



Legal Consequences of the Deed of Sale by PPAT Containing Non Actual Transaction Price

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Abstract

The transfer of rights to land and buildings is legally made in the Sale and Purchase Deed (AJB), in the Sale and Purchase Deed (AJB) must also contain the actual price of the sale and purchase transaction, but the fact there are many people influence the PPAT to be able to help make prices / the value of buying and selling transactions in the Sale and Purchase Deed (AJB) is lower and non actual price, this is to avoid the high price of buying and selling tax, this is of course very contrary to the Perka BPN 1/2006, with the existence of such fraud will certainly be a problem for the parties and also for PPAT who makes the Deed of Sale and Purchase (AJB) at a later date. The focus of the problem in this study is how the legal consequences of the act of Land Purchase Deed (AJB) Land by the Land Deed Making Official (PPAT) which contains the value of the transaction that is not actually. The research method used in this paper is sociological juridical and this research is analytical descriptive. From the results of the research, it can be concluded that the PPAT that made AJB with containing the transaction value that was not actually violated the rules of the law, especially violated PPAT profession code of ethics and will be penalized.

Keywords: Legal Consequences; Deed; Buy And Sell; PPAT

Background of Research

Since the entry into force of the Basic Agrarian Law (UUPA) No. 5 of 1960 concerning Basic Regulations on Agrarian Principles, the notion of buying and selling land is no longer an agreement as in Article 1457 jo 1458 of the Indonesian Civil Code, but rather a legal act of transfer of rights for ever and ever, in cash and then subsequently regulated in the Implementing Regulations, namely PP No. 10 of 1961 that has been renewed by Government Regulation Number 24 of 1997, regarding Land Registration, which stipulates that the sale of land must be proven by a deed made by and in front of the Land Drafting Officer (PPAT), as based on Article 37 paragraph (1) PP No. 24/1997.

The sale of land rights is carried out in front of the Land Deed Making Officer (PPAT) as proof that there has been a sale and purchase of land rights and subsequently the Land Deed Making Officer

(PPAT) makes the Deed of Purchase which is then followed by registration at the local Land Office in accordance with the location of the land.

The transfer of rights to land and buildings made in the Sale and Purchase Act (AJB) contains the actual price / transaction value, but if the transaction price is lower than the NJOP (sales value set by the government) then the NJOP (sales value set by the government) value is used, this is in accordance with the regulations in the Regional Regulation of Padang City Number 1 of 2011 concerning the Obligation to Obtain Rights to Land and Buildings Chapter III Article 5 paragraph 3.

from the act of buying and selling, there are some taxes that must be paid by the buyer and seller, namely income tax for the seller and land acquisition tax for the buyer, which has been regulated in government regulations. The government has determined the value of the taxes that must be paid but sometimes the cost of those taxes is too high if the parties / clients put the actual price, because in reality, on the other hand the parties / clients do not want to put the actual price because if they put the price of the transaction actually they will pay very high taxes. therefore, the parties / clients put an incorrect transaction price in the Sale and Purchase Deed (AJB) made by the Land Deed Making Officer (PPAT) in order to pay lower taxes

PPAT can avoid if there are parties / clients who want to include transaction values that are not true, because it involves the code of ethics and the responsibility of PPAT itself as a public official. The PPAT in making land sale deeds as authentic deeds should follow the procedures for making the PPAT deed as determined by laws and regulations. Making the deed of sale which should aim to provide legal certainty, but does not contain formal truth, can cause problems later on and has legal consequences for the parties and also PPAT.

Research Methods

The method used in this thesis research is empirical juridical research, which is research based on field research to get primary data in the field of law. The specifications of this study are descriptive analysts, because this study is expected to obtain data that clearly illustrate what is discussed in this study. The type of data used in this study are primary and secondary data, where secondary data consists of Primary, Secondary and Tertiary Legal Materials. The data collection techniques used for research in the field are interviews and study of documentation documents. While the data obtained from this research will be analyzed using qualitative methods, namely analysis of data without using statistical formulas because the data used are not in the form of numbers. Thus what is used is only by logical explanation of the sentence based on the rules and opinions of experts.

Result of Reasearch and Discussion

Deed of sale of land made by PPAT an authentic deed, to be known as an authentic deed a deed must meet certain requirements set by the laws or regulations. A deed basically has a variety of functions with regard to legal action, including the function of determining the validity of the sale and purchase deed itself.

According to Mochammad Dja'is and RMJ Koosmargono, the deed is seen from its function to determine the complete or perfect (not legal) of a legal act, or the requirements for the establishment and

function as evidence. In terms of its function as evidence, an authentic deed has the power of perfect proof (only one proof is sufficient as a basis for the decision of the case, the authentic deed is assumed to be true and the party who denied it is burdened to prove the truth of the rebuttal).

The provisions for the PPAT deed must be fulfilled, among others, contained in Government Regulation of the Republic of Indonesia Number 37 of 1998 Concerning Regulation of Position of Acting Officer for Land Deed, Government Regulation No. 24 of 1997 concerning Land Registration, Minister of Agrarian Affairs / Head of National Land Agency Regulation of the Minister of Agrarian Affairs / Head of National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 Concerning Land Registration jo Regulation of Head of National Land Agency Republic of Indonesia Number 1 Year 2006 Regarding Provisions for Implementing Government Regulation Number 37 of 1998 Concerning Position of Acting Officer for Land Deed, Government Regulation Number 71 of 2008 concerning Third Amendment to Government Regulation Number 48 of 1994 concerning Payment of Income Taxes on Income from Transfer of Land and / or Building Rights and Law Number 20 of 2000 concerning Amendment to Law Number 21 of 1997 concerning Fees for Obtaining Land Rights.

The legal consequences of the deed of sale of land made by the PPAT that contains the value of the transaction is not true, in this case the value of the transaction price stated in the sale and purchase deed is different from the actual transaction value, then in this case the transaction value is smaller than the transaction value actually, that is based on the Tax Object Sales Value (NJOP) not from the transaction price, so the tax to be paid is smaller than if it was paid based on the actual transaction value.

As a result of the violation, the PPAT deed was legally degraded and in its proof it became a deed under the hand, because it did not meet the requirements specified by the laws and / or regulations and provisions mentioned above. Administrative sanctions will be imposed on PPAT for intentional errors in making the deed of sale, by reviewing the extent of violations or negligence, there are 4 disciplinary penalties in the form of administrative sanctions namely:

1. Oral reprimands;
2. Written warning;
3. Temporary dismissal from the position as PPAT / PPAT while ranging from one month to six months;
4. Disrespectful dismissal from the position as PPAT

Land Deed Making Official (PPAT) if they do not know the actual transaction price stated by the parties, in this case the parties lie to PPAT regarding the actual transaction price, therefore PPAT cannot be held liable for criminal liability related to the making of the deed based on false statements by the parties, and cannot fulfill the formulation of the element of falsified criminal acts in Article 266 paragraph (1) juncto Article 55 paragraph (1) of the Criminal Code.

Conclusion

Legal Consequences for PPAT in the act of Sale and Purchase Deed (AJB) by PPAT which contains the value of the transaction that is not actually a legal act that is very illegal and violates the code of conduct of the Association of Land Deed Making Officials (IPPAT), and may be subject to sanctions

by termination disrespect because the PPAT is included in the type of serious violation, as stipulated in Article 28 paragraph 4 letter d. The legal consequence of the deed being degraded deed in the proof of being a deed under the hand, the deed is still valid, but what is harmed is the state revenue tax / tax. Another case if PPAT PPAT not know about it or because the parties / clients lie then PPAT can not legally convicted.

References

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