



Validity Of Statement Of Sale and Purchase Of Land Above a Seal In Transfer Of Land Rights

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Abstract. Problems arise when the seller and buyer have died while the land that is the object of the sale and purchase is controlled by a third party. The formulation of the problem is as follows: 1) How is the validity of a land sale and purchase statement above the seal in the transfer of land rights? 2) What are the legal considerations of the panel of judges in the Pati District Court Decision Case Number 7 /Pdt.G/2023/PN. Pti.? 3) What are the legal consequences for the parties to the Pati District Court Decision Case Number 7/Pdt.G/2023/PN. Pti.? This study used a normative legal research approach. The data analysis used was a qualitative approach to secondary data as the main and primary data as supporting data. The results of the study show that the validity of the land sale and purchase statement letter above the seal in the transfer of land rights can be seen from the fulfillment of two requirements; general and special requirements. The legal consideration of the panel of judges in the Pati District Court Decision Case Number 7/Pdt.G/2023/PN.Pti. is that the Defendant's actions in controlling a plot of land recorded in the Village Book C Number 870, Plot Number 24 Class DI covering an area of 270 M2 located in RT 002 RW 005 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency are against the law. The legal consequences for the parties to the Pati District Court Decision Case Number 7/Pdt.G/2023/PN.Pti is that the Plaintiff has the right to control a plot of land as recorded in the Village Record Number 870, Plot Number 24 Class DI Area 270 M2, located in Rt 002 Rw 005 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency, and the Defendant and the third party were ordered to vacate the land belonging to Ah Djumadi or his heirs which was the object of the dispute.

Keywords: Sale and Purchase, Validity, Agreement

1. INTRODUCTION

Land for Indonesian society is not just an economic necessity but also an inseparable part of religious life so that land is always integrated into people's lives. Land is highly important for humans from birth to death. Humans cannot live apart from land. Land is not just as place to reside and for agriculture, but it is also used for bank collateral, sale and purchase, and rent. The importance of the benefits of land for human life means that there is a need for the guarantee of legal certainty to the land. The legal certainty guarantee to land requires written and clear legal instruments carried out in a consistent way in accordance with the spirit and content of applicable laws.

The normative meaning of land can be found in Article 4 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Principles known as UUPA. Article 4 paragraph (1) reads:

(1) *Based on the right to control from the State as mentioned in the article 2, it determines the presence of various rights on earth surface called land, which can be given to and owned by people, either individually or collectively with other people and legal entities.*

Boedi Harsono states that based on the provisions of Article 4 paragraph (1) of the UUPA above, land in the legal sense is the surface of the earth.

Land ownership can occur for several reasons, such as buying and selling, inheritance, grants and so on. In general, land ownership rights are transferred due to buying and selling. Acquisition of land rights is more frequently performed by transferring rights through buying and selling. According to John Salindiho, transfer of rights is a legal act that aims to transfer rights including buying and selling, grants, exchange, separation and division of joint assets and income in companies or *inbreng*.

The word buying and selling in daily basis can be interpreted as someone voluntarily releasing money to obtain desired goods. According to Boedi Harsono, in Customary Law, the act of transferring rights (buying and selling, granting, exchanging) is a legal act that is cash in nature. In buying and selling in land law committed in cash in the payment of the price at the same time, every relationship must be seen as real because indigenous people are still very simple. Therefore, in the land sale transaction, it is only binding if the transaction is seen concretely and has actually occurred proven by an exchange in the form of the transfer of land as an object with the transfer of money in cash as payment.

According to Article 1457 of the Civil Code, it is stated that the sale and purchase of land is an agreement by which the seller binds himself (meaning promises) to hand over the rights to the land in question to the buyer who binds him to pay the seller the agreed price.

Since the enactment of Law Number 5 of 1960 concerning Basic Agrarian Provisions (UUPA) and with the issuance of Government Regulation Number 24 of 1997 concerning Land Registration, land sale and purchase provisions refer to these provisions. One thing that must be noted is that land sale and purchase must be proven by a deed made by and before the Land Deed Making Officer (PPAT), as stated in Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, which reads:

"The transfer of land rights and ownership rights to apartment units through sale and purchase, exchange, grant, entry of company data and legal acts of transfer of rights due to auction can only be registered if proven by a deed made by an authorized PPAT according to the provisions of applicable laws and regulations."

This is reinforced by the Government Regulation Number 37 of 1998, concerning the Regulation of Land Deed Making Officer (PPAT) in Article 2 paragraph (1) which reads: "The PPAT's main duty is to carry out part of the land registration activities by making a deed as evidence that certain legal acts have been carried out regarding land rights or Ownership

Rights for Apartment Units which will be used as the basis for registering changes to land registration data resulting from the legal act."

Therefore, the sale and purchase of Land Rights must be carried out before the Land Deed Making Officer (PPAT). This is proof that there has been a sale and purchase of a land right, and then the Land Deed Making Officer (PPAT) makes the Sale and Purchase Deed which is then followed by registration at the local Land Office according to the location of the land.

The reality in society shows that not every sale and purchase carried out by community members is carried out before a Land Deed Officer (PPAT) so that many land sales and purchases carried out are not made a Sale and Purchase Deed by a Land Deed Officer (PPAT). The sale and purchase is also called an individual sale and purchase which is only proven by a sale and purchase statement letter and a receipt as proof of the sale and purchase and payment. After a sale and purchase transaction occurs, buyers often do not immediately carry out the transfer of rights, either recorded in the Village Book C or registering land rights. Buyers only hold on to proof of ownership of the land which is still in the name of the previous owner (seller).

Problems begin to arise when the seller and buyer died. Then, the land that is the object of the sale and purchase is actually controlled by a third party who initially only relied on the land owner (buyer). After the buyer died, the heirs had difficulty in requesting the return of the land controlled by the third party. One example is a land dispute between the heirs of AH Jumadi as the land owner and Muhsan as the third party who controlled the land in the case number 7/Pdt.G/2023/PN. Pti., at the Pati District Court. This incident began on January 10, 1980, Ms. Lampi binti Sardju sold a plot of land to Ah. Djumadi for IDR 150,000 (one hundred and fifty thousand rupiahs) paid in cash. A land sale and purchase statement was made which was thumb printed by the Seller, signed by the buyer, witnessed by the Head of Tunjungrejo Village and the Head of Margoyoso Sub-District, Pati Regency, and a receipt was made as a sign of Receipt of Payment with sufficient stamp duty. In 1985, Muhsan occupied Ah. Djumadi's land without permission by building a small house with bamboo walls. When reprimanded, he stated that he was only temporarily staying there and would move, but it turned out that he did not want to move and seemed to ignore the warnings from the landowner and the assistance from the Head of Tunjungrejo Village, Margoyoso Sub-District, Pati Regency. Moreover, on the land, 2 (two) permanent houses had been built. The heirs of Ah Jumadi then filed a lawsuit with the Pati District Court which was registered in the Case Number 7/Pdt.G/2023/PN. Pti on the basis of unlawful acts committed by Muhsan.

Based on the above conditions, the author was interested in conducting a research with the title: **The Validity of the Land Sale and Purchase Statement Letter Above the Seal in the Transfer of Land Rights (Case Study of the Pati District Court Decision, Case Number 7/PD**

Based on the background as mentioned above, the following problem can be formulated:

1. How valid is the land sale and purchase statement letter above the seal in the transfer of land rights?
2. What are the legal considerations of the panel of judges in the Pati District Court Decision for the Case Number 7/Pdt.G/2023/PN. Pti. ?
3. What are the legal consequences for the parties regarding the Pati District Court Decision in the Case Number 7/Pdt.G/2023/PN. Pti. ?

2. RESEARCH METHODS

The legal research used was a normative legal research. The research specifications were descriptive analytical in, namely the research intended for humans, other conditions/symptoms. Descriptive means describing legal phenomena, describing systematically factually and accurately. The type of data used in this study was secondary data. The data sources used in this study were secondary data, namely the data obtained through library data including primary, secondary, and tertiary legal materials. The data analysis used was a qualitative approach to primary and secondary data.

3. RESULTS AND DISCUSSION

Validity of the Land Sale and Purchase Statement Letter Above the Seal in the Transfer of Land Rights

Village communities still carry out land sales and purchases only in the presence of the local village head with the proof of ownership certificates that are only *Letter C*. If this condition is associated with the concept of national land law which is based on customary and agrarian laws with customary law systems and principles, such legal acts of land sales and purchases are recognized in the national land law system.

According to Boedi Harsono, land sale and purchase must now also be interpreted as a legal act in the form of transfer of ownership rights or transfer of land forever by the seller to the buyer who at that time also transfers the price to the seller. The legal requirements for land sale and purchase according to customary law are the fulfillment of three elements, i.e.:

1. Cash

Cash here means that the transfer of rights by the seller is done simultaneously with the payment by the buyer, and immediately the rights have been transferred. The price paid does not have to be paid in full, and the difference in price is considered as the buyer's debt to the seller which is included in the scope of debt law, not land law.

2. Real

The nature of real means that the will that has been expressed by the seller and buyer must be followed by real actions, for example by acceptance of payment money by seller, and an agreement is made before the village head.

3. Clear

The legal act of buying and selling clearly means that the buying and selling is carried out in the presence of the village head to ensure that the act does not violate applicable legal provisions.

Customary Law relating to selling and buying of land adopt a concrete or cash system and clear. The transfer of land rights is performed simultaneously when the land price paid is handed over to the buyer. Meeting of will must be made concretely with down-payment deposit to bind in a way of customary law. The land sale and purchase transaction can be made at on sealed paper or without sealed paper with sufficient stamps made by the parties in the presence of the relevant village head, and at the same time a transfer according to customary law of the land has been transferred to the buyer.

If the sale and purchase is not carried out at in front of the village head, the purchase can be considered valid as long as the material requirements have been fulfilled by the parties; the price has been paid by the buyer and the rights to the land sold have been fully transferred by the seller to the buyer.

The subjects of land sale and purchase are sellers and buyers. The seller who has the right to sell a plot of land is the legal holder of the rights to the land. If there is only one person who owns a plot of land, he has the right to sell it himself. However, if there is more than one owner, it must be done jointly. As a result of land sale and purchase according to customary law, when it is carried out by someone who is not entitled to do so, it is void by law.

The application of customary land law in land buying and selling practices is recognized by the Supreme Court as per the Supreme Court Decision No. 952 /K/SIP/1975 dated 12 June 1975. In its legal considerations, it states that buying and selling according to customary law

is valid if it is carried out in real terms and in cash and recognized by the village head. The Supreme Court Decision is in accordance with the principles of customary law. Therefore, even though the sale and purchase are not carried out in the presence of the Land Deed Making Officer (PPAT), the sale and purchase remains valid because the UUPA is based on customary law, and the definition of sale and purchase according to the UUPA uses the principles of customary law, namely concrete and real. Chapter 5 of the UUPA states:

Agrarian Law which is applicable on earth, water and space is the customary law as long as it is not on the contrary to national and the State interests, based on national unity with Indonesian socialism as well as with the regulations contained in this law and with other regulations, everything considering the elements based on religion law.

The reality shows that the legislation that was made actually replaced the norms of customary law that were previously in force. For example, the provisions regarding the sale and purchase of land which were originally sufficient to be done before the village head, by Article 19 of the Government Regulation No. 10 of 1961, was changed to be done before the Land Deed Making Officer (PPAT) as replaced by the Government Regulation No. 24 of 1997. According to the Government Regulation Number 10 of 1961 revised by the Government Regulation Number 10 of 1961. 24 of 1997, it must be proven by a deed made by a PPAT.

Sale and purchase agreement is a reciprocal one, in which one party (the seller) promises to hand over ownership of an item, while the other party (the buyer) promises to pay a price consisting of a sum of money in return for the proceeds of obtaining the ownership rights.

One of the important characteristics of a sale and purchase according to the Civil Code system is that the sale and purchase agreement is only "*obligatory*". This means that according to the Civil Code system, the sale and purchase has not transferred ownership rights, and it only gives rights and places obligations on both parties by giving the seller the right to determine the price and, for the buyer, the right to own the goods sold. What is stated regarding the nature of the sale and purchase is clearly seen from Article 1459 of the Civil Code.

The relationship between obligations and rights in a sale and purchase agreement is the seller's commitment to hand over the object and obtain payment and the buyer's obligation to pay the price and obtain the object.

Based on the description above, it can be understood that the sale and purchase of land is considered valid if it has met two conditions; general and special conditions. General condition is to meet the requirements for the validity of sale and purchase agreement, while special condition is the fulfillment of the elements of customary sale and purchase, such as

cash, real, and clear. The sale and purchase of land rights is considered legally valid if the payment is made in cash with real object, and clear owner. The transfer of land rights can only be carried out if the sale and purchase that has been carried out is stated in an authentic deed made in before the Land Deed Making Officer (PPAT).

The making of an authentic deed before the Land Deed Making Officer (PPAT) must be attended by the parties carrying out the legal act or by a person authorized by a written power of attorney in accordance with applicable regulations. The making of a deed of sale and purchase must also be attended by at least 2 (two) qualified witnesses. Land sales and purchases that are not carried out before the PPAT or are carried out according to customary law are still considered valid, while the transfer of rights can only be carried out if they have been registered at the Land Office. According to the UUPA in Article 37 paragraph 1 of the Government Regulation of the Republic of Indonesia Number 24 of 1997, it is emphasized that every transfer of land rights due to a sale and purchase must be proven by a deed made by the PPAT. Then, to register the transfer of land rights at the Land Office, evidence is needed that a legal act of sale and purchase has been carried out. Article 37 paragraph 1 states that the evidence must be in the form of a deed made by and before the PPAT. Registration of the transfer of land rights due to a sale and purchase at the Land Office is not a requirement for the validity of the sale and purchase that has been carried out but only to strengthen the evidence against third parties.

The Matters that are the Legal Considerations of the Panel of Judges in the Decision of the Pati District Court in the Case Number 7/Pdt.G/2023/PN. Pti.

Based on the research results, the case number 7/Pdt.G/2023/PN. Pti., began with a lawsuit filed by M. Saifuddin and Muhammad Haris Tamimi against Muhsan. The basis of the lawsuit is from M. Saifuddin and Muhammad Haris Tamimi against Muhsan.

The panel of judges in their legal considerations first considered the intent and purpose of the lawsuit in the case Number 7/Pdt.G/2023/PN. Pti. The panel of judges in their legal considerations stated that the intent and purpose of the Plaintiff's lawsuit as described above was a lawsuit for unlawful acts. The panel of judges was guided by Article 163HIR or Article 1865 of the Civil Code that states "Any person who alleges that he has a right, or to enforce his own rights or denying another person's rights, referring to an event, is required to prove the presence of the right or event". Then, in accordance with the matter above and in accordance with the principle of a balanced distribution of the burden of proof with the presence of arguments of equal weight between the parties to the case, the mandatory burden of proof and

the assessment of the strength of the proportional proof according to the law of evidence are applied. The plaintiff is required to prove the arguments of his lawsuit, and the defendants are required to prove the arguments of their rebuttal;

According to the consideration of the panel of judges with the absence of witness statement explaining that they knew the sale and purchase between Ah Djumadi and Lampi Binti Sadjoe during the trial, it does not mean that there was never a sale and purchase agreement. The trial revealed written evidence showing that there had been a customary land sale and purchase, namely vide of evidence P-5 in the form of a Receipt for the Sale and Purchase of Land in Village C number 870 with an area of 270 M2 for IDR 150,000.00 between Ah Djumadi and Lampi dated January 10, 1980 with sufficient stamp duty and vide of Evidence P-8 in the form of a Statement of Sale and Purchase of Land above the seal between Ah. Djumadi and Lampi dated January 10, 1980 which was known and signed by the Seller and Buyer, Head of Tunjungrejoi Village named B SOETRISNO and SOEHADI, Head of Margoyoso Sub-District, Pati Regency, with the object of land sale and purchase based on Village Note Number 870, Plot Number 24 Class DI with 270 M2 in width, located in Rt 002 Rw 005 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency.

Based on the above considerations, the panel of judges concluded that the land as recorded in the Village Book C Number 870, Plot Number 24 Class D1 with the width of 270 M2 located in RT 002 RW 005 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency, belongs to Ah Djumadi (the biological father of the Plaintiffs) which was obtained from a customary sale and purchase between Ah. Djumadi and Lampi binti Sadjoe on January 10, 1980. Then, the third *petitum* of the Plaintiff's lawsuit can be granted.

Based on the description above regarding the legal considerations of the panel of judges in the case Number 7/Pdt.G/2023/PN. Pti., it can be understood that in this case, the panel of judges was required to prove two things, i.e.:

1. Regarding the ownership of land rights in the form of a plot of land as recorded in Village Book C Number 870, Plot Number 24 Class D1 with the width of 270 M2 located in RT 002 RW 005 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency, owned by Ah Djumadi (the biological father of the Plaintiffs) which was obtained from a customary sale and purchase between Ah. Djumadi and Lampi binti Sadjoe on January 10, 1980.
2. Regarding the unlawful acts committed by the Defendant which caused the Plaintiff to suffer losses, in the form of losing the opportunity to obtain economic benefits from the land which was the object of the dispute for approximately 20 (twenty) years.

The panel of judges believed that the Defendant had committed an unlawful act, so in its legal considerations the panel sentenced the Defendant to vacate the land belonging to Ah Djumadi or his heirs which was the object of the dispute and charged the Defendant to pay the court costs.

Based on several legal considerations above, the panel of judges issued a verdict in the case number 7/Pdt.G/2023/PN. Pti., as follows:

IN PROVISION

- Rejecting Plaintiff's Provisional Claim

IN EXCEPTION

- Rejecting all exceptions from the Defendant

IN THE MAIN CASE

1. Granting the Plaintiff's Claim in part;
2. Stating the legal validity of the Land Sale and Purchase Statement Letter above the seal between Ah. Djumadi and Lampi dated January 10, 1980 which was known and signed by the Seller and Buyer, Head of Tunjungrejoi Village, B SOETRISNO, and SOEHADI, Head of Margoyoso Sub-District, Pati Regency with the object of land sale and purchase based on Village Notes Number 870, Plot Number 24 Class DI with the width of 270 M2, located in Rt 02 Rw 05 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency, with the following land boundaries:

South	: Yardi
North	: Village Road
East	: Maimunah Karto
West	: Sakur
3. Declaring that the Defendant has been proven to have committed an Unlawful Act;
4. Punishing the Defendant and/or anyone to vacate the land belonging to Ah Djumadi or his heirs which was the object of the dispute;
5. Rejecting the lawsuit other than and beyond it;
6. Ordering the Defendant to pay the costs arising in this case amounting to IDR 950,000,- (nine hundred and fifty thousand Indonesian Rupiahs);

Related to the theory of legal certainty, the Decision of the Pati District Court in the case Number 7/Pdt.G/2023/PN. Pti., provides legal certainty regarding the ownership of land rights in the form of a plot of land as recorded in the Village Book C Number 870, Plot Number 24 Class D1 with the width of 270 M2 located in RT 002 RW 005 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency, owned by Ah Djumadi (the biological father of the

Plaintiffs) which was obtained from a customary Sale and Purchase between Ah. Djumadi and Lampi binti Sadjoe on January 10, 1980.

The Certainty Theory determines that every legal act carried out must guarantee its legal certainty. In the case Number 7/Pdt.G/2023/PN. Pti., the legal certainty achieved was the presence of legal certainty over the ownership of land rights in the form of a plot of land as recorded in the Village Book C Number 870, Plot Number 24 Class D1 with the width of 270 M2 located in RT 002 RW 005 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency, owned by Ah Djumadi (the biological father of the Plaintiffs) which was obtained from a customary Sale and Purchase between Ah. Djumadi and Lampi binti Sadjoe on January 10, 1980.

Consequences for the Parties on the Decision of the Pati District Court Case Number 7/Pdt.G/2023/PN. Pti

Legal consequence is a logical consequence for the disputing parties. Civil disputes arise because one party feels that their legal rights and interests have been violated by another party so that in order to protect these legal rights and interests, the party who feels aggrieved will take formal legal action by filing a lawsuit with the district court.

The lawsuit filed in the district court is based on arguments that according to the Plaintiff it is sufficient reason to be used as the basis for the lawsuit. The most important thing in filing a lawsuit is proving the arguments of the lawsuit. It is stated in the provisions of Article 283 RBg/163 HIR:

"Anyone claims to have a right to something, or mentions an incident to confirm his right, or to deny the rights of another person, then that person must prove the presence of that right or that incident."

This is also contained in Article 1865 of the Civil Code which reads:

"Any person who claims that he has a right, or, in order to confirm his own right or deny the right of another person, points to an event, is obliged to prove the presence of said right or event."

Every person who claims that he has a right or in order to confirm his own right or deny the right of another person, points to an event is required to prove the presence of the right or event. In court, each party submits conflicting arguments by which the judge will examine and determine the correct and incorrect arguments based on the rules on evidence.

The existence of Pati District Court Decision Number 7/Pdt.G/2023/PN.Pti., the ruling of which is as stated above, has legal consequences for the disputing parties, as follows:

a. For the Plaintiff

Based on the verdict number 2, it is stated that legally the Land Sale and Purchase Statement Letter above the seal between Ah. Djumadi and Lampi dated January 10, 1980 which was known and signed by the Seller and Buyer, Head of Tunjungrejo Village, B SOETRISNO, and SOEHADI, Head of Margoyoso Sub-District, Pati Regency with the object of land sale and purchase based on Village Notes Number 870, Plot Number 24 Class DI with the width of 270 M2, located in Rt 02 Rw 05 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency, is valid. Then, based on the verdict, according to customary law, there has been a transfer of land rights between Lampi as the land owner (Seller) to Ah. Djumadi as the buyer on January 10, 1980.

b. For the Defendant

Based on the verdict number 3, it was stated that the Defendant was proven to have committed an Unlawful Act because he illegally controlled the disputed object in the form of a plot of land as recorded in Village Notes Number 870, Plot Number 24 Class DI with the width of 270 M2, located in RT 02 RW 05 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency and was sentenced to vacate the land belonging to Ah Djumadi or his heirs which was the object of the dispute.

c. For Third Parties

Based on the verdict number 4, it is stated that the Defendant and/or anyone else was ordered to vacate the land belonging to Ah Djumadi or his heirs which was the object of the dispute.

4. CONCLUSION

The validity of a land sale and purchase statement letter above the seal in the transfer of land rights can be seen from the fulfillment of two requirements, namely general and special requirements. There are two things that are the Legal Considerations of the Panel of Judges in the Decision of the Pati District Court Case Number 7 / Pdt.G / 2023 / PN. Pti. regarding the ownership of a plot of land as recorded in the Village C book Number 870, Plot Number 24 Class D1 with the width of 270 M2 located in RT 002 RW 005 Tunjungrejo Village, Margoyoso Sub-District, Pati Regency, as belonging to Ah Djumadi. The action of the Defendant who controlled a plot of land as recorded in the Village C book Number 870, Plot Number 24 Class D1 with the width of 270 M2 located in RT 002 RW 005 Tunjungrejo Village,

Margoyoso Sub-District, Pati Regency was an Unlawful Act. A legal consequence for the parties to the Decision of the Pati District Court Case Number 7/Pdt.G/2023/PN. Pti is that the Plaintiff as the heir of Ah Jumadi legally has the right to occupy and control and utilize a plot of land that was the object of the dispute. The Defendant and/or anyone else was sentenced to vacate the land belonging to Ah Djumadi or his heirs which was the object of the dispute.

SUGGESTION

A sale and purchase agreement to land rights made individually is still considered valid even though it is not made before a Land Deed Making Officer. The emergence of land rights disputes as a result of not having registered the land must be a concern for every land owner to immediately register the land rights that have been legally obtained so that in the future there will be no disputes over land rights ownership.

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