



## Legal consequences for the parties of the cancellation of the deed of sale which in the process of making is an unlawful action performed by the PPAT

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### Abstract

Cancellation of the deed of sale and purchase which in the process of making it constitutes an unlawful act committed by the PPAT can cause significant legal consequences for the parties involved. Therefore, the parties need to ensure the validity of the deed made by the PPAT and understand the legal consequences that can arise as a result of cancellation. The purpose of this study is to explain the legal consequences for the parties to the cancellation of the deed of sale and purchase which in the process of making it constitutes an unlawful act committed by the PPAT and to explain the legal basis for canceling the deed of sale and purchase of land due to an unlawful act in the process of making it. The results of the study show that the parties who have carried out land sale and purchase transactions in the canceled deed become invalid and void. As a result of the cancellation of the parties may experience material and immaterial losses. In addition, the parties can be sued civilly by other parties who are harmed by the cancellation of the deed of sale and purchase carried out by the PPAT. Furthermore, a PPAT who commits an unlawful act in making a land sale and purchase deed may be subject to administrative sanctions, such as a written warning, temporary suspension or revocation of permits, as well as criminal sanctions. The legal basis for canceling the sale and purchase deed by the PPAT may include violations of formal requirements, terms of the validity of the agreement, customary law, actions of third parties or pauliana action, and authority specifically provided by law. In case 18/ pdt.g /2021/ Pn.Bna, there is deed against intentional law and negligence committed by the PPAT.

**Keywords:** Deed, result, PPAT

### Introduction

Transferring legal ownership from one party to another requires the use of a deed of sale and purchase. Legal ramifications for all parties may result from canceling a sale and purchase deed. So, it's crucial to know what happens if you break the law while writing a sale and buy deed. Finding out what legal recourse parties affected by the deed's cancellation have can help them prepare for the future [1].

Legal certainty is an important principle in transaction away buy. Cancellation of sale and purchase agreements involving PPAT and acts against the law can disrupt stability and legal certainty in the property industry. By examining the legal consequences of canceling such sale and purchase agreements, this research can provide a better understanding of how to maintain legal certainty in property transactions and overcome problems that may arise [2].

Property buyers generally rely on a sale and purchase deed as legal proof of their ownership. If the cancellation of the deed occurs due to an unlawful act in the making of the deed, the buyer may face significant financial losses. In this context, this research can help identify the legal liability and protection available to buyers who are affected by the cancellation of such a sale and purchase agreement. This can contribute to better consumer protection in property transactions [3].

Property sale and purchase transactions are activities that involve various parties, including the Land Deed Making Officer (PPAT) who acts as an intermediary and the party responsible for drawing up the sale and purchase deed. However, in some cases, there are situations where the

PPAT commits an unlawful act in the process of making a sale and purchase deed. This unlawful act may result in the cancellation of the sale and purchase agreement and result in serious legal consequences for all parties involved [4].

The parties to a real estate transaction are legally bound by the terms of the deed of sale and purchase. The Land Deed Making Officer (PPAT) plays a crucial part in the process of creating a sale and purchase deed as the official with the authority to do so. However, the PPAT may occasionally engage in illegal conduct during the creation of a deed of sale or purchase, rendering the deed null and void.

There are a number of things the PPAT does in practice that could be considered illegal. By not adequately verifying the validity status of documents submitted by related parties, or by failing to carry out the obligation to inform about the risks and legal consequences that may occur, the PPAT violates the legal provisions governing the procedure for making a sale and purchase deed, for example. since the deal has been made [5].

The cancellation of a sale and purchase deed which in the process of making it turns out that there is an element of an illegal act committed by the PPAT has significant legal consequences for the parties involved in the transaction. Buyers and sellers may face substantial financial loss, legal uncertainty, and the inability to exercise property rights acquired through such transactions [6].

Canceling a sale and purchase deed might undermine public trust in the PPAT, who was originally entrusted with this responsibility. The public's faith in the profession and the PPAT can be harmed as a result of this [7].

If the PPAT commits an illegal act during the creation of a sale and purchase deed, the deed can be voided in accordance with the applicable laws and regulations, such as Law Number 30 of 2004 Concerning the Position of Notary Public and Government Regulation Number 37 of 1998 Concerning the Regulations for Implementing Law Number 5 of 1960 Concerning Basic Agrarian Regulations <sup>[8]</sup>.

The cancellation of the PPAT's sale and purchase deed has also been upheld by the courts as an illegal act, therefore there is a legal basis for doing so. The parties concerned in the cancelled deed of sale and purchase might look to these decisions for direction and guidance on the legal ramifications of their acts <sup>[9]</sup>.

The cancellation of the deed of sale and purchase has also been decided by the Banda Aceh High Court, in fact the case has binding legal force through the Supreme Court's cassation decision which upheld the Banda Aceh High Court's decision. The cassation decision with Number 1787 K/Pdt/2022 rejected the appeal of the cassation applicant and upheld the cancellation of the sale and purchase deed No. 57 dated January 23 2019 made by SR as PPAT and the cancellation of the deed of sale and purchase No. 35/2019 dated 7 February 2019 which was also made before SR as PPAT. Cancellation of the two deeds on the basis of elements fraud (*bedrog*) committed by Defendant 1 and the actions of the Defendant has proven at trial based on provision Article 1328 of the Civil Code.

This study aims to explain the legal consequences for the parties to the cancellation of the deed of sale and purchase which in the process of making it is an unlawful act committed by the PPAT and explain the legal basis on which the cancellation of the deed of sale and purchase is carried out by the PPAT as deed against the law.

### Research methods

The research method used is normative legal research method. Study law normative put law as system norm. The main source of normative legal research comes from library data. Legal material study normative consists from material primary law, secondary legal material, and tertiary legal material <sup>[10]</sup>. Secondary data obtained analyzed with use approach qualitative <sup>[11]</sup>.

### Results and conclusion a san

#### 1. Legal consequences for the parties to the cancellation of the sales and purchase deed which in the process of making it constitutes an unlawful act committed by the PPAT

Cancellation of deed of sale and purchase which in the process of making there is an element of unlawful act committed by the parties and before the PPAT can cause significant legal consequences for the parties involved.

- a. First, the parties who have made a land sale and purchase transaction in the canceled deed become invalid and void. In this case, the party that has paid a down payment or a sum of money to another party in the land sale and purchase transaction may lose the right to the money.
- b. Second, the parties may suffer losses material and immaterial consequence cancellation deed of sale. Material losses can be in the form of loss of the investment value of the purchased land loss immaterial

can form loss of legal certainty and the psychological impact of canceling transactions.

- c. Third, the parties can be sued civilly by other parties who are harmed by the cancellation of the deed of sale and purchase made by the PPAT. The aggrieved party can claim compensation for losses suffered as a result of the cancellation of the transaction, such as losses due to loss of investment value, costs that have been incurred for buying and selling transactions, and losses immaterial.
- d. Fourth, a PPAT who commits an unlawful act in making a land sale and purchase deed may be subject to administrative sanctions, such as a written warning, temporary suspension or revocation of permits, as well as criminal sanctions regulated in the Criminal Code (KUHP). In addition, PPATs can also be prosecuted civilly and criminally by parties who are disadvantaged as a result of their unlawful acts.

In the context of cancellation of deed of sale and purchase defects that occur in the community, it is important for the parties to ensure the validity of the deed made by the PPAT, both in terms of the documents required in making the deed, as well as in terms of the quality of the PPAT chosen. This can assist the parties in avoiding the cancellation of a defective sale and purchase deed due to an unlawful act committed by the PPAT <sup>[12]</sup>.

The cancellation of the deed of sale and purchase which is in the process of being made constitutes an unlawful act committed by the parties before the PPAT can cause significant legal consequences for the parties involved. Therefore, the parties need to ensure the validity of the deed made by the PPAT and understand the legal consequences that can arise as a result of canceling a transaction <sup>[13]</sup>.

In addition, in the face of canceling a defective sale and purchase agreement, the parties can try to resolve the problem amicably through mediation or negotiation. Through mediation or negotiation, the parties can find a solution that can meet the interests of each party without having to go through a more complicated and time-consuming court <sup>[14]</sup>.

However, if mediation or negotiations are unsuccessful, the parties can file a civil suit to the court to demand compensation for losses suffered as a result of the cancellation of the defective land sale and purchase transaction <sup>[15]</sup>. In this case, the aggrieved parties need to prepare strong evidence to show that there was an unlawful act by the PPAT, as well as to strengthen the claims for compensation being filed.

In addition, the aggrieved party can also report a PPAT who commits an unlawful act to the Ministry of ATR/BPN. This report can serve as a basis for the Ministry of Agrarian Affairs/BPN to take preventive and repressive actions against PPATs who violate legal provisions and professional ethics <sup>[16]</sup>.

The basis for this complaint is non-compliance with the document requirements of the PPAT involved in the transaction, not ensuring the completeness of the documents required in making the land sale and purchase deed. The submitted documents do not meet the requirements regulated by applicable law, such as land certificates, proof of ownership, and relevant permits. This shows negligence in carrying out its duties as a PPAT.

### Violation of stipulated procedures

PPAT does not comply with the procedures stipulated in the Basic Agrarian Law and its implementing regulations. There are indications that the PPAT has committed acts against the law by not carrying out established procedures, such as verifying documents, examining land rights, and fulfilling other administrative requirements. This violation raises doubts about the legitimacy of the transactions made. PPAT quality and integrity: The PPAT involved does not have sufficient quality and integrity. There is evidence or indication that the PPAT committed an unlawful act by not fulfil obligation the professional.

In in practice, important for PPATs to update their knowledge and skills on a regular basis, attend training and seminars that are appropriate to their fields, and keep abreast of the latest developments in laws and regulations related to making land deeds. This can assist the PPAT in fulfilling its duties professionally and avoiding violations of legal provisions and professional ethics<sup>[17]</sup>.

Cancellation of deed of sale and purchase which in the process of making there is an element of unlawful act committed by the parties before the PPAT can cause significant legal consequences for the parties involved. Therefore, the parties need to ensure the validity of the deed made by the PPAT and understand the legal consequences that can arise as a result of canceling a transaction. In addition, PPATs need to update their knowledge and skills regularly, and there is strict supervision and accountability for PPAT performance to prevent violations of legal provisions in making land deeds<sup>[18]</sup>.

In order to minimize the cancellation of defective land sale and purchase agreements, the government has also made various efforts to monitor and improve the quality of PPAT performance. One of the efforts made is to implement the PPAT Performance Monitoring and Control System through the PPAT information system (SIPPAT) which is integrated with the National Land Information System (SINTAN) managed by the Ministry of ATR/BPN.

SIPPAT is a web-based application that is used by PPAT to input land transaction data and print the documents needed in making land deeds. With the existence of SIPPAT, the Ministry of ATR/BPN can supervise and monitor the performance of PPATs and ensure that PPATs comply with legal provisions and professional ethics in carrying out their duties.

In addition, the government has also issued various regulations related to making land deeds, such as Government Regulation Number 37 of 1998 concerning PPAT and ATR/BPN Ministry Regulation Number 8 of 2016 concerning Minimum Service Standards in the Land Sector. These regulations aim to improve the quality of the PPAT's performance and ensure that the PPAT meets the stipulated requirements to be able to carry out their duties properly<sup>[19]</sup>.

In the event of cancellation of the deed of sale and purchase of defective land, the parties can use their right to file a civil lawsuit to claim compensation to the court. A lawsuit for compensation is filed by proving that there was an unlawful act committed by the parties in the process of making the deed. The lawsuit for unlawful acts is based on the provisions of Article 1365 of the Civil Code, which must contain an element in that article mistakes and losses suffered by the plaintiff.

Cancellation of deed of sale and purchase of defective land can cause significant legal consequences for the parties involved. Therefore, it is important for the parties to ensure the validity of the sale and purchase deed made by the PPAT and choose a PPAT that has a valid permit and meets the requirements as a PPAT. In addition, the government has also made various efforts to monitor and improve the quality of PPAT performance, such as through the SIPPAT application and the application of regulations related to making land deeds. In dealing with disputes or cancellation of land sale and purchase transactions, the parties may also consider using alternative dispute resolution services such as mediation or arbitration.

### The legal basis that forms the basis for canceling the sale and purchase deed made by the PPAT as an unlawful act

The rules and regulations governing the creation of a sale and purchase deed, as well as judicial rulings that decide the cancellation of the deed, provide the legal basis for the Land Deed Deed Official (PPAT) to cancel a deed as an unlawful act<sup>[20]</sup>.

When a land sale or purchase deed is made that contains an illegal provision, PPAT bears full responsibility under the law. Administrative sanctions in the form of written warnings, temporary suspension, or revocation of permits, as well as criminal sanctions regulated in the Criminal Code, are available to PPATs who commit acts against the law, as stated in Article 10 paragraph (3) of Government Regulation Number 24 of 2016 concerning Position Regulations for Officials for Making Land Deeds (KUHP)<sup>[21]</sup>.

"Dishonorable discharge under subparagraph (1) letter b for the following reasons: a. significant violation of the prohibition or obligation as a PPAT; and/or b. incarceration as a result of a late court decision based on the strength of the legislation still in effect. Since criminal convictions carry mandatory minimum sentences of five (5) years in prison".

The serious violation referred to is contained in the elucidation of Article 10 paragraph (3) which is meant by a serious violation, among others:

1. First, I assist in the commission of agreement crimes that lead to land disputes or conflicts; Second, I make deeds as part of a conspiracy that leads to land disputes or conflicts; Third, I make deeds outside of his keda's territory unless the deed involves an expansion of a district or city, a division of a province, an exchange of property, admission to a corporation, or the division of multiple land rights or ownership rights to flats that are located in different regions.
2. The deed contains false information that causes a dispute over the property;
3. Establish a satellite or representative office, either inside or outside the main office;
4. violating the PPAT's oath of office;
5. Seven. Draft a PPAT deed in the absence of the parties;
6. Create land deed/property rights on dwelling units Put things in order Arguments remain;
7. The paras party did not hear PPAT recite the document he had just signed;
8. PPAT makes a deed in the presence of those who have the authority to take legal action in accordance with the deed; and/or

9. When the PPAT is on leave, suspension, or honorable dismissal, it is committing an act.

In addition, the PPAT can also be sued civilly by the party that is harmed by the unlawful act. The aggrieved party may claim compensation for the loss material and immaterial suffered, and can ask for the cancellation of the deed made by the PPAT that violates legal provisions.

Related to the PPAT who committed an unlawful act can be seen from the decision Number 18/ Pdt.G / 2021/ PN.Bna in which the PPAT case became co-defendant because he was accused of being involved in a conspiracy between other defendants to deceive the PPAT plaintiff accused of persuading and seducing the plaintiff with lying words to hand over land certificates to other defendants. As a result, a deed of sale and purchase of the plaintiff's land was made without the knowledge of the plaintiff. However in fact, the contract for purchase and sale was not signed in the presence of PPAT. The PPAT must be present during the deed's preparation and reading in order for the deed to be valid under the rules. The plaintiff's land certificate has the wrong name because the PPAT made a mistake. As a public servant, the PPAT has a responsibility to act ethically and in accordance with applicable laws and rules.

This exhibition is organized in accordance with "Article 21 paragraph (3) of Government Regulation No. 37 of 1998 concerning Regulations for the Position of Officials for Making Land Deeds, in conjunction with Government Regulation No. 24 of 2016 concerning Amendments to Government Regulation No. 37 of 1998 concerning Regulations for the Position of Officials for Making Land Deeds, and with Article 1 point 5 of Government Regulation No. 24 of 2016 concerning Amendments to Government Regulation No. 37 of 1998 concerning Regulations for the Position of Officials for Making Land Deeds." PPAT Protocol is a collection of documents that must be stored and maintained by PPAT consisting of a list of deeds, deed original, warkah supporters deed, archive reports, agendas and other letters. Based on chapter Accordingly, a PPAT is required to keep documents that are a PPAT protocol, where one of the documents in question is the original deed.

The violation of the objective rights of others is a contributing factor, in addition to the violation of these obligations. The loss of a deed of sale and purchase, which is part of the PPAT protocol and is considered state archives, can result in administrative sanctions and does not preclude the possibility of a civil lawsuit from the aggrieved parties. When investigating a PPAT error, it is important to determine if the mistake took the form of a simple oversight or an intentional attempt to circumvent the law (onrechtmatige bye). Per Article 12(2) A land grant shall be made in line with the provisions of Regulation No. 2 of 2018 on the Guidance and Supervision of Officials in Making Land Deeds issued by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia. A PPAT who violates the terms of Article 12 paragraph (2) may get a written warning, be suspended, be terminated with honor or be discharged with dishonor.

According to Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, the transfer of land rights requires a valid deed made by a public official known as the Land Deed Making Officer (PPAT). However, this does not preclude the

application of customary law requirements. As a result, it is impossible to complete a property transfer if the necessary conditions set forth by the relevant laws and regulations are not met.

According to the Indonesian Civil Code, there are various grounds for terminating a contract. You indicated earlier that these causes fall into one of five categories. A breach of the formal criteria or the legal provisions of the agreement can result in the PPAT canceling the deed of sale and purchase. A contract may be defective or rescinded if it lacks the subjective elements necessary for its validity, such as mutual assent and the parties' capacity to enforce their rights in court.

There are various valid legal arguments that can be used to invalidate the PPAT's sale and purchase agreement. For the PPAT to cancel the sale and buy agreement, it must have one of the following legal grounds:

#### **1. Violation of formal requirements**

If in the process of making a sale and purchase deed there is a violation of the formal requirements specified in laws and regulations, for example the absence of the required documents or proper procedures are not carried out, then the sale and purchase deed can be cancelled. The legal basis for annulment based on a violation of these formal requirements can be found in the laws and regulations governing the procedure for drawing up a PPAT deed.

#### **2. Violation of the legal terms of the agreement**

Cancellation of the sale and purchase deed can also be based on violation of the terms of the legal agreement. For example, if there is a deficiency in the agreement of the parties or the ability of the parties to take legal action as stipulated in Article 1320 of the Civil Code. If the legal terms of the agreement are not met, then the sale and purchase deed can be cancelled.

#### **3. Cancellation based on customary law**

Although laws and regulations regulate the requirements for making a sale and purchase deed by the PPAT, it does not rule out the provisions that apply in customary law. In some cases, customary law can become the legal basis for canceling a sale and purchase deed. If there is a violation of customs or procedures that are recognized in an indigenous community, then the sale and purchase deed can be canceled based on the customary law in force in that area.

#### **4. Cancellation on the basis of third party action or pauliana action**

Cancellation of the sale and purchase agreement can also be made if there is a third party action that violates the rights of other parties or results in losses. For example, if there is a Paulinian action (pauliana action) where a third party involved in the transaction has malicious intent or takes an action that is detrimental to the other party, then the sale and purchase deed can be cancelled.

#### **5. Cancellation based on special authority granted by law**

Sometimes, the cancellation of a sale and purchase deed can be done by a party that is given special authority based on law. For example, certain institutions or authorities that have the authority to supervise or regulate property

transactions can cancel the sale and purchase agreement if there is a violation or non-compliance with the applicable provisions.

It is important to note that the legal basis for canceling a sale and purchase agreement by a PPAT may vary depending on the applicable laws and regulations and the specific context of the case. Therefore, if you are interested in this topic, it is better to refer to the applicable laws and regulations and relevant research in the field of property law to gain a more comprehensive understanding.

Based on the case that was decided at the Banda Aceh district court regarding the cancellation of the deed in decision Number 18/ Pdt.G /2021/ PN.Bna The intentional unlawful act seen in this case is the process of transferring the name carried out by Defendant IV at the Land Office of Banda City Aceh over the certificate of ownership belonging to the Plaintiff. This process was carried out without the Plaintiff's knowledge or consent, by changing the name of the certificate owner from Plaintiff I to Defendant I and Defendant II. This action can be considered against the law because it is done intentionally with the aim of changing the ownership of land rights without a valid permit or approval.

On the other hand, there was also negligence by the PPAT in this case. The PPAT was considered negligent because it did not carry out a careful examination of the deeds that had been wrong from the start. This negligence means that the PPAT does not carry out its obligations to carry out thorough examination and verification of the documents it handles. As a result of this negligence, the errors in the deed continued and resulted in losses for the Plaintiff.

The negligence committed by the PPAT in this case is related to the precautionary principle attached to a PPAT. The principle of prudence requires a PPAT to act carefully, conscientiously and prudently in carrying out his duties as an official responsible for making land deeds. In this case, the PPAT does not fulfill this obligation, resulting in losses for the plaintiff

### Closing

### Conclusion

Cancellation of a deed of sale or purchase of defective land, which in the process of making it constitutes an unlawful act committed by the PPAT, may have serious legal ramifications for the parties to the transaction. In the first place, the land sale and purchase agreement in the voided deed is null and void as to the parties involved. Second, harm to the parties is possible. repercussions, both material and abstract cancellation Third, the PPAT's cancellation of the sale and purchase agreement could subject the parties to civil prosecution by third parties who were harmed by the cancellation. criminal consequences as outlined in the Criminal Code (KUHP), including interim revocation or license revocation.

The PPAT can nullify the sale and purchase contract for any of the following reasons: failure to meet the formal requirements; breach of the agreement's validity provisions; application of customary law; the intervention of a third party; pauliana action; or the exercise of special authority conferred by law. Two deliberate illegal acts and negligence were found by the PPAT in their judgement number 18/ pdt.g /2021/ Pn.Bna. By renaming the certificate holders from Plaintiff I to Defendant I and Defendant II at the Land Office of Banda Aceh City without Plaintiff I's agreement or

knowledge, Defendant IV committed a purposeful unlawful act. Specifically, this concerns Article 1320 of the Civil Code (KUHPerdata): Article This indicates that in order for a contract to be enforceable, it must have the consent of the appropriate parties, a defined purpose, and a legitimate reason for being entered into.

### Suggestion

It is suggested to the government to increase transparency and accountability in the process of making land deeds, including by developing an effective land registration system and integrating data between the Ministry of Agrarian Affairs/BPN and other relevant agencies

It is recommended to law enforcers Strengthen coordination between law enforcement agencies involved in handling cases of unlawful acts by parties and involving PPATs, such as the police, prosecutors and courts.

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