

## Responsibility of Land Deed Officials For Sale and Purchase Deeds Without Certificate Checking at The National Land Agency Tegal City

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**Abstract.** *This study aims to determine and analyze the responsibility of land deed making officials in making sales deeds without checking the certificate at the National Land Agency of Tegal City and to determine and analyze the legal consequences of making sales deeds without checking the certificate at the National Land Agency of Tegal City. The approach method in this study is an empirical juridical approach. The research specifications used are descriptive analytical research. The type of data uses primary and secondary data. The Theory of Legal Responsibility According to Abdulkadir Muhammad and Theory of Legal Certainty according to Gustav Radbruch. The results of the research and discussion in this study are: 1) The Responsibility of the Land Deed Making Official in making a Sale and Purchase Deed Without Checking the Certificate at the National Land Agency as happened in Tegal City and Depok City is a form of PPAT responsibility due to unlawful acts committed due to negligence (negligence tort liability), based on the concept of fault related to morals and law, this clearly deviates from legal protection for the parties (seller and buyer), so that the PPAT is charged with a form of civil liability due to negligence of objective requirements. This is to maintain important aspects of protection of land objects, important aspects of the parties, aspects of legal certainty of the Sale and Purchase Deed and aspects of legal protection for the PPAT. 2) The Legal Consequences of Making a Sale and Purchase Deed Without Checking the Certificate at the National Land Agency of Tegal City deviate from the objective requirements aspect where the problem does not arise from the error or negligence of the PPAT but arises due to the client's dishonesty regarding the accuracy of the administrative requirements as the basis for making the deed which can result in the deed being null and void by law (nietigheid van rechtswege). However, in this case, the error arises from the parties, so it is important for a PPAT to implement the principle of caution in recognizing the parties, this is a form of PPAT anticipation of legal actions*

*in the future and the absence of disputes for the parties and the legal consequences for PPAT receiving the first written warning from the Tegal City Land Office as a violation of administrative responsibility and a form of care for caution as stated in Article 3 letter F of the Code of Ethics of the Association of Land Deed Making Officials No: 112 / KEP-4.1 / IV / 2017 that in carrying out his position PPAT is obliged to work with a full sense of responsibility, independently, honestly, and impartially. PPAT as a public official is not only responsible for the administrative formality aspects but is also required to ensure that the deed made does not contain elements of coercion, fraud or imbalance that violates the principle of justice.*

**Keywords:** AJB; Certificate Checking; BPN; PPAT; Responsibility.

## 1. Introduction

One way to transfer land ownership is through a sale. According to Article 1457 of the Civil Code, the principle of a sale and purchase is obligatory, establishing only mutual rights and obligations between the two parties. In other words, under civil law, a sale and purchase agreement does not automatically transfer ownership; ownership occurs only after the handover.<sup>1</sup> The process of buying and selling land is related to the PPAT as a public official who is given the authority by law to make authentic deeds and is required to make them in accordance with legal requirements.<sup>2</sup>

The PPAT's responsibility when drafting a deed is to ensure the legal consequences of an authentic deed, which essentially contains formal and material truth. Therefore, the PPAT is obligated to draft the deed in accordance with established provisions. Prior to the deed-making process, the PPAT is obligated to verify the certificate of a land title at the land office. The PPAT is obligated to read the deed so that its contents can be understood by the parties. The PPAT must provide access to information, including access to relevant laws and regulations, for the parties signing the deed. Therefore, the parties can freely determine whether to agree to the contents of the PPAT deed they will sign.<sup>3</sup> Furthermore, one of the principles that cannot be separated from PPAT when carrying out his authority is the implementation of the principle of caution as stated in Article 34 of PERKABAN No. 1 of 2006 concerning the provisions of the Implementation of Government Regulation No. 37 of 1998 concerning the

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<sup>1</sup>Soedharyo Soimin, 2004, Status of Land Rights and Acquisition, Sinar Grafika, Jakarta, p.86.

<sup>2</sup>Kodongan, EMT, & Pandie, RDY 2022, Technological Developments in the Perspective of Christianity, IJRAEL, International Journal of Religion Education and Law, Vol. 1, No. 1, p.39.

<sup>3</sup>Desy Nurmayani, 2017, Legal Review of Legal Responsibility for Land Purchase, Muhammadiyah University, Surakarta, p.2.

Regulations on the Position of Land Deed Making Officials which explains the contents of the oath of office before the appointment of PPAT, Temporary PPAT and Replacement PPAT, one of the contents of which is "... I will carry out my office honestly, orderly, carefully and with full awareness, responsibly and impartially...". That it is clear in the provision, PPAT when carrying out his duties and functions as a public official must be independent and impartial, as referred to in Article 3 of the Code of Ethics of the Association of Land Deed Making Officials which reads: "in order to carry out the duties of the office, PPATs work with a full sense of responsibility, independently, honestly and impartially". The impartiality referred to shows that PPAT is responsible for the formalities of an authentic deed and not for the material of the authentic deed by upholding the principle of caution. The Sale and Purchase Deed is an authentic deed made by a Land Deed Making Official and is a legal act of transferring land rights due to a sale and purchase.<sup>4</sup>In relation to the Deed of Sale and Purchase, it is very closely related to the implementation of the Principle of Caution for Land Deed Making Officials Regarding the Making of Deeds of Sale and Purchase Without Examination of the Original Certificate where the PPAT denies responsibility for the land deed.

*Adagium rebus sic stantibus* This means that the agreement that is in force will be disrupted if there is a fundamental change in circumstances.<sup>5</sup> The Legal Gap in this research occurred in Tegal City, related to the status of the 214 M2 land object including the main house building as recorded in the Certificate of Ownership No. 257 dated 09-08-1990 owned by Mr. B. located on Jl. Poso Gg. XVII Number 17 RT. 013, Panggung Village, East Tegal District, Tegal City. That, however, in 2023 there was a sale and purchase process between R. M (as the son of Mr. B.) to Mrs. M. until the issuance of the Sale and Purchase Deed Number: 312/2023, dated 19-05-2023 made before the Land Deed Making Officer ASH, M.Kn. having an office in Tegal City, which is a legal gap here and will be a study in research regarding the occurrence of the process and making of the Sale and Purchase deed without checking the parent certificate, namely the SHM certificate in the name of Mr. B. at the Tegal City Land Agency Office. Apart from that, other cases such as those that occurred in Jakarta where control over joint assets (gono gini) was controlled and eventually sold because control over all assets was in the hands of Mr. SA and Mrs. SR only limited to control over documents for 12 objects of joint assets with an estimated land price of Rp. 4,742,000,000.00 (four billion seven hundred and forty-two million rupiah) while Mr. Syakib controlled 3 objects of land with an estimated land price of Rp.

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<sup>4</sup>Ana Silviana, Understanding the Importance of a Deed of Sale and Purchase (AJB) in Land Transfer Transactions for Land Purchases, Law, Development & Justice Review journal, Vol. 3 No. 2 p. 191. <https://ejournal2.undip.ac.id/index.php/lj/article/view/9523>

<sup>5</sup>Hoirullah, 2022, Application of the Rebus Sic Stantibus Principle in Force Majeure to a Business Agreement in the Covid-19 Pandemic in Indonesia, Bina mulia Hukum, Vol.11, pp.105-115. <https://ejournal.hukumunkris.id/index.php/binamulia/article/download/294/49>

5,399,500,000.00 (five billion three hundred and ninety-nine million five hundred thousand rupiah) + PT. Banda Aceh shares amounting to 18% as many as 18 sheets ex Nafisah Emir in 1989 worth Rp. 25,000,000.00 (twenty-five million rupiah). That then without Mrs. Syarifah's knowledge, for one of the land objects measuring 200 m<sup>2</sup> AJB Number: 594.4/525/AJB/1989 located on Jalan Raya Bogor, Cisalak Pasar Village, Cimanggis District, Depok, a Deed of Sale and Purchase was issued to Mr. SA so that the issuance of the deed of sale and purchase was made before PPAT MS but was not registered with the Depok City Land Agency office.

The legal gap that occurs in the status of the transfer of land rights through a deed of sale and purchase as occurred in Tegal City and Depok City is an example of many cases that occur in Indonesia that show the importance of tracing the truth of the status of land that has been sold because, many land statuses that have been through the sale and purchase process are still registered in the name of the previous owner and become a problem when the determination of inheritance rights over the land object has not been carried out, so that the actions that occur in the sale and purchase process are often limited to making a deed at the table with the provision of a receipt as proof of the transaction that has occurred. The impact of the emergence of various problems related to land ownership to change the owner of the land to a certificate of ownership is made difficult again when the owner of the land object dies. From the above case, the author intends to conduct an analysis regarding the status of legal certainty over the land sale and purchase deed without reviewing the administrative completeness of the land object, reviewing the factor of public misunderstanding regarding the process of transferring land rights, especially in the process of buying and selling land, the responsibility of the Land Deed Making Official in making the Sale and Purchase Deed without paying attention to the application of the principle of recognizing service users for the Land Deed Making Official and finally the application of the principle of caution for the Land Deed Making Official to always act with caution and take into account the consequences of every action taken. So as to avoid the emergence of legal problems for PPAT and unwanted losses, finally it is clear when a dispute occurs related to Land cases so that it causes chaos that can disrupt the course of government in the land sector and the status of legal certainty over land.

## **2. Research Methods**

In the research, the author applies an empirical jurisprudence research method, research that is based on observations, experiences, or real data obtained from the real world, not just abstract theories or concepts.<sup>6</sup> Thus, the empirical legal approach in this study means that in analyzing the problem, it is done by combining legal materials (which are secondary data) with primary data obtained

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<sup>6</sup> Irwansyah, 2022, Legal Research, Mirra Buana Media, Yogyakarta, p. 43

in the field regarding the legal certainty aspect of the implementation of electronic integrated mortgage services at the National Land Agency of Majalengka Regency. The research method used is the Structural and Economic Analysis of Law approach. The type of data uses primary data and secondary data. The data analysis method used is qualitative descriptive analysis.

### **3. Results and Discussion**

#### **3.1. Responsibilities of Land Deed Officials in Making Sale and Purchase Deeds Without Checking Certificates at the National Land Agency of Tegal City**

The mechanism for transferring land rights occurs in the form of legal events and legal acts.<sup>7</sup>The responsibilities of the Land Deed Making Officer are contained in Government Regulation Number 24 of 1997 which explains that the authority held by the PPAT is attributive authority to issue certificates and other authority related to the making of certain land deeds.<sup>8</sup>PPAT as a public official must be independent both managerially and institutionally and not dependent on superiors or other parties.<sup>9</sup>The process of buying and selling land is very important to check the history of the land before carrying out the process of transferring land rights as regulated in Article 54 paragraph (1) of the Regulation of the Head of the National Land Agency Number 1 of 2006 as amended by the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency Number 2 of 2018 concerning the Development and Supervision of Land Deed Making Officials which regulates: "before making a deed regarding legal acts as referred to in Article 2 letters a to g, the PPAT is required to check the suitability/validity of certificates and other records at the local land office by explaining the intent and purpose."

The legal gap that the researcher will analyze is related to the status of the 214 m2 land object including the main house building as recorded in the Certificate of Ownership. No. 257 Dated 09-08-1990 owned by Mr. B. located at Jl. Poso Gg. XVII Number 17 RT. 013, Panggung Village, East Tegal District, Tegal City. That, however, in 2023 there has been a sale and purchase process between R. M (as the son of Mr. B.) to Mrs. M. until the issuance of the Sale and Purchase Deed Number: 312/2023, dated 19-05-2023 made before the Land Deed Making Officer ASH, M.Kn. based in Tegal City, If seen from the status of the land is still categorized as an inheritance object that has not been divided into each part, namely Mr. B. and I. have 4 children (L., A., S. and M.) for each part, one of which is the land that is analyzed in this study. The basis of M. (as the son of Mr. B.)

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<sup>7</sup>Samsaimun, 2018, Regulations on the Position of PPAT (Land Deed Official) in the Transfer of Land Rights in Indonesia, Pustaka Reka Cipta, Bandung, p. 1.

<sup>8</sup>Addien Iftitah, 2014, "The Authority of Land Deed Making Officials (PPAT) in Making Land Sale and Purchase Deeds and Their Legal Consequences", *Lex Privatum*, Vol.II/No.3, p.50

<sup>9</sup>Habib Adjie (1), 2009, Observing the Treasury of Indonesian Notaries & PPAT, First Edition, Citra Aditya Bakti, Bandung, p.95.

transferring rights to the land object is from the gift of parents to the land and building objects so that the process of transferring the land object occurs without any inheritance division process. Considering that there is the principle of *ijbari* in Islamic inheritance law, there is automatically a transfer of property from a deceased person (heir) to his heirs immediately in accordance with the provisions of Allah SWT, without being dependent on the will of either the heir or the heir. The element of necessity (*ijbari/compulsory*) is mainly seen from the aspect where the heir (must not) accept the transfer of the heir's property to him in accordance with the amount determined by Allah. Therefore, people who will die at some point, do not need to plan the use of their assets after they die, because with their death their assets will automatically pass to their heirs immediately with a certain portion. So there is no reason for the heirs not to share the inheritance for reasons that cannot be justified according to Islamic law as in this research, based on the principle of *ijbari*, then after the late. Mr. B. and the late I. dies, his inheritance automatically passes to his heirs, namely to his children.

Based on this, it is clear that the deviation from the land object for which the Sale and Purchase Deed has been made deviates from the objective requirements aspect where the problem does not arise from the PPAT's error or negligence but rather arises due to the client's dishonesty regarding the correctness of the administrative requirements as the basis for making the deed which could result in the deed being null and void (*nietigheid van rechtswege*). However, in this case, the error arises from the parties, so it is important for a PPAT to carry out the principle of caution in recognizing the parties. This is a form of anticipation by the PPAT against legal actions in the future and to prevent disputes for the parties. However, the PPAT is still burdened with administrative responsibility in the form of a first written warning from the Tegal City Land Office as a form of safeguarding caution as stated in Article 3 letter f of the Code of Ethics of the Association of Land Deed Making Officials No: 112 / KEP-4.1 / IV / 2017 that in carrying out his position the PPAT is obliged to work with a full sense of responsibility, independently, honestly and impartially. PPAT as a public official is not only responsible for the administrative formalities but is also required to ensure that the deeds made do not contain elements of coercion, fraud or imbalance that violate the principles of justice. In this context, it is important to review the position of authentic deeds in sales and purchase transactions if there are indications of abuse of circumstances that can materially invalidate the validity of the agreement. This is in line with the Regulation of the Minister of Law and Human Rights No. 9 of 2017 concerning the Implementation of the Principle of Recognizing Service Users for Notaries and PPAT Article 2 paragraph (1) of this Regulation requires more care in recognizing the appearing party.



The comparative gap that the researcher took was related to the legal act of Deed of Sale and Purchase by PPAT but in the process there was no certificate check at the National Land Agency as in the case that occurred in Jakarta where control over joint assets (gono gini) was controlled and finally sold because control of all assets was on the part of Mr. SA and Mrs. SR only limited to control over documents for 12 objects of joint assets with an estimated land price of Rp4,742,000,000.00 (four billion seven hundred and forty two million rupiah) while Mr. SA controlled 3 objects of land with an estimated land price of Rp5,399,500,000.00 (five billion three hundred and ninety nine million five hundred thousand rupiah) + Shares of PT. Banda Aceh Baydury amounting to 18% as many as 18 sheets ex Nafisah Emir in 1989 worth Rp25,000,000.00 (twenty five million rupiah). That then without the knowledge of Mrs. SR for one of the land objects measuring 200 m<sup>2</sup> AJB Number 594.4 / 525 / AJB / 1989 located on Jalan Raya Bogor, Cisalak Pasar Village, Cimanggis District, Depok, a Deed of Sale and Purchase has been issued to Mr. SA so that a deed of sale and purchase was made before PPAT MS and in the course of time there was a lawsuit from Mrs. SR regarding the object of the land dispute. For his actions, the PPAT can be asked for civil liability on the basis of not checking the master certificate until the issuance of the Deed of Sale and Purchase for the object of the dispute. Therefore, legally the PPAT can be given the burden of responsibility to compensate the losses of the party who feels disadvantaged.

From this case, the PPAT should be able to be responsible for checking the certificate at the ATR/BPN Office to ensure that the certificate owner shown by the PPAT for the transfer of rights registration process is indeed the property of the person concerned. That it is important for a PPAT to take precautionary measures even though the AJB registration time is pressed in accordance with the Implementation of registration of land transfer deeds at the Land Office by the PPAT as referred to in Article 40 paragraph 1 of Government Regulation No. 24 of 1997, namely no later than 7 working days from the date of signing the deed in question, the PPAT is obliged to submit the deed he made along with the relevant documents to the Land Office for registration. However, this does not mean deviating from the important aspects of protection of land objects, important aspects of the parties and aspects of protection of the deed and the PPAT himself.

This is in line with the theory of responsibility according to Abdulkadir Muhammad in the form of responsibility due to unlawful acts committed due to negligence (negligence tort liability), based on the concept of fault related to morals and law because it has issued a deed of sale and purchase without carrying out a check at the Land Agency Office of Depok City and Tegal City and ignoring the fact that there is a Master Certificate in the name of the original owner and not in the name of the seller or the person who controls the land object, then it is clear that the burden of civil responsibility because the

obligation to check the certificate is part of the principle of caution (duty of care) of PPAT and this check aims to ensure the validity of the land status, such as not being in dispute, confiscated or there is a discrepancy in the data.

PPAT obligations based on PerkaBPN No. 1 of 2006 is contained in Article 45. Provisions in Article 45 of PerkaBPN No. 1 of 2006 regulates the legal responsibilities of PPAT as a form of professional responsibility regarding its responsibilities as PPAT. PPAT also has a moral responsibility. Moral responsibility means that it is related to PPAT ethics/behavior both inside and outside of office. Regarding this ethics, it is regulated in the IPPAT Code of Ethics which must be understood and implemented by every IPPAT member in carrying out their office duties or in their daily attitudes and behavior. The provisions of the IPPAT Code of Ethics in Article 3 broadly regulate the obligations or prohibitions as well as sanctions that can be given to PPAT if these provisions are violated. The PPAT Code of Ethics also regulates prohibitions in Article 4. This is related to Article 6 of the IPPAT Code of Ethics which states the sanctions that can be given to PPATs if they violate the established Code of Ethics, namely, among others, being subject to reprimands, warnings, schorsing (temporary dismissal) from IPPAT membership, onzetting (dismissal) from IPPAT membership and dishonorable dismissal from IPPAT membership. Article 6 paragraph (2) states that the imposition of these sanctions is adjusted to the type or kind of violation committed by the member.

According to Mr. Adi Akbar, SH, M.Kn. The Deed of Sale and Purchase is categorized as a party deed where the PPAT is not responsible for the transaction price that has been submitted by the parties. As long as it has fulfilled the requirements and procedures for making it, the PPAT cannot be sued. The defects in the Deed of Sale and Purchase occur due to forged signatures, incorrect statements from the parties, the PPAT making incorrect statements, the PPAT changing or deleting the parties' statements. The problem is that the PPAT does not know that the parties' statements are incorrect regarding the transaction price in the Deed of Sale and Purchase not the actual transaction price that occurred, while the intention of the parties is to avoid paying high taxes on the original transaction value.<sup>10</sup> Some aspects of the basic responsibilities of a PPAT in transferring land rights are:<sup>11</sup>

1. Legal acts concerning the transfer of rights frequently conducted at the ATR/BPN Office include sales and purchases, joint distribution of rights, gifts, mortgages, and granting of power of attorney to grant mortgage rights. Before drafting the deed, the PPAT is responsible for verifying the applicable requirements and provisions, such as the identity of the parties appearing, tax

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<sup>10</sup>Interview with Mr. Adi Akbar, SH, M.Kn. as Land Deed Official (PPAT) of Tegal City, on October 2, 2025 at 12:00 WIB.

<sup>11</sup>Ibid,



payment obligations, for example, and their ability to perform legal acts in accordance with applicable laws and regulations, and/or after marriage.

2. The Land Deed Official (PPAT) is responsible for checking the certificate at the ATR/BPN Office to ensure that the certificate presented to the PPAT for the transfer of rights registration process truly belongs to the person concerned. Therefore, the check is useful to prevent the issuance of legally flawed PPAT deeds by aligning the certificate with the land book held by the ATR/BPN Office. The certificate as a means of proof consists of a copy of the land book containing physical and legal data on the land in question regarding the rights holder, land status, and other rights.

3. The Land Deed Official (PPAT) is also responsible for protecting the rights holders of the Deed of Sale and Purchase (AJB) they have created. The land registration process, carried out by the PPAT, is the official authorized to issue deeds that serve as the legal basis for land registration, as stipulated in Article 2 of PERKABAN Number 1 of 2006.

According to Mr. Adi Akbar, SH, M.Kn., the Legal Responsibility of Land Deed Officials for Deeds of Sale and Purchase Without Conducting Certificate Examination at the Tegal City Land Agency Office is categorized based on several aspects, such as:<sup>12</sup>

1. The Code of Ethics defines the responsibility of a Land Deed Apparatus (PPAT) not only in the narrow sense of drafting a deed, but also in a broader sense, including responsibility during the deed-making phase and responsibility after the deed is signed. The professional responsibilities of a Land Deed Apparatus (PPAT) are categorized into two categories: ethical responsibility and legal responsibility. The stages of a Land Deed Apparatus (PPAT) drafting a deed of sale and purchase are as follows:

a. The examination or inspection stage at the National Land Agency first involves checking the original certificate at the Land Office to match it with the lists at the local Land Office and the security of the land object.

b. Field Examination Stages The field examination stage is carried out so that the facts and data at the National Land Agency are appropriate and concrete, because in reality there are many land dispute problems in Tegal City.

Article 1 Paragraph 4 of Law Number 24 of 2016 concerning the Regulation of Land Deed Officials explains that an authentic deed provides protection and legal certainty for related parties to be used as written evidence, the strongest and most complete. The function of the PPAT Deed as evidence that a certain legal act has been carried out related to land and will be used as a registration list for

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<sup>12</sup>Ibid, interview with Mr. Adi Akbar, SH, M.Kn.

changes in data resulting from the act and a strong basis for registering the transfer of rights and the encumbrance of the rights concerned.<sup>13</sup>If the provisions of Article 37 paragraph of Government Regulation Number 24 of 1997 are not fulfilled but are still carried out by the PPAT and later on a dispute arises which must be resolved in court, then if in court it is proven that the provisions of Article 37 paragraph 1 have not been fulfilled properly, then the PPAT has not carried out his obligations as a Land Deed Making Official and can be subject to sanctions.

2. Administrative Responsibility of PPAT arises from intention, negligence and/or negligence in making a sale and purchase deed that deviates from the formal requirements and material requirements of the procedures for making a PPAT deed, then the PPAT can be subject to administrative sanctions. Based on BPN regulation 1 of 2006, deviation from the formal and material requirements is a serious violation by the PPAT which can be subject to sanctions in the form of dishonorable dismissal from his position by the Head of the Indonesian National Land Agency. The form of administrative responsibility is also determined in Article 62 of Government Regulation No. 24 of 1997 concerning Land Registration, namely: PPAT who in carrying out his duties ignores the provisions as referred to in Article 38, Article 39 and Article 40 as well as the provisions and instructions given by the Minister or authorized Official, in the form of a written warning up to dismissal from his position as PPAT (Article 10 PJPPAT), also stipulated in Article 6 paragraph (1) of the IPPAT Code of Ethics. The sanctions that can threaten PPATs who make deeds that do not comply with the formal and material requirements of the procedures or methods for making PPAT deeds are sanctions in the form of dishonorable dismissal from their position and the imposition of administrative fines.

3. Civil legal liability can occur due to gaps, negligence and/or carelessness in making a deed of sale and purchase that deviates from the formal requirements and material requirements of the procedures for making a deed of sale and purchase, which does not rule out the possibility of being sued for compensation by the parties who feel they have been harmed.

In relation to the errors (*beroepsfout*) of the PPAT, the form of the error must be examined, namely whether the error is a breach of contract or an unlawful act (*onrechtmatige daad*). The generally held opinion is that a breach of contract occurs if it is preceded by an agreement, whereas if there is no connection with the agreement, the form of violation is called an unlawful act (*onrechtmatige daad*). Based on this general principle, according to the PPAT's actions that have caused a deed to be legally defective can be considered an unlawful act, considering the relationship between the PPAT and the client or related

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<sup>13</sup>GHS Lumban Tobing. 1999. Notary Regulations (Notaris Reglement). Erlangga, Jakarta, p. 41.

parties.<sup>14</sup>This is related to the existence of a lawsuit against the PPAT regarding the legal product he made so that if it is stated in the decision that the deed contains legal defects which are then declared by a court decision to be inauthentic because the formal and material requirements of the PPAT deed making procedure are not fulfilled, then the authentic deed's power is only underhand, or becomes null and void by law and results in a loss, then this incident is contrary to the legal obligations of the PPAT and the PPAT is responsible for the loss.

4. Finally, criminal liability arises from the obligation to pay compensation to the injured party.<sup>15</sup>

In this study, both PPAT Tegal City and PPAT Depok City were subject to civil liability due to negligence regarding the objective requirements for land by not checking the master certificate at the Land Agency Office. One form of legal protection provided by PPAT is to understand and be able to apply the laws and regulations related to PPAT, namely the formal and material provisions or requirements in making a sale and purchase deed, including Article 97 paragraph (1) of the Regulation of the Minister of Agrarian Affairs/Head of BPN Number 3 of 1997 concerning Land Registration, Article 96 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 8 of 2012 concerning Amendments to the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration, Article 98 paragraph (2), Article 99 paragraph (1), Article 101 paragraph (1) and (3), Article 40 paragraph (1), (2) of Government Regulation Number 24 of 1997 concerning Land Registration and Article 91 paragraph (1) of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. In this case, the PPAT's failure to check the certificate contradicts the principle of due diligence and legal certainty in land administration. This principle requires that every official authorized to transfer land rights act carefully, thoroughly, and professionally so that the resulting deed truly reflects the actual legal situation. Without checking the certificate, the PPAT cannot determine whether the land is in dispute, has been encumbered with a mortgage, or whether there is overlapping ownership.

The solution to the denial of the responsibility of PPAT in checking the Master Certificate at the Tegal City BPN is the importance of efforts to increase awareness for PPAT of the obligation to carry out written and official certificate checking procedures to the BPN before the making of the sale and purchase

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<sup>14</sup>J. Andy Hartanto, 2012, *Legal Problems in the Sale and Purchase of Uncertified Land*, Laksbang Mediatama, Yogyakarta, 2nd Edition, p. 70

<sup>15</sup>Roscoe Pound, 2000, *Introduction to The Philosophy of Law*, quoted from Ramli Atmasasmita, *Comparative Criminal Law*, Second Edition, Mandar Maju, Bandung, p.65.

deed is carried out including checking the authenticity of the certificate, the status of land rights, the boundaries of the land plot, and whether or not there is a burden or dispute over the land. This will certainly be a preventive effort for PPAT if the Tegal City BPN and Depok City BPN increase supervision of each deed submitted for registration, ensuring that the deed has gone through a checking process according to the procedure. One of the real steps that can be taken is to conduct socialization to PPAT and the community that deeds made without checking the certificate pose a big risk and can be considered legally flawed. Then, if the deed of sale and purchase has been made without checking the certificate and causes losses to the buyer, then the legal action that can be taken by the buyer is to file a civil lawsuit against the PPAT on the basis of negligence in an unlawful act according to Article 1365 of the Civil Code, and report administrative violations to the Ministry of Agrarian Affairs and Spatial Planning/BPN to conduct an examination of the PPAT concerned. These two aspects are efforts to enforce the professional and administrative responsibilities of PPAT, increase BPN supervision, and apply the principle of caution and legal certainty in every process of making a land sale and purchase deed.

### **3.2. Legal Consequences of Making a Sale and Purchase Deed Without Examination of the Certificate at the National Land Agency of Tegal City**

Land is an important economic factor and has strategic value from any perspective, whether social, political, or cultural. Population growth and economy has given rise to various excesses in land ownership rights and obligations, both social and individual. In this regard, the government is attempting to address the various problems that arise by addressing this most strategic issue by strengthening the legal certainty of land rights and obligations through Law No. 5 of 1960 concerning Basic Agrarian Regulations.<sup>16</sup>

According to Mr. Adi Akbar, SH, M.Kn. what is meant by the existence of material and formal requirements of the PPAT deed making procedure are formal aspects that must be fulfilled in making a land sale and purchase deed. Deviations from the material and formal requirements of the PPAT deed making procedure must be seen based on the limitations of the formal aspects which have been determined by the laws and regulations related to PPAT, meaning that if a PPAT violates the formal aspects, then the sanctions that can be imposed are civil sanctions and administrative sanctions depending on the type of violation or sanctions of the IPPAT code of ethics, while criminal sanctions can only be imposed if the PPAT in question has been proven to have committed a

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<sup>16</sup>Johamran. 2021. The Reality of Property Registration for Land Ground in Preventive Perspective Incident Dispute Arrange the Effort State. International Journal of Innovative Research and Development. Vol. 10, No. 7, pp. 1-7.  
[https://scholar.google.com/citations?view\\_op=view\\_citation&hl=id&user=LNoOjyAAAAAJ&citation\\_for\\_view=LNoOjyAAAAAJ:qjMakFHDy7sC](https://scholar.google.com/citations?view_op=view_citation&hl=id&user=LNoOjyAAAAAJ&citation_for_view=LNoOjyAAAAAJ:qjMakFHDy7sC)

crime.<sup>17</sup> Thus, the responsibility of a PPAT who is proven to be negligent and make mistakes in making a deed of sale and purchase resulting in the AJB being defective and null and void by law is legal and moral responsibility. Legal responsibility can be in the form of administrative, civil, and criminal responsibility. Administratively, a PPAT who is negligent in carrying out his duties and obligations to guarantee that a legal act related to land rights has been carried out with the deed he made, can be subject to sanctions, namely a warning and/or temporary dismissal for committing a minor violation of the PPAT's obligations, but if the PPAT is proven to have participated in the crime of falsifying letters and/or signatures, he can be dishonorably dismissed from his position. Civilly, he can be sued for Unlawful Acts based on Article 1365 of the Civil Code by a party who feels aggrieved by the deed of sale and purchase he made. Criminal sanctions (Article 55 Jo. 56 of the Criminal Code and Article 263 Jo. 264 paragraph (1) of the Criminal Code) can also be imposed on the PPAT if he is proven to have falsified the AJB letter he made.<sup>18</sup> The position of PPAT according to Mr. Adi Akbar, SH, M.Kn. in this case is a person who is only instructed (*manus ministra*) and in the context of making a deed of sale and purchase, it is only a medium (tool) for the birth of an authentic deed, while the initiative arises from the parties/applicants so that in this case the PPAT is the party who is instructed, not the party who orders.<sup>19</sup> However, if a PPAT has intentionally and consciously or knowingly collaborated with the parties, violating the provisions outlined in the Law, then the Land Deed Making Officer can be charged with Article 263 paragraph (1) of the Criminal Code which is linked to Article 55 paragraph (1), namely participating in committing a crime. In addition, because the product produced by the PPAT is subject to aggravation as regulated in Article 264 paragraph (1) letter a of the Criminal Code in conjunction with Article 55 paragraph (1) of the Criminal Code.

Legal Consequences of Making a Sale and Purchase Deed Without a Certificate Examination at the National Land Agency of Tegal City as a form of legal gap the researcher is the status of the land object of 214 m<sup>2</sup> including the main house building as recorded in the Certificate of Ownership. No. 257 Dated 09-08-1990 owned by Mr. B. located at Jl. Poso Gg. XVII Number 17 RT. 013, Panggung Village, East Tegal District, Tegal City. That, however, in 2023 there has been a sale and purchase process between R. M (as the son of Mr. B.) to Mrs. M. until the issuance of the Sale and Purchase Deed Number: 312/2023, dated 19-05-2023 which was made before the Land Deed Making Officer ASH, M.Kn. If we look at the status of the land, it is still categorized as an inheritance object that has not been divided into its respective parts, namely Mr. B. and I. have 4 children (L., A., S. and M) for each part, one of which is the land that is analyzed

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<sup>17</sup>Interview with Mr. Adi Akbar, SH, M.Kn. on October 4, 2025 at 15.00 WIB.

<sup>18</sup>*Ibid*,

<sup>19</sup>Interview with Mr. Adi Akbar, SH, M.Kn.

in this study. The basis of M. (as the son of Mr. B.) transferring rights to the land object is from the gift of parents to the land and building objects so that the process of transferring the land object occurs without any inheritance division process. Therefore, people who will die at some point, do not need to plan the use of their assets after they die, because with their death their assets will automatically be transferred to their heirs immediately with a portion that has been confirmed. So there is no reason for the heirs not to divide the inheritance for reasons that cannot be justified according to Islamic law as in this study, based on the principle of *ijbari*, then after the late Mr. Budi and the late Ida died, their inheritance automatically transferred to their heirs, namely their children.

The legal consequences in this study are that the Sale and Purchase Deed deviates from the objective requirements aspect where the problem does not arise from the PPAT's error or negligence but rather arises due to the client's dishonesty regarding the correctness of the administrative requirements as the basis for making the deed which could result in the deed being null and void (*nietigheid van rechtswege*). However, in this case, the error arises from the parties, so it is important for a PPAT to carry out the principle of caution in recognizing the parties. This is a form of PPAT's anticipation of legal actions in the future and to prevent disputes for the parties and the legal consequences for the PPAT are receiving the first written warning from the Tegal City Land Office as a violation of administrative responsibility and a form of careful maintenance as stated in Article 3 letter f of the Code of Ethics of the Association of Land Deed Making Officials No: 112 / KEP-4.1 / IV / 2017 that in carrying out his position the PPAT is obliged to work with a full sense of responsibility, independently, honestly, and impartially. PPAT as a public official is not only responsible for the administrative formalities but is also required to ensure that the deeds made do not contain elements of coercion, fraud or imbalance that violate the principles of justice.

The comparative gap that the researcher took was related to the existence of a legal act of Deed of Sale and Purchase by PPAT but in the process there was no certificate check at the National Land Agency as in the case that occurred in Jakarta where control over joint assets (*gono gini*) was controlled and finally sold because control of all assets was on the part of Mr. SA and Mrs. SR only limited to control over documents for 12 objects of joint assets with an estimated land price of Rp4,742,000,000.00 (four billion seven hundred and forty two million rupiah) while Mr. SA controlled 3 objects of land with an estimated land price of Rp5,399,500,000.00 (five billion three hundred and ninety nine million five hundred thousand rupiah) + Shares of PT. Banda Aceh Baydury amounting to 18% as many as 18 sheets ex Nafisah Emir in 1989 worth Rp25,000,000.00 (twenty five million rupiah). That then without the knowledge of Mrs. SR for one of the land objects measuring 200 m<sup>2</sup> AJB Number 594.4 / 525 / AJB / 1989 located on Jalan Raya Bogor, Cisalak Pasar Village, Cimanggis District, Depok, a



Deed of Sale and Purchase has been issued to Mr. SA so that a deed of sale and purchase was made before PPAT MS and in the course of time there was a lawsuit from Mrs. SR regarding the object of the land dispute. The legal consequences of the Deed of Sale and Purchase were declared null and void by law and became a deed that had private evidence based on the Decision of the Depok District Court. Furthermore, the legal consequences for the PPAT are that they can be asked for civil liability on the basis of not checking the master certificate until the issuance of the Deed of Sale and Purchase for the object of the dispute. So legally the PPAT can be given the burden of responsibility to compensate the losses from the party who feels aggrieved. However, in this study the parties only demand rights to their land, not demanding that the PPAT provide compensation for their losses.

From this case, the PPAT should be able to be responsible for checking the certificate at the ATR/BPN Office to ensure that the owner of the certificate shown by the PPAT for the transfer of rights registration process is indeed the owner of the land concerned. In the case that the researcher took, it is clear that the buyer will lose his rights to the land because the transfer carried out is not recognized by land administration. In this regard, to overcome the legal consequences of losses arising from the PPAT's negligence when making a sale and purchase deed without checking the Master Certificate at the BPN, there are several legal solutions that can be taken, as follows:

1. Preventive solutions as a form of preventing similar cases from occurring in the future that can be carried out by PPAT Tegal City and PPAT Depok City is to re-emphasize PPAT awareness of the obligation to check the certificate at the BPN before the sale and purchase deed is signed. This inspection includes the authenticity of the certificate, the status of land rights, freedom from disputes and the absence of encumbrances. This obligation is in line with Government Regulation Number 37 of 1998 concerning the Position of PPAT Jo. Government Regulation Number 24 of 2016, which emphasizes that PPAT must guarantee the validity of the data that forms the basis for making the deed.
2. There needs to be synergy from the Tegal City BPN in tightening the document validation system by requiring PPAT to attach proof of certificate examination results every time they submit a deed for registration of transfer of rights, this effort is a form of administrative supervision that can prevent the emergence of legally defective deeds.
3. A curative solution as a form of resolution if a case has already been made without a certificate inspection and results in losses, then the injured party (usually the buyer) can take the following steps:
  - a. File a civil lawsuit against the PPAT.

b. Submit an administrative complaint to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency to request an inspection of the PPAT who is deemed to have neglected his responsibility in making an Authentic deed.

c. Lastly, criminal reporting efforts are made if there is suspicion of document falsification in the preparation of the deed;

4. Finally, the Tegal City Land Agency (BPN) needs to implement a digital-based certificate verification system (online verification) to improve accountability, facilitating access for Land Deed Officials (PPAT) before issuing deeds. This step implements the principles of transparency and accountability in public services, as mandated by Law Number 30 of 2014 concerning Government Administration.

Therefore, without such checking and examination, the Deed of Sale and Purchase in Tegal City has a high potential to be legally flawed because it is not based on definite data and verified by authorized state institutions, resulting in Legal Uncertainty. It is clear that the act of making AJB without checking the certificate at the Tegal City BPN is contrary to Gustav Radbruch's theory of legal certainty because it eliminates the guarantee of legal validity of the transaction and leaves the status of land ownership in uncertainty, even though positive law has regulated clear procedures (checking with the BPN) that must be adhered to in order to guarantee the certainty of citizens' rights. Therefore, it is important to understand that registration of every form of land transfer, especially Registration of Deed of Sale and Purchase, is not merely an administrative formality, but is a form of real legal protection. Registration provides legal certainty that the owner of land rights is truly recognized by the state and is protected from all forms of disputes that may arise in the future. Without registration, the buyer is in a weak legal position and vulnerable to various risks, including loss of rights to the land. To avoid such losses, buyers should promptly complete the transfer of title and land registration process at the Land Office after the sale and purchase transaction. This step is a crucial preventative measure to strengthen the buyer's legal standing and protect their rights from potential conflicts or adverse claims. In this modern era, where property transactions are increasingly complex and prone to disputes, understanding and complying with land registration procedures is absolutely essential.

#### **4. Conclusion**

1. The responsibility of the Land Deed Making Officer in making a Sale and Purchase Deed without checking the Certificate at the National Land Agency as happened in Tegal City and Depok City is a form of PPAT's responsibility due to unlawful acts committed due to negligence (negligence tort liability), based on the concept of fault related to morals and law, this clearly deviates from legal protection for the parties (seller and buyer), so that the PPAT in this study can be charged with a form of civil liability for negligence against the objective

requirements to be responsible for checking the certificate at the ATR/BPN Office to ensure that the owner of the certificate is indeed the one in question. This is to maintain important aspects of protection of land objects, important aspects of the parties, aspects of legal certainty for the Sale and Purchase deed and aspects of legal protection for the PPAT. 2. Legal Consequences of Making a Sale and Purchase Deed Without Certificate Examination at the National Land Agency of Tegal City deviates from the objective requirements aspect where the problem does not arise from the PPAT's error or negligence but rather arises due to the client's dishonesty regarding the correctness of the administrative requirements as the basis for making the deed which can result in the deed being null and void (*nietigheid van rechtswege*). However, in this case, the error arises from the parties, so it is important for a PPAT to carry out the principle of caution in recognizing the parties. This is a form of PPAT's anticipation of legal actions in the future and to prevent disputes for the parties and the legal consequences for the PPAT are receiving a first written warning from the Tegal City Land Office as a violation of administrative responsibility and a form of careful maintenance as stated in Article 3 letter f of the Code of Ethics of the Association of Land Deed Making Officials No: 112 / KEP-4.1 / IV / 2017 that in carrying out his position the PPAT is obliged to work with a full sense of responsibility, independently, honestly and impartially. PPAT as a public official is not only responsible for the administrative formalities but is also required to ensure that the deeds made do not contain elements of coercion, fraud or imbalance that violate the principles of justice.

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