



Legal Study on the Rejection of Land Deed Officials against Deeds of Sale and Purchase of Land Rights for the Community in Jayapura Regency

James Yoseph Palenewen^{1*}, Victor Th. Manengkey²

Cenderawasih University, Indonesia¹

Cenderawasih University, Indonesia²

Corresponding Email: jamesyosephpalenewen82@gmail.com*

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Abstract

The rejection of Land Deed Officials against deeds of sale and purchase of land rights for the community in Jayapura Regency still often occurs today. This study aims to determine the application of Article 39 paragraph (1) of Government Regulation Number 24 of 1997 and determine the factors that cause Land Deed Officials to refuse to make deeds of sale and purchase for the community in Jayapura Regency. The method used in this study is normative and empirical juridical, which refers to laws, literature, written regulations, or other secondary legal materials and identifies and conceptualizes law as a fundamental social institution in a real-life system. The results of this study reveal that the implementation of Article 39 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration has been carried out adequately based on applicable laws and regulations, not all candidates who want to make a deed of sale and purchase are accepted by the Land Deed Making Officer because the PPAT checks the truth first, both physically and legally, whether or not the files brought by the parties are correct so as not to violate applicable laws and regulations and prevent disputes from occurring in the future. Meanwhile, the factors that cause PPATs to refuse to make deeds of sale and purchase for the community in Jayapura Regency are still based on the applicable laws and regulations, especially in Article 39 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, namely, among other things, the parties who wish to carry out a sale and purchase transaction before the PPAT do not submit the original Certificate of land rights or sometimes the Certificate submitted does not match the lists at the Land Office, regarding land plots that have not been registered, they are not given proof of rights as referred to in Article 24 paragraph (1) of PP 24/1997 or a statement from the Village/Sub-district Head stating that the person concerned controls the land plot.

Keywords: Rejection, PPAT, Deed of Sale and Purchase of Land Rights, Jayapura Regency

Introduction

The increasing development and industrialization era have also increased the need for land. The land has become an increasingly complex problem and has the potential to cause turmoil in the development of society (Fatmawati & Sesung, 2024). The approach to solving it involves legal aspects and psychological considerations. In addition, land has a close relationship with humans because land has economic value for human life and can produce natural resources for many people. This is regulated in Article 33 paragraph (3) of the 1945 Constitution, which states, "The earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people."

The sale and purchase of land as a legal institution is not expressly and in detail regulated in the Basic Law on Agrarian Affairs (UUPA). In fact, until now, there have been no regulations that specifically regulate the implementation of sales and purchases. In the UUPA, the term sale and purchase is only mentioned in Article 26 of the UUPA, namely concerning the sale and purchase of land rights. In other articles, no word mentions buying and selling. Still, the article is only mentioned as transferred, including the legal act of transferring land rights due to buying and selling. Still, due to donations, legal construction cannot be equated with the transfer of land rights.

Transfer of Ownership Rights to land by way of buying and selling means transferring a right to land from one party to another. Different from the transfer of a right, the transfer of a right indicates a legal act that is intentionally carried out by one party to transfer his ownership rights to another person. There is a process of proving rights in the implementation of land registration. Proof of rights requires that the land to be registered must have written proof of rights or a written statement with a title through a statement regarding real and good faith control of the land that is not disputed by the local community, and ownership rights can also be obtained from legal events due to family/blood relations (inheritance) and legal acts, namely from buying and selling (Syafuruddin Chandra, 2005).

Land Deed Making Officer (PPAT) is a public official who is authorized to make authentic deeds regarding certain legal acts regarding land rights and apartment units. Land Deed Making Officer (PPAT) is indeed a public official authorized to make authentic deeds as long as certain deeds are not specifically for other public officials. Making authentic deeds is required by laws and regulations to create certainty, order, and legal protection in addition to authentic deeds made by or before PPAT, not only because laws and regulations require it. However, the interested party also desires to ensure the rights and obligations of the parties for the sake of certainty, order, and legal protection for the interested party as well as for society as a whole. Authentic deeds, as the strongest and most complete evidence, have an important role in every legal relationship in society. Various business relationships, activities in the banking sector, land certification, social activities, and others are referred to in Article 1 of the Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Officials.

In Government Regulation Number 24 of 1997 concerning Land Registration. Every

transfer of land ownership rights must be registered at the local Land Office. Registration of the transfer or transfer of rights aims to ensure that third parties know that a sale and purchase has been made on a plot of land. If the sale and purchase of land is not registered and the new owner does not actually control the plot of land, this opens up opportunities for those with bad intentions to resell the land to other parties. Registering the land will get a Land Ownership Certificate called a Certificate. The issuance of the Certificate is intended to provide authority to those who obtain the rights to use the land. Registration is carried out because by registering, the status of land ownership becomes clear and can be used as a strong means of proof.

After the UUPA came into effect, the definition of land sale and purchase is no longer an agreement as in Article 1457 in conjunction with Article 1458 of the Civil Code. Land sale and purchase now has the following definition, namely where the seller hands over the land and the buyer pays the price of the land, then the transfer of land rights to the buyer, the legal act of transferring these rights is in cash, clear, and real.

The term Sale and Purchase comes from the translation of the contract of sale according to the provisions of Article 1457 of the Civil Code, which means Sale and Purchase: "An agreement by which one party binds himself to hand over rights to an item and the other party to pay the promised price.

By the existing reality until now, researchers have seen in the field that land buying and selling in the community in Jayapura Regency is increasing daily with the many developments everywhere. Still, some parties sometimes come to the Notary/PPAT Office to make a deed of sale and purchase, but the Land Deed Making Officer (PPAT) refuses to do so.

Literature Review

According to Sumardjono, economic growth and increasing economic value of land can result in social inequality and trigger various vulnerabilities in the land sector (Maria S.W. Sumardjono, 2008). According to Salim HS, a sale and purchase agreement is between the seller and the buyer. In the agreement, the seller is obliged to hand over the object of the sale and purchase to the buyer and has the right to receive the price, and the buyer is obliged to pay the price and has the right to receive the object (Salim HS, 2003).

Research Method

The research used is normative and empirical juridical; normative juridical is an approach that refers to laws, library materials, written regulations, or other secondary legal materials, while empirical juridical is identifying and conceptualizing law as an honest and functional social institution in a real-life system (Ronny Hanitijo Soemitro, 1994).

Results And Discussion

Implementation of Article 39 Paragraph (1) of Government Regulation Number 24 of 1997 Concerning Land Registration Relating to The PPAT's Rejection of the Sale and Purchase Deed.

According to Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning land registration, it is explained that the transfer of land rights and ownership rights to apartment units through sale and purchase, exchange, gift, income in a company, and other legal acts of transfer of rights, except for transfer of rights through auction, can only be registered if proven by a deed made by an authorized PPAT according to the provisions of applicable laws and regulations. PPAT is a public official who is authorized to make authentic deeds regarding certain legal acts regarding land rights or ownership rights to apartment units. The duties of PPAT, according to Government Regulation Number 37 of 1998 concerning PPAT job regulations, are to carry out part of the land registration activities by making a deed as evidence of the carrying out of certain legal acts regarding land rights or ownership rights to apartment units, which will be used as the basis for registering changes to land registration data resulting from the legal act.

Article 39 of Government Regulation Number 24 of 1997 concerning Land Registration states that:

(1) PPAT refuses to make a deed if:

- a. regarding a registered land plot or ownership rights to a condominium unit, the original Certificate of the relevant rights is not submitted to him, or the Certificate submitted does not match the lists at the Land Office, or
- b. regarding a land plot that has not been registered, the following are not submitted to him:
 - 1) proof of rights as referred to in Article 24 paragraph (1) or a statement from the Village/Sub-district Head stating that the person concerned controls the land plot as referred to in Article 24 paragraph (2); and
 - 2) a statement stating that the land plot in question does not have a certificate from the Land Office, or for land located in an area far from the Land Office, from the relevant rights holder confirmed by the Village/Sub-district Head; or
- c. one or the parties who will carry out the legal act in question or one of the witnesses, as referred to in Article 38, does not have the right or does not meet the requirements to act in such a way; or
- d. one party or parties act on the basis of an absolute power of attorney, which, in essence, contains a legal act of transferring rights or
- e. for the legal act to be carried out, permission has not been obtained from the authorized Official or agency if such permission is required according to the applicable laws and regulations or

- f. the object of the legal act in question is in dispute regarding its physical data and/or legal data or
 - g. other requirements are not met, or the prohibitions specified in the relevant laws and regulations are violated.
- (2) Refusal to make the deed shall be notified in writing to the relevant parties, along with the reasons.

Likewise, Article 24 of Government Regulation Number 24 of 1997 concerning Land Registration states that:

- (1) For the purposes of rights registration, land rights originating from the conversion of old rights are proven by evidence of the existence of such rights in the form of written evidence, witness statements, and/or statements of the person concerned, the level of truth of which is deemed sufficient by the Adjudication Committee in systematic land registration or by the Head of the Land Office in sporadic land registration, to register the rights, rights holders and rights of other parties burdening them.
- (2) In the event that the evidence referred to in paragraph (1) is not or is no longer completely available, rights registration may be carried out based on the fact of physical control of the land area in question for 20 (twenty) years or more consecutively by the applicant for registration and his/her predecessors, on the condition that:
 - a. Such control is carried out in good faith and openly by the person concerned as the person entitled to the land and is supported by the testimony of a trustworthy person;
 - b. Such control, before and during the announcement as referred to in Article 26 is not disputed by the customary law community, the village/sub-district concerned, or any other party.

The researcher interviewed on Wednesday, August 28, 2024, at 10:30 WIT with Mr. Agus Bano as, an Employee of the Survey and Mapping Section, Jayapura Regency Land Office; he said that before the PPAT transfers land rights, especially the transfer of ownership rights by means of sale and purchase which is carried out by making a deed of sale and purchase, the PPAT concerned is required to conduct an inspection/check of the Certificate at the local land office by showing the original Certificate. According to Article 103 paragraph (1) of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997, it is explained that the PPAT is required to submit the PPAT deed and other documents required for the purposes of registering the transfer of the relevant rights to the Land Office, no later than 7 (seven) working days from the signing of the relevant deed. Registration of the transfer or transfer of rights is intended so that third parties know that the land has been sold and purchased. If the sale and purchase of land is not registered and the new owner does not actually control the land area, this opens up opportunities for those with bad intentions to resell the land to other parties.

Therefore, according to the researcher, the Implementation of Article 39 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration relating to the

PPAT's rejection of the sale and purchase deed for the community in Jayapura Regency has been carried out properly based on applicable laws and regulations, because not all candidates who want to make a sale and purchase deed are accepted by the PPAT, because the PPAT before making the sale and purchase deed is first checked for its authenticity, both physically and legally, whether or not the files brought by the parties are correct so as not to violate applicable laws and regulations and prevent disputes from occurring in the future. The PPAT deed serves as proof that the sale and purchase have been carried out. The sale and purchase can still be proven by other means. The land registration system, according to PP No. 10 of 1961 (which has now been improved by PP No. 24 of 1997), registration of land sales and purchases can only be done with a PPAT deed as proof. People who make land sales and purchases without being proven by a PPAT deed will not be able to obtain a certificate, even though the sale and purchase is legal according to law.

Factors That Cause PPAT To Refuse To Make A Sale And Purchase Deed For The Community In Jayapura Regency

Release of land rights is the release of legal relations between the holder of land rights and the land they control by providing compensation on the basis of deliberation (Palenewen & Solossa, 2023). The Release of Rights Letter is evidence made to release land rights. The release of customary land rights letter is enforced in the same way as the release of land rights in general, as enforced in accordance with Government Regulation Number 24 of 1997 concerning Land Registration. The customary release is a legal act carried out by the land owner to another person, which the Ondoafi strengthens based on customary deliberation known to the Village Head/Lurah and Sub-district Head/District Head. In the Skouw Sae village customary community, the legal act of buying and selling land based on the customary legal system is very different from Western law in general; the implementation of buying and selling with customary release which often occurs in the Skouw Sae village community is carried out according to custom. (Solossa et al., 2023)

Article 37 of Government Regulation Number 24 of 1997 states that the transfer of land rights by sale and purchase can only be registered if proven by a deed made by an authorized PPAT according to the Laws and Regulations. Therefore, the researcher interviewed Notary Luis Roring Ponto at the Notary & PPAT Office of Jayapura Regency Thursday, August 29, 2024, at 09.30 WIT; he said that the factors that caused PPAT to refuse to make a deed of sale and purchase for the community in Jayapura Regency were still based on the applicable laws and regulations, especially in Article 39 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, namely:

- a. The parties who wish to carry out a sale and purchase transaction before the PPAT do not submit the original Certificate, or the Certificate is submitted but does not match the lists at the Land Office.
- b. Regarding unregistered land, no proof of rights as referred to in Article 24 paragraph (1) of PP 24/1997 or a statement from the Village/Sub-district Head stating that the person concerned controls the land is not submitted to him.

- c. The object of the legal act in question is in dispute regarding its physical data and/or legal data.
- d. One or all parties who will carry out the legal act in question or one of the witnesses, as referred to in Article 38 of PP 24/1997, do not have the right or do not meet the requirements to act in such a manner.

Conclusion

The implementation of Article 39 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration relating to the PPAT's rejection of deeds of sale and purchase for the community in Jayapura Regency has been carried out by the applicable laws and regulations because not all candidates who want to make deeds of sale and purchase are accepted by the PPAT because before making a deed of sale and purchase, the PPAT first checks the truth, both physically and legally, whether or not the files brought by the parties are correct so as not to violate applicable laws and regulations and prevent disputes from occurring in the future. Meanwhile, the factors that cause PPATs to refuse to make deeds of sale and purchase for the community in Jayapura Regency are still based on the applicable laws and regulations, especially in Article 39 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, namely, among others, the parties who wish to carry out a sale and purchase transaction before the PPAT do not submit the original Certificate of land rights or sometimes the Certificate submitted does not match the lists at the Land Office, regarding land plots that have not been registered, they are not given proof of rights as referred to in Article 24 paragraph (1) of PP 24/1997 or a statement from the Village/Sub-district Head stating that the person concerned controls the land plot, the object of the legal act in question is in dispute regarding its physical data and/or legal data and one or the parties who will carry out the legal act in question or one of the witnesses as referred to in Article 38 of PP 24/1997 does not have the right or does not meet the requirements to act in this way.

The suggestions that researchers can convey based on the results of the research conducted are as follows:

1. For the Government, it is hoped that in the future, the BPN will carry out continuous socialization to the community in Jayapura Regency so that parties who want to make a deed of sale and purchase at the PPAT do not experience rejection of the making of the deed, because the parties are required to make their deed before the PPAT so that it can be declared valid based on applicable laws and regulations so that the transfer of rights can be registered at the local Land Office.
2. For the community in Jayapura Regency who also want to carry out legal acts in terms of making a deed of sale and purchase before a Notary, they must have good intentions so that the object of the land, both in terms of physical and legal data, is not falsified, because it will automatically cause a dispute in the future.

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