

RESPONSIBILITIES OF LAND ASSET OFFICERS AGAINST THE CANCELLATION OF SALE AND PURCHASES BASED ON THE COURT'S DECISION (Case Study Case Number: 45/Pdt.G/2016/PN. Bdg and Case Number: 171/PDT.G/2013/PN.TDO)

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Abstract: *The Land Deed Authorization Officer (PPAT) is a public official who is given the authority to make authentic deeds regarding certain legal actions regarding land rights or the Right to Apartment Units, based on the prevailing laws and regulations PPAT in practice there is often a sale and purchase deed. which is not in accordance with the applicable legal corridors which can pose a risk to the security of land rights.*

Key Words: *responsibility, cancellation, sale and purchase deed.*

1. INTRODUCTION:

Deed is a writing that is deliberately made to be used as evidence if there is an event and is signed.[1] Authentic deeds are the strongest and most complete evidence and have an important role in legal relations in social life in general, legal relations can be in various fields, namely business, banking, social and others.

In order to achieve these legal principles, a General Officer is needed who can make products in the form of an authentic deed. The state has determined that the public official authorized to make a deed related to land is the Land Deed Making Officer (PPAT). PPAT is a public official who is appointed and appointed by the government in carrying out his legal profession, namely carrying out his position as a public official in charge of making authentic deeds as written evidence in order to realize legal certainty and protection for the community, both in individual legal relationships and legal subjects in the land sector. regarding the transfer of land rights or property rights to apartment units.

One of the powers granted to PPAT is to make a Deed of Sale and Purchase (AJB), which is a document that proves the transfer of land rights from the owner as the seller to the buyer as the new owner. The legal consequence that occurs when the sale and purchase deed is signed is that since then the land rights belong to the buyer and the money paid by the buyer belongs to the seller.

2. THEORITICAL FRAMEWORK:

- Theory of Legal Certainty
According to Kelsen, law is a system of norms. Norms are statements that emphasize aspects of "should" or *das sollen*, by including some rules about what must be done.
- Theory of Responsibility
The concept of legal responsibility is closely related to the concept of rights and obligations. The general opinion says that the rights of one person are always correlated with the obligations of others.
- Theory of Authority
According to Phillipus M. Hadjon, if you look closely, there is a slight difference between the term authority and the term "*bevoegheid*". The difference lies in the legal character.

3. LITERATURE REVIEW:

Salim HS concluded that PPAT is "a person who is appointed and given the power by law to make a deed, which in the deed he made contains clauses or rules governing the legal relationship between the parties, relating to land rights and/or rights. property of the apartment unit".[2]

So, according to the deed of sale and purchase, it is: "The deed made by the parties in advance and/or before the PPAT, which contains the rights and obligations of the parties, where the seller surrenders the land rights and/or property rights to the apartment unit and receives the money, while the buyer is obliged to submit money and has the right to receive land rights and/or property rights to the apartment unit.

The official authorized to make a deed of sale and purchase of land rights, namely the Land Deed Making Officer (PPAT). In addition, officials authorized to make deed of sale and purchase of land rights, namely PPAT Substitute, PPAT Temporary and PPAT Special.

4. METHOD:

The method used in this study is a juridical-normative approach, namely legal writing by looking at relevant legal norms and theories based on the existing literature.

5. DISCUSSION:

The method used by dPPAT has the duty and authority to carry out part of the activities of registering land rights with the task of making an authentic deed as evidence that certain legal actions have been taken regarding land rights and property rights to flat units which are used as the basis for registering changes in land leveling data caused by the legal act in the working area determined by the government (*absolute competence*) namely the regency/city, one area with the working area of the Land Office.

The deed of sale and purchase of land, including ownership rights or apartment units, is made by PPAT when there is an agreement on a sale and purchase agreement on a plot of rights to the apartment unit between the seller and the buyer.[1]

The legal consequence that occurs when the sale and purchase deed is signed is that since then the land rights belong to the buyer and the money paid by the buyer belongs to the seller. The exchange of ownership between the seller and the buyer mentioned above occurs at the same time as the deed of sale and purchase is signed.

Normatively, if there is no legal defect in the sale and purchase of the land, the buyer can obtain the desired land rights and the ownership of the land rights is recorded at the land office. And if the parties who do not meet the subject and objective requirements of land rights or property rights to the apartment unit and do not meet the requirements, namely the authority to transfer the rights that are the object of sale and purchase in the sale and purchase deed, there will be a legal defect in the sale and purchase deed. Considering that the deed made before the PPAT is the deed of the parties who come before PPAT, the legal relationship between PPAT and the parties is not a legal relationship that occurs because of something that was agreed upon, as is usually done by the parties in making an agreement.

6. ANALYSIS:

To be able to resolve conflicts, it is often necessary to intervene by the authority of a special institution that provides an objective resolution, the resolution of which is of course based on objectively applicable guidelines. This function is usually carried out by an institution called the judiciary, which is authorized to examine, assess and make decisions on conflicts. This authority is known as judicial power which in practice is carried out by judges.

Philipus M Hadjon quoting the opinion of NM Spelt and Ten Berge, divides free authority into two categories, namely freedom of wisdom (*beleidsvrijheid*) and freedom of judgment (*beoordelingsvrijheid*) which further concludes that there are two types of free power, namely: first, the authority to decide independently; second, the authority to interpret the disguised norms (*verge norm*). [3]

Judges in resolving conflicts faced by them must be able to resolve them objectively based on applicable law, so in the decision-making process, judges must be independent and free from the influence of any party, including from the executive. In making decisions, judges are only bound by relevant facts and legal rules that become or are the legal basis for their decisions. However, the determination of the facts which include relevant facts and the choice of which rule of law will be used as the basis for resolving the case at hand is decided by the judge concerned himself.

7. CONCLUSION:

- PPAT's responsibility for the sale and purchase deed is a binding effort so that an engagement has definite legal force, but with the cancellation of the sale and purchase deed by the Court, the authenticity of the engagement will be lost. Regarding PPAT's responsibility for the canceled deed, it is subject to the principle of legal certainty from a court decision while still taking into account the limitations and authorities in their position. PPAT's responsibility for the cancellation of the sale and purchase deed he made in the two decisions that the author examined was administratively, namely a written warning to dismissal from his position as PPAT.

- The basis for the judge's considerations in several Court Decisions that the author examined was related to the legal aspect of the agreement that the sale and purchase deed did not meet the legal requirements in the agreement and regulations related to national land law so that the deed was considered null and void.
- The legal consequence of the cancellation of the sale and purchase deed issued by PPAT is based on the District Court's Decision, that the sale and purchase deed is declared by the Panel of Judges to be null and void, and the agreement is deemed to have never existed before. The placement of PPAT as one of the parties in a land dispute is an effort made by the Plaintiff to provide legal clarity on a legal event in the legal examination process by the court to avoid a lawsuit that is not clear and clear (*obscur libel*) in its legal relationship so that with a decision in which one of the parties is PPAT, all deeds made before him obtain legal certainty.

8. SUGGESTIONS :

The suggestions given by researchers are as follows:

- PPAT is expected to always carry out his duties as Land Deed Making Officer based on the applicable laws and regulations and have a strong moral personality to support the truth and legal certainty, in order to minimize or reduce problems that will arise in the future related to the PPAT position itself or the deed that issued.
- PPAT is obliged to maintain the Code of Ethics and behavior in carrying out his duties as a public official who is authorized by government regulations so as not to abuse the authority of his position.

REFERENCES:

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3. Mustofa, *Tuntunan Pembuatan Akta-Akta Tanah*, 2010, Karya Media, Yogyakarta, hlm. 25, page 47.