



The Power of Evidence of a Land Sale and Purchase Agreement (PPJB) in Full in Civil Dispute Cases

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Abstract: In daily practice, the implementation of this sale and purchase does not necessarily produce a sale and purchase agreement, but is carried out by making an agreement which is usually referred to as a Sale and Purchase Binding Agreement or PPJB. The use of PPJB in relation to the transfer of land rights is generally due to obstacles or unfulfilled requirements in land sale and purchase transactions. PPJB has the legal force of perfect and binding evidence because PPJB was made before a notary is included in an authentic deed. This article uses a juridical-normative research method, namely by examining the application of rules or regulations related to the issues discussed in this article. This article discusses the existence of legal loopholes that can harm buyers in using PPJB, one of which is caused by the lack of further regulation in legislation. From this article it can be concluded that PPJB can be the basis for the legal transfer of land rights which therefore has perfect evidentiary legal force in civil disputes.

Keywords: Sale and Purchase Binding Agreement, Legal Certainty, Civil Suits

1. Introduction

The need for housing is a primary need for humans. Based on data from the Ministry of Public Works and Public Housing, the number of housing needs in Indonesia reached 12.7 million (Mamonto, Abdussamad, & Tui, 2022),(Charisma, 2020). This shows that there are still many people who need a place to live. According to Susenas 2023 data, the backlog of home ownership in Indonesia is 13.56%, which means that 9,905,820 households do not yet have a house (RI & INDONESIA, nd). This figure is expected to continue to increase with the presence of new households every year (Karo, Hikmatullah, Puteri, Aulia, & Shafira, 2021),(Jayanti, Meyrandari, & Firmansyah, 2023).

Acquisition of land rights can be done through legal acts with the transfer of rights, namely by inheritance, grant, exchange, inbreng and sale and purchase. If the transaction process is carried out through sale and purchase, it will be carried out before a Notary to carry out the transfer of rights and land registration in order to achieve legal certainty (Aulia, 2022),(Hartono, 2022).

Through Article 1457 of the Civil Code, it is explained that "a sale and purchase is an agreement, by which one party binds himself to hand over an object and the other party to pay the promised price (Sumriyah & Djulaeka, 2023),(Christiawan & Wulandari, 2023)." In this case, the object in question can be a movable object or an immovable object. Then, Article 1458 of the Civil Code further explains when a sale and purchase is considered to have occurred, namely from the time of the agreement regarding the object of the sale and purchase and its payment, even though the object has not been delivered or payment has not been made (Lawra & Mulyeni, 2022),(Narulita, Sili, & Graduates, 2022).

Often, the implementation of this sale and purchase does not immediately produce a deed of sale and purchase (hereinafter referred to as "AJB"), but rather by making a preliminary agreement with the aim of binding the subject of the sale and purchase so that they can fulfill certain rights and obligations first (Yahman, 2019). This agreement is generally known as the Sale and Purchase Agreement (hereinafter referred to as "PPJB").

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Through his book, Subekti defines PPJB as, "An agreement between the seller and the buyer before the sale and purchase is carried out because there are elements that must be met for the sale and purchase, including a land title certificate that does not yet exist because it is still in the process or the price has not been paid in full or taxes imposed on the sale and purchase of land rights have not been paid by either the seller or the buyer (Raypangestu & Gultom, 2022), (Alvita, 2021).

In practice, PPJB is usually followed by a power of attorney to sell from the seller to the buyer in order to carry out AJB. This can be done on condition that the agreed price in the sale and purchase has been paid in full or is generally called PPJB in full. Another case is if it has not been paid in full, it is known as PPJB with a term or tenor, namely PPJB with payments made in stages.

Although the laws and regulations do not officially regulate PPJB, this agreement is often used by notaries in carrying out their duties. The creation of this PPJB is considered a form of preliminary agreement whose form is free (Pradipta & Iriantoro, 2022), (Paryadi, 2021). The use of PPJB related to the transfer of land rights is generally due to obstacles or requirements that have not been met in the land sale and purchase transaction. Several things that result in the PPJB being made first are that payment cannot be made in full, documents related to the land are incomplete, the object cannot be controlled by the parties or the size of the object of the sale and purchase is still being considered by the parties (Gaol, 2021), (Yanti & Trisaka, 2023).

In conducting this research, the author uses a case example in the decision of the district court No. 294/PdtG/2016/PN.BTM which proves that PPJB as a preliminary agreement in the buying and selling process which is often used by the community still has loopholes that can be detrimental to the Buyer (Ramadan, 2022), (Yudhantaka, 2017). The non-regulation of PPJB in the laws and regulations also causes weak legal protection for the Buyer. Based on the background above, it is necessary to formulate what is the problem in this writing, namely regarding the legal force of proof of the Sale and Purchase Agreement (PPJB) deed and the resolution of disputes (Anggraini, 2018), (Harlyne, nd).

2. Materials and Methods

A written work can be called a research must include several things, namely, arranged based on methodology, consistency, and systematically. Then, to be called legal research, the research conducted aims to analyze certain legal phenomena or problems based on certain methods, systematics, and theories. In this study, the author uses a juridical-normative research method, namely research by conducting studies and analysis of legislation related to roya and its implementing regulations. When viewed based on its nature, this research is prescriptive, namely research that aims to provide advice on the problems faced. The author conducts qualitative data analysis, namely by collecting data, then analyzing previously obtained data, which finally obtains a conclusion that is compiled inductively on the problems that occur. In implementing this research, the author will use document studies or literature studies as a data collection tool. Data analysis in this study was carried out using a qualitative analysis method, namely a method that explores aspects of the problem or truth based on the researcher's logic.

3. Results and Discussion

3.1 Legal Power of Proof of PPJB and Protection for Buyers

Contract and agreement are two terms that are often encountered in everyday life. Both seem similar but actually have different meanings. Contract is a relationship that arises between two or more people related to property where one party has the right to performance and the other party has an obligation to fulfill performance.

Article 1233 explains that obligations arise from agreements and laws. Obligations arising from laws are classified in Article 1352 of the Civil Code as a result of human actions due to lawful actions or unlawful actions. Meanwhile, an agreement according to

Article 1313 of the Civil Code is defined as, "an act by which one or more persons bind themselves to one or more other persons".

R. Subekti explained that PPJB is an agreement made by both parties before the sale and purchase is carried out or before the signing of the Sale and Purchase Deed (AJB). Furthermore, he stated that PPJB is made because there are elements that must be fulfilled first in the sale and purchase, such as certificates that are still in process or when there are payments that have not been paid in full. With the birth of PPJB, it is hoped that orderly land administration can run smoothly.

Article 1457 of the Civil Code defines a sale and purchase as an agreement in which the seller binds himself to transfer the rights to the land in question to the buyer who promises to make payment to the seller at a price that has been mutually agreed upon. Meanwhile, Law Number 5 of 1960 concerning Basic Agrarian Regulations (hereinafter referred to as "UUPA") defines a sale and purchase as a legal act to transfer rights forever which is cash in nature. Government Regulation Number 24 of 1997 concerning Land Registration in conjunction with Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration also emphasizes that land sale and purchase transactions must be evidenced by a deed made by and before the Land Deed Making Officer, as stated in Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration. Article 1458 of the Civil Code explains that the validity of a sale and purchase is deemed to have occurred between two parties when an agreement has been reached regarding the goods and price, even though the goods have not been delivered and the price has not been paid.

So it can be concluded that an agreement is considered to have existed since an agreement was reached, even though the goods promised have not been delivered or the price has not been paid. This often happens in practice, where there are certain circumstances that make it impossible for a sale and purchase to be carried out openly and in cash at the time desired by the parties, resulting in the inability to make a deed of sale and purchase made by the Land Deed Making Officer. This situation makes the seller have to postpone the sale of his land, this also applies to the buyer who has to postpone his desire to obtain rights to the land he will buy so that these requirements can be met.

In practice, there are 2 (two) types of PPJB, namely PPJB paid in full and PPJB not paid in full. In PPJB paid in full, the sale and purchase agreement has been carried out in full but the AJB cannot be made because there is a process that has not been completed. Meanwhile, in PPJB not paid in full there is a clause related to the conditions if the sale and purchase process is canceled at a later date for a certain reason.

PPJB has perfect and binding legal force of proof because PPJB made before a notary is included in authentic deeds. As stipulated in Article 1870 of the Civil Code, deeds made before a notary have perfect legal force of proof. This is a form of legal certainty for buyers who, although they have paid the price in full, have not been able to complete the making of AJB and registration of the name change for a certain reason.

In addition to having strong and perfect evidence, PPJB is also considered to have strong legal protection for buyers, one of which is regarding tax payments. In PPJB, sales tax is not charged to the buyer if the seller has died because at the time of signing the PPJB, PPh has been paid in full. This provision is based on Article 1 paragraph (3) letter a of Government Regulation No. 34 of 2016 concerning Income Tax on Income from the Transfer of Rights to Land and/or Buildings, and the Sale and Purchase Agreement for Land and/or Buildings and its Amendments. The power of attorney to sell made before a notary also has strong legal force so that if the seller dies, the heirs cannot sue for ownership of the land even though the AJB has not been made.

However, PPJB cannot be considered as proof of land ownership, but it is initial evidence that a sale and purchase transaction has been carried out. Proof of land ownership only exists after the issuance of the Sale and Purchase Deed. However, it should be noted that there are conditions regarding PPJB that must be met based on the Circular of the Supreme Court (SEMA) No. 4 of 2016, namely, "The transfer of land rights based on the Sale and Purchase Agreement (PPJB) legally occurs if the buyer has paid the land price in full

and has controlled the object of the sale and purchase and is carried out in good faith". So through these provisions, buyers who act in good faith must be protected by law.

3.2 *Settlement of Sales and Purchase Agreement Disputes*

In 2016, a land dispute occurred between BJ who sued YA, I and CH because they were considered to have committed an unlawful act which then caused him to suffer losses. This dispute was then brought to the Batam District Court and was decided at the first level with case number 294/PdtG/2016/PN.BTM. This dispute began when BJ ("Plaintiff") was the legal owner of a plot of land with an area of 264 m² including the building on it located in the Villa Panbil Complex Block N Number 43A, Muka Kuning Village, Sungai Beduk District, Batam City as described in the Building Use Rights Certificate No. 750/Muka Kuning, dated December 20, 2012 with Measurement Letter No. 00053/2012 dated 11-12-2012 (hereinafter referred to as the "Land and Building Object"). The land and building were obtained through a sale and purchase between the Plaintiff and YA ("Defendant I") and I ("Defendant II") who are husband and wife. The sale and purchase was conducted before Notary Reinward, a Bachelor of Law, domiciled in Batam City as stated in the Sale and Purchase Agreement Number 14 dated December 13, 2016 ("PPJB").

On March 21, 2017, the land and building were placed under a security seizure by the Batam District Court in accordance with the Minutes of Security Seizure (Conservatoir Beslag) Number: 294/BA.PDT.G/SJ/2016/PN.BTM dated March 17, 2017. The placement of this security seizure is related to the case between CH ("Defendant III") and Defendant II and Pipit Pujiastuti at the Batam District Court with Case Register Number 294/PdtG/2016/PN.BTM.

In its petitum, the plaintiff stated that Defendant I, Defendant II and Defendant III had committed unlawful acts and stated that the defendants were buyers in good faith. The plaintiff also requested that the Panel of Judges of the Batam District Court declare that PPJB Number 14 dated December 13, 2016 made before Notary Reinward, Bachelor of Law, domiciled in Batam City is valid and binding. Not only that, the plaintiff also requested that the seizure of the guarantee on the Land and buildings in the aquo case be lifted.

The Batam District Court Judge explained in his consideration that based on Article 1365 of the Criminal Code, every unlawful act that causes loss to another person, requires the person whose fault it is to cause the loss, to compensate for the loss. From this Article, the elements of an unlawful act consist of:

a. This act is against the law

The act in question not only violates the law but also violates the rights of others, is contrary to the legal obligations of the perpetrator, the principle of caution and the norms that exist in society.

b. There was an error

Generally, mistakes are divided into two, namely due to intent or negligence. Intention means when a person is fully aware and understands the consequences of his actions will cause harm to others. While negligence means that there is an act that ignores something that should have been done or is not careful so that harm occurs to others.

c. There is a loss

Losses in this case are divided into 2 (two), namely material and immaterial losses. Material losses are losses whose value can be assessed with money and are actually suffered, such as in a car accident, there is a loss in the form of damage to the car. While immaterial losses cannot be measured like material losses, for example, such as the loss of the spirit of life.

d. There is a causal relationship between the error and the loss

For example, when the loss would not have arisen if the perpetrator had not committed the unlawful act. Based on these considerations, the placement of a guarantee seizure on the Land and buildings in the aquo case caused by the actions of Defendant III who linked the land and buildings owned by the Plaintiff to his lawsuit while Defendant III had known for certain that the land had become the Plaintiff's property which resulted in the Plaintiff not being able to fully enjoy the land and buildings, the Panel of Judges stated that the actions of Defendant I, Defendant II and Defendant III were declared unlawful acts.

In addition, the judge's consideration also includes an explanation that because the PPJB has been carried out before a Notary which was then followed by payment of a sum of money for the object of sale and purchase and has considered the related documents, it is reasonable that the Plaintiff is a good-faith buyer and the legal owner of the Land and buildings in the aquo case even though the certificate is still registered under the name of Imaldi because the name has not been changed. The Panel of Judges also opined that because the object being seized belongs to a third party (in this case the Plaintiff) it is very reasonable for the legal seizure of the guarantee against the Land and buildings in the aquo case to be lifted.

From the brief explanation of the case above, it can be understood that the PPJB that has been made in the sale and purchase can be used as evidence in court. This is then reinforced by the fact that the Building Use Rights Certificate in the case has been changed to the name of the Plaintiff so that the Plaintiff has the right to the object of the dispute a quo and the Plaintiff is the correct Plaintiff. In the details of the case above, it can also be seen that the sale and purchase transaction between the Plaintiff and the Defendant over the PPJB object is correct and legally valid. The Plaintiff can also be said to be a buyer in good faith because he did not know what dispute was happening behind the PPJB object and the problems between the Defendants and formally the Plaintiff is the legal owner of the object.

4. Conclusions

PPJB is an agreement made by both parties before carrying out the sale and purchase or before signing the Deed of Sale and Purchase (AJB). However, there are conditions that must be met so that the PPJB can be the basis for the transfer of legal land rights which therefore has perfect legal force of proof, namely if the buyer has paid the land price in full and has controlled the object of the sale and purchase and is carried out in good faith and binds the parties because the PPJB made before a notary is included in the authentic deed.

In the case with case number 294/PdtG/2016/PN.BTM, in relation to the first petition, the Judge in his consideration stated that the placement of the collateral seizure on the Land carried out by Defendant III to the Plaintiff was an unlawful act because Defendant III knew that the land belonged to the Plaintiff so that the Plaintiff could not fully enjoy the land and building. Then in relation to the second petition, the Judge stated that the Plaintiff was a buyer in good faith because the PPJB had been carried out before a Notary which was then followed by payment of a sum of money for the object of sale and purchase and had paid attention to the related documents.

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