

The position of the PPAT Deed in its function as a means of evidence and its registration contains juridical defects

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Abstract

Sale and purchase is an agreement that is made by an authentic deed made by a Land Deed Official (PPAT) which has perfect evidentiary power As an authentic deed, a PPAT deed must fulfil the procedures for making a PPAT deed as prescribed by law and other regulations. Making a PPAT deed must be made by an authorised official, namely a PPAT, because a PPAT deed made before a PPAT has a function as evidence and also as a condition for registration by a PPAT. The purpose of the research is to find out how the position of a PPAT deed made before a PPAT has evidentiary power as evidence for the parties and becomes a condition of registration of the deed if it contains juridical defects. The author conducts research with normative juridical research methods, descriptive analytical research typology, and qualitative data analysis techniques. Based on the results of the research, it is concluded that the PPAT deed has two functions, namely as evidence of certain legal acts regarding land rights and as a registration tool for changes in land registration data. When there is a transfer of land rights, the function of the PPAT deed as a registration tool is completed and leaves the PPAT deed as evidence of legal acts. The function of the PPAT deed is that it must be a requirement so that the transfer of land rights can be registered at the land office in accordance with the regulations regarding land registration and the implications of the juridical defects of the PPAT deed in the Decision result in the legal actions carried out, namely the sale and purchase, having no legal effect, the Sale and Purchase Deed is considered never to have been born even though it has been registered before, it has implications for the land office which requires to restore land rights. because it was previously registered by the land office to return to what it was before the Sale and Purchase Deed was born.

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1. INTRODUCTION

One of the assets in the territory of the Republic of Indonesia, namely land, is one of the main natural resources which, apart from having inner value, also has a strategic function in meeting the increasingly diverse and increasing needs of the state and people both at the national and international levels, for this reason civil law is entrusted to regulate the relationship between one individual (human) and other humans in social relations. This development is closely related to the progress of human thinking. Communities who have interests specifically related to land can almost all be fulfilled through agreements either in the form of deeds made by authorized officials or the parties personally. There is a realm of making authentic deeds regarding a specific matter, such as land issues where authority in making deeds is given. to a PPAT. The Land Deed Making Official, hereinafter referred to as PPAT, is a public official who is given the authority to make authentic deeds regarding certain legal acts regarding land rights or ownership rights over apartment units. This definition is also contained in Article 1 number 1 of the Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for Implementing Government Regulation Number 37 of 1998 concerning Position Regulations for Officials Making Land Deeds.

Buying and selling is a process of transferring rights that has existed since ancient times, and is usually regulated in customary law, with the principle of clear and cash. Clear means carried out in the presence of an authorized Public Official and cash means paid in cash.

So if the price has not been paid in full, then the buying and selling process in question cannot be carried out.

The form of the PPAT deed is determined as proof of the implementation of certain legal actions regarding land located within their respective work areas. In the position stated above, the deeds made by PPAT are authentic deeds. The main task of PPAT is to carry out some of the land registration activities by making deeds as proof that certain legal acts have been carried out regarding land rights or ownership rights to apartment units, which will be used as the basis for registering changes to land registration data resulting from these legal acts. In a sale and purchase agreement, the seller and the buyer have reciprocal rights and obligations, where the seller is obliged to hand over ownership of the goods being traded and guarantee the peaceful enjoyment of the goods and bear responsibility for hidden defects and have the right to receive payment. the price of the goods, while the main obligation of the buyer is to pay the price in the form of a sum of money at the time of purchase at the time and place as determined according to the agreement, while his right is to receive the goods being traded from the seller.

2. METHOD

The research method used in this research uses normative law, namely studying legal rules as written or library law which refers to legal norms contained in statutory regulations. Normative legal research is problem solving based on literature and regulations/legislation-Invitations related to the issues discussed arise from gaps in legal norms or principles. The type of research in this research is research on legal systematics, in this case referring to legal synchronization.

FORMULATION OF THE PROBLEM

1. What is the position of the PPAT Deed in its function as a means of evidence?
2. What is the position of the PPAT Deed as a Registration Requirement that contains juridical defects?

3. RESULTS AND DISCUSSION

The position of the PPAT Deed functions as a means of proof

Since the publication of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (hereinafter abbreviated to UUPA) a Government Regulation Number 37 of 1998 was issued concerning Regulations on the Position of Land Deed Making Officials (PPAT) (hereinafter abbreviated to PP No. 37 of 1998), as a complement from the Government Regulation concerning Land Registration and has been promised in Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter abbreviated to PP No. 24 of 1997) Article 7, the duties and scope of the PPAT position are clearer and more detailed. The sale and purchase of land is regulated in the UUPA, which is further regulated in Government Regulation no. 10 of 1961 concerning the Implementing Regulations of UUPA, Article 19 stipulates that the sale and purchase of land must be proven by a deed made by and before the Land Deed Making Officer (PPAT).

The main task of PPAT is to carry out some of the land registration activities by making deeds as proof that certain legal acts have been carried out regarding land rights or ownership rights to apartment units, which will be used as the basis for registering changes to land registration data resulting from those legal acts (Article 2 paragraph (1) Government Regulation Number 37 of 1998). The legal acts as intended in paragraph (1) are as follows:

1. Buy and sell;
2. Exchange;
3. Grant;
4. Income into the company (inbreng);

5. Sharing of joint rights;
6. Granting Building Use Rights/Use Rights over Freehold land;
7. Granting Mortgage Rights; And
8. Granting of Power of Attorney Imposing Mortgage Rights.

In connection with the duties and authority of PPAT to assist the Head of the Land Office in carrying out some of the land registration activities by making deeds which will be used as the basis for registering changes to land registration data and in accordance with PPAT's position as a General Official, the deeds he makes are given the position of authentic deeds. The PPAT Deed is created as evidence which functions to confirm legal events with the aim of avoiding disputes. Therefore, the deed must be drawn up in such a way, meaning it should not contain things that are unclear so as not to cause disputes in the future.

Based on the provisions of Article 164 HIR, Article 284 RBg and Article 1866 of the Civil Code, there are 5 (five) main types of evidence in civil cases, namely: Written Evidence; Witness evidence; Estimate; Confession and Oath Written evidence or letters in civil procedural law are anything that contains reading signs intended to express one's heart or soul. For convey someone's thoughts and use them as evidence. Thus, everything that does not contain reading signs, or even though it contains reading signs but does not contain thoughts, is not included in the definition of a letter. Letters, as written evidence, are divided into two, namely letters which are deeds and other letters. which is not a deed. The deed itself is further divided into authentic deeds and private deeds. Thus, it can be said that in civil procedural law there are 3 (three) types of letters, namely: Ordinary letters; Private deed; and Authentic Deed Authentic Deeds apart from being perfect evidence are also binding evidence. The word "binding" means that what is written in the deed must be trusted by the judge, that is, it must be considered as true as long as the untruth is not proven otherwise. If Article 1868 is not fulfilled, then the authentic deed can be degraded, that is, the deed is defined as a deed that cannot be treated as an authentic deed but is considered to be written privately, which is due to a violation of the provisions of Article 1869 of the Civil Code.

The position of the PPAT Deed as a Registration Requirement which contains juridical defects

The PPAT Deed is the basis for a transfer of land rights to be registered, as specified in Article 37 PP No. 24 of 1997, namely: "Transfer of land rights and ownership rights to apartment units through sale and purchase, exchange, grant, entry into a company and other legal acts of transferring rights, except for the transfer of rights through auction can only be registered if proven by a deed made by the authorized PPAT according to the provisions of the applicable laws and regulations." Then the PPAT deed based on PP No. 37 of 1998 is determined as: 1. PPAT Deed as an authentic deed certain land or ownership rights over condominium units are held (Article 1 number 1 jo. number 4 PP No. 37 of 1998); prove that there has been a legal act regarding the right to 2. The PPAT Deed will be used as the basis for registering changes to land registration data with the Regency/City Land Office (Article 2 paragraph (1) PP No. 37 of 1998)

In Article 37 paragraph (1) PP no. 24 of 1997 stipulates that "transfer of land rights and rights Owned by over a condominium unit through sale and purchase, exchange, grant, entry into a company and other legal acts of transfer of rights, except transfer of rights through auction, can only be registered if proven by a deed made by the authorized PPAT in accordance with the provisions of the applicable laws and regulations.". Then in Article 103 paragraph (2) letter c PMNA/KBPN No. 3 of 1997, it is determined that the deed made by PPAT is one of the documents required for the purposes of registering the transfer of

land rights. The PPAT Deed is one of the main data sources for maintaining land registration data.

The third problem that arises as a result of PPAT carrying out administrative malfeasance is that the PPAT deed becomes legally defective. The legal consequences of a PPAT deed that is not in accordance with the procedure for making a PPAT deed which results in legal defects can be caused by:

1. Deviations from formal requirements.

Article 1868 of the Civil Code states that the elements of making an authentic deed must fulfill:

1. The deed must be drawn up in the form prescribed by law.
2. The deed must be made by door or in the presence of a public official.

Based on the requirements for fulfilling an authentic deed as regulated in Article 1868 of the Civil Code, then if it is linked to the provisions of Article 95-102 of the Regulation of the Minister of State for Agrarian Affairs/Head of BPN Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration; So if these formal provisions or conditions are violated by the PPAT, it will result in the degradation of the perfect evidentiary strength of the authentic deed to the strength of the authentic deed evidence if based on a court decision it is stated that one or more violations have been committed.

2. Deviations from material requirements. Article 1320 of the Civil Code states that the conditions for the validity of an agreement must fulfill four conditions, namely:

1. Agreement of the binding parties.
2. The competence of the parties in making an agreement.
3. A certain thing.
4. Reasons that are halal or not prohibited.

According to Subekti, the provisions of Article 1320 of the Civil Code indicate that these requirements are cumulative, meaning that every agreement made must fulfill these four requirements together. Failure to fulfill one of the conditions in the provisions of Article 1320 of the Civil Code will result in a legally defective agreement, the validity of which can be questioned, in the sense that it can be null and void and/or can be canceled by an interested third party.

These four conditions can be grouped into two, namely:

1. Terms (a) and (b) are subjective terms, because they relate to the parties or subjects entering into the agreement. If the subjective conditions are violated, the deed can be cancelled.
2. Conditions (c) and (d) are objective conditions, because they relate to the contents of the agreement. If the objective requirements are not fulfilled, the deed is null and void.

Article 39 paragraph (1) Government Regulation Number 24 of 1997 concerning Land Registration, in the duties and positions section, states: PPAT has the authority to refuse to make a deed if:

1. Regarding plots of land that have been registered or ownership rights to apartment units, the original certificate of title in question is not delivered to him or the certificate submitted does not match the registers at the Land Office.
2. Regarding plots of land that have not been registered, this was not conveyed to him.

Provisions 1320 of the Civil Code, if linked to the provisions of Article 39 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, then the material requirements of the procedure for making a PPAT deed must meet the subjective requirements (the subject of the rights or the parties facing or comparing) and the conditions objective (object of rights transferred) in making the PPAT deed. If

subjective and objective requirements are violated, the PPAT deed can be requested to be canceled and/or declared null and void.

The implication of the decision to be null and void regarding the decision is related to the existence of defect juridical in the Deed of Sale and Purchase, the result is that the legal action carried out is that the sale and purchase have no legal consequences,

4. CONCLUSION

1. As a public official, PPAT is given the authority to make authentic deeds regarding certain legal acts regarding land rights or ownership rights to apartment units. The PPAT Deed functions as proof that a legal action has occurred regarding land rights or ownership rights to an apartment unit. The PPAT Deed is used as a requirement for registering changes to land registration data at the land office. The Sale and Purchase Deed is evidence that certain legal acts regarding land rights have been carried out, namely the transfer of rights to proprietary land through the sale and purchase process, while the function of the PPAT deed is that it is a registration requirement so that the transfer of land rights is registered at the land office so that the process of transferring rights can be carried out. carried out in accordance with the regulations regarding land registration.
2. A PPAT deed that does not comply with the procedures for making a PPAT deed will result in the deed becoming legally defective. The legal consequences of a PPAT deed that is juridically flawed are: the degradation of the perfect evidentiary power of the authentic deed to the evidentiary power of the underhanded deed if based on a court decision it states that one or more violations have been committed (violation of formal requirements), and the PPAT deed can be cancelled. or null and void by law in the event of a deviation from the material requirements.

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