

Analysis of the Implementation of the Online Mortgage Registration System

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Abstract. The encumbrance of collateral for land rights or so-called Mortgage Rights is carried out by registration at the Land Office in accordance with Law Number 4 of 1996. But this has been replaced by the regulation of the Minister of Agrarian Affairs and Spatial Planning of the National Land Agency Number. 5 of 2020 which transfers the process of registering mortgage rights to electronic. Registration that was originally carried out by PPAT is now switched to involve the creditor. With the legislative normative method, this research aims to find out whether the integrated system is sufficient to be applied simultaneously for electronic mortgage rights services. What if an error occurs when inputting the electronic mortgage document. The results of this study indicate that HT-el registration is more efficient in terms of time but there is still a need for supervision regarding the reading of electronic documents if the server experiences interference.

Keywords: Electronic System, Mortgage, Registration

1 Introduction

The development of science and technology in various fields requires the creation of system updates that are carried out online. Including in the service system for land activities at the National Land Agency (BPN). The implementation of an online-based system through the application of the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency (Ministry of ATR / BPN) began with Permen ATR / BPN No. 5 of 2017 concerning Electronic Land Information Services. One type of service is electronic Mortgage Rights, hereinafter referred to as (HT-el). In Permen ATR / BPN No. 9 of 2019, later replaced by Permen ATR / BPN No. 5 of 2020 states the definition that "HT-el is a series of mortgage rights service processes in the context of maintaining land registration data organized through an integrated electronic system". The issuance of the ministerial regulation has made changes to the procedure for encumbering Mortgage Rights, which was initially carried out manually, switching to an integrated electronic system. So that the implementation of the electronic system can be carried out by state administrators, persons, business entities, and / or the community.

This mechanism uses the system available in the MITRA ATR / BPN application and each service user must be registered and meet the requirements determined by the ministry. Submission of an application for ht-el services must be accompanied by electronic documents in accordance with Article 9 paragraph (4) of Permen ATR / BPN No. 5 of 2020. With the results of the record of the certificate of mortgage rights which was originally printed by the BPN on the certificate turned into a file printed directly by the creditor on paper and then attached to the certificate. Likewise, the form of the certificate of mortgage rights, which was originally physically the same as the original certificate, namely in the form of a book bound together with the Deed of Granting Mortgage Rights (APHT) made by the PPAT, has now changed to only one sheet.

which can be printed immediately when the HT-el is issued. Mortgage rights must be public and open so that not only debtors and creditors but also other parties can also know that there is a material security right on land rights which can be seen from the land book at the Land Office. [1] The function of the Mortgage Rights Institution is as a means of protection for the security of the bank as a creditor. [2]

In practice, there are still some obstacles. Starting with the earliest stage, which is checking online the certificate of land rights that will be used as an object in a mortgage, before that the certificate of land rights must be taken to the BPN for the validation process which takes approximately 3 days. This time can be longer if the certificate was issued in 2000 or has not been processed at all. Although validation has been carried out, when checking online there are still often problems with records that have not been validated, resulting in a repeat of the validation process. This proves that the National Land Agency's system is not yet integrated with

that of the land registrar, resulting in data that is visible in the system and physical data that is not validated.

One of the other problems that occurred in Surabaya City, when the second rank HT-el registration of Bank A's loan collateral was attempted, could not be processed because the land title certificate was physically different from the land book in the BPN Office. The certificate owned by the debtor only contained a record of the first rank of electronic Mortgage that had been granted by Bank A, whereas there should have been a record of HT-el and roya el on the certificate that had previously been pledged to Bank B. This, of course, raises the question of why Bank A's first HT-el encumbrance process was able to proceed until it was recorded and attached to the certificate. Bank B, which felt that it had provided HT-el and roya notes printed on paper to the debtor, certainly did not want to be blamed. The debtor, who did not understand what HT-el and roya were, argued that he had already given Bank B the documents previously given to Bank A. Until now the process of binding the collateral has not been possible until the certificate has the same record as the land book kept at the BPN Office.

With the circumstances that occur, of course, it is important to see and study previous research as a form of reference and also a reference for the preparation of this article. Some journals and theses that also explain HT-el and discuss themes about public services and land services, such as those written by Frans Meyer Simatupang in *Recital Review* Vol. 4 No. 1 of 2022 entitled *Electronic Mortgage Registration Mechanisms and Their Legal Effects* discuss the occurrence of the HT-el registration process and conclude that PPAT and BPN still need readiness for the implementation of HT-el. [3] The second study by Sri Rumada Sihite and Wahdaniah Baharudin in *Pattimura Legal journal* Volume 2 Number 1 Year 2023 entitled *Legal Perspectives on the Implementation of Electronic Mortgage Services* discusses the suitability of the application of mortgages in the community with existing regulations and policies, as well as the implementation of electronic systems using normative empirical methods resulting in the conclusion that there is a need for increased socialization and coordination between service users and human resources to master issues related to electronic mortgages. [4]

The third study by Mahendra Wardhana, et al in the 2023 legal journal *novum* entitled *Juridical Problematics of Electronic Mortgage Implementation for Parties* discusses the responsibility of PPAT for the validity of documents for HT-el registration and the executorial power of HT-el certificates. By using the normative method, the legislative approach results in the conclusion that the PPAT's accountability capacity as a data sender to fulfill the registration of electronic mortgages in criminal and civil law is contrary to the principle of legal responsibility, both in criminal law and civil law. As well as the executorial power there is no difference between a manual mortgage certificate and the HT-el certificate that now replaces it. Both still have the same security right position. [5]

The difference with this research is related to the object of discussion of the implementation of HT-el registration that has occurred in the community directly so that it aims to be able to provide a solution to what to do when dealing with cases such as in Surabaya City. The enactment of the HT system transition from conventional to electronic which is still experiencing obstacles needs to be analyzed whether its application is in accordance with Permen ATR / BPN No. 5 of 2020.

Based on the above background, the author chooses the title *Analysis of the Implementation of the Online Mortgage Registration System with the formulation of the problem of how the implementation of online registration of Mortgage Rights*.

2 Methods

The research method that will be used is normative research with a statutory approach (statue approach) which analyzes facts and applicable regulations and theories that are used as sources of research. Aims to obtain a clearer understanding of the suitability of the application of Law Number 4 of 1996 concerning Mortgage Rights with the policy of Permen ATR / BPN No. 5 of 2020 concerning Electronically Integrated Mortgage Services. Analysis is used with deductive method with data that is general in nature so as to produce specific conclusions related to the application of HT-el registration.

3 Results and Discussion

3.1 Implementation of Conventional Registration of Mortgage Rights

The implementation of Mortgage Rights consists of Mortgage Rights as a security right over land against the repayment of the debtor's receivables against the creditor as referred to in Law No. 4 of 1996. The importance of registration of Mortgage Rights is the beginning of the process of the birth of a mortgage certificate which is proof of a security binding so that legal certainty is fulfilled. Registration of Mortgage Rights mentioned in Article 13 of the UUHT is carried out at the land office. In this case, the PPAT is obliged to send the signed APHT no later than 7 days and other required documents. Registration of Mortgage Rights is carried out by the Land Office by making a land book of Mortgage Rights and recording it in the land book of the land rights that are the object of the Mortgage Rights and copying the record on the certificate of the

relevant land bag rights. With the creation of the HT land book, the principle of publicity is fulfilled and HT is also binding on third parties. [6] The flow of HT registration at the land office, among others:

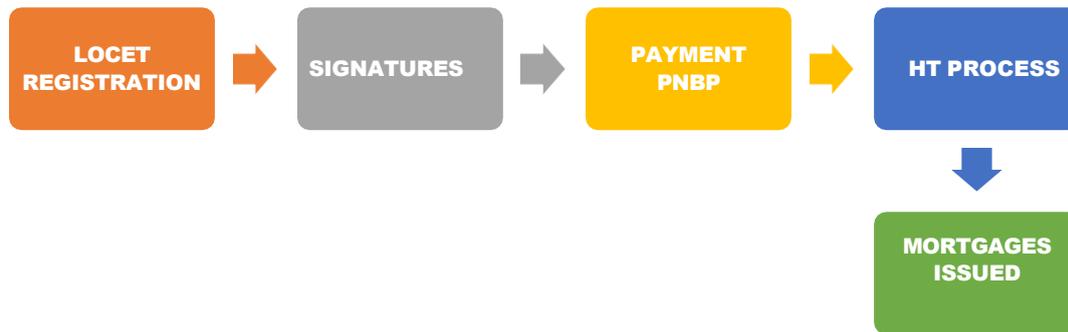


Figure 1. Schematic flow of HT registration at the Land

Office As can be seen from Figure 1, the initial stage is:

- a. Submit files to the registration counter including:
 1. original land title certificate
 2. Copy of APHT made by PPAT
 3. SKMHT when using power of attorney
 4. Copy of ID card and family card of debtor and guarantor
 5. Copy of deed of establishment and ratification for debtors in the form of legal entities
 6. Copy of ID Card and Creditor Decree
 7. Cover Letter and HT Application. if there are missing files, it will be returned to the applicant.
- b. Checking the completeness of the file. if it meets the requirements, the counter officer gives a receipt in the form of yellow paper or called attachment 13 and / or Model A
- c. Make PNB payments, the amount of which is determined from the value of the mortgage rights to be encumbered.
- d. The land office processes the encumbrance until it is issued.
- e. After this payment, the Book of Mortgage is issued within 7 working days after the date of the recording of the mortgage. There is a number and date of issuance on each Mortgage Rights certificate which consists of a copy of the land book stitched together with a copy of the APHT.

Taking Mortgage Rights through the land office by bringing the receipt given. If there is an abolition of mortgage rights, the certificate of mortgage rights is withdrawn by the BPN and the provision of HT abolition notes on the certificate of land rights that are pledged. In this mechanism, the BPN has the authority in the process of encumbering mortgage rights.

3.2 Electronic Mortgage Registration Procedures

Electronic Mortgage Rights are regulated in Permen ATR/BPN No. 5 of 2020 concerning electronically integrated mortgage rights services. Due to the transition of the service system, the HTEL Technical Manual No. 2 of 2020 was issued which contains the preparation and implementation of electronic mortgages. In an online-based service system, all HT-el activities are implemented starting from validation and verification of service user data (Creditor and PPAT) and the registration process to the issuance of online-based HT-el certificates. [7] The requirements as a service user of the HT-el system consist of:

3.2.1 PPAT

The initial step taken by PPAT to be able to use the HT-el system service is to register as a PPAT Working Partner on the mitra.atrbpn.go.id application. The land office will check the suitability of the data and perform validation. After the process, an account registration is carried out by filling out a form that includes personal biodata including PPAT office data accompanied by complete files such as the appointment decree and the minutes of the appointment of the oath of office as well as a photo file that shows the whole face. to get verification of PPAT partner accounts in coordination with the land office according to its working area.

3.2.2 Creditor

Creditors who can access HT-el system services are those who have registered with Financial Services Partners at mitra.atrbpn.go.id and have been verified and validated by the Ministry. If already registered, then create an account by completing registration personal data such as for central admin accounts, branch admins, supervisors and operators in charge of inputting HT-el later, the account registration applies to creditors of legal entities that have branches while for individual creditors create an account if they have registered in the touch my land application.

After the PPAT and Creditor have an account, they can apply for HT-el registration services by accessing <https://htel.atrbpn.go.id>. Before applying for ht-el services, an online check is made of the land title certificate that will be the object of the mortgage. From the results of the check, it can be determined whether there are any problems with the certificate of land rights to be pledged. The results of the check can be printed on a piece of paper. Once appropriate, the APHT is made as the basis for the encumbrance of the mortgage right. The application procedure for HT-el registration is carried out by the PPAT first, the following is a scheme of the flow of registration carried out by the PPAT:

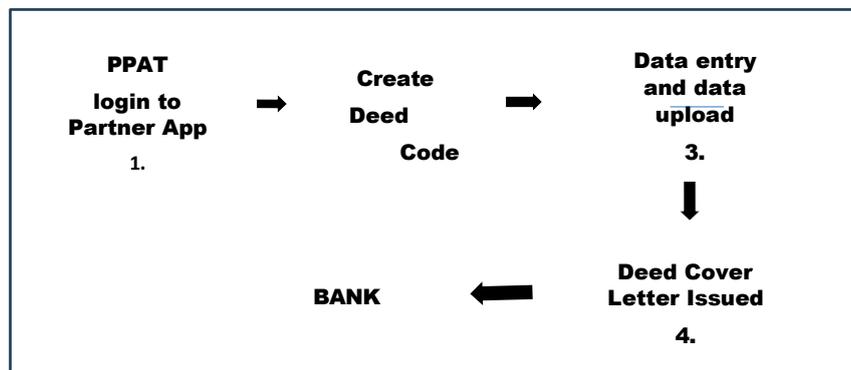


Figure 2. Procedure for HT-EL Registration

As can be seen in Figure 2, the scheme starts with:

- a. PPAT logs in to the partner application using its username and password, then selects the mortgage registration service. By creating a deed code consisting of 6 alphanumeric digits that functions as an HT-el service.
- b. Generate a deed code to identify the HT-el file to be registered.
- c. Fill in data including; deed number and date, debtor and guarantor data (KTP, KK, Marriage Certificate in scanned form), creditor / bank code, HT object, HT value, other objects and / or others if needed. Things to note when filling in the Creditor / Bank code, because if one digit is wrong it will affect the registration process carried out by the creditor later, the creditor cannot find the application file. Each data filling is completed by uploading the APHT file, SKMHT (if
- d. SPPT PBB and a statement letter of accountability for the validity and correctness of the document. Files are in pdf format with a minimum file size resolution of 100 DPI.
- e. Furthermore, the PPAT downloads and prints the cover letter for the deed to be signed and stamped by the PPAT. The cover letter contains information on the name of the PPAT, the number and date of APHT and the value of HT. after that the PPAT uploads the cover letter as evidence of the original submission of APHT and other supporting data. If there is an error in the deed and it is revised, it is re-uploaded as an improvement. Improvements can be made before the HT-el system is registered by the creditor.

With the issuance of the deed cover letter, the HT-el registration will then be continued by the creditor with the following flow scheme:

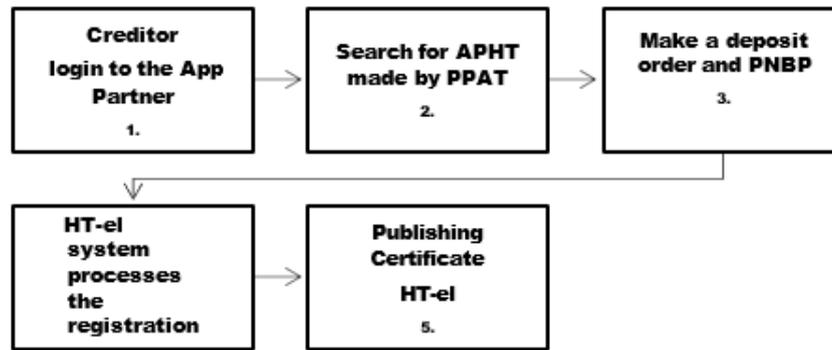


Figure 3. Flowchart of Registration of Application for HT-el Service by Creditor Explanation

as seen in figure 3:

- a. Login with username and password of operator account for legal entity creditor, if individual then individual creditor account.
- b. Creditors search for APHT that has been reported by PPAT by inputting the PPAT name, deed number, and deed code. Checks are made on the suitability of the data between the uploaded documents and the physical documents. If it is appropriate, the creditor confirms the application for HT-el registration. At this stage, if an error occurs, the creditor can coordinate with the PPAT to make improvements, but if the creditor does not check in detail and continues, the certificate of dependency will still be issued. Therefore, the prudential principle to always be vigilant is mandatory in carrying out its activities. [8]
- c. Once confirmed, the system will issue a service fee deposit order (SPS) containing the date of registration, deed code, file number, applicant's name, and pnpb value. The fee is paid by the creditor at the perception bank within 3 days at the latest. If the deadline is exceeded, the application is declared canceled or closed so that the application is submitted from the beginning.
- d. At this stage the Land Office checks the suitability of the documents, if an error occurs then the application file is suspended, the PPAT and Creditor can make improvements within 5 days of payment. If more than that, the application will be closed and submit a service application by taking a new file number. In other words, PNPB fees that have been paid are also forfeited, refunds can be submitted if the error is due to force majeure.
- e. HT-el certificates are automatically issued on the seventh day, but if officers and officials at the Land Office do not check the file, the system will still issue HT-el certificates and the Head of Office is responsible for the products that have been issued. [9] It has become the creditor's obligation to apply for HT-el registration, so that if the creditor neglects not to register it, it will have risks and legal consequences making the collateral provided does not provide special rights granted by the UUHT [10].

Electronic Mortgage Registration is carried out in 2 stages, namely registration carried out by the PPAT then the creditor and checked by the land office. The commitment of PPATs and creditors is an important factor in the implementation of HT-el services. During the examination process until the issuance of the HT-el certificate, time is given to make improvements to both the PPAT and the creditor. [This should make the encumbrance of mortgage rights more efficient because it involves more than one party. Including the opportunity improvement of documents if there is a suspension due to data discrepancies due to input errors. Article 19 Permen ATR/BPN No. 5 of 2020 explains that if there is an error in the HT-el service submission that is realized after the HT-el certificate is made, the owner of the HT-el certificate, in this case the creditor, can submit a correction via the HT-el device within 30 days from the date the HT-el certificate is issued. [12] However, if it exceeds the time limit given, it repeats from the beginning of registration by taking a new file number for the creditor. The use of this electronic system also changes the provisions of Article 13 of the UUHT, which originally provided for registration at the land office. The form of title deed certificate and the title deed record also differ:



Figure 4. Flowchart of Registration of Application for HT-el Service by Creditor Explanation

The form of HT-el certificate that has been issued as shown in Figure 4 mentions the name of the creditor, the value of the mortgage, the PPAT and the APHT number that is the basis for the HT encumbrance, but there is no date of issue, so it is not possible to know when it was printed for the first time. In the upper left part, there is a deed code that is owned in the cover letter when the PPAT finishes sending electronic documents in the registration service application process.

HAK TANGGUNGAN Nomor 07395/2023 Peringkat 1 APHT PPAT Nomor 311/2023 Tanggal 03/04/2023.	DI 208 No. 44225/2023 Tgl. 18/07/2023 DI 307 No. 80991/2023 Tgl. 18/07/2023	PT. BANK di Surabaya	
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Figure 5. Recording of HT-EL

As can be seen from Figure 5, the recording of HT-el in the land book is carried out by the land office while the land title certificate is carried out by the creditor in accordance with Article 15 paragraph (2) and paragraph (3) of Permen ATR BPN No. 5 of 2020. With the form of the record printed on paper, it is possible that it is not attached to the land title certificate.

3.3 Comparison of Conventional Mortgage and Electronic Mortgage Services

The transition of service forms from manual to online certainly has advantages and disadvantages at each stage, the comparison can be obtained among others:

1. In conventional HT, the initial stage is to have the required documents checked directly by the Land Office and to check the certificates, which are matched directly with the land books stored in them so that they can find out if there are any shortcomings or errors. The record of the encumbrance of mortgage rights printed directly on the land title certificate is more organized, and there is a land book of mortgage rights made by the Land Office. This makes HT certificates less likely to have errors in ranking. The same applies to the process of abolishing a mortgage or what is commonly known as Roya. The application process is sufficient to be carried out only once without worrying about suspension or rejection which results in repetition of PNBPN payments. However, it has shortcomings in the timeframe because the service is limited to only 5 working days by taking the queue number first. The issuance of SHT, which has an uncertain time, can take up to 3 weeks after the file is received. The results of the HT encumbrance must also be taken at the Land Office so it takes more time.

2. Electronic HT is not only for registration but is also accessed for deletion of HT-el, so if there is repayment of receivables, the debtor receives a certificate of land rights back cleanly free from records of mortgage rights, because the one who deletes the HT-el is the creditor who imposes it. The deletion is in the form of a SHT-el that is crossed out automatically in the system with the word NOT APPLICABLE BECAUSE OF ROYA. roya notes that are the same form as ht-el notes are printed and attached to the land title certificate. This is different from conventional HT which requires the debtor to come to the BPN to do roya. With this system, the Land Office has a simplified role. However, on the other hand, if the ht el or roya record is lost, there may be difficulties in processing the land title certificate. This is because even though the checking is done online, the upload of the land title certificate must be matched with the land book in the land office as well. The smooth running of the internet network and system updates are necessary, given that the system is the most important thing in the electronic HT registration process. The parties must always check the progress of the registration process because if there is a suspension and the status is closed the MITRA ATR / BPN application does not prepare or do not provide reasons related to it. [13] Other obstacles in using HT- el include several times the difference in ranking because there is no ranking option menu. [14] The occurrence of repetition of PNBp payments, if the repair has not been completed and exceeds the 7-day period so that it pays again accompanied by registration from the beginning. The return procedure has no regulation. [15] From the discussion that has been described, here are some differences that can be drawn:

Table 1. Differences in Conventional HT Registration Services with Electronic HT

N.	Comparison aspect	Ht conventional	Electronic ht
1.	Registration Time	5 working days	Unlimited
2.	Certificate checking	Land title certificates are brought to the Land Office.	Color scans of the certificate and ID card of the owner.
3.	Warkah (document)	Physical copies are kept at the Land Office.	Saved in digital form
4.	Correction time if something goes wrong	repaired after the issuance of the mortgage	No later than 5 days after the registration is received (Article 13 paragraph 4 Permen ATR/BPN No. 5 Th 2020)
5.	HT Issue Length	7 days or more	7 days after application service received
6.	HT Loading Result	In the form of a direct note from the BPN on the land title certificate.	1 sheet printed by creditor on separate paper
7.	Creditor	Waiting for HT to be issued when submitted by PPAT	Join become a user of HT-el registered
8.	PPAT	Send HT completeness directly to land office	Send completeness HT with scanned documents
9.	Deletion of HT Certificates	Physically withdrawn by BPN	By automatically deleted through a creditor-filed system

Table 1 shows the comparison in terms of implementation time and the parties participating in the electronic encumbrance of mortgage rights. For the online HT registration service system, it is more efficient to use because there is no time limit, but it requires more care in inputting data, because if there is even a slight input error, the system cannot read the uploaded documents so that it can cause a delay in the registration process, which exceeds 7 days after the APHT is signed.

4 Conclusion

The results of the discussion above can be concluded that the implementation of the application of electronic registration of Mortgage Rights has two stages, namely the initial service request is carried out by the PPAT by uploading electronic documents until the deed cover letter is issued which is then used as the basis for registration by the creditor. The implementation of HT-el which has been running for almost 3 years starting with Permen ATR / BPN 2019 which was replaced by Permen ATR / BPN No. 5 of 2020 provides time efficiency because it can be registered without any limitation provisions. Parties can monitor the progress of registration and can make corrections if there are input errors before the mortgage is encumbered. However, if there is a suspension while the system has an error or and exceeds the time limit, there will be a repetition of PNPB payments. The online system has not been able to be fully implemented. Because the more dominant obstacles are related to erratic servers that can experience errors or offline so that the electronic Mortgage Rights registration process is disrupted and the delay has its own losses for the party responsible for the encumbrance of the mortgage. Therefore, it is still necessary to continue to update a better system and human resources who understand technology.

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