



Legal Implications and Challenges of Informal Sale and Purchase Binding Agreements (PPJB): The Role of Notaries in Ensuring Legal Validity and Protection

Implikasi Hukum dan Tantangan Perjanjian Pengikatan Jual Beli (PPJB) Informal: Peran Notaris dalam Menjamin Keabsahan dan Perlindungan Hukum



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Abstract

The Preliminary Sale and Purchase Agreement (PPJB) is often executed informally, primarily due to practical considerations such as incomplete payments or unfinished land administration. Although legally binding, informal PPJB agreements are vulnerable to legal challenges, especially when there is ambiguity regarding the subject matter or failure to fulfill obligations. Therefore, the role of notaries in ensuring legal validity is crucial. This study aims to explore the legal implications and challenges in drafting PPJB, particularly concerning the notary's role in ensuring that the agreement meets legal standards and provides sufficient protection for the involved parties. This research adopts a normative legal methodology, utilizing secondary data sources, including relevant legal provisions, scholarly articles, and case studies. The analysis is conducted descriptively, focusing on the legal framework governing PPJB and the involvement of notaries. The findings indicate that PPJB, while legally binding, can be easily contested if executed informally. Notarial PPJB offers stronger legal protection. However, challenges such as differing interpretations and unclear property rights transfer procedures persist. Notaries play a critical role in ensuring the legal validity of PPJB. Legal clarity and proper documentation are essential to avoid disputes in land transactions.

Keywords: PPJB, notary, legal protection, land transactions, informal agreements.

Abstrak

Perjanjian Pengikatan Jual Beli (PPJB) sering kali dilaksanakan secara informal, terutama karena pertimbangan praktis seperti pembayaran yang belum lunas atau administrasi tanah yang belum selesai. Meskipun secara hukum mengikat, PPJB yang dibuat secara informal rentan terhadap tantangan hukum, terutama jika ada ketidakjelasan mengenai objek perjanjian atau kegagalan untuk memenuhi kewajiban. Oleh karena itu, peran notaris dalam memastikan keabsahan hukum sangat penting. Penelitian ini bertujuan untuk mengeksplorasi implikasi hukum dan tantangan dalam penyusunan PPJB, khususnya terkait dengan peran notaris dalam memastikan bahwa perjanjian tersebut memenuhi standar hukum dan memberikan perlindungan yang cukup bagi pihak-pihak yang terlibat. Penelitian ini menggunakan metode hukum normatif, dengan memanfaatkan sumber data sekunder, termasuk ketentuan hukum yang relevan, artikel ilmiah, dan studi kasus. Analisis dilakukan secara deskriptif, dengan fokus pada kerangka hukum yang mengatur PPJB dan keterlibatan notaris.

Hasil penelitian menunjukkan bahwa PPJB, meskipun mengikat secara hukum, dapat dengan mudah dibantah jika dilaksanakan secara informal. PPJB yang dibuat oleh notaris menawarkan perlindungan hukum yang lebih kuat. Namun, tantangan seperti perbedaan interpretasi dan prosedur peralihan hak atas properti yang tidak jelas masih ada. Notaris memegang peranan penting dalam memastikan keabsahan hukum PPJB. Kejelasan hukum dan dokumentasi yang tepat sangat diperlukan untuk menghindari sengketa dalam transaksi tanah.

Kata Kunci: PPJB, notaris, perlindungan hukum, transaksi tanah, perjanjian informal.

1. INTRODUCTION

Development is an effort to enhance the capacity of society to influence its own future. It is directed toward positive changes and improvements in living standards compared to previous conditions. In the era of globalization, development heavily relies on the economic sector as the primary indicator of governmental success (Sofyan, 2017). Land, or the earth's surface, constitutes a fundamental need for human beings. From birth to death, humans require land as a place to live. Cosmologically, land is where people reside, the place from which they come, and the place to which they will return. In this context, land encompasses economic, social, cultural, political, and ecological dimensions (Sulaiman, 2022). Within the framework of development, the land functions not only as a residence but also serves as a strategic asset with high economic value, playing a crucial role in supporting growth across various sectors—particularly the property and housing sectors. Rapid urbanization and changing lifestyles have contributed to the increasing demand for land, both for residential and commercial purposes. Therefore, land management that prioritizes productivity and sustainability has become essential in response to the rising value and complexity of land transactions in the modern era.

Sale and Purchase Binding Agreements (PPJB) is commonly conducted informally (under private hand) for several reasons, one of which is the condition in which the buyer has not completed full payment yet. In a PPJB, all agreements between the seller and the buyer are detailed explicitly, including price, payment deadlines, and the planned drafting of a Sale and Purchase Deed (AJB). If the PPJB is executed before a notary, the agreement obtains legal force as regulated under Articles 1320 and 1338 of the Indonesian Civil Code, thus ensuring legal certainty and protection for the parties involved. This agreement is typically accompanied by the granting of a Power of Attorney to Sell, allowing the buyer to perform all legal actions concerning the sale on behalf of the seller as the rightful landowner (Reinaldo, 2022). The PPJB constitutes an authentic deed prepared by a notary, serving as conclusive evidence with the primary aim of providing legal protection to the related parties (Karami & Putra, 2023).

Sale and Purchase Binding Agreements (PPJB) arises based on the principle of freedom of contract in Article 1838 of the Indonesian Civil Code (KUHPdata), yet it remains limited by legislation, decency, and public order. In the case of a sale and purchase agreement for land, it is essential to ensure that the subject matter of the agreement complies with the applicable legal provisions. The Supreme Court Decision Number 680 K/PDT/2017 ruled that the PPJB was void by law due to its premature nature, as the object of the agreement (land ownership) was unclear. In such cases, any payments made must be refunded, and the Notary can be held accountable for negligence that led to the agreement being void by law (Haryani et al., 2021). Meanwhile, according to Wijayanti & Badriyah (2024), Article 1457 of the Civil Code states that a sale and purchase is an agreement where one party binds itself to deliver goods/ownership, and the other party agrees to pay for the goods/ownership in accordance with the agreed price. A sale and purchase is considered concluded when the goods have not been delivered. The agreement implies that both parties have mutually agreed on the terms of the sale.

PPJB should be made first. PPJB is a preliminary agreement between the buyer and seller in the sale and purchase of land. Naturally, each agreement must be based on good faith from all parties involved. Good faith is not only necessary at the commencement of the agreement but must be maintained until the agreement concludes. This agreement can be written to prevent default.

Generally, PPJB is created due to the current trend where sale and purchase transactions are rarely done in cash and immediately. Thus, the buyer makes a down payment to avoid the increasing price of land over time. Additionally, the seller may not yet have completed the land administration when the payment is made (Apriandini & Sudiro, 2023). PPJB can be divided into two types: pure PPJB and impure PPJB. A pure PPJB is executed according to the applicable regulations based on mutual agreement between the buyer and seller. On the other hand, impure PPJB starts with a debt-related matter. The PPJB deed made before a notary is often associated with debt agreements when the notary is aware or has been requested to create such a deed by one of the parties. Debt agreements involving the creation of PPJB deeds are often encountered in communities with limited legal knowledge. As a result, individuals may find themselves trapped in these situations due to urgent circumstances (Wijayanti & Badriyah, 2024).

A study by Sari & Mustafida (2021) shows that the legal regulation of agreements in the Civil Code is open, providing freedom for parties to create commitments as long as they do not contradict the law. One example of such agreements is the PPJB, which serves as a preliminary agreement before the sale and purchase deed is executed. Although not detailed in regulations, it is essential to study the practice and challenges in creating a PPJB. This research aims to analyze the role of notaries in PPJB and the obstacles faced in practice. The research method used is an empirical juridical approach, with data collection through interviews and both primary and secondary sources. Data analysis is conducted descriptively. The results indicate that the role of the notary in PPJB is vital, as the notary acts both as an official and as a witness to the legal relationship in the sale and purchase. The challenges include a lack of knowledge about PPJB procedures and the legal awareness of the parties in proceeding with the next steps after PPJB.

Agreements and statements of agreement may be executed either orally or in writing. A written declaration of agreement or consensus by the parties involved in a sale and purchase transaction can take the form of an original deed or a simple handwritten document (Putri & Amin, 2017). Sale and Purchase Binding Agreements (PPJB) executed informally cannot consistently adhere to the provisions outlined in the agreement, as various circumstances may arise that lead to its annulment, either by one of the parties or through judicial intervention. Such situations often occur when one party breaches or fails to fulfill the terms stipulated in the PPJB executed privately. Entering into an agreement, especially a PPJB, under pressure or deceit constitutes a violation of the subjective terms of the contract, rendering it legally defective and potentially voidable. Legal defects, such as coercion or fraud, arising at the time of the agreement formation in society can result in the annulment of the PPJB. An illustrative case is found in the Constitutional Court Decision No. 12/Pdt Malang.G / 2017 / PN MLG, where the developer, identified as the defendant, failed to meet their obligations under the binding sale and purchase agreement made between the defendant and the plaintiff (seller). The defendant, under false pretenses as the developer of PT. HKM, persuaded the plaintiff to sell their land and had already received cash from two property buyers involved. The defendant, using fraudulent reasons, was considered to have deceived the plaintiff because the agreement was based on incorrect information, and the defendant's inaccessibility caused significant harm to the plaintiff, as the return on investment deadline had passed. Consequently, the plaintiff initiated legal proceedings to seek the annulment of the PPJB.

In this study, the author examines the Sale and Purchase Binding Agreements (PPJB) using a normative legal approach, which focuses on tracing relevant legal sources. The background, which discusses the importance of PPJB as a legally binding agreement and its common informal execution, strongly supports the application of the normative legal research method. This method aims to investigate and analyze PPJB based on the applicable laws and regulations, including the Civil Code and other regulations that serve as the legal foundation for land sale transactions. The normative legal research method not only involves the examination of primary legal sources, such as laws and relevant regulations, but also utilizes secondary legal sources, including scholarly works, books, and articles that are pertinent to the issues being studied. By employing this approach, the author can explore the legal implications of PPJB, as well as the role of notaries in ensuring that the agreement is valid and legally recognized. This study also draws on related literature, such as scholarly works discussing PPJB practices and the responsibilities of notaries in the drafting process, to gain a deeper understanding of the challenges encountered in practice. Thus, the background, which explains the

importance of legal certainty in PPJB transactions, can be analyzed more comprehensively using this normative approach.

2. METHOD

The author uses normative legal research methodology in this article. This research involves the exploration of various secondary data sources, which are then analyzed in accordance with legislation and relevant literature related to the issue being studied (Soekanto & Mamudji, 2001). The article adopts a legislative approach in its research process. The primary legal materials used include laws, regulations, and other legal provisions related to Drafting Informal Sale and Purchase Agreements (PPJB), while secondary legal materials include scholarly works, books, articles, and other relevant references that delve into related legal issues

3. RESULT AND DISCUSSION

A. General Overview of Buying and Selling Land

In accordance with the provisions set forth in Article 1320 of the Civil Code, the validity of a contract is contingent upon the fulfillment of four specific conditions. First, mutual consent of the parties involved, which implies that both parties must reach an agreement on the essential terms of the contract. Consent, in this context, means that the intentions of one party must align with those of the other party. Second, the legal capacity of the parties to enter into the contract, indicating that the individuals involved must possess the requisite legal competence. Those who are of legal age or have attained maturity, and are mentally and physically sound, are deemed legally capable of entering into a contract. Third, a specific and identifiable subject matter, which mandates that the contract must clearly define the subject or object of the agreement, allowing for the establishment of the parties' rights and obligations. Lastly, a lawful cause, meaning that the contract is deemed valid only if it does not contravene existing laws, public policy, or morality (Susanto & Arifin, 2023).

This article highlights the rights and obligations of both the seller and the buyer under the sale and purchase agreement. The key points discussed in the article include (Mondoringin, 2023):

1. Rights and Obligations of the Seller: The seller has the right to receive payment and may retain ownership of the goods until full payment is made. The seller's obligations include delivering the goods as agreed, ensuring the quality of the goods, and providing proof of transaction.
2. Rights and Obligations of the Buyer: The buyer has the right to receive the goods as specified, to claim compensation if the goods do not conform, and to possibly delay payment if there are discrepancies. The buyer's obligations include making payment according to the agreement, accepting the goods, and providing proof of transaction.
3. Sale and Purchase Agreement Provisions: Articles 1457-1600 of the Civil Code address critical aspects of the sale and purchase agreement, including the delivery of goods, the risk of damage or destruction, and the buyer's right to reject defective goods.
4. General Principles: The article also emphasizes principles such as good faith, freedom of contract, and prudence, which play a significant role in the legal framework of sale and purchase agreements.

The general review of land sale and purchase agreements is discussed, with a focus on the application of the principle of good faith in contract execution. The article highlights the implementation of Article 1338 of the Civil Code, which mandates that agreements, including land sale contracts, must be executed in good faith. It is emphasized that good faith ensures fairness, protects against harm, and promotes justice during contract execution, reflecting moral and ethical considerations in civil law. The article also examines the essential elements of a sale and purchase agreement, particularly those outlined in Article 1457 of the Civil Code, which regulates the conditions for the sale of goods, including land. It underscores that the object of the sale must be clearly identified, and the agreement must specify the agreed-upon price and other conditions. The discussion also covers the types of goods (movable or immovable) and property categories (movable

or immovable) related to land transactions, as defined in Articles 503-505 of the Civil Code (Riansyahet al., 2022).

B. Legal Implications of Sale and Purchase Binding Agreements (PPJB)

Sale and Purchase Binding Agreements (PPJB) is a preliminary agreement made between the prospective seller and prospective buyer based on mutual consent before the actual sale and purchase transaction takes place. It can be made in the form of either a private deed or a notarial deed. The central issue discussed in this article concerns the legal force and validity of the PPJB deed as evidence of the transfer of rights, in relation to the Supreme Court Decision Number: 994/K/PDT/2020 in conjunction with the Batam District Court Decision Number: 218/PDT.G/2017/PN BTM. The research findings indicate that while the PPJB is legally binding for the parties who make it, it cannot serve as evidence of the transfer of rights. The PPJB is only a temporary agreement, and further legal action, such as a juridical transfer, is required for the sale to be completed. In this case, the PPJB holds strong legal evidentiary power as it is a Notarial Deed executed before a Notary in Batam. The PPJB deed is valid because it meets both the subjective and objective requirements of a contract. However, the object of the PPJB has been transferred to a third party and has been registered in their name, causing the first buyer, who holds the PPJB deed, to lose their rights. It should be the responsibility of the Developer for the object of the PPJB that has been transferred to a third party without the knowledge of the first buyer (Wahyuni, 2021).

The Sale and Purchase Binding Agreement (PPJB) is a preliminary agreement made between the prospective seller and prospective buyer before the actual sale and purchase transaction takes place, and it can be in the form of either a private deed or a notarial deed. Although the PPJB has binding legal force for the parties involved, it cannot serve as evidence of the transfer of rights because it is merely provisional and requires further legal action, such as the official transfer of rights. The case related to the Supreme Court Decision No. 994/K/PDT/2020 in conjunction with the Batam District Court Decision No. 218/PDT.G/2017/PN BTM shows that, even though the PPJB deed is made in the presence of a notary and meets the requirements of a valid agreement, the object bound in the PPJB has been transferred to a third party, causing the first buyer to lose their rights. The lesson to be learned is the importance of the notary's role in ensuring the legal validity of the PPJB and protecting the rights of the parties involved in property transactions, to prevent losses caused by negligence or lack of verification regarding the status of the object being sold. Therefore, transparency and a good understanding of the law are necessary to ensure that the rights of the parties involved in the PPJB are adequately protected.

The legal implications of the Sale and Purchase Binding Agreement (PPJB) executed under a private deed lie in its legal standing and evidentiary strength. The PPJB is a binding agreement between the seller and the buyer, although it does not result in the transfer of land rights until the sale and purchase deed is ratified by the Land Deed Official (PPAT). The PPJB can be drafted in the form of an authentic deed prepared by a notary or a private deed made by the parties without a notary. This difference in form affects the legal evidentiary strength, where an authentic deed carries stronger evidentiary power and is not easily disputed, while a private PPJB only possesses weaker evidentiary power. For a PPJB to be valid, it must meet the requirements set forth in Article 1320 of the Civil Code, which includes mutual consent between the parties, the competency of the parties to enter into the agreement, a clear object, and a lawful cause. If the PPJB fails to meet these requirements, the agreement may be canceled or deemed null and void. In practice, PPJB is often used in the pre-project selling system, where this agreement aims to bind the buyer and developer before the physical construction of the house is completed. By using PPJB, the developer can obtain funds to continue the project, and the buyer gains legal certainty regarding the transaction. However, although PPJB can be executed under a private deed, legal risks arise because private deeds do not have the same evidentiary strength as authentic deeds. Therefore, the Minister of Public Works and Public Housing Regulation (Permen PUPR) No. 11/PRT/M/2019 stipulates that PPJB in the pre-project selling system must be drafted in the form of a notarial deed. This regulation aims to provide stronger legal protection for both parties, particularly for the buyer, who may face risks of default or breach of contract by the developer. With this regulation in place, a valid PPJB that meets the required conditions will bind the parties and can be used as valid evidence in court. Conversely, if the PPJB

does not meet the required conditions, the agreement will have no legal force and may be canceled (Selly & Ukas, 2021).

C. The Role of Notaries in the Drafting of the Sale and Purchase Binding Agreement (PPJB)

The role of a notary in the creation of the Sale and Purchase Binding Agreements (PPJB), particularly concerning the consequences if one party fails to pay a penalty for late payment, is explained. It is outlined that the notary must follow the applicable legal process if the issue becomes serious and proceeds to court. However, if the matter can still be resolved without court intervention, the notary is responsible for mediating between both parties based on the existing agreement. A notary cannot be held liable for damages arising as long as they have performed their duties in accordance with the prevailing legal regulations. The notary's responsibility is limited to the initial part (the heading of the deed) and the final part (the closing of the deed), not the content of the agreement itself (Budjang, 2025).

PPJB is a preliminary agreement between the seller and buyer regarding the sale and purchase of land rights. PPJB made in front of a notary has perfect evidentiary power as an authentic deed. In addition to merely recording the parties' intentions into the deed, the notary is also obligated to ensure the validity of the deed based on the evidence provided by the parties. The notary is also responsible for ensuring that all the conditions agreed upon in the PPJB are met, such as price, obligations of the seller and buyer, and guarantees of document validity. If there is a mistake in the creation of the PPJB deed, the notary can be held accountable, including compensating for costs and interest for the damages caused by the mistake (Kamdi, 2019).

The notary functions as a public official authorized to create an authentic deed with perfect evidentiary power, as regulated in the Notary Position Law (UUJN). The notary's duties also include recording and witnessing the agreements between the seller and buyer in the sale process, ensuring that the created agreement holds legal force. Moreover, the notary plays an important role in the land sale process by verifying the documents submitted by the parties, ensuring the validity of the documents, and recording the agreement made by both parties. In practice, the PPJB created by the notary is not the final sale transaction, but a preliminary agreement that binds the parties before proceeding to the creation of the sale and purchase deed before the Land Deed Official (PPAT) (Sari & Mustafida, 2021).

D. Challenges in the Implementation of Private Sale and Purchase Binding Agreement (PPJB)

The main difference between authentic deeds and private deeds lies in who creates them and how they are made. An authentic deed is drafted by an authorized official, such as a notary, who guarantees the validity and legal strength of the document, whereas a private deed is created solely by the parties involved without verification from an authorized official. Although private deeds have the same legal power, they are more susceptible to lawsuits because there is no third party to act as a witness or guarantor of the deed's validity. Nevertheless, Djidar and Amrullah (2022) note that, although legally valid, the parties involved must be more cautious and ensure the validity of the agreement to avoid future legal issues. One of the main challenges in executing a Private Sale and Purchase Binding Agreement (PPJB) is the lack of a standard format, which causes differences in interpretation between developers and buyers, weakening the evidentiary position, as it can easily be disputed by one party. Additionally, conflicting interests may lead to bad faith, and the lack of clarity regarding the process of transferring ownership further complicates matters. This shows that a PPJB made without adequate supervision or verification can increase legal risks, especially if there is a misinterpretation of the agreement's contents. In this context, although the PPJB is legally valid, its risks remain high, and it is crucial to involve a notary or an authorized official to ensure the validity and protect the rights of the parties involved in the transaction, in order to minimize potential legal problems in the future.

E. Legal Protection in PPJB and Notary Responsibility

Legal protection in PPJB and the responsibility of notaries (Kurniawan, 2025):

1. Legal Protection in PPJB: PPJB holds substantial legal force as initial evidence in the transfer of land rights; however, its protection is highly dependent on the material truth reflected in the deed.

Article 1320 of the Civil Code affirms that PPJB must meet the valid agreement requirements, including mutual consent, competence, a specific object, and a lawful cause. PPJB made by a notary has stronger evidentiary power compared to those made privately, which often leads to legal uncertainties if the object's legal status is unclear.

2. **Notary Responsibility:** Article 16, paragraph (1) of the Notary Public Act (UUJN) stipulates that notaries must act honestly, independently, impartially, and safeguard the interests of the parties involved. If a notary creates both a PPJB and an AJB with the same object without verifying its authenticity, such actions violate the duty of care and may harm the involved parties. Furthermore, notaries are prohibited from creating deeds that conflict with the law or personal interests. According to the notary's code of ethics, notaries must avoid conflicts of interest and ensure the legality of the objects in the PPJB or AJB. Creating duplicate deeds violates the principles of integrity and moral responsibility, undermines public trust, and creates legal uncertainty. A notary who violates these rules may face administrative sanctions, such as warnings or dismissal, as well as criminal sanctions if fraud is involved. These violations also damage the legal system and erode public confidence in the notary profession. In cases of ethical violations, the Notary Honor Council may impose sanctions, and notaries are responsible for upholding the truth and fairness in deed creation.

4. CONCLUSION

The drafting of the Preliminary Sale and Purchase Binding Agreements (PPJB) is often carried out informally, primarily due to practical reasons, such as incomplete payments or unfinished administrative processes. Although PPJB is legally binding, its informal nature makes it susceptible to legal issues, especially when there is a lack of clarity regarding the subject matter of the agreement or when one party fails to fulfill its obligations. In this context, the role of the notary is crucial in ensuring that the PPJB created is legally valid and meets all the requirements set forth by law, including the clarity of the object and fair agreement between the parties involved. However, PPJB created privately (without a notary) is more easily contested and carries weaker evidentiary power compared to PPJB made in the presence of a notary. Therefore, although PPJB can be made privately, using a notarial deed is recommended as it provides stronger legal protection for both the seller and the buyer.

Several challenges are encountered in the implementation of PPJB, including interpretational differences between developers and buyers, as well as legal risks arising from unclear formats and procedures for transferring rights. In this regard, both the seller and the buyer are expected to have a better understanding of legal procedures and their respective obligations to avoid future conflicts. Overall, PPJB serves as an important first step in land transactions, but it must be prepared carefully and with a clear understanding of the rights and duties of each party. Notaries, as parties responsible for drafting PPJB, must act independently, impartially, and prioritize the legal interests of the parties involved, while avoiding conflicts of interest. Violations of notarial duties can undermine the legal system and erode public trust in the notary profession, leading to administrative or criminal sanctions.

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