



## The legal responsibility of the land deed official (ppat) for the sale and purchase deed annulled by the court: A case analysis of decision no. 3/pdt.g/2023/pn bna

M Agung Dewantara<sup>1</sup>, Ria Fitri<sup>2</sup>, Sri Walny Rahayu<sup>2</sup>

<sup>1</sup> Master's of Notary, Faculty of Law, Universitas Syiah Kuala, Banda Aceh, Indonesia.

<sup>2</sup> Faculty of Law, Universitas Syiah Kuala, Banda Aceh, Indonesia.

### Abstract

This study investigates the legal responsibilities of Land Deed Officials (Pejabat Pembuat Akta Tanah or PPAT) for sale and purchase deeds that are later annulled by court decisions. The role of PPAT is critical in ensuring legal certainty in land transactions, as their deeds serve as authentic evidence of the parties' legal actions and intentions. However, issues arise when a PPAT fails to exercise proper diligence, such as by not verifying the legal status of the land or the authority of the parties involved. This research focuses on Decision No. 3/Pdt.G/2023/PN Bna, where a PPAT issued deeds for the sale of inherited land that had not been formally transferred to the seller, resulting in the annulment of those deeds.

Using a normative juridical approach supported by case analysis, this paper examines the administrative, civil, and criminal liabilities that may arise from a PPAT's misconduct or negligence. It applies the theories of fautes personnelles and fautes de services to understand the scope of personal versus institutional accountability. The findings reveal that PPATs who fail to perform their duties with prudence and in accordance with applicable regulations may face multiple forms of legal consequences. This highlights the importance of strict adherence to procedural standards, ethical obligations, and legal verification processes in protecting the rights of parties and ensuring the integrity of land registration systems.

**Keywords:** PPAT, legal responsibility, land deed, sale and purchase deed, court annulment, administrative sanctions, civil liability, criminal liability, fautes personnelles, fautes de services

### Introduction

The role of a Land Deed Official (PPAT) is central in the formalization of land transactions in Indonesia. As legally appointed public officials, PPATs are authorized to draft authentic deeds related to the transfer and encumbrance of land rights. Their deeds serve not only as proof of legal acts but also as administrative tools for registering changes in land ownership at the National Land Agency (BPN). Given this pivotal role, the accuracy, legality, and validity of PPAT-issued deeds are critical for upholding legal certainty and protecting parties involved in property transactions.

However, legal problems may arise when a PPAT issues a deed that does not comply with the material and formal requirements established by law. Such violations may stem from procedural lapses, failure to verify the identity and legal standing of parties, or neglect in confirming the legal status of the land being transacted. When these deeds are later annulled by court decisions due to legal defects, the accountability of the PPAT becomes a subject of legal and ethical evaluation.

The complexity of a PPAT's responsibilities lies in the intersection of administrative obligations, civil duties, and potential criminal liability. This paper seeks to address the following questions: What are the forms of legal responsibility of a PPAT when a deed they issue is annulled by the court? How are these responsibilities regulated and enforced under Indonesian law? What legal theories guide the attribution of responsibility to a PPAT?

To answer these questions, this paper analyzes Decision No. 3/Pdt.G/2023/PN Bna, where a PPAT (as Co-Defendant II) issued sale and purchase deeds over inherited land that had not been properly transferred to the sellers, thereby

rendering the transaction void. Through this case, the research reveals how a PPAT may be liable not only administratively for procedural breaches but also civilly and criminally, depending on the severity and impact of the violation.

### Methodology

This research applies a normative juridical approach, relying on primary legal materials such as statutory regulations, court decisions, and academic legal doctrines. A case study method is utilized to analyze Decision No. 3/Pdt.G/2023/PN Bna, supported by qualitative analysis of legal texts including the Indonesian Civil Code (KUHPerdata), Criminal Code (KUHP), Government Regulation No. 24 of 1997, and Ministerial Regulation No. 2 of 2018.

### Research Findings and Discussion

#### 1. Legal Status and Obligations of PPAT

A PPAT is a public official authorized to make authentic deeds concerning land transactions, including sale and purchase, inheritance transfers, donations, and mortgages. As stated in Article 37 of Government Regulation No. 24 of 1997 on Land Registration, any legal transfer of land rights must be proven by a deed made by a PPAT. While the law does not explicitly use the term "authentic deed," the requirements for such deeds align with the concept of authenticity—proper parties, object legality, presence of witnesses, and adherence to prescribed procedures.

The PPAT must ensure that:

- All parties are legally competent and authorized to act;
- The object (land or property) is clear, identifiable, and legally transferable;

- All supporting documents are valid and verified;
- The procedure follows the provisions of prevailing regulations, including reading the deed aloud, recording attendance, and registering the deed post-signing.

Neglecting any of these duties could result in the deed being deemed materially or formally defective, opening the possibility for annulment.

## 2. Case Study: Decision No. 3/Pdt.G/2023/PN Bna

In this landmark case, the Banda Aceh District Court annulled several PPAT-issued sale and purchase deeds upon finding that the land was part of a disputed inheritance and had not been lawfully transferred to the sellers. The PPAT failed to verify the status of the land and the legal standing of the parties involved, leading to the sale of property by unauthorized individuals.

This failure constitutes not only procedural negligence (maladministration) but also a breach of the prudential principle embedded in land law. As a result, the deeds were declared null and void, and the PPAT was held accountable. The court's ruling reinforces the principle that an authentic deed does not carry absolute legal force if it is made in violation of substantive and procedural legal norms.

## 3. Forms of PPAT Responsibility

### a. Administrative Responsibility

PPATs may face administrative sanctions under Government Regulation No. 24 of 1997 and Ministerial Regulation No. 2 of 2018. These include:

- Written warnings;
- Temporary suspension;
- Permanent dismissal.

The enforcement process involves monitoring by the Regional Land Office and the National Land Agency (BPN), as well as oversight by the Supervisory Council (MPPD/MPPWP) in coordination with the Indonesian PPAT Association (IPPAT). Reports of misconduct may originate from internal audits or public complaints and can be followed by investigations and formal disciplinary actions.

### b. Civil Responsibility

PPATs may also be held civilly liable under Article 1365 of the Civil Code for unlawful acts. If the PPAT's actions cause damage—such as the transfer of land to a buyer without legal title—then affected parties (e.g., heirs or buyers) may sue for compensation. The element of fault can arise from either negligence or intent, and liability exists if there is a causal relationship between the PPAT's conduct and the harm suffered.

### c. Criminal Responsibility

If the PPAT is found to have engaged in falsification or willful misconduct, they may be charged under Article 263 (general document forgery) or Article 264 (forgery of authentic deeds) of the Criminal Code. Penalties include imprisonment of up to eight years. For example, if the PPAT knowingly backdates a deed or facilitates a fraudulent transaction, criminal liability may be imposed in addition to administrative and civil sanctions.

## 4 Theoretical Framework: Fautes Personnelles and Fautes de Services

These French administrative law theories help assess public officials' responsibilities.

- Under *fautes personnelles*, the liability lies with the individual official for personal misconduct or negligence. In the present case, the PPAT's failure to verify inheritance rights constitutes such a personal fault.
- Under *fautes de services*, the failure is attributed to the institution or official role. Here, the argument is that the system or administrative function failed, rather than the individual acting with intent.

In practice, both theories can apply concurrently. The court may determine that the PPAT's individual negligence caused the harm (*fautes personnelles*) while also recognizing systemic failures (*fautes de services*) that allowed such malpractice to occur.

## Conclusion

This study concludes that PPAT hold a multidimensional responsibility in preparing authentic deeds, encompassing administrative, civil, and criminal domains. Failure to fulfill procedural and material requirements not only undermines the deed's legal validity but also exposes the PPAT to severe consequences. The case analyzed provides a cautionary example of the repercussions when a PPAT neglects the prudential principle central to their duties. It reinforces the importance of supervision by the National Land Agency (BPN) and the relevance of ethical compliance through the Indonesian PPAT Association (IPPAT). Ultimately, a PPAT is not merely a registrar of transactions but a legal professional entrusted with upholding the integrity of land law.

## References

1. AP Parlindungan, *Land Registration in Indonesia eBased on Government Regulation Number 24 of 1997*, Bandung: Mandar Maju, 1999.
2. A Pitlo, *Evidence, Statute of Limitations*, translated by M. Isa Arief, Jakarta: Intermasa, 2016.
3. Abdul Ghofur Anshori, *The Institution of Notary and PPAT in Indonesia: Legal and Ethical Perspectives*, Yogyakarta: UII Press, 2009.
4. Abdul Kadir Muhammad, *Law of Obligations, Second Edition*, Bandung: Citra Aditya Bakti, 2014.
5. Akur Nurasa, *Guidelines for Drafting Land Deeds*, Yogyakarta: STPN Press, 2020.
6. Anita Afriana, "The Position and Responsibility of a Notary as a Party in Civil Dispute Resolution in Indonesia Related to the Deeds They Create," *Jurnal Poros Hukum Padjadjaran*, 2020:1(2).
7. Law Number 5 of 1960 concerning Basic Agrarian Principles (Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria).
8. Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land (Undang-Undang Nomor 4 Tahun 1996 tentang Hak Tanggungan Atas Tanah).
9. Law Number 1 of 1974 concerning Marriage (Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan).
10. Law Number 20 of 2011 concerning Apartments (Undang-Undang Nomor 20 Tahun 2011 tentang

- Rumah Susun).
11. Decree of the Minister of Housing Affairs Number 09/KPTS/M/1995 concerning Guidelines for the Sale and Purchase Agreement of Houses (Keputusan Menteri Negara Perumahan Rakyat Nomor 09/KPTS/M/1995 tentang Pedoman Pengikatan Jual Beli Rumah).
  12. Government Regulation Number 24 of 1997 concerning Land Registration (Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah).
  13. Government Regulation Number 37 of 1998 concerning the Regulation of the Office of Land Deed Official (Peraturan Pemerintah Nomor 37 Tahun 1998 tentang Peraturan Jabatan Pejabat Pembuat Akta Tanah).
  14. Government Regulation Number 24 of 2016 concerning the Amendment to Government Regulation Number 37 of 1998 concerning the Regulation of the Office of Land Deed Official (Peraturan Pemerintah Nomor 24 Tahun 2016 tentang Perubahan atas Peraturan Pemerintah Nomor 37 Tahun 1998 tentang Peraturan Jabatan Pejabat Pembuat Akta Tanah).
  15. Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 3 of 1997 (Peraturan Menteri ATR/BPN Nomor 3 Tahun 1997).
  16. Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 2 of 2018 concerning Guidance and Supervision of Land Deed Officials (Peraturan Menteri ATR/BPN Nomor 2 Tahun 2018 tentang Pembinaan dan Pengawasan Pejabat Pembuat Akta Tanah).