

# LEGAL PROTECTION FOR GOOD INTENTION BUYERS IN LAND AND BUILDING SALE AND PURCHASE BINDING AGREEMENTS (A STUDY OF WEST JAKARTA STATE COURT DECISION NUMBER 300/PDT.G/2021/PN.JKT.BRT)

Riskha Fillah Fawziah

Agus Riwanto

Mulyanto

## ABSTRACT

*This research objective was to determine the legal protection for buyers with good intentions in the binding sale and purchase agreements of buildings and land.. It needs to be studied because the seller wanted to cancel the sale and purchase binding agreement, even though the buyer has paid off the land and buildings he bought and wanted to pay it off. This research's strength was to protect buyers when purchasing and selling. The result of this legal research was the protection given by the judge to the buyer with good intentions in the binding sale and purchase agreement of buildings and land (A Study of the Decision of the West Jakarta District Court Number 300/Pdt.G/2021/Pn.Jkt.Brt) namely by punishing and ordering the Defendants to sign the Sale and Purchase Deed (AJB) and receive the remaining settlement of payments no later than 14 (fourteen) days. After that, Plaintiff (as the Buyer) was allowed to act on behalf of the Defendants (as the Seller) to sign the Sale and Purchase Deed without needing the power of attorney or approval from the Defendants.*

Keywords: Agreement, Good Intention Buyer, Sale and Purchase Binding Agreement

## INTRODUCTION

The rapid number of people living on this earth causes competition for land to be increasingly difficult. On the one hand, the number of people is continually increasing, but the amount of land cannot be increased or fixed. It makes the price of land very high because many people are fighting over it. (Angger Sigit Pramukti & Erda Widayanto, 2015). The practice of sale and purchase is something that people usually do. This sale and purchase are switchable and transferable. These transfers are caused by the occurrence of a legal event from a person, such as marriage or death. Other legal actions are based on the parties' mutual will to take over the ownership rights to the land from purchasing and selling, inheritance, or exchange.

In Indonesia, land acquisition is usually made through purchase and sale. Land sale and purchase is a clear cash transfer of land ownership. Clear means that the transfer of ownership is carried out in the presence of the customary head, who acts as an official and witnesses the transfer of the rights. Therefore, the community is aware of the action. Meanwhile, cash refers to direct payments, either via electronic transfer or in the form of money. Thus, cash can mean the land price is paid in cash or only partially (Adrian Sutedi, 2018). Land transfer is carried out by signing the deed of the Land Deed Making Officials (PPAT) and registered with the National Land Agency to obtain valid evidence.

The transfer cannot use a deed under the hand. The initial step that must be taken to carry out the sale and purchase of buildings and land is to visit the PPAT office in the area to obtain information about the sale and purchase flow and prepare all the requirements needed. After the conditions are met, the Land Deed Making Official makes a Sale and Purchase Deed. The sale and purchase deed is signed by both parties to change the certificate's name. However, even though land registration is essential, in reality, some people still use the Sale and Purchase Binding Agreement as a preliminary agreement. It was used to assist in making a sale and purchase agreement of land rights. A sale and Purchase Binding Agreement is an agreement by the seller to bind himself to sell to the buyer accompanied by the provision of a sign or an advance based on the agreement. The Sale and Purchase Binding Agreement (PPJB) generally stipulates that the seller will sell the land to the buyer. However, it cannot be done due to specific reasons, e.g., the land is still under bank guarantee, or the payment has not been paid off. Elisa, Suhadi, and Johan Kadir Putra (2020) state that the Sale and Purchase Binding Agreement (PPJB) is a legal breakthrough widely used by parties who buy and sell land rights. The sale and purchase using the Sale and Purchase Agreement were still not safe because even though the parties' wishes have been stated in the agreement's contents, there were parties who did not want to obey it.

For instance, cases that occurred in Indonesia, especially cases that were filed at the West Jakarta District Court. The lawsuit was filed by Yuswadi Kurnadi (Plaintiff) against Olga Wanda Kumala, a.k.a Kwa Loan Nio (Defendant I), Karel Soenarjo (Defendant II), and PPAT Notary, Refki Ridwan (Co-Defendant). Yuswadi Kurnadi, on June 26, 2012, signed the PPJB No.11 before the Co-Defendants between the Defendants as Sellers and Plaintiffs Buyers, on Land and Building located at Jl. Gandaria No. 14, Rt.002, Rw.03, Mangga Besar Village, Taman Sari Sub-district, West Jakarta, following the Certificate of Building Use Rights No. 1661/Mangga Besar dated February 4, 2008, Letter of Measurement No. 00097/2005 dated June 14, 2005, covering an area of 548 M<sup>2</sup>, with the limits under the Letter of Measurement as described in the Certificate. The payment was made in stages. When it would be paid off, the seller wished to cancel the agreement made by both parties, and the buyer did not want to sign the Sale and Purchase Deed by reasoning that there had been an error in agreeing on the selling price of land and buildings. It created disappointment for the buyer.

Based on the description of the background above, even though in the sale and purchase of buildings and land, a Sale and Purchase Binding Agreement has been made before PPAT, the Seller has still not been ready to comply with the contents of the agreed the Sale and Purchase Binding Agreement. Therefore, the author wanted to examine how legal protection was for buyers with good intentions if the seller was still not ready to transfer land rights to the buyer. The methodology was normative legal writing, namely legal research carried out by researching library materials or secondary data (Soerjono Soekanto and Sri Mamudji, 2003). Meanwhile, this legal writing was descriptive-analytical if viewed from its nature. According to Soerjono Soekanto, an analytical descriptive is intended to provide data that is as accurate as possible about humans, circumstances, or other symptoms (Soerjono Soekanto, 2003). This descriptive research explained legal protection for buyers with good intentions in the Sale and Purchase Binding Agreement. The data collection technique used a documentation study and was analyzed using primary and secondary legal materials. The legal material was analyzed using a systematic legal material processing technique, namely by using legal arguments based on deductive and inductive logic. Furthermore, the presentation was done by systematically compiling and then described in the form of a description.

## RESULTS AND DISCUSSION

This problem occurred in 2021 between Yuswadi Kurnadi (Plaintiff) against Olga Wanda Kumala, a.k.a Kwa Loan Nio (Defendant I), Karel Soenarjo (Defendant II), and a PPAT Notary, Refki Ridwan (Co-Defendant). Yuswadi Kurnadi, on June 26, 2012, signed the PPJB No.11 before the Co-Defendants between the Defendants as Sellers and Plaintiffs Buyers, on Building and land located at Jl. Gandaria No. 14, Rt.002, Rw.03, Mangga Besar Village, Taman Sari Sub-district, West Jakarta, following the Certificate of Building Use Rights No. 1661/Mangga Besar dated February 4, 2008, Letter of Measurement No. 00097/2005 dated June 14, 2005, covering an area of 548 M<sup>2</sup>, with the limits following the Letter of Measurement as described in the Certificate.

The sale of the land and buildings was IDR 3,875,000,000.00. Payment I (First) was made in the amount of IDR 700,000,000.00, which has been paid to the Defendants before the signing of the PPJB Deed. Furthermore, the (second) Payment II was in the amount of IDR 3,175,000,000.00. At the same time, Plaintiff would pay payment to the Defendants after the completion of the emptying of the land and building object. However, although the Defendants had not carried out the emptying of the object of sale and purchase, and they reasoned that they still needed costs for the implementation of the emptiness, the Plaintiffs have made the payment again, and on September 26, 2017, the Clearing Execution was carried out by the Bailiff of the West Jakarta District Court. However, after the Clearing Execution was completed, although the Sale and Purchase Deed was not signed, on February 13, 2018, Plaintiff paid again to the Defendants in the amount of IDR 256,594,104.00 received by Defendant I. Therefore, the total cost that Plaintiff has paid to the Defendants for the Sale and Purchase Agreement above was IDR 1,726,594,104.00, and the remaining balance of payment still has to be paid by Plaintiff to the Defendants was in the amount of IDR 2,148,405,896.00. It would be paid when signing the Sale and Purchase Deed, but after being repeatedly reminded by the Plaintiff, the Defendants have avoided signing the Sale and Purchase Deed.

Regarding the lawsuit, the Defendants submitted an answer. They acknowledged that on June 26, 2012, Sale and Purchase Agreement (PPJB) No. 11 had been signed by Defendant I as the seller who has obtained approval from Defendant II for objects in the form of land and buildings with Certificate of Building Use Rights No. 1661 and a selling price of IDR 3,875,000,000.00, and Defendant I has received payment of IDR 1,726,594,104.00 (One Billion Seven Hundred Twenty-Six Million and Five Hundred Ninety-Four Thousand One Hundred Four rupiahs), but when signed PPJB No. 11, the objects were controlled by a third party so that the circumstances and conditions of the land were not taken into account, as well as the execution of the emptying, which took a long time, causing an error in agreeing on the selling price of the land and buildings and the Defendants requested that the agreement be canceled (Decision No. 300/Pdt.G/2021/Pn.Jkt.Brt).

Based on the case above, the author wanted to examine the legal protection for buyers with good intentions in the Sale and Purchase Agreement that the Plaintiff and the Defendants have made. However, the seller (as the defendants) did not want to sign the Sale and Purchase Deed, and the seller wanted to cancel the agreement because there was an error in the agreement on the selling price of land and buildings.

Article 1338, paragraph 1 of the Civil Code states: "For all agreements made legally, the law applies to the person who makes them." It means that all kinds of agreements signed by both parties, whether named agreements or unnamed agreements, must meet the legal requirements of the agreement as stipulated in Article 1320 of the Civil Code. This agreement is binding on both parties. As for the logical consequence of the provision that the agreement is binding on the parties to the agreement, according to Article 1338(2) of the Civil Code, "the agreement cannot be canceled without the consent of both parties or for good reasons provided for by law". The agreement that has been made cannot be canceled. The binding in the agreement will end when the contents of the agreement have been fulfilled (Zakiah, 2017).

In this case, the parties are made before a notary when carrying out the sale and purchase agreement. Purchase and sale using a Sale and Purchase Agreement (PPJB) usually must be accompanied by a clause regarding the act of delivery, in this case, physical and legal delivery (*jurischedevering*). The legal delivery is carried out by signing and making a deed of sale and purchase according to Article 19 of Government Regulation No. 10 of 1961 concerning Land Registration in front of the Land Making Deed official. Therefore, if there is no deed of sale and purchase in the purchase and sale process, it cannot be said there is a proper delivery. Hence, even if there is a binding sale and purchase agreement, there is no physical and legal delivery. By making a Sale and Purchase Agreement in the form of an authentic deed, it can be used as a form of sincerity between two parties to carry out the process of purchasing and selling land or buildings that are agreed upon with certain conditions as well as the power of attorney and submission clauses in it. In the event of a dispute or problem in the implementation of the results or contents of the Sale and Purchase Agreement in the future, this action can be strong evidence (Made Ara & I Made Dedy, 2019).

How is legal protection for buyers with good intentions if the seller is still not ready to transfer land rights to the buyer? To answer this research problem, the author first explains that legal protection is part of human rights to uphold human dignity. There is no exception to the right to a place to live, written in Law No. 39 of 1999 concerning Human Rights in Article 40, stating that everyone has the right to stay and live a decent life. Fulfillment must not disturb other people to cause friction in society. Legal protection in the sale and purchase of buildings and land is given to buyers with good intentions.

By law, buyers with good intentions are protected. Supreme Court of the Republic of Indonesia Decision No. 4. 251K/Sip/1958 on December 26, 1958, stipulates that a buyer with good intentions must be protected. The sale and purchase must be considered valid. Even though the land is obtained from an unauthorized seller one day, the buyer is still protected. The sale is still valid if the buyer can prove that he is a buyer in good faith, as stipulated in the Circular Letter of Supreme Court No. 7/2012 that protection must be given to buyers in good faith, even if the seller is an unauthorized person.

In the Circular Letter of the Supreme Court No. 4 of 2016 (SEMA 4/2016), it has been explained that the terms of a buyer with good intentions that are protected under Article 1338 paragraph (3) of the Civil Code are as follows: *first*, conducting sales and purchases of land objects based on laws, such as purchase and sale through auctions, purchase and sale carried out before Land Deed Making Official, purchase, and sale customary land that has not been registered which is carried out according to the provisions of customary law, both in cash and clearly, and not forgetting to start with checking an object to be traded, which shows that the object belongs to the seller. The sale and purchase are carried out at the right price. *Second*, the buyer must be careful with the agreed land object, and the buyer must also consider that the seller is the legal owner of the land object to be traded. The land object to be purchased is not in a state of being guaranteed or confiscated. As well as regarding land that has been certified, it has obtained information from the National Land Agency and the history of the legal relationship between the land and the certificate holder.

In this case, the sale and purchase were carried out by seller and buyer, both parties had agreed upon the price, and the payment was made in installments. After it was agreed, both of them went to the office of the PPAT to pour the sale and purchase into the Sale and Purchase Agreement Deed. After paying off, the Deed of Sale and Purchase was signed. However, when the installment had been paid by the buyer (Plaintiff) and would be repaid, the seller wished to cancel the agreement because there was an error in agreeing on the selling price of the land and buildings. Therefore, the buyer, in this case, must be protected because in the Circular Letter of the Supreme Court No. 4 of 2016 ("SEMA 4/2016") regarding the conditions for the buyer to be in good faith. This buyer did not violate the conditions specified in the Circular Letter of the Supreme Court No. 4 of 2016. The buyer, in this case, also had good intentions to pay off the sale and purchase he had made immediately. The seller was not allowed to arbitrarily with the buyer. When the seller and buyer have agreed, the seller should not make it difficult for the buyer to make a deed of sale and purchase so that the land and buildings purchased are contained in a piece of evidence, i.e., a certificate.

As a result of this case, the Panel of Judges granted the claim of the Plaintiff (buyer) and declared that the Deed of Sale and Purchase Agreement No.11, dated June 26, 2012, was legally valid, which was made in front of the Co-Defendant. It also rejected the answer to the lawsuit from Defendant I and Defendant II (Defendants), who have broken their promise and punished the Defendants for signing the Sale and Purchase Deed before Land Deed Making Official, and received the remaining payment of IDR 2,567,345,045.00 no later than 14 days. If it turned out that the Defendants still did not want to carry out the Sale and Purchase Deed signing for any reason, then the Plaintiff was allowed to act on behalf of the Defendants as Sellers to sign the Sale and Purchase Deed on the object as stated in the Deed of Sale and Purchase Agreement without the need for a power of attorney or prior approval from the Defendants. According to the author, this decision was appropriate because the buyer (Plaintiff) was not at fault in this case. Plaintiff has paid according to what is specified in the agreement, but Plaintiff was made difficult by the seller (the Defendants). If at any time the seller did not want to sign this Deed of Sale and Purchase Agreement, the buyer did not need to worry because, in the decision, it has been explained that the Plaintiff was allowed to act to sign the Sale and Purchase Agreement Deed without the consent of the Defendants.

## CONCLUSION

The judge's protection for buyers with good intentions includes punishing and ordering the defendant to sign the deed of sale and purchase in front of the Land Deed Making Official and receive the remaining payment of IDR 2,567,345,045.00. Furthermore, if the period of 14 (fourteen) days after the decision becomes legally valid, the respondent still did not want to continue signing the Sale and Purchase Deed for any reason. Plaintiff was authorized on behalf of the Defendants as the seller to sign the Sale and Purchase Deed against the subject, as stated in the Sale and Purchase Agreement, without the need for a power of attorney or prior approval from the defendants.

## REFERENCES

- Decision No. 300/Pdt.G/2021/Pn.Jkt.Brt  
Sutedi, Adrian. (2018). *Peralihan Hak atas Tanah dan Pendaftarannya*. Jakarta: Sinar Grafika  
Pramusakti, Angger Sigit, & Widayanto, Erdha (2015). *Awas Jangan Beli Tanah Sengke*. Yogyakarta: Medpress Digital  
Elisa, Suhadi, & Putra, Johan's Kadir. (2020). Kedudukan Hukum Perjanjian Pengikatan Jual Beli (Pjpb) Tanah Dan Bangunan Berstatus Sengketa Antara Pengembang Dengan Pembeli. *Jurnal Lex Suprema*, Vol. 2, No. 1.436  
Amangsangsa, Made Ara Denara Asia., & Priyanto, I Made Dedy. (2019). Perjanjian Pengikatan Jual Beli (Pjpb) Dalam Transaksi Peralihan Hak Atas Tanah Dan/Atau Bangunan, *Kertha Semaya: Journal Ilmu Hukum*, Vol. 8, No. 1.7  
Soekanto, Soerjono, & Sri Mamudji. (2003). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: Raja Grafindo Persada  
Soekanto, Soerjono. (1981). *Pengantar Penelitian Hukum*. Jakarta: UI Press

Riskha Fillah Fawziah  
*Faculty of Law,*  
*Universitas Sebelas Maret Surakarta*  
*Email: Fillahriskha@gmail.com*

Agus Riwanto  
*Faculty of Law,*  
*Universitas Sebelas Maret Surakarta*  
*Email: agusriewanto@yahoo.com*

Mulyanto  
*Faculty of Law,*  
*Universitas Sebelas Maret Surakarta*  
*Email: mulyanto1103@staff.uns.ac.id*