

# **Implementation of Electronic Limitation Right (HT-el) by Debtor According to the Regulation of the Minister of Agrarian Affairs and Spatial Plan or Head of National Land Agency Number 5 Year 2020 Concerning Liability Service Integrated by Electronic**

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## **Abstrak**

Mortgage Rights are Guarantee Rights that can be imposed on land rights. Mortgage rights are used for binding collateral in the form of land with using the deed made by the Land Deed Making Official. Mortgage right Electronics, also known as HT- el , is the first electronic service that issued for interest and give convenience Public in meet the needs by applying for a loan from a financial institution namely banking. Roya is the deletion of mortgage rights in the book of land rights and the certificate. scribble Right Dependent which has end is something must. Problems arise when the implementation of the write-off of Mortgage The electronics that are done are not appropriate and the validity of the deletion of the Mortgage Electronic based on PMATR/KBPN No 5 years 2020

**Keywords:** Right Dependent Electronic (HT-el), Roya or Delection, Implementation, Validity



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## **INTRODUCTION**

In seeking with the intent and purpose to carry out development with a sustainable and sustainable system, all related parties including the government or society need funds. Fund is capital which could used for effort in do business. Judging from this, that with the increase in the on the development process, especially on a national scale with a focus on economic aspects, which requires funding with a high estimate Therefore, a guarantee institution is needed that is able to provide clarity or legal certainty for various parties who have an interest to that issue. With this, you can give encouragement for increase involvement Public around on effort in build or To do embodiment Public prosperous, fair as well as prosperous according to the runway Pancasila as well constitution NRI 1945.

Bank is a type institution finance which move with systematic and directed by performing various services, one of which is is give loan or To do distribution fund to Public with model credit. Credit origin the origin there is on say Credere with the meaning, namely the trust given by the bank to thedebtor customers who will return the loan along with the interest according to agreement Among second party the. About affairs borrow borrow or credit after getting the trust of the bank then someone which want to get loan must give guarantee to the bank.

Land is an object that can be used as well as possible by every individual in support interest his life. On generally land will be used as the basis for building a residence, however In addition, there is another function, namely being an object of guarantee to obtain funding. There is a land guarantee institution with the aim of being able to carry out providing clarity or legal certainty firmly to carry outprotection for creditors or debtors, namely " Mortgage Rights". Mortgage rights are security rights that are imposed on land rights in accordance with law No. 5 years 1960 about Basic Agrarian Basic Regulations.

On generally a agreement which conducted like Right Dependent is an agreement with the type or nature of follow-up direction motion from agreement tree. Agreement tree capable bring up debt or credit agreement. Debt or credit agreement with guarantor from Right Dependent no means Becomes right guarantee which born because of the law, but born from a contract agreement. Then from that need conducted prefix in To do agreement which held creditor and debtor in a debt agreement, namely the object of future guarantees encumbrance through Mortgage Rights. Mortgage rights have characteristics one of them is droit de preference which means that a position which Becomes Foundation main or ahead to the holder (have privileges). A Thing special this conducted affirmation on Chapter 7 UUHT which To do Settings that is if a object right dependents have transferred their rights to other parties, creditors the holder of the mortgage has the right to do sales with a public auction mechanism if the debtor is injured agreement agreement. In this case, it is also necessary to fulfill the principle of specialties and publicity capable of binding third parties and To do gift clarity law for party which have interest related.

In 2019 the government has carried out the process on registration Mortgage rights through an electronic mechanism are regulated in a Ministerial Regulation Agrarian and Spatial Planning / Head of the National Land Agency Number 9 Year 2019 about Service Right Dependent Integrated By Electronic (hereinafter referred to as Permen ATR/Head of BPN 9/2019). On April 8th 2020 has been promulgated and replaced by the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 5 of 2020 concerning Electronically Integrated Mortgage Services (hereinafter referred to as Candy ATR/Head BPN 5/2020) or known with term System Right Electronic Dependent (HT - el System ). As explained in Article 1 number 7 of the regulation, namely the Integrated Mortgage Service Electronic with name other that is Service HT- el is in the form of Suite stages service to right dependents on activity for to do maintenance data to registration soil which held use mechanism electronic which tested the integration.

The HT -el system is implemented wisely by the Land Office through stages which slowly for to do adjustment to form the ability and readiness of supporting data. Models contained in the service This can be submitted using the HT-EL mechanism , one of which is at the stage of registration of mortgage rights, then the mechanism for carrying out services for the form of the transfer of mortgage rights, the process of changing names creditor as well as stages in remove rights dependents.

Stages which held in deletion Right Dependent which capable conducted the discovery on explanation general UUHT. In book Mortgage land that has more links in affixing notes about deletion to right the, whereas form from certificate is waived. Recording can be interpreted by crossing out The mortgage, which can be interpreted as "roya", is implemented in tag book and certificate to land rights started to be guaranteed. Certificate of title to land that has been affixed records, then the submission is made to the holder according to his rights. roya which normal known with recording from process deletion right dependents, arrangements have been made in accordance with Article 22 of the UUHT which outlines that is, after the encumbrance has been deleted, which has been described in Chapter 18 UUHT, Office land To do deletion notes right dependents to book right soil as well as the certificate. Through stages deletion the, certificate right dependents which have linkages a joint withdrawal is made from the mortgage book, a statement is obtained i.e. has been invalidated by the Office of Defense. If the certificate occurs stages which capable bring up no returned to Office Defense, so has recorded to land book.

Applicant which Becomes pilot in accordance description which has be delivered, then conducted submission from party which have more interest through the attachment of the

mortgage certificate that it manages has been given a note through the creditor. Describing mortgage rights write-off due to receivables that are guaranteed to be paid off, or other forms of attitude through form writing which designed by creditor that is right dependents already conducted deletion. Office the doing form stages to cross out mortgages within 7 working days starting from received application deletion the. If a process for Paying off receivables is carried out through the installment mechanism, the elimination of Mortgage rights to the part of the object that has an interest have been recorded in the book of land and mortgage certificates. Itself roya mortgage has been deleted when an event has occurred mentioned on chapter 18 UUHT. Form from To do deletion notescarried out for administrative security and does not have a legal impactto mortgage which has conducted process deletion.

That with the issuance of Permen ATR/Head of BPN 5/2020 in order to improve mortgage services where the services provided by Office land must Fulfill principle openness, related with period time must there is accuracy time, speed and convenience with existencesystem HT-el. As well as possible also for affordable in skeleton service to public or Public. Rule this issued foradapt development era from side law, side technology, side community needs. Thus when there is technological sophisticationinformation, HT-el services, including HT-el deletion, are endeavored to integrated by electronic so with thereby will make Thing something or minimum deletion HT-el more effective and efficient.

Effective or whether or not implementation HT-el to front, wrong only one, depends on the ability of the Government to disseminate it for the community to use. Deletion of mortgage that is awarebeginning conducted by manual then changed for conducted by electronic. With promulgation Candy ATR/Head BPN 9/2019 then a revocation process is carried out which is able to give rise to a statement that has no apply and replaced by Candy ATR/Head BPN 5/2020, showing that the direction of the government's legal politics in the field of land law in the future will be encouraged to be implemented with the use of information technology, then Of course, it is expected to be able to fulfill the needs of the wider community as well asin accordance growth and grow the flower era.

## **RESEARCH METHODS**

The author in the study used quantitative methods with the type of empirical juridical research that has benchmarks against legal norms contained in the laws and regulations, and norms in the form of development and social life by using legal sourcesprimary and secondary. This research is also quantitative in nature, namely research that need to be supported by the existence of a population and sample, then it can be interpreted asstudy about research which have nature descriptive as well as trend using analysis, then regarding The foundation used must be strong and sturdy in line with proof real in field. Proof the start that is on identity or characteristics as well as the role of information data. In addition, the method on collecting data used is method library research that is study which using study sources from book literature or extensive internet networks. Method study field that is location study in Office land Regency Klaten.

## **RESEARCH RESULTS AND DISCUSSION**

### **Research result**

Based on the results of research in the field, that the registration system for Electronic Mortgage Rights (HT-el) is intended to improve service, timeliness, speed, convenience and affordability in the context of public services, as well as to adjust legal developments, technology and community needs. However, there are still some debtors who register for the abolition of Mortgage Rights themselves. It is known that the deletion or deletion of Mortgage

Rights only the creditor can access the HT-el account, and the Land Office itself can only print roya or deletion without being able to edit the data that has been inputted by the creditor. In this case, there is a discrepancy with PMATR/KBPN No. 5 of 2020 with what is happening in the field. So that the application of PMATR/KBPN No. 5 of 2020 at the Klaten Regency Land Office is still not in accordance with these rules.

## **Discussion**

Ministry of Agrarian and Spatial Planning / National Land Agency (BPN) has issued Mortgage (HT) services digitally or electronically. This is regulated in "Regulation of the Minister of Agrarian and Spatial Planning / Head of Agency" National Land Affairs Number 5 of 2020 concerning Mortgage Services Integrated By Electronic". The HT - el system described in "PMATR/KBPN No 5 of 2020" are various series of stages of mortgage service on activities activities in the form of maintaining and registering land carried out with an integrated electronic system. Various service models that refer to in this HT- el system includes Registration, Deletion and Maintenance of Rights Dependents, Change of Creditor's name, and Data correction. Electronic system is various Suite from device as well as operational procedures electronic which has the function to carry out the preparation, collection, processing, analysis, storage, delivery as well as To do deployment data information electronic. System Electronic Right Dependent which has tested the integration next interpreted Becomes System HT- el is system with electronic mechanism or service that is being developed for technical units that have assignments in the field of data and information for To do process Service HT -el .

Based on Article 18 paragraph (1) PMATR/KBPN No. 5 of 2020, that In the event that the receivables have been paid off, the creditor immediately registers the write-off of Rights Dependent and application submitted through system HT -el . Service the abolition of Mortgage Rights which is carried out electronically is regulated in Article 17 paragraph (3) and Article 18 of the Ministerial Regulation Agrarian and Spatial Planning / Head of the National Land Agency Number 5 of 2020 concerning Rights Services Electronic Dependency. In Article 18 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 5 of 2020 Regarding Service Right Dependent Electronically explain that:

- (1) In Thing accounts receivable has paid off, Creditors quick register deletion Mortgage right.
- (2) Application service deletion Right Dependent as meant on paragraph (1) submitted via System HT-el .

The Land Office stated that the mortgage certificate had been no apply again. If because because certain certificate the no returned to the Land Office, then it is recorded in the book of mortgage land. Based on the provisions of Article 122-124 of the Ministerial Regulation Agrarian and Spatial Planning/Head of the National Land Agency Number 3 Year 1997 Provision Implementation Regulation Government Number 24 Year 1997 About Registration Soil, that registration about delete it Right Dependent which caused by delete it debt which guaranteed conducted based on:

1. Delivery which put forward creditor that is accounts receivable which has the guarantee has been made on the mortgage payment has been made settlement, which is obtained from an authentic deed or in a statement letter under ladder. Proof payment which stored will Becomes sign strong which required individual with nature authority which have for To do reception proof related.
2. Quotes that focus on passing mortgage objects with include a statement that has been

submitted by the creditor, namely his party release the mortgage for the future amount capable exceed target from which set on letter statement under ladder.

The initial stages of registration are the abolition of mortgage rights caused by the release of the mortgage that his party (the creditor in Thing the with holder right dependents) let go part from rightliability in whole or in part of the object of the mortgage poured on an authentic deed or a letter under the hand. Proposal registration the application of the mortgage holder, the individual as providing right dependents or holder right interested with prepare attachment namely:

1. There is proof strong that is certificate right dependents which alreadyconducted gift description creditor that is right dependents deletion because the debt already in repayment.
2. Statement in the form of writing which put forward creditor that is right dependents already in deletion because accounts receivable which given guarantee on right dependents already in repayment orcreditor To do release right dependents which have linkages.

If the individual creditor is unable to carry out the willingness to gift statement like in on, so party which have interests are able to make submissions on the application process orders in cross out to Chairman Court Country in area the law namely in the form of a place of mortgage that has a relationship in the list. However, if proposal application order for cross out appear from disputes that are examined against other district courts, proposals it is necessary to submit a submission to the Head of the District Court who conduct an investigation of the case concerned. Application proposal deletion description right dependents in accordance order court country submitted to the Head of the Office of Defense through the preparation of a copy of the attachment in set or decision court country which have linkages special. Then on finally Head Office Defense carry out the form of deletion in accordance with predetermined provisions according to the laws and regulations with a timeframe of 7 working days. Registration which capable To do deletion roya capable interpretednamely in order to provide clarity of legal rules, namely certificates land rights have the characteristics that there is no encumbrance of rights dependents. Therefore the land owner is able to carry out the action law through the behavior and actions of legal products such as sales or purchase, rental, and others.

### **Implementation scribble Right Dependent Electronic (HT-el) in Office land Klaten Regency**

Implementation deletion Right Dependent Electronic which conducted The Klaten Regency Land Office has not complied with PMATR/KBPN No. 5 2022. Whereas in this regulation it is written in article 18 paragraph (1) that In the event that the receivables have been paid off, the creditor immediately registers the write-off of Rights dependents. In the process of deletion or deletion of Mortgage Rights can be conducted if accounts receivable has paid off so must submit Request letter information in full to creditors. But sometimes there are also creditors who automatically immediately provide a statement in full, if you have completed obligations and pay installments according to the provisions that have been set since beginning. This certificate of payment is very necessary as proof that it has been free from debt or obligations. One of the reasons for having to ask for a letter repayment of debt from the creditor is proof that it is free from debt. Based on results research in field, that still there is a number of debtor which To do registration deletion Right Dependent alone. It is known that the deletion



or deletion of Mortgage Rights is only the party creditors who can access HT -el accounts , and for the Land Office itself can only print roya or deletion without being able to edit the data has been entered by the creditor. In this case that a discrepancy occurs with PMATR/KBPN No 5 Year 2020 with what which occur in field. So that application PMATR/KBPN No 5 Year 2020 in Office landRegency Klaten still not appropriate with rule.

### **The Validity of Removing the Electronic Mortgage Right (HT-el) Carried out by the Debtor to PMATR/KBPN No 5 of 2020**

Deletion of mortgage is regulated in Article 22 UUHT. Basically manual deletion of mortgage can be done by the debtor himself, as regulated in Article 22 UUHT. Thus, deletion Right Dependent is something activity which conducted by giver Right Dependent (debtor) after the Mortgage given by him is removed, according to the provisions of Article 18 of the Mortgage Law. For scraping purposes Right dependents, giver Right Dependent allowed for use all means law which allowed (including application order deletion to Chairman Court Country), and therefore also use all tool proof which allowed which prove that the encumbrance has been abolished. When the mortgage is deleted, the Land Office shall delete (roya) the rights record dependents on book soil right on soil and the certificate. On book soilthe mortgage in question is affixed with a note regarding the abolition of the right the, currently the certificate removed. Recording similar which called deletion is also carried out on the land book and land rights certificates beginning pledged as collateral.

The procedure in the implementation of the roya described in Article 22 paragraph (4) UUHT concerning mortgage rights are as follows: "Application for deletion" as meant on paragraph (1) conducted submission from party which have linkages special in prepare attachment certificate right dependents for which information has been provided to creditors, namely the rights of dependents are written off because the debt is guaranteed payment for pay off with right dependents that has conducted settlement, or delivery submitted in writing by the creditor namely the mortgage has been written off due to outstanding receivables a guarantee of payment is made with the mortgage already done settlement or due to creditors to be able to release rights related responsibilities". Looking from the side of the mortgage is right material, that is in the form of the right able to do demands by holder from a third party who in the future will control or own the object of the mortgage from the beginning, therefore the abolition of the mortgageit is necessary to remove it from the record process in the land book of land rights which become the target of rights dependents.

Rule which loaded on Chapter 22 paragraph (1) UUHT set : Next is the mortgage on the abolition stated in the description which explained on Chapter 18, office defense To do deletion information on the right of response in the land book of land rights and its certificate. Next in the description of Article 22 UUHT it is stated: Mortgage rights have been deletion is carried out due to the events described in Article 18. The stage of deleting information or roya is carried out to bring order administration and has no legal impact on mortgage rights related to deletion. From the provisions in Article 22 paragraph (1) UUHT, described that is deep process cross out mortgage on book tanah as well as certificate right on the land is deed or behavior administratively valid and does not have an impact on the encumbrance have a relationship that has been deleted in the appropriate event which has put forward on Chapter 18 UUHT. If right dependents because a Thing moment already get deletion, incident the abolition of the mortgage burden must be recorded in the land book as well as certificate rights to soil that have interest special.

Service deletion Right Dependent which conducted by electronics is regulated in Article 17 paragraph (3) and Article 18 of the Regulation of the Minister of Agrarian Affairs

and System Room/Head Body land National Number 5 Year 2020 About Service Right Dependent By Electronic. In Chapter 18 Regulation of the Minister of Agrarian Affairs and Spatial Planning /Head of the National Land Agency Number 5 of 2020 concerning Electronic Mortgage Services explain that:

- (1) Submitted through the HT -el System.
- (2) In the event that the receivables have been paid off, the creditor immediately registers the write-off Right dependents.
- (3) Application service deletion Right Dependent as meant on paragraph

The Land Office stated that the mortgage certificate had been no apply again. If because because certain certificate the no returned to the Land Office, then it is recorded in the book of mortgage land. Based on the provisions of Article 122-124 of the Ministerial Regulation Agrarian and Spatial Planning / Head of the National Land Agency Number 3 Year 1997 Provision Implementation Regulation Government Number 24 Year 1997 About Registration Soil, that stages for doing registration regarding the process of eliminating Mortgage resulting from the loss of debt guaranteed implemented, namely in accordance:

1. Statement which put forward creditor that is utan which has conducted guarantee to right dependents has conducted payment paid off, which then poured on deed authentic or to letter statement under ladder.
2. There is evidence after making payments or paying off debts needed for individuals who have the authority to accept repayment the.
3. The quote that gave rise to the minutes of the auction of the mortgage object at the same time as the submission made by the creditor, namely their party To do release right dependent on amount that already above average in exceed acquisition auction which raised on letter statement under hand.

In accordance acquisition which achieved from study which conducted that is regarding the process or stages in the deletion of Mortgage carried out by electronic or HT- el on Office land start on a the applicant is asked to do the deletion that should have been submitted from the creditor on the part of the debt has been paid off. Steps in crossing out which is carried out according to the request of the relevant parties is carried out through the process of in preparing the attachment of the Mortgage certificate that has been done gift description which be delivered creditor that is has paid off, or a statement in the form of writing designed by the creditor, namely the Mortgage conducted deletion because debt which conducted guarantee full payment with the Mortgage is already in full, or with say other because creditor To do release Right Dependent which related. Then conducted gift stamp as well as characteristic in the form of sign hand creditor, by therefore letter application roya will conducted submission to Office land Klaten Regency. However in the event that occurred at the Klaten Regency Land Office, the applicant who to write off is the debtor. This is not in accordance with article 18 in PMATR/KBPN No. 5 of 2020. Article 23 has stated that: Officials who deviate from the fulfillment of the provisions are able to worn penalty administrative with condition as well as provision which has set.

Article 22 of the Mortgage Law after the mortgage is abolished, The Land Office shall cross out notes or information on rights dependents in book soil right on soil as well as the certificate. Then the certificate of mortgage in question is withdrawn and with together book soil right dependents conducted statement already no enforced by the Office of Defense. If the certificate has an incident that no capable returned on Office, so need conducted recording to the mortgage book. Process or stages of deletion of Rights Dependent held according to procedure from the Defense Office based on:

1. There is proposal application which conducted submission from party which have interest special through effort in attach:
  - a. Certificate of mortgage that has been given information from the creditor, namely the mortgage is deleted because: debt which conducted guarantee payment completely with right dependents it has been paid off, or
  - b. Delivery which put forward through writing creditor that is right dependents have been written off due to receivables that have been the payment guarantee is made on the mortgage in repayment, or
  - c. Submission in writing by the creditor, namely that he has released right dependents that have linkages;
2. Order of the District Court contained in the jurisdiction character about the place right dependents which have linkages registered with prepare attachment copy decision Court Country which have relationship with perform the command on the process of crossing out mortgage rights, supported by creditors who are unable to carry out gift statement as which has outlined, or Application proposal order for cross out raised on dispute which currently conducted inspection from Court Other countries.

So from that Head Defense strive for cross outstatement of Mortgage records according to the management that has been determined according to laws and regulations with a time span of 7 (seven) working days with counting beginning from first conducted reception proposal application deletion Right Dependent related. In book soil right Dependents who have special interests can be affixed on description about deletion right, then certificate conducted negation. Similar recording is carried out in the land book and certificate of soil early one at first be guaranteed.

Legal aspects that arise in the abolition of Mortgage The part of the land certificate is that there is a process of eliminating Mortgage Rights on certificate her hand, by therefore capable is known by general as well as Public capable knowing about soil which already reviewed for released and returned to the initial conditions. After doing the electronic abolition of the Mortgage Rights, the land certificate has the value of legal validity and is free from debt obligations. Then roya is carried out for security and administrative order and does not have impact law on Right Dependent which has conducted deletion, as well as if certificate right part soil no quick conducted deletion, the certificate of land rights is still with the name of the holder Mortgage in this case is the creditor. Because of that part still with the name of the creditor, then the owner of the certificate of land rights no capable doing action or behavior law, with handicaps before entitlement certificate above ground conducted deletion.

## **CONCLUSIONS**

On stages deletion Right Dependent which conducted by electronically, the Klaten Regency Land Office only assists the implementation deletion that has been submitted by the applicant and print the file that has been done online. The Klaten Regency Land Office does not make changes to existing data and cannot edit existing data. But reality which there is in Regency klaten, that deletion Right. Dependent by electronic which should conducted by party creditor but there is still something done by the debtor. It does not match what which set in PMATR/KBPN No 5 Year 2020.

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