

The Principle of Prudence for Notaries in Making Sale and Purchase Agreements for Rice Fields is Protected

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Abstract. *This study aims to analyze the application of the Notary's precautionary principle in making a Sale and Purchase Agreement Deed (PPJB) for land indicated as Protected Rice Fields (LSD) in Sidoarjo Regency, as well as analyzing the legal consequences of the deed and the Notary's responsibilities if this principle is not applied. This research uses an empirical legal approach with juridical-sociological specifications and qualitative case studies. Based on the research, it is concluded that the application of the precautionary principle is implemented through preventive measures that include identity verification, validation of land certificates, cross-checking of Regional Spatial Plans (RTRW) and LSD maps, cross-agency coordination, providing legal advice, and the formulation of specific protection clauses in the deed. Ignoring this precautionary principle results in defects in the objective requirements of the agreement, which triggers the degradation of the evidentiary power of the deed to the point of being null and void by law, while simultaneously giving rise to absolute liability for Notaries in civil, administrative, and professional ethics.*

Keywords: *Legal; Precautionary; Principle; Protected; Responsibility.*

1. Introduction

Land holds a highly strategic position, not only as an economically valuable asset but also as a fundamental tool in supporting development and maintaining national food security in Indonesia. However, massive population growth, urbanization, and the expansion of residential and industrial areas have triggered a high rate of conversion of productive agricultural land. This uncontrolled land conversion phenomenon threatens the sustainability of local food production and gives rise to a series of complex legal issues in the land sector.¹

¹M. Heryanto and A. Nugraha, 2024, "Conversion and Protection of Agricultural Land: A Systems Approach," *Mimbar Agribisnis, Journal of Thought for the Scientific Community with an Agribusiness Perspective*, Vol. 10, No. 2, pp. 3568-3580. url: <https://doi.org/10.25157/ma.v10i2.14958>.

As a form of normative protection (*das sollen*), land ownership and utilization are actually based on Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) which mandates the regulation of land use for the greatest prosperity of the people.²To prevent an ecological and food crisis, the government strengthened this protection through Law No. 41 of 2009 concerning the Protection of Sustainable Agricultural Land. This policy is more specifically implemented through the designation of Protected Rice Fields (LSD) under Presidential Regulation No. 4 of 2026, which updates Presidential Regulation No. 59 of 2019 concerning Control of Rice Field Land Conversion.³This regulation is also supported by Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) Number 2 of 2024, which strictly regulates procedures for verifying rice field data, synchronizing spatial planning, and providing recommendations for changes in land use.⁴

However, the implementation of this series of regulations often clashes with empirical reality in the field (*das sein*), where there is often a sharp lack of synchronization between the legal data on land title certificates, spatial plans, and LSD determination maps.⁵For example, in the Sidoarjo Regency area, where the regulation of agricultural areas is stipulated in Regional Regulation Number 4 of 2024, many legal anomalies were found.⁶The author encountered a glaring case where a land certificate legally recorded the land as "pekarangan," but when the owner applied for a land parcel subdivision for residential development, the land agency's verification results identified part of the land as a non-permanent land use area, which is prohibited for conversion. This data contradiction directly paralyzed the administrative process and sowed legal uncertainty in land transfer transactions.

This kind of land data synchronization chaos has a direct impact on the implementation of Notary duties. Based on Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, Notaries are positioned as public officials who are given the authority by the state to make authentic deeds, including Deeds of Sale and Purchase Agreements

²Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Regulations.

³Indonesia, Presidential Regulation Number 4 of 2026 concerning Control of Conversion of Paddy Fields.

⁴Indonesia, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 2 of 2024 concerning Procedures for Implementing Verification of Paddy Field Data against Land and Spatial Planning Data, Determination of Protected Paddy Field Maps, and Provision of Recommendations for Changes in Land Use on Protected Paddy Fields.

⁵Rizki Erwahyuningrum et al., 2023, "Legal Problems of Determining Protected Rice Fields (LSD) for Business Actors in Indonesia," *Journal of Business and Management*, Vol. 3, No. 2, pp. 329–336. url:<https://ejournal.penerbitjurnal.com/index.php/business/article/view/191>.

⁶Radar Sidoarjo: "There is a Difference in Land Area, the 2022-2044 Regional Spatial Plan Draft Regulation in Sidoarjo Needs to be Examined." <https://radarsidoarjo.jawapos.com/kota-delta/853277546/ada-selisih-luasan-lahan-raperda-rtrw-2022-2044-di-sidoarjo-perlu-dicermati>, accessed August 2, 2026

(PPJB). In carrying out their duties, Article 16 paragraph (1) letter a of the law requires Notaries to act with integrity, honesty, thoroughness, independence, and impartiality.⁷ This phrase "carefully" is the philosophical and legal basis for the prudential principle which must be adhered to by Notaries, especially when formulating deeds whose objects are full of statutory limitations.⁸

In notarial practice, a PPJB is commonly used as a preliminary agreement before signing a Deed of Sale and Purchase (AJB), particularly to bridge any outstanding administrative hurdles, such as the certificate division process or spatial planning checks. If the transaction object is indicated to be within a Land Use Deed (LSD) area, the Notary is in a very difficult position. On the one hand, they are obliged to provide civil services to the community, but on the other hand, they must ensure that the legal instruments they legalize do not facilitate violations of the prohibition on conversion of rice fields. In these risky conditions, the application of the principle of prudence is the only protection mechanism to verify material truth and mitigate potential future disputes.⁹

The importance of identifying this problem lies in the significant legal risks posed by the mismatch between regulations and factual land data in the community. If a Notary neglects to verify land status and fails to comprehensively apply the precautionary principle, this will not only trap the parties in massive financial losses due to the stalled transfer of rights process. Furthermore, such negligence has the potential to create legal defects in the PPJB Deed, which could lead to a degradation of the deed's evidentiary power, the cancellation of the agreement, and even drag the Notary into civil liability based on the construction of Unlawful Acts (Article 1365 of the Civil Code), as well as administrative and ethical sanctions.¹⁰

This study aims to analyze the application of the Notary's precautionary principle in making a Sale and Purchase Agreement Deed (PPJB) for land indicated as Protected Rice Fields (LSD) in Sidoarjo Regency, as well as analyzing the legal implications for the deed and the Notary's job responsibilities if this principle is not applied.

2. Research Methods

This research is an empirical legal research that uses a qualitative approach method, specifically combining a socio-legal approach and a case study

⁷Indonesia, Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, Article 1 number 1 and Article 16 paragraph (1) letter a.

⁸Habib Adjie, (2014), Indonesian Notary Law: Thematic Interpretation of the Notary Law, Refika Aditama, Bandung.

⁹Bella Okladea Amanda, 2022, "Notary Prudence Principles in Making Perfect Deeds," Recital Review, Vol. 4, No. 1, pp. 218–243. url: <https://doi.org/10.22437/rr.v4i1.13815>.

¹⁰Rosa Agustina, 2003, Unlawful Acts, (Jakarta: Postgraduate Faculty of Law, University of Indonesia, p. 36.

approach.¹¹The specifications of this research are focused on direct observation to analyze the gap between the normative provisions of laws and regulations related to the protection of Protected Rice Fields (LSD) and the reality of the implementation of the Notary's precautionary principle in the formulation of PPJB Deeds in the Sidoarjo Regency area. The data sources used include primary and secondary data. Primary data collection was conducted through semi-structured interviews and non-participant observation.¹²In-depth interviews were conducted directly with the main actors related to the research object, namely the Notary in Sidoarjo Regency (Suyatno SH, MH), the Sidoarjo Regency Land Office Official (Ida), the representative of the Sidoarjo Regency Public Works and Spatial Planning Agency (Marpudianto), and the affected legal subjects from the community elements who own land rights (Uripa). Secondary data collection was conducted through literature and document studies on primary, secondary, and tertiary legal materials relevant to the research locus.¹³ The next stage, all the data obtained was analyzed using a qualitative analysis method based on an interactive analysis model.¹⁴The technical steps of this data analysis include data reduction from interviews, data display in a descriptive-analytical narrative, and conclusion drawing/verification. The results of this final analysis serve to synthesize empirical findings in the field (*das sein*) with the applicable positive legal framework (*das sollen*).

3. Results and Discussion

3.1. Implementation of the Notary's Principle of Prudence in the Preparation of PPJB Deeds for Land Indicated as LSD in Sidoarjo Regency

The current land dynamics in Sidoarjo Regency are characterized by high pressure from the conversion of productive agricultural land into industrial and residential areas due to escalating urbanization. The government's efforts to mitigate this phenomenon are reflected in the 2024–2044 Regional Spatial Planning (RTRW) policy, which regulates the zoning of Sustainable Food Agriculture Areas (KP2B) and the establishment of Protected Rice Field (LSD) maps. However, this spatial planning policy transition has given rise to legal irregularities in practice. Empirical findings reveal a factual case involving a resident whose application for land parcel subdivision (*tapak kaling*) covering 152 m² was rejected by the land agency.¹⁵The rejection was based on the finding that part of the land area was mapped into the LSD zone, even though legally and formally, the Land Ownership Certificate (SHM) held expressly recorded the land use status as a "yard".

¹¹Robert K. Yin, 2014, *Case Study: Design and Method*, Rajawali Press, Jakarta, pp. 1-10.

¹²Sugiyono, 2019, *Qualitative Research Methods*, Alfabeta, Bandung, p. 137.

¹³Soerjono Soekanto and Sri Mamudji, 2015, *Normative Legal Research: A Brief Review*, Rajawali Pers, Jakarta, pp. 13–14.

¹⁴Matthew B. Miles and A. Michael Huberman, 1994, *Qualitative Data Analysis: An Expanded Sourcebook*, 2nd ed., Sage Publications, Thousand Oaks, p. 10–12.

¹⁵Interview with Uripa, a Community Owner of Land Rights in Sidoarjo Regency.

This contradiction between formal ownership instruments (certificates) and land use restriction policies (spatial planning) creates absolute legal uncertainty. This is where a notary public faces a crucial test when the parties intend to carry out a transfer of rights transaction, beginning with the creation of a Deed of Sale and Purchase Agreement (PPJB). In response to this risky land status, a notary public cannot simply act as a "scribe" of the agreement but is required to activate its primary protection instrument, namely the prudential principle, which is embodied through a series of multi-layered preventive procedures.

First, subjective verification stage. The application of prudence begins with a rigorous examination of the identity, competence, and authority of the parties through the synchronization of population documents (KTP, KK, NPWP). If the object is joint property, the consent of the legal spouse is mandatory to close any gaps in authority in the future.

Second, the objective validation and document tracing stage. The notary reviews the physical and legal validity of the certificate by conducting an official check at the Land Office to ensure the land is not blocked, seized, or disputed.¹⁶ However, for land in Sidoarjo, the Notary realized that the validity of the land certificate no longer guarantees the freedom of transfer of rights.

Third, the spatial planning investigation and synchronization of the LSD status. This embodies the most fundamental precautionary principle in this case. Guided by Presidential Regulation Number 4 of 2026, the Notary cross-checked the data on the certificate with the LSD map, the RTRW (Regional Spatial Planning), and the local Detailed Spatial Plan (RDTR). This step was followed by intensive cross-sectoral coordination with the Land Office and the Sidoarjo Regency Public Works and Spatial Planning Agency.¹⁷ This verification aims to find out whether the land has a prohibited status for conversion or whether it is still possible to receive recommendations for changes in spatial use.

Fourth, the advocacy function stage and the formulation of legal mitigation. After obtaining confirmation regarding the status of land hampered by the LSD policy, the Notary is obliged to provide transparent legal advice to the parties.¹⁸ This explanation covers the worst-case risks of stalled administrative processes for land division and the possibility of failure to sign the Deed of Sale and Purchase (AJB) before the Land Office (PPAT). If the parties insist on proceeding with the PPJB with full understanding of these risks, the Notary will draft a tailor-made legal protection clause (tailored to the case). This clause specifically regulates the construction of an exit strategy for dispute resolution, refunds, and a proportional distribution of responsibilities if the transaction is ultimately invalid due to LSD status. Conversely, if indications of spatial planning violations are deemed serious,

¹⁶Interview with Suyatno, SH, MH, Notary in Sidoarjo Regency.

¹⁷Interview with Ida, an official at the Sidoarjo Regency Land Office; and an interview with Marpudianto, an official at the Sidoarjo Regency Public Works and Spatial Planning Office.

¹⁸Interview with Suyatno, SH, MH, Notary in Sidoarjo Regency.

the Notary will use their prerogative to postpone or reject the formulation of the PPJB.

If analyzed using the Theory of Authority from Philipus M. Hadjon, this proactive action by the Notary is not a form of exceeding authority (because the Notary does not have the authority to change the spatial planning status), but rather a form of legal responsibility for the attribution of authority granted by the Law.¹⁹ Article 16 paragraph (1) letter a of the UUJN which requires Notaries to act "carefully" is the legal basis for Notaries to trace material truth outside the certificate text.²⁰ By rejecting or formulating special clauses on objects that conflict with LSD policy, Notaries are actually protecting their deed products from the threat of evidentiary degradation, while at the same time maintaining legal certainty for the public.

Although mitigation procedures have been attempted, the effectiveness of this precautionary principle is often reduced by systemic and sociological barriers in the field. Details of these barriers, along with notary mitigation strategies, are summarized in the following matrix:

Classification of Obstacles	Description of Problems in the Field	
Bureaucratic Barriers and Data Asynchrony	Data chaos exists between yard certificates and the release of LSD maps. Public information regarding LSD distribution coordinates is minimal and slow to access.	Delaying the deed drafting process; requiring manual spatial planning checks; and conducting proactive coordination/direct consultation with the ATR/BPN agencies and the Regional Spatial Planning Office.
Technical Guidelines Vacancies	There is no standard operating procedure (SOP) between agencies regarding the resolution mechanism (way out) for land areas experiencing overlapping regulations (valid certificates vs. LSD prohibitions).	Constructing specific protection clauses in the PPJB (e.g.: tough conditions, down payment refund clauses, and cancellation mechanisms if the AJB is rejected by the authorities).
Sociological Pressure and Economic Motives	The seller and buyer urged the notary to immediately legalize the PPJB in order to secure the agreed price and down payment, ignoring the spatial planning risks. ⁶	Providing empirical legal education regarding the threat of nullity by law; and firmly using independent authority to refuse the creation of a deed if it has the potential to violate the law.

Source: Processed from Primary Research Data, 2026.

Through this comprehensive implementation, it can be concluded that the principle of prudence has transformed its function: it is no longer merely a formal ethical guideline in arranging words in deeds, but has become an instrument for navigating legal risks to save civil contracts from the trap of agrarian disputes.

¹⁹Philipus M. Hadjon, 1997, "On Authority," Yuridika, Vol. 7, No. 5–6, 1997, pp. 1–5. url: <https://doi.org/10.20473/ydk.v7i5-6.5769>

²⁰Indonesia, Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, Article 1 number 1 and Article 16 paragraph (1) letter a.

3.2. Legal Consequences of PPJB Deeds and Notary Responsibilities if the Principle of Prudence is Not Implemented

The neglect of the precautionary principle by a Notary in the formulation of a PPJB Deed whose object is indicated as Protected Rice Fields (LSD) will give rise to fatal legal implications for the existence of the deed. Based on research findings, the lack of adequate verification has the potential to cause legal defects because the substance of the agreement violates the objective requirements for the validity of the agreement as regulated in Article 1320 of the Civil Code (KUHPerdata), especially regarding a lawful cause.²¹ The logical consequences of this legal flaw are twofold. First, there is a degradation of evidentiary power. A PPJB deed, which is essentially an authentic deed with perfect evidence (*volledig bewijskracht*), can be reduced to mere underhand deed if there is evidence of procedural violations and negligence by the Notary in verifying the LSD status. Second, there is the threat of nullity (*nietig*). Considering that Presidential Regulation Number 4 of 2026 prohibits the conversion of land included in the LSD map without official recommendation,²² then the transfer of rights transaction which is still forced will be considered to be in conflict with statutory regulations, so that from the start the deed is considered to have never existed.²³

Failure to mitigate the risk of problematic deeds automatically drags notaries into a multi-layered legal cycle. Civilly, notary negligence that triggers material or immaterial losses for the parties can be classified as an Unlawful Act (PMH). Referring to Article 1365 of the Civil Code, notaries are obligated to compensate clients for losses suffered if they are proven to have failed to verify spatial planning inconsistencies that led to the failure of the transfer of rights.²⁴ In addition, notaries are also faced with administrative and ethical responsibilities. A notary's actions that yield to economic pressure or client pressure to expedite transactions without regard for certainty of land status constitute a violation of Article 16 paragraph (1) letter a of the UUJN. Based on Article 85 of the UUJN, this administrative malpractice can be subject to progressive sanctions by the Notary Supervisory Board, ranging from verbal warnings, written warnings, temporary dismissal, to dishonorable dismissal.²⁵

Viewed from the perspective of the Legal Certainty Theory initiated by Gustav Radbruch, the existence of positive law, including notarial deeds, should be able to provide clarity, stability, and protection of rights for the community.²⁶ However,

²¹Indonesia, Civil Code, Article 1320.

²²Indonesia, Presidential Regulation Number 4 of 2026 concerning Control of Conversion of Paddy Fields

²³Eudea Adeli Arsy et al., 2021, "Notary Responsibility for Deeds that are Legally Defective and Do Not Comply with the Provisions for Making Deeds in the Notary Law," *Jurnal Bina Mulia Hukum*, Vol. 6, No. 1, pp. 130–140. url:<https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/324>.

²⁴Rosa Agustina, Loc. Cit.

²⁵Habib Adjie, Location. Cit.

²⁶Gustav Radbruch, 1968, *Statistics und Recht*, Verlag von Julius Springer, Berlin, p. 45.

the empirical reality in Sidoarjo Regency shows that this legal certainty has been fundamentally disrupted by conflict and data asymmetry. Landowners often hold formal legal instruments in the form of Freehold Certificates (SHM) that state the land use status as "yard." However, when a request for parcel division is submitted as a prerequisite for the continuation of the PPJB to a Deed of Sale and Purchase (AJB), the land authorities block the process because the spatial planning synchronization results identify the land as falling within the LSD protection zone.²⁷

The implications of this lack of synchronization of land and spatial planning data have triggered an administrative deadlock. For the parties, this regulatory conflict creates uncertainty about ownership status and financial losses due to stalled transactions. For notaries, this situation creates a significant dilemma. Notaries have the absolute competence to legalize PPJBs, but on the other hand, they lack the authority to determine the definitive spatial status of a land parcel.

Therefore, the findings of this study synthesize that legal protection in land transactions suspected of LSD is currently still preventive in nature, relying heavily on the prudential initiatives of Notaries. The lack of detailed technical regulations regarding the mechanism for resolving overlapping land statuses requires local governments and the ATR/BPN agencies to immediately strengthen land data integration. Without precise synchronization between legal data on certificates and LSD spatial maps, the formal validity of an authentic deed will never be sufficient to provide complete legal certainty and protection for the community.

4. Conclusion

The Notary's application of the precautionary principle in the formulation of the Deed of Sale and Purchase Agreement (PPJB) for land indicated as Protected Rice Fields (LSD) in Sidoarjo Regency is manifested through a series of comprehensive preventive measures to mitigate legal risks due to the lack of synchronization of land and spatial data. These mitigation measures include verifying the identity of the parties, validating the validity of the certificate, cross-checking the Regional Spatial Plan (RTRW) and LSD maps, active coordination with relevant agencies, providing transparent legal advice, and formulating specific protection clauses in the deed. Ignoring this precautionary principle has fatal implications for the existence of the deed, which has the potential to give rise to material legal defects, degradation of evidentiary power to merely an underhand deed, and the threat of being null and void due to violating the imperative regulation of land conversion. Furthermore, such negligence will drag the Notary into a vortex of absolute, multi-layered responsibility, both in civil law in the form of claims for compensation based on Unlawful Acts (Article 1365 of the Civil Code), as well as administrative

²⁷Interview with Ida, an official at the Sidoarjo Regency Land Office; and interview with Uripa, a community landowner in Sidoarjo Regency.

sanctions and professional ethical discipline in accordance with the mandate of the Notary Law.

To unravel this tangled web of legal uncertainty, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) and regional spatial planning agencies are urged to immediately systematically synchronize and integrate land data with LSD maps on a regular basis, as well as formulate cross-sectoral technical operational guidelines (SOPs) containing concrete resolution mechanisms for land experiencing overlapping regulations. Notaries are advised to always prioritize the independence of their position and reject all forms of pragmatic pressure from clients, while adhering to the principle of maximum caution through factual verification before formulating deeds. In addition, the public as subjects of land rights are also urged to act proactively in validating the conformity of the status of their certificates with the latest spatial planning maps before agreeing to transfer rights transactions, in order to minimize the potential for disputes and financial losses in the future.

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