

Transfer of Ownership Rights to Land as the Object of Sale and Purchase Under Hand (RECEIPT): Study of Land Dispute Decision Number 49/Pdt.G/2025 at the Bitung District Court

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Abstract

Land-related disputes in Indonesia frequently arise from specific parcels that become the source of conflicts concerning ownership rights and their utilization. This study aims to provide an in-depth analysis of the legal mechanisms governing the transfer of land ownership and the validity of land sale and purchase transactions conducted solely through receipts or private agreements. The research adopts a normative juridical method with a qualitative approach, combining the analysis of statutory regulations, a review of Bitung District Court Decision Number 49/Pdt.G/2025, and an extensive literature study. Data were obtained from primary, secondary, and tertiary legal sources, including statutes, case law, books, and scholarly journals. The findings reveal that the transfer of land ownership is closely linked to the validity of sale and purchase transactions conducted under private agreements. Although such transactions remain legally binding as civil agreements, they are administratively incomplete, thereby preventing the issuance of ownership certificates without additional procedures. These results underscore the necessity for diligence among parties involved and the critical role of Land Deed Officials (PPAT) in drafting authentic deeds. Ensuring compliance with these legal requirements enhances legal certainty, facilitates land registration, and helps prevent recurring land disputes.

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1. INTRODUCTION

Land is an agrarian scope, agrarian is everything related to land that is inside (mines, rocks) and above the land (buildings, living creatures, plants), According to Law No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA) Article 1 and Article 2, the broad definition of agrarian is all the contents of the earth, water, space and natural resources contained therein, while the narrow definition of agrarian has a scope in the form of rights to land or agriculture.

Agrarianism is associated with people's lives, for example, Indonesia, as an agrarian country, where most of the people in rural areas live from agricultural products by managing land as a place for growing crops, namely farming, and urban communities whose lives are from the results of bureaucracy, trade, and industry. Land is an important resource for human life as a place to live, and land as a production site that produces raw materials/food. And land is a major factor in the community's economy and social life, According to Soedikno Mertokusumo, the authority over land rights is divided into 2: a). general authority, the owner of land rights has the authority to use his land, including water,

parts of the earth, the space above it, and to use it for interests directly related to the use of the land within the limits according to the UUPA and other higher legal regulations, Article 4 paragraph 2 of the UUPA, b).

Special authority means that the owner of land rights has the authority to use his land in accordance with his land rights, for example; the authority of Freehold land can be used for agricultural needs or building construction, the authority of Building Use Rights land can use the land only to build and own buildings on land that is not his, the authority of Business Use Rights land can use the land only for the needs of plantation, fishery, agricultural or livestock companies.

Land is an asset with strategic value in social, economic, and legal life. Clear and legally valid land ownership is a crucial requirement for ensuring legal certainty and preventing disputes.

In Indonesia, land sales and purchases are ideally carried out before a Land Deed Making Officer (PPAT) in accordance with the provisions of Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, to have complete legal force. However, in practice, it is still common to find land sales and purchases carried out underhand with only receipts as evidence, thus giving rise to legal problems when one of the parties dies or there is a dispute over ownership rights. so that the object of defense disputes in the community environment often occurs due to conflicts for several reasons, namely regarding land boundaries, land use, ownership disputes, making fake documents or differences in interests and needs for land that are not balanced and the situation is unclear in the certification process or land handling which can cause problems, so we must really pay attention to this matter which is related to land disputes because it contains the validity of a land object.

In this case, the source of the problem is an ownership dispute; the validity of the sale and purchase of land carried out only with a receipt (private deed), Transfer of ownership rights to the land (change of name on the certificate) of the object of sale and purchase from the previous owner to the buyer of the land. Case Number 49/Pdt.G/2025/PN Bit, which was examined by the Bitung District Court, is a concrete example of a civil dispute regarding the recognition of a private land sale and purchase. In this case, the Plaintiff requested the ratification of the sale and purchase of 240 m² of land that had been purchased from the late Chandra Ban, the Defendant's parent, and requested that the National Land Agency (BPN) of Bitung City be ordered to process the change of name on the land title certificate in the name of the Plaintiff. The problem becomes complex because the transaction was carried out without involving a PPAT, while the certificate is still registered in the name of the deceased seller.

The legal issues arising in this case include the validity of the underhand land sale and purchase, proof of ownership of rights by the Plaintiff, and the BPN's obligations in processing the transfer of rights based on the court's decision. The Panel of Judges' decision in this case is interesting to study because it provides an overview of the application of civil procedural law related to the examination of cases by default according to Article 149 RBg and Article 125 HIR, the assessment of evidence in the form of receipts as regulated in Article 1867 of the Civil Code, peace deeds, and witness statements, as well as legal considerations that form the basis for the order to change the name on the land certificate.

This research is expected to contribute to the development of civil law, particularly regarding legal protection for parties conducting underhand land transactions and the importance of adequate evidence to obtain legal recognition. This research provides input

for the public and legal practitioners to pay greater attention to formalities in land transactions to avoid future disputes.

2. RESEARCH METHODS

The research method used is normative juridical research with a qualitative approach, through analysis of statutory regulations, review of Bitung District Court decision documents Number 49/Pdt.G/2025, as well as literature studies, research data sourced from primary, secondary, and tertiary legal materials, including books, journals, and related regulations. This research uses three approaches: 1). Statutory Approach (Statute Approach) Examining the provisions related to the transfer of land ownership rights, Articles 1320, 1457, 1867 of the Civil Code (valid conditions for agreements & evidence), in the UUPA (Law No. 5 of 1960), PP No. 24 of 1997, the Civil Code, and HIR/RBg regarding the examination of default. 2). Case Approach (Case Approach) Analyzing the Decision of the Bitung District Court No. 49/Pdt.G/2025/PN Bit to see how the judge interprets the receipt evidence, the peace deed, and orders the BPN to transfer the name of the certificate. 3). Conceptual Approach (Conceptual Approach) Using the theory of legal certainty (Radbruch) and the theory of evidence (Subekti, Yahya Harahap) as a theoretical basis. Using three sources of legal material: 1). Primary Legal Materials: UUPA (Law No. 5 of 1960), Civil Code (Articles 1320, 1457, 1867), PP No. 24 of 1997 concerning Land Registration. HIR and RBg (Articles 125, 130, 149), Bitung District Court Decision No. 49/Pdt.G/2025/PN Bit. 2). Secondary Legal Materials: Boedi Harsono, Indonesian Agrarian Law (2005). Urip Santoso, Agrarian Law and Land Rights (2010). R. Subekti, Law of Evidence (2008). M. Yahya Harahap, Civil Procedure Law (2019). Peter Mahmud Marzuki, Legal Research (2017). Soerjono Soekanto & Sri Mamudji, Normative Legal Research (2015). 3). Tertiary Legal Materials: Legal dictionaries and legal encyclopedias to explain technical terms. Data Collection Techniques, Data collection is carried out through: 1). Library Research: searching books, regulations, court decisions, and legal journals. 2). Document Analysis: reviewing the contents of the decision, examining the decision's injunction, legal considerations, and its relationship to applicable regulations. Data Analysis Techniques, Data are analyzed qualitatively with descriptive-analytical methods, namely describing the legal facts of the decision, interpreting the provisions of statutory regulations, then providing a normative assessment of whether the decision is in accordance with positive law and doctrine, qualitative analysis aims to produce a systematic and argumentative picture so that it can provide recommendations or solutions to the legal problems being studied.

3. RESEARCH RESULTS AND DISCUSSION

3.1. The status of transfer of land rights is not yet administratively perfect if it is not made before a PPAT

Legal certainty is a fundamental principle in a state governed by the rule of law, requiring legal protection for every individual by ensuring that the law is enforced fairly and consistently. According to Gustav Radbruch, legal certainty is one of the goals of law, along with justice and expediency. In the context of buying and selling land, legal certainty is needed to guarantee who has the right to the land, to avoid disputes in the future. Land ownership rights are hereditary, the strongest, and most complete rights that a person can have over land, as regulated in Article 20 paragraph (1) of the UUPA (Basic Agrarian Law). The transfer of ownership rights is carried out through sale and

purchase, gift, exchange, or inheritance. Article 37 of PP No. 24 of 1997 stipulates that the transfer of rights due to sale and purchase must be proven by a deed made by a PPAT. However, civil law still recognizes private agreements as long as they meet the requirements for a valid agreement according to Article 1320 of the Civil Code. Authentic deed Article 1868 of the Civil Code: "An authentic deed is a deed made in the form determined by law, by or before a public official authorized for that purpose at the place where the deed is made." This deed is made by/before an authorized public official (for example, a notary or PPAT). It has complete evidentiary power regarding what is contained therein (Article 1870 of the Civil Code). And is executory, meaning it can directly become the basis for implementation (for example, grosse akta). Example: Deed of Sale and Purchase (AJB) of land before PPAT, Notary Deed (deed of establishment of a company, deed of credit agreement), Deed of Grant Statement before an authorized official. Authentic deeds have three powers: 1) Physical Power: guarantees that the deed is truly made officially. 2). Formal Power: guarantees that what is written is truly said or done by the parties before a public official. 3). Material Power: binds the parties and third parties as long as it is not proven otherwise through a lawsuit for cancellation/forgery.

Private Deed Article 1874 of the Civil Code: "A written document signed privately, made without the intermediary of a public official." This deed is made and signed by the parties without a public official. It has the power of proof as long as the signature and contents of the deed are acknowledged by the party who made it. If one party denies the signature, proof of validity must be carried out through a judicial examination. For example: Land sale and purchase receipt, Self-made loan agreement, Debt statement. The evidentiary power of a private deed, binding the parties if recognized (Article 1875 of the Civil Code), does not have direct executorial power like an authentic deed. It can be used as a basis for a lawsuit in the event of a default. Article 1, number 1 of PP No. 24 of 2016 concerning Amendments to PP No. 37 of 1998 concerning the Regulations on the Position of PPAT: "The Land Deed Making Official, hereinafter referred to as PPA,T is a public official who is authorized to make authentic deeds regarding certain legal acts regarding land rights or Ownership Rights to Apartment Units." Thus, PPAT is a public official whose function is to make authentic deeds as evidence that certain legal acts have been carried out, especially in the land sector.

Thus, the sale and purchase of land under hand is legally valid but does not have administrative power, so to obtain legal certainty and change the name on the certificate, it is mandatory to fulfill the provisions for land registration (PP 24/1997) or obtain a court decision. Evidence is a means to convince a judge of the truth of a legal event. Article 1866 of the Civil Code mentions five types of evidence: written evidence, witnesses, allegations, confessions, and oaths. Receipt evidence is categorized as a private deed (Article 1867 of the Civil Code) R. Subjectively stated that a private deed has the power of proof as long as it is acknowledged by the party who made it. In addition, a peace deed made before a judge has binding force as a final court decision and has executory power.

A default hearing is conducted if the defendant fails to appear despite being duly summoned. Under Article 149 of the Indonesian Civil Code (RBg) and Article 125 of the Indonesian Criminal Code (HIR), the judge may grant a lawsuit as long as it is not unlawful and supported by sufficient evidence. This theory ensures a smooth judicial process without compromising the defendant's rights, as the defendant retains the right

to file an objection after the verdict is rendered. In civil procedure, a co-defendant is a party who has no direct interest in the disputed object but needs to be included to ensure the court's decision can be effectively enforced. This co-defendant role is used to prevent the decision from becoming unenforceable due to a lack of parties.

The results of the study show that land sales and purchases that are only evidenced by a receipt remain valid in civil law as long as they fulfill the four conditions for a valid agreement as regulated in Article 1320 of the Civil Code: (1) agreement of those who bind themselves; (2) capacity to make a contract; (3) a certain thing; and (4) a lawful cause. According to Subekti, the conditions for a valid agreement are cumulative, so that if they are fulfilled, the agreement binds the parties like a law (principle of *pacta sunt servanda*). A sales receipt is a private deed as referred to in Article 1874 of the Civil Code. This deed has full evidentiary force if the signature is acknowledged by the signing party. In this case, the defendant was not present (default), so it was deemed not to dispute the receipt's existence. Therefore, the Panel of Judges declared the sale and purchase valid under civil law.

Land sale and purchase with a valid receipt and binding on the parties, but cannot result in administrative consequences in the form of a change of name on the certificate without a PPAT deed. If the land sale and purchase do not use a PPAT deed, it is still legally valid as a civil agreement, but it cannot be registered at the BPN so that the transfer of rights has not been officially recorded, the land certificate is still in the name of the seller, the buyer only holds proof of receipt or private agreement, not proof of ownership recognized by the land administration. Legal certainty is weakened; buyers find it difficult to prove their rights in the event of a dispute, or if the seller dies, risks arise if heirs or other parties claim the land. Cannot change the name at the BPN. The Land Office will only process the change of name if there is a Deed of Sale and Purchase (AJB) from the PPAT. Without an AJB, the buyer usually has to go through: A peace agreement with the heirs/seller to make an AJB later, or file a lawsuit with the court to request a decision/ruling declaring the sale and purchase valid and ordering the BPN to process the change of name.

In this case, the plaintiff (land buyer) filed a lawsuit Decision Number 49 / Pdt.G / 2025 / Bitung District Court, against the defendant who is the heir of his parents (Chandara Ban) as the seller of the land, when the plaintiff filed the lawsuit the plaintiff's parents had passed away, where the certificate was still in the name of the defendant's parents, the seller conducted the sale and purchase transaction only using a receipt. Land Dispute Decision Number 49 / Pdt.G / 2025 at the Bitung District Court, the Panel of Judges stated that the receipt dated January 17, 2019, which was evidence of a valid and valuable sale and purchase as a private deed, because its truth was acknowledged by the heirs and strengthened by witness testimony. Thus, even though it was not made before a PPAT, the sale and purchase remain valid as long as they meet the requirements for a valid agreement according to Article 1320 of the Civil Code. The Plaintiff was declared the legal owner, Plaintiff was declared the legal owner of 240 m² of land based on written evidence (receipts, certificates in the name of the seller), witness statements, and a peace deed previously made at the Bitung District Court.

The Bitung District Court's ruling affirmed that a private land sale and purchase conducted only with a receipt remains valid under civil law as long as it meets the requirements of an agreement according to Article 1320 of the Civil Code, which include: agreement, capacity, a specific object, and a lawful cause. The Panel of Judges accepted the receipt as a private deed according to Article 1867 of the Civil Code.

According to Subekti, a private deed has full evidentiary force if acknowledged by the signing party or not denied in court. Because the Defendant was not present and did not deny (*verstek*), this evidence was considered valid. This is in line with Boedi Harsono's opinion that private agreements remain binding on the parties, but cannot be directly registered with the BPN without a PPAT deed.

3.2. The validity of land sales and purchases carried out only with a receipt (private deed) according to civil law.

The transfer of land rights is only considered complete if the transfer of rights has been registered at the Land Office in accordance with Article 37 paragraph (1) of PP No. 24 of 1997. Without a PPAT deed, the transfer of rights cannot be recorded, and the certificate remains in the name of the seller. Boedi Harsono is of the opinion that land registration is a means of providing legal certainty for rights holders. Transfers of rights that are not registered only give rise to civil consequences between the parties, but do not create protection for third parties. Urip Santoso emphasized that a sale and purchase without a PPAT deed cannot be used as a basis for changing the name unless there has been a court decision that has permanent legal force. Transfers of rights with a receipt alone are not yet administratively complete. Land registration is a must to obtain legal certainty and protect buyers in good faith. For the transfer of rights to be recognized administratively and the buyer to obtain a certificate in his name, it is necessary to make a Deed of Sale and Purchase (AJB) before the PPAT, if the seller is still alive and willing to attend. After the AJB is made, the PPAT registers the transfer of rights to the BPN to carry out the name change and Court Decision or Determination. If the seller has died or there is a dispute with the heirs and the heirs acknowledge the sale and purchase that was carried out, the Court can declare the sale and purchase valid and order the BPN to process the name change (as in the Bitung District Court Decision No. 49 / Pdt.G / 2025 / PN Bit). Recognition of Heirs. In practice, the BPN usually asks for a statement or approval from all heirs if the seller has died. Without the recognition of the heirs, the name change is difficult to process without a court decision.

The Panel of Judges ruled by default because the Defendant and Co-Defendant were not present despite being legally summoned. This is in accordance with Article 149 of the Indonesian Civil Code (RBg) and Article 125 of the Indonesian Criminal Code (HIR), which permit a default decision if the lawsuit is proven and does not conflict with the law. According to Yahya Harahap, a default examination must still assess the formal and material truth of the evidence presented. The Panel of Judges in this case examined receipts, witnesses, and the settlement deed, so the decision still meets the principles of legal certainty and protection of rights. Therefore, the lawsuit was granted in its entirety because it did not conflict with the law.

3.3. Legal considerations of the Panel of Judges in the Bitung District Court Decision No. 49/Pdt.G/2025/PN Bit in ordering the BPN to change the name on the certificate.

In Decision No. 49/Pdt.G/2025/PN Bit, the Panel of Judges at the Bitung District Court examined the case by default because the defendant was not present despite being properly summoned. The default examination was valid under Article 125 of the HIR. The judges' considerations included:

- a. The sales receipt evidence meets the requirements for a valid agreement (Article 1320 of the Civil Code). The legal act of sale and purchase is recognized so that the transfer of rights has occurred civilly. The Panel of Judges considers that the sale and purchase evidenced by the receipt have met the subjective requirements

(agreement and legal capacity) and objective requirements (a specific object and a lawful cause). Thus, the sales and purchase agreement is valid and binding on the parties according to the principle of *pacta sunt servanda* (Article 1338 of the Civil Code). This decision is in line with Subekti's opinion, which states that an agreement that meets the requirements of Article 1320 of the Civil Code has binding force like a law for the parties. To provide legal certainty, the judge ordered the BPN to transfer the name of the certificate to the plaintiff's name.

- b. Regarding Protection for Good-Faith Buyers, the Judge emphasized the importance of providing legal certainty to the plaintiff as a buyer who had paid the full price for the land. Leaving the certificate in the seller's name would create uncertainty and potentially harm the buyer.
- c. The court ruling serves as a substitute for the PPAT deed. The Panel of Judges realized that this land sale and purchase was not made in the form of a PPAT deed, so that administratively it cannot be used as a basis for changing the name. To overcome this, the judge used his ruling as a valid executive title to be the basis for the name change order to the BPN. This is in accordance with Article 37 of PP No. 24 of 1997, which requires the transfer of rights to be registered using a PPAT deed. However, in the event of a dispute, a legally binding court decision can be used as a substitute for the deed, so that the BPN has a legal basis to process the name change.
- d. Verdict Examination and Evidence: Because the defendant was not present despite being properly summoned, the judge examined the case by virtue in accordance with Article 125 HIR. In this situation, the judge is required to carefully examine the evidence presented by the plaintiff. The panel of judges found the receipt, witnesses, and physical possession of the land sufficient to convince the judge.

The Bitung District Court's decision is a form of legal protection for buyers, ensuring the transfer of rights is officially recorded and providing legal certainty in the land sector. The decision orders the Bitung City National Land Agency (BPN) to process the transfer of land certificates from the name of the heir to the Plaintiff. This is important because Article 37, paragraph (1) of PP No. 24 of 1997 requires a PPAT deed or court decision as the basis for recording the transfer of rights. With the existence of a court decision, the Court's decision can be used as a basis for the BPN to carry out the registration of the transfer of rights. This is in line with Santoso's opinion that court decisions that have permanent legal force are constitutive for land rights.

The Panel of Judges also considered the settlement deed from the previous case as additional evidence that there was no longer a dispute between the parties. A settlement deed ratified by the court has the same legal force as a judgment and is final and binding (Article 130 HIR). This strengthens the argument that the sale and purchase agreement was truly executed and acknowledged by the heirs, so the lawsuit is merely declaratory in nature to obtain legal certainty.

This decision provides legal certainty to the Plaintiff as a good-faith purchaser. This aligns with Radbruch's theory of legal certainty, which emphasizes that the law must provide certain and predictable protection for an individual's subjective rights. Furthermore, this ruling serves as a lesson for the public to always prepare a Deed of Sale and Purchase (AJB) before a Land Office (PPAT) to ensure the transfer of rights is immediately recorded in the land register. Without an AJB, buyers risk disputes and the need to resort to litigation.

4. CONCLUSION

The results of the study indicate that the transfer of land ownership rights is closely related to the validity of the object of land sale and purchase using an underhand agreement. Land sale and purchase conducted with a receipt (underhand deed) remains valid civilly as long as it meets the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code. This is in line with the principle of *pacta sunt servanda* (Article 1338 of the Civil Code), which binds the parties. Although the agreement is valid civilly, the transfer of rights is not yet perfect administratively, so to obtain legal certainty and transfer the certificate name, the parties are required to fulfill certain administrative requirements. because it is not made in the form of a Deed of Sale and Purchase (AJB) PPAT as required by Article 37 of PP No. 24 of 1997. The certificate is still in the name of the seller, so the buyer has not yet obtained full legal protection against third parties. Role of the Court: Bitung District Court Decision No. 49/Pdt.G/2025/PN Bit serves as a substitute for the PPAT deed and becomes the legal basis for the BPN to transfer the certificate name. This embodies the principle of legal certainty and legal protection for buyers. This study emphasizes the importance of the involvement of Land Deed Officials (PPAT) in the preparation of authentic deeds to ensure the validity of the sale and purchase object and facilitate the process of changing the ownership rights, in every land sale and purchase transaction, so that the transfer of rights can be registered immediately, eliminating the need for time-consuming and costly litigation processes. These findings are expected to provide insight to parties conducting land sales and purchases about the importance of using authentic deeds or at least written agreements as proof of transactions.

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