

JURIDICAL ANALYSIS THE VALIDITY OF THE DEED OF SALE AND PURCHASE THAT MADE BY PPAT WITHOUT VIEWING THE ORIGINAL CERTIFICATE FOR LEGAL ASSURANCE (RESEARCH STUDY IN THE LAND OFFICE OF BATAM CITY)

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ABSTRACT

The increasing importance of land for human life today causes the potential for land conflicts or disputes to increase, to prevent or at least reduce the potential for such conflicts or disputes, legal instruments and an organized and well-organized land administration system are needed. Therefore, the transfer of land rights must be proven by a official certifier of titles deeds or PPAT the Deed of Sale and Purchase in order to be registered. As an authentic deed, the PPAT deed must comply with the procedures for its manufacture, as determined by the Law and other Regulations. This study uses a descriptive method with normative and sociological research types using a normative approach (legal research) to obtain primary data through field research (research). The results of the study indicate that civil liability is in the form of sanctions for reimbursement of costs or compensation to parties who are harmed for unlawful acts committed by a Notary/PPAT; and has been implemented properly, therefore the Land Deed Maker Official (PPAT), there is no Official Certifier of Titles Deeds (PPAT) who wants to make mistakes who tend to carry out responsibility for the contents of the deed to protect himself so that fellow parties, both clients/parties, parties involved in the deed and the Official Certifier of Titles Deeds (PPAT) both get legal certainty; and a PPAT in making a deed of sale and purchase who does not see the original document/letter may pose a risk to both the deed itself and to the PPAT.

Keyword : *Validity, Sale and Purchase Deed And PPAT*

INTRODUCTION

Land registration is a series of activities carried out by the government continuously, continuously and regularly, including the collection, processing, bookkeeping and presentation and maintenance of physical data and juridical data, in the form of maps and lists of land parcels and apartment units, including the issuance of certificates of proof of rights for parcels of land that already have rights and ownership rights to flat units as well as certain rights that encumber them. Official Certifier of Titles Deeds (PPAT) is a public official, so the deed made by him is an authentic deed. An authentic deed is a deed in the form determined by law, made by or before public officials in power for that at the place where the deed was made (based on article 1868 of the Civil Code). According to G.H.S.

Lumban Tobing in his book entitled Position Regulations, an authentic deed has 3 kinds of evidentiary powers, namely: (1) the power of outward proof, which means the ability of the deed itself to prove itself as an authentic deed, meaning that it signifies itself from the outside, from the words as an authentic deed. originating from a public official; (2) The power of formal proof, which means to prove the truth of what is witnessed, namely what is seen, heard, and also carried out by a public official in carrying out his office; (3) The strength of material evidence, which means to prove that the parties have reached an agreement regarding the agreement contained in the deed.

In order to create order in the land sector, especially concerning officials who are authorized to make deed of sale and purchase concerning land, the government is assisted by Land Deed Officials and for land that has not been certified, it is carried out by a person in the form of a Deed of Sale and Purchase and Transfer of Rights and for land that has been certified, it is carried out before the Official Certifier of Titles Deeds (PPAT) is an authorized official according to the provisions of the Basic Agrarian Law and Government Regulation Number: 10 of 1961 in conjunction with Government Regulation Number 24 of 1997 in conjunction with Government Regulation Number 37 of 1998. The agency authorized to carry out land registration and issuing a certificate of proof of land rights is the National Land Agency and is not the duty and responsibility of the Official Certifier of Titles Deeds (PPAT). (J Kartini, 2011)

In this writing, the author will discuss the matter if the Official Certifier of Titles Deeds (PPAT) made negligence in connection with the deed of sale and purchase he made, with the case of the position as follows: (Habib Adji, 2014). Whereas the Plaintiff and Defendant I have entered into a Cooperation Agreement to build housing known as the Taman Marchelia Housing Complex, on land partly owned by the Plaintiffs covering an area of 300,000 M2; based on the Deed of Cooperation which was made before Yondri Darto in Batam, the Plaintiff is entitled to Rp. 200,000 for every square meter of land, where the housing units were built/built which have been sold to consumers/buyers. That the cooperation lasts for 3.5 (three and a half) years; In order to implement the Cooperation Agreement, the plaintiff gave power of attorney to Defendant I with a Deed of Power to Build, Power to Manage and Power to Sell, all three were made before Yondri Darto above, then Defendant I marketed and sold the housing units to consumers/ The buyers made by Yondri Darto were also buyers on home ownership credit or in cash.

Whereas in addition to carrying out the Sale and Purchase of the intended Building before a Notary as the Official Certifier of Titles Deeds (PPAT) without the Plaintiff's knowing, it is also carried out before another Official Certifier of Titles Deeds (PPAT), for this the Plaintiff has warned Defendant I not to sell and buy land and buildings. without the Plaintiff's knowing, but Defendant I ignored it. Defendant I did so based on the Deed of Power to Sell. Defendant I deliberately kept the deed of sale and purchase of the plaintiff's land with the buyers/consumers even though there was an agreement to revoke and cancel the deed of power to sell. That the sale and purchase made before another Official Certifier of Titles Deeds (PPAT) has violated its obligations where when making the deed the original certificate and original documents related to land were not shown.

LITERATURE REVIEW LITERATURE/THEORY

The Grand Theory for writing this thesis uses the Positive Legal Stream theory proposed by John Austin which according to him there are 4 (four) elements contained in the law, namely orders, sanctions, obligations and sovereignty. The description of the elements put forward by John Austin is that the law is an order of the ruler (lay is a command of the lawgiver), the law is seen as an order from the holder of the highest power where the order cannot be contested, the law is a logical system that is fixed and closed, Positive law must fulfill several elements of orders, sanctions, obligations, and sovereignty, beyond that it is not law but positive morals.

Middle Theory in this thesis the author uses the theory of Lawrence M. Friedman sees that the success of law enforcement always requires the functioning of all components of the legal system. The legal system in Friedman's view consists of three components, namely the legal structure component is a framework, the part that survives, the part that provides a kind of form and limitation to the whole law enforcement agencies. components of legal substance (legal substance) are the rules, norms and patterns of real human behavior that are in the system, including the products produced by people who are in the legal system, including the decisions they issue or the new rules they make. , and the components of legal culture are ideas, attitudes, beliefs, hopes and opinions about the law.

According to Talcott Parson, there are four important functions that are absolutely needed for all social systems, including adaptation (A), goal attainment (G), integration (I), and latency (L). These four functions must be owned by all systems in order to survive, the explanation is as follows: Adaptation is a very important function here the system must be able to adapt by tackling critical external situations, and the system must be able to adapt to the environment and can adapt to the environment. for his needs;

LITERATURE CONCEPT DEED OF SALE & PURCHASE

As stipulated in Article 1 of the Law on Notary Positions, one of the powers of a Notary is to make an authentic deed. This means that the Notary has the duty as a public official and has the authority to make authentic deeds and other authorities regulated by the Notary Position Act. (Abdul Ghofur Anshori, 2019). Article 1 of the Law on the Position of a Notary does not provide a complete description of the duties of a Notary. According to Lumban Tobing, that in addition to making authentic deeds, notaries are also assigned to register and ratify letters or deeds made privately. Notaries also provide legal advice and explanations regarding the law to the parties concerned. According to Setiawan, the essence of the duties of a Notary as a public official is to regulate in writing and authentically the legal relationship between parties who benefit from requesting the services of a Notary which is basically the same as the duties of a judge, which provides justice between the parties to the dispute. (Setiawan Wawwan, 2015). The term deed comes from the Dutch language, namely *Acte*. In interpreting this deed there are two opinions, namely: The first opinion defines the deed as a letter and the second opinion defines the deed as a legal act. Pitlo defines a deed as: a signed letter, made to be understood as evidence and to be used by the person for whom the letter was made. (Pitlo, 2016)

Subekti interprets the deed as a legal act, which means that Pasal 1108 Kitab Undang-undang Hukum Perdata (KUH Perdata) does not mean a letter but must be interpreted as a legal act. (Subekti, 2016). Furthermore, Sudarsono strengthens the opinion which states that an act or deed in a broad sense is a legal act (*recht handeling*), a writing made to be understood as evidence of a legal act. by the parties. Deeds made according to the provisions of Pasal 1868 KHU Perdata in conjunction with the provisions of Law Number 30 of 2004 concerning the Position of a Notary. The deed is said to be authentic if it fulfills the following elements: Made in the form according to the provisions of the law; made by or before a public official; The public official must be authorized to do so at the place where the deed was made.

Based on the party who made it, authentic deeds can be divided into 2 (two), namely:

- 1) Deed of the parties (*partij deed*), is a deed containing information desired by the parties to be included in the deed concerned. Included in this deed are for example; deed of sale and purchase, deed of lease agreement, deed of credit agreement, deed of lease agreement, and others. Thus the *partij deed* are:
 - a. The initiative lies with the parties concerned
 - b. Contains information from the parties.

- 2) Official Deed (*Ambtelijk Deed* or *Relaas Deed*)

Deed (Tan Thong Kie, 2012) which contains an official statement from an authorized official, about what he saw and witnessed before him. So this deed only contains information from one party, namely the official who made it. Included in the deed include; Minutes of the meeting of shareholders of the limited liability company; Minutes of auction; Minutes of the drawing of the lottery; Minutes of the meeting of the board of directors of a limited liability company; Birth certificate, Death certificate, Identity card, Permit. driving; Certificate; List of heritage assets and others. So *Ambtelijk Deed* or *Relaas Deed* are:

- a. The initiative lies with the officials;
- b. Contains a written statement from the official (*ambtenaar*) of the deed maker.

According to G.H.S. Lumban Tobing (2014). From the explanations above, we can conclude that, the difference between an authentic deed and a private deed is:

1. Authentic Deeds are made with the help of a Notary (Tan Thong Kie, 2012) or a public official who is authorized to do so in the form determined by law.
2. Underhand deeds are made by interested parties without interference from a notary or public official, so that the form varies (different).

Terms and Procedures for the Validity of the deed of Sale and Purchase

Terms and procedures of making a deed of sale and purchase of land. The sale and purchase of land has two conditions, namely material requirements and formal requirements, namely: (Effendi War-angin, 2014)

- 1) Material Terms.

The material requirements determine the validity of the sale and purchase of the land, including the following:

- a. The buyer has the right to buy the land in question. The point is that the buyer as the recipient of the rights must meet the requirements to own the land he bought.
- b. The seller has the right to sell the land in question, who has the right to sell a plot of land, of course the holder of the legal right to the land is called the owner. If the owner of a plot of land is only one person, then he has the right to sell the land himself. However, if the owner of the land is two people, then the two people have the right to sell the land together. No one person can act as a seller.
- c. The right of the land in question may be traded and is not in a state of dispute.

If any of these material conditions are not met in the sense that the seller is not the person who has the right to the land he sells or the buyer does not meet the requirements to become the owner of the land rights, or the land being traded is in dispute or is land that cannot be traded, then the sale and purchase of the land is illegitimate. The sale and purchase of land carried out by unauthorized persons is null and void. This means that from the beginning the law considered that there had never been a sale and purchase.

2) Formal Terms

After all material requirements are met, the Official Certifier of Titles Deeds (PPAT) will make the deed of sale and purchase. The deed of sale and purchase according to Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration must be made by the Official Certifier of Titles Deeds (PPAT). Sales and purchases carried out without being in the presence of the Land Deed Making Official (PPAT) are still valid because the Basic Agrarian Law (UUPA) is based on Customary Law, while in Customary Law the system used is a concrete/cash/real/real system. However, to realize legal certainty in every transfer of land rights, Government Regulation Number 24 of 1997 concerning Land Registration as the implementing regulation of the Basic Agrarian Law (UUPA) has determined that any agreement that intends to transfer land rights must be evidenced by a deed made by and before the Land Deed Maker Official (PPAT).

The Official Certifier of Titles Deeds (PPAT) is an authentic deed, this is confirmed by Article 1 paragraph (1) and Article 3 paragraph (1) Government Regulation Number 37 of 1998 concerning the Regulation of the Position of the Land Deed Maker Official. As an authentic deed, the deed of the Official Certifier of Titles Deeds (PPAT) applies provisions concerning the terms and procedures for making an authentic deed. The form of an authentic deed is determined by law, while the official who can make it cannot be avoided to have the same weight, it must also be determined by law or statutory regulations at the level of the law.

The Official Certifier of Titles Deeds (PPAT) as well as the Notary deed, is both an authentic deed. The authentic deed itself as stated by C.A. Kraan in his dissertation, *De Authentieke Akte* (Amsterdam 20 January 1984) has the following characteristics: (Herlien Budiono, 2017). A writing that is intentionally made solely to be used as evidence or a proof of the circumstances as stated in the writing, is made and stated by an authorized official. The writing is also signed by or only signed by the official concerned.

- a. Writing until there is evidence to the contrary, is deemed to have come from an authorized official.
- b. Legislative provisions that must be fulfilled: these provisions regulate the procedure for making it (at least contains provisions regarding the date, place where a written deed was made, the name and position/position of the official who made it and data where it can be known about these things .
- c. An official who is appointed by the state and has characteristics and work that is independent (onafhankelijk-independence) and impartial (onpartijdig-impartial) in carrying out his position in accordance with the provisions of Pasal 1868 Kitab Undang undang Perdata (KUHPerdata).
- d. Statements of facts or actions mentioned by officials are legal relations in the field of private law.

As an authentic deed, the deed of the Official Certifier of Titles Deeds (PPAT) as evidence that has perfect evidentiary power can be degraded by the strength of the proof to be like an underhand deed. The degradation of the strength of the authentic deed evidence becomes the strength of the evidence under the hand, and the juridical defect of the authentic deed which causes the authentic deed to be canceled or null and void by law or non-existent, occurs if there is a violation of the statutory provisions, namely:

Pasal 1869 Kitab Undang Undang Hukum Perdata (KUHPerdata), which reads:

"A deed which because of the inability or incompetence of the employee referred to above or because of a defect in its form, cannot be treated as an authentic deed, but nevertheless has the power as an underhand deed if it is signed by the parties."

This article contains provisions, that a deed does not have the strength of authentic evidence and only has the strength of evidence under the hand in terms of:

- a. The General Official is not authorized to make the deed;
- b. Public officials are not capable (incompetent) to make the deed;
- c. Defective in shape.

Pasal 1320 Kitab Undang Undang Hukum Perdata (KUHPerdata), which states that for the validity of an agreement, conditions must be met, namely (a) agree that those who are binding themselves; (b) the ability to make an agreement; (c) a certain matter and; (d) lawful causes.

Terms a and b are subjective requirements because they relate to the people or subjects who entered into the agreement and if the subjective conditions are violated, the deed can be canceled, while conditions c and d are objective conditions because they involve the contents of the agreement and if the objective conditions are violated, the deed is null and void. According to Herlien Budiono, the reasons for the cancellation include incompetence, incompetence, the form of the agreement being violated, the content of the agreement contrary to the law, the implementation of the agreement being contrary to the law, the motivation to make the agreement contrary to the law, the agreement being contrary to public order and good morals. , defects of will and abuse of circumstances.

Official Certifier of Titles Deeds (PPAT)

Initially, Official Certifier of Titles Deeds (PPAT) were not categorized as public officials, but only as Official Certifier of Titles Deeds . Initially, the provisions concerning Official Certifier of Titles Deeds (PPAT) were contained in a Ministerial Regulation only as an implementation of Government Regulation Number 10 of 1961 concerning Official Certifier of Titles Deeds. One of them is in the Regulation of the Minister of State for Agrarian Affairs Number 11 of 1961 concerning the Form of Deed (Abdul Ghofur Anshori, 2014). Official Certifier of Titles Deeds (PPAT) were categorized as General Officials initially based on Pasal 1 Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land, that:

"Land Deed Maker Official, hereinafter referred to as PPAT is a Public Official who is authorized to make a deed of transfer of land rights, deed of assignment of land rights, and deed of granting power of attorney to impose mortgage rights according to the applicable laws and regulations."

Furthermore, the existence of Official Certifier of Titles Deeds (PPAT) is stipulated in Pasa1 number 24 of Government Regulation Number 24 of 1997 concerning Land Registration, that: "The Official Certifier of Titles Deeds as called PPAT are General Officials who are authorized to make certain land deeds." In particular, the existence of Official Certifier of Titles Deeds (PPAT) is regulated in Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Official Certifier of Titles Deeds (PJPPAT), in Pasal 1 paragraph (1) it is stated that: to make authentic deeds regarding certain legal actions regarding land rights or Property Rights of Flat Units."

According to A.P. Parlindungan, Official Certifier of Titles Deeds (PPAT) as a public official who is appointed by the government but is not paid by the government and has general authority, meaning that the deeds issued are authentic deeds. Meanwhile, according to Effendi Warin, the Official Certifier of Titles Deeds (PPAT) is an official who is authorized to make deeds rather than agreements that intend to transfer land rights, give new land rights, pawn land or lend money with new land rights as dependents. (Suharmoko, 2015).

It is impossible for the Official Certifier of Titles Deeds PPAT) to protect himself against any defects that arise. The responsibility of the Official Certifier of Titles Deeds (PPAT) must be limited to matters where the defect is the result of a Notary's fault. This is in line with the Law on Notary Positions as contained in Article 84 of the Law on Notary Positions, which reads:

"Actions of violations committed by Official Certifier of Titles Deeds (PPAT) against the provisions as referred to in Pasal 16 paragraph (1) letter i, Pasal 16 paragraph (1) letter k, Pasal 41, Pasal 44, Pasal 48, Pasal 49, Pasal 50, Pasal 51 or Pasal 52, which results in a deed only having the power of proof as an underhand deed or can be canceled according to law or the deed becomes null and void can be a reason for the party suffering the loss to demand reimbursement of costs, compensation, and interest to the Official Certifier of Titles Deeds (PPAT)".

For violations committed by Official Certifier of Titles Deeds (PPAT) resulting in a deed must have the power of proof as an underhand deed or can be canceled according to law or a deed becomes null and void, it needs attention. Several direct sanctions are stated in Article 84 of the Law on Notary Positions, including Article 16 paragraph (8) of the Law on Notary Positions which reads: "If one of the conditions as referred to in paragraph (1) letter l and paragraph (7) is not fulfilled, the deed in question only has the power of proof as an underhand deed. A deed that functions only as evidence, the result of the violation is that it has the power of proof as a deed under the hand or can be canceled according to law as long as the deed is signed by the (parties) of the appearers. For a deed that functions as an absolute requirement for an action/deed against the law or classified as a legal action/formal agreement.

RESEARCH METHODOLOGY

The research method explains the entire series of activities that will be carried out in order to answer the main problem to prove the assumptions put forward. The research method used in this study is a combination of normative and empirical research with a juridical approach.

1. Research Specification

The type of research used is a combination of a normative juridical approach, namely laws and regulations related to the issues discussed (Rony Hanitjo Soemitro, 2011) and empirical or sociological legal research. A legal research that obtains data from primary data or data obtained directly from the community. The data obtained were analyzed by comparing the provisions that are normative (*das sollen*) with the reality (*das sein*) that occurs in society. (Indra Muklis Adnan, 2014)

2. Location and resource persons

This study took place at the Batam City Land Agency Office.

3. Data Collection Techniques and Data Collection Tools

- a. Document study, namely reviewing, reviewing and studying legal materials that are related to this research.
- b. In order to complete the data, interviews were conducted, namely conducting direct questions and answers with research resource persons to obtain answers and a complete picture of the problems in this study.
- c. List of questions, namely submitting a list of written questions openly to research sources about the problems in this research. In its form, a questionnaire must meet the following requirements:

- 1) the questions to be asked are easy to understand. At the time of research, an interviewer may not intervene, that is, he should not provide additional information to the respondent in explaining the intent of the question, so that the interviewer provides information on what the respondent should have answered, so that the respondent is no longer free to answer. therefore the question should be easy to understand.
- 2) the order of the questions must be such that they are easy to answer fairly.
- 3) the length of the question must be considered
- 4) the question must be able to get the expected answer (without having to affect the respondent). (Syamsul Arifin, 2012)

DATA ANALYSIS

The analysis of the data used in this research is descriptive qualitative, namely the data obtained from the research is presented descriptively and processed qualitatively with the following steps:

1. The data obtained from the research are classified according to the problems in the research.
2. The classification results are then systematized.
3. The data that has been systematized is then analyzed to be used as a basis for drawing conclusions.

The types of data used in this study are primary data and secondary data, namely:

- a. Primary Data, is the main data obtained by researchers through interviews. The resource persons in this study were the parties involved in the Validity of the Sale and Purchase Deed made by the Official Certifier of Titles Deeds (PPAT) without seeing the original certificate to realize legal certainty (Research Study at the Batam City Land Agency Office).
- b. Secondary data, is data obtained from literature books that support the subject matter discussed. Secondary data in addition to books can also be in the form of theses, theses, dissertations, journals, newspapers, seminar papers and others.

The data is obtained through literature study by taking into account the existing laws and regulations as well as through the opinions of scholars or legal experts. The secondary data consists of :

- 1) Primary Legal Materials, namely binding legal materials, namely Laws.
- 2) Secondary Legal Materials, namely legal materials that explain primary legal materials, consisting of books (literature), articles or papers, both presented in print and electronic form, as well as expert opinions (doctrine) relating to the problem under study.
- 3) Tertiary legal materials, namely materials that provide instructions and explanations of primary legal materials and secondary legal materials, for example: dictionaries, encyclopedias, and so on.

DISCUSSION

LEGAL ARRANGEMENTS FOR THE LEGALITY OF THE SALE AND PURCHASE DEED MADE BY THE OFFICIAL CERTIFIER OF TITLES DEEDS (PPAT) WITHOUT SEEING THE ORIGINAL CERTIFICATE TO REALIZE LEGAL CERTAINTY

The legal arrangements in this study include: (1). the 1945 Constitution of the Republic of Indonesia; (2). Law of the Republic of Indonesia Number 33 of 1954 concerning Deputy Notaries and Temporary Deputy Notaries in the State Gazette of the Republic of Indonesia (LNRI) of 1954 Number 101 and Supplement to the State Gazette of the Republic of Indonesia (TLNRI) Number 700; (3). Law Number 30 of 2004 concerning the Position of a Notary, in the State Gazette of the Republic of Indonesia (LNRI) of 2004 Number 117, and Supplement to the State Gazette of the Republic of Indonesia (TLNRI) Number 4432; (4). Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN-P), in the State Gazette of the Republic of Indonesia (LNRI) of 2014 Number 3, and Supplement to the State Gazette of the Republic of Indonesia (TLNRI) Number 5491 ; (5). Kitab Undang Undang Hukum Perdata (KUHPerdata).

According to Habib Adji (2014). The transfer of land rights can be canceled due to the following: (a). The expiry of the relevant period as stipulated in the certificate of entitlement shall be annulled; (b). Canceled by the competent authority due to the non-fulfillment of certain obligations by the relevant right holder or violation of a prohibition, non-fulfillment of the conditions for the obligations contained in agreements for granting rights holders and court decisions; (c). If the subject of the right no longer fulfills the conditions or if an obligation is not fulfilled within one year, the transfer/transfer of ownership rights to the land is not released or not transferred, then it is nullified by law; (d). Released or surrendered voluntarily by the right holder; (e). revocation of his rights; (f). The land in question is destroyed, due to natural processes or natural disasters; (g). The land is abandoned.

IMPLEMENTATION OF THE VALIDITY OF THE SALE AND PURCHASE DEED MADE BY THE OFFICIAL CERTIFIER OF TITLES DEEDS (PPAT) WITHOUT SEEING THE ORIGINAL CERTIFICATE TO REALIZE LEGAL CERTAINTY (RESEARCH STUDY AT THE BATAM CITY LAND AGENCY OFFICE)

The Notary's responsibility in the previous Law and the existing Law, it is not clearly regulated how a Official Certifier of Titles Deeds (PPAT) as a General Official is legally responsible if he makes a mistake in making the deed he made. Based on the idea that the Notary's responsibilities are not clear, the writer will first describe what, the elements in a Official Certifier of Titles Deeds (PPAT) are not possible to protect themselves against all defects that arise. The responsibility of the Official Certifier of Titles Deeds (PPAT) must be limited to matters where the defect is the result of a Notary's fault. This is in line with the Law on Notary Positions as contained in Article 84 of the Law on Notary Positions, which reads: "Actions of violations committed by Official Certifier of Titles Deeds (PPAT) against the provisions as referred to in Pasal 16 paragraph (1) letter i, Pasal 16 paragraph (1) letter k, Article 41, Pasal 44, Pasal 48, Pasal 49, Pasal 50, Pasal 51 or Pasal 52, which results in a deed only having the power of proof as an underhand deed or can be canceled according to law or the deed becomes null and void can be a reason for the party suffering the loss to demand reimbursement of costs, compensation, and interest to the Official Certifier of Titles Deeds (PPAT)".

For violations committed by Official Certifier of Titles Deeds (PPAT) resulting in a deed must have the power of proof as an underhand deed or can be canceled according to law or a deed becomes null and void, it needs attention. Several direct sanctions are stated in Article 84 of the Law on Notary Positions, including Pasal16 paragraph (8) of the Law on Notary Positions which reads: "If one of the conditions as referred to in paragraph (1) letter l and paragraph (7) is not fulfilled, the deed in question only has the power of proof as an underhand deed.

Making an authentic deed that is defective in the form of a deed because the Notary has not complied with the provisions of the Notary Position Act, the Notary is responsible and can be an excuse for the party suffering losses to claim reimbursement of costs, compensation and interest. In other words, when the Notary has carried out his position in accordance with the provisions of the Notary Position Act and other statutory regulations within reasonable limits, the Notary cannot be held responsible for the consequences of making the deed.

Therefore, Official Certifier of Titles Deeds (PPAT) in carrying out their duties must comply with the various provisions stipulated in the Law on Notary Positions, so that in this case accuracy, precision, and accuracy are needed not only in administrative techniques for making deeds, but also in implementing various legal rules contained in the relevant deed for the appearers, and the ability to master the notary field of science in particular and law in general. With the freedom to a certain extent regarding the determination of the amount of the honorarium for the Official Certifier of Titles Deeds (PPAT) based on the agreement of the Official Certifier of Titles Deeds (PPAT) with the Client, the relationship that arises based on the agreement, plus a broad interpretation of the error, is the reason for asking for accountability to the Official Certifier of Titles Deeds (PPAT) have become wider so that accountability can be held both based on the Accountability of Official Certifier of Titles Deeds (PPAT) as well as unlawful acts and defaults. The implementation of statutory work carried out by the Official Certifier of Titles Deeds (PPAT) and work related to the work, is carried out based on an agreement between the Official Certifier of Titles Deeds (PPAT) and the client, as referred to in Kitab Undang Undang Hukum Perdata (KUH Perdata).

FACTORS CONSTRAINTS/BARRIERS AND SOLUTIONS TO THE VALIDITY OF THE SALE AND PURCHASE DEED MADE BY THE OFFICIAL CERTIFIER OF TITLES DEEDS (PPAT) WITHOUT SEEING THE ORIGINAL CERTIFICATE TO REALIZE LEGAL CERTAINTY (RESEARCH STUDY AT THE BATAM CITY LAND AGENCY OFFICE)

The constraint or obstacle factor referred to in this study is a factor that comes from his profession as a Notary/ Official Certifier of Titles Deeds (PPAT), namely the position of the code of ethics for a Notary/ Official Certifier of Titles Deeds (PPAT) is very important, (Munir Fuady, 2015), first , not only because the Notary/ Official Certifier of Titles Deeds (PPAT) is a profession that needs to be regulated by a code of ethics, but also because of the nature and nature of the work of the Notary/ Official Certifier of Titles Deeds (PPAT) which is very oriented towards legalization, so that it can become the main legal fundamentals regarding the status of property, rights and obligations of a client who uses the services of the Notary /Official Certifier of Titles Deeds (PPAT).

Second, so that injustice does not occur as a result of granting property status, rights and obligations that are not in accordance with the rules and principles of law and justice, so that it can disrupt public order and also disrupt the personal rights of people seeking justice, then for the world Notary /Official Certifier of Titles Deeds (PPAT) is very necessary as well as a good and modern professional code of ethics.

The code of ethics is an attempt to regulate the moral behavior of a special group in society through written provisions so that it can become the main guide for members of the profession to continue to carry out the nature of their profession's morality. With this position, people who are in a relationship with a profession have guarantees for their needs in the form of service guarantees in accordance with the scope of their profession, a Notary / Official Certifier of Titles Deeds (PPAT) is an official appointed in terms of making a deed, and a deed made by a Notary / Official Certifier of Titles Deeds (PPAT) must comply with the applicable laws and regulations.

The position as a Notary/ Official Certifier of Titles Deeds (PPAT) is undeniably prone to material temptations that come and various parties invite him to commit irregularities, there are many civil cases involving Notaries in various regions. However, in the provisions of Article 36 of the Law on Notary Positions, it is possible for an honorarium to be based on an agreement between the Notary and the client, taking into account and based on the economic value and sociological value of each deed made by the Notary. The existence of the determination of the honorarium based on a mutual agreement between the Notary/ Official Certifier of Titles Deeds (PPAT) and the client as one element of the agreement, gives the impression and creates a basis for a contractual relationship between the Notary/Official Certifier of Titles Deeds (PPAT) and the client. the possibility of a contractual liability claim to a Notary/ Official Certifier of Titles Deeds (PPAT).

In practice, there are still many people who do not understand that the only person authorized to make a land sale and purchase deed is the Official Certifier of Titles Deeds (PPAT); if the deed of sale and purchase is made by a Notary, then in making the deed he is in his position as a Official Certifier of Titles Deeds (PPAT), namely a Notary who is appointed as a Official Certifier of Titles Deeds (PPAT); if the Notary has not been appointed as Widhi Handoko, the Land Law Policy is a Reflection of Progressive Legal Justice. The development of the legal system in Indonesia, especially in the field of land law reform, cannot be separated from land law on the issue of

land registration certainty, namely the bureaucratic system and public services at the National Land Agency (BPN). Land is the main and important aspect in development where all development activities carried out by the community require land. To achieve the certainty of land registration, the implementation of land registration based on Government Regulation Number 10 of 1961, is considered to have substance that can no longer meet the demands of the times, to provide certainty for the registration of the land. On July 8, 1997 the government stipulated and promulgated Government Regulation Number 24 of 1997 concerning Land Registration to replace Government Regulation Number 10 of 1961. This Government Regulation is valid for three months from the date of its promulgation (Article 66) which means that it officially comes into force throughout the territory of Indonesia as of the date of October 8, 1997 with the implementing regulations being Regulation of the Minister of State/Head of BPN Number 3 of 1997. (R. Subekti, 2015). All existing laws and regulations as the implementation of Government Regulation Number 10 of 1961 are still valid as long as they do not conflict or are changed or replaced based on this Government Regulation Number 24 of 1997 (Article 64 Paragraph 1). Government Regulation Number 24 of 1997 is the implementing regulation of the mandate stipulated in Article 19 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles which regulates the provisions of the bureaucratic system and public services of the National Land Agency (BPN). Legal reform. Of course, the Notary cannot make a deed of sale and purchase of land.

The Deed of Sale and Purchase of a house on land that has not been certified cannot be made by a Notary / Official Certifier of Titles Deeds (PPAT), but the authorized person is a Notary; It is also necessary to know that a Notary/ Official Certifier of Titles Deeds (PPAT) is authorized to make a deed of sale and purchase including the building on it. There are two important things that need to be considered in buying and selling land, namely the subject and the object. For the subject, there are several things that need to be considered in buying and selling land. (Shown Ansari Siregar, 2016). The first thing that must be clear in buying and selling land is that the prospective seller must have the right to sell the land, or in other words the seller is the legal right holder of the land rights; The second thing, is whether the seller is authorized to sell, it may happen that someone has the right to a land right but that person is not authorized to sell it if certain conditions are not met, for example the land belongs to a minor or belongs to someone who is under guardianship. The third thing that needs to be considered is whether the seller is allowed to sell the land that will be used as the object of sale and purchase. A person may be entitled to sell a plot of land; also the person is authorized to

make the sale, but he is not or has not been allowed to sell the land. The fourth thing, is whether the seller or buyer acts for himself or as an attorney. The Seller/Buyer may act for himself or as an attorney. Whether the seller/buyer acts alone or through a proxy, his/her identity must be clear. In the event that the seller/buyer acts through a proxy, a special power of attorney to sell must exist (authentic or legalized deed). Lawyers who are usually only used to carry out management are not valid for selling. The power of attorney must be firm to sell the land to be sold. The fifth thing, is whether the buyer can buy. For example, a limited liability company (PT) may not be subject to land ownership rights. This means that the limited liability company (PT) is not allowed to buy land with the status of Hak Milik, except as stipulated in Government Regulation Number 38 of 1963. The preparations made in the sale and purchase of land are in the form of:

- a. Conduct research on documents relating to land that will be the object of sale and purchase.
- b. Make an agreement on land and price.
- c. The transfer of land rights with a deed of sale and purchase is carried out before the Official Certifier of Titles Deeds (PPAT).
- d. Register the right to obtain a certificate from the authorized official.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSION

Legal Regulation of the Legality of the Sale and Purchase Deed made by the Official Certifier of Titles Deeds (PPAT) Without Seeing the Original Certificate To Realize Legal Certainty a Official Certifier of Titles Deeds (PPAT) may be subject to civil liability in the form of sanctions for reimbursement of costs or compensation to parties who is harmed by the unlawful act committed by the Notary. Administrative accountability is in the form of giving verbal warnings, written warnings, temporary dismissals, respectful dismissals and dishonorable dismissals as a Notary. Responsibility for the professional code of ethics for Official Certifier of Titles Deeds (PPAT) is in the form of giving warnings, warnings, temporary dismissals (schorsing), dismissals (Onzetting) and dishonorable dismissals from association membership. While a person's criminal responsibility can be in the form of giving imprisonment or confinement for an unlawful act he has committed. These matters are based on the findings in

jurisprudence regarding the accountability of Official Certifier of Titles Deeds (PPAT) who commit acts against the law.

Implementation of the Validity of the Sale and Purchase Deed made by the Official Certifier of Titles Deeds (PPAT) without seeing the original certificate to realize legal certainty (Research Study at the Batam City Land Agency Office), has been implemented properly, therefore the Official Certifier of Titles Deeds (PPAT), there is no Land Deed Official (PPAT) who wants to make mistakes who tend to carry out responsibility for the contents of the deed to protect himself so that fellow parties, both clients / parties involved in the deed and Official Certifier of Titles Deeds (PPAT) both the same as obtaining legal certainty so as not to suffer losses because the Notary must carry out his position based on the law. In every deed made before a Notary, the Notary has a great responsibility in making the authentic deed he does, because in carrying out his position, the Notary is obliged to act trustworthy, honest, thorough, independent and protect the interests of the parties involved in legal actions in general. not in favor of anyone.

Factors Constraints / Barriers and Solutions to the Validity of the Sale and Purchase Deed made by the Official Certifier of Titles Deeds (PPAT) without seeing the original certificate to realize legal certainty (Research Study at the Batam City Land Agency Office), the authors can conclude as follows; First; There is no permission to transfer rights or there are arrears. Second; Taxes Not Paid. Third; The requirements for making a deed of sale and purchase have not been fulfilled; Fourth; the Taxpayer Identification Number of the parties does not exist.

SUGESTION

In order for a Official Certifier of Titles Deeds (PPAT) and the parties to be avoided from all risks in the form of sanctions or cancellation of the authentic deed in the process of making an authentic deed before the Official Certifier of Titles Deeds (PPAT), the Official Certifier of Titles Deeds (PPAT) and the parties must have a prudent nature, be more thorough and have good faith in making authentic deeds and comply with applicable legal provisions and are based on morals and ethics. And Official Certifier of Titles Deeds (PPAT) are more careful in carrying out their duties.

So that the Official Certifier of Titles Deeds (PPAT) in making the deed act professionally, honestly, and carefully and for the parties who want a deed to be made by the Official Certifier of Titles Deeds (PPAT) to act honestly or provide actual information in making the deed by the Official Certifier of Titles Deeds (PPAT).

So that the government as the executive agency and the House of Representatives (DPR) as the legislative body reconstruct the arrangements in the Notary Position Act and the Law on amendments to the Notary Position Act and the Regulation on Official Certifier of Titles Deeds (PPAT) regarding the absence of the accumulation or merger of the application of sanctions as a form of accountability for a Notary/ Official Certifier of Titles Deeds (PPAT), because the arrangement for the accumulation or combination of the application of these sanctions will certainly provide more protection and legal certainty for the parties who are harmed by the unlawful act of a Official Certifier of Titles Deeds (PPAT). In order to maintain the trust given by law to Notary institutions and to protect people who request services from Notaries, it is called for the Notary to read and explain the deed he made, because many people do not really understand the legal language contained in the deed. This is useful so that the parties facing it better understand the meaning of the deed.

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