

Juridical Analysis of The Use of Power of Attorney To Sell For The Transfer Of Rights To Land and Buildings To Realize Legal Certainty (Research Study at The Office of Septa Dorothe Undap Notary and PPAT Batam)

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ABSTRACT

Notaries play a role in making deeds, one of which is a deed in the form of a power of attorney. Letter of Approval and Power of Attorney Number 47 of 2019 made by Notary and PPAT Septa Dorothe Undap consists of a clause that the authority granted by the Authorizer to the Power of Attorney is very broad and the Power of Attorney is not bound by the Principal Agreement. So it is reasonable to suspect that the Power of Attorney to sell has the potential to approach the nature of an absolute power of attorney so that the legality of the use of the power of attorney to sell is doubtful. The results show that the use of the power of attorney to sell in the act of buying and selling rights to land and buildings formed by the case study Notary against the Letter of Approval and Power of Attorney Number 47 of 2019 made by Notary Septa Dorothe Undap can be said that the Power of Attorney to Sell was formed in accordance with the provisions applicable law. Even though the power of attorney to sell is indicated as an absolute power of attorney because it gives broad authority to the power of attorney and is not followed by the main agreement, the power of attorney does not stipulate a clause that cannot be withdrawn by the power of attorney. In addition, the extent of the power of attorney granted by the Authorizer to the Recipient of the Power of Attorney is understandable, this occurs due to the relationship factor between the Authorizer and the Proxy by the Letter of Approval and Power of Attorney Number 47 as husband and wife who believe that the Notary believes that the two have good faith. and the consideration of power of attorney carried out by the Proxy is not for a long period of time so that it does not require a Principal Agreement. Factors that become obstacles to the use of power of attorney to sell in the act of buying and selling rights to land and buildings formed by a notary include the low level of public understanding of the use of power of attorney to sell in the act of buying and selling rights to land and buildings. As a solution, the government needs to establish legal rules related to SOP (Standard Operating Procedure) obligations for notaries to ensure the parties have carried out their obligations and ensure security for the parties before making a power of attorney to sell in the act of buying and selling rights to land and buildings and issuing a deed of transfer of rights. through the deed of sale and purchase of the land and buildings.

Keyword : *Notary, Power of Attorney to Sell, and Buy and Sell Land and Buildings.*

INTRODUCTION

Notaries basically carry out their profession as well as public officials who are tasked with carrying out several parts of the government's duties in the civil sector. Notaries carry out four functions at once, namely First, the Notary as an official who makes deeds for parties who come to him, whether in the form of *partij acta* or *relas acta*. Second, the Notary as a judge in determining the distribution of inheritance. Third, the Notary as a legal instructor by providing information for parties in terms of making a deed. Fourth, notaries as entrepreneurs with all their services try to maintain clients so that the operationalization of their offices continues (Habib Adjie, 2008: 16-17). Apart from being a Notary, he often also doubles as a Land Deed Making Official (PPAT). PPAT plays an

important role in land registration. namely assisting the Head of the District/City Land Office to carry out certain activities in land registration (Urip Santoso, 2010: 316).

Basically, it is the duty of the Notary/PPAT so that whatever is in the client's interest in carrying out legal actions to stay on the lines that have been set by the applicable laws and regulations. However, in practice in the field, it needs to be reviewed further regarding whether or not it is in accordance with the provisions of the applicable legal rules. For example, Letter of Approval and Power of Attorney Number 47 of 2019 made by Notary and PPAT Septa Dorothe Undap, SH., MKn, on behalf of the giver of approval and proxy Mr. Dedy Suhery, to the Recipient of Approval and Proxy Lenni Susanti Acting for and on behalf of/representing Giver of Approval and Authorization To sell, transfer, release, transfer, and/or transfer the rights and all of its interests and/or hand over in any way to anyone the plot of land which will be mentioned below to another party deemed good and at an appropriate price. Recipient of Approval and Proxy by having the following rights:

- a. facing where necessary including before a Notary / Land Deed Making Officer (PPAT) and / or other third party / agency;
- b. provide information;
- c. make/order to make and sign the necessary deeds and/or documents;
- d. receive the money from the sale and provide a receipt;
- e. and take all actions deemed necessary and useful by the RECIPIENT for the implementation of this POWER, there is no exception.

In the Letter of Approval and Power of Attorney Number 47, it can be seen that the authority granted by the Authorizer to the Proxy is very broad. So it is reasonable to suspect that the power of attorney to sell can be categorized as an absolute power of attorney. As stated in the Ministerial Instruction No. 14 of 1982 section of the Second Instruction letter b, that "Absolute power which is essentially the transfer of land rights is absolute power that gives authority to the recipient of the power to control and use his land and carry out all legal actions according to the law. can only be done by the right holder".

In general, the granting of power of attorney is not too much of a problem, it's just that for the granting of power of attorney carried out in the Sale and Purchase Binding Agreement with the words "irrevocable," many parties identify this with the granting of "absolute power" as which is prohibited by the Instruction of the Minister of Home Affairs No. 14 of 1982 concerning the Prohibition of the Use of Absolute Power for the Transfer of Land Rights (Bambang Eko Mulyono, tt: 68). The Letter of Approval and Power of Attorney Number 47 basically does not contain a clause "irrevocable" by the power of attorney, but the extent of the authority granted makes it appear as an absolute power of attorney and vulnerable to misuse by the power of attorney if not limited.

Absolute power is basically prohibited by the Ministerial Instruction No. 14 of 1982 concerning the Prohibition of the Use of Absolute Power for the Transfer of Land Rights. Absolute power according to its definition is based on Ministerial Instruction No. 14/1982 part of the Second Instruction letter a and b which reads a. Absolute power is power which contains elements that cannot be withdrawn by the giver of power, and b. Absolute power, which is essentially the transfer of land rights, is absolute power that gives authority to the recipient of the power to control and use his land and to carry out all legal actions which according to law can only be carried out by the right holder.

In the first part of the instruction and the third part of the Ministerial Instruction No. 14 of 1982, it is expressly stated that it prohibits the Camat, Village Head or other similar level officials to make/strengthen the making of an absolute power of attorney which is essentially a transfer of land rights, and prohibits officials from Agrarian services to serve the settlement of the status of land rights using an absolute power of attorney as proof of the transfer of land rights.

Actually, the Domestic Instructions that are regulated materially can be categorized as general and abstract and apply continuously (*dauerhaftig*), the purpose of general and abstract is that these regulations are not addressed to certain individuals, therefore based on the characteristics as described above, the Instruction Domestic is included in the category of regulations (*regelung*) (Philipus M. Hadjon, 2005: 121). The regulation was made to protect citizens' property rights to their land. Ownership rights to land by the people should be protected by the government because it is regulated to be protected by international law. The Universal Declaration of Human Rights which is widely known as international law says that "everyone has the right to own land alone or in conjunction with others". Furthermore, "no one's rights should be violated arbitrarily" (LR. Wibowo, C. Woro Murdiati Runggadini and Subarudi, 2009: 123).

Based on the definition of absolute power of attorney which, when juxtaposed with the material content stipulated in the Letter of Approval and Power of Attorney Number 47 drawn up by a Notary and PPAT Septa Dorothe Undap, SH., MKn, on behalf of the giver of approval and power of attorney Mr. whether or not with the Instruction of the Minister of Home Affairs Number 14 of 1982 concerning the Prohibition of the Use of Absolute

Power for the Transfer of Land Rights. Of course, this is a matter that deserves to be reviewed how the strength and legal status of the letter of approval and power of attorney is and whether or not the power of attorney is in conflict with the applicable legal rules.

In addition to the indication that the Power of Attorney is absolute, the use of the power of attorney to sell in the act of buying and selling rights to land and buildings is not accompanied by a Principal Agreement. So that it does not guarantee legal certainty in the practice of buying and selling rights to land and buildings, it is even suspected that the agreement can be said to be null and void. So that it can have an impact on losses for the parties because the act of buying and selling does not get legal protection, especially for those who are buyers.

Seeing some of these legal issues, the researcher is interested in conducting scientific research in the form of a thesis with the title "Juridical Analysis of the Use of Power of Attorney to Sell for the Transfer of Land and Building Rights to Realize Legal Certainty (Research Study at the Office of Septa Dorothe Undap Notary and PPAT Batam City)".

FORMULATION OF THE PROBLEM

Based on the problem in the background of the problem, the research problem can be formulated as follows:

1. What are the legal arrangements regarding the use of power of attorney to sell for the transfer of rights to land and buildings?
2. How is the implementation of the use of power of attorney to sell for the transfer of rights to land and buildings?
3. What are the factors that become obstacles and their solutions to the use of power of attorney to sell for the transfer of rights to land and buildings?

LITERATURE REVIEW

The sources of literature in this study include the collection of legal materials consisting of primary, secondary and tertiary legal materials by taking into account their validity and reliability. Primary legal materials are collected by collecting legal products, laws and regulations relating to notary and land law, including those relating to them. Secondary legal materials are collected by searching, finding and examining the results of previous researches related to this research. And for tertiary legal materials in the form of books on law, be it legal dictionaries, encyclopedias and articles related to supporting materials for research analysis related to agrarian law, including those relating to it.

RESEARCH METHODOLOGY

This research method belongs to the type of normative/doctrinal legal research or legal research literature that is supported by sociological/empirical legal research related to research on related legal principles, namely understanding the Juridical Analysis of the Use of Power of Attorney to Sell in the Act of Buying and Selling Land Rights and Buildings associated with related legal principles. Normative legal research is research based on secondary data or research that focuses on secondary data (Soerjono Soekanto and Sri Mamudji, 1985: 15). This writing is based on the data obtained which consists of secondary data in the form of primary legal materials in the form of laws relating to research cases and data, then compiled systematically for further qualitative analysis associated with problems. In addition, it is also supported by data obtained from interviews. In drawing conclusions, this study uses the Inductive method.

DISCUSSION

1. LEGAL RULES FOR USE OF POWER OF ATTORNEY TO SELL IN THE ACTION OF SALE AND PURCHASE OF LAND AND BUILDING RIGHTS

The activity of granting and receiving power of attorney is of course poured into a document which is often called a deed, and is a requirement. The requirement is that the power of attorney must be in the form of a power of attorney made before a Notary or with a deed made by the Registrar of the District Court concerned or with a deed made under the hand that is "legalized" based on the provisions stipulated in Ord.Stbl.1916-46 jo.43. The existence of these conditions is nothing but intended to guarantee the validity and truth as well as legal certainty regarding the granting of such power of attorney (Komar Andasmita, 1990: 477).

In general, the granting of power of attorney is not bound by the terms of the form, unless it has been explicitly stipulated in the law, for example the deed of power of attorney to install a mortgage must be made in the form of an authentic deed (notarized). So formally the form of a power of attorney in the practice of a notary can be

in the form of an authentic deed (notary), and a private deed. The power of attorney in terms of substance (material) in the practice of a Notary, there are three forms, namely:

- a. Stand-alone power of attorney Deed of independent power means power that does not rely on other agreements, blank power of attorney (blanco volmacht) is not used here so as not to be misused by others, for example the power to sell land.
- b. A power of attorney followed by a power of attorney agreement followed by an agreement means that the agreement was born based on the power of attorney. For example, a power of attorney to sell from an attorney to the recipient of the power of attorney, followed by an agreement on the terms of sale.
- c. Deed of agreement followed by power of attorney. The deed of agreement followed by the deed of power is usually in the agreement that has been completed.

Power of attorney is a civil right of everyone and anyone can do it. In practice, the power of attorney to sell is made by one of the parties with mutual consent, this is to represent one of the parties. In the case of buying and selling a plot of land and a building with a power of attorney to sell, the power to sell on the basis of binding sale and purchase rights is generally carried out in order to provide legal certainty and protection for buyers who have paid in full but have not changed their name. The power of attorney to sell can be born due to (Aldi Sanjaya Putra, 2017: 90-91):

- a. Due to the interests of the parties, including; first, because of its nature, secondly, binding cash sale and purchase, and thirdly, not having any money back.
- b. Accounts payable legal events;
- c. Due to the relationship with the broker/broker to represent the seller;
- d. Due to inheritance/joint property agreement; So it can be said that the granting of a power of attorney to sell cannot be granted without the reasons and the consent of the parties who entered into an agreement for a legal act.

However, this power of attorney to sell is very vulnerable in the event of giving a power of attorney to sell on the grounds that the above has weaknesses and advantages, which power of attorney has a stronger binding power of sale and purchase in later liability. Another reason for the power of attorney to sell, in principle, the power to sell is given because the seller (land owner) cannot be present at the time of making the deed of sale for certain reasons (Aldi Sanjaya Putra, 2017: 91).

In fact, the Basic Agrarian Law and Government Regulation 24 of 1997 concerning Land Registration do not explain the meaning of the power to sell in the laws and regulations, so that the use of the power to sell is evidence of the transfer of ownership rights to land and the consequences arising from the power to sell. its legal force is questionable.

However, the legal force in the use of a power of attorney to sell against its validity can be reviewed based on the legal concepts of Lastgeving and Lasthabber that developed in the practice of civil law as the legal basis. Lastgeving requires someone to act and not just represent the authority. The granting of power of attorney only gives the authority to represent but is not obliged to use the authority to represent it. If there is an obligation to use their authority, then there is lastgeving (Rachmad Setiawan, 2005: 116).

Lastgeving is an agreement based on an order. By accepting lastgeving, it means that lasthabber is obliged to carry out the order. If it has been promised that Lastgever has the right to act on its own behalf and by excluding Lastgever's right to take the same action during the validity period of the agreement, Lastgever loses the authority to act alone during the term of the agreement as long as the third party knows or should be aware of the existence of the promise (Rachmad Setiawan, 2005: 118-119).

It should be understood that the function of a power of attorney is an agreement that was born at the will of the parties who bind themselves based on the principles of Article 1320 of the Civil Code so that it aims to simplify and expedite the process of transferring land rights. If it is related to the problem of the power of attorney to sell, that the deed of power of attorney to sell is actually not a problem in its application but it will be a problem if it deviates and violates the rules set out in the Instruction of the Minister of Home Affairs Number 14 of 1982 (Aldi Sanjaya Putra, 2017: 18).

2. IMPLEMENTATION OF THE USE OF POWER OF ATTORNEY TO SELL FOR THE TRANSFER OF RIGHTS TO LAND AND BUILDINGS.

In the concept of the giver and the power of attorney form a legal bond and relationship, so that the power of attorney acts to represent the power of attorney, however, the rights of the power of attorney do not transfer absolutely because the power given can be revoked or withdrawn by the power of attorney. During the granting of power of attorney, the recipient of the power of attorney has the right to act on behalf of the power of attorney which is limited to the substance of the authorized person. Power is a power, authority and power. In the Civil Code there

is no article that explains the definition of power, only mentions the meaning of granting power of attorney (Wicaksono, 2009: 1).

The existence of an indication that the power of attorney is absolute, the use of a power of attorney to sell in the act of buying and selling rights to land and buildings is not accompanied by the Principal Agreement, of course, the power formed is contrary to the law so that it does not bring value to the benefits of the parties and security is not guaranteed. So that it does not guarantee legal certainty in the practice of buying and selling rights to land and buildings, it is even suspected that the agreement can be said to be null and void. So that it can have an impact on losses for the parties because the act of buying and selling does not get legal protection, especially for those who are buyers.

Based on information from Septa Dorothe Undap, as Notary and PPAT who initiated the formation of the Letter of Approval and Power of Attorney that "as a Notary, I have never and as much as possible avoided making an absolute Power of Attorney. For example, the power to sell related to a sale and purchase transaction where the deed of sale and purchase cannot be done because it has not fulfilled several requirements such as unpaid payments, permission to transfer rights has not been completed. So as a notary make the main agreement. The power of attorney does not stand alone and is made to follow the main agreements, and must be like that" (Septa Dorothe Undap, 2021).

However, based on the Instruction of the Minister of Home Affairs Number 14 of 1982 concerning the Prohibition of the Use of Absolute Power as the Transfer of Land Rights, what is prohibited is absolute power as the transfer of land rights that stand alone without the main agreement made by a Notary (Megawati, Pieter Everhardus Latumeten and Widodo Suryandono, 2019: 6). The Approval and Power of Attorney Number 47 of 2019, does not contain the Principal Agreement.

The reasons for granting power of attorney to sell land that are not independent (*accessoir*) are agreements that are inseparable from the main agreement, including the following (Oddy Inayah Kasri and Listyowati Sumanto, tt: 8-9):

The credit agreement as the main agreement, in this case the authorizer owes to the Bank or to the proxy. The power of attorney to sell land that follows the credit agreement as the main agreement is the power of attorney shown for land that has not been certified, while land that has been certified is bound by the Deed of Granting Mortgage.

Sale and Purchase Binding Agreement as the main agreement, in this case the seller as the power of attorney gives "absolute" power to the recipient of the power of attorney/buyer to carry out the interests of the buyer who is left behind and should have become his right. An absolute power of attorney is a power that is prohibited in the Instruction of the Minister of Home Affairs No. 14 of 1982 concerning the Prohibition of the Use of Absolute Power for the Transfer of Land Rights.

Build-Share Agreement as the main agreement, in this case the power of attorney/land owner authorizes the sale of land and/or buildings to the beneficiary/contractor which is the part that has been determined for him.

Separation and division as the main agreement, in this case the power of attorney gives the power of attorney to the recipient of the power to sell the jointly owned land so that each party is entitled to get the share that is his right.

In this case, Septa Dorothe Undap said that "power of attorney Number 47 of 2019 is a delegation of power from husband to wife on the grounds that the owner is unable to attend. And this can be made a power of attorney to sell without a principal agreement. This power of attorney is not classified as an absolute power of attorney because there is no clause that 'this power of attorney cannot be ended/cannot be revoked for any reason'. Thus, the grant of power of attorney may end in accordance with the provisions of the legislation, for example the death of the power of attorney so that the power of attorney can end, or the revocation of the grant of power by the giver of the power of attorney. There are no restrictions for the power giver himself to exercise the power himself" (Septa Dorothe Undap, 2021). Septa Dorothe Undap also said that "The prohibition of absolute power occurs when there is no main reason/agreement. The power to sell with the intention that if it fails, the lender can sell without having to change the name to the name of the creditor. In practice, as a Notary, you just want to make a power of attorney in certain cases. for example a power of attorney which is only for signing the deed of sale and purchase" (Septa Dorothe Undap, 2021).

So it can be seen that the power of attorney number 47 of 2019 cannot be categorized as absolute power and it stands alone without the main agreement that accompanies it. We can see that there are several reasons for the granting of independent (pure) sales powers as follows (Oddy Inayah Kasri and Listyowati Sumanto, tt: 7-8):

- a) The sale and purchase takes place outside the city or one of the parties cannot leave his job.
- b) The buyer has paid in full the sale and purchase price that has been mutually agreed upon, but the sale and purchase has not been carried out.

- c) The seller as the giver/recipient of the power of attorney, is one of the heirs of another person where the person is not in the place where the object of sale and purchase is located.
- d) The land in question will be resold to another party. This is usually made by those who are engaged in buying and selling land or by land brokers to avoid paying taxes.
- e) The seller as the power of attorney has debts with the person who receives the power of attorney (recipient).

The power of attorney number 47 of 2019 fulfills the elements because the power of attorney stands alone in points a and c. Namely, the sale and purchase took place outside the city, in this case Mr. Dedy Suhery was in Batam and not in Pekanbaru where the Land and Buildings were authorized to be sold. Meanwhile, as the recipient of the power of attorney is Mrs. Lenni Susanti who is the wife of Mr. Dedy Suhery, who is classified as an heir. Septa Dorothe Undap also said that "Power of Attorney No. 47 of 2019 is actually only limited to the power to sign the sale and purchase deed. Absolute power of attorney has the characteristics that there is a kind of clause that 'the power of attorney may not expire' and is only limited to approval" (Septa Dorothe Undap, 2021).

3. FACTORS CONSTRAINTS AND SOLUTIONS FROM THE USE OF POWER OF ATTORNEY TO SELL FOR THE TRANSFER OF RIGHTS TO LAND AND BUILDINGS

In making the transfer of rights which is a legal act in the form of a procedure in the form of making a deed, various problems are often found in the field, one of which is the understanding of ordinary people who do not understand the concept of applying a power of attorney. Septa Dorothe Undap said that "Actually, based on experience, on average, the parties who do not often conduct transactions with Notaries mostly do not understand and lack understanding, as if a power of attorney has been made it is safe. Most of the parties only ask for a power of attorney to sell, but as long as the notary can explain to the parties the effects, the parties usually finally want to make a basic agreement if they want to transact correctly" (Septa Dorothe Undap, 2021).

The role of the Notary in addition to constituting the wishes of the parties by issuing various deed and power of attorney, it is also necessary to provide legal advice to the general public who are unfamiliar with legal knowledge. The socialization carried out by Notaries and PPAT to parties who want to take legal actions with a persuasive approach is considered very effective and can be accepted by the community as clients.

However, Septa Dorothe Undap continued, "If the Notary has explained, and it turns out that the parties are still steadfast, ask for a power of attorney to be made. First, as a notary will submit and will not make the power of attorney if it is absolute because it has been prohibited, especially related to land and buildings, the BPN will definitely reject it. Second, the human age cannot be predicted and if the person giving the power of attorney dies, the power of attorney will automatically expire. Or we can't measure a person's good intentions, especially for long-term transactions, so the power of attorney may decide to stop giving the power of attorney so that the power of attorney loses. As a Notary, it is better to refuse the making of the deed if the parties insist after being explained legally by the Notary. Instead of the deed that is made later it cannot be used or has problems in the future so that the Notary is dragged into trouble" (Septa Dorothe Undap, 2021).

What is a problem in the field with the actions taken by Septa Dorothe Undap as a Notary and PPAT basically reflects the effort to provide legal protection as a function. Regarding the function of law to provide protection, Lili Rasjidi and B. Arief Sidharta said that the law was grown and needed by humans precisely based on the product of human judgment to create conditions that protect and promote human dignity and to enable humans to live a normal life in accordance with their dignity (Lili Rasjidi and B. Arief Sidharta, 1994: 64.). In making the deed that was formed, he did not pay attention to various legal aspects and avoided the possibility of problems in the future and merely obeyed the client's wishes, if one day a problem arises, of course this hurts human dignity itself by each party because of a conflict of rights and obligations. problematic obligations.

Septa Dorothe Undap said that "if the client plans to make a letter of agreement that leads to an absolute power of attorney, the Notary immediately directs him to make a letter of sale and purchase and immediately transfer his name and take care of various tax payments as a risk. In reality, this will be a transfer of rights. If the recipient of the power of attorney is given absolute power, a transfer of rights must be carried out, and if you want to resell it, it means that there are 2 transfers of rights that will occur if you want to be safe and avoid the occurrence of an absolute power of attorney" (Septa Dorothe Undap, 2021).

Septa Dorothe Undap said that "as a notary, I provide input so that the power of attorney made gives a sense of security to both parties. Even if forced, then the consequences will be like that. Because a notary cannot refuse a client's wishes, it is the obligation of a notary to provide proper legal consultation. Therefore, if it is intended for long-term cooperation, it is necessary to make a basic agreement, a sale and purchase agreement, followed by a power of attorney" (Septa Dorothe Undap, 2021).

The next inhibiting factor is related to the use of absolute power with different comparisons. Memby U. Pratama also said that "so far, absolute power has not been used as a basis for transferring land rights because in the

power of attorney there is no sentence containing an element of power that cannot be withdrawn by the power of attorney and it is clear in the power of attorney what power of attorney is stated. only given, does not include giving the power to carry out all legal actions which according to the law can be carried out by the right holder. However, in reality, most notaries use absolute power with different comparisons, including using articles 1813, 1814, 1816 which are stated in the Civil Code which states that power will not end for any reason, including causes/basics. which is stated in articles 1813, 1814 and 1816 of the Civil Code which regulates the expiration of the power of attorney” (Memby U. Pratama, 2021).

This needs to be anticipated so that what are the provisions of the rule of law, which are clearly prohibited by the rule of law, are consistently carried out without trying to find loopholes in order to continue to exercise absolute power under various legal justifications. Soedikno Mertokusumo mentions legal certainty as a justifiable protection against arbitrary actions which means that a person will be able to obtain something that is expected under certain circumstances (Fernando M. Manullang, 2007: 99).

But in the end, Memby U. Pratama said that "the transfer of rights file registered with the BPN must be cross-checked first for the completeness of the requirements for the transfer of rights and the BPN will check the contents of the comparison deed made by PPAT. If it is not in accordance with the applicable laws and regulations, the file will be returned to the applicant” (Memby U. Pratama, 2021). This firmness needs to be done so that no one's rights are violated whose ownership rights are protected by human rights.

Memby U. Pratama said that "if there is a file that is registered with BPN and contains an element of absolute power of attorney in the power of attorney, of course the file will be returned to the applicant, and given input so that the completeness of the document is corrected in accordance with the applicable rules, to avoid the use of absolute power in transfer of rights for BPN to conduct socialization and guidance to PPAT” (Memby U. Pratama, 2021).

A notary is a person who has the scientific potential to carry out his main task, namely making evidence in the form of an authentic deed (Suhrawardi K Lubis, 2012: 38). This scientific potential must be accompanied by a sense of responsibility for the Notary to play a role in efforts to increase the legal knowledge of the community. This responsibility certainly does not need to be questioned, because it is in line with the characteristics of the legal profession who must have a spirit of devotion (Muhammad Afet Budi, 2016: 285). This is what Septa Dorothe Undap applies as a notary and PPAT. In carrying out his duties, Septa Dorothe Undap explained that “as a Notary, he will ask the first owner to be present. If the giver cannot attend because he is not in the place/out of town, it will be confirmed by telephone/video call and ask someone to verify that it is the person who gave the power of attorney. The notary must not refuse to make a deed, but the notary is obliged to ensure that the deed to be made can be used. The notary will contact the power of attorney and ask his experience whether or not he has made this buying and selling power of attorney? The buyer's obligations have been completed or not or are there still arrears? If the power of attorney says yes, then the deed will be made. That is the effort of the Notary to protect the parties so that they do not get into trouble in the future” (Septa Dorothe Undap, 2021).

Septa Dorothe Undap said that “The deed made by a notary is an authentic deed, so whoever receives the deed must consider the deed to be true. In terms of the contents of the deed, if it is still true, I will still do it. However, if the power of attorney is very broad, and the notary is not familiar with the parties, he will provide understanding and request the presence of the power of attorney. Otherwise, and it looks a bit suspicious it will be rejected. although there is no obligation of a Notary to confirm these matters regulated by law because the Notary is only limited to confirming the wishes of the parties, this needs to be done so that the deed made can be used and avoid losses. Notaries must examine properly from various aspects” (Septa Dorothe Undap, 2021).

Basically there is no obligation for a notary to carry out, confirm and take various actions so that the deed made can be used / utilized and does not cause problems between the parties in the future as explained by Septa Dorothe Undap. Therefore, it is necessary to establish legal rules related to SOP (Standard Operating Procedure) obligations for notaries to ensure the parties have carried out their obligations and ensure security for the parties before making a power of attorney to sell in the act of buying and selling rights to land and buildings and issuing the deed transfer of rights through the deed of sale and purchase and other deeds. So that what is carried out by Notaries and PPAT Septa Dorothe Undap, is also carried out by other Notaries and PPATs and becomes a standard in the service of making deed of sale and purchase, especially the deed of sale and purchase of the land and buildings.

The legal protection carried out by the Notary and PPAT is in line with the definition of legal protection put forward by Satjipto Rahardjo, namely providing protection for human rights (HAM) that are harmed by others and that protection is given to the public so that they can enjoy all the rights granted by law. (Satjipto Rahardjo, 1993: 69). As stated by Lili Rasjidi and I.B Wysa Putra also that the law can be functioned to realize protection that is not only adaptive and flexible, but also predictive and anticipatory (Lili Rasjidi and I. Bwysa Putra, 1993: 118). In this

case, the Notary and PPAT perform predictive and anticipatory measures to prevent disputes between parties from occurring in the future as a preventive measure.

CONCLUSIONS AND RECOMMENDATIONS

1. CONCLUSIONS

Legal arrangements related to the use of power of attorney to sell in the act of buying and selling rights to land and buildings are basically well regulated through various existing legal instruments. So that the act of using a power of attorney to sell in the act of buying and selling rights to land and buildings is a legal act that is protected by applicable laws and regulations.

Implementation of the use of power of attorney to sell in the act of buying and selling rights to land and buildings formed by a case study Notary against Letter of Approval and Power of Attorney Number 47 of 2019 made by Notary Septa Dorothe Undap, SH, M.Kn. it can be said that the power of attorney to sell was formed in accordance with the provisions of the applicable law. Even though the power of attorney to sell is indicated as an absolute power of attorney because it gives broad authority to the power of attorney and is not followed by the main agreement, the power of attorney does not stipulate a clause that cannot be withdrawn by the power of attorney. In addition, the extent of the power of attorney granted by the Authorizer to the Recipient of the Power of Attorney is understandable, this occurs due to the relationship factor between the Authorizer and the Proxy by the Letter of Approval and Power of Attorney Number 47 as husband and wife who believe that the Notary believes that the two have good faith. and the consideration of power of attorney carried out by the Proxy is not for a long period of time so that it does not require a Principal Agreement.

Factors that become obstacles to the use of power of attorney to sell in the act of buying and selling rights to land and buildings formed by a notary include the low level of public understanding of the use of power of attorney to sell in the act of buying and selling rights to land and buildings. And the solution is that even though the Notary is only limited to confirming the wishes of the parties, in the future there is a need for legal rules related to the SOP (Standard Operating Procedure) obligations for the Notary to ensure the parties have carried out their obligations and ensure security for the parties before making a power of attorney to sell in the act of buying and selling rights. on land and buildings by examining correctly from various aspects to confirm the truth. This is necessary so that the deed issued by the notary can be utilized and does not cause legal problems in the future between the parties involved in the power of attorney.

2. SUGESTION

For the public, knowledge regarding the use of power of attorney, especially the power of attorney to sell in the act of buying and selling land and buildings, needs to be understood carefully before submitting a power of attorney to a Notary. So that the public as parties who want to take legal actions such as making the Letter of Approval and Power of Attorney understand the meaning and use of the power of attorney in a comprehensive manner both in terms of its implementation, clauses that are prohibited from being included in the power of attorney, expiration of the power of attorney and so on.

For the Government, in addition to carrying out various socialization activities by BPN to Notaries, it is also necessary to establish legal rules related to the SOP (Standard Operating Procedure) obligations for notaries to ensure the parties have carried out their obligations and ensure security for the parties before making a power of attorney to sell in the act of selling, purchase rights to land and buildings and issue a deed of transfer of rights through a deed of sale and purchase and other deeds.

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