

NOTARY AUTHORITY IN MAKING DEEDS ON LAND ACQUISITION FOR ROAD WIDENING BY THE MINISTRY OF PUBLIC WORKS AND PUBLIC HOUSING

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ABSTRACT

This study aims to analyze the authority of Notaries in drafting deeds of land rights release in land acquisition for road widening conducted by the Ministry of Public Works and Housing (PUPR), as well as to examine the legal consequences of land acquisition carried out without a Notarial deed. The research employs a normative legal research method using a statutory approach and a conceptual approach. Legal materials consist of primary legal sources in the form of relevant laws and regulations, secondary legal materials including legal doctrines and previous studies, and tertiary legal materials as supporting references. The data are analyzed qualitatively through legal reasoning to assess normative consistency and the scope of legal authority in land acquisition practices. The findings indicate that Notaries possess juridical authority to draft authentic deeds related to the release of land rights based on the Law on the Notarial Office; however, such authority is not mandatory within the legal framework governing land acquisition for public purposes. Land acquisition conducted without a Notarial deed remains administratively valid if procedural requirements are fulfilled, yet it may weaken evidentiary strength and increase the risk of future legal disputes.

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INTRODUCTIONS

The implementation of development programs carried out by government agencies, ex officio requires land to realize the development of public interest facilities and infrastructure. With the construction of facilities and infrastructure, the government's goal to increase prosperity and welfare will be realized. With the hope that the people will not be miserable with the construction of public facilities for the public interest. Presidential Regulation Number 102 of 2016 concerning Funding for Land Acquisition for Development for the Public Interest in the Context of the

Implementation of National Strategic Projects (PSN). The proper way for development for the public interest in accordance with Article 33 paragraph (3) of the 1945 Constitution is through the process of relinquishment and/or revocation of rights by providing compensation, the amount of compensation should be based on the value of the purchase and sale price and not on the selling value of the tax object. (Insan et al., 2024)

In the land acquisition legal system in Indonesia, the concept of public interest is the main basis of legitimacy for the state to restrict individual ownership of land. This principle departs from the doctrine of the right to control by the state as stipulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which emphasizes that the earth, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. In this context, land acquisition is not intended as an act of deprivation of rights, but rather as a legal mechanism to balance the interests of national development and the protection of the civil rights of the community. (Saiful Haq et al., 2025)

Within the framework of land law in Indonesia, the release of land rights can be carried out through two forms of legal instruments that often cause debate, namely the Statement of Land Rights Release (SPPH) and the Deed of Release of Land Rights. Both have significant differences both in terms of formality and in terms of legal force. The SPHT is basically a letter made by the landowner with a unilateral statement regarding the waiver of his rights, usually witnessed by witnesses and can be made under hand. This document functions as administrative evidence, but juridically it only has the power of proof like the deed under hand, so its position is weak when compared to an authentic deed. On the other hand, a deed of relinquishment of land rights is an authentic deed that must be made in front of the authorized public official, namely the Land Deed Making Officer (PPAT).

The role and authority of the Notary becomes relevant to be studied in depth. Notaries as public officials who are authorized to make authentic deeds have a strategic function in providing legal certainty and evidentiary power for legal acts of land rights relinquishment. However, in the legal regime of land acquisition for the public interest, the regulation regarding the involvement of Notaries is not formulated expressly and imperatively. Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition tends to place the relinquishment as an administrative process carried out before land officials, without explicitly requiring the use of a Notary deed. (Insan et al., 2024; Paramata et al., 2024)

In contrast, Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development for the Public Interest presents a paradigm shift. In Article 100:

- 1) The Release of Land Acquisition Object Rights is carried out by the Right Party to the State in the presence of the Head of the local Land Office or an official appointed by the chief executive of Land Acquisition.
- 2) The Release of Land Acquisition Object Rights as referred to in paragraph (1) is made in the minutes of the Land Acquisition Object Rights Release.

As well as article 101 of the Land Acquisition implementer:

- a. prepare a statement of relinquishment/surrender of Land Rights or surrender of land, and/or buildings, and/or plants, and/or other objects related to land;
- b. withdrawing proof of control or ownership of the Land Acquisition Object from the Right Party;
- c. provide a clearance receipt; and affix dates, initials, and stamps on certificates and land books proof of ownership that have been released to the State, which is done manually or electronically. (Tamawiy, 2024)

The unclarity of the arrangement raises juridical issues related to the position and legal force of the Notary deed in the procurement of land for road widening by the Ministry of Public Works and Housing. On the one hand, Notaries have normative authority based on the Law on Notary Positions to make deeds related to legal acts in the field of land. On the other hand, land acquisition regulations emphasize more on administrative mechanisms through

the minutes of discharge of rights made by land officials. This condition creates normative ambiguity that has implications for legal certainty, both for landowners and for the government as a development implementer.

Therefore, this study positions the public interest specifically as the construction and widening of national roads by the Ministry of Public Works and Housing, and makes it the main context to analyze the authority of Notaries in making land rights release deeds. With these restrictions, this study is expected to be able to provide a focused, systematic, and relevant legal analysis of the need for legal certainty in the implementation of land acquisition for road infrastructure development as a public interest. (Febriani et al., 2025; Murti, 2025)

Overall, the background of this issue emphasizes that the normative analysis shows that the disharmony between Government Regulation Number 24 of 1997 concerning Land Registration and Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition not only causes regulatory disharmony, but also creates a legal vacuum that threatens the principle of legal certainty.

Legal uncertainty regarding the position of the Notary in the deed of relinquishment of rights in the PUPR land acquisition project. This indicates the urgency of regulatory reform to integrate the provisions in Government Regulation Number 24 of 1997 concerning Land Registration with the practical needs regulated in Government Regulation Number 19 of 2021 concerning the Implementation of Land Procurement, so that the position of Notaries and PPAT in the release of land rights for the public interest can be consistently and bindingly.

Based on the background of these problems, this research is focused on two main problems. First, this study examines how the authority of Notaries in making deeds related to land acquisition for road widening carried out by the Ministry of Public Works and Public Housing (PUPR). Second, this study analyzes the legal consequences that arise if the acquisition of land for road widening by the Ministry of PUPR is carried out without using a Notary deed. (Ferdiansyah et al., 2024; Rozikin et al., 2025)

The purpose of this study is to juridically analyze the authority of the Notary in making land acquisition deeds for the purpose of road widening carried out by the Ministry of Public Works and Housing, as well as to examine in depth the legal consequences that arise if the land acquisition process is carried out without a Notary deed. Through this analysis, this research is expected to be able to provide a comprehensive understanding of the position and role of Notaries in the legal regime of land acquisition for the public interest.

Theoretically, this research is expected to contribute to the development of legal science, especially in the field of notary and agrarian law. For students, the results of this research are expected to expand insight and understanding of the authority of Notaries in land acquisition for road widening. For the Master of Notary Study Program, this research is expected to be an additional relevant academic reference. In addition, for future researchers, this research is expected to be a reference and reference in the development of similar legal studies in the future.

METHOD

The research method used in this study is normative legal research, which views law as a positive norm that applies and is systematically analyzed to find the truth of the law. This research is not only descriptive, but is oriented towards solving legal issues (know-how) related to the authority of Notaries in making land acquisition deeds for road widening by the Ministry of Public Works and Housing. The approach used includes a statute approach by examining relevant legal provisions, as well as a conceptual approach through the study of legal theories, principles, and doctrines related to notary and land acquisition for the public interest. (Yanova et al., 2023)

The source of legal materials in this study consists of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations that have binding power, including the 1945 Constitution of the Republic of Indonesia, the Law on the Position of Notary, the Law on Land Acquisition for Development for the Public Interest, the Basic Agrarian Law, and various implementing regulations related to land acquisition and road construction. Secondary legal materials are in the form of scientific works, doctrines, and the results of previous research, while

tertiary legal materials include legal dictionaries, encyclopedias, and other reference sources that support legal analysis.

The collection of legal materials is carried out through literature studies and documentation studies by examining laws and regulations, official documents, and relevant legal literature. All legal materials collected are analyzed qualitatively using a prescriptive analysis method, namely by delineating, interpreting, and assessing the applicable legal provisions to draw conclusions about the position, authority of the Notary, and legal implications in the practice of land acquisition for road widening by the Ministry of Public Works and Housing.

RESULT AND DISCUSSIONS

Notary Authority in Making Deeds on Land Acquisition for Road Widening carried out by the Ministry of PUPR

The position of Notary here is neutral and juridical administrative. He does not act in the interests of either party, but guarantees that legal action between the landowner and the Ministry of PUPR is carried out legally and in accordance with the principle of legality. Unlike Notaries, PPAT (Land Deed Making Official) is a special public official appointed based on Government Regulation Number 24 of 1997 concerning Land Registration and further regulated in the Regulation of the Head of BPN Number 1 of 2006. PPAT has special authority in making authentic deeds regarding the transfer of land rights and the imposition of dependent rights.

PPAT is legally an official who is obliged to make a deed in every transfer of land rights, including buying and selling, grants, exchanges, entry into the company, and the release of rights for the public interest if the registration of the transfer of rights will be carried out at the land office. This is emphasized in Article 37 paragraph (1) of PP 24 of 1997, that the transfer of land rights can only be registered if it is proven by the PPAT deed.

In terms of land acquisition for the Ministry of Public Works and Housing project, PPAT acts at the final administrative stage, namely ensuring that the deed of relinquishment can be used as the basis for registering the transfer of rights to state land at the National Land Agency (BPN). In other words, the function of PPAT is transactional and registerive, while the function of Notary is more verifiable and legitimate. (Kumalawati et al., 2024; Wahyudi, 2025)

Table 4.1 Differences in Authority and Juridical Function between Notaries and Land Deed Making Officials (PPAT)

Aspects	Notary	Land Deed Making Office (PPAT)
Legal Basis	Law No. 2 of 2014 concerning the Position of Notary	Government Regulation No. 24 of 1997 concerning Land Registration
Nature of Position	General <i>public official</i>	Special <i>public official</i>
Main Functions	Ensuring the validity and certainty of law in every civil law act	Make a special authentic deed for the transfer of land rights and registration at BPN
Scope	All areas of civil law (agreements, incorporation of legal entities, relinquishments, etc.)	Limited to land transactions (sale and purchase, grant, barter, etc.)
Object of the Act	Can include land rights relinquishment deeds, indemnity agreements, and minutes of agreement	Sale and Purchase, Grant, Exchange, and Release of Rights to be registered
Power of the Act	Valid authentic deed as evidence in court	Authentic deed that is the basis for registering new rights at BPN

Position in Land Procurement	Ensure that the process of relinquishment is voluntary, legal, and has the force of law	Administer and register the transfer of rights so that land legally becomes state property
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Source processed by the Researcher

In the practice of land acquisition carried out by the Ministry of Public Works and Housing, Notaries and PPAT often work in sequence and complement each other. The deed made by the Notary becomes the legal basis for PPAT to carry out further administrative actions. However, when land acquisition is carried out only through a statement or minutes without a Notary deed, PPAT's position loses the formal basis for recording the transfer of rights. The following is a list of deed products that can be issued by a Notary (optional):

- Indemnity Agreement Act
- Deed of Declaration of Willingness to Renounce Rights
- Power to Receive Payments Act
- Power of Attorney Act
- Deed of Non-Dispute Declaration
- Consignment Agreement Act

The party that juridically and factually goes directly to the field to take care of land acquisition is the Land Institution through the local Regency/City Land Office. Based on the provisions of Law Number 2 of 2012 in conjunction with Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development for the Public Interest, the Land Office establishes a Land Acquisition Implementer who is fully responsible for the stages of land acquisition. The Land Acquisition Implementer is the one who inventories and identifies land plots, collects data on subjects and objects of rights, measures and mapping, leads deliberation on the determination of compensation, and prepares and signs the minutes of the release of land rights. Thus, legally, the Land Acquisition Implementer is the main actor who carries out the function of land acquisition in the field. (Fahlevi et al., 2023; Fernando et al., 2024; Wagiran et al., 2023)

In certain cases, Notaries can be involved in the land acquisition process, especially to strengthen the civil aspect of the release of land rights. However, the involvement of the Notary is not imperative and is not placed as the main implementer of land acquisition according to laws and regulations. This creates a condition where the process of relinquishing land rights is more dominant through an administrative mechanism by the Land Acquisition Implementer, while the role of the Notary is complementary and depends on the needs of the practice. With this institutional construction, it can be understood that the party that directly goes to the field in the national road widening project is not the Ministry of PUPR as a central agency, but the Land Acquisition Implementer at the local Land Office who acts based on the attribution authority of laws and regulations. The Ministry of PUPR continues to play a strategic role as a planner and user of land acquisition results, while local governments and other supporting elements function as facilitators in ensuring the smooth running and social acceptance of road construction projects in the public interest.

Thus, as described in the above provisions, the authority of the Notary is still recognized but limited, namely as a maker of authentic supporting deeds to ensure formal evidence and legal protection for the parties. However, the substantive authority in making a deed of release of rights that is the basis for the abolition or registration of land rights remains in the hands of PPAT or land officials as determined by laws and regulations. The position of the Notary in the procurement of land for the public interest by the Ministry of PUPR serves to ensure the legitimacy, voluntariness, and legal protection of the parties, while the PPAT functions to ensure administrative validity in the registration of the transfer of rights at BPN. The roles of the two are complementary and cannot be interchangeable, because Notaries are oriented to formal-substantive aspects, while PPAT is oriented to administrative-registry aspects.

Without the involvement of the Notary, the waiver of rights loses authentic legal force; without PPAT, the transfer of rights loses administrative legitimacy. (Rain, 2023; Riswanto et al., 2023)

Based on the structure of attribution, delegation and mandate, the Notary is only attributively authorized to make an authentic deed of indemnity agreement as the basis for proving the existence of voluntary consent, but does not have the delegative authority to transfer rights constitutively and does not have an administrative mandate to remove the legal relationship over the land. Thus, the position of the Notary in land acquisition by the Ministry of PUPR is a complementary authority, not a constitutive official in the release of rights, because the removal of rights is only valid through the Minutes of Release of Rights before the Head of the Land Office in accordance with PP 19/2021.

Legal consequences if the procurement of land for road widening is carried out by the Ministry of Public Works and Public Works without a notary deed

Land acquisition for the public interest, such as road widening by the Ministry of Public Works and Public Housing (PUPR), is an activity that has legal consequences because it involves the release of land rights from individuals or legal entities to the state. In the context of positive Indonesian law, the existence of an authentic deed made by an authorized official is an essential requirement to ensure legal certainty and legitimacy of the transfer of rights. Therefore, when the land acquisition process is carried out without a Notary deed, a number of legal consequences arise that can affect the validity, evidentiary strength, and legal protection for the parties.

The acquisition of land for road widening by the Ministry of PUPR which is carried out without a Notary deed is a legally defective act, because of the absence of authentic evidence that proves a voluntary agreement between the entitled parties and government agencies. As a result, the waiver of these rights can be sued, canceled, or declared invalid, as well as open administrative and civil liability for the implementing officials of land acquisition. Legally positive, a Notary deed is a requirement for civil proof that determines whether or not the release of rights in land acquisition is valid for the public interest. (Fathaniyah et al., 2022; Naufal et al., 2022)

Thus, a Notary deed has a causal relationship and precedes a PPAT or BAPH deed. The Notary Deed forms the legal civil basis for the release of rights, while the PPAT or BAPH deed follows it up in the land administration system. If the land acquisition is carried out without a Notary deed (authentic deed), then the resulting documents such as a statement of relinquishment or administrative minutes only have the status of deeds under hand. As a result, the evidentiary power is weak and cannot be used as a basis for registering the transfer of rights at the land office. From the perspective of evidentiary law, the deed no longer provides legal certainty (*rechtszekerheid*), because its validity can still be denied by the parties. Meanwhile, without a PPAT or BAPH deed, these legal acts cannot be recognized administratively.

The absence of a Notary Deed does not invalidate the validity of land acquisition based on Law 2/2012 and Government Regulation 19/2021, because the constitutive function is in the BAPH made by the Head of the Land Office. However, from the perspective of proof, the absence of an authentic deed increases the risk of disputes, weakens the proof of voluntariness, increases the potential for PMH lawsuits, increases the risk of mispayment of heirs, and opens up opportunities for criminalization of officials.

The absence of a Notary Deed cannot be used as a basis to abort the validity of land acquisition according to Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest and Government Regulation of the Republic of Indonesia Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest, because the constitutive authority for the termination of land rights is explicitly placed in the Minutes of Release of Rights (BAPH) made by the Head of Office Land. Thus, normatively the state still obtains a valid legal basis for withdrawing certificates, severing legal relations, and transferring objects to state land. (Daud, 2025; Debora & Rizkianti, 2023)

However, the absence of authentic deeds actually poses serious problems in the realm of civil proof. Without the intervention of a Notary, the state does not have an authentic instrument that can affirm the element of voluntariness of the landowner, so the room for lawsuits on the basis of "coercion", "ignorance of the value of compensation", or "disagreement with the results of appraisal" becomes much more open. In the context of PMH, this weakness of proof can be used by the objecting party to attack the procurement process as an unlawful act by state officials.

In addition, the absence of an authentic deed has direct implications for the vulnerability of compensation payments, especially if the land object is in an inheritance dispute. Without an authentically legalized heir declaration deed or power of attorney, the potential for mispayment is very high, which in turn can qualify as a state financial loss. This situation opens up opportunities for criminalization of executive officials through allegations of abuse of authority or acts that benefit certain parties. In other words, the absence of a Notary does not interfere with the legality of the administration, but factually magnifies the risk of litigation, weakens the legal protection of public officials, and threatens legal certainty for the state and society. (Hidayat & Komarudin, 2022; Ziaulhaq, 2023)

Because the provisions of land acquisition require termination of rights through the BAPH administrative instrument, the absence of a Notary deed does not prevent the state from completing the land handover process procedurally. However, the absence of an authentic deed puts the state in a vulnerable position in terms of proof. The absence of notarial instrumentation makes the approval of compensation not stand on a perfect foundation of evidence, so that any objection can be easily directed to question the elements of voluntariness, the assessment of compensation, and the transparency of the deliberation process. If the evidentiary space is weakened, the administrative implementation that has been taken is always under the threat of objections, delays, and even judicial review of the procurement process. (Putri et al., 2023)

Thus, without the support of a Notary deed, the state loses an instrument that can lock the finality of the parties' agreement, which means the loss of the guarantee of legal certainty and an increased risk of formal defect assessment of the overall administrative action of land acquisition.

CONCLUSION

Based on the results of the research, it can be concluded that the authority of the Notary in the process of land acquisition for road widening by the Ministry of Public Works and Public Housing has not transformed into a constitutional legal basis to remove the legal relationship over a plot of land. The termination or takeover of land rights is the administrative authority of the state which is carried out through the mechanism of release of rights before land officials as stipulated in Law Number 2 of 2012 and Government Regulation Number 19 of 2021. In this framework, the role of the Notary is placed as a party that provides support to strengthen legality and evidentiary certainty, not as an official who determines the validity or expiration of land rights.

This study also found that the non-use of authentic Notary deeds in the land acquisition mechanism, especially at the compensation agreement stage, has an impact on the weakening of the power of legal proof. An agreement that is only expressed in the form of a private document does not have perfect evidentiary power and still leaves room for the parties to file objections, lawsuits for default, or claims that the waiver of rights is not voluntary. This condition puts the country in a vulnerable position in facing legal disputes in the future.

In addition, the absence of an authentic deed has the potential to cause administrative obstacles in the registration process by land officials, because the existing documents do not fully meet legal-formal standards regarding the certainty of the will of the parties. This situation can have implications for the disruption of the principle of legal certainty and the protection of citizens' constitutional rights, considering that the state does not have a strong authentic evidentiary instrument to ensure the validity of compensation and the legitimacy of the release of land rights in the implementation of land acquisition in the public interest.

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