



Cancellation of the Deed of Sale and Purchase Agreement (Analysis of Decision Number 566/PDT/2020/PT DKI)

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ABSTRACT

The cancellation of an authentically made agreement can result in legal consequences for both the involved parties and the related deed. This study examines the High Court Decision Number 566/PDT/2020/PT DKI, analyzing whether the judges' considerations align with Article 1238 of the Civil Code and the legal implications of canceling a Sale and Purchase Agreement (PPJB) for apartment units. Using a normative juridical approach, the research focuses on legal regulations governing such agreements. The findings indicate that while the buyer demonstrated good faith by paying for 3 out of 16 units, the court canceled all 16 agreements due to failure to meet other contractual obligations. This decision raises concerns about the court's thoroughness in weighing the buyer's partial compliance. The legal implications of the cancellation include the requirement for both parties to fulfill their obligations as agreed in the PPJB. If one party fails to do so, the aggrieved party can seek to cancel the agreement, claim recovery, or request compensation, and any performance received must be returned.

INTRODUCTION

In this period of development, everyone always wants to have land to live on in addition to clothing, food, education and health. The need for land in Indonesia is very important due to population growth which is also followed by the growth of economic activities and production activities. To fulfill their needs, people take various methods such as buying and selling, releasing rights to land and / or buildings and so on. Sale and purchase is defined as a legal relationship regarding property-wealth objects between two parties, in which one party promises or is considered to promise to do something or not to do something, while the other party has the right to demand the implementation of the promise. Based on this, it can be seen that buying and selling is a form of agreement that gives birth to an obligation or obligation to give something. Sale and purchase is a consensual agreement.

The definition of buying and selling according to Article 1457 of the Civil Code: "sale and purchase" is a binding agreement, the seller promises to deliver something goods / objects, and the other party acting as a buyer binds himself / promises to pay the promised price. According to Article 1458 of the Civil Code, a sale and purchase agreement is considered to have taken place between the seller and the buyer as soon as they reach an agreement on the object and the price of the goods, even though the goods have not been delivered or the price has not been paid.

However, specifically for immovable goods such as land, the transfer of ownership of such goods must be carried out by an authentic deed as stipulated in Articles 616 and 620 of the Civil Code. Currently, this is specifically regulated in Article 19 paragraph (2) of Law Number 5 Year 1960 on the Basic Regulation of Agrarian Principles jo. Article 37 paragraph (1) of Government Regulation No. 24/1997 on Land Registration whereby the transfer of land rights that occurs through sale and purchase needs to be registered using a deed made before a Land Deed Official (PPAT). The sale and purchase deed is legal evidence that the land rights have been transferred to another party.

Sale and purchase in national land law which is based on customary law is a legal act of transferring rights that must fulfill 3 (three) characteristics, namely cash, meaning that the price agreed upon is paid in full at the time of the sale and purchase in question; is clear, meaning that the transfer of rights is carried out before an official, namely the Land Deed Official who is authorized over the object of the legal act; is real or real, meaning that with the signing of the deed of transfer of rights, the deed shows clearly as evidence that the legal act has been carried out.

Regarding the sale and purchase of land rights, Boedi Harsono states that there are 2 (two) requirements, namely material and formal requirements. The material requirements determine the validity of the sale and purchase of land, namely:

1. The seller is entitled, authorized and may sell the land in question. Entitled in the sense of controlling the land plot can be used in the physical, juridical sense, as well as the private and public aspects.

2. The buyer is entitled and authorized to buy, meaning that he is a legal subject who is allowed to have rights to the land he buys.
3. The land rights that can be traded are indeed the legal property of the seller, and the land parcel used as the object of sale and purchase is not in dispute.

The formal requirements for the sale and purchase of land rights, particularly, focus on the legal process to ensure that the transaction is valid under the law, as stated in UUPA and Article 37, paragraph (1) of PP 24 of 1997. The transfer of land rights from the seller to the buyer is legally recognized when the transaction is executed by and in front of a PPAT.

PPAT and Notaries are granted authority by the state to draft authentic deeds for all transactions, agreements, and provisions required by law or requested by the parties involved to be formalized in an authentic deed. They also ensure the official date of the deed, safeguard the deed, and provide grosse, copies, and extracts of the deed, as long as the authority to draft the deed has not been transferred to another official.

Deeds drafted by a Notary or PPAT serve as authentic documents that legally bind the involved parties, protecting them from any events that could potentially cause harm. The binding nature of a sale and purchase agreement concerning land rights represents a legal act that precedes the transfer of land ownership. This agreement creates legal rights and obligations for both parties. If one party fails to meet their obligations, this is considered a default. Default refers to the failure or refusal to fulfill obligations as agreed upon between a creditor and debtor, potentially causing damage to the other party.

Canceling an agreement that was made in an official capacity can carry legal consequences, impacting both the involved parties and the deed itself. To illustrate, we look at a case taken from High Court Decision Number 566/PDT/2020/PT DKI.

The case stems from Decision Number 524/PDT.G/2019/PN.Jkt Sel, which involved a legal dispute between PT Almaron Perkasa, acting as the Plaintiff, and Helen, the Defendant. Both parties had agreed to a purchase contract for several units in the Kemang Village Apartment complex. In this instance, the Defendant purchased 16 apartment units in 2011. However, since the official handover of the units in 2014, the Defendant failed to meet their obligations to pay for utilities, including water, electricity, and management fees. This neglect continued until the Plaintiff filed a lawsuit in the South Jakarta District Court in 2019, with a total loss amounting to Rp. 1,500,000,000 (one billion five hundred million rupiah). The lawsuit was ultimately upheld by the panel of judges in Decision Number 524/Pdt.G/2019/PN Jkt Sel.

The Appellant, who was originally the Defendant, filed an Appeal to the DKI Jakarta High Court, by submitting evidence and also a counterclaim against PT Almaron Perkasa, which until the time this lawsuit was filed had not submitted the Deed of Sale and Purchase and Certificate of 16 Units of Flats that had been purchased by the Appellant. This is what the Appellant is requesting, namely to cancel the Sale and Purchase Agreement for the purchase of the 16 units.

Based on the background and problem identification described earlier, the authors have formulated several issues to be examined further. The problem formulations that will be addressed in this study are as follows:

1. What is the basis for the considerations of the DKI Jakarta High Court Judges in ruling on Case Number 566/PDT/2020/PT DKI?
2. What are the legal consequences of the cancellation of the Sale and Purchase Agreement Deed in Case Number 566/PDT/2020/PT DKI?

LITERATURE REVIEW

In the context of Indonesia's rapid population growth and economic development, land ownership has become a critical need alongside essentials like food, clothing, and education. To fulfill this need, the process of buying and selling land plays a crucial role. According to the Civil Code, a sale and purchase agreement is a consensual legal transaction that binds the seller to deliver an object and the buyer to pay the agreed price. For immovable property like land, legal ownership transfer requires an authentic deed, as stated in Article 19(2) of Law Number 5 of 1960 and Article 37(1) of Government Regulation No. 24/1997, which mandates that the transaction be registered through a Land Deed Official (PPAT). Boedi Harsono emphasizes the importance of material and formal requirements for land sale transactions, ensuring the legal standing of both the seller and buyer. Notaries and PPATs, entrusted by the state, are responsible for drafting authentic deeds that serve as binding legal evidence. In cases of default, such as the failure to meet obligations under a sale and purchase agreement, legal action can lead to significant consequences, as demonstrated by High Court Decision Number 566/PDT/2020/PT DKI. This decision highlights the complexities surrounding the cancellation of sale agreements and the resulting legal obligations.

METHODOLOGY

The research method employed by the author in this study is normative juridical. This approach is designed to analyze legal principles, systematics, synchronization, legal history, and comparisons. In simpler terms, normative legal research involves examining sources from literature or secondary data. The focus of this research is on the analysis and evaluation of legal materials, such as statutes, regulations, and relevant literature related to the topic under discussion.

RESULT AND DISCUSSION

Basic Considerations of the Judges of the DKI Jakarta High Court in Decision Number 566/PDT/2020/PT DKI

According to Article 1238 of the Civil Code which states that:

“The debtor is negligent, if he has been declared negligent by warrant or by a deed of the same kind, or by the agreement itself, if this stipulates that the debtor must be considered negligent with the passage of the specified time”.

From the provisions of the Article, it can be said that the debtor is declared in default if there has been a summons (in gebreke stelling). The forms of summons according to Article 1238 of the Civil Code are:

1. Warrant. The warrant comes from a judge who is usually in the form of a determination. With this stipulation letter the bailiff verbally informs the debtor when at the latest he must perform. This is commonly called "exploit bailiff".
2. Deed. This deed can be in the form of a deed under the hand or a notarial deed.
3. Implied in the Agreement Itself. This means that since the making of the agreement, the creditor has determined the time of default.

According to Prof. R. Subekti, default (negligence or negligence) of a debtor can be of four types, namely:

- a. Not doing what he promised to do
- b. Carry out what he promised, but not as promised
- c. Doing what is promised but late
- d. Doing something that according to the agreement should not be done.

The forms of default are:

- a. The debtor does not fulfill the performance at all.
- b. The debtor partially fulfills the performance.
- c. The debtor is late in carrying out the transaction.

The essence of an obligation is the fulfillment of an achievement where the obligation is a form of giving something, doing something, or not doing something. Doing or not doing something must be accompanied by responsibility.

It can be interpreted that this responsibility means that the debtor risks his assets as a guarantee for the fulfillment of his debt to the creditor, thus showing full responsibility to fulfill his obligations or it can be said to be a guarantee to strengthen his performance responsibility.

Obligations arising from agreements and obligations arising from law, there are two possible reasons for not fulfilling the obligation, namely:

- a. Due to the fault of the debtor, either intentionally or negligently.
- b. Due to force majeure beyond the debtor's ability, the debtor is not at fault.

In a debt and credit agreement, the deadline is usually determined and not determined by the parties. This sometimes causes disputes. If a grace period is specified, for example two weeks, but the debtor is unable to fulfill the obligation at the specified time, then this can be said to be one of the achievements. And if an achievement is not determined by the deadline for fulfilling its obligations, then previously the creditor needs to give a warning in advance to the creditor to fulfill its obligations.

When evaluating a credit application, the potential for credit defaults must be considered. This can be attributed to two primary factors:

1. From the banking side: This occurs when the credit analysis is not conducted with sufficient depth, leading to an inability to foresee

potential risks. Additionally, it can happen if there is collusion between the credit analyst and the debtor, causing the evaluation to be biased and subjective.

2. From the customer's side: Credit defaults can arise from two scenarios:
 - a. Intentional default: The customer deliberately chooses not to fulfill their repayment obligations, resulting in bad credit.
 - b. Unintentional default: The debtor has the intention to repay but is unable to do so due to unforeseen circumstances, such as disasters like fires, pest infestations, or flooding, which impair their ability to meet the repayment requirements.

In general, issues related to financing can stem from both internal and external factors. Internal factors are those that arise from within the organization, with managerial issues being the most significant contributors. Signs of financial troubles due to managerial shortcomings may manifest in various ways, including inadequate purchasing and sales strategies, poor oversight of costs and expenditures, ineffective policies regarding receivables, over-investment in fixed assets, and insufficient working capital. Conversely, external factors are those that lie outside the company's management control, such as natural disasters, armed conflicts, shifts in economic and trade environments, technological advancements, and other unforeseen events.

This is relevant to the DKI Jakarta High Court's ruling in Case Number 566/PDT/2020/PT DKI, which decided to overturn the First Level Panel of Judges' decision from the South Jakarta District Court in Case Number 524/Pdt.G/2019/PN Jkt Sel, dated April 7, 2020.

The Panel of Judges made the following key considerations:

1. It was recognized that the Respondent, PT Kemang Village Management, is a legal entity capable of acting on its own behalf and performing legal actions.
2. It was noted that the filing of this particular lawsuit by the original Plaintiff (in convention) and Defendant (in counterclaim) created ambiguity regarding the legal relationship between the involved parties and the disputed object, which includes 16 apartment units at Kemang Village Apartment. This confusion extended to the relationships between the original Plaintiff (in convention), Defendant (in counterclaim), and the original Co-Defendant, who had been legally assigned to collect water and electricity charges as well as management fees for Kemang Village Apartment. These fees were to be collected from residents, including the original Defendant in convention and Plaintiff in counterclaim. Furthermore, the original Plaintiff in convention explicitly acknowledged in her lawsuit (as noted in point 9, page 6 of the decision) that the appointment of the original Defendant to collect these fees was a valid legal action, and as such, must be respected by all parties involved, including the original Plaintiff (in convention) herself.
3. Given these findings, the Appellate Judges agreed that the legal basis for granting the exception filed by the Appellant (originally the Defendant

- in convention and Plaintiff in counterclaim), concerning the ambiguity surrounding the legal relationship and the disputed object, was justified.
4. Since the exception regarding the unclear legal relationship and the object of dispute was accepted, the other exceptions were deemed unnecessary to address.
 5. The appeal filed by the Appellant, originally the Defendant in convention and Plaintiff in counterclaim, was therefore upheld.
 6. The Panel of Judges decided to overturn the South Jakarta District Court's decision, which was issued in Case Number 524/Pdt.G/2019/PN Jkt Sel on April 7, 2020.

Legal Effects of the Cancellation of a Sale and Purchase Agreement in the DKI Jakarta High Court Decision Number 566/PDT/2020/PT DKI

In the Civil Code (KUHPer), various types of agreements exist, with one of the most common in everyday life being the sale and purchase agreement. When it comes to buying and selling land, the parties involved usually agree that the transfer of land rights can only take place after the land title certificate is complete or after the agreed-upon price has been fully paid, in accordance with the concept of "light and cash" (tuntung). To ensure the deal proceeds as planned, and to address any remaining requirements, the parties often formalize their initial agreement in what is known as a Sale and Purchase Bond Agreement (PPJB).

For any agreement to be legally binding, the parties must satisfy the legal conditions laid out in Article 1320 of the Civil Code, which include mutual consent, legal capacity, a definite subject matter, and a lawful cause.

The creation of a PPJB deed must be done in the presence of an authorized public official. A PPJB deed drafted by a notary is generally considered an authentic document, carrying significant legal weight and certainty, and is unlikely to be contested unless one party feels aggrieved. Authentic deeds serve as perfect evidence, as defined in Article 1870 of the Civil Code, providing evidentiary power in outward, formal, and material aspects. Despite this, disputes can arise when one party feels disadvantaged by the other. Key elements of the contract, such as the rights and responsibilities of both the buyer and seller, the price of the property, and payment procedures, must be carefully detailed. Additionally, the timeline for full payment and fulfillment of requirements must be clearly stated in the deed. These clauses are intended to provide legal certainty for both parties after they meet with the notary.

Regarding the seller's legal protection, certain conditions are typically included, such as requiring the buyer to complete payment as agreed, with penalties or cancellation terms if payment is late. This measure acts as a form of sanction for buyers who fail to meet their obligations. For the buyer's protection, if they fulfill all the terms in the PPJB, ownership of the property is transferred, and the seller can no longer sell it to anyone else.

Article 1267 of the Civil Code allows a party to choose between enforcing the agreement, if still possible, or requesting its cancellation, with the option to

seek reimbursement for costs, losses, and interest. Thus, in some cases, the seller might give the buyer extra time to complete payment without immediately pursuing contract cancellation through the courts.

Default is generally treated as a voidable condition in an agreement. When one party feels harmed by the other's failure to meet their obligations, they can seek cancellation of the agreement through the courts, regardless of whether the default is explicitly mentioned as a void condition in the agreement. If not included, the judge may still grant the breaching party additional time – no longer than one month – to fulfill their commitments.

When drafting a PPJB, the notary should clearly articulate the legal actions taken by the parties and what is being proven in the deed. The notary must ensure that the deed does not contain ambiguous or incomplete clauses that could lead to future disputes. Fundamentally, the deed should serve as proof that a legal action has been taken by the parties involved. While the terms in the agreement are set by the parties, the notary or PPAT plays a crucial role in ensuring that no part of the agreement conflicts with existing laws, providing clarification and outlining the obligations of each party.

From the previously outlined explanation, the plaintiff was still obligated to settle the remaining payment, but failed to do so by the time the case was brought to court. As a result, the plaintiff can be considered in default, as they did not fulfill the agreed-upon obligations. Legally, this means that the cancellation of the agreement due to the default can be requested. If the Sale and Purchase Bond Agreement (PPJB) is canceled, it will inevitably lead to legal consequences for the PPJB deed itself. Furthermore, it's important to consider the legal protections in place when either party – buyer or seller – decides to cancel the PPJB, such as the potential for administrative sanctions. These sanctions are actions imposed by the Government to resolve situations that violate administrative law or legal regulations. For the debtor's negligence or failure to meet obligations, several consequences or penalties may apply, including:

1. Compensating the creditor for losses incurred.
2. Nullifying the agreement, essentially breaking the contract.
3. Shifting the risk.
4. Covering court fees if the matter is taken to court.

A PPJB should explicitly outline the penalties that will apply if one party is found to be in default. This serves as a precautionary measure to avoid future disputes between the parties. The legal outcomes of canceling a PPJB before a Notary due to default include the following:

1. Penalties or fines to be paid by the party at fault or in breach of contract.
2. The cancellation of the PPJB deed if it fails to meet subjective elements, or its nullification if it lacks objective elements.
3. The responsible party must cover court fees if the cancellation process is taken to court.

The repercussions of canceling an agreement are also addressed in Articles 1451 and 1452 of the Civil Code. These provisions state that the legal

effect of cancellation is to restore both parties to the state they were in prior to the agreement. The aggrieved party has the right to request a return or even a replacement of what was agreed upon, and the party who received any benefits is obligated to return them. In the case of a void agreement, the contract is treated as if it never existed. If one party fails to fulfill their obligation to return what they gained after cancellation, the other party can pursue legal action, including filing a lawsuit. This ensures that the cancellation serves its purpose of restoring both parties to their original positions before the contract was made.

CONCLUSIONS AND RECOMMENDATIONS

The Panel of Judges at the DKI Jakarta High Court in Decision Number 566/PDT/2020/PT DKI stated that they upheld the Decision of the South Jakarta District Court in Decision Number 524/Pdt.G/2019/PN/Jkt Sel, which one of the contents of the decision was to cancel the Sale and Purchase Agreement between Helen as the Defendant and PT Almaron Perkasa (as the Plaintiff), as follows:

Stating that the agreements mentioned as follows are declared null and void and terminated with all legal consequences:

1. Sale and Purchase Agreement No. 1362/PPJB-AMR/03/2011 Dated March 22, 2011 an. Helen (incasu Defendant);
2. Sale and Purchase Agreement No. 368/PPJB-AMR/03/2011 dated March 22, 2011 an. Helen (incasu Defendant);
3. Sale and Purchase Agreement No. 1372/PPJB-AMR/03/2011 dated March 22, 2011 an. Helen (in case of the Defendant);
4. Sale and Purchase Agreement No. 1373/PPJB-AMR/03/2011 dated March 22, 2011 an. Helen (in case of the Defendant);
5. Sale and Purchase Agreement No. 1357/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in case of the Defendant);
6. Sale and Purchase Agreement No. 1358/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);
7. Sale and Purchase Agreement No. 1359/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);
8. Sale and Purchase Agreement No. 1360/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);
9. Sale and Purchase Agreement No. 1361/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);
10. Sale and Purchase Agreement No. 1363/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);
11. Sale and Purchase Agreement No. 1364/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);
12. Sale and Purchase Agreement No. 1365/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);
13. Sale and Purchase Agreement No. 1366/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);
14. Sale and Purchase Agreement No. 1367/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);

15. Sale and Purchase Agreement No. 1370/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in casu Defendant);

16. Sale and Purchase Agreement No. 1371/PPJB-AMR/ /03/2011 dated March 22, 2011 an. Helen (in case of the Defendant);

Ordering the Defendant to return flat units No. 06N1, No. 06S1, No.06S8, No. 06S9, No. 06C5, No. 06C6, No. 06C7, No. 06C8, No. 06C9, No. 06N2, No. 06N3, No. 06N7, No. 06N8, No. 06N9, No. 06S3 and No. 06S7 at The Intercon Kemang. S7 at The Intercon Kemang Kemang Village Residence, located at Bangka Kel. Bangka, Kec. Mampang Selatan, South Jakarta, known as Apartment Kemang Village in the name of Helen (in casu the defendant) in good condition and empty to the Plaintiff.

States that regarding Sarusun Unit No. 06N1, No. 06S1, No. 06S8 No. 06S9, No. 06C5, No. 06C6, No. 06C7, No. 06C8, No. 06C9, No. 06N2, No. 06N3, No. 06N7, No. 06N8, No. 06N9, No. 06S3 and No.06S7 in the name of Helen (in casu Defendant) at The Intercon Kemang Kemang Village Residence, located at Kel. Bangka, District. Mampang Selatan, South Jakarta, known as Apartment Kemang Village is in its current state or status quo and therefore cannot be transferred to a third party, until there is a decision that has permanent legal force.

Recommendations

- a. The parties to the Sales and Purchase Agreement should commit to the things that have been mutually agreed upon. It is not only the Buyer who carries out his obligations by paying the installments, but the Seller must also commit to handing over what is the Buyer's right.
- b. The clauses regulated in the Sale and Purchase Agreement become law for the parties who make it in accordance with the principles of Pacta Sunt Servanda. If there is no compatibility in fulfilling the promise, then the party who feels aggrieved should immediately take legal action to obtain their rights, one of which is in the form of compensation.

ADVANCED RESEARCH

Based on the analysis of legal frameworks governing land sale and purchase agreements in Indonesia and the judicial precedents discussed, several areas warrant further exploration. Future studies could examine the role of Notaries and Land Deed Officials (PPATs) in mitigating disputes related to land transactions, focusing on how their authority and procedural rigor can be improved to reduce conflicts like those seen in the Kemang Village case. Additionally, research could explore the efficiency of current legal remedies for default in property transactions, particularly in cases involving partial compliance, as demonstrated in High Court Decision Number 566/PDT/2020/PT DKI. Further studies might also investigate the impact of Indonesia's growing population and economic activities on land disputes, assessing whether existing regulations adequately address the increasing complexity of land ownership issues. Another area for future research could be a comparative analysis of land transaction laws in Indonesia with other countries to identify potential reforms that could enhance legal protections for

buyers and sellers. Finally, an examination of the enforcement mechanisms for the cancellation of Sale and Purchase Agreements, including the role of the judiciary and enforcement agencies, could offer insights into strengthening legal certainty in property transactions.

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