

Juridical Review Sale and Purchase of Land Ownership Rights without PPAT Deed

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Abstract. A piece of land is valuable for the community because they often carry out activities such as harvesting or traditional festivals. Thus, the issue of moving proprietorship privileges to land is managed in the Fundamental Agrarian Regulation No. 5 of 1960 concerning Fundamental Agrarian Guidelines and one of its executing guidelines in Unofficial Law Number 24 of 1997. In this case, the transfer of ownership rights to land must be with a deed drawn up by and before an authorized official, as referred to in Article 19 Government Regulation Number 10 of 1961. These regulations and guidelines make sense that any exchange of proprietorship freedoms to land should be completed before the Land Deed Making Official (PPAT). However, in reality, after the enactment of Government Regulation Number 24 of 1977, ownership rights to land were still transferred without the Deed of Official Making Land Deeds (PPAT), particularly in the deal and acquisition of land possession freedoms.

Keywords: Juridical; Buy and Sell; Land Property Rights; PPAT.

1. Introduction

Recently, the Indonesian public have been enraged with the way of behaving of state authorities who frequently flex (flaunt) their way of life and abundance.[1] An illustration of a case that is presently under a microscope and contempt from people in general is the wrongdoing of tax evasion carried out by the Head of Expenses named Rafael Alun, with a complete abundance that is viewed as entirely nonsensical, up to 56 billion Rupiah, also different resources that are not answered to the State, and the disclosure of a store enclose the name of someone else, supposedly to keep away from government doubt, with a genuinely phenomenal worth.[2] The wrongdoing of illegal tax avoidance has reemerged and has maddened the Indonesian public.[3] How should it not be? At the point when the Indonesian public were troubled with state burdens, the expense authorities acted and appeared to be giving their all with their shocking acts. Aside from Rafael Alun, charges of tax evasion likewise surfaced again after netizens featured the way of life of the spouse of the Top of the Public Land Organization (BPN), who frequently flexes a lavish way of life, surpassing her significant other's pay.

The land is a characteristic asset that plays a vital part. Humans need land for various life interests such as living, farming, trying, etc.[4] Besides that, the soil also supports a variety of natural vegetation, especially forests, which are very useful for humans and animals. To ensure honest conviction in the field of land, Article 19 section (1) of the UUPA specifies: "To guarantee legal certainty, the government will carry out land registration throughout the territory of the Republic of Indonesia according to the provisions stipulated by government regulations."

This arrangement is aimed at the public authority to do land enrollment all through the region of the Republic of Indonesia to give assurances of lawful conviction concerning land privileges that require sureness in regards to [5]

1. Land rights, whether property rights, usufruct rights, building use rights, usufruct rights, or management rights.
2. Who owns the land; This is very important because legal actions related to land are only valid if the holder of the rights carries them out.
3. Land owned by location, area, and boundaries. This is very important for the prevention of disputes.
4. The law that applies to the land so that it is easier to find out what the authorities are, as well as the obligations of the holder
5. Land rights.

The agrarian regulation contained in Regulation No. 5 of 1960 concerning Essential Agrarian Guidelines is a public land regulation whose intention is:

1. Laying the foundations for drafting the Public Agrarian Guideline, which will be a gadget to bring flourishing, fulfillment, and value to the State and people, especially the regular workers, in the construction of a fair and prosperous society.
2. Laying the establishments for laying out solidarity and straightforwardness in land regulation.
3. Laying the establishments to give lawful conviction concerning land freedoms for individuals in general.

The motivation behind land enlistment to gather and give total data about land packages is underscored by the accounting of land allocates contain fragmented actual information and juridical information or are as yet questioned, even though certificates have not been issued for disputed lands as proof of their rights (Art. 30 and 31 Government Regulation No. 24 of 1997). The necessities and methods for acquiring the previously mentioned data are specified by the Pastor in the Guideline of the Priest of Agrarian Undertakings/Head of BPN Number 3 of 1997 concerning arrangements for the execution of Unofficial law No. 24 of 1997. The appropriate execution of land enlistment is the premise and exemplification of systematic organization in the land area. Each land package and condo unit should be enlisted to accomplish such regulatory requests, including the exchange, encumbrance, and discount. (Article 4 Section 3 of Unofficial law No. 24 of 1997).

In this situation, trading, awards, legacy, or gifts as per custom and testamentary awards are done by the gatherings before the Land Deed Making Official (PPAT), who is accountable for doing the deed. The Land Deed (PPAT) fulfills clear conditions (not dark legal actions, which are carried out secretly). The deed signed by the parties shows clearly or in real terms the legal act of buying and selling carried out. Thus, the three characteristics of buying and selling are fulfilled: cash, clear, and real. The deed proves that a legal action has been carried out. Since the lawful activity was a legitimate demonstration of moving privileges, the deed likewise demonstrates that the beneficiary of the right has turned into the new right holder. They are restricting the gatherings and their main beneficiaries because the Land Deed Making Official (PPAT) organization is shut to people in general.

In efforts to obtain stronger evidence and a wider range of evidentiary powers, the transfer of rights is registered at the District or City Land Office, to be recorded in the land book and title certificate concerned. A strong letter of evidence is obtained by recording the transfer of these rights on the title certificate.

So significant is a real estate parcel for the local area since they frequently complete exercises on the land, be it reap or customary celebrations.[6] [7] Since this land issue is vital,

the issue of moving proprietorship privileges to land is managed in the Essential Agrarian Regulation No. 5 of 1960 concerning Fundamental Agrarian Guidelines and one of its carrying out guidelines in Unofficial law Number 24 of 1997. For this situation, the exchange of possession privileges to land should be with a deed drawn up by and before an approved authority, as alluded to in Article 19 Unofficial law Number 10 of 1961 which peruses:

"Any agreement that intends to transfer land rights, give a new right to pawn land, or borrow money with land rights as dependents, must be proven by a deed drawn up by and before an official appointed by the Minister of Agrarian Affairs. The deed is in the form and determined by the Minister. Agrarian"

Observing the formulation of the sound in the Article and the explanation above, the fact is that any exchange of proprietorship freedoms to land should be done before the Land Deed Making Official (PPAT). Land Deed Making Official (PPAT), particularly in trading land possession freedoms.

The issue in this paper is the legitimate results emerging from trading land proprietorship freedoms without a PPAT deed.

2. Method

The system used to record as a printed version of this applied paper is the expressive logical procedure, especially by using data that portrays the issues directly in the field. The assessment is finished and subsequently shut to deal with an issue. Procedures for data variety through discernment and composing study to gain decisive reasoning in the status of this paper.

The procedure used is humanistic juridical, a method used to examine issues from a genuine and exact viewpoint and as a manual for choices used to explore legitimate eccentricities that arise. The humanistic procedure focuses on an issue in the public eye or the neighborhood with the assumption and inspiration driving getting real factors, followed by finding, perceiving issues, and finding deals with issues.

3. Findings and Discussion

3.1 Legal Consequences Arising from Buying and Selling Property Rights to Land Without a PPAT Deed

In the present data innovation time, cross-line cash exchanges and settlements can be made in minutes utilizing banking exchanges by means of the web (net banking or e-banking), so the quick speed of cash is additionally an obstruction to the repayment of LKTM. Circle back exchanges ought to be frozen right away on the off chance that unlawful monetary exchanges are thought. For instance, a bank in Switzerland is given the power to delay the payment of settlements for three days until lucidity is gotten about the progression of approaching and active assets.

One more important quality of trading as per the Common Code framework is that the deal and buy understanding is as it were "required," implying that the deal and buy have not moved property freedoms. It has quite recently given privileges and commitments to the two players., specifically giving the purchaser the option to request the exchange of possession freedoms for the merchandise sold. This trademark is clear from Article 1459 of the Common Code, which makes sense that the property freedoms to the merchandise being sold don't move

to the purchaser as long as the conveyance has not been made (as indicated by the appropriate arrangements). [3]

Alternately, exchanging, as shown by open land guidelines, relies upon standard guidelines. It infers exchanging is unquestionably not a legitimate exhibition yet a necessary getting it. Exchanging (land) in the standard guideline is a legal exhibition of moving honors which ought to fulfill three (3) characteristics to be explicit: [3]

1. It Should be cash, implying that the commonly concurred cost is settled completely when the deal and buy being referred to is done.
2. It must be clear that the transfer of the rights is carried out before the Land Deed Official, who is authorized for the object of legal action.
3. Is real or real, meaning that by signing the deed of transfer of rights, the deed shows clearly and as evidence that the legal action was carried out.

The deal and buy have been considered to have occurred on account of trading land, even though the land has not been given over or the cost has not been paid. To transfer the right, another legal action is still needed in the form of handing over, the method of which is determined by another regulation. Moreover, as indicated by the arrangements of Article 1338 of the Common Code that the understanding made applies as a regulation for the people who make it, it can't be removed without the permission of the two players or for reasons unknown is adequate as per the regulation and should be done appropriately.

Pertinent as a regulation implies that the understanding has restricting and coercive power and gives legitimate sureness to the gatherings that make it. If the parties to the agreement violate, the party is deemed to have violated the law, so certain legal consequences are given. The definition of irrevocable means that the agreement without sufficient reasons under the law cannot be withdrawn unilaterally without the parties consent. At the same time, implementation in good faith means that the agreement in its implementation must not conflict with the norms of decency and decency.

In light of the portrayal above, it very well may be seen that an understanding has a proposition and acknowledgment as a foundation, trailed by an arrangement.[8] The examination that can be utilized in looking at an arrangement is whether the pre-authoritative stage consents to lawful arrangements because, from this investigation, an understanding is legitimately checked on interestingly. Accomplishments in the limiting deal and buy arrangement are generally through all that is a commitment to be satisfied by each party. Assuming the limiting deal and buy understanding followed by the deal and buy will be done after the declaration has been finished and enlisted in the vendor's interest. The merchant's accomplishment is to promptly organize the land authentication so that the deal and buy can be completed immediately.

The strength of confirmation of a deed should meet three components: the strength of birth verification, the conventional strength of proof, and the material strength of proof. [4]

What is meant by the provision of proof of birth is the power of proof based on the circumstances of birth, namely a letter (deed) that appears to be deemed to have strength, as long as it is not proven otherwise. Here it can be seen that the strength is seen from the form of the external deed and not seen as a whole of the deed if we relate this to the evidence presented at the trial, namely in the form of a binding sale and purchase agreement, it is clear that in the agreement, the parties have mutually affixed a sign hand at the end of the agreement and the initials on each sheet of the agreement, meaning that the requirements for proving the "birth" of a deed are sufficiently fulfilled.

The strength of formal proof worries the inquiry, "Is it genuine that there is an assertion?" the strength of this proper evidence depends on regardless of whether the deed is valid as an

assertion from the individuals who marked the deed. The strength of this proper verification gives sureness concerning the occasion that the gatherings expressed and carried out what is contained in the evidence of birth from the deed of the limiting deal and buy understanding which is adequately demonstrated.

On the off chance that there is an assertion, it is demonstrated in court that the limiting deal and buy understanding contains restrictions, the extent of freedoms and commitments of each party (vendor and purchaser, for example, a commitment to pay an initial installment by the purchaser, and there is a fine assuming that the merchant drops without the arrangement of the purchaser. As to confirmation, it concerns the inquiry, "Are the items in the proclamation in the deed valid" The strength of material verification here is underscored by the reality of the assertion contained in the deed. So the strength of this evidence gives conviction about the material, gives sureness about occasions that the gatherings expressed and completed as expressed in the deed, about whether the items in the explanation in the deed are valid, concerning the object of the understanding, specifically, land and structures.

In a common cycle, one of the appointed authority's obligations is to research whether an honest relationship that frames a claim's premise exists. This honest relationship should be demonstrated to win a case. If the plaintiff cannot prove his arguments which form the basis of his lawsuit, then his lawsuit will be rejected, whereas if he succeeds, his lawsuit will be granted. Not all arguments that form the basis of a lawsuit must be proven true. Arguments that are not denied, if fully acknowledged by the opposing party, it does not need to be proven again. Several matters/circumstances that do not have to be proven are 1) matters/circumstances that have been acknowledged, 2) things/circumstances that are not denied, and 3) things/circumstances that are already known by the general public (*notice feiten/notoir* facts). Or things that the judge himself discovered by chance.

In matters of proof, the plaintiff does not always have to prove his argument. The judge who examines the case will determine which of the litigant parties will be required to provide evidence, whether the plaintiff or the defendant. In summary, it can be concluded that the judge determines which party will bear the burden of proof. In dropping the burden of proof, the judge must act wisely and prudently and not be one-sided. He must closely watch all concrete events and circumstances. As a guideline, explained by article 1865 BW, that:

"Whoever submits events on which he bases a right is obliged to prove those events; conversely, whoever submits events to dispute the rights of others, is also required to prove those events."

Even though evidence has been submitted for the disputed event, this evidence still has to be assessed. Concerning assessing evidence, judges can act freely [for example, judges are not required to trust only one witness, which means judges are free to evaluate their testimony (Article 1782 HIR, 309 Rbg, 1908 BW)] or be bound by law [for example: against deed which is a means of written evidence, the judge is bound in his judgment (ps. 165 HIR, 285 Rbg, 1870 BW)].

From the description above, it can be seen that private deeds are used as evidence (namely binding agreements for the sale and purchase of land and buildings) and also apply to authentic deeds and, at least, have the power of proof against who put the signature in the deed.

A deed (letter) can have tremendous evidentiary power if it has satisfied the three verifications above. For this situation, verification of a deal and buy deed that was not made before the Land Deed Making Official (PPAT) can be demonstrated in court so that it is necessary to protect the buyer if the seller defaults; of course, it brings legal consequences, namely: 1. There is an obligation to pay a fine material loss suffered by the buyer, this loss can be in the form of losses that are experienced such as down payments that have been paid, an

interest that has been agreed, or profits that should have been obtained. 2. The object agreed upon can be a guarantee that the seller must fulfill his obligations first, then the collateral confiscation can be removed; this collateral confiscation or the parties before the main agreement is carried out, which is the ultimate goal of the parties.

As described above, for the sale and purchase of private land to occur before the Land Deed Official (PPAT), it must be final, both formal and material requirements, for formal requirements. Usually, the requirements for completeness of documents (certificates, etc.) have been fulfilled as evidence—land rights.

Material necessities, for example, following through on the deal and buy cost, while for the non-satisfaction of these two circumstances, the limiting deal and buy understanding is typically utilized as the objective (groundwork) of the beginning of the deal and buy, which is utilized as a fundamental arrangement while hanging tight for the satisfaction of the circumstances for the principal arrangement, to be a specific deal, and buy before the PPAT.

According to the author, buying and selling not made before the Land Deed Making Officer (PPAT) is still valid, even if it is only based on receipts. This was based on the Supreme Court Jurisprudence Number 126.K/Sip/1976 dated 4 April 1978, which decided that:

"For the sale and purchase of land to be valid, it is unnecessary to have a deed drawn up by and before the Land Deed Making Officer. This Official Deed is only a means of evidence."

Moreover, according to Boedi Harsono, deals and buys that are not made before the Land Deed Official (PPAT) are as yet substantial, so the property privileges pass from the vender to the purchaser as long as the deal and buy satisfy the material prerequisites (both those with respect to the merchant, the purchaser, and the land). [5]

A dispute can occur between jurisprudence and the law regulated in statutory regulations. Before the UUPA and PP No. 10 of 1961, law supported the legitimacy of trading land in light of a cost understanding and the land that is the object of the deal and buy despite the fact that the deal and buy are made secretly, particularly since this used to apply to land with standard regulation status. Presently there's an issue. In light of the arrangements of article 19 UUPA jo. Article 19 PP No. 10 of 1961, the exchange of privileges through trading was completed before the PPAT, and consequently a PPAT deed was drawn up. Consequently, a shared clash has existed among law and legal legitimate arrangements.

4. Conclusion

A deed (letter) can have tremendous evidentiary power if it satisfies the evidence above. For this situation, evidence of a deal and buy deed that was not made before the Land Deed Making Official (PPAT) can be demonstrated in court, so security is required for the purchaser if the vendor defaults. Despite the fact that all things considered, a question will happen from here on out, in view of the arrangements of Article 19 of the UUPA jo, article 19 PP No. 10 of 1961, the exchange of freedoms through trading was completed before the PPAT. Therefore a PPAT deed was done; each prospective buyer and land owner must register their ownership rights to their land before a Notary to obtain a Notary Deed, which is evidence strong before Indonesian law and judiciary. Judging from the applicable law in Indonesia, it tends to be seen that the deal and acquisition of land without a PPAT Deal and Buy deed will want to hurt the purchaser; this is because he can handle genuinely yet can't demonstrate his possession lawfully.

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