

Legal Protection of Share Ownership in Share Sale and Purchase Transactions That Have Not Obtained the Approval of the General Meeting of Shareholders

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Abstract

In private limited liability companies, share transfers are commonly preceded by a Conditional Share Sale and Purchase Agreement (Perjanjian Pengikatan Jual Beli, PPJB), while the articles of association require prior approval from the General Meeting of Shareholders (GMS). When that approval has not been obtained, uncertainty arises as to who owns the shares and how the parties are protected. This article examines the legal consequences of such a PPJB on share ownership status and the legal protection available to the parties. It employs normative legal research using statutory, case, conceptual, and analytical approaches, with three court decisions analysed through argumentum a contrario. Applying R. Soeroso's theory of legal consequences, the study finds that the PPJB creates a valid and binding obligatory relationship but does not change the legal state of share ownership. The seller remains the shareholder, while the buyer, even after full payment, holds only a contractual right, since shareholder rights arise only upon registration in the register of shareholders under Article 52(2) of Law Number 40 of 2007 on Limited Liability Companies. The change of status is suspended until GMS approval is granted or deemed granted after 90 days under Article 59(2), the deed of transfer is executed, and the transfer is recorded. Drawing on Satjipto Rahardjo's theory of legal protection and Philipus M. Hadjon's preventive and repressive categories, the study concludes that existing protection is not yet optimal because the law does not regulate share PPJBs, the party obliged to request approval, or the consequences of a refusal on payments already made

I. Introduction

The sale and purchase of shares in a Limited Liability Company constitutes a transaction of high economic value while simultaneously giving rise to significant legal consequences for the parties and the company (Muhammad, 2021). In practice, such transactions are rarely completed through a single act. The parties generally first execute a Share Sale and Purchase Agreement (PPJB) as a preliminary agreement, followed by a deed of transfer of rights over the shares, which in notarial practice is often referred to as a Share Sale and Purchase Deed (Satrio, 2014). This staging is necessary because the transfer of shares does not depend solely on the agreement between the seller and the buyer, but also on the requirements stipulated in Law Number 40 of 2007 concerning Limited Liability Companies, as amended by Law Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as the Company Law) and the company's articles of association.

Article 57 paragraph (1) of the Company Law provides room for the articles of association to regulate requirements for the transfer of rights over shares, including the requirement to obtain prior approval from the Company's Organ. In a closed limited liability company, this requirement is commonly formulated as an obligation to obtain approval from the General Meeting of Shareholders (GMS) before the shares are transferred to another party. A problem arises when the Share Sale and Purchase Agreement has been executed, and even when the purchase price has been partially or fully paid, while GMS approval has not yet been obtained. A buyer who has already disbursed funds has not yet acquired the status of a shareholder because the formal transfer cannot yet be carried out (Khairandy, 2014). The buyer's interests may also be adversely affected by the conduct of the company's organs that do not promptly render a decision. Conversely, the seller faces risks if the corporate mechanism is carried out before the buyer has fully paid the share price. This tension between contract law and corporate law creates uncertainty regarding the status of share ownership.

Studies concerning Share Sale and Purchase Agreements are not entirely new. Ananta (2022) examined buyer protection in a Share Sale and Purchase Agreement against unilateral cancellation through consignment. Alfred (2022) examined the juridical implications of the sale and purchase of shares without spousal consent in a

closed limited liability company, and a similar issue was also examined by Wahyu et al. (2025). Marlin (2023) discussed the legal consequences of a notarial deed concerning a Share Sale and Purchase Agreement, while Gultom and Jefry (2025) emphasized the legal certainty aspect of Share Sale and Purchase Agreements and concluded that shares are juridically transferred after the PPJB is followed by the fulfillment of the requirements and the execution of a deed of transfer of rights. Damanik et al. (2025) examined the validity of a GMS in the transfer of shares originating from an object of a PPJB that had not been fully paid. However, few studies have specifically placed the requirement for GMS approval under Articles 57 to 59 of the Company Law as the central point of analysis and subsequently connected it with the distinction between the obligatoir rights arising from the PPJB and the status as a shareholder arising from the corporate mechanism. This constitutes the novelty of this article.

To examine the application of the norms in practice, this article uses three court decisions as comparisons, namely the Decision of the South Jakarta District Court Number 105/Pdt.G/2021/PN JKT.SEL, the Supreme Court Decision Number 1917 K/Pdt/2009, and the Supreme Court Decision Number 360 K/Pdt/2005. These three decisions did not directly examine Share Sale and Purchase Agreements that were held up due to the absence of GMS approval. Nevertheless, all three are relevant for explaining when the status of share ownership changes, the consequences when the corporate mechanism is carried out before the contractual obligations are fulfilled, and how the courts address share transfers that contravene the articles of association.

Based on the foregoing, this article addresses two issues. First, what are the legal consequences of a Share Sale and Purchase Agreement for the status of share ownership in a Limited Liability Company whose articles of association require GMS approval, when such approval has not yet been obtained. Second, what legal protection is available to the parties with respect to share ownership in a share sale and purchase transaction based on a PPJB that has not obtained GMS approval.

2. Research Method

This research constitutes normative legal research, namely research conducted by examining library materials or secondary data (Marzuki, 2021). The approaches employed include a statutory approach, particularly to the Company Law and the Civil Code (KUHPerdata); a case approach to the three court decisions; a conceptual approach to the concepts of obligatoir agreements, the transfer of rights over shares,

and legal protection; and an analytical approach to understanding the meaning of terms in legislation and their application in judicial decisions (Ibrahim, 2021; Susanti & Efendi, 2023). The primary legal materials consist of the Civil Code (KUHPperdata), the Herziene Inlandsch Reglement (HIR), Law Number 1 of 1995 concerning Limited Liability Companies insofar as it relates to the legal events in the decisions under analysis, the Company Law, Law Number 30 of 2004 concerning the Notarial Position as amended by Law Number 2 of 2014 (UUJN), Regulation of the Minister of Law Number 49 of 2025 concerning the Requirements and Procedures for the Establishment, Amendment, and Dissolution of Legal Entities of Limited Liability Companies, as well as the three aforementioned court decisions. Secondary legal materials include relevant books, journal articles, and research findings. (Hasibuan & Nasution, 2023),

The first research question is analyzed using R. Soeroso's theory of legal consequences, which divides legal consequences into three forms, namely the emergence, alteration, or disappearance of a legal situation; the emergence, alteration, or disappearance of a legal relationship; and sanctions for unlawful acts (Soeroso, 2011). The second research question is analyzed using Satjipto Rahardjo's theory of legal protection, which defines legal protection as safeguarding rights that have been infringed by others so that every person may enjoy the rights granted by law (Aulia et al., 2023; Prasetyo et al., 2025). This theory is operationalized through Philipus M. Hadjon's distinction between preventive protection, which aims to prevent disputes, and repressive protection, which aims to resolve disputes (Hadjon, 1987).

III. Results and Discussion

Legal Consequences of a Share Sale and Purchase Agreement for the Status of Share Ownership in a Limited Liability Company That Has Not Obtained GMS Approval

a. The Position of the Share Sale and Purchase Agreement in the Series of Share Transfers

The transfer of shares in a closed limited liability company whose articles of association require GMS approval constitutes a series of legal acts subject to two legal regimes simultaneously, namely contract law under the Civil Code (KUHPperdata) and company law under the Company Law and the articles of association. Understanding

the stages in this series serves as the starting point for determining when the status of share ownership changes.

The first stage is the execution of the Share Sale and Purchase Agreement. At this stage, the parties have agreed on the shares to be sold, the price, the method of payment, and the conditions that must be fulfilled before the transfer is carried out. A PPJB that fulfills the requirements for a valid agreement under Article 1320 of the Civil Code is binding as law upon the parties pursuant to Article 1338 paragraph (1) of the Civil Code (Subekti, 2014). As an obligatoir agreement, the PPJB only gives rise to an obligation to transfer the shares and an obligation to pay the price, but does not yet transfer the rights over the shares (Satrio, 2014; Miru, 2020).

The second stage is the fulfillment of the requirements for the transfer of rights stipulated in the articles of association. Article 55 of the Company Law provides that the articles of association regulate the manner of transferring rights over shares in accordance with the laws and regulations. Article 57 paragraph (1) of the Company Law then allows the articles of association to require a prior offer to other shareholders, prior approval from the Company's Organ, and/or prior approval from the competent authority. Where GMS approval is required, Article 59 paragraph (1) of the Company Law provides that the approval or rejection must be given in writing no later than 90 days from the date the Company's Organ receives the request for approval.

The third stage is the execution of the deed of transfer of rights. Article 56 paragraph (1) of the Company Law provides that the transfer of rights over shares is carried out by means of a deed of transfer of rights. Where the Company's Organ has granted approval, Article 59 paragraph (3) of the Company Law requires the transfer of rights to be carried out in accordance with Article 56 no later than 90 days from the date on which the approval is granted.

The fourth stage is the submission of the deed to the company, recording, and notification to the Minister. The deed of transfer of rights or a copy thereof must be submitted in writing to the company as stipulated in Article 56 paragraph (2) of the Company Law. Pursuant to Article 56 paragraph (3) of the Company Law, the Board of Directors is required to record the transfer of rights in the shareholders' register and notify the Minister of the change in the composition of shareholders no later than 30 days from the date of recording. Where such notification has not been made, Article 56 paragraph (4) of the Company Law provides that the Minister shall reject an application for approval or notification carried out based on the composition of shareholders that has not been notified. Administratively, such notification is now carried out through the Legal Entity Administration System as regulated under

Regulation of the Minister of Law Number 49 of 2025, which repealed Regulation of the Minister of Law and Human Rights Number 21 of 2021.

This final stage is determinative. Article 52 paragraph (1) of the Company Law grants shareholders the right to attend and vote at GMS meetings, receive dividends and the remaining assets resulting from liquidation, and exercise other rights under the Company Law. However, Article 52 paragraph (2) of the Company Law expressly provides that such rights become effective only after the shares have been recorded in the shareholders' register in the name of their owner. A systematic interpretation of Articles 52 paragraph (2), 56, 57, and 59 of the Company Law indicates that the status of a shareholder entitled to exercise rights against the company arises only after the entire series has been completed (Harahap, 2016; Pramono, 2024).

b. Legal Consequences of a Share Sale and Purchase Agreement According to the Theory of Legal Consequences

Using Soeroso's framework (2011), the legal consequences of a Share Sale and Purchase Agreement that has not obtained GMS approval can be described as follows. First, the execution of the PPJB gives rise to a legal relationship between the seller and the buyer. This relationship is personal and binds only the parties who entered into it in accordance with the principle embodied in Article 1340 of the Civil Code. The seller is obligated to seek fulfillment of the transfer requirements and to transfer the shares once the requirements have been fulfilled, while the buyer is obligated to pay the price. This legal relationship is valid and its performance may be demanded even though GMS approval has not yet been obtained, provided that the requirements for a valid agreement have been fulfilled.

Second, as long as GMS approval has not been obtained, the legal situation in the form of the status of share ownership has not changed. The seller remains the shareholder and remains recorded in the shareholders' register. The buyer cannot yet attend GMS meetings, is not yet entitled to dividends, and cannot exercise other rights as a shareholder because the shares have not been recorded in the buyer's name. Payment of the price, including full payment, does not by itself alter this situation, because payment constitutes performance of a contractual obligation, whereas a change in shareholder status is subject to the legal mechanism of company law.

Third, the company is not bound by the PPJB. As a legal entity separate from its shareholders, the company is not a party to the PPJB and therefore cannot be imposed with an obligation to recognize the buyer as a shareholder solely on the basis of the agreement (Fuady, 2003). The company's obligations arise only after the deed of transfer of rights or a copy thereof has been submitted to it pursuant to Article 56

paragraph (2) of the Company Law, namely the obligation of the Board of Directors to record the transfer and notify the Minister of the change.

Fourth, the subsequent legal consequences depend on the GMS's response to the request for approval. If the GMS grants written approval, the requirement under the articles of association is fulfilled and the parties are required to carry out the transfer of rights within 90 days from the date the approval is granted. If the GMS does not provide a written statement within 90 days from the date it receives the request, Article 59 paragraph (2) of the Company Law provides that the Company's Organ is deemed to have approved the transfer of rights. This legal fiction of approval is important because it prevents the transfer of shares from being indefinitely delayed due to the silence of the company's organ. If the GMS rejects the request, the transfer to the buyer cannot be carried out in accordance with the articles of association.

Where approval is rejected, the fate of the PPJB is determined by the terms of the agreement and the law of obligations. If GMS approval is formulated as a condition precedent, the obligation to transfer the shares depends on an event that may or may not occur, as contemplated by Articles 1253 and 1263 of the Civil Code, so that the obligation to transfer the shares cannot be demanded before the condition is fulfilled. If the condition is not fulfilled, the parties are, in principle, restored to their original positions, including the return of any price that has been paid, unless otherwise agreed. If the PPJB does not regulate the matter, its resolution must be pursued through an agreement between the parties or through the courts by assessing whether either party is at fault (Budiono, 2006; Hernoko, 2010).

Fifth, if the transfer is nevertheless carried out without the GMS approval required by the articles of association, such transfer does not comply with Article 57 paragraph (1) letter b of the Company Law. Such transfer cannot constitute a valid basis for the Board of Directors to record the change in ownership, and its validity may be challenged by an interested party before the court. Sixth, approval does not necessarily have to be granted through a meeting. Article 91 of the Company Law allows shareholders to adopt binding resolutions outside a GMS, provided that all shareholders with voting rights give their written approval by signing the relevant proposal. Accordingly, approval of a share transfer may also be granted through a circular resolution.

Based on the foregoing, within Soeroso's theoretical framework, a Share Sale and Purchase Agreement that has not obtained GMS approval has given rise to an obligatoir legal relationship but has not yet altered the legal situation in the form of the status of share ownership. The change in the legal situation is deferred until

approval is granted or deemed to have been granted, the deed of transfer of rights is executed, and the transfer is recorded in the shareholders' register. The extinguishment of the legal relationship or the emergence of sanctions occurs only where one of the parties defaults or a stipulated condition is not fulfilled.

c. Analysis of Court Decisions as Comparisons

The Decision of the South Jakarta District Court Number 105/Pdt.G/2021/PN JKT.SEL examined a lawsuit filed by Aquila Sponge Nickel, PTE. Ltd., which sold 356,400 shares each to PT Bumi Konawe Minerina and PT Sulawesi Resources based on an Agreement of Share and Sales dated July 22, 2019. One day later, the shareholders adopted a circular resolution, which was set out in the Deed of Statement of Circular Resolution of Shareholders Number 31 dated July 23, 2019, and notification of the change in the composition of shareholders was received by the ministry on August 14, 2019. The buyers had apparently never paid the respective share prices of Rp4,019,479,200.00. The panel of judges declared the defendants in default pursuant to Article 1238 in conjunction with Article 1243 of the Civil Code, annulled both agreements together with the deed of circular resolution, and ordered the shares to be returned to the seller. This case did not concern a PPJB that had not obtained approval. On the contrary, shareholder approval had been granted through a resolution outside a meeting and the change had been notified to the Minister, so that the status of ownership had changed before the buyer's obligations were fulfilled. As a result, the seller lacked preventive protection and had to pursue repressive measures through litigation.

Supreme Court Decision Number 1917 K/Pdt/2009 originated from the execution of Share Sale and Purchase Deed Number 37 dated April 8, 2003, before a substitute notary, transferring 2,000 shares of PT Surya Mas Abadi owned by Djendri Djusman to PT Niaga Baratama. The seller subsequently filed a lawsuit alleging mistake, fraud, non-payment of the purchase price, and an unlawful act. The lawsuit was dismissed by the South Jakarta District Court, the decision was affirmed by the Jakarta High Court, and the Supreme Court rejected the cassation appeal. Because the transaction took place in 2003, the legal event in this case was governed by Law Number 1 of 1995, and the subject matter of the dispute was not GMS approval but rather defects in consent and payment. The Supreme Court held that the allegation of a defect in consent was unproven and that the share sale and purchase deed, as an authentic deed, possessed full evidentiary force pursuant to Article 1870 of the Civil Code. This decision affirms that after the deed of transfer of rights has been executed, the status of ownership is determined by the deed, rather than by whether payment has been

made. A contrario, as long as the deed of transfer of rights has not been executed because GMS approval has not been obtained, even full payment does not change the status of ownership.

Supreme Court Decision Number 360 K/Pdt/2005 examined a lawsuit filed by a minority shareholder of PT Paper Box Industries Indonesia against the transfer of shares owned by the majority shareholder, which was carried out in Singapore on November 7, 2001. The Batam District Court dismissed the lawsuit, but the Riau High Court, through Decision Number 69/PDT/2004/PTR, held that the defendants had committed an unlawful act and declared the transaction invalid and without binding legal force. The Supreme Court rejected the cassation appeal, primarily because the appellant's objections concerned an assessment of facts, which falls within the authority of the *judex facti*. The significance of this decision therefore lies in the Riau High Court's judgment being upheld, and because the events were subject to Law Number 1 of 1995, Articles 56 to 59 of the Company Law can only be used as a normative comparison. Nevertheless, this decision demonstrates that a share transfer alleged to be contrary to the articles of association and the law may be declared invalid upon a lawsuit filed by another shareholder.

The three decisions demonstrate two aspects of the relationship between contractual obligations and the corporate mechanism. Decisions Number 105/Pdt.G/2021/PN JKT.SEL and Number 1917 K/Pdt/2009 indicate that where the transfer mechanism has been carried out, the status of ownership has changed even though the price has not been paid, thereby making the payment dispute a contractual dispute. Decision Number 360 K/Pdt/2005 demonstrates that a transfer contrary to the articles of association is not recognized as valid. Through argumentum a contrario from these two aspects, in a Share Sale and Purchase Agreement that has not obtained GMS approval, the status of share ownership has not changed: the seller remains the shareholder and the buyer possesses only contractual rights against the seller. This conclusion is primarily constructed from an analysis of the norms of the Company Law and the Civil Code, while the court decisions serve as comparisons

Legal Protection for the Parties in Share Sale and Purchase Transactions Based on a Share Sale and Purchase Agreement That Has Not Obtained GMS Approval

In a share sale and purchase transaction based on a Share Sale and Purchase Agreement that has not obtained GMS approval, several interests warrant legal

protection. The seller has an interest in receiving the purchase price and in retaining the shares as long as the price has not been paid. The buyer has an interest in the payments already made and in the completion of the transfer. The company and other shareholders have an interest in certainty regarding the composition of shareholders. Following Rahardjo (2000), legal protection is understood as safeguarding these interests, while its forms are analyzed through Hadjon's (1987) distinction between preventive and repressive protection.

d. Preventive Legal Protection

The first source of preventive protection is the Company Law. Article 57 paragraph (1) letter b of the Company Law protects the company and other shareholders from the entry of a new shareholder without approval, while simultaneously protecting the seller because the shares do not transfer before approval is granted and the deed is executed. Article 59 of the Company Law protects both parties from uncertainty arising from the silence of the company's organ through the 90-day time limit and the legal fiction of approval, while also limiting the period for implementing the transfer of rights after approval is granted. Where the articles of association also require a prior offer, Article 58 of the Company Law provides a 30-day time limit from the date the offer is made and stipulates that the obligation to make the offer applies only once. Furthermore, Articles 50 paragraph (3), 52 paragraph (2), and 56 paragraph (3) of the Company Law provide administrative certainty through the obligations of recording and notification, thereby preventing the emergence of two parties simultaneously claiming to be shareholders against the company.

The second source of preventive protection derives from the contents of the PPJB. Because the Company Law does not regulate Share Sale and Purchase Agreements, the quality of protection afforded to the parties depends heavily on the formulation of its clauses (Salim, 2021). Based on the analysis of the norms and decisions above, a Share Sale and Purchase Agreement should contain a clause establishing GMS approval as a condition for the transfer, accompanied by an obligation on the seller to submit a request for approval within a specified period, considering that the period under Article 59 of the Company Law only begins to run from the time the request is received. The PPJB should also regulate the sequence of performance, namely that the deed of transfer of rights and recording are carried out only after the price has been fully paid or the payment has been secured, in order to avoid circumstances such as those in Cases Number 105/Pdt.G/2021/PN JKT.SEL and Number 1917 K/Pdt/2009. Other relevant clauses include the placement of funds in a joint account or a payment

security mechanism until approval is obtained; a prohibition against the seller transferring or encumbering the shares to another party while the PPJB remains in force; the consequences of rejection of approval, including the obligation and time limit for returning payments; representations and warranties by the seller that the shares are not subject to any dispute or attachment; and dispute resolution.

The third source of preventive protection derives from the role of the notary. Article 16 paragraph (1) letter a of the UUJN requires a notary to act in a trustworthy, honest, careful, independent, and impartial manner and to safeguard the interests of parties involved in legal acts, while Article 15 paragraph (2) letter e of the UUJN authorizes a notary to provide legal counseling in connection with the execution of deeds.

e. Repressive Legal Protection

If the seller fails to perform its obligations, for example by failing to submit a request for approval, refusing to sign the deed of transfer of rights after approval has been granted, or transferring the shares to another party, the buyer may pursue several legal remedies. After the seller has been declared in default pursuant to Article 1238 of the Civil Code, the buyer may claim reimbursement of costs, losses, and interest under Article 1243 of the Civil Code. Pursuant to Article 1267 of the Civil Code, the buyer may choose to demand performance of the agreement or cancellation of the agreement accompanied by damages (Cahyono et al., 2025). If the shares are unlawfully transferred to a third party, the buyer may file a lawsuit pursuant to Article 1365 of the Civil Code, and to prevent the shares from being transferred during the examination of the case, the buyer may apply for conservatory attachment pursuant to Article 227 of the HIR.

Repressive protection for the buyer has limitations. A buyer who has not yet been recorded as a shareholder cannot exercise the right to bring an action under Article 61 paragraph (1) of the Company Law because that right is granted to shareholders. A claim for specific performance likewise cannot override the GMS approval requirement under the articles of association, unless approval is deemed to have been granted pursuant to Article 59 paragraph (2) of the Company Law. Therefore, when the GMS refuses to grant approval, the most realistic form of protection for the buyer is cancellation of the agreement accompanied by the return of payments, together with damages if the rejection resulted from the seller's fault.

If the buyer fails to pay the price, the seller may declare the buyer in default, claim damages, and request cancellation of the agreement pursuant to Articles 1238, 1243, 1266, and 1267 of the Civil Code. In a PPJB that has not obtained GMS approval,

the seller's position is relatively secure because the shares remain recorded in the seller's name, so cancellation of the agreement is sufficient to terminate the contractual relationship without the need to restore the status of ownership. The situation differs where the corporate mechanism has already been implemented before payment, as in Case Number 105/Pdt.G/2021/PN JKT.SEL, in which the seller had to sue for cancellation of the agreement and the deed of circular resolution and request the return of the shares. Case Number 1917 K/Pdt/2009 even demonstrates that where the allegation of non-payment of the price could not be proven, the deed of transfer of rights remained valid and the seller obtained no restitution.

Furthermore, where the Board of Directors records a share transfer that contravenes the company's articles of association and such conduct causes losses to the company, the directors concerned may be held personally liable if the statutory requirements concerning fault or negligence and resulting loss are established. Article 97 of Law Number 40 of 2007 concerning Limited Liability Companies, as amended, provides the legal basis for the responsibility of directors in managing the company in good faith and with due care. Accordingly, the mere existence of an irregular transfer does not automatically establish personal liability; it must be demonstrated that the relevant director failed to perform the applicable duties and that the failure caused loss to the company. This distinction is important because it separates the question of the validity of the share transfer from the separate question of directors' liability.

From the perspective of repressive legal protection, these remedies serve different but complementary functions. A claim challenging the transfer seeks to protect the company's corporate structure and the legitimate interests of its shareholders, whereas a claim under Article 97 seeks accountability for losses resulting from directors' fault or negligence. Nevertheless, judicial remedies operate primarily after an alleged violation has occurred and may involve substantial time and litigation costs. Their availability therefore does not eliminate the importance of preventive safeguards, including verification of the articles of association, compliance with approval procedures, and careful examination of the legal basis for recording a transfer. The effectiveness of legal protection consequently depends on the interaction between preventive compliance mechanisms and repressive remedies capable of addressing violations when they arise (Haryono, 2016).

f. Weaknesses in the Existing Legal Protection

An analysis of the norms and decisions reveals several weaknesses. First, the Company Law does not specifically regulate the legal position of a PPJB as a

preliminary contractual arrangement in the process of transferring shares, nor does it provide a mechanism for recording the existence of such an agreement in the shareholders' register or the Legal Entity Administration System. Although a PPJB may create a valid and binding contractual relationship between the seller and the buyer under Articles 1320 and 1338 of the Indonesian Civil Code, its contractual effects remain distinct from the corporate status of share ownership. Consequently, the company and third parties may not be aware that the shares have already become the subject of a contractual commitment. This situation creates a potential risk of multiple transfers, conflicting contractual claims, and disputes over the performance of obligations. The problem is therefore not necessarily the absence of legal validity of the PPJB, but the lack of a mechanism through which its existence can be made sufficiently transparent to relevant parties without prematurely conferring shareholder status on the prospective buyer.

Second, Article 59 of the Company Law establishes a time limit for the relevant company organ to provide written approval or rejection, but the period begins when the request for approval is received. The Company Law does not expressly determine which contracting party must submit the request or establish a specific deadline for submitting it after the PPJB has been executed. This creates a procedural vulnerability because the effectiveness of the statutory time limit depends on an initial action that may not be taken promptly. In practice, the buyer may have already paid part or all of the purchase price while remaining dependent on the seller or the company's management to initiate the approval process. If the request is never submitted, the statutory mechanism of deemed approval under Article 59 paragraph (2) cannot be relied upon merely because time has passed since the execution of the PPJB. Accordingly, the absence of a clear allocation of responsibility may enable delay to undermine the practical effectiveness of the legal protection intended by the statutory approval mechanism. This issue demonstrates that legal certainty depends not only on the existence of a time limit but also on the clarity of the procedural obligations necessary to activate it.

Third, the Company Law does not specifically regulate the consequences of a refusal to approve a proposed share transfer where the buyer has already made payments under the PPJB. In such circumstances, the parties must primarily rely on the terms of their agreement and the general provisions governing contractual obligations. However, the absence of sufficiently detailed contractual provisions may create uncertainty regarding the obligation to return payments, the time limit for restitution, the allocation of transaction costs, and the availability of compensation

where the failure to complete the transfer results from one party's fault. The legal consequences may differ depending on whether approval was expressly established as a condition precedent, whether the seller fulfilled the obligation to submit the approval request, and whether the refusal was attributable to a contractual breach. Therefore, a refusal of approval should not automatically be equated with the termination of every contractual obligation. The relevant consequences must be assessed in light of the agreement, the applicable provisions of the Civil Code, and the circumstances that prevented completion of the transaction. Nevertheless, the absence of a specific statutory framework leaves substantial room for inconsistent contractual arrangements and increases the possibility that the parties will need to resolve their dispute through litigation.

Fourth, as demonstrated by South Jakarta District Court Decision Number 105/Pdt.G/2021/PN JKT.SEL and Supreme Court Decision Number 1917 K/Pdt/2009, the implementation of the corporate transfer mechanism before the purchase price has been fully paid may expose the seller to considerable contractual risk. In these circumstances, the seller may lose the practical advantages associated with retaining the shares while being forced to pursue contractual remedies to recover the outstanding purchase price or reverse the consequences of the transaction. This weakness, however, should be distinguished from a normative vacuum. Rather, it arises from the sequencing of contractual performance and the implementation of the corporate transfer mechanism without adequate contractual safeguards. These decisions illustrate the importance of aligning the timing of payment, approval, execution of the deed of transfer of rights, and registration of the transfer. Nevertheless, because the decisions concern factual and legal circumstances that are not identical to a PPJB pending approval, their relevance should be understood as comparative rather than as direct judicial determination of the legal consequences examined in this study.

Fifth, the existing framework does not fully resolve the tension between the contractual interests of the seller and the buyer and the corporate interests of the company and its other shareholders. The requirement for approval under the articles of association serves a legitimate corporate function by enabling the company to regulate the entry of new shareholders in accordance with the applicable legal framework. At the same time, the buyer may have a legitimate contractual expectation that the seller will take the necessary steps to complete the transaction after receiving payment. These interests are not necessarily incompatible; however, uncertainty arises when the approval process is delayed, refused, or not initiated at all. The seller

may remain the registered shareholder while being contractually obligated to transfer the shares, whereas the buyer may have fulfilled substantial financial obligations without acquiring the corresponding shareholder rights. This separation between contractual performance and corporate status creates an asymmetry of practical protection, particularly where the PPJB does not adequately allocate the risks associated with an unsuccessful transfer.

Sixth, the effectiveness of preventive legal protection remains highly dependent on the quality of the PPJB and the prudence exercised by the parties and the notary. Contractual provisions can reduce uncertainty by specifying who must submit the approval request, the deadline for doing so, the sequence of payment and transfer, the use of an escrow or other payment-security mechanism, and the consequences of rejection. Such provisions can also establish an obligation to return payments within a specified period if the transaction cannot be completed for reasons contemplated by the agreement. However, contractual protection is inherently dependent on the clarity and enforceability of the clauses agreed upon by the parties. Where the agreement is silent or ambiguous, the parties may disagree over the allocation of risks and the appropriate remedy. Notarial due diligence can help identify restrictions in the articles of association and clarify the legal consequences of executing the relevant deeds before the approval and payment requirements have been satisfied. Nevertheless, the notary's preventive role does not eliminate the need for clear statutory rules or guarantee that all subsequent contractual obligations will be performed.

From the perspective of Rahardjo's theory of legal protection (2000), the available protection has provided safeguards for the rights of the parties but is not yet optimal. Preventive protection under the Company Law primarily protects the company and other shareholders, while protection for the seller and buyer during the period between the execution of the PPJB and the recording of the transfer remains highly dependent on the formulation of the PPJB, the notary's prudence, and repressive legal remedies through the courts. This finding is consistent with the view of Gultom and Jefry (2025) that legal certainty in a Share Sale and Purchase Agreement is largely determined by the fulfillment of the agreed requirements and their subsequent implementation in the deed of transfer of rights.

IV. Conclusion

A Share Sale and Purchase Agreement in a Limited Liability Company whose articles of association require GMS approval, for as long as such approval has not been obtained, gives rise to a valid and binding obligatoir legal relationship between the seller and the buyer pursuant to Articles 1320 and 1338 paragraph (1) of the Civil Code, but does not yet alter the status of share ownership. The seller remains the shareholder, while the buyer, including a buyer who has fully paid the purchase price, possesses only contractual rights against the seller because shareholder rights become effective only after the shares have been recorded in the shareholders' register pursuant to Article 52 paragraph (2) of the Company Law. The change in ownership status is deferred until GMS approval is granted or deemed to have been granted pursuant to Article 59 paragraph (2) of the Company Law, the deed of transfer of rights is executed, and the transfer is recorded and notified to the Minister. The decisions analyzed reinforce this conclusion through argumentum a contrario.

Legal protection for the parties is provided preventively through Articles 50 and 56 to 59 of the Company Law, the clauses of the PPJB, and notarial due diligence under the UUJN, and repressively through lawsuits for breach of contract, claims for performance or cancellation of the agreement accompanied by damages, lawsuits for unlawful acts, conservatory attachment, and actions by other shareholders against transfers that violate the articles of association. Such protection is not yet optimal because the Company Law does not regulate Share Sale and Purchase Agreements and their recording, does not determine the party required to submit the request for approval or the time limit for doing so, and does not regulate the consequences of rejection of approval for payments that have already been made. Therefore, the legislature should consider regulating these matters, including the possibility of recording the contractual commitment to sell and purchase shares in the Legal Entity Administration System. Notaries should ensure that approval from the Company's Organ and evidence of full payment or payment security are available before the deed of transfer of rights is executed, while the parties should formulate the PPJB to include the obligation to submit a request for approval, the sequence of payment in full and execution of the deed, a payment security mechanism, and the consequences of rejection of approval.

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