

The Cancellation of the Sale & Purchase Binding Deed Carried Out before a Notary by the Parties

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Abstract. *This study aims to determine and analyze legal considerations used by judges in making decisions on the cancellation of the sale and purchase binding deed carried out before a notary by the parties, to find out and analyze the legal consequences of the cancellation of the sale and purchase binding deed by the judge carried out before a notary by the parties, to find out and analyze the legal remedies that can be taken by the parties in the cancellation of the binding deed buying and selling made before a notary. This research method uses normative juridical approach. Research specifications in this research is descriptive analytical. Techniques and data collection in this study were carried out using library research methods. Methods of data analysis using descriptive data analysis using inductive thinking method. The results of the study show that: 1) Legal considerations used by judges in making decisions on cancellation of the deed of binding sale and purchase carried out before a notary by the parties is if one of the parties defaults and to sue based on the agreed articles. 2) The legal consequences of the cancellation of the sale and purchase binding deed by the judge carried out before a notary by the parties are compensation, cancellation of agreement, and cancellation accompanied by compensation. 3) Legal remedies that can be taken by the parties in the cancellation of the sale and purchase binding deed made before a notary are: the buyer can make a claim for compensation in the fulfillment of a sense of justice.*

Keywords: *Binding; Deed; Notary; Purchase; Sale.*

1. Introduction

Buying and selling transactions in Islamic law must be carried out by taking into account the limitations of the Shari'a so that the transaction does not violate the provisions. Therefore, a person who makes a sale and purchase transaction must

pay attention to the legal terms of sale and purchase based on the provisions of the Shari'a,¹as stated in the Qur'an Surah Al-Nisa' verse 29:

يَتَأْتِيهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ
تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا ﴿٢٩﴾

Meaning: "O you who believe, do not eat each other's property in a wrong way, except by way of commerce that applies with mutual consent between you and do not kill yourselves; Verily, Allah is Most Merciful to you." (Surat an-Nisa': 29).²

Surah Al-Nisa' verse 29 above explains that in buying and selling transactions must pay attention to the principle of willingness or consensual, so that if the sale and purchase transaction contains elements of coercion, elements of fraud and elements of fraud, the sale and purchase transaction can be canceled. This is as stated in the Qur'an Surah Al-Isra 'verse 34:

وَلَا تَقْرَبُوا مَالَ الْيَتِيمِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ حَتَّىٰ يَبْلُغَ أَشُدَّهُ ؕ وَأَوْفُوا
بِالْعَهْدِ ۗ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا ﴿٣٤﴾

Meaning: "And do not approach the property of an orphan, except in a better (beneficial) way until he matures and fulfills the promise; Verily, the promise must be held accountable." (Surat al-Isra ': 34).³

Surah Al-Isra' verse 34 above explains that if one party has committed an act deviating from what has been agreed upon, then the other party can cancel the agreement or allow one party to cancel the agreement if the other party deviates from what has been agreed.⁴

In addition to the basis of the Qur'an above, the Prophet SAW also gave an explanation related to the agreement as contained in the hadith which reads:

¹Hendi Suhendi, (2015), *Fiqh Muamalah*, RajaGrafindo Persada, Jakarta, p. 67

²Ministry of Religion RI, 2015, *Al-Qur'an and Translation*, Toha Putra, Semarang, p. 154.

³Ibid, p. 198.

⁴Dimyauddin, Djuwaini. (2016). *Pengantar Fiqh Muamalah*. Yogyakarta: Gema Insani, p. 69.

الصُّلْحُ جَائِزٌ بَيْنَ الْمُسْلِمِينَ إِلَّا صَلْحًا حَرَّمَ حَلَالًا أَوْ أَحَلَّ حَرَامًا وَالْمُسْلِمُونَ
عَلَى شُرُوطِهِمْ إِلَّا شَرْطًا حَرَّمَ حَلَالًا أَوْ أَحَلَّ حَرَامًا

Awhich means: "Agreements may and are freely made between Muslims except for agreements that forbid what is lawful or make lawful what is unlawful; and the Muslims are bound by their conditions except the conditions that forbid what is lawful or make lawful what is unlawful." (Narrated by Bukhari, Tirmizi and al-Hakim).⁵

The explanation of the Hadi above according to al-Kasani, this zahir hadith states that it is obligatory to fulfill every agreement other than that which is excluded by a proposition, because this hadith requires everyone to be faithful to his promise, and fidelity to that promise is to fulfill the promise. The principle is that every legal action of a person occurs according to what he wants if he is a person who is capable of carrying out the action, the object can accept the action in question, and the person concerned has the authority in that action. The agreement is nothing but the agreement of the parties concerned, not the will of one party which does not meet the will of the other party.⁶

One form of agreement is the Sale and Purchase Binding Agreement (PPJB). Sale and Purchase Binding Agreement (PPJB) is an agreement between the seller and the buyer before the sale and purchase is carried out due to the elements that must be met for the sale and purchase. In the case of PPJB land, problems that may arise due to the unfulfilled elements of buying and selling include, among others, a land certificate that does not yet exist because it is still in process, or there has been no payment of the price or taxes imposed on the sale and purchase of the land which have not been paid either by seller or buyer. In the PPJB, the parties who will make the sale and purchase are bound and already have the rights and obligations to fulfill the agreement as agreed in the PPJB.

The sale and purchase binding agreement (PPJB) was born as a result of delays or the presence of several requirements determined by law relating to the sale and purchase of land rights which ultimately hampered the settlement of transactions in the sale and purchase of land rights. Some of these requirements are born from existing laws and regulations and some arise as an agreement between the parties who will buy and sell of land rights. Requirements arising from the law, such as buying and selling, must be paid off before the Sale and Purchase Deed (AJB) can be signed. In general, the requirements that often arise

⁵Al-Hakim. (1992). *al-Mustadrak*, Riyad: Maktabah wa Matabi" an-Nasyr al-Haditsah, p. 49.

⁶Kartika, Elsi and Advendi Simanunsong. (2018). *Hukum Dalam Ekonomi*. Jakarta: Grasindo, p. 302

are requirements that are agreed upon by the parties who will make a sale and purchase, for example at the time of buying and selling.

In the case of buying and selling land, the buyer and seller make a transfer of land rights based on the agreement stated in the sale and purchase agreement. This sale and purchase agreement is based on Article 1320 of the Civil Code concerning the conditions for the validity of an agreement which determines: For the validity of an agreement, four conditions are required: 1) Agree with those who bind themselves; 2) The ability to make an engagement; 3) A certain thing; 4) A lawful cause. The Civil Code recognizes various agreements, examples of agreements that are often encountered in daily activities, such as: buying and selling, renting, exchanging, borrowing and others.⁷

In order to continue to be able to carry out a sale and purchase, the parties agree that the sale and purchase will be carried out after the certificate has been processed, or after the price has been paid in full and so on. In order to keep the agreement carried out properly while the requirements requested can still be managed, then usually the party who will make the sale and purchase puts the initial agreement in the form of an agreement which is then known as the sale and purchase binding agreement. In practice, the sale and purchase binding agreement made before a notary is commonly referred to as a sale and purchase binding agreement (PJB).

The binding sale and purchase of land is a legal act that precedes the process of transferring land rights. The agreement is binding, giving rise to the rights and obligations of the parties who make it. Article 1234 of the Civil Code stipulates various achievements, namely that "Every engagement is to give something, to do something and not to do something". When the party who is burdened with the obligation does not carry out its obligations, it can be said that there has been a default. Default is not fulfilling or negligent in carrying out the obligations as specified in the agreement made between the creditor and the debtor. As a result of this default, it will cause losses for the other party.

Quoting from the Journal of law, policy and globalization it is stated: "which became the main base or core in the manufacture of a notary deed, is there must be the desire or the will and requests of the parties. If the wishes and requests of the parties does not exist, will not make a notary deed in question. To meet the demand of the parties wishes and notaries can advice to remain grounded in the rule of law".⁸ From this statement, it can be seen that the main basis or core in

⁷Wijaya, Yunita Nerissa. (2014). "Perlindungan Hukum bagi Konsumen atas Wanprestasi dari Pengembang", *Jurnal Ilmiah Mahasiswa Universitas Surabaya*, Volume 3 No. 1, p. 17.

⁸Muryanto, Sri, et. al. (2014). "The Principle of Justice In The Sentencing Of Corruption Offenders", *Journal Of Law, Policy and Globalization*, Volume 27 Number 1, p. 57

making a notary deed is that there must be a desire or will and a request from the parties. If the wishes and requests of the parties do not exist, the relevant notarial deed will not be made. To fulfill the request of the party's wishes, the Notary may suggest to follow the legal rules.

A Notary Deed is an official document issued by a notary according to the Civil Code article 1870 and HIR article 165 (Rbg 285) which has absolute and binding evidentiary power. The Notary Deed is perfect evidence so that there is no need to prove it with other evidence as long as the untruth cannot be proven. Based on Article 1866 of the Civil Code and HIR 165, a notarial deed is the main written evidence or letter of evidence so that this document is a trial evidence that has a very important position.⁹

Based on the study above, it can be understood that the binding agreement for the sale and purchase of land in practice is often made in the form of an authentic deed made before a Notary, so that the Sale and Purchase Binding Deed is an authentic deed that has perfect evidentiary power. This is intended by the parties to provide more protection and legal certainty for the parties who make it. Because the notary in making a deed is impartial and maintains the interests of the parties objectively. With the help of a notary, the parties who make the sale and purchase binding agreement will get assistance in formulating the things that will be agreed upon. However, an agreement does not always run according to the agreement desired by the parties.

2. Research Methods

The approach method in this research is a normative juridical approach. Research specifications in this research is descriptive analytical. The data sources of this research were obtained by collecting primary, secondary and tertiary legal materials which were collected through the study of documents and literature consisting of: Primary legal materials, secondary legal materials and tertiary legal materials. Techniques and data collection in this study were carried out using library research methods. Data analysis was carried out qualitatively, resulting in a classification that was in line with the problems discussed in this study, with the aim of obtaining answers to the problems discussed in this study.

⁹Hafidz, Jawade, et. al. (2017). "Implementasi Kepastian Hukum Akta Notaris Berdasarkan Perspektif Undang-Undang No. 40 Tahun 2007 Tentang Perseroan Terbatas", *Jurnal Akta*, Volume 4 No. 4 Desember 2017.

3. Results and Discussion

3.1. Legal Considerations Used by Judges in Making Decisions on Cancellation of the Sale and Purchase Binding Deed Made before a Notary by the Parties

The sale and purchase binding agreement is actually no different from the agreement in general. It's just that the binding sale and purchase agreement is an agreement that was born due to the open nature of Book III of the Civil Code (KUH Perdata), which provides the widest freedom for legal subjects to enter into agreements containing anything and in any form provided that it does not violate laws and regulations, public order and decency.

The sale and purchase binding agreement was born as a result of the obstruction or the presence of several requirements determined by the law relating to the sale and purchase of land rights which ultimately hampered the settlement of transactions in the sale and purchase of land rights. Some of these requirements arise from existing laws and regulations and some arise as an agreement between the parties who will buy and sell of land rights. Requirements arising from the law, such as buying and selling, must be paid off before the Sale and Purchase Deed (AJB) can be signed. In general, the requirements that often arise are requirements that are agreed upon by the parties who will make a sale and purchase, for example at the time of buying and selling.¹⁰

With the above conditions, of course, it will hinder the making of the deed of sale and purchase, because the official making the land deed will refuse to make the deed of sale because all the requirements have not been completed. In order to continue to be able to carry out a sale and purchase, the parties agree that the sale and purchase will be carried out after the certificate has been processed, or after the price has been paid in full and so on. In order to keep the agreement carried out properly while the requirements requested can still be managed, then usually the party who will make the sale and purchase puts the initial agreement in the form of an agreement which is then known as the sale and purchase binding agreement. In practice, the sale and purchase binding agreement made before a notary is commonly referred to as a sale and purchase binding agreement (PJB).¹¹

The meaning of the sale and purchase binding agreement can be seen by separating the words from the sale and purchase binding agreement into a sale and purchase agreement and binding. The understanding agreement can be seen in the previous sub-chapter, while the Sale and Purchase Binding Agreement

¹⁰Rusdianto, Dony Hadi. (2018). *Beberapa Catatan Penting Tentang Pengikatan Jual-Beli Hak Atas Tanah*. Jakarta: Mitra Ilmu, p. 41.

¹¹Ibid., p. 42.

according to R Subekti is an agreement between the seller and the buyer before the sale and purchase is carried out because there are elements that must be met in order for a sale and purchase to be carried out, including certificates not yet exists because it is still in the process, the price has not yet been paid. Meanwhile, according to Herlien Budiono, the binding sale and purchase agreement is an assistance agreement that functions as a free preliminary agreement.¹²

The content of the binding sale and purchase agreement which is a preliminary agreement for the birth of the main agreement is usually in the form of promises from the parties containing provisions on the agreed terms for the validity of the main agreement. For example, in the binding agreement for the sale and purchase of land rights, the clause in the agreement usually contains promises from both the seller of the land rights and the buyer regarding the fulfillment of the conditions so that the main agreement, namely the sale and purchase agreement and the sale and purchase deed, can be signed in front of the owner. Land Deed Making Official (PPAT), such as a promise to manage land certificates before buying and selling is carried out as requested by the buyer,¹³

In addition to the usual promises in the binding sale and purchase agreement, it is also stated about the right to give power of attorney to the buyer. This happens when the seller is unable to attend the signing of the deed of sale and purchase before the Land Deed Making Officer (PPAT), either because the location is far away, or because there are obstacles and so on. The granting of such power of attorney usually only takes effect after all the conditions for buying and selling land rights at the Land Deed Making Officer (PPAT) have been fulfilled.¹⁴

Prospective buyers generally need to make a clean check to the land office where the land is located, while prospective sellers need to ask for a down payment (DP) as a sign of the seriousness of buying the land from the prospective buyer. In the context of checking the land office and paying the advance payment, it is necessary to have a sale and purchase binding agreement as an initial commitment to the seriousness of the parties to carry out a sale and purchase transaction on the land.¹⁵

¹²Budiono, Herlien. (2014). *“Pengikatan Jual Beli dan Kuasa Mutlak”* Majalah Renovi, Edition I, No. 10, p. 57.

¹³Gunawan, Jaya. (2010). *Perkembangan Hukum Perdata Bidang Perjanjian Innominaat (Tak Bernama)*. Bandung: Citra Ilmu, p. 10.

¹⁴Patrudi, Kamaluddin. (2015). *Pemberian Kuasa Dalam Praktek Perjanjian Pengikatan Jual Beli Hak Atas Tanah*. Yogyakarta: Gamma Press, p. 20.

¹⁵Gadiman, Darwanto. (2018). *Hak Dan Kewajiban Para Pihak Dalam Perjanjian Pengikatan Jual-Beli Tanah Bersertipikat*. Bandung: Sumber Ilmu, p. 9.

In the event that if someone wants to sell a piece of land and the other party wants to buy it, they will come before the Land Deed Maker Official, to ask for a deed of sale and purchase for the land. However, due to a certain reason the sale and purchase cannot be carried out, for example because the sale and purchase is not paid off. However, if the parties still wish to be asked to make a deed of sale and purchase, to anticipate this, the PPAT who also works as a notary will advise the parties to make a deed of sale and purchase agreement.¹⁶

The main factors that cause people to enter into a sale and purchase agreement are because the sale and purchase has not been paid off (in installments) and to postpone the obligation to pay taxes, because by entering into a sale and purchase agreement transaction, taxes will not arise because there is no registration of the transfer of rights as required in the regulations regarding Land Deed Maker Officials. In other words, it can be said that it temporarily delays the implementation of tax payments.

From all the meanings stated above, it can be concluded that the definition of the Deed of Binding Sale and Purchase in the opinion of the researcher is a letter signed between the seller and the buyer in the sale and purchase of land rights prior to the actual sale and purchase due to the elements that must be met in order to purchase which functions as a free form conditional engagement.

The binding sale and purchase is not made before a public official, the Binding Sale and Purchase (PJB) becomes a private deed, and for a private deed it is further regulated in Article 1874 of the Civil Code which reads: undersigned deeds, letters, registers, household affairs letters and others, writings made without the intermediary of a public employee.

By signing a writing under the hand which is equivalent to a thumbprint, affixed with a statement left by a notary or other official appointed by law from which it turns out that he knows the person who put the thumbprint, or that this person has been introduced to him, that the contents of the deed have been explained to that person, and that after that the thumbprint is affixed in front of the employee. This employee must record the writing. By law, further regulations regarding the said statement and bookkeeping may be enacted.¹⁷

The purpose of the article above is to regulate the deed under the hand which only has provisions for proof to third parties if after a statement is made in front of a notary, the method is to sign the deed before a notary or an official

¹⁶Jusran, Heriyanto. (2013). *Hukum Perjanjian Innominaat Dalam Praktek*. Jakarta: Citra Media Ilmu, p. 15.

¹⁷Latumenten, Pieter E. (2013). "Kuasa Menjual Dalam Akta Pengikatan Jual Beli (Lunas) Tidak Termasuk Kuasa Mutlak", *Jurnal Renvoi* 4, p. 42.

appointed for ratification of signatures (such as consular officers, embassies, Regional Heads starting from the Regent level and above) by explaining the contents first to the Parties and then signing them before a Notary or an authorized General Official.

From the information above, it can be seen that for a Sale and Purchase Agreement (PJB) which is not made before a public official or a new deed has power against third parties, among others, if it is affixed with a dated statement from a Notary or another employee appointed by law as regulated in Article 1874 of the Civil Code.

Based on all the information that has been stated above, it can be concluded that the legal force of the binding agreement deed of sale and purchase of land rights made by a Notary in the implementation of the making of the Sale and Purchase Deed is very strong. This is because the Sale and Purchase Agreement (PJB) made before a notary, then the deed has become a notarial deed so that it is an authentic deed, while for those made not before a notary, it becomes an underhand deed whose proof is under an authentic deed, even though it is in Article 1875 of the Book of Law. The Civil Law Law does state that a private deed can have perfect evidence such as an authentic deed if the signature on the deed is recognized by the parties who signed it.

However, the provisions in Article 1875 of the Civil Code re-points to 1871 of the Civil Code which states that a private deed can be like an authentic deed but does not provide perfect evidence of what is contained therein, because it will be considered as mere narrative other than only what is said is directly related to the main content of the deed.¹⁸

The binding sale and purchase must also be followed by a power of attorney. Binding and power is also an inseparable pair. The power of attorney in the land sale and purchase agreement aims to provide guarantees to the recipient of the power of attorney (buyer), after the conditions required in the sale and purchase of land are fulfilled, to be able to carry out the rights that arise in the sale and purchase agreement or sign the sale and purchase deed himself without the need for the presence of the power of attorney (seller) in front of the Land Deed Maker Official (PPAT).

Based on the Instruction of the Minister of Home Affairs Number 14 of 1982 mentioned above, it is also clear that this violates the regulations that are still in force. However, if the Instruction of the Minister of Home Affairs Number 14 of 1982 concerning the Prohibition of the Use of Absolute Power as Transfer of

¹⁸Syahrul, Ferdiyanto. (2015). *Kewajiban Dan Kewenangan Notaris Dalam Pembuatan Akta*. Bandung: Sumber Ilmu, p. 11.

Land Rights is returned to the law, namely Article 1719 of the Civil Code concerning last giving, especially Article 1813 of the Civil Code and the Mandagri Instruction No. 14 of 1982 is also based on PP 24 of 1997, regarding the expiration of an authorization, if it is associated with Article 1338 of the Civil Code concerning "the parties can make an agreement".

In the binding agreement for the sale and purchase of land and buildings, it can be said as an agreement in which both parties bind themselves to make a sale and purchase, if the things that have not been fulfilled at the time of the sale and purchase agreement have been completed by either by the parties. There are 3 (three) factors that cause cancellation in a sale and purchase agreement, namely:

- Due to the agreement of the parties.
- Because the void conditions as stated in the sale and purchase binding clause have been fulfilled.
- Due to the cancellation by the court on the demands of one of the parties.

The binding sale and purchase of land carried out before a notary does not result in the right to the land being transferred at that time from the hands of the land owner to the prospective buyer. This is because the sale and purchase agreement is a conditional agreement or a preliminary agreement prior to the implementation of the sale and purchase agreement through the official deed of the Land Deed Maker (PPAT).

This land sale and purchase binding agreement serves as a means of proof if one of the parties defaults and to sue based on the agreed articles. The forms of default that can occur in the binding agreement for the sale and purchase of land include:

- The buyer delays the payment of the land price that should have been paid or only paid a few days after the due date, or the buyer makes the payment but not as agreed.
- The buyer does not pay a fine for being late in paying the price of the land or for being late in paying the fine.
- The seller takes actions that clearly violate the binding agreement for the sale and purchase of land, for example selling the object of the agreement to another party.

The binding agreement for the sale and purchase of land does not end because one of the parties dies. The binding agreement for the sale and purchase of land can be decided by both parties. The seller can terminate the binding agreement for the sale and purchase of land if the buyer is unable to continue his obligation

to pay the land price in accordance with the agreement. In addition, the buyer also resigns or cancels the transaction because the binding agreement for the sale and purchase of land can be decided.

3.2. Legal Consequences of Cancellation of Binding Sale and Purchase Deed by a Judge Performed Before a Notary by the Parties

The legal force of the Sale and Purchase Binding Agreement Deed made before a Notary is very strong because it is an authentic deed according to Article 1868 of the Civil Code and Article 1870 of the Civil Code which has confirmed that the deed made before a Notary has perfect evidentiary power, the quote is as follows: Article 1868 of the KUH Civil Law: "An Authentic Deed is a deed in the form determined by law made by or before public officials in power for that at the place where the deed was made." Article 1870 of the Civil Code (Translation of R. Subekti): "An authentic deed provides between the parties and their heirs or those who have rights from them, a perfect proof of what is contained therein."

Based on Article 1868 of the Civil Code mentioned above, it can be seen that for authentic deeds the form of ajta is determined by law and must be made by or before an authorized employee. The authorized employee referred to here is, among others, a Notary, this is based on the provisions of Article 1 point 1 of Act No. 1 of 2004 concerning the Position of a Notary.

In practice it is possible to cancel a Sale and Purchase Agreement (PJB) unilaterally by one of the parties or upon the agreement of both parties. The Sale and Purchase Agreement (PJB) can also be canceled by a court decision. The cancellation of a deed of agreement made authentically will certainly bring legal consequences. When viewed from the obligations of the buyer, in this buying and selling, the buyer also has the first task. The main obligation that must be fulfilled by the party itself is to pay the price of the object of sale which is traded at the agreed price. If the buyer does not pay the payment in accordance with the agreement, the seller may demand the cancellation of the sale of the land.

Article 1320 of the Civil Code states that for a valid agreement to require empathy, mandatory conditions must be fulfilled, other requirements contained in Article 1320 of the Civil Code are also still required, according to customary law for the validity of an agreement on the transfer of land rights. According to him, the terms of sale and purchase are: (a) "Cash" and (b) "Light". In summary, "cash" means that the sale and purchase and transfer of land rights from the seller to the buyer is deemed to have taken effect when the party stated the agreement in the agreement. Although the sale and purchase is a payment not in "cash" in the sense of every day, this is not a principal and is considered as a debt owed between the seller and the buyer.

Article 1266 of the Civil Code explains or explains that defaults are always considered as a condition for cancellation of an agreement so that the party who feels aggrieved by the other party breaking the promise can cancel the agreement through a court, either because the denial is declared a void condition in the agreement or there is no In the agreement, if the conditions for cancellation are not included in the agreement, the judge may provide an opportunity for the party who broke the promise to continue to fulfill the agreement and give a time period that does not exceed one month. From the results of the study, there are several reasons or factors that can result in the cancellation of the sale and purchase agreement deed, namely:

- There are clauses in the agreement stating that it is null and void.
- Whether or not it fulfills the requirements for manufacture is determined by law.
- There is no ability of the parties to carry out such an engagement.
- The sale and purchase price that has been agreed in the sale and purchase agreement has not been paid for by the buyer so that the agreed time period (broken promise).
- The land documents needed for the transfer of land rights (land sale and purchase before PPAT) have not been completed until the promised time interval.
- In fact, the object of sale and purchase in the future is in a state or event of a dispute.
- The parties do not fulfill their obligations in paying taxes.
- The land purchase agreement was decided by the parties who made it.
- Sentence.

Then based on the problems above, in the Plaintiff's view, it is explained that the request for compensation can be based on the main performance, it can also be for additional compensation at once. Compensation for basic performance losses because the debtor does not fulfill his achievements at all, while additional compensation for losses is due to the debtor being late in fulfilling his achievements. Then the legal consequences of PJB that have been done by the parties, the parties must comply with what has been stated or written in the contents of the PJB deed, Article 1338 of the Criminal Code applies. If one of the parties feels unlucky because the actions of the other party have defaulted or have committed an unlawful act by the party who feels aggrieved, they can file their case in the local court. The PJB made contains the rights and obligations of the parties. Because the PJB they make has perfect legal force for the party who made it, because the depth of making the PJB is made by following the engagement theory regulated in the KUHPdt automatically the parties are protected from the deed they have made.

According to the author, cancellation of the PJB if the existing clauses or made by the parties are not fulfilled. For example, at the time of payment, the buyer must pay but the buyer does not keep his promise so that it can be one of the conditions for the PJB to be canceled. The binding sale and purchase (PJB) can also be canceled from the seller in a certain case can cancel the PJB but with a consequence for example he (the seller) does not sell the goods for certain reasons, so the agreement can be canceled but what has been given by the buyer must be returned back by the seller. In general, an agreement can only be canceled by mutual agreement, an agreement cannot be canceled unilaterally so that the agreement can be canceled upon the agreement of the parties who made the agreement. Factors that can cancel an agreement, namely default and there are reasons why a default can occur, for example, force majeure and something that is considered extraordinary.

The cancellation of an agreement made before the court is caused when the promise is being made, where one of the parties is not capable of carrying out a legal treatment, the agreement is approved because that party is under criticism or because of an oversight regarding the object of the agreement. Therefore, the aggrieved party may ask the judge to cancel the agreement.

The legal consequences of canceling the sale and purchase agreement made before the notary are compensation, cancellation of the agreement, and cancellation accompanied by compensation. There is a lawsuit for compensation of all costs and interest from the party who feels aggrieved by the cancellation of the binding sale and purchase of land as stated in Article 1243 and Article 1244 of the Civil Code, which essentially mentions the reimbursement of costs, losses and interest due to non-fulfillment of an agreement can be brought to court (litigation) after previously being preceded by a warning (somatie) submitted by the party who feels aggrieved to the party who cancels or the party who has defaulted/breach of promise in the sale and purchase agreement.

3.3. Legal Efforts That Can Be Done by the Parties in Canceling the Sale and Purchase Binding Deed Made Before a Notary

In relation to the null and void of the sale and purchase deed other than the fault of the seller, PPAT for its negligence in making a sale and purchase deed that should not have been made can be administratively and legally liable. There are three kinds of legal responsibilities carried out by PPAT, namely as follows:

- **Administrative Responsibilities.** Administrative responsibility means that PPAT's responsibilities are related to administrative requirements and involve PPAT's authority in carrying out their duties. PPAT/Notary in carrying out his position must carry out the following matters:

- Notary/PPAT must act correctly in making the deed. That is, because of his position, the deed made must meet the general requirements and the wishes of the interested parties.
- Notaries/PPATs need to show high-quality agreements. That is, the deed made in accordance with the rule of law and the wishes of the parties concerned with the true meaning, is not made up. The notary/PPAT must also explain the truth of the contents and procedures of the deed he made to the interested parties.
- Civil Liability. Civil liability includes two things, namely civil liability for unlawful acts and civil liability for default. The construction of unlawful acts is contained in Article 1365 of the Civil Code. The element of the unlawful act is the existence of errors and losses, as well as the existence of an unlawful act caused. PPAT's civil legal liability due to legal actions, namely PPAT must be responsible for negligence that harms the parties by making compensation. In addition, PPAT must be responsible for losses caused by lack of care and negligence in carrying out its duties, and PPAT must be responsible for the mistakes of its staff who commit acts against the law in accordance with their orders.
- Criminal Liability. There are no criminal provisions in the PPAT/Notary position regulations, but in terms of criminal liability, criminal sanctions can be given to the PPAT/Notary who commits a criminal act. Several criminal acts that PPAT may potentially carry out in carrying out their duties, namely falsification of documents or letters (Articles 263 and 264 of the Criminal Code, hereinafter referred to as the Criminal Code), embezzlement of funds (Articles 372 and 374 of the Criminal Code), money laundering, providing false information in under oath (Article 242 of the Criminal Code). PPAT's criminal responsibility is in accordance with the criminal act he has committed and PPAT will receive sanctions according to the article of his criminal act. So that the buyer can ask for compensation other than the seller is the PPAT who has made the deed of sale and purchase.

With litigation, the buyer can ask for the help of an advocate as his legal representative. In his duties, an advocate still tries to use the path of peace to resolve the legal problems that are being faced by the client. Before a case is registered in court, an advocate will approach or submit a subpoena. However, if the approach and subpoena are not responded to, then the advocate with the client's consent will take the case to trial in court.

Based on the explanation above, it can be understood that the buyer's legal remedy is to make a claim for compensation in fulfilling a sense of justice. The right of the buyer who feels aggrieved is to file a legal remedy, either through non-litigation or litigation. Because the cancellation of the sale and purchase

deed results in a return to its original state, the aggrieved party can ask for compensation or a refund of the cost of buying the land by way of negotiation. However, if this method does not produce results, then the party who feels aggrieved can file a lawsuit in court to sue the unauthorized seller of the disputed land and PPAT.

4. Conclusion

Legal considerations used by judges in making decisions on cancellation of the deed of binding sale and purchase carried out before a notary by the parties if one of the parties defaults and to sue based on the agreed articles. The forms of default that can occur in the binding agreement for the sale and purchase of land include: a) The buyer delays the payment of the land price that should have been paid or only paid a few days after the due date, or the buyer makes the payment but not as agreed. b) The buyer does not pay a fine for his delay in paying the price of the land or for being late in paying the fine. d) The seller takes actions that clearly violate the binding agreement for the sale and purchase of land, for example selling the object of the agreement to another party.

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