

Responsibilities of Land Deed Officers (PPAT) For Selling Buying Deed

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Abstract

Sale and purchase are an agreement in which one party binds himself to surrender ownership of an item and the other party pays the promised price. The official who has the authority to make and ratify an authentic deed of a right to be transferred is a notary. If an agreement does not meet the subjective requirements, then the agreement can be canceled. Meanwhile, if an agreement does not meet the objective requirements, then the agreement is null and void. The type of research in this article is normative juridical research where in this study the author only takes secondary data, namely library materials obtained by the author including official documents, library books, laws and regulations, scientific works, articles, and documents. -documents related to research material. Secondary data collection through library research is done by studying and collecting data related to the author's research. The Land Deed Making Official (PPAT) is responsible for the validity of the registration requirements for the transfer of land rights. The Land Deed Making Officer (PPAT) is also responsible to the parties for making a land deed and managing it effectively until it is completed. If there is a dispute in the Court, it is expected that the testimony of the parties, the Land Deed Official (PPAT) is only asked to be responsible for providing evidence in the form of a letter that has been made by the PPAT.

Keywords

Responsibility; PPAT; deed of sale



I. Introduction

Humans are social creatures who need each other. Where there are many things that can be done in interacting. Relationships within individuals can give birth to many things, one of which is buying and selling activities. In society there are various kinds of things that can be traded, one of which is buying and selling land. Human Resources (HR) is the most important component in a company or organization to run the business it does. Organization must have a goal to be achieved by the organizational members (Niati et al., 2021). Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired (Shah et al, 2020). The development of human resources is a process of changing the human resources who belong to an organization, from one situation to another, which is better to prepare a future responsibility in achieving organizational goals (Werdhiastutie et al, 2020).

The sale and purchase are an agreement in which one party binds himself to give up ownership rights to an item and the other party pays the promised price.

Article 1457 BW states that a sale and purchase agreement is an agreement in which one party binds himself to surrender the object, while the other party binds himself to submit an agreed price.

The sale and purchase of land rights must be carried out before the Land Deed Maker Official (PPAT). This is done as evidence that there has been a sale and purchase of land rights in accordance with applicable legal terms and conditions. The deed of sale and purchase is signed by the parties proving that there has been a transfer of rights from the seller to the buyer at a price that has met the cash requirements and clearly shows that the relevant legal action has been carried out. The legal action taken is a transfer of rights, then the deed shows that the buyer is the new right holder.

In the buying and selling process there are regulations that aim to avoid things that can harm one party. The sale and purchase of land in practice is often made in the form of an authentic deed made before a Notary or Land Deed Making Officer so that the sale and purchase deed made is an authentic deed that has legal force. This is intended by the parties to provide more protection and legal certainty for the parties who make it.

In general, buying and selling is done orally and in writing. Buying and selling that is carried out orally is usually because the parties consider the sale and purchase to be completed or complete and does not need to be used as a kind of evidence. While the sale and purchase are carried out in writing by the parties with the aim of being used as evidence, whether there is a dispute or not. Buying and selling is done in writing, some is done under the hands, but some is done notarized, depending on how far the value and importance of the sale and purchase is for the perpetrators.

With the help of a notary, the parties conducting the sale and purchase will receive assistance in formulating the matters to be agreed upon. There are so many problems regarding buying and selling that end up in court because there is no agreement or agreement between the two parties. One of them is the act of fraud that currently often occurs in society in the buying and selling process.

The official who has the authority to make and ratify an authentic deed of a right to be transferred is a notary. However, it is possible that the deed made by a notary can be canceled or nullified by law, if the deed contains juridical and material defects. This shows that the deed is a perfect piece of evidence, but the truth can still be refuted as long as it can be proven otherwise.

In the Law on the Position of a Notary, there are several Authentic Deed qualifications that can be declared legally flawed so that a Notary can be subject to sanctions for reimbursement of costs, compensation and interest contained in articles including Article 44, Article 48, Article 49, Article 50 and Article 51. Based on these articles, an authentic deed is considered legally flawed if the deed violates the provisions contained in the articles mentioned above. So that the aggrieved parties can demand reimbursement of costs, compensation, and interest to the Notary concerned. Read the Deed before the appearer in the presence of at least 2 (two) witnesses and signed at the same time by the appearer, the witness, and also the Notary.

If an agreement does not fulfill the legal requirements of the agreement, then all forms of activity that occur as a result will also be invalid according to law. The development of the law must follow the development of the times so that there is no legal vacuum.

In accordance with the provisions of Article 1265 of the Civil Code, the void condition is a condition which, if fulfilled, will terminate the engagement and bring everything to its original state as if there was no agreement. The thing that must be considered as a condition for canceling an agreement is the existence of a default, where a default is always considered a condition for cancellation in an agreement so that the party who feels aggrieved because the other party is in default can demand the cancellation of the agreement. The claimant for the cancellation of the agreement must be made through a

judge's decision in accordance with the provisions of Article 1266 of the Civil Code. According to Subekti, the cancellation of the agreement can be done in two ways, namely in an active way, namely directly by demanding the cancellation in front of a judge or by means of defense, namely waiting to be sued before a judge to fulfill the agreement and then submitting reasons for the lack of the agreement. The term of the claim for cancellation of the agreement is five years. In addition, an agreement that can be canceled must be reciprocal, namely an agreement that gives rights and obligations to both parties. The above conditions are conditions that must be met for an agreement that can be canceled while an agreement is null and void, then the agreement is invalid and the agreement is considered to have never existed.

II. Research Method

2.1 Type of Research

Type of research in this article is a normative juridical type of research. This type of normative juridical research is usually referred to as doctrinal legal research or library research. Where is doctrinal legal research because this research is only aimed at written regulations so that this research is very closely related to the library because it will require secondary data in the library.

2.2 Data Sources The data

The data used in this study were taken from secondary data, namely library materials obtained by the author including official documents, library books, laws and regulations, scientific works, articles, and documents related to research material. The type of data used in this study is secondary data, namely data taken from various sources of research literature in the form of journals and library materials that have binding legal force.

2.3 Data Collection Techniques

In this legal research, the data collection technique used is secondary data. Secondary data collection through library research is done by studying and collecting data related to the author's research. These data were obtained from literature books, laws and regulations, internet browsing and other documents.

III. Result and Discussion

3.1 Constraints and Efforts That Are Made by The Official of The Land Deed (Ppat) In Making the Selling and Purchase Deed

To make the PPAT Deed, the parties must meet the formal requirements, namely the identity and data of the parties, the object of the sale and purchase, proof of the condition of the land, namely payment of taxes, whether the land has ownership or not. mortgage rights or not, and also the land is also not in dispute. In this case, the parties who have problems with the data submitted to the PPAT are incomplete.

With the new rules, the certificate is broken, namely the purchase of land is only half of the plot of land. In the making of the Deed of Sale and Purchase of Land and the transaction, there are obstacles, namely because there is no Invitation Regulation that clearly regulates the transaction of broken certificates. To overcome these obstacles, in the sale and purchase of land in the certificate breaking rules, a sale and purchase agreement is made according to the contract date and number on the agreement letter. This is to overcome if within 5 months (when taking care of the land certificate/deed of sale and

purchase of land) the seller dies or experiences something and cannot make the transfer of land rights, the agreement can be used as strong evidence.

In breaking the certificate, the effort to overcome the problem is by making a deed of the land sale and purchase agreement as well as giving a number to the agreement to prove in court if a dispute occurs in the future and to provide security for the buyer in terms of the transfer of land sale and purchase rights.

In an agreement there are a number of conditions so that the agreement is considered legally valid. The legal requirements of an agreement are regulated in Article 1320 of the Civil Code. These conditions include:

1) Agree with those who bind themselves

The agreement between those who bind themselves means that they agree on a sale and purchase binding agreement in which the parties agree with the contents of the agreement. If the legal subject is not free to enter into an agreement due to an element of coercion (dwang), an element of error (dwaling), or an element of fraud, except for coercion that is justified by the applicable laws and regulations, the agreement can be demanded to be cancelled. Coercion is a condition in which a person makes an agreement (states his agreement) because the situation is under threat that is unlawful. Threats that are unlawful include: The threat itself is already an unlawful act (murder, torture), the threat is not a violation of the law, but the threat is intended to achieve something that cannot be the right of the perpetrator.

2) Ability to Make an Engagement

The term competent referred to in this case means the authority of the parties to make an agreement. The Civil Code stipulates that every person is declared capable of making an agreement, unless according to the law it is declared incompetent. According to article 1330 of the Civil Code, people who are declared incompetent are those who:

- Not yet mature, meaning those who are not yet 21 (twenty one) years old or not yet married. For example, a 9 year old child cannot make an agreement for himself.
- Being under guardianship, namely someone who is considered to be under guardianship when he is an adult, but because his mental state or mind is considered less than perfect, he is equated with an immature person. Based on Article 433 of the Civil Code, a person is considered to be under custody if that person is mentally ill, and has low thinking power.

In Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary, Article 39 Paragraph (2) states that "The appearer must be known by the Notary or introduced to him by 2 (two) witnesses who are the lowest age 18 years (eighteen) years old or married and capable of carrying out legal actions or introduced by 2 (two) other appearers."

3) A Certain Matter

A certain matter means that the object of the agreement is clear and clear, which can be determined both in type and amount. According to Article 1457 of the Civil Code, buying and selling is an agreement, where the seller binds himself to deliver an object, and the buyer pays the agreed price. In the Civil Code it is also stated that the object of the agreement must be certain, or at least the form and amount can be determined at the time the ownership rights to the goods will be handed over to the buyer. Meanwhile, the Civil Code also states that there are 3 (three) kinds of goods, namely movable goods (Article 509 of the Civil Code), immovable goods (fixed goods) (Article 506 of the Civil Code), and intangible goods such as receivables or shares.

4) A Halal

Cause This lawful cause is also regulated in Article 1336 of the Civil Code. According to Article 1336 of the Civil Code, a cause that is not stated or different from what is stated is still a lawful cause. A lawful cause means that the object of the agreement is not a forbidden object, but something that is legal and permissible. A cause that is not lawful includes acts that violate the law, are contrary to morality and violate public order. For example, a drug sale and purchase agreement or human trafficking. Article 1335 of the Civil Code states that "An agreement without a cause, or which has been made for a false or forbidden cause, has no power.

As a claim from the rights registration system in accordance with the Basic Agrarian Law that the land book for recording the registration of transferred rights is based on the PPAT deed, it can be seen from Article 41 of the Notary Position Law that the violation of the provisions as referred to in Article 38, Article 39, and Article 40 resulted in the deed only having the power of proof as an underhand deed.

3.2 The Responsibility of Land Deed Officials (PPAT) on Disputes in the Making of Selling-Buying Deeds

In Government Regulation No. 37 of 1988, several aspects of the legal actions are emphasized, the clarity of which is PPAT's responsibility, namely:

- a) Regarding the truth of the events contained in the deed buying and selling, for example regarding the legal action intended by the parties regarding the payment made in the sale and purchase;
- b) Regarding the object of legal action, in the form of physical data and juridical data;
- c) Regarding the identity of the appearers who are the parties who have carried out the process of buying and selling land.

The responsibilities of the Land Deed Making Official (PPAT) to the parties

- a) Making a deed that can be used as evidence or a solid basis for the implementation of the registration of the transfer of land rights;
- b) The Land Deed Making Official (PPAT) is responsible for the fulfillment of the skills and authority of the appearers in the deed of sale and purchase and the validity of their rights actions according to the data, as well as information that has been submitted by the Land Deed Making Official (PPAT) to the parties who are known and introduced.
- c) The Land Deed Making Officer (PPAT) must immediately submit to the National Land Agency the deed that has been made and issued and other documents needed in the issuance of another deed to be registered in the land book and included in the certificate of title to the land concerned;
- d) The Land Deed Making Official (PPAT) is obliged to make a list of deeds that have been made and issued which according to the form has been determined by the applicable regulations;
- e) The Land Deed Making Official (PPAT) is obliged to carry out the rules regarding the instructions for the deed of sale and purchase of land that has been given by the National Land Agency;
- f) The Land Deed Making Official (PPAT) is responsible for the documents used as the basis for taking legal actions whose strength and evidence has guarantees and certainty to be followed up in an authentic deed in accordance with applicable regulations;
- g) The Land Deed Making Official (PPAT) is responsible for the validity of legal actions in accordance with the data from the parties' information and guarantees the authenticity of the deed and is responsible for the actions according to procedures;
- h) The Land Deed Making Official (PPAT) remains responsible for the deed he has made in the event of a dispute or there are other parties who feel that they have been harmed

by the deed he made, therefore the making of the deed must be in accordance with the laws and regulations;

- i) If there are parties who feel that they have been harmed by the deed made by PPAT, then PPAT must provide an answer accompanied by evidence showing the truth of the deed.

In accordance with the provisions of Article 3 letter e of the PPAT Code of Ethics that one of the obligations of the Land Deed Maker Official (PPAT), namely working with a full sense of responsibility, independence, honesty and impartiality. In making the Deed of Sale and Purchase of Land (AJB) which is not in accordance with the actual transaction price, it has violated the Regulations of the Position of the Land Deed Maker Official (PPAT) and the PPAT Code of Ethics because of the untruth that has been written in the deed.

If the subjective conditions are not met, one of the parties has the right to request that the agreement be cancelled. The party entitled to request cancellation is the party who is not capable of entering into the agreement. So the agreement that has been made but binds the parties as long as it has not been canceled by the judge at the request of the party entitled to request the cancellation. However, if the objective conditions are not met, then the agreement is null and void or null and void by itself, which means that from the start there has never been an agreement.

The Land Deed Making Official (PPAT) is responsible for the validity of the registration requirements for the transfer of land rights. The Land Deed Making Officer (PPAT) is also responsible to the parties for making a land deed and managing it effectively until it is completed. If an error occurs, caused by the parties, the Land Deed Making Official (PPAT) is only held accountable as a witness.

A Land Deed Making Official (PPAT) even though he has the right to deny but is still obliged to provide information to the Panel of Judges, if an investigator wants to conduct a case examination, the Public Prosecutor with the approval of the Head of the Agency.

Land Deed Making Officials (PPAT) in carrying out their duties are obliged to comply with the applicable laws and regulations, in accordance with the provisions referred to in Article 38, Article 39 and Article 40 of Government Regulation Number 24 of 1997, as well as the provisions of an instruction given by the Minister or official designated. If it violates the provisions of the article above, administrative action can be taken in the form of a written warning and compensation is demanded by the parties who suffer losses due to the neglect of the provisions of Article 62 of Government Regulation Number 24 of 1997.

IV. Conclusion

To make the PPAT Deed, the parties must meet the formal requirements, namely identity and data on parties, objects of sale and purchase, proof of the state of the land, namely payment of taxes, on whether the land has mortgage rights or not, and also that the land is not in dispute. In this case, the parties who have problems with the data submitted to the PPAT are incomplete. In buying land, only half of it is necessary to have a sale and purchase agreement according to the date of the contract and the number on the agreement letter. The sale and purchase agreement is made as evidence in court in the event of a dispute in the future and provides security for the buyer in terms of the transfer of land sale and purchase rights.

In making a deed of sale and purchase on a land parcel transaction (purchase in its entirety) there are no significant obstacles found in the Land Deed Making Official (PPAT) as long as the formal requirements have been met. The deed made by the Land Deed Making Officer (PPAT) is one of the data sources for the transfer of land registration data at the National Land Agency (BPN). Therefore, the Land Deed Making Officer (PPAT) is responsible for the validity of the registration requirements for the transfer of land rights. In every land sale and purchase dispute, it is very likely that a Land Deed Making Official (PPAT) is called to be a witness at the trial. The Land Deed Making Official (PPAT) is not responsible for data falsified by the seller or buyer. However, if the Land Deed Making Official (PPAT) finds out that the parties submitted false data, the Land Deed Making Official (PPAT) may be subject to criminal sanctions, administrative sanctions, and even demands for compensation by parties who feel civilly harmed. legal consequences of falsified data. The legal consequences of false data submitted to the Land Deed Making Officer (PPAT) can be canceled. A land certificate issued based on an invalid sale and purchase deed, then of course the sale and purchase is also invalid so it is canceled. The responsibility of the Land Deed Making Official (PPAT) is to provide evidence in the form of a letter that has been made by the PPAT, if there is a dispute in the Court, it is expected that the testimony of the parties and it is not PPAT's fault in making the deed, the Land Deed Making Officer (PPAT) is only asked to responsibility as a witness only. Because in making the Deed of Sale and Purchase of Land, the Land Deed Making Officer (PPAT) only obtains data from the parties. So that if an error occurs, caused by the parties, the Land Deed Making Official (PPAT) is only held accountable as a witness.

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