

1. Introduction

Computer network technology is growing rapidly marked by the existence of a LAN (Local Area Network), namely a network in a local area as well as a larger computer network called a WAN (Wide Area Network). by 454 Land Offices in 33 Provinces with a number of creditor partners of 1,150 Bank Legal Entities. In this regard, in the development of Mortgage Rights in Indonesia, the Government provides services including electronically integrated Registration of Mortgage Rights based on Regulation of the Head of the National Land Agency Number 9 of 2019 and Permen ATR/ BPN Number 5 of 2020 concerning Electronic Mortgage Services and/or hereinafter referred to as "HT-el"

Users of Electronic Mortgage Rights other than PPAT are creditors who are usually Financial Institutions (Banks) and can also be individuals. For the banking world, of course it is hoped that the existence of Electronic Mortgage services can provide benefits including the timely registration of Mortgage Rights on the seventh day after being registered. Such registration can be more economical because there is no need to come to the local Land Office. Other benefits, for example, being able to make Roya and credit operations quickly, then there is also the convenience of asset management (no need to scan Mortgage certificates) and can also make reporting and monitoring the amount and value of Mortgage rights in all branches of the Bank concerned.

Based on the descriptions above, the author is interested in discussing it in the form of a thesis, which the author gives the title: Implementation of Patrial Roya on Mortgage Objects After the Enactment of the Minister of Agrarian and Spatial Planning Regulation / Head of the National Land Agency of the Republic of Indonesia Number 5 of 2020 Concerning Integrated Mortgage Services Electronically (Study at Land Office of Malang City)

With the brief description of the background above, there are several issues that need attention:

1. How is the Implementation of Roya Partial Mortgage Objects Integrated Electronically at the Malang City Land Office for Creditors and PPATs?
2. What are the Obstacles in the Implementation of Roya Partial Electronic Mortgage Objects Faced by Users of Electronic Mortgage Services and Their Settlement Efforts?

2. Method

This research is an empirical research, namely: Research in action on any particular legal event that occurs in society. The Juridical-Sociological approach is used to analyze law which is seen as a patterned societal behavior in people's lives that always interact and relate to social aspects. the location of the Malang City ATR BPN research and included in the study of Partial roya and HT el at the Malang City ATR BPN office because the Malang City Land Office has implemented HT-el since the existence of this regulation.

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Types of Data and Data Sources, Primary data, in the form of data that is directly obtained in field research. The data obtained from in-depth interviews (deft interviews) while the secondary data, the data needed to complement the primary data. Data collection was carried out by the authors in this study by means of: Document Studies, Interviews, Population in the study, the samples in this study were determined by the sample, namely 1) 4 applicants for HT el 2) 4 officials for ATR BPN Malang City 3) 2 officials for making certificates land (PPAT), the sampling technique was carried out by purposive sampling, the data analysis used was a qualitative analysis method.

3. Implementation of Roya Partial Mortgage Objects Integrated Electronically at the Land Office of Malang City for Creditors and PPAT

The government is required to increase transactions and service products related to land registration, which in this case is represented by the Ministry of Spatial Planning/National Land Agency. Several years ago the Minister of Agrarian Affairs / Head of BPN issued a Regulation of the Minister of Agrarian Affairs and Spatial Planning of the Head of the National Land Agency Number 9 of 2019 concerning Electronic Integrated Mortgage Services, effective since promulgation, namely June 21, 2019 (Ministry Regulation ATR / KBPN 9/2019). This Ministerial Regulation is a continuation of the previous ATR/KBPN Ministerial Regulation, namely Ministerial Regulation No.3 of 2019 concerning the use of electronic systems and Ministerial Regulation No.7 of 2019 concerning changes in the form of certificates.

According to Mr. Eko Laksono[1]Electronic mortgage services have actually started since the enactment of the ATR/BPN Regulation Number 7 of 2019 concerning the second amendment to the ATR/BPN Regulation Number 3 of 1997 regarding Implementation Provisions for PP Number 24 of 1997, as well as the ATR/BPN Regulation Number 9 of 2019 concerning Rights Services. Electronically Integrated Dependents. The Ministerial Regulation, among other things, regulates the PPAT Deed submitted to the local Land Office in the form of an electronic document through an electronic system.

Mr. Eko Laksono added[2] by Issuing the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 5 of 2020 concerning Electronically Integrated Mortgage Services (Permen HT-el) signed by the Minister of ATR/BPN, which regulates how the process of electronic mortgage rights occurs . The National Land Agency issued Ministerial Regulation ATR/BPN Number 5 of 2020 concerning Electronically Integrated Mortgage Services which replaced and revoked the previous regulation namely ATR/BPN Ministerial Regulation Number 9 of 2019. Since July 8 2020, the implementation of Electronically Integrated Mortgage Services is mandatory implemented nationally by all Land Offices in Indonesia, the provisions of Article 10 paragraph (3) of the HT Law cannot be implemented. This is regulated in Article 33 of the ATR/BPN Regulation, which is no exception to the Malang City Land Agency No. 5 of 2020

[1] The results of the interview with Mr. Eko Laksono, BPN staff, Malang City, HT el registration section on September 5, 2022 at 10.00 WIB

[2] The results of the interview with Mr. Eko Laksono, BPN staff, Malang City, HT el registration section on September 5, 2022 at 10.00 WIB

This was confirmed by Mr. Heri Laksnono[3] Regarding Electronically Integrated Mortgage Services which states: "The Land Office is obliged to carry out electronic mortgage services no later than 3 (three) months from the enactment of this Ministerial Regulation" and "After a period of 3 (three) months as referred to in paragraph (1) Mortgage services can only be done electronically. According to Permen ATR/BPN No. 5 of 2020 concerning Electronic Mortgage Services, types of Mortgage services that can be submitted through the Electronic Mortgage System include Registration of Mortgage Rights, Transfer of Mortgage Rights, Change of Name of Creditor, Elimination of Mortgage, and Data Correction. Meanwhile, mortgage objects that can be processed with electronic mortgage services are mortgage objects as stipulated in Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (UU HT).

In addition, the Malang City Land Agency also checks certificates for the purposes of making deeds by PPAT, which must be done electronically based on the Circular of the Head of the National Land Agency Number DI.01.01/361-100/II/2020 dated 17 February 2020 regarding electronic checking of land parcels, PPAT has the obligation to check land certificates electronically so that checking land certificates manually will be closed on July 30, 2020[4]

The Ministerial Regulation aims to improve Mortgage services that meet the principles of openness, timeliness, speed, convenience and affordability in the framework of public services so that Mortgage service procedures can be integrated electronically so that they become more effective and efficient. Article 1 point 7 of ATR/BPN Ministerial Regulation Number 5 of 2020 explains that HT-el services are a series of Mortgage service processes in the context of maintaining land registration data which are organized through an integrated electronic system. It was developed by a technician who also has a duty to process HT-el services.

The HT-el system is a series of Mortgage service processes in the context of maintaining land registration data which is carried out through an integrated electronic system[5] Thus, it is hoped that this new breakthrough that utilizes technological developments can accommodate the interests and needs of the community regarding services for installing electronic mortgage rights from the Ministry of Spatial Planning/National Land Agency.

With the digitization of land, the Government has implemented an electronic system for registration of Mortgage Rights which is a follow-up to the agrarian reform program by legalizing assets through Complete Systematic Land Registration (PTSL). The integrated electronic system is developed by a technical unit tasked with data and information to process HT-el services.

Terms of Roya Partial Electronic Mortgage Objects at the Land Agency of Malang City. Partial roya can be done if in the APHT, in which there are several mortgage objects that are guaranteed, a roya agreement (crossing out) is stated for some (partial) mortgage objects whose debt payments have been paid off. The inclusion of this agreement is actually the basis for enacting a partial royalty in the mortgage certificate by the land

[3] Results of interview with Heri Wibowo Kasubsi Hukum on September 15, 2022 at 09.00 WIB

[4] Results of interview with Heri Wibowo Kasubsi Hukum on September 15, 2022 at 09.00 WIB

[5] Interview with Ms. Fenti, the counter and it department of the Malang City Land Agency on October 4, 2022 at 11.15 WIB.

office. Because if it is not agreed upon, what will apply are the provisions for the implementation of the roya as a whole, as stipulated in Article 2 paragraph (1) of the Mortgage Law, which states: "The mortgage has the nature of not being divided, unless it is agreed in the deed of granting mortgage as referred to in paragraph (2)." [6]The HT-el system is implemented by the Land Office in stages, which will be determined later by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency in accordance with the readiness of supporting data.

Before discussing about Roya Partial electronically, the author first explains the procedures for registration at the Malang City Land Office, including: Types of services in the HT-el system include Registration of Mortgage, Transfer of Mortgage, Change of Name of Creditor, and Elimination of (roya) Mortgage .

To be able to access the HT-el System, each Creditor, both an individual and a legal entity, must be a registered user on the HT-el System who first registers on the HT-el System, with the following conditions:[7]

(1) Has an electronic domicile, namely in the form of a verified electronic mail address and/or cell phone number;

(2) Certificate of registration with the Financial Services Authority

(3) Statement of fulfillment of requirements and criteria as well as approval of conditions as a registered user

(4) Other requirements determined by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency. BPN will verify registration as a registered user. If a registered user commits a violation, BPN has the authority to suspend access rights or revoke the registered user's status.

After being registered, applications for Mortgage Services are submitted through the HT-el System in the form of electronic documents, with the requirements (i) in accordance with statutory provisions (ii) to make a statement regarding accountability for the validity and correctness of electronic document data submitted. Requirements for a certificate of land title or certificate of ownership of an apartment unit which must be in accordance with the name of the debtor. Meanwhile, the original documents required in connection with the application for Mortgage Services must be kept by the applicant. Especially for applications for registration of mortgage rights, the deed of granting mortgage rights is submitted by the PPAT in the form of an electronic document through the HT-el system.

Service requests that have been received by the HT-el system will be given proof of registration in the system, which at least contains:

(1) File number;

(2) Date of application registration;

(3) Applicant's name;

(4) Service fee payment code.

Furthermore, within no later than 3 (three) days after the application registration date, the applicant must make payment through the bank. The fees charged are in accordance

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[6] I Wayan Jody Bagus Wiguna. "Juridical Review Regarding Electronic Mortgage Registration", Acta Comitas: Journal of Notary Law, Vol. 3, No. 2, June 2020, p. 79-88.

[7] st. Remy Sjahdeini, Mortgage Rights, Principles, Basic Provisions and Problems Faced by Banking (a study of the Mortgage Act), second edition, Bandung, Alumni Publishers, 1999, p. 43-44.

with the costs in non-tax state revenue (PNBP). If the time period has passed, the application is declared cancelled.

Applications for registration will be processed after the application and payment data have been confirmed by the electronic system. If not confirmed, then the applicant can confirm directly to the Land Office or through a complaint service.
Mortgage Services are processed by recording Mortgage rights on:
(1) Land book, which is done by the Head of the Land Office;
(2) Certificates, which are carried out by creditors by printing notes issued by the HT-el System and attached to the Certificate. Within seven days after the application is confirmed in the HT-el System, the results of the Mortgage Service will be issued, in the form of a Mortgage Certificate and a Mortgage record on the land book and a Certificate, both of which are made in the form of an electronic document with an electronic signature. If the receivables have been paid off, the creditor immediately registers the cancellation of mortgage rights (roya) through the HT-el system.

Mortgage certificates (SHT) resulting from mortgage rights transfer services, creditor name changes or partial mortgage abolition, issued with the same number as the previous SHT, and the previous SHT will be given a special sign stating that it is no longer valid. (explanations and pictures are explained below)

If there is an error in filling in the data in the Mortgage Service application which is known after the SHT has been issued, the SHT holder can submit a correction through the HT-el System no later than 30 days from the issuance date of the SHT, and will be charged according to PNBP. In such case, the SHT is stated in the status quo. After the revised SHT is issued, the old SHT is declared invalid. SHT holders are prohibited from[8]:
(1) Change, manipulate, create, delete, and/or damage electronic information and/or electronic documents with the aim of pretending to be authentic deeds, and/or;
(2) Duplicating, distributing, transmitting and/or transferring which results in the disclosure of electronic information and/or electronic documents to other parties.

If these two prohibitions are violated, registered users or SHTT holders may be subject to sanctions in the form of:
(1) Temporary or permanent closure of access rights, and/or;
(2) SHT Cancellation.

Mechanism of Electronic Mortgage Services in the Implementation of Roya Partial Mortgage Objects at the Malang City Land Agency Office for Creditors and PPAT at the Malang City Land Agency Office which are electronically integrated either individuals or Legal Entities (as Creditors), PPAT, and ASN Ministry of Agrarian Affairs/ BPN. PPATs are required to use the application provided by the ATR/KBPN Ministry by becoming a partner at BPN, registering and creating an account online through the partner portal in the browser at the address: https://mitra.atrbpn.go.id/datappat/login/[9]

In this digital era, the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency seeks to keep up with these developments by launching electronic services that can be used by Financial Institutions, regarding electronic Mortgage Rights, hereinafter referred to as HT-el, regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head National Land Agency Number 5 of 2020 concerning

[8] Interview with PPAT Malang City Moh Fuad on September 9, 2022 at 12.00 WIB
[9] Interview with PPAT Malang City Mr. Moh Fuad on September 9, 2022 at 12.00 WIB

Electronically Integrated Mortgage Services which also regulates partial royalties. Article 17 Paragraph (2):[10]

Mortgage transfer services, creditor name change, partial mortgage abolition (partial royalty), or data correction, issued a new HT-el Certificate with the same number as the previous certificate, which contains data on the latest changes.

Banks authorized to carry out electronic roya are banks that carry out mortgage registration, electronic roya registration can only be done if the mortgage registration is carried out electronically, because:[11]

1. The manual certificate does not have a deed code like the electronic Mortgage certificate;
2. The Mortgage certificate that will be uploaded must be the Mortgage certificate that has been downloaded, it cannot be printed out because if the Mortgage certificate is printed, the deed code will be lost, so it cannot be detected by the system.

The website for registering electronic roya is https://htel.atrbpn.go.id, the steps at the Malang City Land Office are as follows[12]:

Login Stage

Login User to the application https://htel-pelaksana.atrbpn.go.id[13]

1) Click the service menu;
2) click login;

Login image 1

3) Enter username/ Financial Services;
4) Enter Password;
5) Check stay logged in;
6) Click login.

[10] Accessed from https://docs.atrbpn.go.id/htel/bank/roya/, on 28 September 2022 at 17.37 WIB

[11] Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 5 of 2020 Concerning Electronically Integrated Mortgage Services, Article 17 Paragraph (2)

[12] Interview with Mr. eko laksono, admin section of BPN Electronic Mortgage Rights, Malang City on September 5, 2022 at 10.00 WIB

[13] Interview with Mrs. Fenti at the counter and it department of the Malang City Land Agency on October 4, 2022 at 11.15 WIB.

Figure 2 file creation process

Filing and Completing Stage After successfully logging in, then the next step is the process of entering data for roya, as follows:
1) Click service;
2) Royal click;
3) Select the regional office of East Java Province
4) Select the Malang City Land Office
5) Click create new file
6) Then a pop up appears, click process
7) Then a confirmation pop-up appears showing the number and year of the file, after that click process on the confirmation pop-up;
8) After that the next step is to complete the files or
roya documents on the "complete" menu;

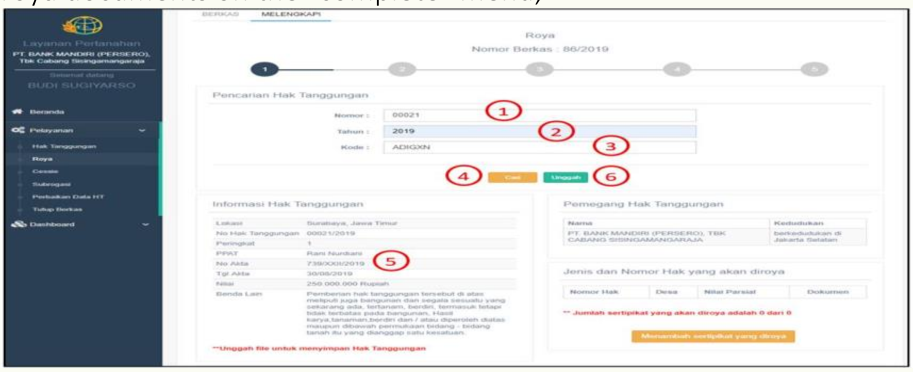
Figure 3. Stage of Completing Information:
1. Input the Mortgage Right number;
2. Enter year;
3. Input Mortgage code;
4. Click search for Mortgage;
5. Mortgage Information Appears;
6. Upload;
7. Preview to ensure the Mortgage certificate is correct;
8. Then Upload.

The next stage is choosing the type of Roya
1) After completing the Completion menu, the next step is that the user can determine whether a total splurge or a partial spree will be made;
2) Select the certificate to be shared, then click upload. Then information regarding the certificate will appear, information on land rights holders, and detailed information on the last record in the land book;
3) Document Upload Stage

Next is uploading documents, at this stage the user inputs all the information that has been obtained from the Mortgage certificate, then appears:

Figure 4 uploaded documents

Information :

1. Enter a description of the total royalty or the partial royalty;
2. Upload the application form;
3. Input the document name;
4. Upload and click continue;

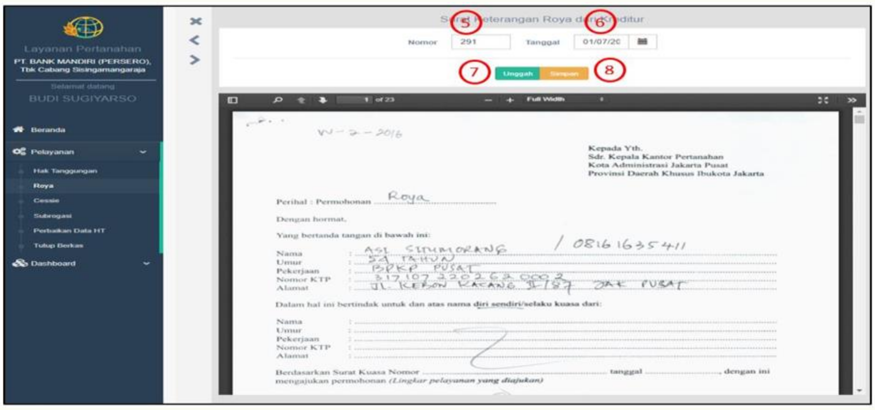

Figure 5. Royal certificate.

5. Input the number of the partial royal certificate from the creditor;
6. Click the date;
7. Click upload;
8. Click save then upload;

Next is the File Confirmation Stage

1) The next stage is confirmation of the file by the user. At this stage contains information about:

1. Deed of establishment of the creditor
2. Land and Building Tax
3. Certificate Files
4. Mortgage
5. Photocopy of KTP
6. Letter of Application
7. Creditor Taxpayer Identification Number (NPWP).
8. Letter of Appointment
9. Letter of Appointment.

2) Then click data suitability and continue the Payment Stage

1. Stage of payment with a Deposit Order. This deposit order contains information on full name, billing code, list of fees and method of payment;
2. The deadline for payment is 3 days, if the deadline has passed, it must be re-registered and the file cannot be processed to the next stage;
3. After making a payment, information will appear on the payment status regarding the State Revenue Transaction Number (NTPN), payment amount, payment response, billing code, expiration and billing code.

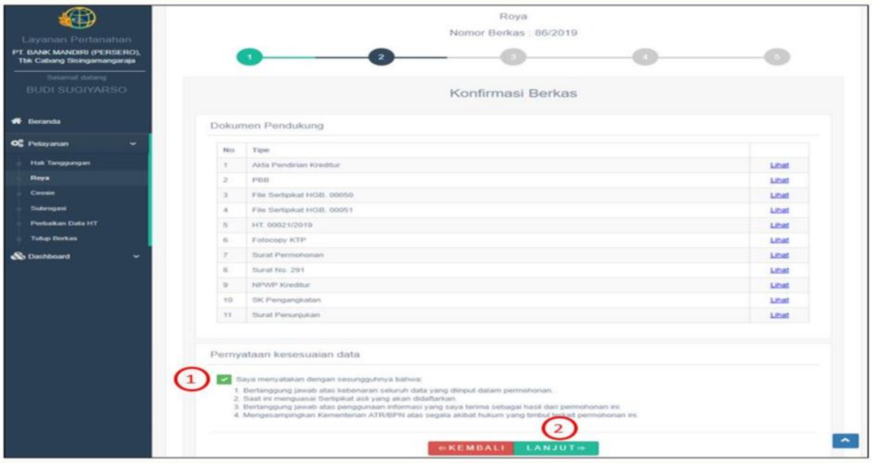

Figure 6 suitability of files and payments (2) Click Continue
Partial Roya document
1) Click Create Document
2) A new HT-el certificate is issued with the same number as the previous certificate;
3) Given a partial royal note;

So, in the implementation of this electronic partial roya, the Land Office of Malang City will issue a new certificate with the same number as the previous certificate containing data on changes. Unlike the whole royalty which is given a special sign that is stamped "CERTIFICATE IS NOT APPLICABLE BECAUSE OF ROYA"[14]

[14] Interview with Mr. eko laksono, admin section of Electronic Mortgage Rights BPN Malang City on September 5 2022 at 10.00 WIB

4. Obstacles in the Implementation of Roya Partial Electronic Mortgage Objects Faced by Users of Electronic Mortgage Services and Their Settlement Efforts.

The problem experienced by PPAT regarding the implementation of Electronic HT is the issue of accountability regarding uploaded documents, namely those contained in the application for a statement which reads: "I hereby declare that the documents and data that I uploaded to the electronic system are correct and in accordance with the physical documents, and I responsible in accordance with the duties of my position as PPAT ".

In this case there is no problem because the PPAT only guarantees that what is uploaded is in accordance with the physical form that the PPAT has received, so it is not reflected that the PPAT is materially responsible for the contents of the documents and is not reflected if in the future there is a problem whether the PPAT is responsible answer or not. But in practice, if it is not explicitly stated, it can be interpreted broadly so that it can have an impact on material truth. For this reason, you can add words in this sentence, for example: "hereby the documents that I uploaded are true according to the physical ones that I received from or were handed over to me."

So it must be emphasized that the PPAT only accepts the document formally, the PPAT only examines the truth but the material cannot and is not the responsibility of the PPAT[15] The Land Office issues a letter to warn PPATs who operate HT-el accounts simultaneously, namely PPAT and PPAT accounts also operate as a party representing creditors, so that means representing the bank, the bank account in PPAT holds and this is a warning because the electronic HT can be dissolved due to easy to track. Article 22 Permen of Agrarian Affairs Number 5 of 2020 prohibits giving usernames and/or passwords to other parties which causes open access to information so that banks may not give them to PPATs. Sanctions for Mortgage Holders and/or Registered Users as referred to in Article 21 and Article 22 may be subject to temporary or permanent closing of access rights, cancellation of HT-el Certificates and/or reporting to law enforcement officials.

According to I Made Dwi Gunarta, the constraints and barriers to Partial HT-el and Roya services are as follows[16]:

1. HT-el System Interference;
2. Regulations Have Not Regulated Subjects and Objects of Mortgage Rights as a Whole.

The problems faced by PPATs and Creditors in this Electronic Mortgage Service include:

1. The problem is the timing of checking the certificate before making the Deed of Granting Mortgage, which is often constrained by the non-validation of the Certificate of Land Rights that is used as the object of granting Mortgage (can be three days or

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[15] https://irmadevita.com/2020/perhasilan-seputar-ht-elektronik-roya-take-over-danpengikatan-jaminan-atas-project-pemkembangan-real-estate/, accessed on 24 September 2022 at 20.00 WIB.

[16] I Made Dwi Gunarta, Perceptions of Creditors and Ppat on the Quality of Electronically Integrated Mortgage Services, Tunas Agraria Journal Vol. 3, No.3, 2020, p.10.

sometimes more), so that the checking PNBP can only be paid the day after validation finished[17]

2. Invalid certificate data at the ATR/BPN Data and Information Center so that service activities cannot be carried out. For example, in the certificate it is recorded that Roya has done it, but in the application at ATR / BPN it is recorded that it is still bound by Mortgage Rights. In other cases, the certificate had been validated before checking, but when checking the certificate, the system noted that it had not been validated, so it had to be re-verified and could even be validated many times at the Land Office.

3. The problem will then arise again when after the APHT is signed, the parties are then registered through the electronic system, server disturbances often arise when the PPAT uploads Deed documents and others even though the PPAT only has 7 (seven) working days after the APHT is signed to immediately register in the system.

4. The occurrence of data system or data server disturbances when inputting and uploading APHT and its documents within a period of 7 (seven) days results in the passing of the input time by the PPAT and registration of Mortgage by the Creditor. Meanwhile, disturbances to the Electronic Mortgage system are classified as emergencies beyond human control (Force Major), and if there is a Force Major or certain circumstances that result in the Electronic Mortgage being unable to be issued, then the application for Electronic Mortgage services is declared cancelled (article 25 PMATR / BPN number 5 of 2020).

5. Many PPATs and those who are not ready, due to a lack of socialization from the Government, in a very short time suddenly must be burdened simultaneously with the Granting of Mortgage Rights Electronically[18]

6. The problem is again the limited number of human resources who have the ability in the field of Information and Technology at the Land Office slows down the service process because if there are differences in land data in the system, it must be consulted with the ATR / BPN Pusdatin by the Land Office Admin.

So that it can be said that the implementation of PMATR/BPN Number 5 of 2020 was not followed by the readiness of the related parties, including the readiness of the ATR/BPN as organizers, the readiness of regional land offices as executors and PPATs, banking as users. This unpreparedness concerns the readiness of human resource capabilities and the readiness of electronic devices.

Another problem is in terms of the abolition of mortgage rights submitted by the appearer through the PPAT, the PPAT needs to apply the precautionary principle in examining the HT-El certificate submitted by the appearer. PPAT Needs to Know the Characteristics and Characteristics of Good HT-El Output/Output Including General Physical Form, Signature, Stamp, Testing of Original HT-El. This Requires the Role of the Head of the BPN Regional Office and the Head of the Land Office to Carry out Guidance for PPATs as Stipulated in Article 5 Paragraph 2 Letter C of Ministerial Regulation

[17] https://www.krjogja.com/angkringan/opini/hak-untungan-elektronik-berlakunasional-ppat -dan-creditor-siapkah/ accessed on 24 September 2022 at 20.00 WIB.

[18] Interview results with Mr. Irvan Pamuji, Malang City Land Office Staff on September 21, 2022 at 09.00 WIB

ATR/Head of BPN RI Number 2 of 2018 Concerning Guidance and Supervision of Officials Making Land Deeds[19]

1. Obstacles to the implementation of partial Roya at the Malang City Land Office

a) Regulations regarding the implementation of partial royalties that overlap and are considered difficult in implementing the requirements for partial royalties, namely in Article 2 Paragraph (2) of the UUHT in APHT which must include the implementation of partial royalties and if the APHT is not agreed upon, then the implementation of partial royalties cannot be carried out with Article 124 Paragraph (2) PMNA/KA BPN Number 3 of 1997 which allows the implementation of partial roya without having to agree in advance in the APHT.

In the implementation of partial roya Mortgage there are regulations conflicting legislation, namely between Article 2 Paragraph (2) UUHT which states that in order to carry out a partial roya it must be stated in the APHT, while in Article 124 Paragraph (2) PMNA/KBPN Number 3 of 1997, it is permissible to carry out partial royalties even though it was not agreed in the APHT. The Pati Regency Land Office continues to carry out partial roya according to the UUHT because it is in accordance with the principle of lex superior derogate legi inferiori, namely the provisions under it may not conflict with the regulations above them[20] The hierarchical structure of laws and regulations in Indonesia is regulated in Article 7 Paragraph (1) of Law Number 12 of 2011 Concerning the Formation of Legislation[21]

1) the 1945 Constitution of the Republic of Indonesia;
2) Decree of the People's Consultative Assembly;
3) Laws/Government Regulations in Lieu of Laws;
4) Government Regulations;
5) Presidential Regulation;
6) Provincial Regulations;
7) Regency/City Regional Regulations.

Based on the legal hierarchy above, it is clear that the position of UUHT is higher than PMNA/KBPN Number 3 of 1997. PMNA/KBPN Number 3 of 1997 is a regulation that was formed because of an order from Government Regulation Number 24 of 1997 concerning Land Registration. In accordance with Article 8 of Law Number 12 of 2011, PMNA/KBPN Number 3 of 1997 is included in the ministerial regulation which was formed due to orders by higher laws and regulations or formed based on authority, its existence is recognized and has binding legal force.

To provide legal certainty regarding the partial mortgage of Mortgage in APHT which is used in registration of Mortgage using the APHT format as contained in the attachment to PMNA/KBPN Number 8 of 2012 which mentions partial royalty, namely in Article 2 APHT so that in practice it does not cause new problems related to the clause roya partial

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[19] Ricco Survival Yubaidi, PPAT Readiness Factors in Implementing Integrated Electronic Mortgage Registration, Scientific Article, Universiti Kebangsaan Malaysia, 2019, p.4

[20] The results of the interview with Heri Wibowo Kasubsi Hukum on September 15, 2022 at 09.00 WIB.

[21] Law Number 12 of 2011 Concerning the Establishment of Statutory Regulations Article 7 Paragraph (1)

Mortgage Right[22] Article 2 paragraph (2) Law No. 4 of 1999 concerning the mortgage right reads:

(2) "If the Mortgage is imposed on several land rights, it can be agreed in the Deed of Granting the Mortgage concerned, that the settlement of the guaranteed debt can be made by means of installments equal to the value of each land right which is part of the object. Mortgage, which will be released from the said Mortgage, so that then the Mortgage only burdens the remaining objects of the Mortgage to guarantee the remaining unpaid debts.

With the explanation that:

The debtor can repay the debt guaranteed by the Mortgage Right above, by means of installments equal to the value of each land right which is part of the Mortgage object which will be referred to below, and which will be released from the Mortgage Right, so that then the Mortgage only burdens the remaining objects of the Mortgage to guarantee the remaining unpaid debts;

- Mortgage objects with a value of Rp. ( )
- Mortgage objects with a value of Rp. ( )
- Mortgage objects with a value of Rp. ()[23]

If the APHT phrase mentioned above is not stated, then in accordance with the UUHT, partial roya cannot be implemented. In Articles 133 and 134 of PMNA/KBPN Number 3 of 1997, splitting and separation of the main land parcels which become the object of Mortgage rights can be carried out with written approval from the Mortgage holders, but in practice the Land Office of Malang City does not allow this, because the process is complicated. and it will take a lot of time, if you want to split or separate the Mortgage object, it is best to do it first[24]For the purposes of development projects, the Land Office requests that before registering a certificate of Land Rights, the main land is divided first according to the size of the house or plot, in the APHT it must be stated for the implementation of partial royalties so that partial royalties can be carried out for each unit sold[25]

In principle, the Mortgage has the nature of not being divided, the Mortgage encumbers the object of the Mortgage as a whole and every part thereof. Part of the guaranteed debt has been paid off does not mean that part of the object of the mortgage has been freed from the burden of the mortgage, but the mortgage still burdens all objects of the mortgage for all remaining outstanding debts. However, there are exceptions to this principle, as stipulated in the provisions of Article 2 paragraph (1) and paragraph (2) of the Mortgage Law which read:

(1). "The Mortgage has the nature of not being divided, unless it is agreed in the Deed of Granting the Mortgage as referred to in paragraph (2)."

(2) "If the Mortgage is imposed on several land rights, it can be agreed in the Deed of Granting the Mortgage concerned, that the settlement of the guaranteed debt can be

[22] Interview with Mr. Heri Irianto, A. PTNH., S.H., M.M. Registration Section Land Office of Malang City Land Office on September 21, 2022 at 10.15 WIB

[23] Attachment to PMNA/KBPN Number 8 of 2012 Article 2 APHT

[24] Interview with Mr. Heri Irianto, A. PTNH., S.H., M.M. Registration Section Land Office of Malang City Land Office on September 21, 2022 at 10.15 WIB

[25] Interview with Mr. Heri Irianto, A. PTNH., S.H., M.M. Registration Section Land Office of Malang City Land Office on September 21, 2022 at 10.15 WIB

made by means of installments equal to the value of each land right which is part of the object. Mortgage, which will be released from the said Mortgage, so that then the Mortgage only burdens the remaining objects of the Mortgage to guarantee the remaining unpaid debts.

Elimination (roya) Mortgage right part by part is called Partial Roya. To be able to make a Partial Roya, the Partial Roya clause must be contained in the Deed of Granting the Mortgage Rights concerned. This Partial Roya Clause is usually found in banking practices, namely before the collateral bond is carried out, it has been agreed by the Creditor and the Debtor that the object of Mortgage that will be burdened with Mortgage can be determined the amount of collateral value for each object of Mortgage.

Thus, at some point in the future it will be possible for the objects of the Mortgage Rights to be carried out Partial Roya so that they become released part by part in accordance with the amount of the agreed installments. The benefit of having a Partial Roya is that for land parcels which are objects of Mortgage Rights that have been released by the Debtor, these land parcels can then be sold or used as collateral for obtaining new credit with more favorable terms by providing Mortgage Rights. just first place[26]

b) The roya process sometimes exceeds 5 (five) working days, this is due
Because :

a. The volume of filing roya/partial roya is very high so that
the employee concerned cannot complete it on time;

b. There are several obstacles in the completeness of the required documents, such as certificates of Mortgage Rights and certificates of settlement from missing creditors, this occurs due to the lack of knowledge and awareness of the community regarding the importance of royalties on land certificates after the debts are paid off. Many people just realized the importance of roya when they were about to sell their land but could not because the certificate still contained a record of the Mortgage which had not been crossed out, until then the community would take care of the roya on their land certificate;

c. The National Identity Number (NIK) is not verified, so you have to wait for activation at the Population and Civil Registration Service (Dukcapil);

d. If the electronic Mortgage Roya system has an error, the implementation of the Roya and Partial Roya cannot be carried out and must wait until the system is repaired and recovered.

c) Obstacles from related parties, including the readiness of the ATR/BPN as the organizer, the readiness of the Malang City Land Office, in the regions as the executor and PPAT, Banking as the user. This unpreparedness concerns the readiness of human resource capabilities and the readiness of electronic devices. As well as sometimes the server regarding the HT-el error causing the PPAT, the creditor to start again from the beginning.

2. Efforts to Resolve Obstacles in the Implementation of Roya Partial Electronic Mortgage Objects Faced by Users of Electronic Mortgage Services.

[26] Boedi Harsono, Indonesian Agrarian Law, History of Formation of the Basic Law Agrarian Content and Implementation, Djbatan. Jakarta. 1999. p. 413.

Solutions in the Process of Implementing a Partial Roya Mortgage at the Malang City Land Office that can be done in overcoming obstacles that occur in the implementation of a partial Roya, including[27]

a. In the event that the regulations in the requirements for implementing partial roya are overlapping. In addressing the differences in requirements for implementing partial roya in Article 2 Paragraph (2) UUHT with Article 124 Paragraph (2) PMNA/KA BPN Number 3 Year 1997, it is possible that the notary or PPAT concerned did not know about the Circular of the Deputy for Land Measurement and Registration Number: 600-494-D.IV dated February 12, 2000, which in point 5 explains that related to the condition for partial royalties, it returns to Article 2 Paragraph (2) UUHT: Registration for the abolition of mortgage rights Mortgage rights can only be carried out if the mortgage object consists of several land rights and or several apartment rights where the possibility of removing some of the mortgage objects has been agreed in advance in the Deed of Granting Mortgage Rights (Article 2 Law No. 4 1996).

Efforts that can be made by the Land Office of Malang City, namely through socialization by way of announcing or notifying and reminding the PPAT that in the implementation of partial royalties must be agreed in the APHT, so that if there are creditors and debtors who make APHT with the guarantee of several objects of land rights, then it is better a partial royalty agreement is immediately made, so that it can provide convenience for both parties when one day it is necessary to implement a partial royalty.

b. In the case of the completeness of documents or documents, the cover letter from the creditor is often lost due to the negligence of the debtor himself, to prevent this, the Malang City Land Office appeals to the debtor or PPAT to convey to his client to immediately take care of the royalties after the debt is paid off, this aims to orderly administration of land and so that certificates of land rights can be re-valued. The Malang City Land Office reminded creditors to keep mortgage certificates and other important documents properly.

c. For obstacles regarding the Unverified Identification Number (NIK), you have to wait for activation at the Population and Civil Registration Service (Dukcapil) and if the Mortgage Roya system Electronic error, the Malang City Land Office itself cannot say much because problems like this cannot be predicted when they will occur.

d. For obstacles regarding the readiness of the ATR/BPN HR in Malang City, namely by holding training and regarding the implementation of electronic-based Roya Partials, besides that the ministry held improvements to the HT-el and HT-el roya systems.

5. Conclusion

1. Implementation of Roya Partial Mortgage Objects Integrated Electronically at the Malang City Land Office for Creditors and PPATs is carried out in accordance with regulations, namely Law no. 4 of 1996 concerning mortgage rights. Partial Roya implementation electronically at the Malang City Land Office can be carried out if it is agreed in the APHT, in which there are several mortgage objects that are guaranteed, including a roya agreement (cross out) for some (partial) mortgage objects whose debt

[27] Interview with Mr. Heri Irianto, A. PTNH., S.H., M.M. Land Registration Section of the Malang City Land Office on September 21, 2022 at 10.15 WIB

payments have been paid off. The inclusion of this agreement actually became the basis for enforcing the partial roya in the mortgage certificate by the Malang City Land Office. Because if it is not agreed upon, what will apply are the provisions for the implementation of the roya as a whole, as stipulated in Article 2 paragraph (1) of the Mortgage Law, which states: "The mortgage has the nature of not being divided, unless it is agreed in the deed of granting mortgage as referred to in paragraph (2)." The basis for Partial Roya besides UUHT Article 2 (1 and 2) is also based on the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency in accordance with the readiness of supporting data. With the enactment of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 5 of 2020 concerning Electronic Integrated Mortgage Services (Permen HT-el) signed by the Minister of ATR/BPN, which regulates how the process of obtaining mortgage rights is electronics and deletion/roya or Partial Roya.

2. Obstacles in the Implementation of Roya Partial Electronic Mortgage Objects Faced by Users of Electronic Mortgage Services and Their Settlement Efforts.

1) Constraints.

a) Regulations regarding the implementation of partial royalties which overlap and are considered difficult in implementing the requirements for partial royalties, namely in Article 2 Paragraph (2) of the UUHT in APHT which must include the implementation of partial royalties and if the APHT is not agreed upon, then the implementation of partial royalties cannot be carried out with Article 124 Paragraph (2) PMNA/KA BPN Number 3 of 1997 which allows the implementation of partial roya without prior agreement in the APHT.

b) The roya process sometimes exceeds 5 (five) working days, this is due Because :

1. The volume of filing roya/partial roya is very high so that the employee concerned cannot complete it on time;
2. due to the lack of public knowledge and awareness regarding the importance of royalties on land certificates after the debts are paid off.
3. The National Identity Number (NIK) is not verified, so you have to wait for activation at the Population and Civil Registration Office (Dukcapil)
4. If the Electronic Mortgage Roya system has an error, then the implementation of the Roya and Partial Roya cannot be carried out and must wait until the system is repaired and recovers again.

c) Obstacles from related parties, including the readiness of the ATR/BPN as the organizer, the readiness of the Malang City Land Office, in the regions as the executor and PPAT, Banking as the user. This unpreparedness concerns the readiness of human resource capabilities and the readiness of electronic devices. As well as sometimes the server regarding the HT-el error causing the PPAT, the creditor to start again from the beginning.

2) Efforts to Resolve Obstacles in the Implementation of Roya Partial Electronic Mortgage Objects Faced by Users of Electronic Mortgage Services.

a) Registration for the cancellation of mortgage rights on part of the mortgage objects can only be carried out if the mortgage object consists of several land rights and or several apartment rights where the possibility of removing some of the mortgage objects has been agreed in advance in the Mortgage Granting Deed (Article 2 of Law No. 4 of 1996).

b) completeness of documents or documents. Cover letters from creditors are often lost due to the negligence of the debtor himself. To prevent this, the Malang City Land Office appeals to the debtor or PPAT to convey to his client to immediately take care of the royalties after the debt is paid off.

c) For obstacles regarding the readiness of the ATR/BPN HR in Malang City, namely by holding training and regarding the implementation of electronic-based Roya Partials, besides that the ministry held improvements to the HT-el and roya HT-el systems.

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