

Legal Consequences Against Forgery of Signatures in the Deed of Sale and Purchase Issued by the Land Deed Maker's Office (PPAT)

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Abstract

The Land Deed Making Official as the official authorized to issue the Authentic Deed is obliged to examine the correctness of the documents that are a requirement in the issuance of the Sale and Purchase Deed. In practice, there are Land Deed Making Officials who ignore the obligation to examine the documents brought by the appearers as in the case of Muslim in Decision Number 538/Pid.B/2019/PN.Pdg where there is forgery of signatures by the parties in the approval of the making of the Deed. Sale and Purchase, the statement of the reporting witness which was later corroborated by the results of the criminalistic laboratory examination showed that the signature in the Sale and Purchase Deed was declared non-identical to the actual signature, as a result the Sale and Purchase Deed caused losses to the other party. Based on these problems, it raises the question of what are the legal consequences of the proof of falsification of signatures in the Sale and Purchase Deed issued by the Land Deed Making Official and how the Land Deed Maker Officer applies the precautionary principle in making the Sale and Purchase Deed. The research method used is normative juridical research using a law approach and a case approach using data collection methods through documentation studies and literature studies on court decisions. The results of the research are that if the deed of sale and purchase occurs forgery of signatures, the certificate and deed of sale and purchase are declared null and void. A Land Deed Official in making an authentic deed must pay attention to the principle of prudence, one of which is by requiring the parties to be present in person and check the authenticity of the parties' identities in order to prevent identity falsification in the making of a deed of sale and purchase.

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1. INTRODUCTION (12 Pt)

The concept of the Indonesian State is a state of law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which has a philosophical meaning that the state guarantees the supremacy of law, which is reflected in the enforcement of law and justice. In essence, a state of law places law as the basis for rules in the administration of state, government and society. In a state of law, all implementation and actions must be based on applicable laws, to regulate the behavior of society and have strict sanctions, and be binding and coercive in examining problems in a state of law. In its implementation, this is proven by the involvement of law in all aspects of community life, including in carrying out agreements with other parties in order to fulfill their needs.

The importance of legal certainty in the implementation of a government which was formed with the aim of becoming a crucial initial step in realizing the principle of legality

in Indonesia The concept of the State's Right to Control, as stated in Law Number 5 of 1960 concerning Basic Agrarian Regulations (hereinafter referred to as the Basic Agrarian Law), refers to the control of land, water and natural resources by the state, with the main objective of the people's prosperity. Therefore, the government has a responsibility to provide justice and legal certainty.

The existence of land is indeed very fundamental to every aspect of human life. Land is not only a source of life but also plays an important role in various economic, social, political, and cultural activities. In an economic context, land is a vital resource for agriculture, industry, and investment. In social aspects, land creates community identity and relationships, and serves as a place for interaction. From a political perspective, land control and management are often central issues in government policy and social justice. Culture is also closely related to land, as many traditions and values of a society are related to the environment in which they live. Therefore, wise and sustainable land management is very important to ensure that all functions and roles of land can be optimally utilized for the welfare of society.

Indonesia is an agricultural country, every activity carried out by the majority of Indonesian people always requires land. The urgency of land for human life is appreciated by the Government of the Republic of Indonesia through the national land policy with the issuance of Law Number 5 of 1960 concerning the Basic Principles of Agrarian Law (UUPA) which is the main milestone of land provisions in Indonesia.

Land is one of the natural resources that is very important for human life. Land as a natural resource with functions and roles that cover various aspects of community life, both in terms of social, economic, and cultural. Problems regarding land are a national responsibility to realize the use, control and ownership of land as much as possible for the prosperity of the people. As stated in Article 33 Paragraph (3) of the 1945 Constitution which reads: "The earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people."

Indonesia as a country of law has a constitutional basis and an ideal basis, in order to guarantee legal protection, certainty and order, written evidence is required that is authentic and has perfect legal force before or by an authorized official, namely a Notary or Land Deed Making Officer. Notaries and Land Deed Making Officers have an important role in serving the legal interests of the community, the state gives attributive authority to Notaries in issuing authentic deeds for the benefit of the community.

PPAT (Land Deed Making Official) as a public official in carrying out his duties is required to be careful, precise, thorough, and thorough, so as to gain philosophical recognition, because the existence of his position provides services to the community, legally, because his existence has been measured in various laws and regulations and receives sociological recognition, because the existence of his position is very helpful to the community. Notaries/PPAT must understand the aspects related to land ownership rights.

The profession of Land Deed Making Officer is regulated in Law Number 5 of 1960 concerning Basic Agrarian Principles, Government Regulation Number 24 of 1997 and Government Regulation Number 37 of 1998, with the existence of these regulations, a Land Deed Making Officer in carrying out his position must submit to and comply with the obligations and prohibitions regulated in these regulations.

The existence of a Land Deed Making Officer is very necessary in fulfilling the interests of the community because it provides a guarantee of legal certainty for the community in making authentic deeds as regulated in Article 1868 of the Civil Code which reads: (R. Subekti, 2006) "*An authentic deed is a deed that is in the form determined by law, made by or in the presence of public officers who have the authority to do so in the place where the*

deed is made". This article explains that an authentic deed is a deed made in accordance with the provisions of the law made by an official who is authorized to make such a deed in the area of authority of that official.

The Deed of the Land Deed Making Officer as strong authentic evidence is required to fulfill the procedures stipulated in the applicable laws and regulations. A deed can be said to be an authentic deed if the following factors are met:

- a. The form of the deed is in accordance with the provisions of the law;
- b. The Act was made by or before a public officer;
- c. The deed was made within the authority of the public official who made the authentic deed. (Tobing, 1980)

An authentic deed has a role as evidence if something disputed occurs, this is as stated in Article 1866 of the Civil Code which states that evidence consists of: (R. Subekti, 2006)

1. Written evidence;
2. Evidence with witnesses;
3. Assumptions;
4. Confession;
5. Oath.

Written evidence is the highest proof consisting of authentic deeds and private deeds. Materially, the evidentiary power of private deeds only applies to the person for whom the statement is given, while for other parties the evidentiary power is based on the judge's assessment. (Meitinah, 2016). Authentic deeds are said to be perfect evidence where the truth stated in the deed does not need to be proven with other evidence (Sulastini, 2011).

One example of an authentic deed issued by the Land Deed Making Office is the Sale and Purchase Act (AJB), the AJB made by the Land Deed Making Office must not cause any confusion because it can interfere with the process of issuing land certificates for the right owner. The Sale and Purchase Deed made must be in accordance with the legal documents brought by the Presenters and the Land Deed Maker Office is required to examine the authenticity of the documents. In practice, there is a Land Deed Making Office that neglects its obligation to examine the documents brought by the Applicants.

This research will try to examine and analyze the deeds of sale and purchase concerning the implementation of the sale and purchase of land, considering that the deeds of sale and purchase of land can be said to be authentic deeds, then based on the provisions in Article 1868 of the Civil Code, the process of making the deed must be carried out by the parties before an authorized official, namely a Notary/Land Deed Making Official.

In addition to the provisions of Article 101 (1) of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Implementing Provisions of Government Regulation Number 24 of 1997 concerning Land Registration *Because* Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 8 of 2012 concerning Amendments to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration has regulated the process of making a Deed of Sale and Purchase carried out by a Notary/Land Deed Making Official by stating:

- (1) The making of the deed by the Land Deed Making Officer must be attended by the parties carrying out the legal act in question or a person authorized by him with a written power of attorney in accordance with applicable laws and regulations;
- (2) The making of a deed by the Land Deed Making Officer must be witnessed by at least 2 witnesses who, according to the provisions of the applicable laws and regulations, meet the requirements to act as witnesses in a legal act, who provide testimony regarding, among other things, the presence of the parties or their attorneys, the

existence of documents shown in the making of the deed, and the implementation of the legal act by the parties concerned;

- (3) The Land Deed Maker's Office is obliged to read the deed to the parties concerned and provide an explanation of the content and purpose of deed making, and the registration procedures that must be carried out further in accordance with the applicable provisions.

The article explains the process of making a deed which must be attended by the parties concerned and witnessed by at least two witnesses and for the Deed of Sale and Purchase, the Land Deed Making Officer is required to read and explain the contents of the deed to the parties. In connection with the duties and authorities of the PPAT to assist the Head of the Land Office in carrying out part of the land registration activities by making deeds that will be used as the basis for registering changes to land registration data and in accordance with the position of the PPAT as a Public Official, the deed he makes is given the status of an authentic deed. The PPAT deed is made as evidence that functions to ensure legal events with the aim of avoiding disputes.

However, in its implementation, it is often found that the making of a Deed of Sale and Purchase by a Land Deed Making Officer is not in accordance with the procedure which results in the Land Deed Making Officer becoming a witness in a criminal case, a defendant or co-defendant for the Deed of Sale and Purchase he made. As happened in this case, where one of the Land Deed Making Officers in Padang City was dragged into the case and he was then asked for information as a witness for the legal problem.

The case occurred because there was a reporting witness who felt aggrieved by the issuance of the AJB made by the Land Deed Making Officer in Padang with No. 112/2007, AJB No. 165/2007 and AJB No. 37/2008 where there was a forgery of the signature on the sale and purchase deed. Initially there was a change in the Certificate of Ownership held by the reporting witness, namely Certificate of Ownership Number 514 which was then changed to Certificate of Ownership Number 2106 covering an area of 34,745 M² and divided again into 3 (three) plots which were then carried out a Deed of Sale and Purchase on the land to another party, the act was carried out by the Defendant without the knowledge of the reporting witness as the party who was one of the owners of the land. In fact, the reporting witness never met with the Land Deed Making Officer to request a Sale and Purchase Deed for the land in question, so the reporting witness assumed that the reporting witness' signature listed in the Sale and Purchase Deed was a forged signature and thumbprint.

To strengthen this fact, the reporting witnesses conducted a forensic laboratory examination at the Forensic Laboratory Center of the Medan Branch of the Indonesian National Police Criminal Investigation Agency on the signatures, and it was then found that the reporting witnesses' signatures in the Deed of Sale and Purchase were declared non-identical/not the same as their actual fingerprints.

Based on the case, in the making of the Deed of Sale and Purchase, errors were still found and made the Deed of Sale and Purchase issued by the Land Deed Making Officer doubtful of its authenticity. When forgery of signatures in the Deed of Sale and Purchase by the parties was found, it raised questions about what legal consequences would arise for the Deed of Sale and Purchase which was proven to contain forgery of signatures and how a Land Deed Making Officer applies the principle of caution in making the Deed of Sale and Purchase. Regarding this problem, the researcher intends to conduct a study entitled "Legal Consequences of Proven Forgery of Signatures in the Deed of Sale and Purchase Issued by the Land Deed Making Officer".

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. Legal Consequences of Proven Forgery of Signatures in Sale and Purchase Deeds Issued by Land Deed Making Officials

The problem of making a Deed of Sale and Purchase in a case decided by the Padang District Court with Decision Number 538/PID.b/2019/PN Pdg is a problem related to the alleged criminal act of forgery of signatures committed by the Defendant against the reporting witness as the owner of the disputed land object. The case of alleged forgery of signatures was charged by the Public Prosecutor with the threat of Article 266 paragraph (1) and (2) of the Criminal Code which states: (Moeljatno, 2001)

- (1) Anyone who orders the insertion of false information into an authentic deed regarding something the truth of which must be stated in the deed, with the intention of using or ordering another person to use the deed as if the information were in accordance with the truth, is threatened, if such use can cause harm, with a maximum imprisonment of seven years.
- (2) Anyone who intentionally uses the deed as if its contents are in accordance with the truth, if such use can cause loss, is threatened with the same punishment.

Based on the Article explains the rules about forgery against authentic deeds. In Article 266 paragraph (1) explains the threat for a person who gives false information into an authentic deed with the purpose of using or telling others to use the deed as if the information he gave was true. Whereas in Article 266 paragraph (2) it provides a threat against a person who uses an authentic deed as if the content is true or in other words uses a forged authentic deed and the use of the deed causes loss to him.

The case was initiated by the reporting witness who felt aggrieved by the issuance of AJB No. 112/2007, AJB No. 165/2007 and AJB No. 37/2008 made by Land Deed Officials Armalina Ahmad, S.H., M.Kn. and Yanses Saam, S.H. According to the reporting witness' statement, he had never made a sale or purchase of land with Certificate of Ownership Number 514 which was later changed to Certificate of Ownership Number 2106 covering an area of 34,745 M² and divided again into 3 plots which were then executed with a Deed of Sale and Purchase on the land to another party. The act was carried out by the Defendant without the knowledge of the reporting witness as a party who was one of the owners of the land. The reporting witness felt that he had never met with a Notary/Land Deed Official to request a Sale and Purchase Deed for the land in question, so the reporting witness assumed that the reporting

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

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

witness' signature listed in the Sale and Purchase Deed was a forged signature and thumbprint.

The reporting witness in his statement also stated that he had never been to the office of Notary/Land Deed Official Armalina Ahmad or Yanses Saam and had never met the buyers listed in the Deed of Sale and Purchase. Because the reporting witnesses never felt they had signed and affixed their fingerprints to the Deed of Sale and Purchase, they conducted a forensic laboratory examination at the Forensic Laboratory Center of the Criminal Investigation Agency of the Indonesian National Police, Medan Branch, on the signatures, then it was found that the reporting witnesses' signatures contained in the Deed of Sale and Purchase were declared non-identical/not the same as their actual fingerprints.

The Land Deed Making Officer who issued AJB No. 112/2007, AJB No. 165/2007 and AJB No. 37/2008 in his statement did not remember the reporting witness ever coming to the office, did not even remember the reporting witness' face and never handed over money to the reporting witnesses. Based on the reporting witness' statement, he never came to the office of the Land Deed Making Officer and never signed the Sale and Purchase Deed issued by the Land Deed Making Officer, this was proven because there was an error in the date of birth and occupation of the reporting witness on the Sale and Purchase Deed.

Regarding Decision Number 538/PID.b/2019/PN Pdg, the panel of judges in their decision firmly stated, "Declares the defendant, legally and convincingly proven guilty of committing the crime of "using a forged Authentic Deed" as charged in the fourth indictment, Article 266 paragraph (2) of the Criminal Code."

The judge's legal considerations in deciding the case with a verdict that it was proven that the defendant had committed the crime of forging signatures in the Deed of Sale and Purchase No. 112/2007, AJB No. 165/2007 and AJB No. 37/2008 issued by the Land Deed Making Officer in Padang were based on the facts that emerged in the trial. Where the judge found legal facts and witnesses who explained that it was true that the defendant forged the signature of the reporting witness both in the Deed of Sale and Purchase No. 112/2007, AJB No. 165/2007 and AJB No. 37/2008 and in the letters of requirements for making the Deed of Sale and Purchase. Based on this, the panel of judges decided that the public prosecutor's charges fulfilled the elements contained in Article 266 paragraph (2) of the Criminal Code, namely that the defendant intentionally forged the signature of the reporting witness as a party to the Deed of Sale and Purchase and then the deed was used to carry out the sale and purchase of the land without the knowledge of the reporting witness and it was proven that the signature was a forged signature based on the results of the forensic laboratory examination, the actions carried out by the defendant caused losses for the reporting witness.

The actions taken by the defendant in Decision Number 210/Pid.B/2018/PN.Smg have been declared as criminal acts because they committed a crime using a forged Authentic Deed using fake signatures of the parties. A Deed of Sale and Purchase is a form of agreement, in the making of the agreement there are conditions that are not met in the conditions for the validity of the agreement. According to Article 1320 of the Civil Code, the conditions for the validity of an agreement are as follows: (R. Subekti, 2006)

a. Agreement of the parties

Both parties who enter into an agreement have mutually agreed on the matters agreed upon, one of which is to provide a signature as a sign of an agreement.

b. The ability to make a legal contract or act

- Every person who makes an agreement must be competent, that is, an adult, of sound mind, not under guardianship and has the legal capacity to carry out legal acts.
- c. A certain thing,
There is an object in the form of a thing or item which is clearly something that is promised in an agreement.
 - d. A legitimate reason,
The agreement made is not made for prohibited or false reasons and does not conflict with applicable laws and regulations.

Article 1335 of the Civil Code explains that an agreement that does not use a lawful cause, or is made for a false or prohibited reason, has no legal force.

An agreement that does not meet subjective requirements can be cancelled, which means that the cancellation must be requested to the Judge, but if there is no cancellation from one of the parties and there has been no cancellation from the Judge, then the agreement remains valid as an agreement that does not have a defect of will. While an agreement that does not meet objective requirements, then the agreement is null and void by law, so that the agreement is considered to have never existed and legally from the beginning there was no agreement and there was also no obligation between the people who intended to make the agreement.

When linked to the matter discussed by the Researcher, there are at least 2 (two) conditions that are not met in the Sale and Purchase Act, namely:

a. Agreement of the Parties

In this case, it is very clear that there was no agreement between the Defendant and his siblings regarding the division and sale of land in SHM No. 2106, where the heirs were not aware of the sale and purchase and never appeared in person before the Notary/Land Deed Official from the beginning of the AJB making until the signing of AJB No. 112/2007, AJB No. 165/2007 and AJB No. 37/2008, where the presence and signatures of the heirs in their approval section were forged.

b. A Halal Reason

By falsifying the signatures and thumbprints on the agreement of the heirs regarding the sale and purchase of land, there is a violation of the requirement of "lawful cause" because the Defendant in the agreement in bad faith falsified the presence of the heirs so that it seemed as if the Defendant as the Seller had obtained the approval of the heirs to sell the land and buildings to the Buyers, and then it was as if the heirs had also signed the AJB as if it were really the heirs who signed it, so that the signatures of the approval on the AJB were fake.

The requirement of "agreement of the parties" is a subjective requirement which if this requirement is not met then the agreement that has been made can be canceled. While the requirement of "lawful cause" is an objective requirement which if this requirement is not met then the agreement that has been made is declared null and void, meaning that an agreement is considered to have never existed or occurred from the beginning so that the parties may not base a legal act that they have carried out based on this reason. Thus, due to the failure to fulfill the subjective and objective requirements, the Deed of Sale and Purchase No. 112/2007 of 2007, the deed of sale and purchase No. 165/2007 of 2007, the Deed of Sale and Purchase No. 37/2007 made before the Land Deed Making Officer Armalina Ahmad and Yanses Saam, S.H. can be canceled or null and void by law.

The emergence of the legal consequences of the cancellation, as well as the violations committed by the Land Deed Official in this case, the formal truth in the form of the party appearing and his signature and the material truth in the form of information stated in the authentic deed are not fulfilled because they have been proven

to be false, causing the deeds made by the Land Deed Official, namely AJB No. 112/2007 of 2007, AJB No. 165/2007 of 2007, AJB No. 37/2007 to have the power of proof as a private deed. According to the provisions of Article 84 of the Notary Law, acts of violation committed by a Notary/Land Deed Official that result in a deed only having the power of proof as a private deed or a deed being null and void by law can be a reason for the party who suffers a loss to demand reimbursement of costs, damages, and interest from the Land Deed Official as civil liability. In addition, the Land Deed Making Officer is considered to be careless and not careful in carrying out his position because the deed he made only has the power of proof as a private deed so that he can be subject to administrative sanctions according to the applicable code of ethics.

In this case, Certificate of Ownership Number 2106 and Deed of Sale and Purchase No. 112/2007 of 2007, deed of sale and purchase No. 165/2007 of 2007, Deed of Sale and Purchase No. 37/2007 which became evidence were stated by the Judge in the Verdict to be "Returned to the BPN of Padang City" and "Returned to Retnowati". This shows that the consequences that occur due to the forgery of signatures in the agreement, namely in the Deed of Sale and Purchase and the Certificate of Ownership are "null and void" this is guided by the requirements for the validity of an agreement in Article 1320 of the Civil Code which states that an agreement is said to be valid if it is based on the agreement of the parties, competent, a certain matter and a lawful cause. In this case, the elements of agreement and lawful cause are not fulfilled because there was a forgery of the agreement of the parties regarding the issuance of a new Certificate and Deed of Sale and Purchase, based on this, it is appropriate to interpret the agreement that has occurred as null and void because the subjective requirements in the valid conditions of the agreement are not fulfilled. The consequence of being null and void is that Deed of Sale and Purchase No. 112/2007 of 2007, Deed of Sale and Purchase No. 165/2007 of 2007, Deed of Sale and Purchase No. 37/2007 are considered null and void and are considered non-existent or never happened from the beginning so that the parties may not base a legal act they have carried out based on these reasons.

3.2. Application of the principle of caution by Land Deed Officials in Making Sale and Purchase Deeds.

The Land Deed Making Officer as the party who made the Deed of Sale and Purchase must be able to be held accountable for the deed he has made. As in the criminal case in the Padang District Court Decision No. 538/PID.b/2019/PN Pdg where there was a criminal act of forgery of signatures in the Deed of Sale and Purchase and was punished under Article 266 paragraph (2) of the Criminal Code. The Padang District Court Judge stated that there had been a criminal act of "using a forged Authentic Deed". In this case, there was the use of a fake authentic deed by forging the signatures of the parties in the act of issuing a new Certificate and implementing the Deed of Sale and Purchase to the purchasing parties carried out by the defendant. In this case, the Land Deed Making Officer was required to provide testimony because as the party who issued the Deed of Sale and Purchase No. No. 112/2007 of 2007, Deed of Sale and Purchase No. 165/2007 of 2007, Deed of Sale and Purchase No. 37/2007 because after conducting a forensic laboratory examination at the Forensic Laboratory Center of the Medan Branch of the Indonesian National Police Criminal Investigation Agency on the signature, it was found that the signature of the reporting witness contained in the Deed of Sale and Purchase was declared non-identical/not the same as their actual fingerprints.

As a public official, the Land Deed Official must be careful in carrying out his/her duties, so that the Land Deed Official must be careful when checking the formal truth

of the documents submitted to him/her. The Land Deed Official is also required to be honest in carrying out his/her duties such as being honest with himself/herself, the community and God. The Land Deed Official when carrying out his/her duties must have good intentions and in accordance with the code of ethics or applicable regulations, as stated in Article 3 letter f of the Land Deed Official Code of Ethics which requires that the Land Deed Official must be responsible, fair and impartial, and Article 4 letter r number 1, where the Land Deed Official is prohibited from carrying out acts that violate the provisions in the Land Deed Official Position Regulations and other provisions of laws and regulations related to the main duties of the Land Deed Official. The Land Deed Making Official should make a deed that can be used as proof that a certain legal act regarding land rights has been carried out in accordance with Article 1 point 4 of the Regulation on Land Deed Making Officials, if the deed issued by the Land Deed Making Official is made based on the correct procedures it will provide legal certainty for the parties concerned.

The Land Deed Making Officer as the maker of the Sale and Purchase Deed should act carefully in carrying out his/her duties and apply the principle of caution, especially in the process of making the Sale and Purchase Deed. In the oath of office of the Land Deed Making Officer as stated in Article 34 paragraph (1) of the Regulation of the Head of the National Land Agency Number 1 of 2006, namely: *"To carry out my office honestly, orderly, carefully and with full awareness, responsibility and impartiality."* The article emphasizes that the Land Deed Making Officer when carrying out his/her official duties must act in an orderly, careful and conscious manner or apply the principle of caution in carrying out his/her authority.

This precautionary principle is an application of Article 16 paragraph (1) letter a of the Notary Law, namely the obligation of the Notary/Land Deed Official to act carefully in carrying out his/her duties. The Notary/Land Deed Official has a role in determining whether an action can be stated in the form of a Deed or not, so that the implementation of the principle of accuracy (caution) must be carried out in the process of making a deed by:

- a. Conducting identification of the person appearing based on their identity shown to the Notary/Land Deed Official.
- b. Ask, then listen and observe the wishes or desires of the parties.
- c. Examining evidence of letters related to the wishes or wishes of the parties.
- d. Provide advice and create a deed framework to fulfill the wishes or desires of the parties.
- e. Fulfilling all administrative techniques for making Notarial Deeds, such as reading, signing, providing copies and filing for minutes.
- f. Carry out other obligations related to the implementation of the duties of the Notary position.

When associated between Article 16 paragraph (1) letter a of the Notary Law with the statement of the Land Deed Making Officer and the reporting witness regarding the Case in the Padang District Court Decision Number: 538/PID.b/2019/PN Pdg, the Land Deed Making Officer when making the Sale and Purchase Deed did not introduce the person appearing based on his/her identity, this can be seen from the error in the date of birth and occupation of the reporting witness stated in the Sale and Purchase Deed. In addition, the Land Deed Making Officer did not even ask, listen to and observe the wishes or desires of the parties, this is proven because the reporting witness as one of the parties in the Sale and Purchase Deed never came or met with the Land Deed Making Officer, so that when the Sale and Purchase Deed was made, the Land Deed Making Officer ignored point b because he/she did not ask, listen to and observe the

wishes or desires of all parties. Furthermore, the Land Deed Making Officer did not even check the written evidence related to the wishes or desires of the parties, this is indicated by the forgery of signatures in the Certificate and Sale and Purchase Deed. However, in reality, the Notary in his position as the Official Land Deed Maker in this case still grants the wishes of the parties to hold a sale and purchase and sets it down in a Deed of Sale and Purchase.

A Land Deed Making Officer is only authorized to check the formal truth of the identity of the parties and the legal basis for the actions of the parties as regulated in Article 54 paragraph (2) and paragraph (3) of the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 as amended and supplemented by the Regulation of the Head of the National Land Agency Number 23 of 2009 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning the Regulations on the Position of Land Deed Making Officers. The Land Deed Making Officer is not required to check the material truth of the identity of the parties because the Land Deed Making Officer only enters the information or wishes of the parties submitted to him. Therefore, before making a deed, the Land Deed Making Officer must carefully check the formal truth of the data to be included in the deed, namely as follows:

- a. Check the certificate at the local Land Office;
- b. Checking the identity documents, competence, authority of the parties (based on identity cards, Marriage Certificate, Power of Attorney, Letter of Consent of Wife/Husband, Marriage Agreement, Company Articles of Association and amendments thereto);
- c. Requesting Taxpayer Identification Number;
- d. Requesting a Statement Letter stating that there is no dispute regarding the object of the legal act, either physically or legally;
- e. Request a Permit from the authorized Official in the case of transfer or encumbrance of objects in legal acts such as: for agricultural land, for rights of use of State Land, for land whose certificates are defective, for the purchase of a freehold residential house of no more than five plots with a total area of 5000m²;
- f. Request proof of full payment of VAT and BPHTB;
- g. To make a deed for a portion of a plot of land that has been registered/former Customary Property Rights, it is mandatory to request that measurements be carried out first by the local Land Office and that a NIB (Land Plot Identification Number) be issued for the land;
- h. For each deed made, the Land Deed Making Officer is required to include the NIB, Certificate Number and PBB SPPT Number (Cahyadi. 2013)

Although the Land Deed Official cannot be held criminally responsible because he did not participate in the crime of falsifying data in an authentic deed in the form of a Sale and Purchase Deed. The Land Deed Official can be held accountable according to his professional code of ethics because a violation has occurred which has resulted in consequences for the authenticity of the deed he made. According to the provisions of Article 9 of the Code of Ethics for Land Deed Officials, if there is a member of the Association of Land Deed Officials who is suspected of violating the Code of Ethics, whether the suspicion comes from the knowledge of the Regional Honorary Council (MKD) itself or because of a report from the Regional Management or other parties to the MKD, then the MKD within a maximum of 7 (seven) days will hold a Regional Honorary Council session to discuss the alleged violation and thereafter summon the Land Deed Official concerned to be questioned and to defend himself. In the decision of the MKD hearing, it was stated that there was a proven violation of the Code of

Ethics, so the hearing also determined sanctions against the violators, which according to their level were in the form of reprimands, warnings, schorsing (temporary dismissal), onzetting (dismissal), and dishonorable dismissal from membership of the Association of Land Deed Making Officials.

The principle of caution should be considered by the Land Deed Making Officer when making a Deed of Sale and Purchase, as regulated in Article 34 paragraph (1) of the Regulation of the Head of the National Land Agency Number 1 of 2006 where the Land Deed Making Officer when carrying out his/her job duties must act in an orderly, careful and full awareness or apply the principle of caution in carrying out his/her duties, one of which is when making a Deed of Sale and Purchase. In the process of making a Deed of Sale and Purchase, attention should be paid to Article 16 paragraph (1) letter a of the Notary Law where the Notary/Land Deed Making Officer when making a Deed of Sale and Purchase should introduce the parties, ask, listen to and examine the wishes or desires of the parties and examine documentary evidence related to the wishes or desires of the parties. However, in reality, there was a forgery of signatures in the deed of sale and purchase and it was found that the reporting witness had never met directly with the Land Deed Making Officer.

If the principle of caution is applied by the Land Deed Making Officer such as introducing the person appearing based on his/her identity shown; asking, then listening and observing the wishes or desires of the parties; checking documentary evidence related to the wishes or desires of the parties and checking carefully regarding the formal truth of the data to be stated in the deed carefully with scrutiny, it will not happen as long as the Land Deed Making Officer applies the principle of caution.

4. CONCLUSION

Legal consequences of proven forgery of signatures in the Deed of Sale and Purchase issued by the Land Deed Making Officer for Deed of Sale and Purchase No. 112/2007 of 2007, deed of sale and purchase No. 165/2007 of 2007, Deed of Sale and Purchase No. 37/2007 "Returned to BPN Padang City" and Certificate of Ownership Number 2106 "Returned to Retnowati". This shows that the consequences that occur due to forgery of signatures in the agreement, namely in the Deed of Sale and Purchase and Certificate of Ownership, are "null and void". This is guided by the requirements for the validity of an agreement in Article 1320 of the Civil Code which states that an agreement is said to be valid if it is based on the agreement of the parties, competent, a certain matter and a lawful cause.

In this case, there was a forgery of the agreement of the parties regarding the issuance of a new Certificate and the Deed of Sale and Purchase, based on this, it is appropriate to interpret the agreement that has occurred as null and void because the subjective requirements in the valid conditions of the agreement are not met. The consequence of being null and void is that the Deed of Sale and Purchase No. 112/2007 of 2007, the deed of sale and purchase No. 165/2007 of 2007, the Deed of Sale and Purchase No. 37/2007 are considered null and void and are considered to not exist or have never occurred from the beginning.

The obligation of the Land Deed Making Officer to act in an orderly, careful and conscious manner or to apply the principle of caution in carrying out his duties is regulated in Article 34 paragraph (1) of the Regulation of the Head of the National Land Agency Number 1 of 2006. In the process of making a Sale and Purchase Deed, the Land Deed Making Officer should pay attention to Article 16 paragraph (1) letter a of the Notary Law. However, in reality, the Land Deed Making Officer ignored the procedures that had been regulated in the process of making AJB No. 112/2007, AJB No. 165/2007 and AJB No.

37/2007 where in reality there was falsification of signatures in the sale and purchase deed and it was found that the reporting witness had never met directly with the Land Deed Making Officer.

In this case, the Land Deed Making Officer did not introduce the parties based on their identities, did not ask, listen and examine the wishes or desires of the parties and did not examine documentary evidence related to the wishes or desires of the parties as stated in the Deed of Sale and Purchase. The actions of the Land Deed Making Officer made an agreement that was made invalid and declared null and void by law because it did not fulfill the elements of an agreement and a lawful cause, this happened because the Land Deed Making Officer did not apply the principle of caution in the process of making the Deed of Sale and Purchase by the parties.

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