Legal Consequences for LDMO Disclosing Personal Data of Transacting Parties: A Study of Legal Protection

Akibat Hukum bagi PPAT yang Mengungkapkan Data Pribadi Pihak yang Bertransaksi: Studi Perlindungan Hukum

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How to cite:
Damayanti, M., & Priyono, E. A. (2022). Legal Consequences for LDMO Disclosing Personal Data of Transacting Parties: A Study of Legal Protection. SIGn Jurnal Hukum, 4(2), 221-232. https://doi.org/10.37276/sjh.v4i2.217

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ABSTRACT

This study will examine and analyze the legal consequences for LDMO disclosing the personal data of transacting parties. In addition, this study also aims to determine the legal protection for parties who suffer losses due to violations committed by the LDMO. This study uses a normative juridical method. The collection of primary, secondary, and tertiary legal materials is carried out using literature study techniques. The collected legal material is then analyzed using qualitative data analysis methods with a statute approach. The results show that LDMO will get a sanction of dishonorable dismissal, payment of compensation, imprisonment for a maximum of four years, and or a fine for a maximum of four billion rupiahs. In this case, if the LDMO is legally and convincingly proven to have violated the oath of office and caused loss to several parties by disclosure of personal data. At the same time, forming the LDMO Guiders and Supervisors Council is a form of legal protection for all parties who commit legal acts before LDMO. In this case, any party that suffers a loss can complain about the alleged violation committed by LDMO to the Guiders and Supervisors Council. In addition, any party that suffers a loss also gets compensation from LDMO as regulated in laws and regulations. Therefore, it is recommended that LDMO uphold the oath of office as a moral code regulated in the Code of Ethics and Head of the NLA Regulation. In this case, to maintain their profession’s dignity and public trust in their noble role (officium nobile).

Keyword: LDMO; Legal Consequences; Legal Protection; Oath of Office; Personal Data.

INTRODUCTION

Humans have practiced private law relationships for a long time in their social interactions. One of these private law relationships is the sale and purchase of land. Every party that carries out the sale and purchase of land activities requires legal certainty (Nurdin & Tegnan, 2019). In this case, the buyer can register the land to obtain a certificate or evidence of land rights from the National Land Agency.

Article 37 section (1) of Government Regulation of the Republic of Indonesia Number 24 of 1997 on Land Registration regulates that:

“The transfer of land rights and ownership rights to condominium units through sale and purchase, exchange, grants, income in the company, and other legal acts of transfer of rights, except the transfer of rights through auction, can only be registered if it is evidenced...”
by a deed made by the authorized Land Deed Making Officer according to the provisions of the applicable laws and regulations."

Article 1 point 1 of Government Regulation of the Republic of Indonesia Number 24 of 2016 on Amendment to Government Regulation Number 37 of 1998 on the Regulation of the Position of Land Deed Making Officer (hereinafter referred to as Government Regulation No. 24 of 2016), explains that:

"Land Deed Making Officer, hereinafter referred to as LDMO, is a public official authorized to create authentic deeds regarding specific legal actions regarding land rights or Ownership Rights to Condominium Units."

In the case of registration of the transfer of rights as referred to in the provision above, Article 103 section (2) point d and point e of Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 on Provisions for the Implementation of Government Regulation Number 24 of 1997 on Land Registration provides that:

"In the case of transfer of rights to plots of land that have been certified or Ownership Rights to Condominium Units, the documents as referred to in section (1) consist of evidence of the identity of the party transferring rights and evidence of the identity of the recipient of rights."

From the provision above, it can be understood that each party must submit their identity to the LDMO when transferring land rights (Syam & Muzakkir, 2022). Most Parties submit a copy of their National Identity Card to the LDMO as evidence of identity. In this case, every citizen who is 17 years old or married is required to have a National Identity Card. National Identity Card contains personal data based on Article 4 section (3) of Law of the Republic of Indonesia Number 27 of 2022 on Personal Data Protection (hereinafter referred to as Law No. 27 of 2022), which regulates that Personal Data which is general as referred to in section (1) point b includes:

a. full name;
b. gender;
c. citizenship;
d. religion;
e. marital status; and/or
f. a combination of Personal Data that identifies a person.

At the same time, LDMO as a public official, also acts as a Personal Data Controller. In this case, based on Article 1 point 4 of Law No. 27 of 2022 explains that:

"Personal Data Controller is any person, public agency, and international organization that acts individually or collaboratively in

"Pengendali Data Pribadi adalah setiap orang, badan publik, dan organisasi internasional yang bertindak sendiri-sendiri atau bersama-

Dalam hal penandaan peralihan hak sebagaimana dimaksud pada ketentuan di atas, Pasal 103 ayat (2) huruf d dan huruf e Peraturan Menteri Negara Agraria/Kepala Badan Pertanahan Nasional Nomor 3 tahun 1997 tentang Ketentuan Pelaksanaan Peraturan Pemerintah Nomor 24 tahun 1997 tentang Pendaftaran Tanah mengatur bahwa:

"Dalam hal pemindahan hak atas bidang tanah yang sudah bersertifikat atau Hak Milik Atas Satuan Rumah Susun dokumen sebagai berikut dimaksud pada ayat (1) terdiri dari bukti identitas pihak yang mengalihkan hak dan bukti identitas penerima hak."

Dari ketentuan di atas, dapat dipahami bahwa masing-masing pihak harus menyerahkan identitasnya kepada PPAT pada saat melakukan pengalihan hak atas tanah. Sebagian besar Pihak menyerahkan salinan Kartu Tanda Penduduk (KTP) mereka kepada PPAT sebagai bukti identitas. Dalam hal ini, setiap warga negara yang berusia 17 tahun atau sudah menikah wajib memiliki KTP. KTP memuat data pribadi berdasarkan Pasal 4 ayat (3) Undang-Undang Republik Indonesia Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi (selanjutnya disebut UU No. 27 Tahun 2022), yang mengatur bahwa Data Pribadi yang bersifat umum sebagaimana dimaksud pada ayat (1) huruf b meliputi:

a. nama lengkap;
b. jenis kelamin;
c. kewarganegaraan;
d. agama;
e. status perkawinan; dan/atau
f. Data Pribadi yang dikombinasikan mengidentifikasi seseorang.

Pada saat yang sama, PPAT selaku pejabat umum, juga bertindak sebagai Pengendali Data Pribadi. Dalam hal ini, berdasarkan Pasal 1 angka 4 UU No. 27 Tahun 2022 menjelaskan bahwa:

"Pengendali Data Pribadi adalah setiap orang, badan publik, dan organisasi internasional yang bertindak sendiri-sendiri atau bersama-

determining the purpose and controlling the processing of Personal Data."

On the other hand, many other private law relationships require a copy of the National Identity Card and personal data. *Agung (2019)* revealed that there was activity on one of the social media platforms that traded in large amounts of personal data and copies of the National Identity Card or Family Card. In this case, the data is misused by parties who want certain benefits without considering the losses the personal data owner will suffer.

From the description above, it can be understood that LDMO as a public official and personal data controller, is obliged to protect and ensure the security of the Personal Data of each party who carries out the land sale and purchase activities. In this case, each party does not suffer losses or other legal problems after submitting their data to LDMO. In contrast, several studies discuss the losses suffered by parties who have taken legal actions before public officials. In this case, there is an abuse of authority or disclosure of the parties’ data in the authentic deed.

*Wijayanti and Ariawan (2021)* explained that applying the concept of cyber notary causes crime in the digital world due to the misuse of personal data. In this case, any person who is not a party can submit a copy of the identity evidence of the related party to obtain an authentic deed from a Notary Public. In contrast, this normative study will discuss the misuse of personal data by LDMO. In this case, the legal consequences for LDMO if disclosing the parties’ data to other persons.

*Haridhy et al. (2019)* explained that until now, the receiving party is still experiencing losses after receiving the authentic deed made by LDMO. In this case, LDMO made the deed of deed not based on the procedures regulated in the applicable laws and regulations. In contrast, this normative study will discuss legal protection for parties who suffer losses after LDMO disclosed their personal data.

Based on the description above, this study will examine and analyze the legal consequences for LDMO disclosing the personal data of transacting parties. In addition, this study also aims to determine the legal protection for parties who suffer losses due to violations committed by the LDMO.

**METHOD**

This study uses a normative juridical method with a statute approach (*Qamar, 2021*). The approach analyzes legal problems by referring to and originating from legal norms (*Diantha, 2017*). The types of data used are legal materials, including:

sama dalam menentukan tujuan dan melakukan kendali pemrosesan Data Pribadi."

Di sisi lain, banyak hubungan hukum privat lainnya memerlukan salinan KTP dan data pribadi. *Agung* mengungkapkan bahwa terdapat aktivitas di salah satu platform media sosial yang memperdagangkan data pribadi dan salinan KTP atau KK dalam jumlah besar. Dalam hal ini, data tersebut disalahgunakan oleh pihak-pihak yang ingin mendapatkan keuntungan tertentu tanpa mempertimbangkan kerugian yang akan diderita oleh pemilik data pribadi tersebut.

Dari uraian di atas, dapat dipahami bahwa PPAT selaku pejabat publik dan pengendali data pribadi, berkewajiban untuk melindungi dan menjamin keamanan Data Pribadi setiap pihak yang melakukan kegiatan jual beli tanah. Dalam hal ini, masing-masing pihak tidak mengalami kerugian atau masalah hukum lainnya setelah menyerahkan datanya ke LDMO. Sebaliknya, beberapa penelitian membahas kerugian yang diderita oleh pihak-pihak yang telah melakukan tindakan hukum di hadapan pejabat publik. Dalam hal ini, terjadi penyalahgunaan wewenang atau pengungkapan data para pihak dalam akta otentik.

*Wijayanti dan Ariawan* menjelaskan bahwa penerapan konsep *cyber notary* menyebabkan kejahatan di dunia digital akibat penyalahgunaan data pribadi. Dalam hal ini, setiap orang yang bukan merupakan pihak dapat menyerahkan salinan bukti identitas pihak yang bersangkutan untuk memperoleh akta otentik dari Notaris. Sebaliknya, penelitian normatif ini akan membahas penyalahgunaan data pribadi oleh PPAT. Dalam hal ini, akibat hukum bagi PPAT jika mengungkapkan data para pihak kepada orang lain.

Haridhy et al., menjelaskan bahwa hingga saat ini, pihak penerima masih mengalami kerugian setelah menerima akta otentik yang dibuat oleh PPAT. Dalam hal ini, PPAT membuat akta tidak berdasarkan tata cara yang diatur dalam peraturan perundang-undangan yang berlaku. Sebaliknya, penelitian normatif ini akan membahas perlindungan hukum bagi pihak-pihak yang dirugikan setelah PPAT mengungkapkan data pribadi mereka.

Berdasarkan uraian di atas, penelitian ini akan mengkaji dan menganalisis akibat hukum bagi PPAT jika mengungkapkan data pribadi pihak yang bertransaksi. Selain itu, penelitian ini juga bertujuan untuk mengetahui perlindungan hukum bagi pihak-pihak yang dirugikan akibat pelanggaran yang dilakukan oleh PPAT.

**METODE**

Penelitian ini menggunakan metode yuridis normatif dengan pendekatan undang-undang. Pendekatan tersebut menganalisis permasalahan hukum dengan mengacu dan bersumber dari norma hukum. Jenis data yang digunakan adalah bahan hukum, antara lain:
1. Primary legal materials include Law No. 1 of 1960, Law No. 8 of 1981, Law No. 19 of 2016, Law No. 27 of 2022, Government Regulation No. 24 of 2016, Head of the NLA Regulation No. 1 of 2006, Head of the NLA Regulation No. 2 of 2018, Head of the NLA Decision No. 112/Kep-4.1/IV/2017, and other laws and regulations;

2. Secondary legal materials that explain primary legal include books, articles, and online materials that discuss LDMO’s responsibility to protect the personal data of parties that carry out legal actions; and

3. Tertiary legal materials are legal materials that provide instructions and explanations for primary and secondary legal materials. The tertiary legal material used by the author is the Big Indonesian Dictionary and related legal dictionaries.

The collection of primary, secondary, and tertiary legal materials is carried out using literature study techniques. The collected legal material is then analyzed using qualitative data analysis methods with a statute approach to analyzing problems and answer study purposes (Qamar & Rezah, 2020).

RESULTS AND DISCUSSION

The Obligation of LDMO to Keep Secrets of Authentic Deed Contents

It has been explained in the previous description that the community very much needs the existence of the role and authority of LDMO. However, it must be understood that the community does not shape the existence of LDMO, or LDMO does not present naturally in the community. LDMO is one of the professions in law, which is included as officium nobile (Riyanto et al., 2020). In line with the authority, the existence of LDMO is presently based on laws and regulations.

LDMO was formed to serve the community by making written and authentic evidence regarding specific legal actions on land rights (Toryanto & Yunanto, 2022). One product closely related to the role of LDMO is an authentic deed (Manuaba et al., 2018).

In carrying out its role, LDMO must prioritize morality and behave ethically. Therefore, LDMO is regulated by laws and regulations. In addition, a code of ethics reflects LDMO in carrying out its profession, obligations, and standards determined by the organization following the community’s needs.

With its role in making authentic deeds, LDMO impacts personal and public interests related to land ownership procedures. Therefore, based on Article 15 section (1) of Government Regulation No. 24 of 2016 regulates that:

“LDMO and Temporary LDMO before carrying out their office must take the oath of office LDMO in the presence of the Minister or appointed official.”

HASIL DAN PEMBAHASAN

Kewajiban PPAT untuk Merahasiakan Isi Akta Otentik

Telah dijelaskan pada uraian sebelumnya bahwa masyarakat sangat membutuhkan adanya peran dan kewenangan PPAT. Namun, harus dipahami bahwa masyarakat tidak membentuk keberadaan PPAT, atau PPAT tidak hadir secara alami di masyarakat. PPAT merupakan salah satu profesi di bidang hukum yang termasuk sebagai officium nobile. Sesuai dengan kewenangannya, keberadaan PPAT saat ini berdasarkan peraturan perundang-undangan.

PPAT dibentuk untuk melayani masyarakat dengan membuat bukti tertulis dan otentik mengenai perbuatan hukum tertentu atas hak atas tanah. Salah satu produk yang erat kaitannya dengan peran PPAT adalah akta otentik.

Dalam menjalankan perannya, PPAT harus mengedepankan moralitas dan berperilaku etis. Oleh karena itu, PPAT diatur oleh peraturan perundang-undangan. Selain itu, kode etik mencerminkan PPAT dalam menjalankan profesi, kewajiban, dan standar yang ditentukan oleh organisasi sesuai dengan kebutuhan masyarakat.

Dengan perannya dalam pembuatan akta otentik, PPAT berdampak pada kepentingan pribadi dan umum terkait tata cara kepemilikan tanah. Oleh karena itu, berdasarkan Pasal 15 ayat (1) PP No. 24 Tahun 2016 mengatur bahwa:

“PPAT dan PPAT Sementara sebelum menjalankan jabatannya wajib mengangkat sumpah jabatan PPAT di hadapan Menteri atau pejabat yang ditunjuk.”
The oath of office, as based on Article 34 section (1) fifth paragraph of Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 on Provisions of the Implementation of Government Regulation Number 37 of 1998 on the Regulation of the Position of Land Deed Making Officer, regulates that ...

“By God, I swear that I will keep secret the contents of the deed made in my presence and the protocols that are my responsibility, which according to their character or based on laws and regulations must be kept secret.”

The responsibility to keep the deed’s contents secret is also regulated in the Code of Ethics Association of Land Deed Making Officer. In this case, Article 3 point (p2) of Annex to Decision of Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 112/Kep-4.1/IV/2017 on Ratification of the Code of Ethics Association of Land Deed Making Officer regulates that:

“In order to carry out the duties of the office, LDMOs and Substitute LDMOs or in daily life, every LDMO is required to perform other actions generally referred to as obligations to be obeyed and implemented including the contents of the Oath of Office.”

Once the importance of keeping the contents of the deed secret, LDMO can still keep the contents of the deed secret when questioned when being a witness in the trial. In this case, Article 170 section (1) of Law of the Republic of Indonesia Number 8 of 1981 on the Code of Criminal Procedure regulates that:

“Those who because of their profession, dignity, or position are required to keep secrets, can request to be released from the obligation to provide information as witnesses, namely regarding matters entrusted to them.”

Furthermore, Article 1909 point 3 of Colonial Regulations, Staatsblad Number 23 of 1847 on the Burgerlijk Wetboek voor Indonesie/the Civil Code (hereinafter referred to as the Civil Code) regulates that:

“Everyone capable of being a witness is obliged to testify before a Judge. However, they can ask to be released from the obligation to give testimony; anyone who, because of his position, profession or office, is required by law to keep something secret, but only regarding things entrusted to him because of his position, profession and office.”

From the provisions above, it can be understood that LDMO is obliged by laws and regulations to

Sumpah jabatan, berdasarkan Pasal 34 ayat (1) alinea kelima Peraturan Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 1 Tahun 2006 tentang Ketentuan Pelaksanaan Peraturan Pemerintah Nomor 37 Tahun 1998 tentang Peraturan Jabatan Pejabat Pembuat Akta Tanah, mengatur bahwa ...

“Demi Allah Saya Bersumpah Bahwa Saya, akan merahasiakan isi akta-akta yang dibuat dihadapan Saya dan protokol yang menjadi tanggung jawab Saya, yang menurut sifatnya atau berdasarkan peraturan perundang-undangan harus dirahasiakan.”

Tanggung jawab untuk merahasiakan isi akta juga diatur dalam Kode Etik Ikatan Pejabat Pembuat Akta Tanah. Dalam hal ini, Pasal 3 butir (p2) Lampiran Keputusan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 112/Kep-4.1/IV/2017 tentang Pengesahan Kode Etik Ikatan Pejabat Pembuat Akta Tanah mengatur bahwa:

“Dalam rangka melaksanakan tugas jabatan para PPAT serta PPAT Pengganti ataupun dalam kehidupan sehari-hari, setiap PPAT diwajibkan untuk melakukan perbuatan-perbuatan lain yang secara umum disebut sebagai kewajiban untuk ditaati dan dilaksanakan antara lain Istri Sumpah Jabatan.”

Begitu pentingnya merahasiakan isi akta, PPAT tetap bisa merahasiakan isi akta saat dimintai keterangan saat menjadi saksi di persidangan. Dalam hal ini, Pasal 170 ayat (1) Undang-Undang Republik Indonesia Nomor 8 Tahun 1981 tentang Kitab Undang-Undang Hukum Acara Pidana mengatur bahwa:

“Mereka yang karena pekerjaan, harkat martabat atau jabatannya diwajibkan menyimpan rahasia, dapat minta dibebaskan dari kewajiban untuk memberi keterangan sebagai saksi, yaitu tentang hal yang dipercayakan kepada mereka.”

Lebih lanjut, Pasal 1909 angka3 Peraturan Kolonial, Staatsblad Nomor 23 Tahun 1847 tentang Burgerlijk Wetboek voor Indonesie/KUHPerdata (selanjutnya disebut KUHPerdata) mengatur bahwa:

“Semua orang yang cakap untuk menjadi saksi, wajib memberikan kesaksian di muka Hakim. Namun dapatlah meminta dibebaskan dari kewajiban memberikan kesaksian; siapa saja yang karena kedudukannya, pekerjaannya atau jabatannya diwajibkan undang-undang untuk merahasiakan sesuatu, namun hanya mengenai hal-hal yang dipercepatkan kepadanya karena kedudukan, pekerjaan dan jabatannya itu.”

Dari ketentuan di atas, dapat dipahami bahwa PPAT diwajibkan oleh peraturan perundang-undangan
keep secrets of authentic deed contents. In this case, including keeping secrets of the data of the parties involved in the deed. In addition, laws and regulations protect LDMOs in carrying out these obligations.

At the same time, there are certain conditions under the orders of laws and regulations so that LDMO must disclose the contents of the authentic deed. In this case, there is a right of denial so that LDMO can disclose the contents of the authentic deed before the judge (Arisaputra, 2012). Some several laws and regulations abolish LDMO’s obligations and responsibilities to keep secrets of authentic deed contents, including:

1. Article 36 of Law of the Republic of Indonesia Number 20 of 2001 on Amendment to Law Number 31 of 1999 on Eradication of the Criminal Act of Corruption;
2. Article 35 section (2) of Law of the Republic of Indonesia Number 16 of 2009 on Enactment of Government Regulation in Lieu of Law Number 5 of 2008 on the Fourth Amendment to Law Number 6 of 1983 on General Provisions and Tax Procedures Into Law;
3. Article 45 of Law of the Republic of Indonesia Number 8 of 2010 on the Countermeasure and Eradication of the Crime of Money Laundering;
4. Article 25 section (1) of Law of the Republic of Indonesia Number 20 of 2000 on Amendment to Law Number 21 of 1997 on Land and Building Rights Acquisition Tax;
5. Provisions in other Laws and Regulations.

Therefore, LDMO must understand the extent of legal limitations for its profession obligations in maintaining and keeping secrets of authentic deed contents (Prabawa, 2017). In addition, keeping secrets of authentic deed contents is not only in the interests of LDMO to carry out their duties. However, it is also to maintain public trust in his noble role (officium nobile) (Aziza et al., 2020).

However, it is undeniable that LDMO as an individual can commit an abuse of authority which is included in the category of unlawful acts. Abuse or irregularities of LDMO in carrying out their duties can be classified as malpractice. In this case, malpractice because it violates the code of ethics (ethical malpractice) or violates laws and regulations (legal malpractice) (Sriwati, 2022).

Disclosure of the Personal Data of the Parties is a Violation of the PPAT Oath of Office

Protection through legal products is one of the efforts to create a sense of security and avoid actions that can harm human rights (Kotzé, 2014). LDMO that complies with laws and regulations in making authentic for merahasiakan isi akta otentik. Dalam hal ini, termasuk merahasiakan data para pihak yang terlibat dalam akta tersebut. Selain itu, peraturan perundang-undangan melindungi PPAT dalam menjalankan kewajiban tersebut.

Pada saat yang sama, terdapat kondisi tertentu berdasarkan perintah peraturan perundang-undangan sehingga PPAT harus mengungkapkan isi akta otentik. Dalam hal ini, terdapat hak ingkar sehingga PPAT dapat mengungkapkan isi akta otentik di hadapan Hakim. Beberapa peraturan perundang-undangan menghapuskan kewajiban dan tanggung jawab PPAT untuk menjaga rahasia isi akta otentik, antara lain:
1. Pasal 36 Undang-Undang Republik Indonesia Nomor 20 Tahun 2001 tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi;
2. Pasal 35 ayat (2) Undang-Undang Republik Indonesia Nomor 16 Tahun 2009 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 5 Tahun 2008 tentang Perubahan Keempat Atas Undang-Undang Nomor 6 Tahun 1983 tentang Ketentuan Umum dan Tata Cara Perpajakan Menjadi Undang-Undang;
3. Pasal 45 Undang-Undang Republik Indonesia Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang;
4. Pasal 25 ayat (1) Undang-Undang Republik Indonesia Nomor 20 Tahun 2000 tentang Perubahan Atas Undang-Undang Nomor 21 Tahun 1997 tentang Bea Perolehan Hak Atas Tanah dan Bangunan;
5. Ketentuan-ketentuan dalam Peraturan Perundang-Undangan lainnya.

Oleh karena itu, PPAT harus memahami sejauh mana batasan hukum atas kewajiban profesi dalam menjaga dan merahasiakan isi akta otentik. Selain itu, menjaga kerahasiaan isi akta otentik bukan hanya untuk kepentingan PPAT dalam menjalankan tugasnya. Namun, juga untuk menjaga kepercayaan masyarakat terhadap peran mulianya (officium nobile).

Namun tidak dapat dipungkiri bahwa PPAT sebagai individu dapat melakukan penyalahgunaan wewenang yang termasuk dalam kategori perbuatan melawan hukum. Penyalahgunaan atau penyimpangan PPAT dalam menjalankan tugasnya dapat digolongkan sebagai malpraktik. Dalam hal ini, malpraktik karena melanggar kode etik (ethical malpractice) atau melanggar peraturan perundang-undangan (legal malpractice).

Pengungkapan Data Pribadi Para Pihak merupakan Pelanggaran Sumpah Jabatan PPAT

Perlindungan melalui produk hukum merupakan salah satu upaya untuk menciptakan rasa aman dan menghindari tindakan yang dapat merugikan hak asasi manusia. PPAT yang mematuhi peraturan perundang-
deeds can be seen as an effort to provide legal certainty and protection for parties who commit legal acts before them.

Legal protection consists of preventive and repressive (Riyaadhotunnisa et al., 2022). Preventive is a legal protection that aims to prevent violations. In contrast, repressive is a legal protection that aims to punish perpetrators of violations or dispute resolution.

On the other hand, it is undeniable that LDMO as an individual can commit an abuse of authority, resulting in losses for several parties. One of the causes of losses is the LDMO action which discloses the contents of the authentic deed. In this case, the parties’ personal data in the authentic deed are controlled and misused by other parties.

In terms of providing legal protection and certainty for the community, the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency formed the LDMO Guiders and Supervisors Council. Article 16 section (1) of Regulation of Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 2 of 2018 on Guidance and Supervision of Land Deed Making Officer (hereinafter referred to as Head of the NLA Regulation No. 2 of 2018) regulates that the membership of the LDMO Guiders and Supervisors Council as referred to in Article 15 consists of the following elements:

- a. Ministry; and
- b. Association of LDMO.

Therefore, any party that suffers a loss can complain about the alleged violation committed by LDMO to the Guiders and Supervisors Council. Furthermore, if the complaint is proven legally and convincingly, then LDMO will get a sanction of dishonorable dismissal. In this case, it violates the oath of office, which contains the responsibility to keep secrets of authentic deed contents. The determination of the sanction is based on the type of violation and sanctions number 1 point f of Annex II to the Head of the NLA Regulation No. 2 of 2018.

In addition to sanctions for violating the oath of office, LDMO will also get a sanction for causing losses for another person. In this case, Article 1365 of the Civil Code regulates that:

“Every act that violates the law and brings losses to other persons, obliges the person who caused the loss because of his fault to replace the loss.”

Furthermore, suppose disclosure of the contents of the authentic deed or the parties’ personal data is carried out using electronic media. In this case, LDMO will also get a sanction based on Article 26 of Law undangan dalam pembuatan akta otentik dapat dilihat sebagai upaya memberikan kepastian dan perlindungan hukum bagi pihak-pihak yang melakukan perbuatan hukum di hadapannya.

Perlindungan hukum terdiri dari preventif dan represif. Preventif adalah perlindungan hukum yang bertujuan untuk mencegah terjadinya pelanggaran. Sebaliknya, represif adalah perlindungan hukum yang bertujuan untuk menghukum pelaku pelanggaran atau penyelesaian sengketa.

Di sisi lain, tidak dapat dipungkiri bahwa PPAT sebagai individu dapat melakukan penyalahgunaan wewenang yang mengakibatkan kerugian bagi beberapa pihak. Salah satu penyebab kerugian adalah tindakan PPAT yang mengungkapkan isi akta otentik. Dalam hal ini, data pribadi para pihak dalam akta otentik dikuasai dan disalahgunakan oleh pihak lain.

Dalam hal memberikan perlindungan dan kepastian hukum bagi masyarakat, Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional membentuk Majelis Pembina dan Pengawas PPAT. Pasal 16 ayat (1) Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 2 Tahun 2018 tentang Pembinaan dan Pengawasan Pejabat Pemutub Akta Tanah (selanjutnya disebut Peraturan Kepala BPN No. 2 Tahun 2018) mengatur bahwa keanggotaan Majelis Pembina dan Pengawas PPAT sebagaimana dimaksud dalam Pasal 15 terdiri atas unsur:

- a. Kementerian; dan
- b. IPPAT.

Oleh karena itu, setiap pihak yang dirugikan dapat mengadukan terkait dugaan pelanggaran yang dilakukan oleh PPAT kepada Majelis Pembina dan Pengawas. Selanjutnya, jika pengaduan terbukti secara sah dan meyakinkan, maka PPAT akan mendapatkan sanksi pemberhentian dengan tidak hormat. Dalam hal ini, melanggar sumpah jabatan yang memutus mengganti tugas untuk menjadi kerakasiaan isi akta otentik. Penetapan sanksi berdasarkan jenis pelanggaran dan sanksi nomor 1 huruf f Lampiran II Peraturan Kepala BPN No. 2 Tahun 2018.

Selain sanksi karena melanggar sumpah jabatan, PPAT juga akan mendapatkan sanksi karena merugikan orang lain. Dalam hal ini, Pasal 1365 KUHPerdata mengatur bahwa:

“Tiap perbuatan yang melanggar hukum dan membawa kerugian kepada orang lain, mewajibkan orang yang menimbulkan kerugian itu karena kesalahannya untuk menggantikan kerugian tersebut.”

Selanjutnya, misalkan pengungkapan isi akta otentik atau data pribadi para pihak dilakukan dengan menggunakan media elektronik. Dalam hal ini, PPAT juga akan mendapat sanksi berdasarkan Pasal 26
of the Republic of Indonesia Number 19 of 2016 on Amendment to Law Number 11 of 2008 on Electronic Information and Transactions, which regulates that:

(1) Unless otherwise regulated by the Laws and Regulations, the use of any information through electronic media concerning a person's data must be carried out with the consent of the person concerned.

(2) Any person whose rights are violated, as referred to in section (1), can file a lawsuit for the losses incurred under this Law.

In addition to sanctions for violating the oath of office and bringing losses to other persons, LDMO will also get a sanction for committing an unlawful act. In this case, Article 322 section (1) of Law of the Republic of Indonesia Number 1 of 1960 on Amendment of the Penal Code regulates that:

“Whoever deliberately discloses a secret they are obliged to keep because of their position or search, both now and in the past, is threatened with imprisonment for a maximum of nine months or a maximum fine of nine thousand rupiahs.”

At the same time, because it acts as a Personal Data Controller, LDMO will also get a sanction based on Article 67 section (2) of Law No. 27 of 2022, which regulates that:

“Any Person who knowingly and unlawfully discloses Personal Data that does not belong to him as referred to in Article 65 section (2) shall be sentenced to imprisonment for a maximum of 4 (four) years and/or a maximum fine of IDR 4,000,000,000.00 (four billion rupiahs)”

Article 69 of Law No. 27 of 2022 regulates that:

“In addition to being penalized as referred to in Article 67 and Article 68, additional penalties can also be imposed in the form of confiscation of profits and/or assets obtained or proceeds from criminal acts and payment of compensation.”

Article 71 of Law No. 27 of 2022 regulates that:

“In the event that the convict does not pay the fine within the period as referred to in section (1) or section (2), the assets or income of the convict can be confiscated and auctioned by the prosecutor to pay off the unpaid fine.”

From the series of descriptions above, it can be understood that LDMO’s oath of office is a moral code regulated in the Code of Ethics and Head of the NLA Regulation No. 2 of 2018. In this case, LDMO must
carry out his profession as an officium nobile. At the same time, the Government has also provided legal protection for parties who have committed legal acts before the LD MO. In this case, to ensure that no parties suffer losses due to abuse of authority from LD MO.

CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion above, it can be concluded that LD MO will get a sanction of dishonorable dismissal, payment of compensation, imprisonment for a maximum of four years, and or fine for a maximum of four billion rupiahs. In this case, if the LD MO is legally and convincingly proven to have violated the oath of office and caused loss to several parties by disclosure of personal data. At the same time, forming the LD MO Guiders and Supervisors Council is a form of legal protection for all parties who commit legal acts before LD MO. In this case, any party that suffers a loss also gets compensation from LD MO as regulated in laws and regulations. Based on the description of these conclusions, it is recommended that LD MO uphold the oath of office as a moral code regulated in the Code of Ethics and Head of the NLA Regulation. In this case, to maintain their profession’s dignity and public trust in their noble role (officium nobile).

REFERENCES

Agung, B. (2019, August 20). Mengenal dan Menjaga Pentingnya Data Pribadi. PT Digital Startup Nusantara. Retrieved October 15, 2022, from https://dailysocial.id/post/mengenal-dan-menjaga-pentingnya-data-pribadi

Arisaputra, M. I. (2012). Kewajiban Notaris dalam Menjaga Kerahasiaan Akta dalam Kaitannya dengan Hak Ingkar Notaris. Perspektif: Kajian Masalah Hukum dan Pembangunan, 17(3), 173-183. https://doi.org/10.30742/perspektif.v17i3.106

Aziza, Q. A., Trisanti, A., & Aristyanti, K. (2020). Penormaan dan Pelaksanaan Kewajiban Ingkar Notaris. Perspektif Hukum, 20(2), 280-305. https://doi.org/10.30649/ph.v20i2.23

Colonial Regulations, Staatsblad Number 23 of 1847 on the Burgerlijk Wetboek voor Indonesie/the Civil Code.

Decision of Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 112/Kep-4.1/IV/2017 on Ratification of the Code of Ethics Association of Land Deed Making Officer.

Diantha, I. M. P. (2017). Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum. Kencana Prenada Media Group.

Government Regulation in Lieu of Law of the Republic of Indonesia Number 5 of 2008 on the Fourth Amendment to Law Number 6 of 1983 on General Provisions and Tax Procedures (State Gazette of the Republic of Indonesia of 2008 Number 211, Supplement to the State Gazette of the Republic of Indonesia Number 4953).

Government Regulation of the Republic of Indonesia Number 24 of 1997 on Land Registration (State Gazette of the Republic of Indonesia of 1997 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 3696).
Government Regulation of the Republic of Indonesia Number 37 of 1998 on the Regulation of the Position of Land Deed Making Officer (State Gazette of the Republic of Indonesia of 2006 Number 52, Supplement to the State Gazette of the Republic of Indonesia Number 3746).

Government Regulation of the Republic of Indonesia Number 24 of 2016 on Amendment to Government Regulation Number 37 of 1998 on the Regulation of the Position of Land Deed Making Officer (State Gazette of the Republic of Indonesia of 2006 Number 120, Supplement to the State Gazette of the Republic of Indonesia Number 5893).

Haridhy, F. T., Ismail, I., & Darmawan, D. (2019). Perlindungan Hukum bagi Pembeli Akibat Kelalaian PPAT dalam Pembuatan Akta Jual Beli. *Jurnal Ius: Kajian Hukum dan Keadilan, 7*(2), 319-329. [http://dx.doi.org/10.29303/ius.v7i2.652](http://dx.doi.org/10.29303/ius.v7i2.652)

Kotzé, L. J. (2014). Human Rights and the Environment in the Anthropocene. *The Anthropocene Review, 1*(3), 252-275. [https://doi.org/10.1177/2053019614547741](https://doi.org/10.1177/2053019614547741)

Law of the Republic of Indonesia Number 1 of 1946 on Penal Code Regulations.

Law of the Republic of Indonesia Number 1 of 1960 on Amendment of the Penal Code (State Gazette of the Republic of Indonesia of 1960 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 1921).

Law of the Republic of Indonesia Number 8 of 1981 on the Code of Criminal Procedure (State Gazette of the Republic of Indonesia of 1981 Number 76, Supplement to the State Gazette of the Republic of Indonesia Number 3209).

Law of the Republic of Indonesia Number 6 of 1983 on General Provisions and Tax Procedures (State Gazette of the Republic of Indonesia of 1983 Number 49, Supplement to the State Gazette of the Republic of Indonesia Number 3262).

Law of the Republic of Indonesia Number 9 of 1994 on Amendment to Law Number 6 of 1983 on General Provisions and Tax Procedures (State Gazette of the Republic of Indonesia of 1994 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 3566).

Law of the Republic of Indonesia Number 21 of 1997 on Land and Building Rights Acquisition Tax (State Gazette of the Republic of Indonesia of 1997 Number 44, Supplement to the State Gazette of the Republic of Indonesia Number 3688).

Law of the Republic of Indonesia Number 31 of 1999 on Eradication of the Criminal Act of Corruption (State Gazette of the Republic of Indonesia of 1999 Number 140, Supplement to the State Gazette of the Republic of Indonesia Number 3874).

Law of the Republic of Indonesia Number 16 of 2000 on the Second Amendment to Law Number 6 of 1983 on General Provisions and Tax Procedures (State Gazette of the Republic of Indonesia of 2000 Number 126, Supplement to the State Gazette of the Republic of Indonesia Number 3984).

Law of the Republic of Indonesia Number 20 of 2000 on Amendment to Law Number 21 of 1997 on Land and Building Rights Acquisition Tax (State Gazette of the Republic of Indonesia of 2000 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 3988).

Law of the Republic of Indonesia Number 20 of 2001 on Amendment to Law Number 31 of 1999 on Eradication of the Criminal Act of Corruption (State Gazette of the Republic of Indonesia of 2001 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 4150).

Law of the Republic of Indonesia Number 28 of 2007 on the Third Amendment to Law Number 6 of 1983 on General Provisions and Tax Procedures (State Gazette of the Republic of Indonesia of 2007 Number 85, Supplement to the State Gazette of the Republic of Indonesia Number 4740).

Law of the Republic of Indonesia Number 11 of 2008 on Electronic Information and Transactions (State Gazette of the Republic of Indonesia of 2008 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 4843).

Law of the Republic of Indonesia Number 16 of 2009 on Enactment of Government Regulation in Lieu of Law Number 5 of 2008 on the Fourth Amendment to Law Number 6 of 1983 on General Provisions and Tax Procedures Into Law (State Gazette of the Republic of Indonesia of 2009 Number 62, Supplement to the State Gazette of the Republic of Indonesia Number 4999).
Law of the Republic of Indonesia Number 8 of 2010 on the Countermeasure and Eradication of the Crime of Money Laundering (State Gazette of the Republic of Indonesia of 2010 Number 122, Supplement to the State Gazette of the Republic of Indonesia Number 5164).

Law of the Republic of Indonesia Number 19 of 2016 on Amendment to Law Number 11 of 2008 on Electronic Information and Transactions (State Gazette of the Republic of Indonesia of 2016 Number 251, Supplement to the State Gazette of the Republic of Indonesia Number 5952).

Law of the Republic of Indonesia Number 27 of 2022 on Personal Data Protection (State Gazette of the Republic of Indonesia of 2022 Number 196, Supplement to the State Gazette of the Republic of Indonesia Number 6820).

Manuaba, I. B. P., Parsa, I. W., & Ariawan, I. G. K. (2018). Prinsip Kehati-Hatian Notaris dalam Membuat Akta Autentik. Acta Comitas: Jurnal Hukum Kenotariatan, 3(1), 59-74. https://doi.org/10.24843/AC.2018.v03.i01.p05

Nurdin, Z., & Tegnan, H. (2019). Legal Certainty in the Management of Agricultural Land Pawn in the Matrilineal Minangkabau Society, West Sumatra. Land, 8(8), 1-11. https://doi.org/10.3390/land8080117

Prabawa, B. G. A. (2017). Analisis Yuridis Tentang Hak Ingkar Notaris dalam Hal Pemeriksaan Menurut Undang-Undang Jabatan Notaris dan Kode Etik Notaris. Acta Comitas: Jurnal Hukum Kenotariatan, 2(1), 98-110. https://doi.org/10.24843/AC.2017.v02.i01.p09

Qamar, N. (2021). Theory Position in the Structure of Legal Science. SIGn Jurnal Hukum, 3(1), 52-64. https://doi.org/10.37276/sjh.v3i1.126

Qamar, N., & Rezah, F. S. (2020). Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal. CV. Social Politic Genius (SIGn).

Regulation of Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 2 of 2018 on Guidance and Supervision of Land Deed Making Officer (Bulletin Gazette of the Republic of Indonesia of 2018 Number 395).

Regulation of Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 on Provisions for the Implementation of Government Regulation Number 24 of 1997 on Land Registration.

Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 on Provisions of the Implementation of Government Regulation Number 37 of 1998 on the Regulation of the Position of Land Deed Making Officer.

Riyaadhotunnisa, S., Amirulloh, M., & Yuanitasari, D. (2022). Activities of Uncertified Crypto Asset Physical Traders: A Study of Legal Protection for Investor. SIGn Jurnal Hukum, 4(2), 160-172. https://doi.org/10.37276/sjh.v4i2.211

Riyanto, Y., Warka, M., & Hufron, H. (2020). Malpractice Advocate Profession in Indonesia. International Journal of Multicultural and Multireligious Understanding, 7(8), 477-483. http://dx.doi.org/10.18415/ijmmu.v7i8.1949

Sriwati, S. (2022). Problematika Penerapan Pasal 66 Undang-Undang Jabatan Notaris terhadap Penegakan Hukum Pidana. Reformasi Hukum, 26(1), 59-78. https://doi.org/10.46257/jrh.v26i1.348

Syam, M. R. A., & Muzakkir, A. K. (2022). Status and Position of the SHM of Condominium Units After A Fire: Makassar Mall Shopping Center. SIGn Jurnal Hukum, 4(2), 202-220. https://doi.org/10.37276/sjh.v4i2.218

Toryanto, C. J. K., & Yunanto, Y. (2022). Urgensi Pengaturan Pelaksanaan Cyber Notary Terkait dengan Pandemi Covid-19. Notarius, 15(1), 18-33. https://doi.org/10.14710/nts.v15i1.46022

Wijayanti, A. A., & Ariawan, I. G. K. (2021). Upaya Perlindungan terhadap Identitas Para Pihak dalam Praktik Cyber Notary. Acta Comitas: Jurnal Hukum Kenotariatan, 6(3), 679-695. https://doi.org/10.24843/AC.2021.v06.i03.p16

Wijayanti, A. A., & Ariawan, I. G. K. (2021). Upaya Perlindungan terhadap Identitas Para Pihak dalam Praktik Cyber Notary. Acta Comitas: Jurnal Hukum Kenotariatan, 6(3), 679-695. https://doi.org/10.24843/AC.2021.v06.i03.p16