

Juridical Review of the Role of Notary in the Preparation of Land Sale and Purchase Deed in Indonesia

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Abstract

The transfer of land rights to purchase and sell land must be conducted under the supervision of an authorized official, commonly known as a Land Deed Official (PPAT) in this context. The authority to execute a legally binding land deed is vested in a Notary. Nevertheless, in this instance, notaries are prohibited from drafting deeds pertaining to land unless they have successfully completed the requisite examination to become a Land Deed Official (PPAT). Furthermore, deeds may be made by the subdistrict head, who acts as a temporary PPAT. The methodology employed by the author is normative legal research (doctrinal legal research). Normative legal research is a form of pure normative legal research, in which the problem under study is a legal scientific one, such as those pertaining to justice, order, and the agreement of will, among others. This research does not concern itself with the legal facts that exist in society. The findings of this research indicate that the role of a notary in the process of making a land sale and purchase deed is limited to the pre-sale of land or the making of an agreement between the seller and the buyer. It can be concluded that only a PPAT (land deed official) is authorized to prepare and execute a land sale and purchase deed

1. Introduction

Land is of significant cultural, social, and political importance to Indonesian people. Consequently, conflicts and disputes related to land often arise, both horizontally and vertically, due to the limitations of land resources and the high human need for them. (Rasda, D., Rahman, M. S., & Tijjang, 2021)

Human beings engage in legal transactions to satisfy their needs, and one such transaction is the purchase and sale of property. The sale and purchase of land establishes a legal relationship between the seller and the buyer that is reciprocal. (Aribowo, 2020). The sale and purchase of land is regulated by the Overschrijving Ordonnantie, which stipulates that the land sale and purchase agreement must be made in the form of a notarial deed or a deed under the hand. At that time, the transfer of land rights from the seller to the buyer had not yet occurred. The transfer of ownership is documented by a deed of transfer of name, which is prepared in advance and signed by the Head of the Land Registry Office as Overschrijvings Ambtenaar. (Ahmad, A., Pransisto, J., & Syahril, 2023). This document serves to transfer the land rights from the seller to the buyer. The object of sale and purchase may take the form of any of the following: movable objects, immovable objects, tangible objects, or intangible objects. Sale and purchase represents one of the avenues through which a land right may be acquired. (Ambarwati, 2021)

Consequently, legislation has been enacted with the objective of defining and regulating various aspects of community life. In particular, the law on land is regulated in Article 19 paragraphs 1, 2, 3, and 4 of Law No. 5/1960 on Basic Regulations.

The 1960 Indonesian agrarian law, Law Number 5 of 1960 concerning Basic Agrarian Principles, empowers the land deed official (PPAT) to transfer and encumber land rights. In the context of the legal framework regulating land rights in Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Principles is of particular relevance. This legislation vests the authority to transfer land rights and to encumber land rights in the hands of the land deed official (PPAT), whose role is to oversee the transfer of land ownership. (Rahman, 2021)

A binding sale and purchase agreement (PPJB), which is a preliminary agreement, is temporary in nature. This is because it is subject to suspension due to certain circumstances, and it is only valid until the time comes when the sale and purchase can be carried out in the presence of a duly authorized land deed maker (PPAT). In this context, in order to safeguard the interests of buyers and sellers, the Indonesian government issued Number: 09/KPTS/M/1995, Dated

June 23, 1995, concerning guidelines for the binding of sale and purchase. Furthermore, the document outlines a standard form of agreement that must be followed by all development companies that have not been able to carry out sale and purchase transactions. It also addresses the possibility of significant risks being borne by buyers if the developer breaches the agreement. (Ramadhani, 2022)

The legal protection provided by the PPJB lunas and the power of sale against the buyer if the seller dies is particularly robust and effective due to the evidentiary nature of the PPJB and the power of sale made before a public official, in this case a notary. This is a form of legal guarantee and protection for buyers who have paid the full price but have been unable to obtain AJB and register their name due to the non-fulfillment of certain conditions.

In essence, the sale and purchase process involves several stages, including the payment of the seller's and buyer's taxes, the verification of the original physical land certificate, the signing of the AJB, and the validation process. Nevertheless, there are instances where the AJB process is constrained. For instance, one of the parties may be absent at a particular juncture, the status of the sale and purchase object may be encumbered, or the sale and purchase object may be in the process of being split into multiple certificates. Consequently, the Notary/PPAT proposes a solution in the form of a binding agreement between the buyer and seller, which is known as the Land Rights Agreement (PPJB).

The Sale and Purchase Agreement (PPJB), which is executed before a Notary, is an agreement that originated with the inception of the Civil Code. It is a contract between the parties regarding rights and obligations, as outlined in Articles 1320 and 1338 of the Civil Code. Its purpose is to provide legal certainty and legal protection for the parties involved. With the execution of the PPJB, the prospective seller and buyer thereby declare their intent to carry out the sale and purchase agreement, which is in accordance with the provisions of Article 26 of Law No. 5 of 1960, which concerns the fundamental regulations of civil law, specifically with regards to the sale and purchase of real estate. (Ramli, M. R., Karim, K., & Syahril, 2021)

Article 26 of Law No. 5/1960 on the Basic Regulation of Agrarian Principles, also known as the Basic Agrarian Law (UUPA), stipulates that sale and purchase is one of the methods by which ownership rights to land may be transferred.

The sale and purchase must be carried out by the execution of an authentic deed, which is a Sale and Purchase Deed. This legal instrument is prepared and executed before a Land Deed Official (PPAT). The legal consequences and legal

protection for the parties involved in the transfer of rights through the creation of a Sale and Purchase Binding Agreement must be considered. The transfer of land rights has never been completed, even though the full purchase price has been paid by the prospective buyer. This is evidenced by the existence of the PPJB.

In the legislation, a notary and a PPAT are defined as public officials who are authorized to authenticate deeds. The role of the notary is of particular importance in the context of making deeds, as they are public officials responsible for ensuring the accuracy and legal validity of documents within a legal process, thereby providing irrefutable evidence in the event of a dispute. Through the authentication of deeds, the rights and obligations of the parties involved are clearly determined, thereby ensuring legal certainty. Furthermore, it is hoped that disputes can be avoided through this process. In the context of dispute resolution, the authentic deed serves as written evidence, representing the strongest and most comprehensive form of legal documentation in any given legal relationship within a community. (Riza Rahmani & Fatmawati Octarina, 2020)

In the event that a Notary Public and PPAT encounter difficulties or obstacles in the execution of their duties, resulting from the actions or inactions of the parties involved, such as failure to file or non-compliance with the reading and signing of the deed, the Notary Public is held accountable for any intentional errors or omissions. Consequently, the Notary and PPAT are responsible for ensuring that the conditions for the validity of legal acts related to matching the data in the certificate with the list at the Land Office are met. The procedure must be precise and not deviate from the applicable procedures. Deviations in the making of this authentic deed will have legal consequences for the proof of the deed. (Damayanti, 2020)

In order to ensure the accuracy and integrity of their work, Notaries and PPATs must adhere to clear and precise regulations. If a Notary or PPAT makes an error in the execution of an authentic deed, which is intended to be a perfect and legally sound document, then they may be subject to disciplinary measures, including sanctions under civil, administrative, or official codes of ethics. Errors made by Notaries and PPATs in the execution of authentic deeds may impede the achievement of a person's objective in the registration of land.

2. Research Method

The research method employed is that of normative legal research, which may also be referred to as "doctrinal legal research." Normative legal research, according to Munir Fuady (2018), is "pure normative legal research," wherein the focus is on legal issues of a scientific nature, such as those pertaining to justice,

order, and agreement of will. This type of research does not attempt to connect with legal facts that exist in society. (Fuady, 2018)

This research employs a statutory approach, whereby the regulations set forth in legislation are studied. A conceptual approach, by comparison, considers the opinions and doctrines of legal scholars in order to gain insights into the nuances of legal science. (Tan, 2021)

This research employs the methodology of collecting legal materials within the domain of normative law through the means of conducting a literature study, or library research, on the available legal material. The process of data analysis entails a comprehensive examination of existing legislative frameworks and a detailed conceptual analysis, which involves the comparison of these materials to other established legal rules.



Figure 1. Legal Research

3. Results and Discussion

Notary authority is regulated by law

In the context of legal authority, the term "authority" refers to a power possessed by one or more individuals or entities whose existence is recognized by applicable laws and regulations. With regard to notary authority, this is specifically delineated in Article 15 of Law No. 2 of 2014, which pertains to notary positions.

In accordance with the stipulations set forth in Article 15 of Law No. 15 of 2014 on Notary Position, particularly Article 15, paragraph (3), points e and f, the notarization of deeds pertaining to land is also within the purview of the notary. The primary duties and authorities of PPAT, as outlined in Article 2 of Government Regulation No. 37 of 1998 concerning the Regulation of the Position of PPAT. (Denara, M. A., & Priyanto, 2019)

The PPAT is responsible for carrying out certain land registration activities, including the preparation of deeds as proof of legal actions taken regarding land rights or property rights over flat housing units. These deeds serve as the basis for registering subsequent changes in land registration data resulting from the aforementioned legal actions. The legal actions referred to in paragraph (1) are as follows:

- a. Sale and purchase
- b. Exchange
- c. Grant
- d. Inclusion in a company (inbreng)
- e. Division of joint assets
- f. Granting of Building Rights Title or Use Rights on land of Property Rights
- g. Granting of Mortgage Rights
- h. Granting of power of attorney to encumber Mortgage Rights

In accordance with the aforementioned explanation of Article 2, paragraph (2), a PPAT is authorized to authenticate deeds pertaining to all legal acts concerning rights to land.

(2) Regarding Rights to a Land. In accordance with the position of PPAT as a public official, the deed he makes is given the status of an authentic deed. Article 4 of Government Regulation No. 37 of 1998 on the Regulation of the Position of Land Deed Official (PPAT):

(1) PPAT is only authorized to make deeds regarding land rights or property rights over apartment units located within its working area. (Dalimunthe, S. N. I. S., & Rizkianti, 2020)

A deed of exchange, a deed of entry into a company, and a deed of division of joint

rights concerning several land rights and rights of ownership over a flat unit may be made by a PPAT whose working area covers one of the parcels of land or flat units whose rights become the object of legal action in the deed.

In light of the aforementioned provisions set forth in Article 15 of Law No. 15 of 2004 concerning the Position of Notary, it becomes evident that the authority to execute deeds pertaining to real estate is vested exclusively in the Notary. This is explicitly delineated in Article 15, paragraph (3), items e and f. As previously stated, a PPAT is not permitted to draft land deeds outside of their designated working area, with the exception of deeds of exchange, deeds of separation in a company, deeds of division of joint rights to land, and deeds of division of joint rights to apartment units that are not located within the boundaries of a PPAT's working area.

It can thus be concluded that the role of the notary in the making of a land sale and purchase deed is limited to the period preceding the sale and purchase of the land or the making of an agreement between the seller and the buyer. Only a PPAT is entitled to make a land sale and purchase deed.

The Legal Power of the Agreement for Sale and Purchase (PPJB) of Land Rights Made Before a Notary/PPAT

The legal force of a sale and purchase binding agreement is contingent upon where it is entered into. If a public official (such as a notary) is not present during the agreement, it is regarded as an underhand deed. Conversely, if a public official is involved in the transaction, it becomes a notarial deed, which is considered an authentic deed. This is in accordance with Article 1868 of the Civil Code, which states that a deed can become an authentic deed if it is made before a public official authorized to perform such acts in the place where the deed is made.

A sale and purchase agreement (PPJB) that is not made before a public official or a deed under the hand only has the capacity to bind third parties, among other things, if it is affixed with a dated statement from a notary or another employee appointed by laws and regulations in accordance with Article 1874 and Article 1880 of the Civil Code. (Rondonuwu, 2017)

The objective of the article is to regulate the efficacy of a deed executed in the absence of a notary, which is only deemed to possess evidentiary value vis-à-vis third parties in the event that a statement is made in the presence of a notary, and the deed itself is subsequently signed in the presence of either a notary or an official appointed for the purpose of signature validation.

In practice, the sale-purchase agreement does not require ratification as described

above. This is because the sale-purchase agreement is usually made before a notary, who is a public official. As a result, the deed made against the sale-purchase agreement has become an authentic deed, which provides very strong proof.

In accordance with Government Regulation No. 37 of 1998 on the Regulation of Land Deed Officials (PPAT), it is stipulated that:

The sale and purchase of land rights must be conducted in the presence of an authorized official, and the deed of transfer of rights—or, in other words, the deed of sale and purchase—must be drawn up by an official known as a Land Deed Official, or PPAT for short. The aforementioned deed is considered an authentic document, the form and content of which are based on the applicable laws and regulations.

The aforementioned stipulation serves to corroborate the assertion that the sale and purchase process is indeed amenable to legal validation, provided that it is conducted in the presence of an authorized official. (Farida, 2021)

It is important to note the key elements of the PPJB agreement (Sale and Purchase Binding Agreement).

- a. The Object of Sale and Purchase Binding
- b. Obligations and Guarantees of the Seller
- c. Obligations of the Buyer
- d. The contents of the Sale and Purchase Agreement (PPJB)

In the Civil Code, the provisions regarding conditions are not regulated in the agreement section but in the engagement section, namely articles 1253-1267 of the Civil Code.

The term "condition," as used in the context of legal contracts, encompasses two specific types: a condition for suspension and a condition for cancellation. Both types of conditions pertain to circumstances that may arise, either positively or negatively, that could affect the emergence or continuation of a legal event. The provisions regarding conditions, whether for suspension or cancellation, are primarily concerned with the obligations that arise from an agreement. (Dewi, N. M. T., & Dewi, 2020)

In accordance with Article 37, paragraph 1 of Government Regulation No. 24 of 1997 concerning Land Registration, it is stipulated that the transfer of land rights and ownership rights over apartment units may be accomplished through sale and purchase, exchange, grants, or inclusion in companies. Furthermore, other legal acts of transfer of rights, with the exception of transfers effected by auction, may only be registered if they

are evidenced by a deed executed by a Land Deed Official (PPAT) duly authorised in accordance with the applicable laws and regulations.

In accordance with the stipulations of the regulation, it is evident that the transfer of land rights must be substantiated by a document executed by a duly authorized land deed maker (hereinafter referred to as a PPAT). Consequently, there exists an unquestionable requirement for the transfer of land rights to be evidenced by the existence of a deed of transfer of land rights executed by a PPAT.

From the standpoint of ownership rights, those who legally hold land rights—irrespective of whether they are registered or not—are permitted to transfer them. This transfer entails the conveyance of the rights of other parties, resulting in a transfer of the rights in question. The right under consideration is an inherent aspect of the legal relationship that authorizes or empowers the holder to take legal action.

In legal terminology, the term "right" refers to a legal right or the basis for taking legal action. From a legal perspective, the procedure for transferring land rights involves several processes, including:

- a. Sale and purchase
- b. Grant
- c. Exchange
- d. Division of rights.
- e. Incorporation into the Company
- F. Transfer of bequests.

The development of this process is regulated by Article 37 of Government Regulation Number 24 of 1997 concerning Land Registration.

1. The transfer of land rights and ownership rights over apartment units may occur through a variety of legal instruments, including sale and purchase, exchange, grants and inclusion in a company. In all cases, the transfer of rights must be evidenced by a deed prepared by an appropriately authorised PPAT in accordance with the relevant laws and regulations.
2. In certain instances, as determined by the Minister, the Head of the Land Office may register transfers of rights over plots of freehold land that are executed between individual Indonesian citizens, evidenced by deeds that are not prepared by a PPAT, but which, in the opinion of the Head of the Land Office, are deemed sufficient to register the transfer of concerned rights.

With regard to the transfer or transfer of land rights, it is evident that the characteristics of the rights and the process of transferring rights give rise to different legal elements, particularly those pertaining to the formal and material procedures and mechanisms that are determined by the nature or condition of the subject and object of rights. However, it should be noted that the most essential prerequisite is evidence of land rights, which may take the form of a written document (i.e., a certificate) that provides formal proof of ownership, specifically for land that has been registered. In contrast, evidence supporting the aforementioned land rights may include deeds of sale and purchase, grants, and inheritance fatwas. These documents serve as proof of ownership, provided that they meet the legal requirements established by the relevant statutes and regulations. Furthermore, authentic deeds, which are considered to be legally binding, are also considered valid forms of evidence.

In accordance with Article 1868 of the Civil Code, it can be observed that the form of an authentic deed is determined by law and must be made by or before an authorized employee. The aforementioned authorized employee is, among others, a notary. This is based on the provisions of Article 1, number 1 of Law Number 1 of 2004 concerning the Position of Notary.

In accordance with the stipulations of Article 1868 of the Civil Code, the requirements for an authentic deed can be delineated as follows: the deed must be executed "by" (door) or "before" (ten overstaan) a public official; the deed must be executed in the form prescribed by law; the public official by or before whom the deed is executed must possess the requisite authority to execute the deed.

From the preceding information, it can be discerned that the Sale and Purchase Agreement (PPJB), which is executed in the presence of or by a Notary, becomes an authentic deed. As it has been executed before or by an authorized official (one of whom is a notary), it has been done in accordance with the stipulations pertaining to authentic deeds, namely that the deed must be executed "by" (door) or "in front of" (ten overstaan) a public official.

This description allows us to conclude that the legal force of the deed of binding agreement for the sale and purchase of land rights made by a notary in the implementation of the sale and purchase deed is considerable. This is because in the Sale and Purchase Binding Agreement (PPJB) made before a notary, the deed becomes a notarial deed, thereby conferring authenticity upon it. In contrast, for those made not before a notary, it becomes a deed under the hand. The evidence of an authentic deed is nevertheless subject to the conditions set forth in Article 1875 of the Civil Code, which stipulates that a deed under the hand may be considered as having the same legal value as an authentic deed,

provided that the signature on the document is acknowledged by the parties who signed it.

Nevertheless, the stipulations in Article 1875 of the Civil Code are contingent upon Article 1871 of the Civil Code, which posits that a deed under the hand can be analogous to an authentic deed but does not constitute absolute proof of its contents. This is because it is regarded as a mere narrative, rather than a direct representation of the subject matter of the deed.

In the event that an agreement contravenes the objective conditions, namely a certain thing or a halal cause, then the agreement is deemed "null and void." Conversely, if an agreement contravenes the subjective conditions, namely an agreement to bind oneself or the ability to perform legal acts, then the agreement may be "cancelled."

Legal Protection for Parties in the Agreement for Sale and Purchase (PPJB) of Land Rights

The concept of legal protection can be divided into two distinct categories: preventive legal protection and repressive legal protection. The government provides preventive legal protection by establishing regulatory frameworks that set forth clear guidelines and limits regarding permissible legal actions. For instance, Article 1491 of the Civil Code delineates the rights and responsibilities of a seller conducting a sale and purchase transaction. In order to ensure the safety of the object and to provide information regarding any potential defects, the seller must first guarantee that control of the object is safe and that important things related to the object are clearly explained. This is an example of preventive protection. Furthermore, repressive legal protection is a form of protection provided when a legal violation has occurred. The form of protection is in the form of law enforcement, which includes sanctions such as fines, compensation, imprisonment, and additional penalties. It should be noted here that the methods taken when resolving disputes in court also fall under this category. (Santi, G. A. N., Yuliartini, N. P. R., & Mangku, 2019)

The buyer is obliged to make the purchase price payment in accordance with the terms of the agreed upon contract. In the case that the time and place of payment are not stipulated in the contract, payment is to occur at the time and place of delivery of the goods. In the event that the buyer fails to fulfill the obligation of making the agreed-upon price payment, the seller is entitled to terminate the contract and repossess the goods. In addition to the buyer's contractual obligations, it is important to recognize the seller's rights under the contract as well. In a sale and purchase agreement, the seller has two primary obligations to the buyer. The first is to deliver the goods purchased to the buyer.

The second is to either bear or guarantee the goods. The obligation to deliver the purchased goods is well-known because the fundamental purpose of a seller is to transfer ownership of the goods purchased. However, the obligation to guarantee the purchased goods is less well-known. (Tutuarima, J., & Tjempaka, 2023)

The implementation of the sale and purchase process must be based on good faith. The presence of good faith in all relationships within the community lends significant meaning to the structure of society. Good faith, understood as a mental disposition that safeguards the rights of others, serves as a guarantee for more harmonious community relations. Conversely, the absence of good faith in community relations gives rise to actions that are Those who engage in such actions are generally reproached by society. This reproach stems from the inner attitude of the maker, who lacks good faith. This inner attitude leads to the deliberate actions of the maker, who is psychologically aware of their actions and the consequences that may arise from them.

With regard to the legal protection of the parties, particularly the buyer, the sale and purchase agreement carried out under the hand is legally protected to a high degree, due to the evidentiary nature of the purchase and binding agreement, which is made before a public official, in this case, a notary. (Moertiono, 2019) The aforementioned evidence is strengthened by the act of signing the deed in the presence of a notary or an official appointed for signature validation (such as consular officers, embassies, regional heads starting from the regent level and above), followed by an explanation of the contents to the parties, and then the signing itself. This process is in accordance with the proof of an authentic deed. (Purwaningsih, 2018)

The legal protection provided by prospective sellers is in the form of requirements that are typically requested by prospective buyers themselves. For instance, some prospective sellers may include in the sale and purchase binding agreement a request that the buyer make payments within a specified period of time, accompanied by cancellation requirements. For example, if the buyer has made full payment of the agreed-upon sale and purchase price for the land and buildings, as stipulated in the land sale binding agreement, and has signed the minutes of handover of the building in the presence of the land deed official appointed by the seller (i.e., the prospective seller), then a sale and purchase deed will be prepared. (Hamonangan, A., Taufiqurrahman, M., & Pasaribu, 2021)

In addition to the aforementioned stipulations, it is imperative that prospective buyers be granted an irrevocable power of attorney. In the event that sellers fail to comply, buyers may pursue recourse through litigation, seeking compensation in accordance with the terms of the binding agreement.

Land disputes are a significant national concern, given their prevalence and the numerous challenges encountered in attempting to resolve them. The protracted and intractable land conflicts that persist in the present era can be attributed to the inadequacies of regulatory frameworks and the misapplication of land legislation. Consequently, the interests of land rights holders are not adequately safeguarded in practice. It is imperative that the entire community be afforded legal protection without delay.

The consequence of a default in a sales and purchase binding agreement is, of course, a loss for all parties involved. Consequently, it is essential to have legal recourse available to the parties to ensure the protection of legal certainty and the maintenance of the fulfilment of the interests and rights of all concerned.

The extent of legal protection against the fulfillment of the rights of the parties in the event of a breach of contract by one of the parties is contingent upon the strength of the contract in question. In the case of a sale and purchase agreement, the degree of protection afforded is dependent on the form of the agreement, specifically whether it is executed in writing or not. In the former case, the agreement is protected by the provisions of the deed. In the event that the agreement is executed before or by a notary public, the document becomes a notarial deed, thereby conferring upon it the same degree of legal protection as that afforded to authentic deeds.

In the event of a default, preventive and repressive legal protection can be implemented. The protective measures that can be taken by each party include:

- a. Protection of the Seller. Protection that can be one method of safeguarding the prospective seller is to stipulate that the buyer must pay the price of the object of the agreement within a specific period of time, with the understanding that this payment is void if the buyer fails to fulfill it as requested and agreed upon. In this case, the binding agreement to purchase land rights is null and void, and the seller is not obliged to return the payment that has been made unless the buyer makes a request for an exception.
- b. Protection for the Buyer. The buyer may seek to protect themselves by first verifying the existence of proof of ownership of the land or building rights, which are the object of the sale and purchase agreement. Additionally, the buyer may request that the seller guarantee the object of the agreement is free from claims, lawsuits, and encumbrances, thereby assuming responsibility for the seller's obligations. Furthermore, the buyer may request an irrevocable power of attorney from the seller, provided that all requisite conditions for a sale and purchase have

been met. This enables the buyer to transfer rights even in the absence of the seller at the signing of the sale and purchase deed.

In accordance with Article 1491 of the Civil Code, the seller is obliged to guarantee the safety of the object in question and to provide an explanation of any pertinent details, including any hidden defects. This is an example of preventive protection. (Ubaidi, S., Dewi, I., & Koeswarni, 2021)

Moreover, repressive legal protection is a form of protection that is provided in response to a violation of the law. This form of protection is manifested in the form of law enforcement, which encompasses a range of sanctions, including fines, compensation, imprisonment, and additional penalties. Additionally, it encompasses the methods employed in resolving disputes in court. In the event that a buyer is acting in good faith or if one party fails to fulfill their obligations as promised, they are entitled to compensation in accordance with the provisions set forth in Article 1267 of the Civil Code.

Issues pertaining to legal protection for purchasers of bengkok land tend to gravitate towards repressive legal protection, particularly in relation to the provision of compensation for the sale and purchase of bengkok land. This has been previously discussed with respect to purchasers acting in good faith. Article 1491 of the Civil Code offers protection in the form of coverage. The aforementioned coverage, despite not being explicitly promised, still binds the seller as stated in Article 1492 of the Civil Code. Consequently, buyers who are in good faith or due to a breach of the sale-purchase agreement by one party, may claim compensation in accordance with the stipulations of Article 1267 of the Civil Code. (Afifah, 2020)

Issues surrounding the legal protection of buyers in the sale and purchase of bengkok land are more inclined towards the application of restrictive legal protection, specifically with regard to the provision of compensation to buyers for the sale and purchase of bengkok land. This has been previously elucidated in relation to buyers who have acted in good faith (cf. Article 1491 of the Civil Code, which affords protection in the form of coverage).

The aforementioned coverage, though not explicitly guaranteed, remains binding on the seller, as elucidated in Article 1492 of the Civil Code.

In the event that a buyer is in good faith or if one party fails to fulfill the obligations set forth in the sale and purchase agreement, the buyer may seek compensation in accordance with the provisions of Article 1267 of the Civil Code. Issues pertaining to legal protection for purchasers of bengkok land tend to be more restrictive in nature, particularly with regard to the provision of compensation for the purchase of bengkok

land. This is in accordance with the aforementioned provisions pertaining to purchasers acting in good faith. Article 1491 of the Civil Code offers protection in the form of coverage.

The aforementioned coverage, despite not being explicitly promised, still binds the seller as stated in Article 1492 of the Civil Code. Consequently, buyers who are in good faith or who are adversely affected by a party's failure to perform as stipulated in the sale-purchase agreement may seek compensation in accordance with the provisions of Article 1267 of the Civil Code. In such instances, the role of notaries becomes pivotal. (Riza Rahmani & Fatmawati Octarina, 2020)

The role of the notary was born out of necessity within the community, rather than being a position that was deliberately created and then socialized to the public. The position of the notary is not situated within the legislative, executive, or judicial institutions, as notaries are expected to maintain a neutral stance. The role of the notary is upheld or sought after by the rule of law with the intention of assisting and serving individuals who require written evidence that is authentic regarding circumstances, events, or legal actions. The position of notary is that of a public official, and as such, it is an honorary position bestowed upon an individual by the state through the enactment of legislation. In accordance with Article 2 of the UUJN, the minister is responsible for appointing notaries, who are then able to perform their duties without undue influence from the executive body or other external entities. This allows them to act in a neutral and independent manner. A notary is entrusted with the responsibility of performing certain public functions on behalf of the state, with the aim of serving the public interest, particularly within the domain of civil law. However, it is important to note that notaries are not civil servants who receive remuneration from the state.

Notaries are expected to work independently, without undue influence from superiors or other external parties. They are responsible for determining the appropriate course of action in each situation, including the choice of legal instruments and the provision of legal counsel to clients. This autonomy is reflected in the legal framework, as evidenced by the designation of Notaries/Land Deed Making Officials as Public Officials authorized to perform authentic deeds. (Ambarwati, 2021)

The efficacy of authentic deeds and notarial deeds is contingent upon the duties entrusted to notary officials by the stipulations of the law. In legal transactions, it is imperative that the parties provide accurate information, which is then recorded in a notarial deed, thereby conferring authenticity upon it. An authentic deed is capable of providing evidentiary power (demonstrating that the authentic deed is present in accordance with the applicable legislation), formal (what is stated in the authentic deed is true as long as it cannot be proven that it is not true), and material (providing legal

certainty that the information given in the deed is true). (Rengganis Febrelina & Totok Tumangkar, 2023)

In accordance with the provisions of the UUJN, notaries, as public officials, may be held liable for the deeds they make. In the event that a future deed contains a dispute, it is necessary to question whether the deed is the responsibility of the notary or the parties who did not provide the requisite documents truthfully and who provided incorrect information outside the knowledge of the notary, or whether an agreement was made between the notary and one of the parties facing. In the event that the deed prepared by the notary contains legal defects as a result of the notary's own negligence or intentional conduct, the notary is obliged to assume both moral and legal responsibility. In order to prevent future disputes over deeds made by notaries, particularly PPJB deeds, it is imperative that notaries exercise greater care and attention when preparing these documents. Failure to do so may result in criminal liability for the notary. Furthermore, notaries, as public officials, are responsible for ensuring that their deeds are in accordance with the law and that the legal status of the parties involved is duly considered. This is to avoid and minimise the potential for disputes over the deeds made by the notary.

4. Conclusion

The PPJB is contingent on the location where it is executed. If the agreement is not executed before a public official, specifically a notary, then it is considered a private deed. Conversely, if it is executed by or before a public official, it becomes an authentic or public deed. This is in accordance with Article 1868 of the Civil Code, which states that a deed can become an authentic deed if it is made before a public official authorized to perform such acts in the place where the deed is made. With regard to the question of legal protection of the parties, particularly the buyer in a sale and purchase agreement executed in the presence of a public official, the legal protection provided by a sale and purchase binding agreement executed before a notary public is particularly robust. This is due to the evidentiary nature of the binding agreement, which serves as proof of the purchase. The aforementioned evidentiary nature of the sale and purchase agreement is reinforced by the presence of a public official in the execution of the agreement. In essence, the act of signing the deed in the presence of a Notary or an official appointed for the purpose of attestation (such as Consular Officers, Embassies, Regional Heads, and those at the level of Regent and above) constitutes a clear demonstration of the parties' understanding of the contents of the deed, which is then duly signed before a Notary or authorized public official. This process provides a compelling and irrefutable evidence of the authenticity of the deed.

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