

Legal Consequences of Transferring the Name of Land Certificate on Unpaid Sales

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Abstract

This research examines the legal consequences of the transfer of the name of the land certificate in an unpaid sale and purchase transaction. The purpose of this study is to analyze how the process of transferring land rights can occur even though payment has not been fully implemented, as well as to identify the legal implications arising from incomplete payment in land sale and purchase transactions. Through a normative legal analysis approach, this study concludes that the transfer of land rights that have not been paid in full can lead to legal uncertainty, both in relation to the validity of the transaction and the potential for future property rights disputes. Therefore, stricter regulations and better supervision of land transactions that have not met the full payment requirements are needed. This research is expected to contribute to the development of agrarian law and become the basis for more effective policy recommendations in order to provide legal certainty in the transfer of land rights.

Keywords: transfer of land rights, sale and purchase of land, legal consequences.

Introduction

Land as a natural resource has a very crucial role in people's lives, not only for basic needs but also for economic and social interests (Setia & Harlina, 2022; Luthfi, & Khisni, 2018). In the context of the Indonesian state, the important role of land is reflected in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. As an implementation of this principle, the state through Law No. 5/1960 on Basic Agrarian Principles (UUPA) provides a legal basis for regulating the control and utilization of land in Indonesia.

UUPA emphasizes the importance of land registration as a mechanism to provide legal certainty (Suharto & Supadno, 2023), as stated in Article 19 paragraph (1) of UUPA which stipulates that land registration is carried out by the government to guarantee land rights. This registration system not only confirms who the current land rights owner is, but also provides legal protection to future rights owners. Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Residential Units, and Land Registration also strengthens the sustainability and accuracy of the registration process, by covering a range of technical activities that ensure



that the physical and juridical data of the land are recorded correctly, and provide legal evidence of the status of the land rights.

On the other hand, in the context of land transactions, the law of sale and purchase plays an important role (Maharani, et al., 2023; Sari & Lisdiyono, 2024; Setiawan, et al., 2023; Widjaja & Samsuto, 2024). In accordance with the provisions of Article 1457 Civil Code (KUHPerdata), a sale and purchase is a binding agreement, in which the seller promises to deliver the object (land), and the buyer promises to pay the agreed price. In this case, the principles of land sale and purchase in Indonesia follow the rules of customary law that regulate land transactions in light and cash. The transfer of land rights must also be done in the presence of an authorized official, namely a Land Deed Official (PPAT), who will record and make a Sale and Purchase Deed (AJB) as legal evidence of the transfer of rights.

The Sale and Purchase Deed authorized by PPAT becomes the main evidence in land transactions (Maharani, et al., 2023; Wahyudi, et al., 2022). Not only does it serve as evidence of the transfer of rights, AJB also provides legal protection to both parties, both sellers and buyers, and serves to avoid land rights disputes in the future. In this case, although a land sale and purchase agreement has been reached, the transfer of land rights is only considered valid after full payment of the land price has been made. Therefore, often in practice, before a sale and purchase transaction is carried out, the parties make a Sale and Purchase Bond Agreement (PPJB) as a form of preliminary agreement (Halim, 2022; Prawira, et al., 2023; Dalimunthe & Rizkianti, 2020).

PPJB, although it does not directly transfer land rights, plays an important role in ensuring a smooth transaction. In some cases, the PPJB can be considered as valid evidence of the transfer of rights if the buyer has fulfilled the payment obligation in full and has taken possession of the land object. However, in agreements that are not paid in full, there is a discrepancy between the agreement and the implementation, which has the potential to cause legal problems related to the status of the land rights concerned. Therefore, this research focuses on analyzing the legal consequences arising from the transfer of the name of the land certificate that occurs based on an unpaid sale and purchase agreement, as well as the legal implications that can be caused for the parties involved in the transaction.

The main objective of this study is to analyze and assess the legal impact arising from the transfer of the name of the land certificate in an unpaid sale and purchase transaction. This research aims to identify whether the transfer of land rights carried out in a condition of incomplete payment remains valid according to the law, as well as what are the legal implications faced by the parties involved, both sellers and buyers. Thus, this research is expected to provide insight into more appropriate legal practices and recommendations regarding law enforcement in land sale and purchase transactions that have not been fully paid for.

The hypothesis proposed in this research is that the transfer of the name of a land certificate based on an unpaid sale and purchase transaction will lead to legal uncertainty, both regarding the status of land ownership and the rights associated with the land. In addition, there is potential for legal disputes between sellers and buyers, especially if one party does not fulfill payment obligations in accordance with the agreement that has been made. Therefore, although



there is an administrative transfer on the land certificate, substantially the ownership rights cannot be confirmed to be valid without the payment of the agreed price.

This research makes an important contribution to understanding the legal mechanisms governing the transfer of land rights in the context of unpaid sales and purchases. Theoretically, this research enriches the agrarian law literature by examining legal aspects that are less widely discussed, particularly in relation to the transfer of land certificate names in transactions that do not meet payment requirements. Practically, the results of this research can provide policy recommendations to relevant government agencies, such as the National Land Agency (BPN) and Land Deed Officials (PPAT), to optimize existing regulations in order to provide legal certainty for parties involved in land sale and purchase transactions.

The conceptual framework in this study focuses on analyzing the relationship between three main elements: the transfer of land rights, the unpaid sale and purchase transaction, and the legal implications for the parties involved. First, this research examines the process of land rights transfer based on existing laws and regulations, particularly those stipulated in the UUPA and the Civil Code. Furthermore, the concept of land sale and purchase and the sale and purchase binding agreement (PPJB) become the starting point to analyze the legal status of transactions that have not been fully paid. Finally, this research examines the legal impact of incomplete title transfers, both in terms of property rights and dispute resolution, using a normative legal analysis approach and related jurisprudence.

Literature Review

Legal effect is a concept that refers to the impact caused by a legal action, either in the form of the birth of new rights and obligations or changes in legal conditions (Halipah, et, al., 2023; Salim, 2021). In legal theory, legal consequences can be classified into several types, such as changes in legal status, the formation of legal relationships between the parties involved, or the emergence of sanctions against parties who violate legal provisions (Rahim, 2022). Legal acts, which are actions carried out intentionally by legal subjects, must be accompanied by an explicit will in order to cause legal consequences. Without the will or intention of the party performing the legal act, the consequences that arise cannot be considered as legal consequences that are valid and legally binding. Article 1266 of the Civil Code (KUHPperdata) expressly regulates the legal consequences of default in a reciprocal agreement. This article states that if one party does not fulfill its obligations, the agreement is not automatically canceled. Instead, the cancellation of the agreement must be done through an application to the court, which can give the defaulting party time to fulfill its obligations. Thus, Article 1266 confirms that in the event of default, there is no automatic cancellation of the agreement, but must go through legal procedures regulated in the applicable statutory system. The application of Article 1266 in practice shows the importance of clear legal procedures in determining the legal consequences arising from the non-performance of obligations in the agreement. Although many agreements contain clauses that allow for unilateral cancellation, this is contrary to the legal principle that requires transparent and fair legal procedures. In this case, the legal effect theory provides a basis



that every legal action must go through a legal procedure to achieve the desired legal effect and avoid legal uncertainty that can harm the parties involved in the agreement.

Method

This research uses a normative juridical legal research method, namely research that prioritizes analysis of library materials or secondary data. The sources of legal materials used consist of primary legal materials, namely applicable legislation, court decisions, and related official documents; secondary legal materials in the form of scientific publications such as books, journals, and articles that explore legal issues; and tertiary legal materials such as dictionaries or encyclopedias that provide further explanation of primary and secondary legal materials. The collection of legal materials is carried out by identifying, inventorying, and selecting materials that are relevant and do not conflict with each other. Furthermore, the collected legal materials will be analyzed with a systematic approach to classify and construct an understanding of the legal issues studied. In the analysis process, this research uses legal interpretation techniques, including grammatical, historical, and systematic interpretation, to explore the meaning contained in the text of laws and regulations and understand the legal context behind them.

Legal Consequences of Transferring the Name of Land Certificate on Unpaid Sales

The legal consequences of the transfer of the name of the land certificate on an unpaid sale include several aspects that can affect legal certainty in land sale and purchase transactions in Indonesia. Although a land sale transaction that has not been fully paid for can be considered valid based on the agreement reached between the seller and buyer, the transfer of land rights can only be fully processed after full payment has been made. According to Article 1458 of the Civil Code, a sale and purchase is deemed to take place when both parties agree on the agreed object and price, even though payment and delivery of the object have not yet been made. Therefore, the transfer of land rights that have not been fully paid for-even though valid in the sense of an agreement-can be suspended until the payment obligation is completed, in accordance with the principle stated in Article 612 of the Civil Code.

Government Regulation No. 24 of 1997 jo. Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Residential Units, and Land Registration, which is the implementation of the Basic Agrarian Law (UUPA), confirms that any transfer of land rights, including sale and purchase, must be evidenced by a deed made by an authorized Land Deed Official (PPAT). In this context, PPAT plays an important role in ensuring that the applicable legal procedures are followed correctly, including the obligation not to make a deed of sale and purchase before full payment is made. A Sale and Purchase Deed made by a PPAT provides perfect evidentiary power in accordance with Article 37 of Government Regulation No. 24 of 1997 jo. Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Flat Units, and Land Registration. However, in practice, land sale and purchase transactions that have not been fully paid for often involve a sale and purchase binding agreement (PPJB) that regulates



staged payments, so that the transfer of land rights can be carried out even though the payment has not been completed.

This phenomenon can lead to legal complications, especially in terms of ownership and property rights. For example, if payment is not completed, the ownership status of the land may be questioned and lead to disputes between the buyer and seller. In this case, the aggrieved party, such as the seller who has not received full payment, has the right to file a lawsuit to the court, as stipulated in Articles 1243 and 1244 of the Civil Code which regulate the reimbursement of costs, losses and interest due to default. In addition, the transfer of an unpaid land title certificate can lead to an uncertain situation in terms of ownership claims, especially if one party fails to fulfill its obligations or if the buyer defaults.

Various factors affecting the transfer of outstanding land titles, such as economic factors and flexibility of payments between parties, should also be considered. For example, in the case of a transaction between relatives or a property developer making a phased purchase, there may be an agreement that permits the payment of the land price in stages. However, this flexibility does not diminish the importance of fulfilling the formal requirements in the transfer of land rights, which must be met for land ownership to remain valid and protected. For example, if a sale and purchase transaction is not in front of a PPAT or is not accompanied by a sale and purchase deed, even though it is legal according to customary law, then the transfer of rights can be questioned in the context of legal certainty (Putra, 2020; Antoni, 2024).

In addition, in the case of disputes arising from the transfer of rights that have not been paid in full, the land can only be used by the buyer after all payments have been paid in full. This means that even though the sale and purchase agreement has been executed, if the payment obligation has not been completed, the status of land use can be restricted until the payment is completed. If the buyer does not fulfill the payment obligations in accordance with the agreement, then in accordance with Articles 1234 and 1237 of the Civil Code, the seller can claim compensation for the losses incurred and sue the buyer through the court to resolve this default issue. Overall, the transfer of outstanding land rights can give rise to complex legal issues, which may lead to the cancellation of the transaction, ownership disputes and claims for damages, in accordance with the provisions in the civil law and relevant regulations.

Closing

Conclusion

Based on the results of the research conducted, it can be concluded that the transfer of the name of the land certificate in an unpaid sale and purchase transaction can lead to various legal complications. Although a land sale and purchase agreement that has not been fully paid for can be considered materially valid, the process of transferring land rights that have not met the formal requirements - especially in relation to the repayment of payments - can lead to legal uncertainty. In this context, land titles that are transferred before full payment has been made have the potential to give rise to ownership disputes and claims that are detrimental to the parties involved. The validity of the transfer of rights can be questioned if the procedural formalities stipulated by



legislation, such as the production of a deed of sale and purchase by a PPAT, are not complied with. Therefore, the transfer of land rights that have not been paid for requires more attention to ensure legal certainty and protection of the rights of the parties involved.

Suggestion and Recommendation

In order to optimize the transfer of land rights that have not been paid in full, it is recommended that the National Land Agency (BPN) and Land Deed Officials (PPAT) tighten supervision of land sale and purchase transactions that have not been paid in full. Another recommendation is to clarify the regulations regarding the transfer of land rights in the sale and purchase binding agreement (PPJB), by emphasizing that the registration of the transfer of rights can only be done after the payment is made in accordance with the terms of the agreement. This research also recommends increased education to the public and legal professionals on the importance of fulfilling formal and material requirements in land transactions, in order to avoid potential disputes and ensure the legality of the transfer of legal land rights.

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