

Juridical Review Process of Land Selling That Was Conducted in Bad Intention (Study of Supreme Court Decision Number 1545K/Pdt/2019)

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ABSTRACT

The existence of the earth cannot be separated from human life, the state is obliged to guarantee and protect the rights of citizens to acquire, own and enjoy property rights over land. However, because land area is determined by the increasing needs of the state's economy, this often creates land disputes as stated in the Supreme Court Decision 1545/K/Pdt/2019, where one party obtains ownership rights to land in good faith. This research is descriptive in nature and uses a normative legal approach. Information obtained through library research (library research). Based on the research results, there are vague indications that fraudulent acts may contain an element of offense under § 531 BGB, namely. H. the buyer knows the defect of the goods, but the buyer still buys the goods and the legal consequences of transferring the property can be canceled and the rights can be returned to the original owner, the buyer can also be punished for all costs, losses and interest incurred. From this it can be concluded that the form of fraud in Decision No. 1545/K/Pdt/2019 because the purchase of goods by Defendant II to Pelawan is invalid because it is no longer the direct owner, so it is appropriate that Pelawan's resistance cannot be accepted because it is against the law.

ABSTRAK

Keberadaan bumi tidak dapat dipisahkan dari kehidupan manusia, negara berkewajiban menjamin dan melindungi hak warga negara untuk memperoleh, memiliki dan menikmati hak milik atas tanah. Namun karena luas tanah ditentukan dengan meningkatnya kebutuhan ekonomi negara, hal ini sering menimbulkan sengketa tanah yang tertuang dalam Putusan Mahkamah Agung 1545/K/Pdt/2019, dimana salah satu pihak memperoleh hak milik atas tanah dengan itikad baik. Penelitian ini bersifat deskriptif dan menggunakan pendekatan hukum normatif. Informasi diperoleh melalui penelitian kepustakaan (library research). Berdasarkan hasil penelitian, terdapat indikasi samar bahwa perbuatan curang dapat mengandung unsur delik menurut § 531 BGB, yaitu. H. pembeli mengetahui kecacatan barang, tetapi pembeli tetap membeli barang dan akibat hukum dari pengalihan harta tersebut akad jual beli dapat dibatalkan dan hak dapat dikembalikan kepada pemilik semula, pembeli juga dapat dihukum mengganti segala biaya, kerugian dan bunga yang timbul. Dari sini dapat disimpulkan bahwa bentuk penipuan dalam Putusan No. 1545/K/Pdt/2019 karena pembelian barang oleh Tergugat II ke Pelawan tidak sah karena bukan lagi pemilik langsung sehingga sudah selayaknya perlawanan Pelawan tidak dapat diterima karena bertentangan dengan hukum.

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I. INTRODUCTION

The existence of land cannot be separated from human life as stated by Adrian Sutedi who stated that in human life, the existence of land will not be separated from all the actions of humans themselves, because land is a place for humans to carry out and continue their lives. The existence of the need for land for human life results in the state having an obligation to provide guarantees and provide protection for the rights of citizens to obtain, own and enjoy property rights over land.

Humans have always tried to own and control land, because land is important for life. Land as a means to meet basic human needs for shelter and food, is also a natural resource that is vulnerable to being contested by various parties. Many conflicts stem from differences in interests, values, data, and so on.

Land use in Indonesia is a state policy as outlined in various positive state regulations, especially in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution), which reads: "Earth, water and natural resources contained therein controlled by the state and used for the greatest prosperity of the people". These basic provisions show the basic principles of the relationship between the state and citizens regarding land. Related to this, there is also a provision in article 2 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), which states that: "On the basis of the provisions in Article 33 paragraph (3) of the Constitution and the matters referred to in Article 1, earth, water and outer space,

Economic growth and the increase in the economic value of land has resulted in a sharper social gap between those who have access that allows control of building land that goes beyond reasonable limits when faced with those who most need land but are in a cornered position. It is not impossible that if this is allowed to continue, it will trigger various disputes in the land sector.

Disputes in the land sector are classic issues and are always present everywhere. Disputes related to land are always ongoing because everyone must have interests related to land. The development of land disputes always increases. The main causes of land conflicts are: 1). Fixed land area, while the number of people who need land to meet their needs is always increasing. 2). The increasing economic need for land rights which is inversely proportional to the availability of the number of land parcels (which tend to be static) is one of the factors triggering the spike in the number of land disputes, conflicts and cases that have occurred in Indonesia.

One of the causes of the emergence of legal problems in the acquisition and transfer of land rights is derived from buying and selling. Sale and purchase of land is a legal act carried out by two parties in which the first party is required to surrender the rights to the land to the second party and the second party is required to pay an amount of money that has been agreed between the first party and the second party to the first party. "The transfer of land rights in the form of buying and selling is carried out before the Land Deed Official as an assistant to the government."

The implementation of the agreement on the transfer of rights or the sale and purchase of land must pay attention to the conditions determined by law. These conditions include material requirements and formal conditions. The material requirements are: (1). The buyer is a person who has the right to own the land in question and has good faith in buying the land. (2). The buyer as the recipient of the right must meet the requirements to own the land he is going to buy. (3). To determine whether or not the buyer has the right to the land he purchased depends on what rights exist on the land, whether ownership rights, building use rights or usufructuary rights. (4). The seller is the person who has the right to the land he is selling. (5). The party entitled to sell the land is the legal owner and right holder of the land. If the owner of the land is only one person, then he has the right to sell the land himself, whereas if the land owner is more than one person, then those who have the right to sell the land are all together. Not only one person may act as a seller without authorization or approval from other owners. (6). The land object in question can be traded and is not in dispute.

The formal terms of buying and selling land rights constitute the formality of the sale and purchase transaction. These formalities include the deed which is proof of the sale and purchase agreement and the official authorized to make the deed. The formal conditions for buying and selling land rights must be proven by a deed made by and before the Land Deed Making Officer (PPAT) as stated in Government Regulation No. 24 of 1997 concerning Land Registration that the sale and purchase is carried out before the PPAT who will issue the sale and purchase deed, deed as a condition for carrying out land registration at the Land Office. The deed made by the PPAT is or is qualified as an authentic deed.

The lack of these conditions resulted in the deed of agreement for the transfer of rights being null and void or revocable. A deed of transfer of rights declared null and void is if the objective conditions of the agreement are not fulfilled. As for the transfer deed that can be canceled if the subjective conditions are not met.

If the agreement for the transfer of rights/sales is declared null and void, then from the start the deed is deemed to have never existed. An agreement on the transfer of rights that is stated to be revocable, from the beginning the deed is presumed to exist but is later canceled by the court at the request of the relevant party in connection with the non-fulfillment of the subjective terms of the agreement. It also means that as long as there are no parties who feel aggrieved or object to the existence of the agreement and there are no applicants for cancellation of the agreement, then the agreement is still considered valid.

The existence of legal sanctions due to non-fulfillment of subjective conditions will only take effect after a court decision that has permanent legal force declaring the cancellation of the said rights agreement. After a court decision, it is known that the deed was canceled by law due to the mistakes of the parties or the mistake of the official making the deed due to lack of caution.

The sale and purchase dispute case occurred in the Supreme Court Decision Number 1545 K/Pdt/2019 between Anthonius Ginting (plaintiff) against Surya Tjiang alias Surya Liang alias Aseng as the first defendant and Herman Wijaya alias Abeng as the second defendant. The plaintiff sued the defendants with the argument that the plaintiff is the legal owner of 2 (two) doors of a shop building located on Jl. AH Nasution, Kwala Bekala Village, Medan Johor District, Medan City in accordance with the Deed of Building Agreement for No. 08 dated 20 February 2006 and its amendments and a private sale and purchase agreement dated 15 July 2006.

Furthermore, the Plaintiff stated that the legal owner of the land and building was in bad faith because he ignored the Deed of Binding to carry out the sale and purchase No. 75 dated March 22, 2006 which was made before Rahanum, SH, Notary in Medan Jo. Deed of Declaration to Make Peace No. 09 dated May 8 2008 which was done before Aida Selli Siburian, SH, Notary in Medan, which has legal force, so that all of the Plaintiff's legal actions on 2 (two) doors of the shop building located on Jl. AH Nasution, Kwala Bekala Village, Medan Johor District, Medan City is illegal for the sake of law and is an act in bad faith.

II. METHOD

This research is "descriptive in nature, because it only describes the object that is the subject matter". Descriptive research leads to normative juridical research, namely research that starts from the problem by looking at the reality that occurs in the field, then connecting it with the applicable laws and regulations. The approach method used in this research is the statutory approach and the case approach. The statute approach is carried out by examining all laws and regulations that are related to the legal issues being handled.

III. RESULT AND DISCUSSION

Legal Arrangements Regarding the Sale and Purchase of Land in Indonesia

Legal arrangements related to buying and selling land in Indonesia refer to three legal instruments, namely the Civil Code (KUH Perdata), the Basic Agrarian Law (UUPA) and PP No. 24 of 1997 concerning Land Registration.

a. Legal Arrangements Regarding the Sale and Purchase of Land According to the Civil Code. Based on the provisions of Article 1457 of the Civil Code, what is meant by buying and selling is an agreement in which one party binds himself to deliver an item and the other party to pay based on the price promised. In accordance with Article 1233 of the Civil Code that an agreement or agreement to bind oneself is born because of an agreement or can also be born because of a law.

So that an agreement does not cause problems in the future, the requirements must be fulfilled so that an agreement can be said to be valid and binding, namely based on the provisions of Article 1320 of the Civil Code.

If an agreement meets the legal requirements of the agreement and the principles of the agreement, then an agreement can be said to be valid and can be implemented. A principle in the agreement must contain the meaning that "promises must be kept or promises are debts" because the agreement is a way that brings the parties in making an agreement so that a value of protection and justice can be achieved for the parties who bind themselves, the parties are also expected to fulfill and enforce agreements.

The principle of freedom of contract (freedom of contract), in accordance with the provisions of Article 1338 of the Civil Code, is that all agreements are legally made and apply as laws to the party that makes them, namely in making or not an agreement, entering into an agreement with anyone, determining the contents of the agreement, implementation and terms and determine the form of the agreement (oral or written). The principle of consensualism (consensualism) is that agreements are generally not made formally but there is an agreement from both parties. The principle of legal certainty (*pactasunt servanda*) is that any agreement made by both parties is a sacred act and is associated with religious elements.

The principle of good faith is based on the provisions of Article 1338 paragraph (3) of the Civil Code, that an agreement must be carried out in good faith, namely by taking into account the attitude and behavior of the subject and the assessment lies in common sense and justice and an objective measure is made. and not impartial or objective. The principle of personality is that principle which determines that a person will perform and/or make a contract only for the benefit of the individual.

In the transfer of land rights that are carried out through buying and selling, that can be done based on authentic deeds and private deeds. Based on the provisions of Article 1868 of the Civil Code, what is meant by authentic deeds are deeds made in accordance with what is determined by law or before a public official who authorized to make it, while a private deed is a letter or writing made by the parties without any intervention by a public official who is authorized to do so and laws and regulations do not require it. In addition, the status of ownership of land must also be clear in nature so that ownership status is guaranteed for holders of land rights under their control which are used to prove land rights, especially when transferring land rights.

b. Legal Regulations Related to the Sale and Purchase of Land According to the Basic Agrarian Law Since the enactment of Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA), the transfer of land rights can be carried out through buying and selling which is intended to transfer property rights. The transfer of land rights is a legal act by transferring land rights deliberately so that these rights are released from the original holder and become the rights of another party.

As a legal requirement for the transfer of land rights through buying and selling, it can be carried out through material conditions and formal conditions. It is this material requirement that can determine whether the sale and purchase that is being carried out is legal or not, namely the existence of a buyer who has the right to buy the land object and what determines whether or not the buyer is entitled to be able to obtain the rights to the land he bought, namely based on the provisions of the Basic Agrarian Law, that is, only single Indonesian citizens and legal entities stipulated by the government can have ownership rights to land. Second, that the seller has the right to resell the land object in question and third, that the land object in question may be traded and not in dispute, due to the status of the land sale and purchase status is invalid and can be null and void by law.

While the formal requirements are that the registration of the transfer of land rights must be proven by the existence of a deed made by and before the Land Deed Making Officer (PPAT), the conditions for which must be proven by the PPAT deed are emphasized in Article 37 Paragraph (1) of Government Regulation Number 24 Year 1997.

Before the sale and purchase deed is made by the PPAT, it is required for the parties to submit the necessary documents to the PPAT, namely if the land is certified, the original land certificate and proof of payment of the registration fee. If the land has not been certified, a statement that the land has not been certified, existing land documents that require confirmation by the Village Head and Camat, accompanied by letters proving identity For land that does not yet have a certificate, the procedure must first complete the warkah land (object) as referred to in Article 24 of Government Regulation Number 24 of 1997, the subject document, payment of taxes. Then before the PPAT, the parties (seller and buyer) sign the AJB (deed of sale and purchase),

Legal Consequences for Land Transfer Made Through Bad Faith in the Process of Buying and Selling Land

The principle of good faith must of course be implemented starting from the negotiation, agreement, and up to the implementation of the sale and purchase agreement. However, the meaning of good faith is still very abstract, resulting in different understandings of good faith. Good faith does not have a single meaning, and until now there is still debate about what good faith actually means.

According to Ridwana Khairandy, good faith must exist since the pre-contract phase where the parties start negotiating until an agreement is reached and the contract implementation phase.

The concept of good faith in the Civil Code both objectively and subjectively, good faith with an objective meaning or based on the agreement of the parties contained in Article 1338 paragraph (1) which is known as the Pacta Sunt Servanda principle, in this article means that the agreement in an agreement applies as a law for the parties who are binding themselves, while what is meant by good faith is prioritizing decency, fairness, and habits contained in Article 1339 of the Civil Code.

This good faith itself has weaknesses, namely in the Civil Code, that contextually there is no systematic detail regarding the provisions that become a benchmark for good faith. Systematic is not structured based on elements that state a principle has a unity of meaning. In addition to good faith arrangements in the realm of contract law, because in this study the object transferred is in the form of land (immovable objects), it is also necessary to consider good faith arrangements that exist in the realm of material law in the Civil Code.

Article 531 of the Civil Code states that "Acquisition in good faith occurs when the possessor obtains the object by obtaining ownership without knowing that there is any blemish in it." Based on this, to determine whether the Buyer has good faith or bad faith in a land sale-purchase transaction, the following criteria can be used:

a). The buyer does not know the defects found in the object when buying the land, b). If the Buyer finds information in the sale and purchase whose contents are contradictory to one another, giving rise to suspicion or doubt as to who actually owns the land that is the object of this sale and purchase,

then the buyer should be expected to examine this matter, c). If the buyer does not make an effort to find out the reality of the object and continue the transaction, then if in the future it is known that the land does not belong to the seller, then such a buyer is not considered a good intention buyer, but a bad intention buyer (bad). faith) and will not be protected by law.

Considering that the time span from the making of the binding Sale and Purchase Agreement until the case is rolling in court has not exceeded the expiration period determined by law for prosecution, namely for 30 (thirty) years, as stipulated in Article 1967 of the Civil Code, which reads as follows: "All lawsuits, whether material or personal, are null and void because they expire with the passage of thirty years, while whoever indicates the existence of such an expiration does not need to demonstrate a basis of rights, moreover, a countermeasure cannot be brought against him based on his good faith. bad."

In addition, as mandated in Article 1965 of the Civil Code, the position of good faith must always be considered to exist until proven otherwise before the court. Therefore, even if the buyer is a buyer with bad intentions, he can still enjoy his ownership rights until he is declared to have bad intentions before the court. This is as regulated in article 549 of the Civil Code which says: "A possession in bad faith gives the holder the right to an item: a). to be considered as the owner of said item temporarily, until the time when said item is demanded to be returned before the Judge, b). to enjoy all the results of the item, but are obliged to return it to those who are entitled; "

Different legal consequences arise when a buyer is declared not having good faith before a court. As in Article 579 of the Civil Code which says:

"A bad faith property holder is obliged to: a). Return all the results of an item along with the item itself, even the results that although they did not enjoy, could originally be enjoyed by the owner; but as stipulated in Article 575, he may reduce or claim back the costs incurred to save said item while in his control and also such costs incurred to obtain said product, namely for planting, seeding and tillage, b). Replace all costs, losses and interest, c). Pay the price of the goods if he cannot return the goods, even if the goods are lost without his fault or due to coincidence, unless he can prove that the goods will also disappear, even if the possession of the goods is held by the owner.

Based on the foregoing, it can be seen that the legal consequences of land transfers carried out in bad faith besides causing the sale and purchase agreement to be cancelled, and the ownership rights returned to the original owner, the buyer can also be punished to replace all costs, losses and interest incurred. arise from it.

The Judge's Legal Considerations in the Decision

Sit Case

Before entering into the case, here is a complete description of the identities of the parties to the case: Identity of the Parties; a). Dr. Anthonius Ginting, Sp. OG as Contestants/Opposers to Reconvention, b). Surya Tjiang als. Surya Liang als. Aseng as Defendant I/Pelawan in Reconvention, c). Herman Wijaya et al. Abeng as Defendant II.

The situation is as follows:

On June 15, 2006, Pelawan and Defendant-II entered into a sale and purchase agreement with a build-up system underhand for a 4-door shophouse to be built with 5 floors for Rp. so IDR 500,000,000.-

Then on 31 June 2006, Terawan-II together with Terlawan-I came to collect the down payment at Pelawan's house, but at that time, Pelawan only submitted Rp. 200,000,000. amount Rp. 100,000,000,- every month from July to September 2006.

Around September 2006, Pelawan intended to make repayment to Defendant-II by inviting Defendant-II to one of the Notary's Offices to hold a Sale and Purchase Binding Deed, but Defendant-II avoided it by making various reasons to Pelawan;

It turned out that Pelawan later found out that Terawan-II had previously sold 2 (two) shop units that should have belonged to Pelawan to Terawan-I based on Sale and Purchase Deed No. 75 dated March 22, 2006 made at Notary Rahanum's office;

Pelawan believes that the Sale and Purchase Agreement No. 75 between Defendant-II and Defendant-I is laden with engineering and legally flawed due to the fact that in the field the 2 two-storey shophouse units referred to in the Agreement on Sale and Purchase never existed and are still vacant land which qualifies as an Unlawful Act (Onrechmatigedaad);

Based on the above incident, Pelawan felt tricked and cheated by Defendant-II then reported it to the Medan Police and was subsequently processed and transferred to the Medan District Court and has obtained a permanent legal decision as set forth in the Criminal Decision No. 1845/Pid.B/2009/PN.Mdn dated 09 November 2009 jo. Medan High Court Decision No. 126/Pid/2010/PT.MDN dated 28 April 2010 which stated that Defendant II's actions were declared as an Unlawful Act and were proven guilty of committing a criminal act of fraud against Pelawan.

Based on the Criminal Decision, Pelawan then wishes to submit an application for the execution of the confiscation of the disputed land. However, the application failed because a new dispute arose over the land between Happy Barus and Terlawan-I and Terlawan-II as stated in the Decision on Civil Case No.469/Pdt.G/2008/PN-Mdn jo. Decision on Appeal No.279/Pdt./2009/PT-Mdn and later also in Civil Case No.226/Pdt.G/2010/PN-Mdn dated 22 December 2010 jo. Medan High Court Decision No.284/PDT/2011/PT.Mdn November 16, 2011.

Whereas, the case between Happy Barus and Terlawan-I and Terlawan-II was won by Defendant I and Defendant-II who would then be executed by Defendant-I and Defendant-II. Opponents who consider that the case between them is a legal event that is engineered that is done in such a way and deliberately raised with the intention of a court decision will legalize ownership that is actually obscure and unclear, namely regarding the ownership of Defendant-I of the object requested for execution so that in the end it can obscure Contrary's rights

So Pelawan believes that the shop/building is legally owned by him and is still physically controlled by the land and building on the basis as stated in the private sale and purchase agreement between Pelawan and Terawan-II on June 15, 2006. Therefore, Pelawan then filed a request for resistance to the execution carried out by Defendant-I.

Judge's Legal Analysis in Decisions

a. First Instance Decision Number 18/PDT.G/2013/PN.Medan

In its decision, the Medan District Court as the court of first instance decided as follows: 1). Refuse the resistance of the Contestants in its entirety, 2). Declaring the Opponent to be a Contradictory is not good and not true, 3). Convict Pelawan to pay court fees of Rp. 436,000 (four hundred thirty six thousand rupiah)

In its decision, the Panel of Judges at the Medan District Court gave consideration that the status of the disputed object had been determined as belonging to Defendant I in a decision that had permanent legal force (inkracht van gewijsde); Whereas on the other hand Pelawan could not prove its ownership of the object to be executed because based on evidence P-5, namely the Purchase Agreement Letter dated July 15, 2006, between Pelawan and Defendant I, was a letter made privately, with a purchase price of IDR 2,400,000,000.00 (two billion four hundred million rupiah) and Pelawan has paid a down payment of Rp. 500,000,000.00 (five hundred million rupiah), so it is not clear whether the purchase of the land has been paid off or not, and the transfer of land rights has not been made before competent officials, so that the principle of cash and light is not fulfilled, thus the opponent is not a good and right opponent.

b. Appeal Level Decision Number 341/Pdt/2013/PT. Medan

In its decision, the Medan High Court as an appellate court decided as follows: 1). Rejecting the Contestants' Resistance in its entirety, 2). Declaring a contrarian is a contrarian which is neither good nor true, 3). Convict Pelawan to pay court fees of Rp. 436,000 (four hundred thirty six thousand rupiah)

In its decision, the Medan High Court gave consideration that the legal reasons and considerations that had been taken by the Panel of Judges of the First Instance in their decisions regarding matters disputed by the two parties were correct and correct according to law, so the Panel of Judges at the Appellate Level took over the reasons and the legal considerations of the Panel of Judges of First Instance which are deemed appropriate, correct and justified according to said law and make them their own reasons and considerations in trying this case at the appellate level;

c. Cassation Level Decision No. 1545 K/Pdt/2019

In its decision, the Supreme Court as the cassation level court decided as follows: 1). Rejecting the Contestants' Resistance in its entirety, 2). Declaring a contrarian is a contrarian which is neither good nor true, 3). Convict Pelawan to pay court fees of Rp. 436,000 (four hundred thirty six thousand rupiah)

The Appellant who was dissatisfied with the outcome of the Medan High Court's decision in which the content of the decision was to uphold the District Court's decision, finally the Appellant took legal action by submitting a cassation request to the Supreme Court. Thus, in the third level of examination, the position of the appellant changed to that of the cassation applicant, and the position of the Appellant changed to that of the Cassation Respondent.

In its consideration, the Panel of Cassation Judges considered that the reasons for the Pelawan's cassation could not be justified, because after carefully examining the cassation memory connected with the *Judex Facti* balance, namely that the Medan District Court and the Medan High Court did not apply the law incorrectly or did not conflict with the law and or statutes , then the Pelawan's appeal must be rejected.

Legal Analysis of the Decision

Based on my analysis in this land dispute case, if the conditions related to agreement and competence (subjective conditions) are not fulfilled, then the agreement can be canceled, whereas if the conditions regarding a certain matter and a lawful cause (objective conditions) are not fulfilled, then the agreement becomes null and void by law.

Based on the elaboration of the legal terms of an agreement related to the process of transferring rights over the land, that is, it can be seen if the object bound in the sale and purchase agreement dated June 15, 2006 contains a legal defect, where the party selling the object, namely Defendant II, is no longer the owner. legal rights over the object in the form of 2 shop houses along with their hermitage land which in fact belong to Defendant I and the object being traded is also not lawful, because the object in the sale and purchase agreement on June 15 2006 was previously transferred or sold by Defendant II to Defendant I in accordance with the deed of binding sale and purchase No. 75 dated 22 March 2006 made before Rahanum SH, Notary in Medan.

Whereas in the case *a quo*, actually the Pelawan Resistance did not meet the legal requirements of an attempt at resistance, so it was fitting for the Pelawan Resistance to be declared unacceptable (*niet ontvankelijk verklaard*), because the Pelawan did not have the quality of being a Contestant, and on the other hand this case has actually been tried 2 (twice) with the same case and object and the decision has obtained permanent legal force (*in kracht van gewijsde*) meaning that the Resistance is a Resistance that is included in a case that is *ne bis in idem*, thus it is appropriate that the arguments for the Resistance rejected or at least the arguments of the Pelawan law were declared unacceptable;

In the Supreme Court decision, before the Supreme Court judge made a decision, the Supreme Court judge also looked at the considerations in the Medan District Court decision and the considerations in the Medan High Court decision. The Supreme Court will see if there is an error in the application of the law between the Court of first instance and the appellate level.

The author agrees with the considerations and decision of the panel of judges which stated that the status of the disputed object was determined to belong to Surya Tjiang alias Surya Liang alias Aseng, because Dr. Anthonius Ginting, Sp. OG was unable to prove his ownership based on evidence of a sale and purchase agreement dated 15 July 2006 which was made privately with a purchase price of Rp. 2,400,000,000 (two billion four hundred million rupiah) and have paid a down payment of Rp. 500,000,000 (five hundred million rupiah).

So it is not clear whether the land purchase has been paid off or not, and the transfer of land rights was not carried out before the authorized official, so the principle of cash and light was not fulfilled, thus, dr. Anthonius Ginting, Sp. OG had bad faith in the process of buying and selling the land and building.

IV. CONCLUSION

Legal arrangements related to the sale and purchase of land in Indonesia are regulated in the Civil Code, the Basic Agrarian Law and Government Regulation Number 24 of 1997. In the Civil Code the sale and purchase of land is based on an agreement regulated in Article 1233. Furthermore, there must be legal terms of agreement, Article 1320 and Article 1338 paragraph (3) regarding agreements that become our own rules, then the sale and purchase of land is regulated in the Basic Agrarian Law Number 5 of 1960 which is regulated in Article 26 of the UUPA concerning systematic and sporadic registration then Article 19 of the UUPA regulates land registration regarding measurement, mapping and bookkeeping and the latter is regulated in Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning land registration.

Legal consequences for land transfers carried out through the concept of bad faith in the Civil Code, that is, a buyer with bad intentions (badfaith) will not be protected by law as stipulated in Article 1967 of the Civil Code, namely whoever shows an expiration date does not need to show a basis of rights, after all, no countermeasures based on bad intentions can be brought against him."

The legal considerations taken by the judge were appropriate that Pelawan had bad intentions because the purchase of land from Defendant II to Pelawan was invalid because it was no longer the direct owner of the land and the Pelawan Resistance did not fulfill the legal requirements of an effort to resist, so it was fitting for the Pelawan Resistance to be declared ineligible. accepted (niet ontvankelijk verklaard), and on the other hand this case has actually been tried 2 (two) times with the same case and object and the decision has obtained permanent legal force (in kracht van gewijsde) meaning that Resistance is a Resistance that includes in a case that is ne bis in idem, thus it is appropriate that the arguments of the Resistance be rejected or at least the arguments of the Pelawan law be declared inadmissible.

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