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LEGAL CONSEQUENCES RELATED TO NON-NOTARY BINDING SALE AND PURCHASE AGREEMENTS (PPJB) ON LEGAL CERTAINTY IN LAND SALE AND PURCHASE TRANSACTIONS (CASE STUDY NUMBER 31/Pdt.G/2024/PN Sbr)

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Abstract.

Background. PPJB or Sale and Purchase Binding Agreement is a legal tool used for land purchase and sale transactions in Indonesia. With the existence of PPJB, the parties get the opportunity to bind the initial agreement before officially implementing the Deed of Sale and Purchase (AJB) in front of the Land Deed Making Officer (PPAT).

Aims. This study examines the legal consequences of Non-Notarial and Notarial Sale and Purchase Binding Agreements (PPJB) in land sale transactions in Indonesia. Despite its frequent use, Non-Notarial PPJB has legal weaknesses, particularly in terms of evidentiary strength. Conversely, Notarial PPJB is considered stronger legally, as it is an authentic deed recognized under Article 1870 of the Indonesian Civil Code (KUHPperdata).

Methods. Through Case Study No. 31/Pdt.G/2024/PN Sbr, this research identifies that in disputes, judges tend to favor parties holding Notarial PPJBs, which are viewed as more compliant with formal legal requirements.

Result. The findings suggest that Notarial PPJB offers higher legal certainty and minimizes the potential for disputes. Hence, society must know the legal consequences of using PPJB in land sale transactions. Additionally, increasing public awareness and education regarding the importance of Notarial PPJB is recommended as a means of optimal legal protection.

Conclusion. This emphasizes the importance of public understanding of legal aspects in preparing PPJB, especially in land purchase and sale transactions that involve significant economic value and have the potential for complex legal conflicts.

Implementation. PPJB notarial is highly recommended to minimize the risk of future disputes and provide more optimal legal protection for all parties involved. It is hoped that the government can increase socialization about the importance of notarial PPJB and provide education about the legal risks that may arise from using non-notarial PPJB.

Keywords: Sale and Purchase Binding Agreement, Non-Notarial PPJB, Notarial PPJB, Land Sale Transactions, Legal Certainty.

INTRODUCTION

PPJB or Sale and Purchase Binding Agreement is a legal tool used for land purchase and sale transactions in Indonesia. With the existence of PPJB, the parties get the opportunity to bind the initial agreement before officially implementing the Deed of Sale and Purchase (AJB) in front of the Land Deed Making Officer (PPAT). Generally, PPJB can be arranged in two forms, non-notary and notary. Non-notary PPJB is usually written between all parties without involving a notary, while a notary PPJB is prepared with stronger evidentiary power according to the law.

The legal basis for agreements in Indonesia is regulated in the Civil Code, especially Article 1320, which discusses the conditions for the validity of the accords, and Article 1338, which relates to the principle of freedom of contract¹.² In addition, regulations related to land are regulated in Law No. 5 of 1960 related to the Basic Regulation on Agrarian Principles (UUPA), which requires the creation of AJB in front of PPAT for the transfer of land rights³. Then, Government Regulation No. 24 of 1997 related to Land Registration emphasizes that "authentic deeds have higher evidentiary power than deeds under hand" in the context of PPJB notary, Law No. 30 of 2004 jo. Law No. 2 of 2014 concerning the Notary Position reveals that "a notary deed has perfect evidentiary power as an authentic deed".⁴ The Regulation of the

¹ Civil Code, Article 1320

² Civil Code, Article 1338.

³ Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, Article 19.

⁴ Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Office of Notary, Article 1 paragraph (1).

Minister of ATR/BPN Number 13 of 2017 describes the handling of disputes related to the transfer of land rights⁵.

Although the notary PPJB is recognized to have stronger legal force, practice in the field shows that a non-notary PPJB is still often used. This can lead to potential disputes if one of the parties violates an agreement or a disagreement occurs regarding land ownership or control. Previous legal studies have shown that PPJB notaries have advantages regarding the power of proof and legal protection for the parties. However, there are challenges related to accessibility and costs for people who tend to choose non-notary PPJB.

Most previous research focused on the validity and legal force of PPJB in general, without comparing the impact of disputes between non-notary PPJB and notarial PPJB, or between one notarial PPJB and another. There are also shortcomings in the study that discusses legal settlement when there is a dispute between the two types of PPJB in the context of land purchase and sale transactions.

This study aims to analyze the legal consequences of non-notary PPJB on legal certainty in land purchase and sale transactions through a case study, Number 31/Pdt. G/2024/PN Sbr. In addition, this study will also explore the comparison of legal force between non-notary PPJB and notarial PPJB in the event of disputes, as well as discuss how to resolve the law if a dispute occurs between two notarial PPJBs. Identifying these issues is essential to comprehensively understand the validity, probative force, and legal protections that all parties can obtain in a land sale and purchase agreement.

METHODS

This study applies normative juridical techniques using case and legislative approaches. This method was chosen because the research focuses on analyzing laws and regulations, norms, and principles that correlate with PPJB, both non-notary and notary, in the context of land purchase and sale transactions.

In the legislative approach, the researcher analyzes various relevant regulations, including the Civil Code, especially Article 1320 and Article 1338, which discuss the conditions for the validity of agreements and the principle of freedom of contract. In addition, this research refers to Law No. 5 of 1960 concerning Agrarian Principles (UUPA), which discusses the transfer of land rights by Deed of Sale and Purchase (AJB), as well as Government Regulation No. 24 of 1997, which examines the procedure for registering land

⁵ Regulation of the Minister of ATR/BPN Number 13 of 2017, Article 4.

and the importance of authentic deeds. This research also pays attention to Law No. 30 of 2004 jo. Law No. 2 of 2014 concerning the Notary Position, which regulates the authority of notaries in the making of authentic deeds, and Regulation of the Minister of ATR/BPN No. 13 of 2017 concerning the settlement of disputes over the transfer of land rights.

The case approach is applied by analyzing case studies, Number 31/Pdt. G/2024/PN Sbr to understand the practical application of the law in disputes involving non-notarial PPJB and notarial PPJB. This analysis was carried out by collecting secondary data, namely legal documents, court decisions, and aligned academic literature.

The data collection technique uses literature studies, which involve reviewing legal literature, scientific journals, court decisions, and the ideas of legal experts related to the study topic. The collected data is then analyzed qualitatively, with the aim of describing, explaining, and evaluating existing legal norms and their practice.

The acquisition of this analysis is expected to provide a comprehensive understanding of the legal impact of non-notary PPJB on the guarantee of legal certainty in land purchase and sale transactions. In addition, this research aims to formulate legal solutions in the event of a dispute between non-notary PPJB and notarial PPJB, and between the notarial PPJB itself.

DISCUSSION

Analysis of Research Results

This stage presents the acquisition of studies related to the legal consequences of PPJB (Binding Sale and Purchase Agreement), both non-notary and notary, in the context of land purchase and sale transactions. Based on the analysis in the case study Number 31/Pdt. G/2024/PN Sbr, it was revealed that non-notarial PPJBs often do not have strong enough evidentiary power before the law in the event of a dispute. This is due to its nature, which is only a deed under hand without involving a notary as an authorized public official. Following the provisions of Article 1867 of the Civil Code, a deed under the hand only has binding force for the parties who have signed it, while the level of evidentiary power is not comparable to an authentic deed.⁶

The results of interviews with several parties involved in buying and selling land revealed that the use of non-notary PPJB is still relatively high, primarily due to economic considerations and ease of access. However, when disputes arise, parties with non-notary PPJB often face difficulties in proving the legal validity of the agreement and have the potential to

⁶ Civil Code, Article 1867.

suffer losses. On the other hand, PPJB notarial offers a more stable evidentiary power because it is an authentic deed under Article 1868 of the Civil Code. This condition provides a more optimal juridical guarantee for all parties participating in land trade transactions.⁷

The study's results show that in case Number 31/Pdt. G/2024/PN Sbr, the judge tends to side with the party who has a notary PPJB, which is considered more legally valid. The judge's consideration was based on Article 1338 of the Civil Code, which states that "all agreements made legally have legal force and are binding like a law for the parties who make them."⁸ In addition, the judge also considered the importance of legal certainty in land purchase and sale transactions, especially if the land has a certificate of ownership (SHM), which should begin with a notarial deed.

This section will link the research results to the existing literature and applicable regulations. The study's findings show a significant difference between the legal force of non-notary and notary PPJB. This is in line with previous research that indicates that authentic deeds are said to have perfect evidentiary strength and cannot be denied, unless there is evidence that shows a legal defect in its making (Darmodiharjo, 2015).⁹

Non-notary PPJB is often the basis for lawsuits when a default or dispute occurs. However, the inability to prove the validity of non-notary PPJB usually makes it difficult for the aggrieved party to obtain their rights. This research confirms that PPJB notaries provide more optimal legal certainty in land trading thanks to stronger evidentiary strength as stipulated in Article 1870 of the Civil Code.¹⁰

This difference underscores the importance of public understanding of the legal aspects in making PPJB, especially for all parties who play a role in the land purchase and sale transaction process. Regarding dispute resolution, it is recommended to use a notary PPJB to avoid the potential for prolonged disputes to provide more apparent regulatory certainty. In addition, the use of notarial PPJB can also reduce the risk of unauthorized transfer of rights or misuse of land.¹¹

Finally, this study's findings make a crucial contribution to the development of civil law studies, especially related to land buying and selling. They suggest the government increase socialization on the importance of using PPJB notarial as a preventive step in preventing disputes in the future.

⁷ Civil Code, Article 1868.

⁸ Civil Code, Article 1338.

⁹ Darmodiharjo, Darji. *Introduction to Law*. Jakarta: Rajawali Press, 2015

¹⁰ Civil Code, Article 1870.

¹¹ Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA)

CONCLUSION

As an analysis of the legal consequences of PPJB, both notary and non-notary, on land purchase and sale transactions, it can be concluded that non-notary PPJB has several significant weaknesses, especially related to the strength of legal evidence. The inability of non-notarial PPJB to act as a legal evidence instrument related to civil disputes makes it vulnerable to agreement cancellation and creates legal uncertainty. On the other hand, PPJB in the form of a notary has a stronger evidentiary power as an authentic deed, thus providing a higher level of legal certainty, and is fully recognized as having the power as a valid evidentiary instrument under the provisions of Article 1870 of the Civil Code.

In disputes, as revealed in Case Study Number 31/Pdt. G/2024/PN Sbr, judges tend to give decisions that are more favorable to the party who has a notary PPJB because they are considered to meet the requirements for better legal formalities. This emphasizes the importance of public understanding of legal aspects in preparing PPJB, especially in land purchase and sale transactions that involve significant economic value and have the potential for complex legal conflicts.

Practically, PPJB notarial is highly recommended to minimize the risk of future disputes and provide more optimal legal protection for all parties involved. It is hoped that the government can increase socialization about the importance of notarial PPJB and provide education about the legal risks that may arise from using non-notarial PPJB. In addition, there needs to be a strengthening of regulations related to supervision in land purchase and sale transactions and the empowerment of judicial institutions in resolving disputes pertaining to PPJB, to create better legal certainty.

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