

Legal Protection for Land Sellers in Oral Sales and Purchase Agreements (Case Study of Kendari District Court Decision Number 40Pdt.G/2019/PN Kdi)

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Abstract. *This research aims to analyze, describe and analyze the legal status of oral agreements and provide legal protection for land sellers in oral sales and purchase agreements. The research method used is normative legal research, using a legislative approach. Case approach and conceptual approach and data collection. Through literature study. The analysis was conducted using descriptive-qualitative analysis by examining the legal force of the oral agreement and legal protection for land sellers. The results of the study show that an oral sale and purchase agreement is considered valid because it meets the requirements for a valid agreement and is binding on the parties who made it. in accordance with Article 1320 of the Civil Code. This oral agreement is still considered valid and has legal force as long as it can fulfill Article 164 HIR and can be proven in court. Therefore, the Buyer is declared to have committed a breach of contract because he has broken his promise by not paying the payment fee within the agreed time limit and has already controlled the object of the agreement first. Therefore, the law protects the Seller's right to regain his land rights.*

Keywords: *Default; Legal; Protection; Purchase; Sale.*

1. Introduction

Land purchase and sale transactions require an agreement to ensure legal certainty. Because land rights are a specific legal entity subject to applicable laws and regulations, any legal actions related to them must comply with established agrarian laws and regulations. For example, Law No. 5 of 1960 concerning the Agrarian Law (UUPA) regulates land rights and the transfer of land rights. In this context, the term "sale and purchase" can also be interpreted as the process of handing over a sum of money to obtain a desired item.

Land sale and purchase is an agreement that binds the seller to hand over the rights to the land to the buyer, while the buyer is obliged to pay the agreed

price.¹ Once an agreement is made, both parties automatically agree to fulfill their respective rights and obligations stated therein. This provision is clearly stated in Article 1338 of the Civil Code, which states that all legally drafted agreements are enforceable as laws for their drafters.

In Indonesia, disputes over sales and purchase contracts most often involve land and building transactions. These disputes relate directly to land rights, the provisions of which are specifically stipulated in applicable laws and regulations.² All legal actions related to the acquisition of land and building rights must comply with all provisions stipulated in the Basic Agrarian Law. Land sales and purchases are often marred by legal issues arising from default by one of the parties, as stipulated in Article 1243 of the Civil Code.

Default can be defined as the act of breaking a promise or the failure of one party to fulfill obligations that were previously agreed upon in a contract or agreement.³ In the reality of social life, various land conflicts are often encountered—one of which is a situation where the buyer has not yet completed the payment of the land purchase price according to the initial agreement, but has only paid a portion but has already taken possession of the object of the agreement before fulfilling his obligations.⁴

As happened when the buyer broke his promise to the seller regarding the sale of land. The buyer had promised to pay the purchase price of the land and shophouse within the agreed price and timeframe. However, the buyer failed to keep that promise. This practice is generally carried out through an agreement between the seller and buyer without any formal written mechanism.

In early 2015, this agreement was made verbally. Initially, the Buyer paid a down payment to the Seller. However, because the Buyer hadn't made any further payments for months, the Seller questioned the Buyer's seriousness, and the Buyer requested additional time. followed by a statement letter from the Buyer dated 11-30-2015. The Buyer's statement is that he promises to pay off the land and shophouse building by the deadline on the date 30-1-2016 If the seller does not pay it off within that time, they can resell it to someone else. After the deadline in the Buyer's statement has passed, the Buyer has not yet paid the agreed price for the land and shophouse building and has taken control of the object of the agreement by adding a building to the shophouse land.

The purpose of this study is to analyze, describe, and provide justice to parties

¹Salim HS and Erlies Septiana Nurbaini, 2017 "Application of Legal Theory in Thesis and Dissertation Research", 1st ed., PT. Rajagrafindo Persada, Jakarta p. 261.

²A. Qirom Syamsuddin Meliala, 2020, Principles of Contract Law, Liberty, Yogyakarta, p. 26.

³M. Yahya Harahap, 2021, Legal Aspects of Contracts, Alumni, Bandung, p. 60.

⁴Dsalimunthe Dermina. 2017, Legal Consequences of Default in the Perspective of the Civil Code (Bw). Al-Maqasid Journal. Volume 3. Issue 1 page 5.

whose rights have been violated, namely legal protection for land sellers in oral sales and purchase agreements. It also analyzes the legal force of oral agreements. It is important to execute a land sales and purchase agreement in accordance with administrative requirements, preferably before a PPAT official, because it will strengthen legal protection if one party defaults in the future. Agreements written into a contract provide clearer legal certainty.⁵

2. Research methods

This study uses a normative juridical approach as the main method applied in its study. The normative factor here is analyzing the legislation and regulations that have been inventoried to find out the legislation regarding the implementation of seller protection in land sale and purchase agreements against related legal principles. Approach method with legislation. legal norms written in legislation, court decisions, relevant legal literature. Regarding this approach, this study uses a legislative approach to examine related regulations, a case approach to examine concrete legal decisions or problems, and a conceptual approach to explore various basic concepts such as legal validity and sales and purchase agreements.

The data used consists of secondary data as the main data obtained through literature studies on primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include the Civil Code, Government Regulation Number 24 of 1997 concerning Land Registration in Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Principles, Article 27 paragraph 1 of the 1945 Constitution of the Republic of Indonesia, and court decisions that are the object of research. Secondary legal materials consist of books, scientific journals, research results, and expert opinions, while tertiary legal materials include legal dictionaries and information sources from relevant official websites.

Data collection by reviewing various literature books, searching digital sources via the internet, and reviewing scientific articles relevant to the topic of legal protection for sellers in land sale and purchase transactions, this Literature Study is expected to obtain theories or concepts and other information as well as conceptual thoughts in the form of Legislation. the analysis used is Qualitative Analysis. namely all data that has been collected is arranged systematically and logically, to then be evaluated and described in depth in order to obtain comprehensive clarity regarding the legal problems being studied.

⁵Reza Al Fajar, Ashar Sinilele. 2020, The Urgency of Resolving Default Disputes. Alauddin Law Development Aldev. Volume 2. Issue 1 March.

3. Results and Discussion

3.1 Legal Strength in Land Sale and Purchase Agreements Made Orally.

An oral contract agreement is an agreement formed by the parties verbally without a written document. Everyone has the right to freely enter into an agreement, whether regulated by law or not. This is because the agreement has an open legal regulatory system. In the Civil Code, specifically in Book III, the regulation of agreements has been regulated. According to Salim HS, an agreement is a legal relationship between one subject and another in the field of wealth, where one legal subject has the right to performance and likewise the other legal subject is obliged to carry out its performance in accordance with what has been agreed upon.

The agreement in an agreement reflects the willingness of both parties to accept each other regarding the main points of the agreement that has been made. Both parties agree in an agreement, and with the existence of an agreement, the agreement becomes valid and binds both parties to carry out the agreement. The legally binding position is not based on the form of the agreement, whether a written agreement or an oral agreement, but based on the fulfillment of the conditions for the validity of the agreement in Article 1320 of the Civil Code, so that the elements in Article 1320 of the Civil Code have been fulfilled.

Civil Law has been fulfilled as carefully considered by the Panel of Judges regarding the legal relationship between the two parties. The Judge considered that the Plaintiff/Seller and the Defendant/Buyer had agreed to bind themselves in an agreement made orally in early 2015 with the object of the agreement being land and shophouse buildings. This was also followed by a letter of guarantee of payment made by the Buyer. Therefore, based on applicable law, the oral agreement made by the parties is declared valid. then the agreement will have legal force that binds the parties who made it. Each party involved in the agreement has the freedom to make agreements both orally and in writing. This provision is in line with the principle of freedom of contract which gives full freedom to the parties. Therefore, an oral agreement that has fulfilled all the requirements for a valid agreement remains legally recognized. Based on this case, the agreement established between the Seller and Buyer Parties does not violate the provisions of applicable laws.

Oral agreement⁶can be legally binding if it can be proven in court that the agreement is true as in 164 HIR. The Panel of Judges in its decision considered that even though the land sale and purchase agreement was carried out verbally and without involving PPAT, the Plaintiff/Seller was deemed successful in

⁶ Desi Syamsiah. 2021. A Study on the Validity of E-Commerce Agreements When Viewed from Article 1320 of the Civil Code Concerning the Valid Conditions of Agreements. Journal of Research Innovation 2:1 327-332.

strengthening his argument through the completeness of the written evidence presented during the trial process. the Buyer's statement letter that he would pay off the land and shophouse sale and purchase agreement which proves the truth of the agreement between the two parties. Thus, this cannot be refuted with evidence to the contrary which is complete evidence of the truth of the Plaintiff's claim posita so that the claim in its decision must be granted by the Panel of Judges.⁷

This evidence is based on the Defendant's own answer which has been acknowledged or at least not denied stating that the Defendant/Buyer has paid a down payment of IDR 189,000,000.00 (One Hundred and Eighty Nine Million Rupiah) of which the remainder will be paid by the Defendant after the Defendant receives the payment price for the nickel ore. Thus, the Panel of Judges observes this argument that the Defendant acknowledges and confirms the existence of a remaining debt that has not been paid until it is due on January 30, 2016. In this case, the Defendant has even added a building to the shophouse as if the land and shophouse have been completely transferred. Therefore, it is clear that the Defendant has committed a breach of contract either due to negligence, delay, or not carrying out its obligations according to the agreement, namely by not paying off the payment for the land and shophouse which are the object of the agreement, while the building and the land have been fully controlled by the Defendant.

It can be concluded that the form of an oral agreement does not hinder the validity of the agreement in the eyes of the law. This is because in the agreement that occurred between the Plaintiffs and Defendants there is nothing prohibited by law, therefore the provisions regulated in Article 1320 of the Civil Code have been fulfilled and the validity of the agreement binds the parties who carry out the agreement, so that it can strengthen the oral agreement in accordance with the principle of freedom of contract, an oral agreement can be said to be valid because it has fulfilled the element of conformity of will or agreement

3.2 Forms of Legal Protection for Land Sellers in Land Sale and Purchase Agreements Made Orally.

Legal protection is provided when someone who is entitled to their rights is taken over by another person so that their rights are transferred to someone who is not entitled to their land, therefore someone who is entitled to their land can file a lawsuit with the Court to claim their rights back. As in the case of Decision Number 40Pdt.G / 2019 / PN.Kdi, the Seller as the Plaintiff lost his rights because the Buyer as the Defendant had committed a breach of contract by not

⁷Noval Feriansyah. 2023. Legal Status and Evidence of Oral Contracts. *JournalMultidisciplinary Indonesia* 2.10, p. 32-89.

fulfilling his obligations properly. Therefore, the Seller has the right to receive legal protection.

The legal protection used is repressive legal protection.⁸ using repressive law because this legal protection is most suitable for existing problems to resolve disputes or problems that exist due to one of the parties committing a breach of contract. Repressive legal protection can be given to the party whose rights have been harmed, namely the original owner of the land by returning the land and shophouse which are his property rights, because based on the legal facts revealed in the trial it has been proven that the land that is the object of the dispute in this case is land owned by the Seller/Plaintiff.

The buyer has committed a breach of contract or broken promise on the land and shophouse sale and purchase agreement by not paying in full the price of the shophouse land owned by the Seller/Plaintiff until the agreed date of 30-01-2016. Because the Defendant has committed a breach of contract for 40 months since the end of the Defendant's promise to pay in full the land and shophouse owned by the Plaintiffs, then according to the law the agreement is no longer binding and therefore the Plaintiffs request that the land and shophouse sale and purchase agreement between the Plaintiff/Seller and the Defendant/Buyer be canceled and the down payment that has been received be considered never existed. And regarding the Defendant's breach of contract on his promise to pay off the price of the Plaintiff's shophouse. The Plaintiffs have made family efforts and deliberations and have even issued a warning to the Defendant but there has been no response or has been unsuccessful.⁹

Based on the judges' considerations, every reciprocal contract contains rights and obligations for each party; in other words, the Seller's obligations are the Buyer's rights, and vice versa. Legally, the agreement binds the parties who made it, so that the negligence of one party in fulfilling its obligations is categorized as an act of breach of contract or breach of promise. As a result of the Buyer's breach of contract, he is required to bear and pay compensation arising from the losses in the agreement and the land and shophouse building sale and purchase agreement is considered void.

Taking into account the decision of case number 40.Pdt.G/2019/PN.Kdi. declared the sale and purchase agreement of the shophouse land between the Plaintiff and the Defendant void. According to the panel of judges, the legal reason is because the Defendant has committed a breach of contract and based on Article 1266 of the Civil Code, the agreement can be canceled if there is a breach of

⁸Philipus M Hadjon. 2020 Legal Protection for the People in Indonesia. (Bina Ilmu) p. 25.

⁹ Albert Aries. 2014. On Proving Unwritten Agreements. URL: <https://www.hukumonline.com/clinic/a/about-proof-of-unwritten-agreement-lt51938378b81a3/#> Accessed on May 22, 2026.

contract, and the judge considered that there was no good faith from the Buyer to pay off the remaining payment for the purchase of the shophouse land.

All forms of transfer of land rights through a sale and purchase transaction must be carried out and stated before a Land Deed Official (PPAT). A sale and purchase is a reciprocal agreement in which the seller promises to hand over ownership of an item, while the buyer promises to pay a price consisting of a sum of money in return for acquiring said ownership rights. Regarding the sale and purchase of land rights, there is a case decided by the Kendari District Court, namely decision Number: 40Pdt.G//2019/PN.Kdi. which carried out the sale and purchase of land rights verbally.

Based on the research results, it is understood that the oral sale and purchase of land rights is legally valid and binding on the parties involved if it meets the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code. However, the sale and purchase of land rights must still be conducted before a Land Deed Official (PPAT) to ensure orderly administration.¹⁰ The sale and purchase of land rights carried out verbally has weak protection and is difficult to prove if one of the parties is in default.

However, it still has legal force if it can be proven in court, namely the existence of valid evidence in the form of a written statement and several witnesses in the implementation of the oral agreement. And the party whose rights are harmed is entitled to legal protection. The sale and purchase of land rights must be carried out in accordance with statutory regulations as an effort by the government to protect such legal actions. The judge's consideration resulted in a decision that the oral sale and purchase was valid because it had legally bound the parties and the defendant was declared in default. The Plaintiff/Seller has the right to receive repressive legal protection and the Defendant must compensate for the losses by paying court costs and returning the land and shophouse (the object of the agreement) to the Seller/Plaintiff in an empty condition, without conditions and without any burden. And the down payment that has been given by the Defendant is considered never to have existed..In civil cases with oral agreements, the position of the Seller is very dependent on the evidence that can be presented at trial. In accordance with 164 HIR.

The Defendant has committed a breach of contract because he did not pay the price of the shophouse to the Plaintiffs but has occupied and added buildings to the shophouse, even though the disputed object should not have been transferred to the Defendant because the Defendant has not fulfilled his performance to pay and settle the purchase price of the land and shophouse.

¹⁰Arya Bangbang Frisyudha, I Nyoman Putu Budiarta, 2021, Renegotiation as an Effort to Resolve Defaults in Business Contracts During the Covid19 Pandemic. Journal of Legal Construction. Volume 2. Issue 2 May. p. 3.

This is called a breach of contract when one party fails to fulfill its obligations in the agreement.

Legal protection aims to guarantee legal certainty in providing protection to the seller/plaintiff who does not get his rights. Protection is needed to create a sense of security and comfort for the parties whose rights are violated, the Plaintiff has the right to obtain protection by returning his rights, namely the land and the shophouse building. It can be categorized that the Defendant has committed a breach of contract, namely not fulfilling his obligations by not paying the purchase price of the shophouse land from the mutually agreed date. The Defendant must compensate for all losses caused by him by returning the land and building belonging to the plaintiff in an empty condition without conditions. Therefore, the Plaintiff has the right to receive legal protection. Can sue the Defendant for the losses he suffered, the Defendant can be subject to the Compensation article for breach of contract or for not fulfilling his agreement as regulated in Article 1243 of the Civil Code.

The Seller has fulfilled its obligations, but the Buyer has violated the Seller's rights by failing to fulfill its obligations. This includes failing to pay the agreed price and deadline. Therefore, the Seller has the right to legal protection against the Buyer's actions that are not in good faith. If the Buyer violates the agreed agreement, the Buyer has violated the Seller's right to receive payment in accordance with the agreement and on time. Failure to fulfill the agreement between the Seller and the Buyer will result in default and loss for the Seller. Therefore, the Seller has the right to legal protection.

4. Conclusion

If we look at the provisions of Article 1320 of the Civil Code regarding the valid conditions of an agreement, a spoken agreement is also legally binding for both parties. In the case study discussed by the author based on Case Number 40 / Pdt.G / 2019 / PN.Kdi. An oral agreement has legal force to declare someone in default, as long as the oral agreement is proven to have been made by the parties and has complied with the valid conditions of the agreement in Article 1320 of the Civil Code. An oral agreement has legal force, the power to bind the parties who made the agreement and also legal force in the sense of evidentiary value when the agreement is used as evidence in court and even though the agreement is made orally it still has legal force as in the case where there is evidence of a written statement and witness testimony in court so that the oral agreement has legal force because it is proven that there is an oral land sale and purchase agreement. It can be categorized that the Buyer has committed a breach of contract because he has broken his promise by not fulfilling his obligations, not paying the purchase price for the shophouse land within the agreed time limit. And this legal protection is carried out to protect the Seller who has been harmed by the Buyer who did not act in good faith and has

occupied the shophouse land by adding buildings to the shophouse. The Seller has the right to receive legal protection, so the Buyer must compensate for the losses caused by him by returning the land and the shophouse building. Those planning to buy or sell land are advised to be more careful and precise when conducting the transaction in the presence of a Land Deed Official (PPAT). This will strengthen legal protection in the event of a future default by either party. It is also recommended that any agreement be in writing. Furthermore, it is recommended that the principle of responsibility be prioritized for what has been agreed upon.

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