

JURIDICAL ANALYSIS OF LAND RIGHTS TRANSFER THROUGH A GRANT DEED MADE BY THE PPAT WITHOUT ATTENDED BY ANY OF THE PARTIES: CASE STUDY CASE NUMBER: 34/G/2020/PTUN.PBR

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Abstract: As a land certificate maker official, hereinafter referred to as PPAT, is a public official who is given the authority to make an authentic deed regarding certain legal actions regarding land rights or property rights over flat units. PPAT deed is a deed made by PPAT as evidence that certain legal actions have been carried out regarding land rights or property rights of apartment units. In practice, there are still PPATs who commit negligence and inaccuracies both administratively and by applicable law, resulting in losses. Such as a violation in the process of making a deed that is not in accordance with applicable regulations, namely not reading and explaining the contents of the deed to the parties. One of them in this case is the making of a grant deed by PPAT in which the grantor is not directly involved, as the author will discuss in this study.

Key Words: Grant Deed, PPAT, Transfer of Land Rights.

1. INTRODUCTION:

Agreements can be attached to movable or immovable objects. objects are divided into three groups, namely immovable objects because of: their nature (*aard*), their purpose (*bestemming*), and the appointment of laws (*wetsaanduiding*). Objects do not move because their nature is land.[1] Agreements can be attached not to the land, but to actions carried out on the land, such as the transfer of land rights.

Land rights are rights that give authority to the right holders to use and/or take advantage of the land that is claimed.[2] The word "use" implies that land rights are for building (non-agricultural) purposes, while the word "take advantage" implies that land rights are for non-building purposes, for example for agriculture, animal husbandry and plantations.

2. THEORITICAL FRAMEWORK:

a. Agreement Theory

The terms of the validity of an agreement play an important role in the process of forming an agreement. We can easily recognize the occurrence of an agreement if there is a match between offers and reception.

[3]

b. Legal Certainty Theory

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law is enforced, that those entitled by law can obtain their rights and that decisions can be enforced.[4]

c. Legal Protection Theory

According to Satjito Rahardjo legal protection is an effort to protect someone's interests by allocating a human right to him to act in the context of his interests.[5]

3. LITERATURE REVIEW:

According to Subekti, an agreement is an event where a person promises to another person, or where two people promise each other to do something.”[6]

A loan-use agreement is a unilateral or unilateral agreement, that is, it is aimed only at the achievements of one party. Its one-sided nature is expressed by the formula “to be used free of charge. If the agreement is not free, but with payment, then the agreement is called a lease.[7]

4. METHOD:

The method used in this study is a normative juridical approach, which is an approach focused on studying and researching legal material by referring to legal norms contained in laws and regulations, court decisions and legal norms that exist in society.[8]

5. DISCUSSION:

Based on the Bandung High Court Decision Number: 214/PDT/2020/PT BDG, dated May 13 2020, annulled and rejected the decisions of the court of first instance at number 3 and 4. As for case number 3, which was canceled and rejected by the panel of judges at the appeal level, namely , declared null and void all letters or documents, as well as all agreements that designate the object of the dispute. Thus, at this appeal level decision, letters or documents, as well as agreements relating to the disputed object, are again valid.

Furthermore, on June 16 2020, the plaintiffs filed a petition for cassation, which in the main case again requested to grant the plaintiff's claim. In addition, the cassation applicants asked the panel of judges to annul the Bandung High Court Decision Number: 214/PDT/2020/PT BDG and uphold the Cibinong District Court Decision Number: 303/Pdt.G/2019/PN Cbi. Until the issuance of the Supreme Court Decision Number: 1378K/Pdt/2021, dated June 24, 2021 which canceled the Bandung High Court Decision Number: 214/PDT/2020/PT BDG.

6. ANALYSIS:

A. The legal provisions of the land lease agreement and the granting

Of usufructuary rights over land agreements can be attached not to the land, but to actions committed on the land, such as the transfer of land rights. Agreements regarding land are included in land law in a state of movement, because in agreements regarding land, human rights to land move, that is, they are transferred from one person to another. An agreement on land is a legal act that aims to obtain land rights, or to transfer land rights.[9] The agreement on the land meant that it was not the land that was the object of the agreement, but the land as a place or something involved in the agreement.

B. Legal Provisions for Cancellation of Underhand Agreements Through a Judge's Decision

Cancellation of the agreement can be done by filing a lawsuit to the court, so that the court will issue a constitutive decision to cancel the agreement. Cancellation of the agreement submitted by one of the parties, the court can decide based on the evidence presented.

C. Judge's Consideration of Cancellation of Underhand Borrowing Agreement Regarding Land Use Rights in Supreme Court Decision Number 1378k/Pdt/2021

At the cassation level court, the Supreme Court was of the opinion that there were sufficient reasons to grant the cassation request from the Cassation Petitioners H. MAMUN and Hj. MAMAH and canceled the Decision of the Bandung High Court Number 214/PDT/2020/PT BDG, dated 13 May 2020 which annulled the decision of the Cibinong District Court Number 303/Pdt.G/2019/PN Cbi, dated 24 February 2020.

7. CONCLUSION:

From the discussion as explained earlier, several conclusions can be drawn, including:

- 1) The provisions of Article 1742 of the Civil Code explain that the object of a loan is anything that is not destroyed due to use.
- 2) For evidence in the form of private writings, if one of the parties or the heirs of one of the parties denies or does not acknowledge the writing, the judge must order that the truth of the writing or signature be examined before the court, as stipulated Article 1877 Civil Code.
- 3) The decision of the supreme court as a law enforcer has provided protection for the rights of the community, in this case the land owner.

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