

ANALYSIS OF JUDGES' LEGAL CONSIDERATIONS ON THE VALIDITY OF AUTHENTIC DEEDS MADE BY A NOTARY

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ABSTRACT

Abstract: The validity of the authentic deed made by a notary/ppat is questionable. Based on this phenomenon, this study formulates the problem of how the validity of the authentic deed of sale and purchase agreement is valid and how to analyze the considerations of judges who do not accept lawsuits regarding the ratification of the authentic deed. The purpose of this study is to determine the validity and legal considerations. This research is normative juridical or research, this research uses Statute Approach and Analytical Approach. The data collection technique used is library research. Data analysis in this study uses a qualitative method. (deceased) and Soemadjoko are said to be legal (lawful) based on the Notary Deed of binding sale and purchase, dated April 25, 1995 drawn up at the Notary Office of Liana Dewi Santoso, S.H. The lawsuit was not accepted because the judge stated that there had not been a sale and purchase between Mansyur Ali (deceased) and Soemadjoko. The binding sale and purchase of land and buildings that occurred between Mansyur Ali (deceased) and Soemadjoko was said to be legal (lawful) based on the Notary Deed of binding sale and purchase, date April 25, 1995 made at the Notary Office of Liana Dewi Santoso, S.H. In the consideration of the majlis, the judge stated that the sale and purchase of land between the plaintiff and the defendant had not been carried out in accordance with the provisions of the law to the competent authority.

Keywords: Binding Sale And Purchase, Deed, Notary

Introduction

The 1945 Constitution has determined and stated that the Unitary State of the Republic of Indonesia is a state of law, so that an important obligation for the state is to guarantee legal certainty, order and protection which is based on truth and justice. For this reason, in living in society there is a need for provisions that are able to prove an event or legal act, so that deeds play an important role in providing written evidence of the event. This is the basis for rights or obligations in civil law. The role and function of law in Indonesia is not easy when compared to developed countries because of the many limitations. These limitations not only hinder the smooth running of the legal process in an orderly and certain manner but also require approaches and thoughts that aim to balance every existing interest.

Based on the above, it is necessary to have an institution and/or public official who has the authority to make authentic deeds, in this case it is intended as a notarial institution.

The notary institution is a social institution that emerged based on the need for interaction between human beings in civil legal relations which requires evidence. In the world of business, land, banking, social activities and others, the need for written evidence is increasing in line with the many demands for legal certainty in social and economic relations, both regionally, nationally and globally so that authentic deeds are used as a tool. the strongest and most complete written evidence that can clearly determine rights and obligations, guarantee legal certainty, and is expected to avoid disputes even though these disputes cannot be avoided. In the dispute resolution process, authentic deeds are able to make a real contribution to resolving cases cheaply and quickly.

Every society needs a person (figure) whose information is reliable, can be trusted, whose signature and seal (stamp) provide guarantees and strong evidence, an expert who is impartial and an advisor who is without flaws (unscentedorunimpeachable), who keeps his mouth shut and makes an agreement that can protect him in the days to come. If an Advocate defends someone's rights when a difficulty arises, then a Notary must try to prevent that difficulty from occurring. (Nurhidayanti et al., 2018)

Notaries as public officials have a central role in enforcing the law in Indonesia because apart from a large number of Notaries, Notaries are known to be among the elite group in Indonesia. Notaries as an elite group means that notaries are a scientific community that sociologically, economically, politically, and psychologically is in a relatively higher stratification among society in general (Diani & Agus, 2019). The main basis of a Notary profession is trust and as an elite community, the professionals who are members of this community bear a heavy mandate for the trust placed in them. The position of a Notary as a functionary in society is still respected to this day.

A notary is usually considered an official from whom one can obtain reliable advice. Everything that is written and established (constant) is true, it is a powerful document maker in a legal process (Samad & Karyono, 2020). The position as a Notary is part of service to the community which must be in line with the development of society in the future. The speed, skill, and accuracy of Notary officials are not only based on a formalistic viewpoint but must also be based on a professionalistic view point so that the quality of Notary services truly provides positive results for the community. As a Notary, it is natural to carry out his position with legal expertise based on a great sense of responsibility that is full of respect for dignity and ethics. A Notary must be highly dedicated, have a professional attitude, and uphold his honor and dignity by enforcing the laws relating to his position. Notary and code of ethics (Prabawa, 2017).

Prior to the enactment of Law Number 30 of 2004, the position of Notary was regulated in the Reglement op Het Notaris Ambt in Nederlands Indie (Stbl. 1860:3) as last amended in the State Gazette of 1954 Number 101 Article 91 of the Notary Position Law stated that the regulations it is no longer in accordance with legal developments and community

needs. Law Number 30 of 2004 underwent changes resulting in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries (UUJN). In Law Number 30 of 2004 concerning the Position of Notaries in conjunction with Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries (UUJN), it is regulated in detail about the general positions held by Notaries, so it is hoped that An authentic deed made by or before a Notary is able to guarantee certainty, order and legal protection. Considering that a notarial deed is an authentic deed which is the strongest and most complete form of written evidence, what is stated in the notarial deed must be accepted, unless the interested party can prove the opposite satisfactorily before a court hearing. ([Ma'ruf & Wijaya, 2015](#))

Basically, an authentic deed contains formal truths in accordance with what the parties have notified the Notary as a public official. However, we have an obligation to ensure that what is contained in the Notarial deed is truly understood and in accordance with the wishes of the parties, namely by reading it so that the content of the Notarial deed becomes clear, as well as providing access to information, including access to statutory regulations. related to the parties signing the deed. Thus, the parties can decide freely to agree or disagree with the contents of the Notarial deed they will sign. ([Nurwulan, 2018](#))

In practice, land rights sale and purchase agreements often begin with an authentic Deed, namely a Sale and Purchase Agreement, because the 'clear and cash' requirements for entering into a Sale and Purchase Deed cannot yet be fulfilled ([Amborowati, 2020](#)). The clear terms require that the process of buying and selling land rights be carried out before an official who has the authority to do so. Observing the provisions of Article 37 of Government Regulation Number 24 of 1997 concerning Land Registration, the official appointed to make the deed of transfer of land rights, including the Sale and Purchase Deed is the Land Deed Drafting Officer (hereinafter referred to as PPAT). ([Nasution, 2023](#)) Cash characteristics can be seen in the implementation of the Deed of Sale and Purchase where the transfer of rights from the Seller coincides with the payment of the land price from the Buyer and at this time the rights to the land have been transferred. ([Audina, 2022](#))

The purpose of holding a Deed of Sale and Purchase Agreement is to form an attachment between the Seller and the Buyer which will then be followed up with a Deed of Sale and Purchase. The essence of the Deed of Sale and Purchase Agreement is that it contains the Seller's consensus to transfer ownership of the land to the Buyer followed by payment from the Buyer to the Seller and sets a date for executing the Deed of Sale and Purchase before the PPAT. The Deed of Sale and Purchase Agreement usually also includes conditions as agreed by the parties concerned. In general, the Sale and Purchase Agreement is set out in the form of a Deed of Sale and Purchase Agreement which is drawn up and issued by a Notary, although it may actually be executed privately.

The tendency to include a Binding Sale and Purchase Agreement into a Notarial Deed is based on the consideration that there is a difference between a Deed of Binding Sale and Purchase Agreement and a private agreement (Kusuma & SH, 2021). A deed made and issued by a Notary is an authentic deed as intended in the provisions of Article 1868 of the Civil Code which describes "an authentic deed is a deed in the form determined by the Law, made by or in front of public officers who have the authority to do so in the place where the deed is made." This type of deed is capable of providing perfect evidentiary power according to the law and cannot be denied its truth by the parties, of course, this is different from private agreements (Pramono, 2015).

Even though an authentic deed such as a sale and purchase agreement made by a notary is perfect according to the law and its truth cannot be denied, what happens in the community is that authentic deeds in this case the sale and purchase agreement can be canceled and declared expired by the national land agency. One of the cases that occurred was that the authentic deed of sale and purchase agreement made by notary Liana Dewi Santosa dated April 25 1995 which explained the sale and purchase agreement between Mr. Soemardjoko as the first party (seller) and Tuang Mansyur Ali as the second party (buyer) was declared expired by the National Land Agency. This incident occurred when the wife of the second party, where the second party had died, tried to arrange or upgrade the certificate of building use rights owned by the first party to property rights by attaching the sale and purchase agreement to the national land agency.

As a result of not being able to change the name and upgrade the SHGB to SHM, the wife of the deceased second party filed a lawsuit against the seller and the notary who made the authentic deed of sale and purchase agreement with the court. Court decision number 1420/pdt.g/2021/PN TNG decided not to accept the lawsuit filed by the plaintiff, in this case, the wife of the deceased second party who was listed as the buyer in the authentic deed of notary Liana Dewi Santoso. This phenomenon attracted the author to examine the legal considerations of judges regarding the validity of authentic deeds of sale and purchase agreements made by notaries.

As with the background of the problems and phenomena described above, the problem can be formulated as follows:

1. What is the validity of the evidence of an authentic deed made by a Notary for the transfer of land rights from the name of the seller (first party) to the buyer (second party) whose land rights have not been transferred for 27 years?
2. What are the legal considerations of the judge who decided not to accept the lawsuit in decision Number: 1420/PDT.G/2021/PN.TNG?

The aims of this research are:

1. To find out and analyze the juridical reasons for the validity of an authentic deed made by a notary for the transfer of land rights from the name of the seller (first party)

- to the buyer (second party) whose land rights have not been transferred for 27 years.
2. To find out and analyze the legal considerations of the judge who decided not to accept the lawsuit.

This research is expected to provide theoretical benefits in adding to library materials or literature regarding the validity of Authentic Deeds Regarding Sale and Purchase Agreements. Meanwhile, in practical terms, this research is expected to contribute to the thinking of the community, especially practitioners who relate to authentic deeds of sale and purchase agreements and the legal considerations of judges who do not accept lawsuits. To support the analysis in writing this journal, theories related to the research focus are needed.

Peter Mahmud Marzuki said that legal research is done to produce new arguments, theories, or concepts as prescriptions for solving the problems faced. The legal theory used as an analytical knife in this research is the legal protection theory. Justice, Theory of Responsibility, and Theory of Legal Protection must see the stages, ie the legal view is born from a legal provision and all legal regulations given by the community are basically an agreement between members of the community and between individuals and the government who are considered to represent the interests of the community. Based on that, the researcher will present several theories related to the research theme to be used as a knife of this analysis as follows Theory of Justice Ideal justice in Aristotle's view is that all elements of society get an equal share of all things in nature. Humans in their view are equal and have the same right to the ownership of an item (material). According to John Rawls, freedom and equality are elements that become the core of the theory of justice. Theory of responsibility One concept related to the concept of legal obligation is the concept of legal responsibility. That a person is legally responsible or a certain act or that he bears legal responsibility, the subject means that he is responsible for a sanction in the case of the opposite act. The theory of responsibility or legal responsibility is needed to be able to explain the Notary's responsibilities related to his authority based on the UUJN which is in the field of civil law. One of these powers is to create evidence that can provide legal certainty for the parties, then become a delict or an act that must be held criminally accountable.

The theory of legal certainty includes several rules about what should be done. Norms are the products and actions of humans deliberative. Laws containing general rules serve as guidelines for individuals to behave in society, both in their relationships with fellow individuals and in their relationships with society. These rules become limits for society in burdening or taking action against individuals. The existence of these rules and the implementation of these rules give rise to legal certainty. According to Gustav Radbruch, the law must contain 3 (three) identity values, namely as follows: The principle of legal certainty (legality). This principle is reviewed from a juridical perspective, the principle of legal justice (righteousness). This principle is viewed from a philosophical perspective, where justice is equal rights for all people before a court.

The principle of legal benefit (sweatinessorefficiency or utility. One of the objectives of law is legal certainty and legal benefits. Positivists place greater emphasis on legal certainty, while Functionalists prioritize legal benefits, and it could be argued that one of the goals of law is legal certainty and legal benefits. Positivists put more emphasis on legal certainty, while Functionalists prioritize the benefits of the law, and it can be argued that "the highest right, the highest injury, the highest law, the highest cross" which means that harsh laws can hurt unless justice can help them. Thus, although justice is not the only goal of law, the most substantive goal of law is justice. There are more and more visions, missions, and goals that must be achieved by a process of implementing law in the courts in this era of reform and transformation. Classically, apart from achieving justice, the law also has the aim of creating legal certainty for individuals and for society at large.

There are many other legal objectives that must be achieved in this era of reform and transformation. In this case, the law must be able to harmonize the elements of justice, elements of legal certainty, and other elements. Because, justice, legal certainty and other elements often conflict with each other. Therefore, in legal science, the term "the highest right, the highest injury" (the highest justice is the highest injustice). One example of a sharp contradiction between elements of justice and elements of legal certainty is in "expired" legal institutions. A criminal can no longer be charged before a judge if he has not been arrested by law enforcement within a certain time limit. The Criminal Code states that. In this case, legal prosecution against criminals is considered to have expired. In circumstances like this, you can imagine how much it can hurt public justice, let alone the justice of crime victims. In fact, what is the law pursuing if it has the heart to allow criminals to continue wandering outside prison? What is pursued is nothing other than the element of legal certainty, even though the cost is at the expense of the element of justice. Conditions like this often occur in various existing legal institutions. Because if the law is uncertain, then society will also be in trouble. There is often an expression that the legal sector does not provide legal certainty for the community so that foreign countries, foreigners and foreign investors are reluctant to enter or have contact with Indonesia. Because, wouldn't legal uncertainty have an impact on business uncertainty in Indonesia? As a result of the absence of this element of legal certainty, overall Indonesian law becomes unpredictable (unpredictable). For example, if we have a civil proceeding in district courts, it is difficult to predict the outcome. Often cases that have quite strong evidence, but suddenly lose in court for reasons that are not clear, even for reasons that are considered naive. On the other hand, there are often cases where a party whose legal position and evidence are very weak, unexpectedly turns out to be won by the court.

Research Method

In accordance with the main problem, the type of legal research carried out is normative juridical research or research that analyzes the law, both written in books and laws decided by judges through court processes. The approach is descriptive and analytical.

The descriptive purpose here aims to collect systematic, factual, and accurate data on a problem based on applicable laws regulations, and legal norms (Arfa & Marpaung, 2018).

Normative research uses several approaches including the Legislative Approach (Statute Approach) and Analytical Approach. Normative legal research that uses a statutory approach will be more accurate if research is used that describes how the notary is responsible for the deed he or she makes according to the provisions of laws, regulations, and the reality in practice of the object of research. The stages of normative juridical analysis are: a). Formulating legal principles, both from social data and from written positive legal data; b). Formulate legal definitions; c). Establishment of legal standards; and D). Formulation of legal rules. (Purwati, 2020)

The data used in this research is divided into 3 (three), namely: a). Primary legal materials, namely legal materials that are authoritative, meaning they have authority. Primary legal materials consist of legislation, official records or minutes in making legislation and judges decisions. namely the Civil Code (KUHPerdata), the Basic Agrarian Law, Law Number 30 of 2004 as amended into Law Number 2 of 2014 concerning Notary Positions (UUJN), Law Number 48 of 2009 concerning Judicial Power and Tangerang District Court Decision Number 1420/Pdt.G/2021/PN.Tng. ;b). Secondary legal materials, namely all publications about law that are not text documents, legal journals, and comments on court decisions. Tertiary legal materials, namely materials that provide information about primary legal materials and secondary legal materials used to support research. The materials used in this research were legal dictionaries and encyclopedias.

The data collection technique used is library research (library research) namely to obtain data by reviewing library materials or secondary data which includes primary legal materials, and secondary legal materials which can be in the form of statutory regulations, books, and other scientific works as well as tertiary legal materials, namely in the form of dictionaries, magazines, newspapers, and scientific journals.

Data collection tools can be used by studying documents or library research. Document study is the first step in any legal research (both normative and sociological) because legal research always starts from normative premises. Document study for legal research includes the study of legal materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Each legal material must be rechecked for validity and reliability because this really determines the results of the research.

Research really requires useful data analysis to provide answers to the problems being studied. Data analysis is the process of organizing and sorting data into categorical patterns in a basic description so that themes can be found and working hypotheses can be formulated as suggested by the data. Data analysis in this research uses qualitative

methods. Research using qualitative methods starts from assumptions about reality or social phenomena that are unique and complex. There is a certain regularity or pattern in it, but it is full of variations (diversity) (Bungin, 2007). Qualitative research is a research process to understand human or social phenomena by creating a comprehensive and complex picture that can be presented in words, reporting detailed views obtained from informant sources, and carried out in a natural setting (AK & ZA, 2015). A qualitative analysis essentially emphasizes the deductive method as the main guide. Data from research results that have been collected during continuous data collection in the field. Starting with a data clarification process to achieve consistency, followed by the abstraction step of theoretical abstraction of field information, taking into account producing statements that are very likely to be considered basic. Next, conclusions are drawn using the deductive thinking method, namely a way of thinking that starts from general things and then draws specific ones, using provisions based on general knowledge, such as theories, postulates or principles in the form of propositions. to draw conclusions about specific facts, to answer the problems that have been formulated in this research.

Result And Discussion

Validity of Evidence of an Authentic Deed Made by a Notary for the Transfer of Land Rights from the Name of the Seller (First Party) to the Buyer (Second Party) Whose Land Rights Have Not Been Transferred for 27 Years

This research uses the casuistic approach method in Decision Number: 1420/PDT.G/2021/PN.TNG. In this decision, the case is explained which is the chronology of the lawsuit against the notary as a public official who made the authentic deed in the form of a sale and purchase agreement. In the decision, it is explained where the problem sits The plaintiff with a lawsuit letter dated 31 December 2021 which was received and registered at the Registrar's Office of the Tangerang District Court on 31 December 2021 in Register Number 1420/Pdt.G/2021/PN Tng, has filed the following lawsuit: (Nursolih, 2019)

That the Plaintiff is the wife of the deceased Mansur Ali, based on data evidence from Family Card (KK) No: 3671090609070943, Death Certificate No: 62 /CBB /III / 96, and Power of Attorney for Inheritance signed by the head of the Cibodas Baru subdistrict, dated 01 October 2021 number: 593/ 90 / wrs / X / 2021. (Exhibit. P. 1).

Whereas on April 25 1995, (the late) Mansyur Ali entered into a Sale and Purchase agreement with Soemardjoko at the office of Notary Mrs. LIANA DEWI SANTOSO as Notary and PPAT, whose address is Ki Samaun No. 195 A, which was signed by Notary Nyonya Liana Dewi Santoso, SH. April 25 1995. (exhibit P.2).

That at the time of the Sale and Purchase agreement the Seller handed over the Building Use Rights Certificate number 6618, in the name of the SOEMARDJOKO rights holder, to the Buyer (the late Mansyur Ali). (Exhibit P3).

When the Plaintiff wanted to submit an application to change the name of the Building Use Rights certificate number: 6618 in the name of Soemardjoko to the Plaintiff's Ownership, it was rejected by the National Land Agency on the grounds that the Deed of Sale and Purchase Agreement had expired.

Meanwhile, in the Sale and Purchase agreement dated April 25 1995, Article 6 states: This agreement will not end because one of the parties dies, but is hereditary and all the rights and obligations of the party who dies based on this letter, become rights and obligations (The) heirs of the Party who died.

That the National Land Agency is not based on the Deed of Sale and Purchase Agreement between: Soemardjoko as the seller and Mansyur Ali as the buyer at the Notary's Office and the PPAT which was made on April 25 1995 is not valid because it has expired, on the grounds that the Deed of Sale and Purchase Agreement is already 26 years old.

That since the Sale and Purchase agreement on April 25 1995 until now (2021) for 26 years the land and buildings have still been owned by the Plaintiff and his sons and daughters/heirs. (Exhibit P4)

Based on the existing case, the plaintiff filed a lawsuit and request for a decision to the Tangerang District Court on several points, including:

1. Granted the Plaintiff's lawsuit in its entirety.
2. Declare the Sale and Purchase Agreement made by Notary Liana Dewi Santoso, S.H. On April 25 1995 it was legal, between the Seller in the name of Soemardjoko, and the Buyer in the name of Mansyur Ali (deceased), in accordance with Article 6 of the Notarial Deed.
3. That the Building Use Rights Certificate number 6618 which was signed by the Head of the Land Office on 10 - 02 - 1995, in the name of the holder of the Soemardjoko Rights is valid and can be transferred / renamed from the holder of the Soemardjoko Rights to the Plaintiff (Hj. Komariah)
4. Ordered the Tangerang City National Land Agency to upgrade its rights from Building Rights number 6618 in the name of Soemardjoko Rights holders, to Hj Ownership Rights. Komariah (Plaintiff).
5. Sentence to the Defendant to pay the court costs. Or if the Tangerang District Court has a different opinion, request a decision that is as fair as possible

The validity of the authentic deed of sale and purchase agreement made by a notary is questionable because the statement by the National Land Agency of Tangerang City states that the agreement of sale and purchase has expired. The plaintiff, who is the heir of Mansyur Ali (deceased), who is the second party, in this case, the buyer as stated in the deed of sale and purchase agreement of notary Liana Dewi Santoso on April 25 1995,

cannot process the return of the SHGB name number: 6618 in the name of Soemardjoko who is a party. the seller is the first party and is stated in the deed.

On the basis of Article 6 contained in the deed of sale and purchase agreement between the purchaser Mansyur Ali (deceased) which states that this Agreement will not end because one of the parties dies, but is hereditary and all the rights and obligations of the Party who dies are based on this letter, become the rights and obligations of the heirs of the party who died, then the plaintiff upgraded the SHGB to SHM at the national land agency office, in the application for the increase the national land agency stated that the deed of sale and purchase agreement had expired, the BPN statement became The reason why HJ Komariah, the heir of the buying party, filed a lawsuit against the seller and the notary who made the authentic deed of sale and purchase agreement.

In his lawsuit, the plaintiff asked the court to declare the sale and purchase agreement made by Notary Liana Dewi Santoso, S.H. On April 25 1995 it became legal between the Seller in the name of Soemardjoko, and the Buyer in the name of Mansyur Ali (deceased), so that SHG number 6618 in the name of the Soemardjoko Rights holder can be increased and transferred to the buyer's heirs according to an authentic deed made by notary Liana Dewi. Santoso SH. The authentic deed of sale and purchase agreement is the basis of the agreement between the buyer and the seller, the authentic deed being one of the deeds before the sale and purchase deed which is the basis for making a certificate or the basis for transferring rights to land and buildings from the seller to the buyer.

In practice, the Sale and Purchase Agreement entered into before a Notary is known as the Deed of Sale and Purchase Agreement. In reality, the existence of a Deed of Sale and Purchase Agreement is desired by the parties because the transfer of rights to the land object of sale and purchase from the Seller to the Buyer is not yet possible because the documents relating to the land are still incomplete or the land value has not been paid in full by the Buyer. The parties concerned hope that the land and the value of the land being traded will definitely be 'sold and bought' by them. In connection with this, a Deed of Sale and Purchase Agreement was drawn up in order to provide protection for the 'rights and obligations' of the Seller and Buyer. (Esterina & Lukman, 2022)

Sale and Purchase Binding Agreement as "an agreement between the seller and the buyer before the sale and purchase is carried out because there are elements that must be fulfilled first for the sale and purchase to be carried out, including the fact that the certificate does not yet exist because it is still in process, the price has not yet been paid." (Rahmani & Octarina, 2020) So the Sale and Purchase Agreement is an agreement with conditions that are formed prior to the implementation of the main agreement or core agreement. The essence of the Sale and Purchase Agreement is an obligatory agreement that is formed before the main agreement is born. The essence of the Sale and Purchase Agreement is an initial agreement which generally contains commitments from both parties, namely the Seller and the Buyer, which includes the rules when the actual terms

of the sale and purchase transaction have been fulfilled. (Hasanah, 2021) In principle, the making of a Sale and Purchase Agreement is based on the idea that the provisions regarding land rights to the object of sale and purchase must take the form of rights to the land belonging to the Seller as indicated by the existence of a land certificate or other official evidence regarding the land in question and that the land of the object of sale and purchase is not subject to dispute. with other individuals. Apart from that, the buyer must also comply with the requirements to quickly pay off the price of the land being traded. If this requirement is not fulfilled, then the implementation of the Deed of Sale and Purchase before the PPAT may not be carried out considering that everything related to the signing of the Deed of Sale and Purchase has not been fulfilled.

The purpose of creating the Sales and Purchase Binding Agreement Act is to provide certainty for each party, so that the Seller does not transfer the rights to the land to another party and the Buyer does not limit his intention to purchase land from the Seller, where the Sale and Purchase Binding Agreement Act is then continued with the Act Buy and sell in front of PPAT. (JONATHAN, 2022). As for the reasons that often lead Sellers and Buyers to bind themselves in the Sales and Purchase Binding Agreement Act, among others:

1. "Land title certificates are in the process of being issued by the local National Land Agency Office;
2. The object has not been paid in full by the prospective Buyer;
3. The object of the sale and purchase agreement will be transferred to another party;
4. So that in the future the parties do not break the agreement;
5. Prospective Buyers do not cancel PPJB unilaterally;
6. Postponing income tax payments;
7. Don't want to pay BPHTB."

The Sale and Purchase Agreement is an agreement, therefore it is mandatory to comply with the terms and rules that formulate the terms of the agreement, especially the requirements that must be fulfilled, along with their juridical consequences. Explicitly, the obligation to fulfill the requirements regarding the validity of an agreement has been emphasized in the provisions of Article 1320 of the Civil Code which states "for the validity of an agreement four conditions are required: the agreement of those who bind themselves, the ability to make an agreement, a certain thing, a reason that lawful."

Terms of agreement and terms of skill are categorized as subjective terms, while terms of a particular thing and terms of a halal cause are classified as objective terms. The four conditions above are the standard for determining the validity of agreements entered into by interested parties. The juridical consequence if the subjective conditions are not fulfilled or the agreement contradicts the subjective conditions is that the 'agreement can be cancelled.' Meanwhile the juridical consequence if the objective conditions are not fulfilled or the agreement contradicts the objective conditions is that it makes the 'agreement null and void.'

In the authentic deed of sale and purchase agreement that occurred between Soemardjoko as the seller and Mansyur Ali as the buyer, both parties have agreed to enter into a sale and purchase agreement before a notary/ppat Liana Dewi Santoso. In article three of the sale and purchase agreement, it is explained that the sale and purchase will be carried out and accepted at a price of Rp. 15,000,000 (fifteen million rupiah), in article 3 it is explained that the amount of money received by the first party from the second party at the time of signing this letter, and this letter also acts as a valid sign of receipt (receipt). Based on the explanation of article 3 in the sale and purchase agreement deed, it is clear that a sale and purchase transaction has occurred between the seller and the buyer, which means that a binding agreement has occurred in accordance with Article 1320 of the Civil Code which states "for the validity of an agreement, four conditions are required: the agreement of those who bind themselves, the ability to make an obligation, a certain thing, a lawful cause. With the existence of this article where a payment transaction has occurred, it is clear that both parties agree to bind themselves in a sale and purchase agreement.

The legal act of buying and selling land rights with a real sale and purchase agreement with a juridical handover in the form of making a deed of transfer of name by the Head of the Land Registration Office for the land being promised as an absolute condition of the land sale and purchase agreement in accordance with the provisions of Article 1457 to Article 1540 of the Civil Code . The binding sale and purchase agreement (PPJB) of land rights is intended to provide legal certainty to parties carrying out legal acts of sale and purchase of land rights by always referring to or being bound by the provisions of laws and regulations in the land sector such as the 1945 Constitution of the Republic of Indonesia, Civil Code, Republic of Indonesia Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles and several government regulations that support the implementation of this law.

The deed contains provisions that the agreement remains valid and can be continued even if one of the parties dies before the deed of sale and purchase is executed, which applies between the surviving party and the heirs of the deceased party, or between fellow heirs if both party has died. Then the land was handed over to the buyer along with SHGB SHGB number: 6618 in the name of Soemardjoko after the buying party paid Rp. 15,000,000, - to the seller and since the signing of the deed, the sale and purchase of rights has occurred. Because the transaction was carried out in clear cash and in cash and fulfilled the conditions for the sale and purchase of land rights, the sale and purchase agreement should be declared legally legal.

The basis for the application of Republic of Indonesia Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles is the provisions of Article 19 PP No. 10 of 1961 which has become Article 37 paragraph (1) PP No. 24 of 1997 in conjunction with Article 2 of the Head of BPN Regulation Number 7 of 2007 determines that every agreement involving land rights, whether in the form of transferring land rights, borrowing money

with land rights as collateral, granting new rights to land must be based on a deed made in front of PPAT or Notary (HS & SH, 2021). The transfer of land rights can be said to be legal (legitimate) and can be registered as a change of name if the PPAT as a public official witnesses and records all legal actions in making the sale and purchase deed, so that with the PPAT deed it can give a new status based on the request for change of name that has been requested by the party. who receives the transfer of rights (Larasati & Raffles, 2020). There is a requirement that the deed of sale and purchase of land rights must be made before the PPAT due to the legality (validity) of the agreements related to the sale and purchase of land rights.

Regarding the formal requirement that the sale and purchase of land rights must be proven by the existence of a PPAT deed, it has been regulated in the provisions of Article 37 paragraph (1) PP No. 24 of 1997. However, it is not absolutely necessary to prove it with a PPAT deed, in accordance with the provisions of Article 37 paragraph (2) PP No. 24 of 1997, the Head of the Regency/or City Land Office can register the transfer of land rights even without a PPAT deed. There is a basis for a sale and purchase deed made by PPAT, so at that time there is a transfer of land rights from the right holder as a seller to another party as a buyer, then the sale and purchase activity must be registered with the local Regency/or City Land Office. Thus, the PPJB on land rights that occurred between Mansyur Ali (deceased) and Soemadjoko is said to be legal (legitimate) based on the existence of a Notarial Deed of sale and purchase agreement, dated 25 April 1995, made at the Notary Office of Liana Dewi Santoso, S.H.

Legal Considerations of the Judge Who Decided Not to Accept the Lawsuit in Decision NUMBER: 1420/PDT.G/2021/PN.TNG

The sale and purchase binding deed that occurred between Mansyur Ali (deceased) and Soemardjoko was a sale and purchase binding deed made and witnessed by notary/PPAT Liana Dewi Santoso on April 25 1995, so it can be said that the sale and purchase binding deed is legally valid in accordance with the Basic Laws. the legal implementation of Republic of Indonesia Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles is the provisions of Article 19 PP No. 10 of 1961 which has become Article 37 paragraph (1) PP No. 24 of 1997 in conjunction with Article 2 of the Head of BPN Regulation Number 7 of 2007 determines that every agreement involving land rights, whether in the form of transferring land rights, borrowing money with land rights as collateral, granting new rights to land must be based on a deed made in front of PPAT or Notary.

However, in the petition for HJ Komariah's lawsuit as the heir of Masyur Ali stating the sale and purchase agreement made by Notary Liana Dewi Santoso, S.H. On April 25 1995 it was legal, between the Seller in the name of Soemardjoko, and the Buyer in the name of Mansyur Ali (deceased), in accordance with Article 6 of the Notarial Deed, the panel of judges in their decision stated that they did not accept the plaintiff's claim. This

has become one of the focuses of research regarding the judge's considerations in deciding not to accept the lawsuit.

In his decision, the judge considered that the main issue in the Plaintiff's lawsuit was the ratification of the sale and purchase agreement made by Notary Liana Dewi Santoso, S.H. On April 25, 1995; Considering, that based on evidence P-2 in the form of a Deed of Sale and Purchase Agreement dated April 25 1995 which was signed by Mrs. Liana Dewi Santoso, S.H., linked to Exhibit P-3, it turned out that Mansyur Ali and Soemardjoko had entered into a Sale and Purchase Agreement in the presence of Mrs. Liana Dewi Santoso, S.H., Notary and PPAT in Tangerang.

In these considerations, the panel of judges stated that the evidence presented by the defendant stated that Masyur Ali and Soemadjoko had entered into a sale and purchase agreement before notary/ppat Liana Dewi Santoso SH located in Tangerang. So, according to the researcher's analysis, it can be said that the panel of judges approved the existence of a sale and purchase agreement between Mansyur Ali and Soemardjoko before an official who has the authority to make a sale and purchase agreement, namely a notary/pat, so that the agreement has legal certainty between both parties.

Furthermore, in the judge's consideration which reads Considering, that the Plaintiff's lawsuit is regarding the Ratification of the Sale and Purchase Agreement made by Notary Liana Dewi Santoso, S.H. On April 25 1995 after the Panel of Judges had read and studied the Plaintiff's lawsuit, in the *posita* or *fundamentum* of the lawsuit, the Plaintiff did not outline and explain the legal basis and incidents or events (facts) underlying the sale and purchase of the land and buildings.

In these considerations, the panel of judges explained that the plaintiff, in this case the heirs of the buyer, did not describe and explain the legal basis, incidents and incidents (facts) underlying the sale and purchase of land and buildings between Mansyur Ali as the buyer and Soemardjoko as the seller. According to the researcher's analysis, the judge's consideration stated that this was correct because the plaintiff did not attach evidence in the form of a purchase receipt which is strong evidence, the plaintiff only attached evidence in the form of a sale and purchase agreement deed, and the SHGB was in the name of the seller without a transaction receipt which was the basis for that. the sale and purchase agreement has been fulfilled by the plaintiff. As is the theory regarding the sale and purchase binding deed according to Subekti who defines the Sale and Purchase Agreement as "an agreement between the seller and the buyer before the sale and purchase is carried out because there are elements that must be fulfilled first in order for the sale and purchase to be carried out, including that the certificate does not yet exist because still in process, price settlement has not yet occurred.

The judge's considerations which stated that the Plaintiff did not describe and explain the legal basis, incidents and incidents (facts) underlying the sale and purchase of land

were strengthened by the statements of the witnesses submitted by the Plaintiff which, among other things, explained that the witnesses presented by the Plaintiff did not know about the event of the sale. The witness only knew about the sale and purchase between Mansyur Ali and Soemardjoko from the Plaintiff's story.

With the consideration that the plaintiff did not describe and explain the legal basis, incidents and events (facts) underlying the sale and purchase of land as well as the testimony of witnesses who did not know the event or facts of the sale and purchase between Masyur Ali and Soemardjoko, the panel of judges in the following considerations was correct in stating that sell The purchase of land between the Plaintiff and the Defendant has not been carried out in accordance with legal provisions with the authorized officials, therefore the Plaintiff's claim is formally flawed therefore the Plaintiff's claim is declared inadmissible (Declared Inadmissible).

According to the researcher's analysis, the panel of judges could not accept the plaintiff's claim, it was correct, the evidence and witnesses did not have legal force to provide a strong reason for the panel of judges to grant the plaintiff's request. In the consideration of the panel of judges, it was stated that the sale and purchase of land between the plaintiff and the defendant had not been carried out in accordance with the legal provisions to the authorized officials. According to the researchers, what is meant by this had not been carried out in accordance with the legal provisions to the authorized officials was that the deed of sale and purchase agreement should be returned and upgraded to a deed of sale and purchase to the notary. /ppat provided that all points or conditions of the agreement contained in the sale and purchase agreement have been fulfilled by the buyer and seller. or it could be said that the consideration of the panel of judges states that the evidence in the form of a sale and purchase binding deed does not yet constitute a real sale and purchase agreement, in accordance with the provisions of Article 1457 to Article 1540 of the Civil Code that the legal act of buying and selling land rights with the existence of a real sale and purchase agreement is Juridical handover in the form of making a transfer of name deed by the Head of the Land Registration Office for the land being promised as an absolute condition of the land sale and purchase agreement.

Conclusion

Based on the analysis in the discussion, the conclusions of this research include: Regarding the formal requirement that the sale and purchase of land rights must be proven by the PPAT deed has been regulated in the provisions of Article 37 paragraph (1) PP No. 24 of 1997 so that the authentic deed binding the sale and purchase of land and buildings between Mansyur Ali (deceased) and Soemadjoko is said to be legal (legal) based on the existence of the Notary Deed binding the sale and purchase, dated April 25, 1995, which was made at the Notary Office of Liana Dewi Santoso, SH

Legal considerations of the judge who did not accept the lawsuit regarding the ratification of the sale and purchase agreement between Mansyur Ali (deceased) and Soemadjoko. In the consideration of the panel of judges, it was stated that the sale and purchase of land between the plaintiff and the defendant had not been carried out in accordance with the legal provisions to the authorized official, the intention had not been carried out in accordance with the legal provisions to the authorized official. is that the deed of sale and purchase agreement should be returned and upgraded to a deed of sale and purchase to the notary/ppat provided that all the points or conditions of the agreement contained in the agreement of sale and purchase have been fulfilled by both the buyer and the seller. or it could be said that the consideration of the panel of judges states that the evidence in the form of a sale and purchase binding deed does not yet constitute a real sale and purchase agreement, in accordance with the provisions of Article 1457 to Article 1540 of the Civil Code that the legal act of buying and selling land rights with the existence of a real sale and purchase agreement is Juridical handover in the form of making a transfer of name deed by the Head of the Land Registration Office for the land being promised as an absolute condition of the land sale and purchase agreement.

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