

Responsibilities of Land Deed Officials in Making Sale and Purchase Deeds Without the Approval of the Rights Holder on the Land Certificate

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Article Info

Article history:

Accepted: 4 July 2025

Publish: 1 September 2025

Keywords:

Responsibility;
PPAT;
Land.

Abstract

Legal certainty is a key pillar of law enforcement in Indonesia, especially in resolving land ownership disputes. This study examines the Marabahan District Court Decision, which reflects the complexity of resolving disputes related to updating ownership certificate data after a legitimate sale and purchase transaction. This conflict involved the buyer, seller, and the National Land Agency (BPN) due to the failure to update ownership data. The absence of the defendant further exacerbated the legal uncertainty faced by the plaintiff. The court's decision to grant the plaintiff's lawsuit demonstrates the importance of legal and administrative reforms in the land registration system in Indonesia. This study provides a comprehensive overview of the role of legal procedures, public awareness, and institutional responsibility in achieving legal certainty in resolving land disputes. This study discusses the role and responsibilities of PPAT in ensuring the validity of the land sale and purchase process, especially in cases where the land certificate is still registered in the name of another and the legal implications for PPAT and the parties involved if there is negligence in recording the transfer of land certificates, as regulated in Indonesian laws and regulations related to land. This study uses a normative juridical method, a conceptual approach through a doctrinal view, a data collection method using literature studies and the research specifications used are analytical perspective techniques. And the data analysis method uses qualitative analysis.

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1. INTRODUCTION

Legal certainty is one of the main pillars in law enforcement in Indonesia. In the civil context, dispute resolution involving land ownership is a crucial issue because land has significant economic and social value. Land dispute cases often reflect the conflict between individual rights and public interests, demanding legal intervention to uphold justice. (Heru Nugroho, 2001)

Where Right Uncertain There Right No, where there is no Legal Certainty, there is no law. With the existence of Legal Certainty, everyone can predict what will be experienced if they take certain legal actions. Legal Certainty will guarantee that someone behaves in accordance with applicable legal provisions, conversely without Legal Certainty, someone does not have standard provisions in carrying out behavior and regulations that advance justice must truly function as regulations that are obeyed. The real form of Legal Certainty is the implementation of an action regardless of who does it. (Achmad Ali, 2002).

According to Gustav Radbruch, legal certainty refers to the implementation of a way of life that is clear and orderly and cannot be influenced by subjective circumstances in the

life of society, because legal certainty is a rule that is made and enacted with certainty and regulates clearly and logically. (Sajipto Raharjo, 2006).

According to Sudikno Mertokusumo, Legal Certainty is a guarantee that the law is implemented and those entitled according to the law can obtain their enforceable rights. So that society can ensure that the law is implemented. According to Sudikno Mertokusumo, ownership rights are the right to treat an object as one's own property with several limitations. Includes the right to obtain full results from the land owned and to use the land such as selling it to other parties. Ownership rights according to Article 20 Paragraph (1) of the Basic Agrarian Law are hereditary, strongest and most complete rights that a person can have over land in this case, namely: (Boedi Harsono, 2013)

- a. Hereditary, which means that the right to own land can continue as long as the owner is still alive and if the owner dies, the right to own land can be continued by his heirs.
- b. Strongest, meaning that the right to own land is stronger when compared to other land rights, does not have a specific time limit, is easy to defend from interference from other parties and is not easily erased.
- c. The most complete, which means that the right to land gives the owner the most authority when compared to other land rights, can be the parent of other land rights, is not a parent of other land rights and the use of the land is wider when compared to other land rights. (Sudikno Mertokusumo, 2007).

Land Title Certificates play an important role as official documents that prove land ownership. However, various problems often arise, such as overlapping ownership, unrecorded data changes, and lawsuits against the validity of transactions. This indicates administrative weaknesses that can be detrimental to the parties involved. Land dispute cases often arise due to a lack of legal awareness and public understanding of the importance of legal administrative procedures. (Sri Wahyuni Handayani, 2023).

Many parties do not realize that land certificates as proof of ownership have broad legal implications, especially if they are not updated according to the rules. Law Number 5 of 1960 concerning Basic Agrarian Principles emphasizes that the land registration system is an important step to provide legal certainty and protection to landowners. (Arie S. Hutagalung, 2005)

Updating ownership data on the certificate after a sale and purchase transaction is an obligation that must be fulfilled by the parties. Article 37 of Government Regulation Number 24 of 1997 states that the transfer of land rights must be carried out through registration at the National Land Agency. Failure to comply with this provision creates legal vulnerabilities, allowing third parties to claim rights to land that has been traded.

This case shows that transactions carried out without updating the certificate can cause conflict between the new owner and the previous owner. Neglect of the process of changing the name on the land certificate causes legal uncertainty, which leads to lawsuits in court. This situation shows the importance of synergy between the transacting parties and the BPN in ensuring that the administrative process runs smoothly. The process of resolving land disputes through the courts provides an opportunity for parties who feel aggrieved to obtain justice. The court not only functions as a forum for resolving disputes, but also as an institution that guarantees the implementation of legal certainty. This case involves a conflict between several parties, including the plaintiff, the defendant, and the National Land Agency (BPN). The main problem lies in the status of the certificate which is still in the name of another party even though a legal sale and purchase transaction has occurred. This situation creates uncertainty for the new owner and has the potential to trigger legal conflict.

Administrative constraints are often the root of the problem in land disputes. In this case, the fact that the certificate was not immediately renewed after the transaction shows

the need to improve the land registration system. BPN as the responsible institution needs to improve the mechanism so that it can support efficient dispute resolution.

The absence of the defendant (Faridah) in the trial adds to the complexity of resolving this dispute. In civil procedural law, the absence of the defendant without a valid reason can be considered as a form of recognition of the arguments submitted by the plaintiff. Law Number 14 of 1970 concerning the Main Provisions of Judicial Power emphasizes the importance of active participation in the judicial process to achieve substantive justice.

The importance of updating the land registration system by BPN is a lesson from this case. Digitization of land data and improvement of the administration system are expected to reduce the potential for disputes in the future. The obligation to carry out name changes quickly and efficiently needs to be emphasized in regulations to provide legal certainty for all parties involved in land transactions.

Law Number 5 of 1996 concerning Basic Agrarian Regulations has mandated that land throughout Indonesia must be registered in order to create legal certainty in the community that obtains rights to the land, so that it truly provides a sense of security and comfort in the management and utilization of the land in order to improve people's welfare and realize social justice in the midst of society. The process of legal education to the community is one of the important strategies to increase awareness of the importance of following applicable legal procedures. The role of PPAT as a public official in facilitating land transactions is also very strategic. From a notary perspective, every deed of sale and purchase of land made must include a clause on the obligation to change the name of the certificate to ensure legal certainty for the buyer.

The provisions of the Article regulating land registration can be seen that the definition of land registration according to UUPA is an activity towards certainty of land rights carried out through registration of land rights and the transfer of these rights, the provision of valid proof of rights and functioning as a strong means of proof, and is carried out by taking into account the state and society, the needs of economic traffic and the possibility of its implementation.

Land registration is a series of activities carried out by the Government continuously and regularly, in the form of collecting information or data, processing, storing and presenting it for the benefit of the people, in order to provide a guarantee of legal certainty regarding land, including the issuance of evidence and its maintenance or land registration is a registration that goes through a very precise and directed provision, so that it is impossible to be just the beginning and the purpose of the registration is not only to issue evidence of land registration or land rights certificates (Parlindungan, 1999)

This judge's decision occurs when the judge has examined the defendant until the examination of the main case is completed. In the examination of the main case before making a decision, it has gone through a process, namely when the trial has been declared "open" and "open" to the public, examination of the defendant's identity and giving a warning to hear and pay attention to everything that happens in the trial, reading of the indictment, exceptions from the defendant and/or legal counsel and the opinion of the public prosecutor, interim decisions, examination of evidence, criminal charges, defense/plea, reply, duplicate, statement of "closed" examination, deliberation of the judge, and reading of the verdict at a trial that is open to the public.

Continued by the signing of the judge and the clerk after the pronouncement of the verdict by the judge. The judge's decision in this case reflects an effort to enforce the law impartially and based on the principle of justice. The law must be firm and not subjective in protecting the rights of legitimate parties. In this decision, the panel of judges put forward the basic principles of civil law to resolve disputes fairly. (Agus Santoso, 2014).

Improving the professionalism of land officials and notaries in supporting legitimate land transactions is also an important aspect. Supervision of the implementation of administrative obligations and the imposition of sanctions on parties who violate the rules must be enforced to reduce land disputes. The role of notaries and the BPN in creating legal certainty must be optimized through updating relevant regulations. (Amran Suadi, 2019).

2. RESEARCH METHOD

The research method used is Normative Juridical in order to provide useful results. This normative juridical method is collaborated with literacy that is equated with the problems studied, and prioritizes its analysis by using applicable laws and regulations as an important basis in analyzing legal problems.¹Secondary data sources, such as books, articles, and legal journals. This study aims to understand the relevant legal context and interpret existing provisions. The type of approach used in this study is the Conceptual Approach through the doctrinal view and the Legislation Approach, namely analyzing laws and regulations that have a correlation and legal relationship to the problems studied.²Data Collection Method the author uses a literature study related to the object and cites references including Legislation, Journals, Books, Articles and the Internet. The Data Analysis Method used is a qualitative analysis based on legislation, expert views, legal concepts and theories and an understanding of the results of the analysis itself.

3. RESEARCH RESULTS AND DISCUSSION

3.1.The Role and Responsibilities of Land Deed Officials in Ensuring the Validity of Land Sales and Purchases

In the Indonesian land system, the role of the Land Deed Official (PPAT) is vital in ensuring the validity of the land sale and purchase process. PPAT is tasked with preparing authentic deeds that serve as the basis for changes to ownership data on land certificates. In land dispute cases such as Decision Number 8/Pdt.G/2024/PN Mrh, the validity of this process is often tested when a transaction occurs but the land certificate remains in the name of another party. This raises legal challenges involving PPAT, the National Land Agency (BPN), and related parties.

The duties of a PPAT are regulated in Government Regulation Number 24 of 1997 concerning Land Registration. PPAT is responsible for ensuring the legality of transactions, recording correct data, and submitting documents to the BPN for the transfer of certificate names. Thus, PPAT has a dual responsibility: ensuring that the sale and purchase process is legally valid and preventing future disputes. PPAT has a moral and professional obligation to ensure that the deeds he makes meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code. The accuracy of the data listed in the deed is the main responsibility of the PPAT, which if not done carefully, can lead to disputes. Therefore, PPAT must conduct a thorough verification of documents to ensure that there are no administrative defects that can harm the parties.

One of the challenges in the PPAT's duties is to ensure that the parties understand the administrative obligations after the transaction is completed. Changing the name of the land certificate is an important obligation that must be completed as soon as possible to prevent ownership conflicts. Article 37 paragraph (1) of Government Regulation Number 24 of 1997 states that every transfer of land rights must be registered with the local land office to update ownership data.

¹Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana, 2007).

²Aan Efendi and Dyah Othorina Susanti, *Legal Research* (Jakarta: Sinar Grafika, 2018).

In carrying out their duties, PPATs must comply with the code of ethics and regulations governing their profession. The Regulation of the Minister of Agrarian Affairs/Head of BPN Number 3 of 1997 provides technical guidelines for PPATs in preparing land deeds and reporting them to the land office. Violation of this rule can affect the validity of the deeds made and reduce the credibility of the PPAT profession. In case Number 8/Pdt.G/2024/PN Mrh, PPATs played an important role but faced obstacles when the defendant did not renew the certificate after the transaction was valid. This situation created legal uncertainty for new buyers, who eventually filed a lawsuit in court to claim rights to the land they had purchased.

Administrative constraints are a major factor in this case. Land certificates that remain in the name of the previous owner even though a transaction has occurred indicate weaknesses in the document management process by PPAT and BPN. Inaccuracy or negligence in managing the name change can affect the legality of ownership in the eyes of the law. BPN as an institution tasked with recording the transfer of land rights plays a strategic role in resolving disputes. Inefficiencies in the recording process, such as the length of time it takes to change the name, can trigger legal uncertainty. In this case, BPN must improve its service system and collaborate closely with PPAT to ensure valid and accurate ownership data. PPAT is responsible for submitting complete and correct documents to BPN after the sale and purchase process. In this context, PPAT must be proactive in ensuring that the buyer and seller understand their obligations. If the PPAT is negligent, legal implications can include cancellation of the deed made or claims from the injured party.

In the land system, PPAT cannot work alone. BPN has the authority to process documents submitted by PPAT. In this case, collaboration between PPAT and BPN is important to ensure that the transfer of certificates is carried out according to procedure. BPN is also responsible for increasing transparency and efficiency in land registration. Weaknesses in collaboration between PPAT and BPN are often the root of problems in land disputes. Harmonization of work procedures between these two institutions is needed to create an effective land administration system. Enforcement of sanctions against administrative violations must also be carried out to increase compliance with the rules.

In this case, the court decision recognized the rights of the new buyer to land whose certificate was still in the name of another party. This shows the importance of evidence of a valid deed of sale as a basis for a claim. The court also highlighted the important role of the PPAT in ensuring the legality of the process even if there is administrative negligence. Negligence by the PPAT or related parties in the name change process can have serious consequences. In addition to civil lawsuits, PPATs can also face administrative or criminal sanctions if deliberate violations are found. Therefore, PPATs must always comply with regulations and maintain professionalism in carrying out their duties.

This case also reflects the need for legal education for the public regarding the importance of the certificate name change process after the transaction. In addition, reforming the land registration system at the BPN, including digitalization, can be a solution to reduce the risk of future disputes. Or as a reminder that the validity of the land sale and purchase process does not only depend on formal documents, but also on the implementation of proper administrative obligations. Land certificates that are not immediately renewed after a transaction can be a loophole for other parties to sue for ownership. For this reason, PPAT and BPN must work together to ensure that every transaction is recorded correctly. The role of PPAT in ensuring the validity of land sales and purchases is crucial to prevent legal disputes. Case Number 8/Pdt.G/2024/PN Mrh

shows how collaboration between PPAT, BPN, and public legal understanding is a determining factor in realizing legal certainty. For this reason, improving the administrative system and increasing legal awareness must be a shared priority.

3.2. Legal Protection for Buyers in Good Faith in Land Purchases.

Legal protection for good faith buyers in land sale and purchase transactions aims to ensure legal certainty and justice for all parties. Land sale and purchase transactions have the potential for legal disputes due to poor administration or document inconsistencies. The case in this decision is a concrete example of the importance of this, where the buyer claims his rights to the land that has been purchased, but is disturbed by the status of the certificate which is still in the name of the original owner. The Basic Agrarian Law and Government Regulation Number 24 of 1997 concerning Land Registration regulate the legal protection mechanism in land transactions. Article 37 of PP 24/1997 states that the transfer of land rights can only be registered if it is carried out through a deed of the Land Deed Making Officer (PPAT). In this case, although the transaction was materially valid, the administrative process of changing the name was not carried out, which gave rise to legal uncertainty.

The Marabahan District Court in this case faced the fact that the buyer had made full payment and had physical control of the land. However, the legal status of the land was still hampered by the unrenewed certificate. This situation indicates that the buyer had acted in good faith by substantially fulfilling his obligations, but was not fully protected due to administrative negligence. The jurisprudence of the Supreme Court confirms that legal protection for buyers in good faith is an important principle in resolving land disputes. In this case, buyers who act in accordance with legal norms, such as having proof of transactions and physically controlling the land, must receive legal protection, including through the ratification of the transaction by the court.

The principle of legal certainty put forward by Gustav Radbruch and Sudikno Mertokusumo emphasizes that the law must provide guarantees for legitimate rights. In this context, buyers must be able to ensure that their rights to land are recognized, without having to face uncertainty due to negligence on the part of the seller or related authorities. The importance of legal protection for buyers in good faith is also in line with the function of land registration as an effort to ensure legal certainty. Failure to renew certificates after a transaction is a form of administrative weakness that is often the root of land disputes in Indonesia.

The role of PPAT is very strategic to prevent this kind of dispute. Every land sale and purchase transaction must include a clause that confirms the obligation to change the name of the certificate to guarantee the buyer's rights. This is in line with the principle of land registration as regulated in Article 19 of the UUPA which aims to create legal certainty. The court process in this case shows the importance of the role of the judicial institution in resolving conflicts that cannot be avoided by administrative mechanisms. The court provides an opportunity for parties who feel aggrieved to prove their rights and obtain legal recognition.

The absence of the defendant in this case is a crucial point. In civil procedure law, the absence of the defendant without a valid reason can be considered as an implicit acknowledgement of the plaintiff's arguments. However, the court is still obliged to examine the evidence carefully to avoid errors in the verdict. This case also emphasizes the need for reform in the land administration system in Indonesia. Digitization of land data and improvement of land registration mechanisms are urgently needed to reduce the potential for future disputes. In addition, strengthening the role of supervision by the National Land Agency (BPN) regarding the

implementation of administrative obligations such as changing the name on certificates is also a must.

4. CONCLUSION

The role and responsibility of the Land Deed Official (PPAT) in ensuring the validity of the land sale and purchase process is very important to provide legal certainty to the parties. PPAT has the main task of making authentic deeds that are the basis for changing land certificate data and ensuring the legality of land sale and purchase transactions in accordance with Government Regulation Number 24 of 1997 concerning Land Registration. In this case, obstacles arise because the land certificate is still in the name of another party even though a legal transaction has occurred, indicating administrative weaknesses involving the PPAT and the National Land Agency (BPN). Inaccurate recording can trigger legal conflicts, so the PPAT must ensure that complete and correct documents are submitted to the BPN and work closely with the institution. In addition, legal education for the public regarding the importance of recording changes in land certificate names is key to preventing similar disputes in the future. This case underlines the need for improvements to the land administration system and strict law enforcement to protect the rights of the parties involved.

Legal protection for good faith buyers in land sale and purchase transactions is an important effort to ensure justice and legal certainty. This shows that failure to fulfill administrative obligations such as changing the name of the certificate can create legal uncertainty that is detrimental to parties who have substantially fulfilled their obligations. Court ratification of the rights of good faith buyers is an essential legal solution when the administration fails to protect the related parties. The principle of legal certainty as stated by legal theories and regulated in the UUPA and PP 24/1997 provides a strong basis for protecting buyers who have acted in accordance with legal norms. Land administration reform, optimization of the role of PPAT, and BPN supervision are strategic steps to prevent similar disputes in the future.

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