

PPAT Responsibility Due To Deed Cancellation

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Abstract

Based on the background explained above, the problem formulation can be taken as follows what is the PPAT's responsibility for the cancellation of the PPAT sale and purchase deed with the right to repurchase and What are the responsibilities of the PPAT according to the Judge's considerations as a result of the cancellation of the sale and purchase deed with the right to repurchase in Decision Number: 100/PDT.G/2020/PN.KRG?. This research is a type of doctrinal research or also called normative legal research. Normative research is research carried out by reviewing legislation, court decisions, legal theory, and can be in the form of opinions of scholars which are compiled systematically and then draw conclusions in relation to the problem being studied. The results of this research are repurchase rights in transactions between Darwanto and SN. Joko Mursito, as proven by the Deed of Sale and Purchase Number 640/287/MTS/2020, which was then continued with a lawsuit to the court, according to the author, that in reality the sale and purchase with the right to repurchase was a pseudo sale and purchase because what occurred was a debt and receivable. Based on the Decision of the Supreme Court of the Republic of Indonesia Number 1729 PK/Pdt/2004 concerning buying and selling with the right to repurchase, the right to repurchase as regulated in Article 1519 of the Civil Code is not permitted. Cancellation of a Notary/PPAT deed through a court decision is not only due to errors or negligence of the Notary/PPAT in making the deed. However, the cancellation of a Notarial/PPAT deed can also be caused by errors or negligence of the parties who bound each other in the deed.

Keyword: PPAT, Legal Responsibility and Notarial Deed.

I. INTRODUCTION

Society continues to experience growth and development. People are people who live their lives on land. Humans basically have a close connection with the land. This is proven by all the activities carried out by humans on the ground. It cannot be denied that almost all activities carried out by humans are related to land, such as making land a place to live, a place to manage a business, a business object, and even a place to be buried when one dies. Nowadays, land has become one of the things that is very important for life, making people try to obtain it by owning and controlling land.

One of the ways to control or own land is by transferring land rights through buying and selling with proof of the making of a Sale and Purchase Deed (AJB) before an authorized official or Land Deed Making Officer (PPAT). In accordance with Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration that: Transfer of land rights and ownership rights to apartment units through sale and purchase, exchange, grant, company entry and other transfer of rights, except transfer of rights through auction which can only be registered if proven by a deed made by the authorized PPAT through the provisions of the applicable laws and regulations.

The sale and purchase deed is made before the PPAT as proof of absolute land control so that it cannot be negated by other parties. For example, stating that a deed is a signed letter that contains events or legal acts that are used as evidence. The legal act of buying and selling land is carried out with 2 (two) legal conditions known as material terms and formal terms:¹ a) Material terms, namely the terms that regulate the rights and obligations of the parties by carrying out the legal act of transferring land rights, in which case the parties the seller gives the land and the buyer pays for the land, thus transferring the rights to the land to the buyer; b) Formal requirements, namely making a sale and purchase deed before PPAT as an authorized official. In

accordance with Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, the deed is made by PPAT..

Buying and selling is an agreement in which one party binds himself to hand over an object and the other party pays the price as promised.² The definition of buying and selling means that the parties have entered into an agreement, where one party promises to deliver the goods, while the other party also promises to pay the price. Although the article above does not state the form of price that must be paid by the other party, the payment of that price must be in the form of money, because if the payment is not in the form of money, but in the form of goods, then the agreement is no longer a sale and purchase agreement, but in the form of an exchange.³

An authentic deed is a deed that has been regulated and determined by law and is made by or before a public official who has the authority to do so in the place where the deed is made.⁴ An authentic deed functions as evidence that has absolute power regarding the events or things contained in the Deed. To avoid mistakes that could cause problems and disputes in the future, the PPAT must have expertise in the land sector, not take sides with one party in making the deed, and not reveal secrets related to the deed. This means that in making a deed, the PPAT must be based on PPAT regulations.

PPAT carries out its duties and responsibilities in accordance with Government Regulation Number 24 of 2016 concerning amendments to Government Regulation Number 37 of 1998 concerning Regulations for Officials Making Land Deeds. PPAT is a public official who has authority regarding land rights or ownership rights to apartment units. PPAT is really needed because in accordance with its authority, the statement is not only trusted, but also the seal and signature can provide a guarantee as authentic evidence. PPAT in meeting community needs makes the existence of PPAT quite vital.

Very often it happens that PPAT is then asked to take responsibility for making the deed. One of them is in making a sale and purchase deed. As is known, a land sale and purchase deed can be made if all the sale and purchase requirements have been fulfilled by the parties. But in reality the opposite happens. There is a land sale and purchase deed issued based on a pretend agreement, in this case the conditions for sale and purchase are not fulfilled so the Sale and Purchase Deed only becomes a container.

Based on preliminary research by Hersa Krisna Muslim, it was found that this kind of sale and purchase gave rise to disputes because there was no payment of the price as written in the sale and purchase deed, even though it fulfilled the elements of real (actually ownership rights were transferred) and clear (made before the PPAT), but because there was no real payment in the form of money (the cash principle according to customary law is not fulfilled) then this sale and purchase is not binding.¹⁰

Cases related to sale and purchase agreements like this are familiar, one of which occurred in the case with Karanganyar District Court Decision Number: 100/Pdt.G/2020/PN Krg Civil Case between Darwanto who sued Joko Mursito. It started when Darwanto was in need of money, then Darwanto received an offer from Joko Mursito to apply for a Farming Business Credit (KUT) at Bank Niaga Surakarta, where the credit could be applied for on the condition that the applicant was Joko Mursito and as collateral the certificate had to be in his name. Joko Mursito.

So Darwanto and Joko Mursito made an agreement where Darwanto would temporarily change the name (5 years) of his certificate SHM Number 559 to Joko Mursito's name, as a condition for applying for a loan, from April 23 2002 to April 23 2007 and after the loan was paid off, the Certificate would be behind the name it returned to being in the name of Darwanto. After signing the agreement that the certificate would be renamed again after 5 years or the loan was paid off, Darwanto and Joko Mursito carried out the sale and purchase process

of the plot of land and the building standing on it, Certificate of Ownership Number 559 as contained in the Deed of Sale and Purchase Number 640/287/MTS /2002 dated 25 April 2002.

In this sale and purchase, Darwanto did not receive any money at all from Joko Mursito and Joko Mursito also did not ask to control the land and buildings being sold. Then in 2012 after a loan from Bank Niaga Surakarta amounting to Rp. 30,000,000 (thirty million rupiah) was paid in full by Darwanto, when he was asked to change his name, Joko Mursito again offered 1 truckload of fertilizer to the Plaintiff weighing approximately 1 (one) ton with a value of Rp. 4,000,000,- (four million rupiah). From Joko Mursito's offer of fertilizer, Darwanto was willing to pay but did not have the money to pay for the fertilizer, finally Joko Mursito offered a loan at the Savings and Loans Cooperative.

Sharia Financing "KOSPIN SYARIAH" Karanganyar Regency, Joko Mursito said "Later everyone will be helped to take care of the loan application process, while the certificate is still in his name." Based on the loan offer at Kospin Syariah, Darwanto was willing and applied for a loan at Kospin Syariah, from which the application disbursed Rp. 25,000,000 (twenty five million rupiah) with a maturity of 2 years, all of which was immediately received and used by Joko Mursito himself. The loan at Kospin Syariah was all paid in installments by Darwanto and was only paid off in 2020, then the certificate by Kospin Syariah was handed over to Darwanto on July 3 2020.

That since 2017 Joko Mursito's whereabouts are unknown, it is difficult to contact him and if you look at his house there is always no way to get legal certainty regarding the Certificate of Ownership number 559 owned by Darwanto which has not yet been renamed, namely in the name of Joko Mursito. So Darwanto filed a lawsuit to cancel the Deed of Sale and Purchase to the Karanganyar District Court. The lawsuit was granted with Karanganyar District Court Decision Number: 100/Pdt.G/2020/PN Krg. Looking at this case, the sale and purchase deed agreement should not have been made with any other intention. The making of the Deed of Sale and Purchase is carried out in good faith on the part of the parties because the sale and purchase has been carried out properly and in line with what the parties stated in the agreement they entered into.

Based on this, this is the background for the author to research further and discuss it in the writing entitled "PPAT Responsibility Due to Deed Cancellation".

Based on the background explained above, the problem formulation can be taken as follows:

1. What is the PPAT's responsibility for the cancellation of the PPAT sale and purchase deed with the right to repurchase?
2. What are the responsibilities of the PPAT according to the Judge's considerations as a result of the cancellation of the sale and purchase deed with the right to repurchase in Decision Number: 100/PDT.G/2020/PN.KRG?.

II. RESEARCH METHODS

This research is a type of doctrinal research or also called normative legal research. Normative research is research carried out by reviewing legislation, court decisions, legal theory, and can be in the form of opinions of scholars which are compiled systematically and then draw conclusions in relation to the problem being studied.⁵ This assessment aims to find the truth of coherence, namely whether legal rules are in accordance with legal norms and whether legal norms containing obligations and sanctions are in accordance with legal principles and whether someone's actions are in accordance with legal norms or legal principles. Therefore, norms are also interpreted as guidelines for behavior.⁶

In writing this legal research the author used primary legal materials, secondary legal materials and tertiary legal materials. The technique for collecting legal materials in writing legal research uses library study techniques or documentation studies (library research), namely techniques for collecting legal materials by

collecting, reading, reviewing and studying them, such as legal materials in library books, statutory regulations, codes, professional ethics, literacy, documents and other relevant written literature sources related to the responsibility of notaries in making deeds based on falsification of letters by the parties.

The technique for collecting legal materials used in this legal research is to carry out critical reading and analysis activities, then find the legal problems and issues to be researched and collect all information related to the problem being researched, then relevant and essential information is selected. The data analysis technique is to describe what a condition or position is based on legal or non-legal propositions.

III. DISCUSSION RESULTS

A. PPAT's responsibility for the cancellation of the PPAT sale and purchase deed with the right to repurchase?

In this case, the Panel of Judges considered first that the Plaintiff had filed a lawsuit which in essence was the legal owner of the land and building standing on it SHM No. 559. The plaintiff filed a lawsuit against the defendants because he felt that the defendants had committed an unlawful act (*onrechmatigedaad*) against his land.

The Defendant never appeared or asked someone else to act as his representative even though he had been properly summoned, but it did not turn out that his absence was caused by a valid reason. Co-Defendant I did not submit an answer at the trial and Co-Defendant II submitted an appropriate answer in the trial minutes.

The arguments of the Plaintiff's claim are not denied by the Defendants, based on Article 163 HIR the Plaintiff is still obliged to prove the arguments of his claim with consideration of the basis of the lawsuit in the Deed of Sale and Purchase Number 640/287/MTS/2002 dated 25 April 2002 over a plot of land SHM Number 559 issued by Co-Defendant I as PPAT.

The Panel considered that the actions of Co-Defendant I could be qualified as unlawful acts as stated in Article 1365 of the Civil Code. The law does not provide a detailed formulation of the meaning of an unlawful act, so in judicial practice in Indonesia based on the Jurisprudence of the Supreme Court of the Republic of Indonesia Number: 3191/K/Pdt/1984 dated 08 February 1986, an unlawful act is stated if it meets 4 (criteria) as follows: Contrary to the legal obligations of the perpetrator, Violate the subjective rights of others, Violate the rules of morality, Contrary to the principles of propriety, accuracy and caution that a person should have in social interactions.

These criteria do not have to be met collectively (simultaneously) but if one is proven to be present in an act, then it is deemed that there has been an unlawful act. In addition to the above jurisprudence, unlawful acts also contain elements, namely: [1] The existence of an act against the law; [2] there is a loss; [3] there is an error; [4] there is a causal relationship between the action and the loss. If all 4 (four) elements must be fulfilled, if one of them is not fulfilled, the act will not be considered an unlawful act.

Based on the above, the question arises as to whether the documentary evidence and witnesses presented by the Plaintiff have fulfilled the criteria and elements of an unlawful act. The Plaintiff's lawsuit argued that a sale and purchase of a plot of land had occurred, but the Tribunal would first consider the validity of the sale and purchase according to UUPA based on the elements of clear, cash and instantaneous.

What is meant by clear is that the sale and purchase is carried out in the presence of an authorized public official, namely the PPAT, while what is meant by cash is that the payment is made in cash and at the same time and immediately, meaning that the handover of the object of sale and purchase must be made at that time.

Based on the facts at trial there had been a sale and purchase. The agreement between the Plaintiff and the Defendant in the sale and purchase must comply with the provisions of Article 1320 of the Civil Code regarding the conditions for a valid agreement, namely agreement, skill, a certain matter and a lawful cause. If any of these objective conditions are not fulfilled then the agreement will be null and void.

The Panel of Judges stated that it was true that the sale and purchase had occurred based on the witness's statement that the sale and purchase had an agreement outside of the sale and purchase, namely an agreement to

buy back if the Plaintiff's obligations had been paid off. The sale and purchase between the Plaintiff and the Defendant did not involve handing over the object of the sale and purchase, because there was an agreement between the Plaintiff and the Defendant to buy it back.

Based on the provisions of the applicable laws and regulations, the sale and purchase carried out or an agreement to repurchase is not permitted, so the sale and purchase is considered inappropriate and unlawful for the law. As a result, the Sale and Purchase Deed Number 640/287/MTS/2002 dated April 25 2002 is invalid. Defendant I, who as a Notary/PPAT, was proven to have committed an unlawful act in issuing The sale and purchase deed (AJB) No. 640/287/MTS/2002 dated 25 April 2002 in the sale and purchase of a plot of land and buildings as in the Plaintiff's lawsuit is quite reasonable and deserves to be granted.

The sale and purchase deed (AJB) was declared invalid and null and void, so the name change process for SHM No. 559 becomes in the name of the Plaintiff/Darwanto without involving the Defendant to be granted. The Plaintiff has succeeded in proving part of his claim, so that the Plaintiff's claim has been granted.

Based on the information submitted by the Plaintiff and the Defendant's Exceptions, the judge in his considerations decided to grant part of the Plaintiff's claim, declaring the sale and purchase of a plot of land and building SHM number 559 in the Deed of Sale and Purchase number 640/287/MTS/2002 dated 25 April 2002 between The Plaintiff and Defendant issued by Co-Defendant I is an Unlawful Act, stating the sale and purchase of a plot of land and building SHM number 559 in the Deed of Sale and Purchase number 640/287/MTS/2002 dated 25 April 2002 between the Plaintiff and Defendant issued by Co-Defendant I is null and void, the Plaintiff can file a name change process against SHM number 559 in the name of the Plaintiff (Darwanto), punish the Defendant, Co-Defendant I and Co-Defendant II to submit and comply with this decision, punish the Defendants jointly and severally for pay court fees in the amount of Rp. 2,260,000;00 (two million two hundred and sixty thousand rupiah) and rejected the Plaintiff's claim for other than that.

The sale and purchase deed made by PPAT is an authentic deed. According to Article 1869 of the Civil Code, an authentic deed is a deed made in a form determined by law or before an authorized public official, for the purpose for which the deed was made. An authentic deed must meet several requirements, namely the authentic deed must be made in the form determined by law, the authentic deed must be made in the presence of a public official (openbaar ambtenaar), the official must be authorized, for that purpose in the place where the deed is made, the purpose of being authorized is regarding his position, the type of deed made, the day and date the deed was made and the place where the deed was made.⁷

Authentic deeds can also be cancelled, because not all authentic deeds fulfill the terms and conditions determined by law. There are many forms of authentic deeds, one of which is the land sale and purchase deed which is very commonly known, because to carry out a land sale and purchase, there must be a land sale and purchase deed, which will later become the basis for issuing a certificate for the land. According to statutory regulations and literature, the factors behind the cancellation of land sales and purchases bound by a sale and purchase deed issued by PPAT are:⁸ failure to fulfill the requirements set by law for this type of formal agreement which results in the agreement being null and void. , non-fulfillment of the legal conditions of the agreement, fulfillment of the conditions for cancellation in the type of conditional agreement and cancellation by a third party on the basis of Paulina's action.

Sale and purchase transaction on a plot of land between Darwanto and SN. Joko Mursito in the case above is considered by the author to be invalid, this is because the sale and purchase agreement should not have been made with any other intention. The making of the AJB should be carried out in good faith on the part of the parties because the sale and purchase has been carried out properly and in line with what the parties stated in the agreement they entered into. Before the signing of the Authentic deeds in front of the PPAT it turned out that it was between Darwanto and SN. Joko Mursito already had a sale and purchase agreement without an agreement

on the amount of money and proof of payment receipt. An agreement like this is a pretend agreement with other intentions between the two. Such land buying and selling transactions have a big chance of causing legal problems.

The cause of the problem in this case does not only arise from PPAT errors or negligence but arises from the client's dishonesty regarding the correctness of the administrative requirements as a basis for making the deed. Like the case the author raised in the Karanganyar District Court Decision Number 100/PDT.G/2020/PN.Krg. There was a sale and purchase of land and buildings between the seller/or land owner of the Plaintiff (Darmanto) and the Defendant (SN. Joko Mursito) which did not fulfill the terms of the validity of the agreement. This is because it violates Article 1320 of the Civil Code letter (d) for other purposes/halal causes, that the seller/land owner sells land to the buyer with other purposes before the agreement is made and different from what is stated in the AJB, so that after a dispute arises between the seller and the buyer, it was discovered that there was a lawsuit regarding the agreement which had hidden and unknown aims and objectives by Co-Defendant I (H. Agus Haryanto) as PPAT.

The cash and clear principle as has been explained is manifested in the land sale and purchase deed signed by the parties and executed before the PPAT, as well as being proof that there has been a process of transferring land rights from the seller to the buyer accompanied by payment according to the agreed land price. In the case of the lawsuit against Sale and Purchase Deed Number 640/287/MTS/2020, it resulted in the cash principle not being fulfilled in the sale and purchase of land, namely the absence of real and open payment transactions. Meanwhile, the principle of clarity in this lawsuit case resulted in the sale and purchase of land not being carried out openly and some being covered up, so that the guarantee of the truth regarding land ownership status became invalid as a result of which the publicity status within the community of SHM Number 559 land became unclear (unclear).

The sale and purchase is carried out before the PPAT, fulfilling clear conditions (not illegal legal acts, which are carried out in secret). The sale and purchase deed is signed by the parties, proving that there has been a transfer of rights from the seller to the buyer, accompanied by the price, has fulfilled the cash requirements and shows that the relevant legal action has actually been carried out. The deed proves that the deed of legal transfer for the duration and the price has been paid. Because the legal act carried out is a legal act of transferring rights, the deed shows that the buyer is the new recipient of rights.⁹

The cause of the problem is due to the client's dishonesty regarding the correctness of the intent and purpose of the agreement as the basis for making the deed which also dragged down the PPAT, resulting in the deed being null and void (*neigtigheid van rechtswegw*), as in the case of the group writer in the Karanganyar District Court Decision Number 100/PDT.G/2020 /PN.Krg., there is an aim and purpose of the agreement only as a means to expedite an agreement (pretend agreement) which then creates a dispute, and then the party who should be held responsible and informed disappears without a word, namely the Defendant (SN. Joko Mursito). The result of this incident shows that the Notary/PPAT in making the deed was not careful and careful when introducing the person, because the objective requirements were not fulfilled. In this case, PPAT is responsible for all the deeds it has executed.

Then in this case, if the sale and purchase is between Darwanto and SN. Joko Mursito transferred rights by means of the right to repurchase as regulated in Article 1519 of the Civil Code where the seller is given the right to take back the goods he sold, by returning the original purchase price accompanied by compensation as stated in Article 1532 of the Civil Code. Decision of the Supreme Court of the Republic of Indonesia Number 1729 PK/Pdt/2004 concerning buying and selling with the right to repurchase.¹⁰ According to this decision, a sale and purchase agreement with the right to repurchase as regulated in Article 1519 of the Civil Code, is not permitted, for several reasons: a) a sale and purchase agreement with the right to repurchase is a disguised (pseudo) debt-receivable agreement. This means that the sale and purchase agreement with the right to

repurchase is actually a debt and receivables agreement, namely the provision of a loan with collateral, and; b) a sale and purchase agreement with the right to repurchase is contrary to customary law, because customary law does not recognize sale and purchase with the right to repurchase.

Repurchase rights in transactions between Darwanto and SN. Joko Mursito, as evidenced by the Deed of Sale and Purchase Number 640/287/MTS/2020, was then continued with a lawsuit from Darwanto because of SN. Tri Mursito has broken his promise and is difficult to find, according to the author, in reality the sale and purchase with the right to repurchase is a pseudo sale and purchase because what occurred was a debt and receivable. Where there is a debt of gratitude for the offer given by SN. Joko Mursito applied for bank credit when Darwanto needed money, so there was a sale and purchase agreement in which the land certificate as collateral for the bank's debt had to first be transferred to SN. Tri Mursito on behalf of a loan to the Bank with a term of 5 (five) years. So, before going to the PPAT, the two of them had entered into a mock agreement. Where the sale and purchase agreement does not have a payment receipt because there is no real exchange of goods for money.

The buyer's obligation according to Article 1513 of the Civil Code is to pay the purchase price at the time and place as determined by agreement. The time limit for buying and selling with the right to repurchase The time limit for the right to repurchase cannot be agreed to be longer than five years, but if it has been agreed for a period of more than five years then five years is valid. This time limit is absolute, so the judge cannot extend it, if the seller fails to submit his claim to buy back the goods within the specified time limit, then the buyer remains the owner of the goods purchased and will become the permanent owner.¹¹

In principle, PPAT in serving the parties who make the deed is passive. Passive here means that the Notary and PPAT only include in the deed what the parties convey, the Notary does not have the right to change, reduce or add to what has been conveyed by the parties who come before him. Furthermore, according to Yahya Harahap, the passive nature in terms of ratios is not absolute, but can be flexed relatively while taking into account that in principle the notary does not have the authority to investigate the extent of the truth of the information submitted by the parties. If any information submitted by the parties is found to be contrary to statutory regulations, public order and morality, the notary must expressly refuse to make the requested deed.

PPAT, in carrying out his duties in making the deed, must pay attention to the consequences or consequences that will come in the future, therefore the precautionary principle is needed to avoid problems that arise after the deed is made by the PPAT. It can be interpreted that the precautionary principle has the aim of anticipating and preventing since the beginning of the occurrence of an uncertain result from a certain activity carried out by humans.¹²

As long as the PPAT has carried out the procedures and fulfilled the requirements in making the Deed of Sale and Purchase, the PPAT can guarantee the formal truth of the deed and can be free from demands because the task of the Notary and PPAT is only to express the wishes of the parties and not ensure the material truth of the data brought by the parties. However, PPAT must apply the principle of caution to avoid disputes in the future.

If the Deed of Sale and Purchase is canceled, this will then affect the land title certificate which has changed its name to the buyer's name. Provisions regarding cancellation of PPAT deeds are contained in Article 45 paragraph (1) letter f PP Number 24 of 1997, namely that the Head of the Office refuses to register the transfer or assignment of rights if the legal action proven by the PPAT deed is canceled or canceled by a court decision that has permanent legal force. The Explanation to Article 45 paragraph (1) states that: "The PPAT Deed is a tool to prove that a legal act has been carried out. Therefore, if the legal action is annulled or annulled, the relevant PPAT deed no longer functions as proof that the legal action was canceled by the parties concerned while the legal action has been registered at the Land Office, then land registration according to the cancellation of the legal action must be based on on other evidence, for example court decisions or PPAT deeds regarding new legal acts."

The sale and purchase deed made by the Land Deed Official (PPAT) is a bridge and the certificate is processed as proof of title, the land title certificate is the result of the land registration process. Land title certificates provide legal certainty and legal protection to the land rights holders concerned. Legal certainty means that it can be known with certainty and clearly who the land rights holder is and what the object of the land rights is. Guaranteed legal protection is given to holders of certified land rights when another party files a lawsuit or claims from another party regarding ownership of someone's land rights.

The moral responsibility of the PPAT profession is related to the ethics or behavior of the PPAT. As an authentic deed, the PPAT deed as evidence that has perfect evidentiary power can be degraded in its evidentiary power to become like a private deed. Degradation of the strength of authentic evidence to the strength of underhanded evidence if material and formal requirements are not met and there are also legal or juridical defects in the authentic deed resulting in the authentic deed being canceled or null and void by law.¹³

B. PPAT's responsibility according to the Judge's consideration due to the cancellation of the sale and purchase deed with the right to repurchase in Decision Number: 100/PDT.G/2020/PN.KRG

There is no definite application of the terms nullity and annulment as explained by Herlien Budiono, namely that when a law wishes to state that there are no legal consequences, it is declared "null and void", but sometimes the term "null and worthless" is used (Article 879 of the Civil Code) or "does not have power" (Article 1335 of the Civil Code).¹⁴ If the agreement no longer meets the objective requirements, it turns out that someone is still filing a lawsuit or claim regarding this matter, then the judge is obliged because of his position to state that there was never an agreement or engagement.¹⁵

The consequences of an annulment are in principle the same as being null and void, can be canceled or non-existent, namely that all three result in the legal act becoming invalid or the legal act having no legal consequences. Or the absence of something essential/main in the agreement. So, in terms of the cause, it is null and void due to non-fulfillment of objective conditions, as well as non-fulfillment of conditions which are the essence of the agreement and due to non-fulfillment of the formal form as required by the applicable law/provisions which is called non-existent void. The differences are:¹⁶ null and void, as a result the legal action carried out has no legal consequences since the legal act occurred, in practice null and void is based on a court decision which has permanent legal force; b) can be cancelled, as a result the legal action taken has no legal consequences since the cancellation occurs and where the cancellation or ratification of the legal action depends on a certain party, which causes the legal action to be cancelled. deeds whose sanctions can be canceled remain valid and binding as long as there is no court decision that has permanent legal force canceling the deed; c) non-existent, as a result the legal action that is carried out does not exist, which is caused by not fulfilling the essentials of an agreement or not fulfilling one or all of the elements in a particular legal action. Dogmatically non-existent sanctions do not require a court decision, but in practice a court decision is still required which has permanent legal force and its implications are the same as being null and void.¹⁷

The term cancellation is active, meaning that even though the terms of the agreement have agreed to cancel the deed that was previously made, or it is known that there are formal aspects of the deed that have not been fulfilled, which were not previously known, and the parties want to cancel it.¹⁸ In contract law there are certain legal consequences if subjective and objective conditions are not met. If the subjective conditions are not met, then the agreement can be canceled as long as there is a request by certain people or interested parties. These subjective requirements are always shadowed by the threat of cancellation by interested parties, namely parents, guardians or guardians. So that such threats do not occur, confirmation can be requested from those

concerned that the agreement will remain valid and binding on the parties. If the objective conditions are not met, then the agreement is null and void, without the need for a request from the parties, thus the agreement is deemed to have never existed and is not binding on anyone.

Subjective conditions are stated at the beginning of the deed. The first subjective requirement element is an agreement, free from the promising parties or without pressure and intervention from any party but solely the wishes of the promising parties. The second element of subjective requirements is the ability to take action on the part of the promising party. The ability to carry out legal action by the parties to the deed which will give rise to certain legal consequences if they do not fulfill the specified conditions. This relates to the legal subject that will act in the deed.¹⁹ So if the beginning of the deed which contains the requirements for the parties appearing before the Notary/PPAT does not meet the subjective requirements, then at the request of a particular person the deed can be cancelled. A Notarial Deed has perfect evidentiary power as evidence as long as all the terms and conditions in its preparation are in accordance. If there are procedures that cannot be proven to be fulfilled then the deed can be declared as a private deed. If it is in such a position then the value of the evidence is handed over to the Judge.

Notaries/PPATs in carrying out their duties and positions as public officials who have the authority to make authentic deeds are burdened with responsibility for their actions. This responsibility is a willingness to carry out his obligations which include the material truth of the deed he makes. The Notary/PPAT is responsible for negligence and errors in the contents of the deed made in his presence, but the Notary/PPAT is only responsible for the formal form of the authentic deed as regulated by law. Responsibilities relating to material truth include:²⁰ a) Notary/PPAT's civil responsibilities regarding the material truth of the deed they make. The juridical construction used in civil liability regarding the material truth of the deed made is the construction of an unlawful act. #; b) Notary/PPAT's criminal responsibility for the material truth in the deed they make. Regarding criminal provisions, it is not regulated in the Law on the Position of Notaries or in the Regulations on the Position of Officials Making Land Deeds, but the responsibility of a Notary/PPAT is criminally imposed if the Notary/PPAT commits a criminal act that violates the law. The Law on the Position of Notaries and the Regulations on the Position of Officials who make Land Deeds only regulate sanctions for violations committed and these sanctions can be in the form of a deed made by a Notary/PPAT that does not have authentic power or only has the power of a private deed or even the deed is canceled automatically law by the Court.

Thus, if at the beginning of the deed, especially the requirements for the parties appearing before the Notary, do not meet the subjective requirements, then at the request of a certain person the deed can be cancelled. A Notarial Deed is a means of evidence so that it has perfect evidentiary power, if all procedural provisions or procedures for making a deed are fulfilled. If there are procedures that are not fulfilled, and the procedures that are not fulfilled can be proven, then the deed through court proceedings can be declared as a deed that has the power of proof as a private deed. If it is in such a position, then the evidentiary value submitted to the judge is fulfilled, but the parties involved in the agreement wish that the agreement made no longer binds them for certain reasons, either on the basis of an agreement or by filing a lawsuit for cancellation in general court.

Cancellation of notarial deed / PPAT through a court decision, not only because Cancellation of a Notary/PPAT deed through a court decision is not only due to errors or negligence of the Notary/PPAT in making the deed. However, the cancellation of a Notarial/PPAT deed can also be caused by errors or negligence of the parties who bound themselves to each other in the deed, so that an error or negligence results in a lawsuit from one of the parties. In civil proceedings, it is not uncommon for a Notary/PPAT to be in the position of co-defendant which is given as a forced measure, because in notarial deeds, especially the Partij Acte which then becomes evidence for civil cases, the Notary/PPAT is not involved and is even prohibited by law. -The law is involved in a legal act as explained in the notarial deed which he formalizes. The involvement of a Notary/PPAT

is only limited to formulating the legal actions of the parties into a deed and then formalizing the deed. The insistence on placing the Notary/PPAT as a co-defendant is an effort to force the Notary/PPAT to produce information regarding the deed which is now used as evidence in the judicial process.²¹

Based on the *fautes personnelles* theory above, the author believes that PPAT is responsible for making AJB which contains legal defects. PPATs who make land sale and purchase deeds that contain legal defects are categorized as acts that abuse authority, considering that the authority vested in them based on article 2 of PPAT has been misused, so that the use of said authority is ultimately not in accordance with the purpose of granting the authority itself, in this case It appears that there has been an abuse of authority by PPAT because it did not exercise its authority properly.²² According to the author, based on PPAT's authority in making authentic deeds, the principle of prudence, thoroughness and thoroughness is needed for a PPAT when dealing with clients. Considering that basically a PPAT has professional abilities both theoretically and practically. Thus, if a PPAT makes a mistake in making a deed, so that the deed has the status of being legally defective, it can be said that there has been an abuse of authority which violates the law.

In connection with decision case Number 100/PDT.G/2020/PN.Krg., the position of PPAT (co-defendant). In this case it clearly violates the provisions as regulated in article 39 paragraph (1) letter g. Therefore, the Land Deed Making Official must be administratively responsible based on the provisions in Article 62 of Government Regulation Number 24 of 1997 concerning Land Registration. Administrative sanctions are given as administrative responsibility for the PPAT position. Thus, the sanction that can be given is dismissal from office with the revocation of the co-defendant's Decree by the BPN so that he is dismissed as PPAT because the Land Deed Official, in this case the co-defendant, has violated the law and thereby also violated the Professional Code of Ethics. In connection with decision case Number 100/PDT.G/2020/PN.Krg., the position of PPAT which is a co-defendant, it is best that PPAT's form of responsibility adheres to the principle based on fault of liability. So, in making an authentic deed, PPAT must be responsible if there is an error in the deed he has made. However, if there is an element of error on the part of the parties, then the PPAT cannot be held responsible because the PPAT only records what the parties convey to be included in the deed. If there is false information submitted by the parties, this is the responsibility of the parties.

Here the PPAT only consolidates what happened, and what was seen, as well as what was conveyed by the parties, which is then included in the deed. So if a mistake occurs by PPAT, whether intentional or not, in abusing the authority of PP Number 37 of 1998, it will result in losses. If the error can be proven by the parties who feel disadvantaged, then PPAT can then be subject to sanctions as regulated by law. Therefore, the PPAT must be careful in carrying out the process which must be carried out properly according to the formal and material provisions in making the sale and purchase deed.

IV. CONCLUSION

1. Repurchase rights in transactions between Darwanto and SN. Joko Mursito, as proven by the Deed of Sale and Purchase Number 640/287/MTS/2020, which was then continued with a lawsuit to the court, according to the author, that in reality the sale and purchase with the right to repurchase was a pseudo sale and purchase because what occurred was a debt and receivable. Based on the Decision of the Supreme Court of the Republic of Indonesia Number 1729 PK/Pdt/2004 concerning buying and selling with the right to repurchase, the right to repurchase as regulated in Article 1519 of the Civil Code is not permitted. The moral responsibility of the PPAT profession is related to the ethics or behavior of the PPAT. As an authentic deed, the PPAT deed as evidence which has perfect evidentiary power can be degraded in its evidentiary power to become like a private deed and if the material requirements and formal requirements are not fulfilled and There are also legal or juridical defects in the authentic deed resulting in the authentic deed being canceled or null and void by law.

2. Cancellation of a Notary/PPAT deed through a court decision is not only due to errors or negligence of the Notary/PPAT in making the deed. However, the cancellation of a Notarial/PPAT deed can also be caused by errors or negligence of the parties who bound each other in the deed. The legal consequences of AJB containing legal defects and violating statutory regulations are null and void, so that AJB and all actions related to AJB are null and void and do not have any legal force. The responsibility of PPATs who are proven to be negligent and make mistakes in making the sale and purchase deed is in the form of administrative, civil and criminal responsibilities.

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