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Liability of Notaries and PPAT in the Making of Sales and Purchase Agreements of Land with Formal Defects: Study of Decision Number 309/PDT.G/2024/PN.MATARAM

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Abstract. This study aims to analyze: (1) Regarding the basis of the judge's consideration in deciding the case in Decision Number 309/Pdt.G/2024/PN Mataram, whether the notary and the defendants in the control of the disputed object constitute an unlawful act. And (2) The responsibility of the notary or sanctions for the notary for making a land sale and purchase agreement that does not meet the legal validity requirements according to the law. This research is motivated by a land dispute jointly owned by two people, namely an uncle and a nephew, where one party, the nephew, then transferred the land by making a Preliminary Sale and Purchase Agreement (PPJB), followed by a power of attorney, and a Sale and Purchase Deed (AJB) without the knowledge of the other party. This led one party to file a lawsuit in court. The research method used is normative legal research with three approaches, namely the conceptual approach, the statutory approach, and the case approach. The sources of legal materials consist of primary, secondary, and tertiary legal materials, which are analyzed using qualitative analysis techniques. The results of the study indicate that in the judge's consideration, the judge partially approved the plaintiff's claim and stated that the deed that was made did not meet the requirements of a valid agreement. Furthermore, the judge also decided that regarding the consequences of the PPJB, Power of Attorney, AJB, and SHM in the name of the defendants, it was declared invalid. Therefore, the judge considers the actions of the defendants as unlawful acts under Article 1365 of the Civil Code. From the perspective of the liability of Notaries/PPAT and the legal consequences of the decision on the deeds made by the notary, if there is negligence, carelessness, or violation of statutory provisions causing losses during the performance of their duties, they can be held accountable civilly, administratively, or ethically.

Keywords: authentic deed; formi defect; notary; responsibility

1. INTRODUCTION

The roles and obligations of notaries are regulated in Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 concerning the Position of Notary (UUJN). In Article 16 paragraph (1) letter m of the UUJN, it is affirmed that a notary is obliged to read the deed in the presence of the appearing parties and witnesses and it must be signed at that moment by the parties, witnesses, and the notary. This provision is imperative because it is directly related to the formal validity of

an authentic deed (Zahra Tripipo et al., 2025).

In practice, the formal obligations regulated in Article 16, one of which is paragraph (1) letter m of the UUJN, namely the notary's obligation to read the deed in the presence of the appearer and witnesses and have it signed at that time, are often not complied with (Wardhani & Musyafah, 2023). This negligence can have fatal consequences because it causes the deed to lose its authentic nature and only has the status of a private deed (Mahandry et al., 2025). Habib Adjie emphasized that if a notary does not comply with these provisions, the deed becomes formally defective and lowers its evidentiary strength (Adjie, 2014).

Another formal requirement is that a notarial deed constitutes an agreement between the parties that binds those who make it, so the requirements for the validity of an agreement must be fulfilled in accordance with Article 1320 of the Civil Code, which regulates the requirements for a valid agreement (Tunaswati & Lisdiyono, 2023). Among others, subjective requirements are requirements related to the subject who makes the agreement, which consist of the existence of mutual consent and the capacity to act to carry out a legal act, and other requirements are objective requirements, which are requirements related to the agreement itself or related to the object that is made the subject of a legal act by the parties, consisting of the existence of a certain matter and a cause that is not prohibited (Sopiani et al., 2024).

In some cases, the failure to meet subjective requirements can affect the validity of the agreement (Sopiani et al., 2024). Coercion and fraud are examples where the subjective conditions of an agreement are not met (Arrodli et al., 2024). Coercion occurs when someone enters into the agreement or agrees to the agreement because they feel afraid due to being threatened, then forced because of fear of those threats if not agreed to (Kurniawati & Yusuf, 2023). Fraud occurs when someone gives that agreement. Fraud can also occur if someone gives their consent because they are warned or deliberately forced to agree to an agreement that is not in their interest. In some cases, the failure to meet subjective requirements can affect the validity of the agreement and render the agreement legally null and void (Mufarokhah & Putra, 2025).

According to Soerjono Soekanto, the vagueness of norms occurs when a legal provision lacks clarity in its scope, limits of application, or definite interpretation, thus causing uncertainty in its enforcement.

One case that reflects this problem is the Mataram District Court Decision Number 309/Pdt.G/2024/PN Mataram, which originated from a dispute over the ownership of a piece of land in Dasan Cermen, Mataram City. The land was purchased by Hendra Rianto Tan (Plaintiff) together with Herry Wijaya (Defendant 1) from I Nyoman Nara Murdhita in 2012 through the Sale and Purchase Deed Number 85 of 2012 dated June 30, 2012, made by a PPAT.

After being fully paid and the Certificate of Ownership (SHM) was transferred to the name of Rianto Tan (plaintiff) and Herry Wijaya (Defendant 1), the disputed land object was then jointly controlled by the plaintiff and Defendant 1. Then, they both entrusted the SHM to be kept by the plaintiff's older brother, who is also Defendant 1's father, Hardi Wijaya (Defendant 2), because they felt they still had a family relationship. Thus, the land became joint ownership of Defendant 1 and the plaintiff since it was in both of their names.

One year later, without Rianto Tan's (Plaintiff) knowledge, when he wanted to enter the disputed object, he was blocked by the defendants, as the disputed object was controlled by the defendants. It turned out that a Sale and Purchase Agreement Number 89 of 2013 had been made by Notary I Gede Sutama (Co-Defendant 1), which transferred the ownership of the land to Lanny Suryati (wife of Defendant 2), to carry out administration or ownership actions, including selling, gifting, and/or by other means including relinquishing rights either to oneself or to others, in part or in full.

The plaintiff claims never to have been present, signed, or had knowledge of the deed. His signature is suspected to have been forged in a manner where the defendant's second wife instructed the

Defendant to sign a blank form, and the deed was not read in the presence of the declarant as required by the UUJN. The deed was then used by the defendants as a basis to control and transfer the disputed object to another party through Sale and Purchase Deed Number 180 of 2023, thereby harming the plaintiff.

It can be seen that from the AJB and SHM, which were made by the plaintiff and include joint ownership with Defendant 1, which should have been transferred together since they are both in their names, but then why was this transferred by one party, where the PPJB and Power of Attorney emerged without the knowledge of Rianto Tan (the plaintiff), allowing the party granted the power of attorney to transfer ownership of the disputed land object.

Then, in this matter, I Gede Sutama (Co-Defendant 1), as the notary who transferred the ownership of the land to Lanny Suryati (Defendant 2's wife), should have checked and known that the disputed land was joint property and should have been transferred together as well. But here, why did the notary make the PPJB and Power of Attorney without the knowledge of Rianto Tan (the plaintiff)? The notary himself has a code of ethics that requires the notary to ask and also check the legitimacy of the certificate, so the notary should have been more careful.

The act can fulfill the elements of an unlawful act (onrechtmatige daad) as regulated in Article 1365 of the Civil Code, which states that "every act that violates the law, causing harm to another person, obliges the person who, due to their fault, causes the harm to compensate for that harm." Some conditions to determine an unlawful act are:

a. The presence of elements of unlawful acts
b. The presence of elements of error
c. The existence of losses, and
d. The existence of a causal relationship between an act and the damage

The main problem in cases like this does not solely lie in the civil actions of the parties who commit unlawful acts as referred to in Article 1365 of the Civil Code, but also in the limits of notaries' legal responsibility. The UUJN itself indeed regulates administrative and ethical sanctions for the position. This condition creates a norm ambiguity in the notary legal system in Indonesia.

A notary who is proven to commit a violation of the obligations and prohibitions contained in Articles (16) and (17) of the Notary Law (UUJN) may be subject to sanctions in the form of civil sanctions, administrative sanctions, ethical code sanctions, and criminal sanctions. In this UUJN, criminal sanctions are not explained, and if criminal sanctions are imposed, they refer to other laws.

In this case, the plaintiff and Defendant 1, who in the SHM certificate are listed as co-owners of the land, should have the land listed under joint ownership, and the plaintiff in his lawsuit wants the AJB or land certificate under the names of Rianto Tan (plaintiff) and Harry Wijaya (Defendant 1) to be declared valid and that in the certificate it should be under joint ownership, and the power of attorney and PPJB that were created are invalid.

Based on the background above, the author formulates two main issues, as follows; what is the basis of the judge's consideration in deciding case Number 309/Pdt.G/2024/PN Mataram? and what are the responsibilities of notaries and PPAT or the sanctions for notaries for making land sale and purchase agreements that do not meet the legal requirements?

2. METHOD

From the issues raised in this study, this research will use Normative legal research, which is legal research conducted by examining library materials or secondary data (Soerjono & Mamudji, 1995). Normative legal research is also called doctrinal legal research. According to Peter Mahmud Marzuki, normative legal research is a process to find a legal rule, legal principles, or legal doctrines in order to address the legal issues faced (Marzuki, 2010). In this type of legal research, law is often conceptualized as what is written in legislation or law is conceptualized as rules or norms that serve as a standard for human behavior considered appropriate (Amiruddin & Asikin, 2004).

In this study, there are three approaches used, namely the Conceptual Approach (Mukti Fajar & Achmad, 2010); Legislative Approach (Mukti Fajar &

Achmad, 2010); Case Approach (Muhaimin, 2020).

The technique of collecting legal materials used is library research. The legal materials obtained are then analyzed by elaborating the research results based on information from a situation or event that becomes the object of discussion systematically through the legal materials that have been collected according to the needs in the research. The analysis used in this study employs a qualitative analysis method, namely by interpreting the processed legal materials. The use of the interpretation method aims to interpret the law, whether there is a gap in legal norms, a conflict of legal norms, or unclear legal norms in the legal materials, especially primary legal materials (Muhaimin, 2020). As normative legal research, this study falls into the category of descriptive-prescriptive legal research aimed at finding problem-solving solutions (problem-solution) (Soekanto, 2012).

3. RESULT AND DISCUSSION

Judge's Consideration in Deciding Case Decision Number 309/Pdt.G/2024/Pn.Mtr

The Judge's Consideration Basis in Decision Number 309/Pdt.G/2024/Pn.Mtr

In this decision, the judge's consideration in Decision Number 309/Pdt.G/2024/Pn.Mtr is:

The Plaintiff's Cause of Action: In this case, the essence and purpose of the Plaintiff's lawsuit is that the Plaintiff sues the Defendants on the grounds of unlawful acts. The Plaintiff states that the Defendants have taken control of the disputed object based on Sale and Purchase Binding Agreement Number 89 dated January 10, 2013, made before I Gede Sutama, S.H., Notary in Mataram (Co-Defendant 1), as well as Power of Attorney Number 90 dated January 10, 2013, and Sale and Purchase Deed Number 180 / 2023 dated September 25, 2023, made before Lalu Damrah, S.H., M.Kn., PPAT in Mataram City (Co-Defendant 2).

In addition, the possession is also based on the Certificate of Ownership Number 118 / Dasan Cermen in the name of the Defendants, which was previously registered in the name of the Plaintiff and Defendant 1. According to the Plaintiff, all these legal grounds are invalid, so the Defendants' actions of controlling the disputed object constitute unlawful acts that cause losses to the Plaintiff.

Defendants' Response: The Defendants and Co-Defendants in their response stated that the control of the disputed land does not require approval from the Plaintiff because since January 10, 2013, the disputed land has been subject to a Sale and Purchase Binding Agreement (PPJB) between the Plaintiff and Defendant 1 as the seller and Lanny Suryati (wife of Defendant 2 and mother of Defendants 1, 3, and 4) as the buyer.

On the same date and before the same notary, Power of Attorney Number 90 dated January 10, 2013, was made, stating that Defendant 1 and the Plaintiff granted power of attorney to Lanny Suryati to act on their behalf in carrying out administrative actions as well as ownership actions concerning the disputed land. The power of attorney includes the authority to sell, gift, or otherwise release rights to the land either to herself or to other parties, whether in part or in whole.

The Defendants also stated that the PPJB simultaneously serves as proof of payment (receipt) for the land, so that the price of the land has been fully paid by the buyer to the seller. With the signing of the PPJB and the power of attorney by the parties, the Defendants opine that the ownership and control of the land have fully transferred to Lanny Suryati, so according to the Defendants, the Panel of Judges should reject the Plaintiff's lawsuit.

Undisputed Fact: Based on facts that are acknowledged or at least not denied by the parties, it can be considered proven that initially Defendant 1 together with the Plaintiff purchased the disputed land from I Nyoman Nara Muditha. The land is Certificate of Ownership Number 118/Dasan Cermen, with Situational Map dated August 20, 1979, Number 451/1979, located in Dasan Cermen, Cakranegara District, with an area of 3,000 m².

The purchase of the land was conducted through Deed of Sale and Purchase Number 85 dated June 30, 2012, which was made before Notary/PPAT Muhammad Ali, S.H., M.Kn. After the sale and purchase transaction took place, the

land certificate was then transferred into the names of Defendant 1 and the Plaintiff.

Subject of the Dispute: Based on the parties' explanations, the subject of the dispute that must be proven in this case involves two main matters.

First, is it true that since January 10, 2013, a PPJB Number 89 dated January 10, 2013, regarding the disputed land has been made before Notary I Gede Sutama, S.H., M.Kn. (also Defendant 1) which states that the Plaintiff and Defendant 1 as sellers to Lanny Suryati as buyer, and a Power of Attorney Number 90 dated January 10, 2013, was made granting authority to Lanny Suryati to act on behalf of the Plaintiff and Defendant 1.

Second, can the actions of the Defendants in taking control of the land object of dispute SHM Number 118/Dasan Cermen with an area of 3,000 m² without possessing valid evidence be categorized as unlawful acts.

Evidence of the Parties: Because the Plaintiff's claim is denied by the Defendants, based on Article 283 R.Bg, the Plaintiff is obliged to prove the claim.

In an effort to prove the argument, the Plaintiff submitted documentary evidence marked P-1 to P-26 and presented two witnesses, namely Ruslan and Jero Heni Tirthawati.

Meanwhile, the Defendants submitted documentary evidence marked T I, II, III, IV and TT I as well as TT II-1 to TT II-17, but did not present witnesses in the trial.

Judge's Consideration on Land Ownership: To prove ownership of the disputed land, the Plaintiff submitted evidence P-1 in the form of Sale and Purchase Deed Number 85/2012 dated June 30, 2012, made before Notary/PPAT Muhammad Ali, S.H., M.Kn., as well as P-2 in the form of a copy of the deed. This evidence corresponds with P-3 in the form of a Certificate of Ownership Number 118/Dasan Cermen with an area of 3,000 m² located in Dasan Cermen, Sandubaya District (formerly Cakranegara District), Mataram City (formerly West Lombok Regency).

These pieces of evidence are also reinforced by the testimonies of witnesses Ruslan and Jero Heni Tirthawati, who explained that the land was purchased by the Plaintiff and Defendant 1 from Ir. Nara Muditha alias I Nyoman Nara Muditha for a price of Rp865,000,000, which had been fully paid by the Plaintiff and Defendant 1. After this transfer occurred, the land certificate, which was previously under the name of I Nyoman Nara Muditha, was then changed to the name of Herry Wijaya (Defendant 1) and Hendra Rianto Tan (Plaintiff).

Judge's Consideration on the Validity of PPJB and Power of Attorney: To prove the Defendants' control over the disputed object, the Plaintiff submitted evidence P-13 in the form of a Copy of the Agreement of Sale and Purchase Binding Deed Number 89 dated January 10, 2013, P-14 in the form of Power of Attorney Number 90 dated January 10, 2013, and P-15 in the form of a Copy of Sale and Purchase Deed Number 180 of 2023 dated September 25, 2023.

Meanwhile, the Defendants only submitted a copy of the PPJB deed Number 89 dated January 10, 2013, signed by a notary, but the deed was not directly signed by the parties. The copy of the PPJB was then denied by the Plaintiff on the grounds that the Plaintiff had never appeared before Notary I Gede Sutama, S.H. to make the PPJB, so there was never a reading of the deed by the notary in front of the Plaintiff, no signing of the deed by the Plaintiff, and there were no fingerprints or initials of the Plaintiff on each page of the deed.

According to the Plaintiff, these conditions indicate that the creation of the PPJB did not comply with the provisions of Article 1868 of the Civil Code as well as Article 16 paragraph (1) letter m of the Notary Law, so the Plaintiff was unaware of the contents of the agreement and never gave consent to the contents of the PPJB. Thus, according to the Plaintiff, this also contradicts Article 1320 of the Civil Code regarding the validity requirements of agreements.

Judge's Consideration of Payment Evidence: The Defendants also argued that the payment for the disputed land had been made before the signing of the PPJB, as stated in Article 2 of the Copy of the PPJB Deed which states that the price of the land being sold and purchased had been agreed at Rp300,000,000 and had been paid in cash by the buyer to the seller before the deed was signed.

However, after the Panel of Judges examined the evidence in the form of a payment receipt dated December 13, 2012, as well as a deposit proof of Rp1,450,000,000 to PT BPR Prima Nadi account number 202009306 under the name of Hendra Rianto Tan on December 13, 2012, it was found that the payment amount did not correspond to the transaction value listed in the Sale and Purchase Binding Agreement (PPJB), which was only Rp300,000,000.

In addition, the Plaintiff also presented evidence P-22 indicating that the account owned by Hendra Rianto Tan at PT BPR Prima Nadi is number 0110009306, which is different from the account number listed in the deposit evidence submitted by the Defendants. Based on evidence P-24, the account was only opened on September 1, 2013, which raises doubts for the Judges regarding the possibility of the payment mentioned being made on December 13, 2012, when the account did not yet exist.

Legal Basis Considered by the Judge: In considering this case, the Panel of Judges also refers to several relevant legal provisions, including Article 1320 of the Civil Code which states that for an agreement to be valid, it must meet four requirements, namely the consensus of the parties, the competence of the parties, a specific object, and a lawful cause.

In addition, Article 1321 of the Civil Code states that an agreement has no binding force if it is given due to mistake, coercion, or fraud. Furthermore, Article 1338 of the Civil Code states that every legally made agreement has the force of law for the parties who make it and must be carried out in good faith.

The judge also considered the provisions of Article 1365 of the Civil Code regarding unlawful acts, which states that any act that violates the law and causes harm to another person obliges the party who committed the act to compensate for the loss.

Conclusion of the Judge's Consideration: Based on all the aforementioned considerations, the Panel of Judges assesses that the creation of PPJB Number 89 dated January 10, 2013, is not in accordance with the provisions of Article 16 paragraph (1) letter m of the Notary Position Law and Article 1320 of the Civil Code, thus the agreement is declared invalid. As a result, Power of Attorney Number 90 dated January 10, 2013, which was made on the same date, is also declared invalid.

Because the PPJB and the power of attorney serve as the basis for the creation of the Deed of Sale and Purchase Number 180 of 2023, the deed of sale and purchase also has no valid legal basis. Thus, the process of transferring the name on the Certificate of Ownership Number 118/Dasan Cermen from the name of Defendant 1 and the Plaintiff to the name of the Defendants is also declared invalid.

The Panel of Judges then concluded that the actions of the Defendants in taking control of the disputed object based on the invalid PPJB, power of attorney, and AJB constitute unlawful acts as regulated in Article 1365 of the Civil Code. Therefore, the Defendants are ordered to hand over half of the disputed object to the Plaintiff in an empty state after the decision has permanent legal force.

After the Panel of Judges obtained presumptive evidence that the marked evidence could not be verified for its truthfulness or at least raised doubts about its authenticity, the Panel of Judges then associated the fact with the applicable legal provisions.

In the provisions of Article 1320 of the Civil Code, it is stated that in order for a valid agreement to occur, four conditions must be met, namely:

1) Their agreement that binds themselves;
2) The capacity to create an obligation;
3) A certain subject matter;
4) A cause that is not forbidden.

Furthermore, in the provisions of Article 1321 of the Civil Code, it is stated that: "No agreement shall have any force if given due to mistake or obtained through coercion or fraud."

Then, in the provisions of Article 1338 of the Civil Code, it is stated that: "All agreements made in accordance with the law apply as law to those who make them. Such agreements cannot be withdrawn except by mutual consent, or for reasons specified by law. Agreements must be executed in good faith."

In addition, regarding Unlawful Acts, it is regulated in the provisions of Article 1365 of the Civil Code which states: "Every act that violates the law and causes harm to another person obliges the person who causes the harm due to their fault to compensate for the loss."

Based on the aforementioned legal provisions and taking into account the facts revealed in the trial, the Panel of Judges assesses that the execution of the PPJB does not comply with Article 16 paragraph (1) letter m of the Notary Law as well as Article 1320 of the Civil Code, therefore the PPJB made before the Notary is declared invalid, as stated in point 4 of the Plaintiff's claim.

Likewise, Power of Attorney No. 90/2013, made before Notary I GEDE SUTAMA, S.H., is considered not to comply with the provisions of Article 16 paragraph (1) letter m of the Notary Law and Article 1320 of the Civil Code, thus the power of attorney is declared invalid, as stated in point 5 of the Plaintiff's claim.

Because the PPJB and the power of attorney serve as the basis for the creation of the AJB by the PPAT (Co-Defendant 2) and for the transfer of the SHM name by the BPN (Co-Defendant 3) from the name of the Defendant and Plaintiff to the name of the Defendants, this transfer of rights is also declared invalid, as stated in points 6 and 7 of the Plaintiff's claim.

Thus, the actions of the Defendants in taking control of the disputed object are considered unlawful acts as referred to in Article 1365 of the Civil Code. As a result, any transfer of the disputed object to a third party is declared invalid, and the Defendants are ordered to hand over half of the disputed object to the Plaintiff after the judgment has permanent legal force (incracht van gewijsde).

However, regarding the claim for damages, the Panel of Judges considered the evidence submitted by the Plaintiff insufficient, so the petition was rejected. Therefore, the Plaintiff's lawsuit was partially granted and the Defendants were ordered to pay the court fees.

Analysis of the Judge's Considerations.

Granting the Plaintiff's Claim Partially

The plaintiff's lawsuit was partially granted because there are several claims that are in accordance with the substance of the lawsuit, and the remaining claims of the plaintiff were rejected. As for the claims that were granted, it is in accordance with the verdict above.

Stating that the PPJB, Power of Attorney, AJB, and SHM in the name of the defendants are invalid.

The judge's consideration regarding the validity or invalidity of the PPJB, AJB, and SHM deeds in the name of the defendants is considered invalid.

PPJB, and the Power of Attorney that was made does not meet the elements of Article 1320 of the Civil Code which states that in order for a valid agreement to occur, four conditions must be met;

a) Their agreement that binds themselves;
b) The ability to create an obligation;
c) A certain subject matter;
d) A cause that is not forbidden;

In this case, the PPJB deed was disputed by the Plaintiff on the grounds that the Plaintiff never appeared before Notary I GEDE SUTAMA, S.H., (Also Defendant 1) to create PPJB No. 89 dated January 10, 2013, so there was no reading of the deed by the Notary in the presence of the Plaintiff with at least 2 (two) witnesses, and there was no signing of the deed by the Plaintiff, nor any fingerprints of the Plaintiff, and no initials of the Plaintiff on each page of the deed.

Then also because the plaintiff felt that they had never received payment for the sale and purchase of the land, the panel of judges found irregularities in the proof of the account number, which was different from the plaintiff's, and the account number that did not belong to the plaintiff was only opened on September 1, 2013, creating doubt for the panel of judges as to how payment for the disputed land object could have been made on December 13, 2012, if in December 2012, the passbook under the name of the account owner HENDRA RIANTO TAN had not yet been issued.

And in the nominal payment to the account mentioned in the Copy of the PPJB Deed No. 89 which was mutually agreed upon, the amount is Rp 300,000,000.00 (three hundred million rupiah), but in the proof of payment to that account, it is only

Rp 1,450,000,000 (one billion four hundred fifty million rupiah).

From this matter, we can conclude that the PPJB violates:

a) Article 1321 of the Civil Code states that: No agreement has any force if it is given due to mistake or obtained by coercion or fraud.
b) Because it was not carried out in good faith by the defendants, the judge also decided that they violated Article 1338 of the Civil Code, which states: All agreements made in accordance with the law shall be valid as law for those who make them. Agreements cannot be revoked except by mutual consent of both parties, or for reasons determined by law. Agreements must be executed in good faith;
c) Article 16 paragraph (1) letter m of the UUJN states

"In carrying out his duties, a Notary is obliged to read the Deed in the presence of the appearing party with at least 2 (two) witnesses, or 4 (four) witnesses specifically for the making of an underhand will Deed, and it shall be signed at that time by the appearing party, the witnesses, and the Notary" ;

Article 16 paragraph (1) letter c of the UUJN Number 30 of 2004 States that notaries are obliged to affix the fingerprints of the appearers on the draft deed, and on the draft deed the fingerprints of the parties have been affixed, and the defendants did not submit the Sales Agreement Deed containing the signatures and fingerprints of the parties, thus based on the considerations mentioned above.

Then, because PPJB No. 89 and the Power of Attorney are said to be invalid, the Deed of Sale and Purchase (AJB) that was made (along with Defendant 2) is automatically considered invalid as well, and the Land Certificate (SHM) of the disputed land in the name of the Defendants is automatically invalid because the valid legal basis is the AJB and SHM in the name of (the Plaintiff and Defendant 1).

The decision made by the judge was appropriate because it was based on the evidence provided by the plaintiff to refute the defendants, as well as on some of the defendants' own evidence, some of which were unusual. However, in terms of the assessment of the legal consequences of a formal defect in a deed

The judge in the ruling also assessed that the deed made by the notary was invalid because it did not meet the formal requirements in the making of the deed.

However, according to the author, this approach can still be debated. In notarial law, a violation of formal provisions does not always result in the deed being null and void by law.

Provisions regarding the obligations of notaries are regulated in Article 16 paragraph (1) letter m of Law Number 2 of 2014 concerning the Position of Notaries, which requires notaries to read the deed in the presence of the parties and witnesses and to be signed at that time by the parties, witnesses, and the notary.

If these provisions are not met, then under notarial law the consequence is that the deed loses its authentic character, and its evidentiary power is reduced to that of a private deed. This is also related to Article 1869 of the Civil Code, which states that a deed made by an official who is not authorized or does not meet formal requirements can have the power of a private writing. The deed does not automatically become null and void by law, but only loses its power as an authentic deed and is converted into a private deed.

Thus, according to the author, the judge should consider the possibility that the deed still has evidentiary power as an underhand deed, rather than directly declaring the deed invalid.

Then the judge should also consider the aspects related to the material requirements of the deed, where the material requirements of the deed are requirements related to the content, substance, and truth of the legal acts contained in the deed so that it has binding power. The main requirements include a valid agreement of the parties, the matter not being contrary to the law or public order, and containing the truth of the legal acts that occurred, and usually the related article is Article 1320 of the Civil Code. If the agreement occurs due to coercion, fraud, or mistake, then what occurs is a defect of will.

In this case, in the making of the PPJB and the power of attorney, in reality (materially), it violates the element of "agreement," which is the subjective requirement of the deed or a defect of will. Furthermore, in this case, there is an indication of fraud, where in the evidence of PPJB payment, the account and the agreed-upon sale and purchase amount differ, thus violating the requirement of "lawful cause," which is the objective requirement of the deed or a prohibited object. Since what is violated also includes the objective requirement, namely the suspicion of falsification/fraud, it becomes null and void by law. Consequently, the deed is only downgraded to an under-hand deed if the authentic form is not fulfilled procedurally (formally), but the content of the agreement (materially) still meets Article 1320 of the Civil Code.

According to the author in this case, the violation of formal requirements mentioned by the judge, in which the judge referred to a violation of Article 16 paragraph (1) letter m of the UUJN, is that the notary did not read the deed, but directly jumped to the conclusion 'Invalid'. In this case, legally, based on Article 16 paragraph (9) of the UUJN, the sanction for this violation is very specific, namely demotion, where the authentic deed's evidentiary value is reduced to that of a private deed.

In his consideration, the judge made a leap in logic, immediately declaring the deed 'Invalid', even though according to the law, a formal (procedural) violation only results in a reduction of evidentiary value, not automatically nullifying the validity of the content of the agreement.

Ideally, the judge should first declare that the deed is downgraded to a private deed. After becoming a private deed, only then does the judge test whether the agreement within it is valid or not.

By directly declaring 'Invalid', the judge seems to consider that a violation of the UUJN procedure automatically nullifies the contents of the agreement, whereas the UUJN only regulates the evidentiary strength.

In the case of a Material Defect violation (Article 1320 of the Civil Code), the judge mentions a violation of the "Agreement," which is the Subjective Condition. Legally, according to Article 1320 of the Civil Code, if the subjective condition is violated, its status is "Voidable." This means that the deed is valid until there is a ruling that cancels it.

In this case, the Judge is not consistent. If the material basis is 'agreement,' then the ruling should read 'Annulled,' not 'Invalid.' The term 'Invalid' is more often used for violations of objective conditions (illegal object), whereas the judge only considers the matter of agreement, and the suggestion for the judge here is that in the judge's considerations it should also be stated that it also violates the material requirement in the form of the objective condition of Article 1320 of the Civil Code, namely the requirement of a 'lawful cause' related to the payment of the disputed object in the PPJB agreement made, so it can then be considered in relation to the use of the term 'invalid' for the deed.

Thus, in this case the judge has made an error in applying the law (misapplication of law) because:

Formally, ignoring the UUJN's order to carry out the degradation of the deed.

Materially, it is incorrect to determine the legal consequences of a defect in agreement, where the judge uses the ruling "Invalid" which is absolute, whereas a violation of subjective conditions should be "Annulable". The judge should have added the unfulfilled "lawful cause," which is the objective requirement of the deed, so that only then the term "invalid" could be considered.

Simply put, the Judge mixed up 'procedural error' with 'substantive error,' then made an 'Invalid' decision without following the sequence of sanctions already stipulated in each law.

Liability of Notaries/PPAT for the Making of Deeds That Do Not Meet Requirements

Liability of Notary/PPAT for the Deed They Made.

Accountability or Sanctions for Notaries

The authority to conduct supervision and inspection of notaries lies with the Minister of Law, who in its implementation establishes the Notary Supervisory Board. The supervision and inspection of notaries are carried out by the Supervisory Board, which is composed of notaries and also from external sources, namely from academia,

the government, and the public. In Article 70 letter b of the UUJN, it is emphasized that the Regional Supervisory Board (MPD) has the authority to periodically examine notarial protocols.

The Notary Supervisory Board has the authority to impose sanctions on notaries. These sanctions are mentioned or regulated in the UUJN, also mentioned in the UUJN. Not all supervisory boards have the authority to impose sanctions; those that can impose sanctions are the Regional Supervisory Board (MPW) and the Central Supervisory Board (MPP). According to Article 73 paragraph (1) letter e of the UUJN, the MPW can impose verbal and written reprimands, but in Article 85 of the UUJN, the MPW has the authority to impose all sanctions mentioned in that article. Sanctions against notaries themselves are regulated at the end of the UUJN, namely in Articles 84 and 85 of the UUJN, and there are 2 (two) types, namely:

Civil Sanctions (Compensation)

Difference in Deed Status Due to Notary Errors In Article 84 of the Notary Position Law (UUJN), it is stated that if a Notary commits certain violations, the deed can be "null and void by law" or only "have evidential power as a private deed"

Article 84 stipulates that there are 2 (two) types of civil sanctions, if a Notary commits acts of violation against certain articles and the same type of sanctions are also distributed in other articles, namely:

Notarial deeds that have the evidentiary power of private deeds:

This condition occurs if a Notary commits a violation that is procedural or formal in the making of a deed.

The impact of not violating the provisions causes the deed to still exist and its contents are still considered correct, but its strength decreases. As an authentic deed, it has perfect evidentiary power, namely (formal, literal, material). After it is downgraded to a private deed, if a party denies its contents, then the party using the deed is required to prove the truth of its contents again.

As a result, a Notary can be sued based on tort (Article 1365 of the Civil Code) because the "downgrading" of this deed harms the parties. In relation to Article 84 of the UUJN in Decision 309/Pdt.G/2024/PN Mtr, if the judge finds that the Notary was not diligent in verifying identity documents or land certificates, the judge can declare the deed legally defective.

If the defect is only due to a witness issue, then its status is reduced to underhand. However, if the defect is because the Notary was involved or allowed a legal smuggling to occur, the judge can declare the deed null and void by law.

So in this case, if the Notary is not reported to the MPW/MPD, he might temporarily escape administrative sanctions (suspension). However, he cannot escape a civil lawsuit under Article 1365 of the Civil Code. Once the judge declares in the verdict that his deed is defective, that verdict becomes strong evidence for the plaintiff to personally claim material damages from the Notary.

The Notary Deed becomes null and void by law.

An act is declared null and void by law if from the beginning the act contains defects that violate the objective requirements for the validity of an agreement as stipulated in Article 1320 of the Civil Code. This is the most severe status. The act is considered as never having existed from the outset because it violates the objective requirements for the validity of an agreement. The object of the act is unclear, contains an unlawful cause, or violates public order and decency. If an agreement does not meet subjective requirements, the agreement can be canceled. However, if an agreement does not meet objective requirements, then the agreement is null and void by law.

If a Notary deed is annulled based on a court decision that has legal force, this can then be used as a basis to sue the Notary as an unlawful act, or in other words, the relationship between the Notary and the appearers can be qualified as an unlawful act, because:

a) The notary is not authorized to create the relevant deed.
b) Does not have the relevant Notary in making the deed.
c) The notarial deed is defective in form.

So notaries are often brought in as a party (Defendant or Co-Defendant) because

they are considered to have committed an Unlawful Act (PMH).

Civil Liability (PMH), a Notary can be personally asked to compensate if proven to have committed negligence (nesta) or intentional acts that cause harm to the parties appearing before them based on Article 1365 of the Civil Code. A notary is civilly liable if the elements of PMH are fulfilled: the existence of an act, the element of fault, the existence of damage, and the causal relationship between the fault and the damage.

So because in that decision the PPJB deed, and the power of attorney made by the notary were decided to be null and void by law because he was proven to have committed negligence or intentional actions causing loss, and it was considered that there was a forgery of a signature or false information known by the Notary but still included in the deed. When the defendant party requested the plaintiff's signature on a blank paper, the notary was subjected to sanctions to also pay a fine with joint and several liability, namely in civil law where several legal subjects or multiple parties are jointly responsible for paying the damages caused to the injured person or the victim party.

The Notary is required to be responsible for compensation, costs, and interest to the Plaintiff. In this ruling, the Notary is jointly liable with the other Defendants due to his negligence which became the 'path' for the loss of the Plaintiff's ownership rights.

Administrative Sanctions

Article 85 of the UUJN stipulates 5 (five) types of administrative sanctions, namely

1) Verbal warning
2) Written reprimand
3) Temporary Suspension
4) Dismissal with Honor
5) Dishonorable Discharge

In cases where a deed is declared null and void by law for violating objective requirements (Article 1320 of the Civil Code), the sanction imposed is usually no longer a verbal warning, but rather:

A written reprimand in this case is the minimal sanction. It is given if a Notary is proven to be administratively negligent or less careful in verifying the supporting documents of the deed.

Temporary Suspension, Based on Article 85 of the Notary Law (UUJN), if a notary's violation is considered serious due to neglecting fundamental principles of diligence, such as allowing identity forgeries or land document fraud, the Regional Supervisory Council (MPW) can impose a suspension (usually 3-6 months). This not only triggers civil sanctions in the form of compensation but also serves as a strong basis for the Supervisory Council to impose a temporary suspension to protect public interests and uphold the dignity of the notary position. The notary in question will be targeted under Article 16 paragraph (1) letter a of the UUJN for being considered not to act "carefully."

You should note that the Supervisory Assembly has the authority of 'Preventive and Curative Supervision.' MPW can conduct examinations based on findings or information from court decisions that have permanent legal force; it is impossible for a deed that has been declared 'Legally Defective/Null' by the court to be left unchecked without any disciplinary sanctions for its creator. If left unchecked, the dignity of the Notary's office will decline.

So a notary can also be subjected to administrative sanctions; a notary can be given a written warning as an initial sanction, but the sanction may increase because they knew but allowed it, thus becoming a higher sanction, namely temporary suspension.

Criminal Sanctions

Although in civil verdicts judges only decide on aspects of loss, in theory, a Notary can be charged under Article 264 or Article 266 of the Criminal Code for placing false information in an authentic deed. This occurs if it is proven that there is an element of intent or cooperation (conspiring) between the Notary and the Defendant to falsify the Plaintiff's presence for the interest of a certain party.

And if ethical accountability is proven to commit a violation, then an ethical sanction will be imposed, as stated in Article 6 of the I.N.I Banten Code of Ethics 2015, namely a warning, a reminder, temporary dismissal from the association, honorable dismissal, and dishonorable dismissal.

In this case, the issue of the notary's responsibility for the deed that is the object

of the dispute also arises. However, in notarial law, the notary's responsibility is basically limited to the formal correctness of the deed.

Article 15 of Law Number 2 of 2014 concerning the Position of Notary, a notary has the authority to make authentic deeds regarding all legal acts. Article 16 of the Notary Position Law, a notary is obliged to act honestly, diligently, independently, impartially, and to safeguard the interests of the parties.

In notarial practice, a notary is basically only responsible for formal accuracy, namely: the identities of the parties, the presence of the parties, and the procedure of making the deed.

As for the material truth of the statements of the parties, it is the responsibility of the parties themselves.

In principle, a notary is not responsible for the material truth of the statements of the parties, as long as the notary has carried out the procedures in accordance with the provisions of the laws and regulations.

Therefore, if a notary has carried out procedures in accordance with the provisions of the Notary Position Law, the legal responsibility cannot be fully imposed on the notary. Thus, whether in this case there is really negligence on the part of the notary, or whether the problem is more caused by the actions of the parties themselves.

Accountability or Sanctions Against PPAT

If a deed made by a PPAT contains legal defects due to negligence (such as data discrepancies or the absence of the parties), the PPAT is personally responsible for compensating the losses suffered by the parties. This is based on the principle of Unlawful Acts (PMH) as regulated in Article 1365 of the Civil Code.

The PPAT is responsible for processing the AJB based on supporting documents (Power of Attorney and PPJB) that are visibly procedurally flawed. The PPAT violates the principle of prudence in land registration.

In this case, the PPAT (I Gede Sutama, S.H. and the other parties) is positioned as a Co-Defendant. This means that if the judge in the final decision declares the deed to be defective, the PPAT is obliged to comply with the court's order to annul all legal consequences of the deed, for example the cancellation of registration at the land office.

In general, the accountability of PPAT in this civil judgment lies in procedural obligations, namely, PPAT is responsible for the correctness of the procedure of making the deed.

If it is proven that there are legal defects in the process of making the deed, for example if the parties are not present or the signature is forged without thorough verification, the deed may be declared legally defective or null and void by law.

And also the Obligation of Compliance, namely As a Co-Defendant, the PPAT is not held directly liable for material compensation (unless positioned as a Defendant), but must comply with the court's ruling, for example by recording the annulment of the deed in the PPAT register if the judge annuls the deed.

In the field of Civil Law (as in this District Court ruling), judges usually do not impose administrative or criminal sanctions directly on the PPAT.

Further sanctions such as revocation or suspension of licenses are usually within the administrative domain through the Supervisory and Governing Council of PPAT (MPP/MPD) based on reports from the aggrieved party or findings of code of ethics violations.

Sanctions for PPAT can take the form of compensation, namely paying material and immaterial losses to the aggrieved party in accordance with Article 1365 of the Civil Code, then administrative sanctions where a PPAT proven to have violated procedures in the PPAT Position Regulations (PP No. 24 of 2016) can be subjected to sanctions by the Ministry of ATR/BPN in the form of:

1) Written warning.
2) Temporary suspension from office.
3) Dismissal with honor or dishonor from the position of PPAT.

Criminal liability can also be applied if in the making of the deed there is an element of intent to assist in falsifying data or providing false information in an authentic deed, the PPAT can be charged under

Article 264 of the Criminal Code (Falsification of Authentic Deed) or Article 266 of the Criminal Code (Ordering to Insert False Information). (Puspoyudo & Handoko, 2022).

Defendants' Accountability: Liability for Bad Faith

Unlike a Notary who is responsible for procedural negligence, the parties (Defendants) are fully responsible for the content and purpose of the legal act. The liability of the parties is based on Article 1365 of the Civil Code concerning document manipulation or providing false statements. From a civil law perspective, the Notary is a victim of the parties' dishonesty, but the Notary is still professionally at fault for providing 'space' for such manipulation by neglecting attendance procedures. Therefore, the parties are responsible for the material act of transferring rights, while the Notary/PPAT is responsible for the formal defect that allowed the transfer to occur.

4. CONCLUSION

The Judge's Considerations in this case, the Judge granted part of the Plaintiff's lawsuit and declared that the Certificate of Property Rights (SHM) in the name of the Plaintiff and Defendant 1 is valid. Conversely, the Pre-Agreement Sale and Purchase (PPJB), Power of Attorney, Deed of Sale and Purchase (AJB), and SHM in the name of the Defendants are declared invalid because they do not meet the agreement requirements in Article 1320 of the Civil Code. Based on Article 1321 of the Civil Code, an agreement is considered invalid if it is given due to mistake, coercion, or fraud, considering that the Plaintiff never felt that they made the PPJB. Furthermore, there is a violation of Article 16 paragraph (1) letter m of the Notary Law (UUJN), which requires the Notary to read the deed in the presence of the appearing party with at least two witnesses present and signed at the same time by the appearing party, witnesses, and Notary, as well as letter c related to the obligation to affix the fingerprints of the parties. The Plaintiff feels they never made the PPJB together with Defendant 1. Based on these considerations, the legal consequences of the PPJB, Power of Attorney, AJB, and SHM on behalf of the Defendants are declared invalid. Therefore, the judge considers the actions of the Defendants as Unlawful Acts pursuant to Article 1365 of the Civil Code.

The liability of a Notary/PPAT arises if there is negligence or violation of the laws and regulations under Article 16 of the UUJN that harms another party. A Notary can be held civilly liable (Article 84 of the UUJN) in the form of an obligation to pay compensation, costs, and interest, while administrative sanctions (Article 85 of the UUJN) include written warnings, temporary dismissal, up to honorable or dishonorable dismissal. For a PPAT, civil liability is based on compensation for their negligence, while administrative sanctions (Government Regulation No. 24 of 2016) include written warnings, temporary dismissal, up to dishonorable dismissal by the Ministry of ATR/BPN. Criminally, if there is an element of intentional data forgery, they can be prosecuted under Article 264 or Article 266 of the Criminal Code. As a legal consequence, the deed becomes null and void by law, thus Notaries and PPATs are obliged to apply the principle of prudence in making authentic deeds.

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