

Notary Responsibilities in Preparing Building Sale and Purchase Deeds on Uncertified Land

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Abstract. *This study aims to analyze the responsibilities of Notaries in the preparation of deeds of sale and purchase of buildings and the transfer of rights in transactions conducted on uncertified land and the obstacles encountered in notarial practice in Batam City. The research method used is a sociological juridical approach with analytical descriptive research specifications. Data were obtained through literature studies and interviews with Notaries who practice in the Riau Islands Province. The results of the study indicate that the responsibilities of Notaries are basically limited to the formal aspects of deed preparation, including checking the identity of the parties, legal capacity, authority to act, and the completeness of administrative documents used as the basis for making the deed. Notaries are not responsible for the material truth of the status of uncertified land as long as they have acted in accordance with the provisions of laws and regulations and based on documents provided by the parties. In practice, Notaries also have a preventive role through the application of the principle of prudence, providing legal explanations, and the inclusion of clauses explaining the status of the transaction object to minimize the potential for disputes in the future. The obstacles faced include internal obstacles in the form of limited documents and data verification, as well as external obstacles in the form of the characteristics of Batam City's land sector, data asymmetry between agencies, lengthy administrative processes, and low public understanding of the law. Therefore, increased coordination between agencies, improved land administration, and strengthening the principle of prudence in the implementation of the Notary's office are needed to ensure legal certainty and protection for all parties.*

Keywords: *Certainty; Legal; Notary; Transfer; Uncertified.*

1. Introduction

A notary is a public official authorized by the state to issue authentic deeds and other authorities as stipulated in laws and regulations. The position of a notary public plays a crucial role in society, as every deed drawn up by a notary can serve as evidence with absolute evidentiary force in civil legal relations. The existence of

a notary public serves not only to provide legal certainty for the parties but also to ensure orderly legal administration in various areas of public life. In practice, society relies heavily on notarial deeds to ensure the security and certainty of various legal transactions.¹

The development of economic activity and the increasing public demand for legal certainty have made the role of notaries increasingly important. Various legal acts, such as agreements, sales contracts, business establishments, credit agreements, and transactions involving land and buildings, require the involvement of a notary as an authorized public official. Deeds prepared by a notary serve not only as written evidence but also as a legal instrument that guarantees the rights and obligations of the parties involved in the legal act.²

One area frequently involving the role of a notary is transactions related to land and buildings. Land has high economic value and serves an important social function for the community, so any transfer of land or building rights must be carried out in accordance with applicable legal provisions. In practice, not all transactions are conducted on land that already has a certificate. Many transactions still occur on buildings that stand on uncertified land. This situation raises its own legal challenges because the status of unregistered land rights does not have the full evidentiary power of certified land.³

This problem is still frequently encountered in Batam City. As a region experiencing rapid economic growth and development, Batam has land management characteristics that differ from those of other regions in Indonesia. Most land in Batam is under a Land Management Rights (HPL) regime managed by the Batam Business Entity (BP Batam). This situation often results in the process of transferring land and building rights involving more complex administrative mechanisms than in other regions. In practice, many buildings are still being bought and sold or transferred even though the land on which they are built does not yet have a land title certificate.

This situation encourages people to continue conducting transactions using deeds drawn up or legalized by a notary as written evidence deemed capable of providing legal certainty. In notarial practice, these transactions are generally outlined in the form of a Deed of Sale and Purchase Agreement (APJB), a Deed of Sale and Purchase of Buildings and Transfer of Rights, legalization and *waarmerking* of agreements made by the parties. The presence of a notarial deed is important

¹Khalimatus Sa'diyah Nurmayanti, & Anis Mashdurohatun. (2017). "The Role and Responsibilities of Notaries in the Implementation of Cooperative Deed Preparation." in Jurnal Akta, Vol. 4 No. 4, p. 655. URL: [UNISSULA Deed Journal.https://jurnal.unissula.ac.id/index.php/akta/article/view/2504](https://jurnal.unissula.ac.id/index.php/akta/article/view/2504)

²Nurliana Harahap, et al. (2021). "Notary's Responsibility for the Registration of Private Deeds Assisted by a Notary." in Jurnal Education and Development, Vol. 9 No. 2. URL: [Journal of Education and Developmenthttps://journal.ipts.ac.id/index.php/ED/article/view/2328](https://journal.ipts.ac.id/index.php/ED/article/view/2328)

³Rina Astuti. (2024). "Notary's Responsibility for Deeds That Are Legally Defective According to the Notary Law." <https://www.swarajustisia.unespadang.ac.id/index.php/UJSJ/article/view/483>

because the parties require legal protection for their legal relationships, even though the object of the transaction is still in a state that does not have complete legal certainty.

This situation raises questions regarding the limits of a notary's responsibility in drafting deeds related to buildings and the transfer of rights to uncertified land. On the one hand, a notary is obligated to ensure that the formal requirements for drafting a deed are met in accordance with the provisions of the Notary Law. On the other hand, a notary does not have the authority to determine or guarantee the material truth regarding the status of land rights that are the subject of a transaction. This situation places notaries in a complex position because they must maintain a balance between the public's need for legal certainty and the limited authority they possess under statutory regulations.

The problem is further complicated by the widespread public perception that a notarial deed fully guarantees land ownership. However, legally, legal certainty regarding land rights is only achieved after land registration and the issuance of a certificate by the authorized agency. This misunderstanding has the potential to lead to future legal disputes if the parties do not properly understand the status and function of the deed drawn up by the notary. Therefore, in addition to fulfilling their function as an official deed-maker, notaries also play a crucial role in providing legal explanations and education to the public.

Based on the above description, it can be understood that the Notary's responsibility in making a deed of sale and purchase of a building and the transfer of rights on land that has not been certified has different characteristics compared to transactions whose objects have legal certainty through a certificate. This condition requires a more in-depth study to determine how the Notary's responsibility is constructed in making a deed as a legal product and the obstacles faced in notarial practice in Batam City. This study aims to analyze the Notary's responsibility in making a deed of sale and purchase of a building and the transfer of rights on land that has not been certified and analyze the obstacles faced by Notaries in carrying out their duties.

2. Research Methods

This research uses a sociological juridical approach, an approach that examines law not only as norms written in laws and regulations, but also as behavior that develops in society. This approach is used to analyze the responsibility of Notaries in the preparation of building sale and purchase deeds and the transfer of rights on uncertified land, as well as their implementation in notarial practice in Batam City. The research specification used is descriptive analytical. The research data consists of primary and secondary data. Primary data was obtained through interviews with Notaries domiciled in the Riau Islands Province, while secondary data was obtained through literature studies of primary legal materials, secondary legal materials, and tertiary legal materials related to the position of Notary and

land law. Data collection was carried out through field research and library research. The data obtained were then analyzed qualitatively by linking applicable legal provisions with facts found in the field to obtain conclusions in accordance with the research problem.

3. Results and Discussion

3.2. Notary's Responsibilities in Making Deeds of Sale and Purchase of Buildings and Transfer of Rights on Uncertified Land

The practice of buying and selling buildings and transferring rights to uncertified land is still common in Batam City. This situation is inseparable from the characteristics of Batam's land system, which is largely managed by the Batam Business Agency (BP Batam) through the Land Management Rights (HPL) scheme. Over time, the public's need for legal certainty has led to the emergence of various forms of agreements drawn up before a notary as the basis for legal relations between the parties before the issuance of land title certificates.⁴

Based on interviews with the notary who served as a research resource, people continue to conduct transactions regarding buildings and transfer rights to uncertified land due to economic needs, investment, or the transfer of ownership that has been going on for generations. In these circumstances, the notary plays a crucial role in providing legal protection by drafting deeds that clearly describe the wishes of the parties and the legal status of the object being contracted.

1) Examination of the Identity and Legal Capacity of the Parties

A notary's primary responsibility begins with verifying the identities of the parties appearing before them. This verification aims to ensure that the party performing the legal act is a legitimate legal entity, possesses legal capacity, and has the authority to act on their own behalf or on behalf of any other party they represent.

In notarial practice, verification is conducted by verifying the National Identity Card (KTP), Family Card (KK), Taxpayer Identification Number (NPWP), and other supporting documents relevant to the transaction. If one party acts under a power of attorney, the notary is also required to verify the validity of the power of attorney used. This step demonstrates the principle of prudence that must be applied in every deed.⁵

The accuracy of the parties' identities is crucial, as errors in identifying them can lead to future legal disputes. Therefore, a notary public is responsible for ensuring

⁴SRA Pertiwi & LL Cahyarini, "Legal Analysis of the Sale and Purchase of Uncertified Land (Case Study of Decision Number 75/Pdt/2016/PT.Dps)", *Notarius*, Vol. 16 No. 1, 2023, pp. 36–47, <https://ejournal.undip.ac.id/index.php/notarius/article/view/37307>

⁵Muhammad Al-Himni & Edith Ratna MS, "Transfer of Land Rights through Private Sale and Purchase for Uncertified Land in Kubu Raya Regency", *Notarius*, Vol. 15 No. 1, 2022, pp. 475–484, <https://ejournal.undip.ac.id/index.php/notarius/article/view/46055>

that the identities stated in the deed match the official documents presented by the parties at the hearing.

2) Examination of Documents on the Basis of Rights and Land Tenure Status

In addition to verifying the identities of the parties, the notary also examines the documents that form the basis for ownership of the land or building being traded. For uncertified land, the documents examined generally include a Land Allocation Agreement, a Land Use Agreement, a certificate from the relevant agency, proof of UWTO payment, or other documents demonstrating a legal relationship between the party controlling the land and the object being traded.

Research results show that examining title documents is the most crucial stage in transactions involving uncertified land. This is due to the lack of a certificate as proof of title with strong evidentiary force, as stipulated in the national land registration system.

In such circumstances, notaries are required to conduct a more thorough examination of the land ownership history to minimize the potential for disputes. This examination is not intended to determine the material validity of the land rights, but rather to ensure that the documents used to create the deed are related to the object of the agreement.

3) Application of the Principle of Prudence in the Preparation of Deeds

The principle of prudence is crucial in the performance of a notary's duties. Research shows that the principle of prudence is implemented through document review, clarification with the parties, tracing the transaction history, and providing explanations regarding the legal risks that may arise from uncertified land.⁶

In practice, a notary public not only serves as the party who documents the parties' wishes in a deed, but also acts as a legal filter aimed at preventing legal actions that could potentially give rise to disputes. Therefore, if any indication of a dispute, unclear status of an object, or documents of questionable validity is found, the notary public has the right to delay or even refuse to draw up a deed until clarity regarding the legal status of the object is obtained.

The application of the precautionary principle shows that the Notary's responsibility is not only administrative, but also has a preventive dimension in providing legal protection to the community.

⁶Jozan Adolf & Akhmad Khisni, "The Existence of Notary Authority in Making Land Deeds", *Notarius*, Vol. 13 No. 1, 2020, pp. 181–192, <https://ejournal.undip.ac.id/index.php/notarius/article/view/29313>

4) The Position of a Notary Regarding the Material Truth of Land Objects

One problem that frequently arises in practice is the assumption that a notary is solely responsible for the land title status of the subject of a transaction. Research has shown that this assumption is not entirely accurate.

Notaries are primarily responsible for the formal accuracy of the deeds they draft. This responsibility includes the identity of the parties, the date of the deed's drafting, the process of appearing before the deed, and the documents presented at the time of the deed's drafting. Regarding the material accuracy of land rights, notaries do not have the authority to guarantee absolute accuracy.⁷

As long as the Notary has carried out procedures in accordance with statutory provisions, carried out proper document examinations, and acted based on the information provided by the parties, then the responsibility for the material truth of the object remains with the party providing the information.

5) The Educational Role of Notaries for the Parties

The research also shows that notaries play a crucial educational role in transactions involving uncertified land. Many people still believe that a notarial deed is sufficient to fully prove land ownership. However, legally, certainty of land rights is achieved only after land registration and the issuance of a certificate by the authorized agency.

Therefore, before the deed is signed, the notary is obliged to provide an explanation regarding the legal status of the deed, the status of the transaction object, the rights and obligations of the parties, and any legal risks that may arise in the future. This explanation is part of the preventative legal protection the notary provides to the parties.

Through this educational function, it is hoped that the parties will be able to fully understand the legal consequences of the transactions carried out so as to reduce the potential for disputes in the future.

6) Analysis Based on the Theory of Legal Responsibility

According to the theory of legal responsibility, every authority granted by statutory regulations is always accompanied by responsibility for its implementation. In the context of the Notary's office, the authority to issue authentic deeds carries with it the obligation to carry out duties professionally, independently, honestly, thoroughly, and impartially.

⁷Darmayenti & Khairani, "Notary's Responsibility for Deeds with Legal Defects According to the Notary Law", Unes Journal of Swara Justisia, Vol. 8 No. 1, 2024, <https://www.swarajustisia.unespadaang.ac.id/index.php/UJSJ/article/view/483>

Based on this theory, a notary's responsibility in transactions involving uncertified land cannot be interpreted as an obligation to guarantee all material aspects of the transaction object. The notary's responsibility must be understood within the authority granted by the Notary Law, namely ensuring that all formal requirements for the creation of a deed are met.

Thus, as long as the Notary has carried out his obligations in accordance with professional standards and applicable legal provisions, the Notary has fulfilled his legal responsibilities as a public official.

7) Analysis Based on the Theory of Legal Certainty

Viewed from the theory of legal certainty, the existence of a notarial deed in transactions regarding land that has not yet been certified has an important role as written evidence that provides certainty regarding the legal relationship between the parties.⁸The deed provides certainty regarding the identity of the parties, the object of the agreement, the contents of the agreement, and the time when the legal act occurred.⁹

Although a notarial deed cannot replace the function of a certificate as proof of land rights, its existence still provides significant legal protection for the parties. The deed can be used as evidence in the event of a dispute and can serve as the basis for further administrative proceedings leading to the issuance of a land title certificate.¹⁰

Based on the research and theoretical analysis conducted, it is understood that a notary's responsibility in drafting building sale and purchase deeds and transferring rights to uncertified land primarily lies within the formal aspects of deed preparation. However, in practice, this responsibility expands through the application of the principle of prudence, educational functions, and preventive legal protection efforts aimed at ensuring legal certainty for the parties involved in the transaction.

⁸"The Role of Notaries in Ensuring Legal Certainty in the Transfer of Land Rights from the Perspective of Agrarian Law in Indonesia", Jurnal Begawan Hukum, 2026, <https://journal.unisan.ac.id/index.php/JBH/article/view/143>

⁹AE Asriati & LL Cahyarini, "The Authority of Land Deed Officials in Registering Mortgage Encumbrances on Uncertified Land", Notarius, Vol. 15 No. 1, 2022, pp. 1–17, <https://ejournal.undip.ac.id/index.php/notarius/article/view/46020>

¹⁰Dwi Wahyu Nugroho, "Legal Certainty regarding the Validity of Transfer of Uncertified Land", Legal Standing: Journal of Legal Studies, 2025, <https://journal.umpo.ac.id/index.php/LS/article/view/10828>

3.2. Obstacles Faced by Notaries in Making Deeds of Sale and Purchase of Buildings and Transferring Rights on Uncertified Land

Although notaries play a crucial role in providing legal certainty for building sales and land transfers that do not yet have certificates, their implementation is not without various obstacles. Based on research and interviews with key informants, these obstacles stem from both internal and external factors that influence the performance of a notary's duties. These obstacles relate not only to administrative aspects but also to the land system, public legal awareness, and inter-agency coordination.

1) Incomplete Legal Basis Documents

The most common obstacle encountered is incomplete documents used to establish land ownership. In practice, many people only have documents in the form of agreements, transfer of rights letters, payment receipts, or other incomplete ownership documents.¹¹

This situation makes it difficult for notaries to verify the ownership history of the property being sold. It's not uncommon to find documents that are missing, damaged, or unable to demonstrate a continuing legal relationship between the previous owner and the parties involved in the transaction. Consequently, the deed preparation process takes longer because the notary must provide additional clarification to the parties.

2) Difficulty Verifying Land Ownership History

Uncertified land generally lacks the complete legal and physical documentation of registered land. This makes it difficult for notaries to verify the complete history of land ownership.¹²

The research results show that in some cases, there are discrepancies between the information contained in the documents held by the public and the actual ownership conditions in the field. These discrepancies have the potential to lead to disputes if not carefully examined. Therefore, notaries are required to exercise greater caution in assessing documents used as the basis for deed issuance.

3) Characteristics of the Batam City Land System

The next obstacle relates to the characteristics of land management in Batam City, which differ from most other regions in Indonesia. The existence of Land

¹¹Muhammad Al-Himni & Edith Ratna MS, "Transfer of Land Rights through Private Sale and Purchase for Uncertified Land in Kubu Raya Regency", *Notarius*, Vol. 15 No. 1, 2022, pp. 475–484, <https://ejournal.undip.ac.id/index.php/notarius/article/view/46055>

¹²Dwi Wahyu Nugroho, "Legal Certainty regarding the Validity of Transfer of Uncertified Land", *Legal Standing: Jurnal Ilmu Law*, <https://journal.umpo.ac.id/index.php/LS/article/view/10828>

Management Rights (HPL), managed by the Batam Free Trade Zone Authority (BP Batam), results in a unique land administration mechanism.¹³

In practice, notaries often encounter situations where community documents related to land allocation, transfer of rights, or UWTO payment obligations require further verification. This situation makes the document verification process more complex than for land transactions involving land titles.

4) Low Public Understanding of Law

Research results show that some people still don't understand the difference between a notarial deed and a land title certificate. Some people assume that once a notary has issued a deed, land ownership is legally certain.

This inaccurate understanding often leads to misunderstandings regarding the function and authority of a notary. In such circumstances, the notary must provide a detailed explanation of the legal status of the deed and the importance of the land registration process to achieve stronger legal certainty.¹⁴

5) Potential Disputes from Third Parties

Another frequently encountered obstacle is the potential for claims or objections from third parties against the underlying property. Uncertified land generally lacks complete, administrative ownership records, making claims from third parties relatively more likely.¹⁵

This situation places notaries in a position where they must be more careful in examining documents and statements from the parties. If there are indications of a dispute or objection from another party, notaries generally choose to postpone the deed's preparation until certainty is obtained regarding the status of the object in question.

6) Efforts Made by Notaries to Overcome Obstacles

To overcome these obstacles, notaries apply the principle of prudence by verifying the parties' identities, examining legal documents, clarifying the land ownership history, and providing legal explanations to the parties. Notaries also request

¹³AE Asriati & LL Cahyarini, "Authority of Land Deed Officials in Registering Mortgage Encumbrances on Uncertified Land", Notarius, Vol. 15 No. 1, 2022, <https://ejournal.undip.ac.id/index.php/notarius/article/view/46020>

¹⁴"The Role of Notaries in Ensuring Legal Certainty in the Transfer of Land Rights from the Perspective of Agrarian Law in Indonesia", Jurnal Begawan Hukum, 2026, URL: [Journal of Legal Scholars](#)

¹⁵Christoforus Pramudya & Gunawan Djajaputra, "Notary's Responsibility for Deeds Cancelled Due to the Use of Absolute Power of Attorney in Land Purchases," Notary Journal, Vol. 1 No. 2, 2022, URL: [UPH Notary Journal](#)

additional supporting documents if data discrepancies or unclear information are found.¹⁶

In addition, notaries coordinate with relevant agencies, if necessary, to obtain more complete information regarding the object being contracted. This step serves as a form of preventative legal protection for the parties and to maintain the quality of the deed.

7) Analysis of Obstacles to Legal Certainty

From a legal certainty perspective, these various obstacles demonstrate that transactions involving uncertified land still carry a higher level of risk than transactions involving registered land. The absence of a certificate makes the process of proving title highly dependent on the ownership documents held by the parties.¹⁷

However, the role of a Notary as a public official makes a significant contribution to minimizing these risks through the application of precautionary principles and oversight of the formal aspects of transactions. Therefore, despite the complex challenges faced, the professional performance of a Notary's duties can still provide legal protection and increase legal certainty for those conducting transactions.

Based on the research results, it is understood that obstacles in preparing building sale and purchase deeds and transferring rights to uncertified land stem from administrative factors, land system factors, and social factors. These obstacles can be minimized through the application of the precautionary principle, improved inter-agency coordination, and increased public legal awareness regarding the importance of land registration and orderly land administration.

5. References

Based on the research and discussion conducted, it can be concluded that the responsibility of a Notary in preparing a deed of sale and purchase of a building and transferring rights over uncertified land is essentially limited to the formal aspects of the deed. This responsibility includes verifying the identity of the parties, their legal capacity, their authority to act, and the completeness of the documents used as the basis for the deed. A Notary is not responsible for the material accuracy of the land rights status as long as they have carried out their duties in accordance with statutory provisions and applied the principle of prudence. In practice, a Notary also plays a role in providing legal education to the parties and taking preventive measures to minimize the potential for disputes that may arise from transactions on uncertified land. Obstacles faced by Notaries in

¹⁶Anis Mashdurohaturun et al., "Notary's Responsibility for Works That Do Not Implement the Principle of Prudence," *Officium Notarium*, Vol. 2 No. 3, 2022, URL:[Office of Notary of UII](#)

¹⁷Darmayenti & Khairani, "Notary's Responsibility for Deeds with Legal Defects According to the Notary Law", *Unes Journal of Swara Justisia*, Vol. 8 No. 1, 2024, URL:[Unes Journal of Swara Justisia](#)

preparing building sale and purchase deeds and transferring rights on uncertified land include incomplete legal documents, difficulties in verifying land ownership history, the characteristics of the Batam City land system, low public legal understanding, and the potential for disputes from third parties. These obstacles can be minimized through the application of the principle of prudence, thorough document inspection, coordination with relevant agencies, and increased legal education to the public to ensure legal certainty and protection in every transaction.

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