

Analysis of Supreme Court Decision Number 3507 K/PDT/2023

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ABSTRACT

The aim of this study is to investigate the authority of the Land Deed Making Officer (PPAT) in issuing Sale and Purchase Deeds Number 134/2016 and 135/2016. All actions, including legal and other acts, performed within the territory of Indonesia must adhere to the prevailing regulations and laws in the country. This requirement applies to all individuals, whether Indonesian citizens or foreign nationals currently in Indonesia. Every landowner in Indonesia is obligated to register their land in accordance with the provisions of the Basic Agrarian Law and its associated regulations, ensuring that land ownership status is clear and legally recognized, which serves as a preventive measure against disputes over land rights. This study employs a descriptive qualitative approach to examine the authority of PPAT Roy Pudyo Hermawan in executing Sale and Purchase Deeds Number 134/2016 and 135/2016. The findings indicate that the deeds were declared legally defective by the Supreme Court, as they did not satisfy the substantive legal requirements and failed to adhere to the procedural standards prescribed for deed execution by a PPAT.

Tujuan dari penelitian ini adalah untuk mengetahui kewenangan Pejabat Pembuat Akta Tanah (PPAT) dalam menerbitkan Akta Jual Beli Nomor 134/2016 dan 135/2016. Semua tindakan, termasuk tindakan hukum dan tindakan lainnya, yang dilakukan di wilayah Indonesia harus mematuhi peraturan dan hukum yang berlaku di negara ini. Persyaratan ini berlaku untuk semua orang, baik warga negara Indonesia maupun warga negara asing yang saat ini berada di Indonesia. Setiap pemilik tanah di Indonesia berkewajiban untuk mendaftarkan tanahnya sesuai dengan ketentuan Undang-Undang Pokok Agraria dan peraturan terkaitnya, memastikan bahwa status kepemilikan tanah jelas dan diakui secara hukum, yang berfungsi sebagai tindakan pencegahan terhadap sengketa hak atas tanah. Penelitian ini menggunakan pendekatan kualitatif deskriptif untuk mengkaji kewenangan PPAT Roy Pudyo Hermawan dalam melaksanakan Akta Jual Beli Nomor 134/2016 dan 135/2016. Temuan tersebut menunjukkan bahwa akta-akta tersebut dinyatakan cacat hukum oleh Mahkamah Agung, karena tidak memenuhi persyaratan hukum substantif dan gagal mematuhi standar prosedural yang ditentukan untuk eksekusi akta oleh PPAT.

Kata Kunci: *Land Deed, Land Agency, Sale and Purchase Deed, Land Ownership.*

A. PENDAHULUAN

According to Indonesian legal scholar Soerjono Soekanto, the Theory of Authority is a crucial consideration before undertaking any legal action. He defines authority as the legal right and ability to carry out actions that are both legitimate and sanctioned by law. This concept is inherently tied to legal norms that outline how individuals or institutions may legally perform certain actions. In the legal sphere, authority encompasses not only the entitlement to act but also the obligation to do so in line with relevant regulations. A clear illustration of this theory in practice is the authority held by a Land Deed Official (PPAT) in drafting a deed of sale and purchase for land. Here, the law grants the PPAT both the authority and the responsibility to ensure the transaction adheres to established legal standards. For instance, during a land transaction, the buyer or seller will engage a PPAT to prepare the official deed. The PPAT must then follow a series of important procedures to fulfill this role appropriately.

1. **Document Verification:** The PPAT is responsible for examining all necessary documentation, including land certificates and identification of the involved parties. In this stage, the PPAT exercises their authority to confirm that all information and documents are accurate, authentic, and legally compliant.
2. **Deed Drafting:** Once the documents have been verified, the PPAT proceeds to draft the deed of sale and purchase. This deed outlines details such as the land's specifications, the agreed price, and the identities of the parties involved. The deed is then signed by both parties in the presence of the PPAT, which formally grants it legal standing.
3. **Registration Processing:** Following the completion of the deed, the PPAT also plays a role in facilitating the registration of the deed with the National Land Agency (BPN). This process ensures that the transfer of land ownership is legally recognized and recorded. The role of the PPAT not only streamlines land transactions but also strengthens legal certainty for all parties concerned.

Land Deed Making Officer (PPAT) is a public official who is authorized to make certain authentic deeds related to the transfer of land rights and ownership rights to apartment units, as well as other deeds as regulated in laws and regulations. Based on Article 1 number 1 of Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning PPAT Job Regulations, PPAT functions to help create legal certainty in every transaction involving land rights. In addition, according to the Agrarian Law book and PPAT Job Regulations, PPAT is also responsible for maintaining the validity of documents and the legality of the transactions he makes. Thus, PPAT has a strategic role in ensuring the implementation of orderly, legal land administration in accordance with applicable laws. PPAT is often considered the same as a notary, even though there are fundamental differences between the two, especially in terms of authority and scope of duties. PPAT is an official who has special authority to make deeds related to the transfer or

encumbrance of land rights and apartment units, such as deeds of sale and purchase, grants, exchanges, and division of joint rights. In contrast, a notary is authorized to make authentic deeds covering various areas of civil law, such as deeds of agreement, establishment of legal entities, and powers of attorney. Based on Article 1 number 1 of Government Regulation Number 24 of 2016²⁰, the authority of PPAT is expressly regulated by land regulations, while the authority of a notary is regulated in Law Number 30 of 2004 concerning the Position of Notary

The Land Deed Official (PPAT) holds a central role in drafting authentic deeds related to the transfer of land rights, such as deeds of sale and purchase. In carrying out this task, the PPAT ensures that every transaction complies with relevant laws and regulations. Referring to Government Regulation No. 37 of 1998 concerning the Position of PPAT, the PPAT is responsible for verifying the documents required for a lawful transfer of rights, including land certificates, the parties' identities, and evidence of tax payments. Additionally, the PPAT must guarantee that all parties involved fully understand and agree to the content of the deed, thereby promoting legal certainty for everyone involved.

The PPAT's authority extends beyond merely drafting legal documents; it also includes the obligation to submit the deed and supporting documents to the Land Office for recording in the land register. Once the deed has been signed, the PPAT must forward a copy of it, along with all necessary paperwork, to initiate the registration of the land rights transfer. According to Boedi Harsono in his book *Indonesian Agrarian Law*, this responsibility underscores the PPAT's role as a bridge between the legal transaction and the formal land administration process. Therefore, the PPAT's presence is essential to ensure that land sale and purchase transactions are conducted according to legal standards and are properly documented.

B. METODE

This research is a normative legal study that emphasizes the examination of prevailing legal norms. It centers on analyzing written legal provisions and how they are implemented in land disputes, particularly regarding the role of Land Deed Officials (PPAT) in Indonesia. The primary aim of this study is to conceptually assess legal regulations by reviewing various legal sources, including statutory laws, judicial decisions, and scholarly legal writings. Furthermore, the research seeks to identify solutions to legal issues using a doctrinal approach and methods of legal interpretation, as outlined by Soerjono Soekanto (2016).

This study utilizes both primary and secondary data sources. Primary legal materials consist of legislation and court rulings that possess binding legal authority and govern the rights and responsibilities of the public. Secondary legal materials include literature such as books, academic articles, journals, and expert commentaries that serve

to clarify and support the primary sources. Additionally, interviews were conducted to gain a deeper understanding of the research subject.

The data in this study is analyzed using a qualitative approach with a prescriptive perspective. This method is employed to explain the authority of the Land Deed Official (PPAT) in issuing sale and purchase deeds Number 134/2016 and 135/2016, as regulated in Government Regulation Number 24 of 2016, which amends Government Regulation Number 37 of 1998 on the Role and Duties of Land Deed Officials.

The data in this study using descriptive qualitative approach. The analysis focuses on data derived from Supreme Court Decision Number 3507 K/PDT/2023, utilizing qualitative data analysis techniques. The validity of the research is supported by information obtained from the official website of the Supreme Court of the Republic of Indonesia: <https://putusan.mahkamahagung.go.id/>.

C. HASIL DAN PEMBAHASAN

The authority of Roy Pudyo Hermawan as PPAT to issue deeds of sale and purchase Number 134/2016 and 135/2016 according to the Judge in the Supreme Court Decision Number 3507 K/Pdt/2023.

In the Supreme Court Decision Number 3507 K/Pdt/2023, the authority of the Land Deed Making Officer (PPAT) Roy Pudyo Hermawan became one of the aspects that was questioned. Based on the decision, the Supreme Court stated that:

1. The Deeds of Sale and Purchase (AJB) Number 134/2016 and 135/2016 made by PPAT Roy Pudyo Hermawan were declared flawed and null and void by law. This is because the deed was made without the knowledge of the plaintiff, who is the legal owner of the land being sold.
2. The process of making it is considered not in accordance with applicable legal provisions, especially regarding the principle of caution and the validity of transactions in making PPAT deeds.
3. The PPAT should ensure the validity of the transaction before issuing the deed.
4. In this case, the legal relationship between the plaintiff and the other defendants is a debt with a land certificate as collateral.
5. Because the plaintiff could not pay off his debt, the other defendants attempted to transfer the collateral through a deed of sale and purchase, which should have been carried out through an official auction process, not through direct sale and purchase.
6. The PPAT in question still issued the AJB, even though he should have understood that the transaction was not legally valid.
7. The PPAT is not authorized to issue a deed if there is a legal defect in the transaction.

8. The PPAT's authority to make a deed of sale and purchase must be carried out based on a valid transaction and in accordance with procedures.

In this decision, the PPAT is considered to have exceeded his authority by issuing a deed based on an invalid transaction, thus causing the deed to be declared null and void by law.

1. Procedures for PPAT in Indonesia to Issue Deeds of Sale and Purchase and Transfer Land Rights Legally

In Indonesia, the Land Deed Making Officer (PPAT) is authorized to create Deeds of Sale and Purchase (AJB) and facilitate the transfer of land rights according to the relevant legal guidelines. The procedures for issuing AJBs and transferring land rights are governed by several key regulations, including:

- a. Law Number 5 of 1960 on Basic Agrarian Regulations (UUPA)
- b. Government Regulation Number 24 of 1997 on Land Registration
- c. Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 on the Implementation of PP No. 24 of 1997
- d. Regulation of the Head of BPN No. 1 of 2006 concerning PPAT Position Provisions

To ensure the legal validity and enforceability of the deed, PPAT must follow these prescribed procedures. The correct steps involved in issuing an AJB and transferring land rights are as follows:

- a. Verify the Land Certificate: PPAT must check the validity of the land certificate through the Land Office (BPN) to ensure that the land is free from disputes, encumbrances, or legal issues like pledges or confiscation.
- b. Verify the Identity and Eligibility of the Parties: Both the seller and buyer must present valid identification (e.g., KTP, KK, NPWP). If any party is represented by an attorney, a legally valid power of attorney must be provided. If the seller is married, the spouse's consent is also required.
- c. Check Taxes and Land and Building Acquisition Fees (BPHTB): The seller is required to pay the Final Income Tax (PPh), while the buyer must pay the BPHTB before the transaction is finalized.
- d. Signing the Sale and Purchase Deed (AJB): Once all documents are in order, the seller and buyer must sign the AJB in front of the PPAT. The PPAT is responsible for explaining the content of the AJB to both parties before signing. Once signed, the AJB becomes legal proof of the completed transaction.
- e. Registering the Transfer of Rights with the Land Office (BPN): After the AJB is signed, the PPAT must submit an application for registration of the rights

transfer to the BPN within 7 working days. The BPN will then update the land certificate in the buyer's name.

In addition to sale and purchase, land rights can also be transferred through other means, such as grants, inheritance, exchange, and auctions. However, if the transfer is due to debts with land used as collateral, the process must go through an execution auction, not a regular AJB.

PPAT can only issue an AJB and transfer land rights if the underlying transaction is legally valid and complies with the required procedures. In the case of Supreme Court Decision No. 3507 K/Pdt/2023, the PPAT was found not to have followed the correct procedures, which led to the AJB being declared null and void. Therefore, PPAT must ensure that all legal requirements are met, and transactions are conducted properly to avoid potential legal disputes.

D. SIMPULAN

From the Supreme Court's decision in this case, it can be concluded that the actions of PPAT Roy Pudyo Hermawan in making a Deed of Sale and Purchase (AJB) without the consent of the legitimate landowner constitute a serious violation of legal procedures and the principle of prudence in carrying out the duties of a PPAT. The AJB issued is considered invalid because the transaction should have been carried out through an execution auction mechanism, not a direct sale and purchase, considering that the land is used as collateral for debt. This shows the importance of compliance with laws and regulations such as UUPA, PP No. 24 of 1997, and Regulation of the Head of BPN No. 1 of 2006 in every process of transferring land rights, in order to guarantee legal validity and protection of the rights of the parties involved.

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