



## Juridical Analysis of Buying and Selling Land without Going through a Land Deed Official (PPAT) for Communities in Jayapura Regency

Daniel Tanati

Faculty of Law, University Cenderawasih, Papua, Indonesia

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### **Abstract**

Land sale and purchase transactions in Jayapura Regency that do not involve Land Deed Officials (PPAT) are still often carried out because they are considered easier and cheaper. This study aims to determine whether the transaction is lawful and how legal protection is for the buyer in the transaction. This study uses empirical juridical methods by direct observation of the problems studied. From the research that has been done, land buying and selling transactions without involving the PPAT are still recognized and valid according to law if they are carried out before the village head or lurah, fulfill material requirements, and are carried out openly. To ensure legal certainty for the buyer, the seller and the buyer must come to the sub-district office to make an agreement regarding the land to be sold, the object must be clear, the location and size must also be clear. The sub-district head and his apparatus will act as witnesses and after the land has been measured, the data will be recorded in a special village/lurah book and the witnesses also sign the statement of land sale and purchase that has been agreed upon by the parties.

**Keywords:** *Sale and Purchase; Land; Without PPAT; Jayapura Regency*

### **Introduction**

Land plays a very vital role in human life because humans cannot be separated from land. They live above the ground and obtain food sources from the earth. The history of human civilization is also influenced by land. Land issues can trigger conflicts and even wars between people or nations in an effort to control other people's land because of the natural wealth contained therein. Humans will live happily and prosperously if they can use the land that they own or control by following the rules of nature that apply. In addition, humans will live in peace and tranquility if they fulfill their rights and obligations regulated by the laws that apply in society.<sup>1</sup>

Article 28D paragraph (1) of the 1945 Constitution states that every individual has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law. The UUPA requires the government to carry out land registration throughout the territory of the Republic of Indonesia to guarantee legal certainty in accordance with the provisions stipulated in statutory

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<sup>1</sup> G.Kartasapoetra, *Hukum Tanah*, PT. Bhineka Cipta, Jakarta, 1991, hlm.1.

regulations.<sup>2</sup>

Buying and selling transactions are activities that commonly occur in the world of economics and trade. Buying and selling activities are considered as an important aspect of business because they deal directly with consumers. In terms of terminology, buying and selling is defined as the exchange of goods or services with equal compensation. Therefore, if you want to buy and sell land, it should be done before the Land Deed Official (PPAT) in order to obtain legal certainty and protection of land ownership rights and other related rights. It also aims to make it easier for right-holders to prove their ownership and to guarantee orderly land administration.

Validity is a very important topic for evaluating the status of a government or governmental authority. The authority is considered valid if there is a general belief that the authority is in line with or in accordance with the accepted rules. That is, the existence of such authority is based on something that is generally accepted as justification. According to the legal dictionary, validity means that it applies according to existing regulations or laws.

Trading transactions are activities that commonly occur in the world of economics and business. Buying and selling is considered a key element in business activities because it involves a direct relationship with consumers. In terminology, buying and selling refers to the exchange of goods or services for financial compensation or other benefits. A sale and purchase transaction is a process of transferring ownership of goods or assets to another party using money as a means of payment. Actually, buying and selling are two words that have different meanings but are used together to emphasize their function. In this process, there are two parties, namely the seller and the buyer. Sellers are individuals or groups who issue goods or property for sale and purchase, while buyers are individuals or groups who seek to obtain goods or property by paying the seller.

Currently, there are still many people who carry out land buying and selling transactions unofficially, such as in the Jayapura Regency area. Several people there did not understand the role of the notary in the transaction. Unofficial land buying and selling transactions are preferred by traditional communities who lack adequate education. They carry out the buying and selling process in cash and instant. However, for sale and purchase transactions of immovable objects such as land or buildings, a Sale and Purchase Deed (AJB) is required as legal evidence. Unfortunately, people in Jayapura Regency still carry out land sale and purchase transactions without processing a PPAT deed.

### **Method**

This research method is empirical juridical, by directly looking at the conditions in the field according to the problems examined by the author.

### **Result and Discussions**

The legitimacy of land buying and selling transactions can be viewed from the perspective of laws and government regulations. A land sale and purchase transaction is considered valid if it is carried out before a Land Deed Official or through an authentic deed legalized by an authorized official. A sale and purchase agreement is an agreement in which one party hands over property rights to an item to another party who will pay a sum of money as the price.

Land sale and purchase transactions need to be carried out in the presence of the Land Deed Making Officer (PPAT). This aims to provide legal certainty and legal protection for parties who have certain land rights, as well as other registered rights so that they can easily prove themselves as the owner

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<sup>2</sup> Boedi Harsono, *Hukum Agraria Indonesia, Himpunan Peraturan-Peraturan Hukum Tanah*, Djambatan, Jakarta, 2002, hlm 122

of the rights in question. In addition, this is also to maintain order in the administration of land.

The reality that occurs in the field is that most people in Jayapura Regency are still constrained by limited knowledge of PPAT and find it difficult and expensive if buying and selling is carried out in front of the PPAT, the costs are relatively expensive and it takes quite a long time. Transactions that are usually carried out only with proof of receipt as proof of delivery or an agreement has been made in the sale and purchase of land by the parties. Where the parties who made transactions were only at home and some were carried out before the head of the sub-district office as a witness that a land sale and purchase transaction had taken place by interested parties.

Communities in Jayapura Regency still apply the applicable customary law rules. To fulfill the legal requirements of buying and selling land rights according to customary law, there are three elements that must be met, namely clear, cash, and real. However, there is still the practice of buying and selling land privately in the community. This practice involves the transfer of rights with cash or partial payment based on an agreement between the seller and the buyer in the presence of the customary head or village head.

According to Mr. Luis Ruring Ponto, a PPAT in Jayapura Regency, the practice of buying and selling land privately is not a problem. However, he still recommends that the public or parties who are going to buy and sell land to visit the Land Deed Making Officer (PPAT) and make a certificate if they have money. This is done to ensure legal certainty in accordance with applicable regulations.

An interview with Mr. Agus Bano, who serves as a Survey and Mapping Section Officer at the Jayapura District Land Office, discussed the issue of buying and selling land with private deed. According to him, the act of buying and selling land in this way is not yet legal or illegal because it is contrary to land law regulations and is not recognized as a legal act. Actually, buying and selling land under the hands should no longer be carried out, but there are still people who do this because they feel that the costs are not in accordance with the costs listed, such as unexpected additional costs, and the process is too complicated and takes a long time. Mr. Agus Bano explained that buying and selling land carried out in the presence of the Village Head/Lurah is legal according to law, as long as it fulfills the material requirements previously mentioned. This kind of buying and selling must also be carried out openly and must not be carried out in secret.

However, from the practice of buying and selling carried out by the community in Jayapura Regency, most people do not know the impact if they want to be registered at the land office, they will definitely be rejected. That is a loss that is not known by the public if the sale and purchase transaction is carried out not through a PPAT.

As a result of violating the binding sale and purchase agreement which of course results in losses for all parties, legal protection is needed to ensure legal certainty and fulfillment of the rights of each party. Legal protection for the fulfillment of the rights of affected parties as a result of violations of the binding sale and purchase agreement is very dependent on the strength of the agreement itself. If the agreement is made with a private deed, then the protection will be in accordance with the protection of the deed. However, if the agreement is made by or before a Notary, then the deed will become a Notary deed and the protection will be in accordance with the protection of an authentic deed.

In addition, there are several steps that buyers can take to ensure that land sales and purchases carried out unofficially (without a deed from the Land Deed Official) have legal force, namely:

1. The parties involved, both sellers and buyers, can approach the Village or Kelurahan Office to make an agreement regarding the measurement of the land to be sold. The village head or lurah, along with other village officials, can act as witnesses.
2. After the land has been measured, the measurement data can be recorded in a special village book.

3. The buyer must pay mandatory and voluntary fees after the sale and purchase agreement is reached.
4. Witnesses present in the land sale and purchase transaction must sign a statement as proof of the agreement that has taken place.

### **Conclusion**

Land sale and purchase transactions without involving PPAT are still recognized and legal according to law if they are carried out before the village head or lurah, fulfill material requirements, and are carried out openly. To ensure legal certainty for the buyer, the seller and the buyer must come to the sub-district office to make an agreement regarding the land to be sold, the object must be clear, the location and size must also be clear. The sub-district head and his apparatus will act as witnesses and after the land has been measured, the data will be recorded in a special village/lurah book and the witnesses also sign the statement of land sale and purchase that has been agreed upon by the parties.

Based on the results of the research presented above, it is suggested that the following things be done:

- 1) The government is advised to conduct outreach to the people in Jayapura Regency regarding the importance of buying and selling land through PPAT in order to guarantee legal certainty and prevent future disputes.
- 2) People who want to buy and sell land should have good faith. If not through PPAT, at least the land sale and purchase agreement must be made at the local Village Head/Kelurahan Office in the presence of witnesses by both parties to ensure legal certainty and avoid disputes in the future.

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