



The Legal Responsibility of the Land Seller to the Buyer Who Suffers Losses Due to the Delay in Transferring Land Rights Based on Government Regulation Number 24 of 1997 (Study of Case Decision Number 711/Pdt.G/2023/PN JKT. UTR

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ABSTRACT

The transfer of land rights is an important aspect of the sale and purchase transaction to ensure legal certainty for the buyer. However, there are often delays due to the seller's negligence that causes losses. This study aims to analyze the seller's legal responsibility to the buyer in the case of delay in the transfer of rights based on Government Regulation No. 24 of 1997, as well as to examine the judge's considerations in Decision Number 711/Pdt.G/2023/PN Jkt.Utr. The research method used is normative juridical with a case study approach. The results show that sellers remain legally liable for delays despite administrative constraints, and courts provide legal protection to good-faith buyers. This decision affirms the principles of legal certainty, justice, and protection for the aggrieved party.

INTRODUCTION

Land holds a fundamental place in the lives of the Indonesian people, serving not only as a place of residence and a means of livelihood but also as an asset with substantial economic value. Consequently, legal certainty regarding the transfer of land rights is a vital component of land transactions. Under Law No. 5 of 1960 on Basic Agrarian Principles (UUPA) and Government Regulation No. 24 of 1997 on Land Registration, the transfer of land rights must comply with legal procedures that emphasize the importance of registration to ensure legal protection and clarity of ownership for all parties involved.

One recurring issue in practice is the seller's delay in transferring land rights to the buyer. Such delays not only prevent buyers from obtaining formal ownership but also expose them to potential material and immaterial losses. Within the framework of civil law, these actions may constitute default (*wanprestasi*) if the seller fails to fulfill contractual obligations stipulated in a valid sale and purchase agreement. The transfer of land rights, therefore, represents a crucial legal process in property transactions, binding both parties to their respective rights and obligations as governed by laws and regulations. However, in practice, a gap often arises between the ideal function of the law (*das sollen*) and its practical application (*das sein*). This gap leads to legal challenges, particularly when delays in transferring rights occur, resulting in losses for buyers. The North Jakarta District Court Decision No. 711/Pdt.G/2023/PN Jkt. Utr serves as a concrete example of this tension, illustrating how the judiciary interprets and enforces the seller's responsibilities.

Normatively, Government Regulation No. 24 of 1997 seeks to provide legal certainty and protection to land rights holders by simplifying the process of proving ownership, facilitating access to land data for both the public and the government, and supporting orderly land administration. Additionally, buyers who suffer losses due to the seller's negligence or bad faith have the right to seek compensation under Article 1365 of the Civil Code on unlawful acts. Ideally, such provisions should guarantee certainty and protection for buyers. However, in practice, proving negligence or intent can be challenging—especially in the absence of a specific written agreement regarding deadlines.

The Decision No. 711/Pdt.G/2023/PN Jkt. Utr illustrates how the courts bridge the gap between legal ideals and practical realities. In this case, the buyer filed a lawsuit over a delay exceeding one year in renaming the land certificate, which resulted in financial losses due to postponed property development. The court found the seller negligent for failing to take proactive measures to expedite the process, despite claiming that delays were caused by bureaucratic inefficiencies at the National Land Agency. The court awarded both material damages (such as notary fees, taxes, and loss of income) and immaterial damages (including stress and inconvenience), emphasizing that sellers cannot evade responsibility by citing administrative hurdles and must actively ensure the completion of the legal process.

This case highlights the discrepancy between written law and practical implementation. Although Government Regulation No. 24 of 1997 outlines various lawful means for transferring land rights—such as sale and purchase,

grants, or business income—registration requires a deed executed by an authorized Land Deed Official (PPAT). Regardless of the registration system used, a land certificate serves as strong evidence of ownership and is central to achieving legal certainty in land matters, as affirmed in Article 32 paragraph (2) of the regulation. This provision ensures balanced protection for both good-faith buyers and rightful landowners. The negative publication system in Indonesia, which applies for five years following certificate issuance, reinforces this principle by safeguarding the rights of those who acquire and possess land lawfully. Furthermore, under certain conditions determined by the Minister of Agrarian Affairs, the Head of the Land Office may register the transfer of ownership rights based on a deed not issued by a PPAT if it is deemed sufficient for the registration process.

Overall, this case underscores the importance of active compliance by sellers, the judiciary's role in upholding legal certainty and good faith, and the continuing need to harmonize the ideal objectives of land law with practical realities in Indonesia's property transactions.

LITERATURE REVIEW

Legal Framework of Land Transfer in Indonesia

The transfer of land rights is regulated under Government Regulation Number 24 of 1997 on Land Registration. The regulation aims to provide legal certainty and protection to land rights holders, enabling them to prove their ownership and provide accurate information for legal and administrative purposes. According to Article 32 paragraph (2), land certificates serve as strong evidence of ownership and are intended to establish clarity and certainty in land rights.

In practice, the regulation adopts a negative publication system, meaning that while certificates are strong evidence, they are not absolute. Under Article 32 paragraph (2), certificates gain stronger protection after five years, provided the holder acquired and controlled the land in good faith. This principle reflects a balance between the protection of existing landowners and the rights of bona fide buyers.

Legal Issues in Delayed Land Transfer

Delays in the transfer of land rights often occur due to bureaucratic processes or the negligence of sellers. Such delays may constitute default under civil law or even unlawful acts under Article 1365 of the Civil Code if caused by negligence or bad faith. However, proving negligence or intentional delay in practice can be challenging, particularly when agreements lack specific deadlines.

METHODOLOGY

This study employs a normative legal research method, a type of research that emphasizes the examination of primary and secondary legal materials through a library-based approach. The purpose of normative legal research is to analyze applicable legal principles by reviewing documents such as laws and

regulations, court decisions, legal doctrines, and other relevant legal literature. As stated by Soerjono Soekanto, normative legal research involves studying literature sources or secondary data as the foundation for understanding legal issues from a conceptual and theoretical perspective.

The legal materials used in this research consist of several categories:

- Primary legal materials, which are authoritative sources directly related to the issues under analysis. These include legislation governing corruption in the procurement of goods and services, such as Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution and Supreme Court Regulation (PERMA) No. 1 of 2016 on Mediation Procedures in Court.
- Secondary legal materials, which provide interpretation and explanation of primary legal sources. In this study, they include academic books, journals, mass media sources (both print and electronic), online resources, and relevant articles.
- Tertiary legal materials, which serve as complementary sources and offer additional information to support the understanding of primary and secondary materials.

RESEARCH RESULTS

The results of this study confirm that the seller remains legally responsible for the delay in the transfer of rights, despite administrative obstacles or the death of the selling power of attorney. The court through Decision Number 711/Pdt.G/2023/PN Jkt.Utr stated the buyer as the rightful owner and gave the authority to change the name based on the court decision. This reinforces the basis of legal certainty and protection for good-faith buyers.

DISCUSSION

Legal Responsibility of the Land Seller for Losses Due to Delays in the Transfer of Land Rights suffered by the buyer

The conditions for the validity of a contract are regulated in Book III Article 1320 of the Civil Code which reads as follows: "For the validity of agreements, 4 conditions are needed: 1) Compliance of those who bind themselves 2) Ability to make a habitat 3) Something special 4) Something because it is halal". However, in the sale and purchase of land, formal validity must be completed by making a deed before PPAT and registering name change at the land office. Based on Article 37 paragraph (1) of Government Regulation No. 24 of 1997 concerning *Land Registration*, the transfer of land rights must be proven by a deed made by PPAT and must be registered. If the transfer is not made, then the buyer has not been legally recognized as the holder of the land rights, even though the payment has been made and the land is physically controlled. In this condition, if the delay occurs due to the seller's negligence, the seller is legally liable for the buyer's losses.

In this case, the seller through the power of attorney (alm. Iwan Herlambang) could not complete the transition because he had passed away. Meanwhile, the existence of the legal owner of the land (Defendant II) is unknown. This causes the buyer (plaintiff) to be unable to register the ownership rights. This condition causes buyers to suffer losses in the form of legal

uncertainty over land ownership. In fact, in substance, the buyer has paid off the payment and has proof of the sale and purchase agreement and other supporting documents. Therefore, based on the principle of fairness and the principle of protection of buyers in good faith, sellers still have legal responsibilities.

In Indonesian civil law, a land sale and purchase agreement not only transfers property rights through an agreement, but requires a formal legal process as stipulated in Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning *Land Registration* as amended by Government Regulation Number 18 of 2021. The article affirms that:

“The transfer of land rights through a sale and purchase transaction can only be registered if it is supported by a deed prepared by an authorized Land Deed Official (PPAT), in accordance with the provisions set forth in the applicable laws and regulations.”

This means that even though the seller and buyer have agreed and the payment has been paid off, the transfer of new rights has full legal force if it has been stated in the Deed of Sale and Purchase (AJB) before PPAT and registered at the Land Office. The seller's obligations in this context do not stop at the receipt of the land price, but include:

1. Physically handing over the land object to the buyer.
2. Signing the AJB in front of PPAT.
3. Guarantee that the land is free from disputes or burdens.
4. Taking care of or assisting the buyer in the registration of name change at the Land Office.

In the perspective of Article 1243 of the Civil Code, if the seller does not carry out his obligations in accordance with agreements or laws and regulations, then he can be considered to have committed a default. Relevant forms of default in late transfer of rights include:

1. Not fulfilling obligations at all (e.g. never being present for the signing of the AJB).
2. Fulfilling obligations but not as they should be (e.g. submission of incomplete documents).
3. Fulfilling obligations but late (e.g. AJB was only made years after payment was paid).

In the case of the North Jakarta District Court Decision Number 711/Pdt.G/2023/PN Jkt.Utr, the seller had received a full payment of IDR 3 billion, but did not immediately carry out the AJB process and name change registration because the beneficiary of the power of attorney passed away and the seller could not be contacted. This results in the buyer not having legal certainty over land ownership for more than one year. This condition clearly meets the element of default because the seller does not fulfill the formal

obligation of transfer of rights according to a reasonable time and regulated in the agreement.

In various rulings, the Supreme Court has affirmed the principle that buyers in good faith should be protected. The jurisprudence cited in this judgment includes:

- a) Supreme Court Decision No. 521 K/Sip/1958 - affirms that buying and selling is valid if the buyer is in good faith despite formal defects.
- b) Supreme Court Decision No. 1230 K/Sip/1980 - buyers in good faith are obliged to get legal protection.

The buyer in this case has met the criteria for a buyer in good faith, namely:

1. Pay the land price in full.
2. Physically control soil objects.
3. Not knowing or not being able to suspect that there are legal problems related to the land.

Therefore, the panel of judges decided to declare the buyer as the legal owner of the disputed land, giving the buyer the authority to register a transfer of rights based on a court decision that has permanent legal force. This step is a form of repressive legal protection, which is protection provided after a dispute to restore the rights of the aggrieved party.

The seller's legal liability for the delay in the transfer of rights can take the form of:

1. Civil Liability
Referring to Article 1243 of the Civil Code, the seller is obliged to compensate the buyer for losses suffered due to delays, both material losses (additional costs, potential loss of land value) and immaterial losses (loss of land utilization opportunities). In practice, the court can decide on the transfer of rights directly to the buyer through a judgment that can be used as a basis for name change.
2. Responsibilities Under the Agreement
If there is a clause in the sale and purchase agreement for the transfer of rights, the seller is contractually bound to fulfill it. A breach of the clause constitutes a default and may lead to a claim for damages or cancellation of the agreement.
3. Moral Responsibility and Good Faith
Article 1338 of the Civil Code emphasizes that agreements must be executed in good faith. Sellers who deliberately delay or avoid the transfer of rights violate this principle, even though they may not formally have caused direct material losses.

Based on the description in the decision Number 711/Pdt.G/2023/PN Jkt.Utr, the seller has neglected his legal obligations by not being present for the signing of the AJB and not providing the necessary documents for the registration of the name change. Consequently:

- a. The administrative process of land ownership is hampered.

- b. Buyers lose legal certainty and potential land use.
- c. There is a loss of time and cost for buyers.

The panel of judges considers the relevant jurisprudence and regulations to provide maximum protection for buyers. This decision also sets a precedent that the court can transfer ownership rights through a judgment if the seller is negligent or uncooperative.

The Judge's Consideration in Decision Number 711/Pdt.G/2023/PN JKT. UTR on the case of delay in the transfer of land rights with positive legal provisions in the Law

Judge's Theory of Consideration

The judge's decision represents the culmination of a case that has been thoroughly examined and adjudicated. In delivering the verdict, the judge issues decisions on the following matters:

- 1) A decision regarding the factual incident, namely whether the defendant has indeed committed the actions as charged.
- 2) A decision concerning the legal aspect, determining whether the defendant's actions constitute a criminal offense, and whether the defendant is guilty and thus subject to criminal liability.
- 3) A decision related to the imposition of punishment, provided that the defendant can indeed be held criminally responsible.

In delivering a verdict, the judge must base the decision on legal provisions or principles established by law. The judge's considerations in reaching a decision can be understood from the information presented in this study and by examining the judicial reasoning contained in the North Jakarta District Court Decision No. 711/Pdt.G/2023/PN Jkt.Utr, as outlined below:

Chronology of Matters

The Plaintiff and Alm. Iwan Herlambang, as the beneficiary of the power of attorney to sell from Defendant II, made a Deed of Sale and Purchase Agreement (PPJB) No. 2 dated July 16, 2021 before a Notary for a plot of land covering an area of 1,600 m² in Rorotan Village, North Jakarta, at a price of IDR 3,000,000,000,- which had been paid in full by the plaintiff. Before the Deed of Sale and Purchase (AJB) was made at PPAT and registered at the land office, the beneficiary of the power of attorney to sell died. The Plaintiff attempted to contact Defendant II and his wife (Co-Defendant I) without success. This delay of more than 1 year made the plaintiff file a lawsuit to be declared the legal owner and to be able to register the name change based on the court decision

In its legal considerations, the panel of judges stated that the buyer was a party in good faith and had paid in full the selling price of the land. Since the power of attorney has passed away and the seller's whereabouts are unknown, the delay in the transfer of rights is not the fault of the buyer. The judge referred to the provisions of Article 37 paragraph (1) and Article 55 paragraph (2) of Government Regulation No. 24 of 1997 concerning *Land Registration*, Article 94 paragraph (3) letter h and Article 125 paragraph (1) PMNA/KBPN No. 3 of 1997

as amended by PMNA No. 16 of 2021, Supreme Court Jurisprudence, such as Decision No. 3201 K/Pdt/1991 and No. 1230 K/Sip/1980.

Based on these considerations, the judge stated that the delay in the transfer of rights could not be charged to the buyer. The court granted the lawsuit and determined that the buyer had the right to change the name of the land title certificate based on the court decision. This ruling reflects the legal protection of the buyer in good faith. In the context of justice, this is very important considering that the buyer has fulfilled his obligations but suffered losses due to other parties.

Judge's Considerations

- a. Formal Aspect (Validity of the Agreement): The judge determined that the Sale and Purchase Binding Agreement (PPJB) fulfills the legal requirements of an agreement as stipulated in Article 1320 of the Civil Code and is binding on the parties in accordance with Article 1338 of the Civil Code.
- b. Material Aspect (Fulfillment of Obligations): Referring to Article 37 paragraph (1) of Government Regulation No. 24 of 1997 on Land Registration, the seller is obligated to sign the Deed of Sale and Purchase (AJB) before a Land Deed Official (PPAT) and apply for the registration of the name transfer. The failure to do so – even if caused by the expiration of the power of attorney to sell – does not exempt the seller from liability.
- c. Default: The judge classified the delay in transferring ownership rights as a form of default under Article 1243 of the Civil Code, as the seller did not fulfill the agreed obligations in a timely manner.
- d. Protection of Buyers in Good Faith: The judge cited Supreme Court jurisprudence that upholds the protection of buyers who act in good faith and fulfill all their contractual obligations, thereby reinforcing their legal standing.
- e. Application of Article 55 paragraph (2) of Government Regulation No. 24 of 1997 on Land Registration: This provision serves as a legal basis for the Land Office to proceed with the transfer of ownership registration based on a court decision, even in cases where procedural obligations have not been completed by the seller.

Legal Basis Used by Judges

The judge based his consideration on several positive legal provisions, namely:

- a) Article 37 paragraph (1) of Government Regulation No. 24 of 1997 concerning *Land Registration* Stipulates that the transfer of rights due to the sale and purchase can only be registered if it is proven by a deed made by PPAT.
- b) Article 55 paragraph (2) of Government Regulation No. 24 of 1997 concerning *Land Registration* Provides the possibility of registration based on a court decision with permanent legal force.
- c) Article 94 paragraph (3) letter h PMNA/KBPN No. 3 of 1997 jo. PMNA No. 16 of 2021 regulates changes in land registration data based on court decisions.
- d) Civil Code Articles 1239, 1243, and 1246 regulate default and damages.

e) The Basis of Good Faith in Article 1338 paragraph (3) of the Civil Code.

Doctrinally, this is in line with the principle of legal certainty and the principle of publicity in agrarian law, where any transfer of land rights must be recorded in the general register in order to have legal force against third parties. Based on the analysis of the facts and the law, the judge decided to:

- 1) Granting partial lawsuit.
- 2) Declare the plaintiff as the rightful owner of the object of dispute.
- 3) Ordering the Land Office to carry out the name change based on a decision that has permanent legal force (refer to Article 55 paragraph (2) of Government Regulation No. 24 of 1997 concerning *Land Registration*).
- 4) Punishing the defendant to perform his contractual obligations and pay compensation for delays

The legal analysis of Decision No. 711/Pdt.G/2023/PN North Jakarta demonstrates that the panel of judges grounded its reasoning on the application of positive legal norms, emphasizing the principles of legal certainty, legal protection, and good faith as the core foundation of its judgment. Based on the facts established during the trial, the judge concluded that Sale and Purchase Binding Agreement (PPJB) No. 2, dated July 16, 2021, fulfilled all the validity requirements of an agreement under Article 1320 of the Civil Code, including mutual consent, legal capacity, a specific object, and a lawful cause. Consequently, pursuant to Article 1338 of the Civil Code, the agreement has the force of law for the parties involved, and any violation of its terms constitutes a breach of contract (default).

Regarding the performance of obligations, the court highlighted that, in accordance with Article 37 paragraph (1) of Government Regulation No. 24 of 1997 on Land Registration, the transfer of land rights can only be registered if evidenced by a deed executed before a Land Deed Official (PPAT). Although the death of the power of attorney's beneficiary terminates the power of attorney under Article 1813 of the Civil Code, this does not absolve the landowner of their legal duty to appear and sign the Deed of Sale and Purchase (AJB) or submit the required documents. The absence and lack of good faith of Defendant II in fulfilling these obligations resulted in a delay of more than one year in the transfer of rights, which the court classified as default under Article 1243 of the Civil Code.

The court further prioritized protection for buyers acting in good faith. The plaintiff, having fulfilled all contractual obligations – including full payment of the land price and physical possession of the property – deserves legal protection against losses caused by the seller's negligence. This reasoning aligns with Supreme Court jurisprudence, notably Decision No. 3201 K/Pdt/1991 and Decision No. 1230 K/Sip/1980, both of which affirm that good-faith buyers must receive legal protection even in the presence of administrative barriers or formal deficiencies.

Moreover, the judge referred to Article 55 paragraph (2) of Government Regulation No. 24 of 1997 and Article 94 paragraph (3)(h) of PMNA/KBPN No.

3 of 1997 in conjunction with PMNA No. 16 of 2021, which permit the registration of land rights transfers based on a final and binding court decision. Therefore, the ruling that recognizes the plaintiff as the rightful owner of the disputed land and orders the Land Office to update the certificate's name constitutes a concrete application of positive law aimed at ensuring legal certainty.

This ruling reflects the role of judges not only as law enforcers, but also as protectors of the rights of the aggrieved party. By combining the enforcement of the rule of law and the principle of substantive justice, the panel of judges seeks to bridge the gap between legal norms (*das sollen*) and reality on the ground (*das sein*). This also emphasizes that agrarian law in Indonesia, even though it is based on strict land administration, must still prioritize protection for parties in good faith, so as to create a balance between legal certainty and a sense of justice.

CONCLUSIONS AND RECOMMENDATIONS

The legal responsibility of the seller for losses resulting from delays in the transfer of land rights is firmly established under Article 37 paragraph (1) of Government Regulation No. 24 of 1997 on Land Registration and Article 1338 of the Civil Code. The seller is legally obliged to complete the transfer process in accordance with these provisions. In this case, the seller's failure to fulfill contractual obligations—despite the buyer having fully paid the land price—constitutes a default. The seller's duties extend beyond merely signing the Deed of Sale and Purchase (AJB) and also include completing the administrative procedures for the transfer of ownership at the Land Office. Non-compliance with these obligations causes both material and immaterial harm to the buyer, thereby rendering the seller liable to provide compensation and to ensure that the transfer of rights is finalized.

The judicial considerations in Decision No. 711/Pdt.G/2023/PN Jkt.Utr reflect the panel of judges' reliance on positive legal provisions, the Civil Code, Government Regulation No. 24 of 1997, and the fundamental principles of legal certainty and good faith. The court determined that a delay in the transfer of land rights without valid justification constitutes a legal violation detrimental to the buyer and must be rectified through judicial intervention. Citing Article 1243 of the Civil Code, the judge partially upheld the plaintiff's claim, declared the buyer the rightful owner of the land, and ordered the Land Office to proceed with the registration of the ownership transfer. This decision affirms that administrative obstacles or the expiration of a power of attorney do not absolve the seller of legal responsibility, and that the court may act in lieu of a deed to uphold legal certainty and protect the rights of good-faith buyers.

ADVANCED RESEARCH

Based on this conclusion, the author suggests that the land seller sets and obeys a clear deadline for the implementation of the transfer of rights after the sale and purchase is completed, so as to prevent defaults and compensation lawsuits. The land sale and purchase agreement should contain a clause regarding sanctions and compensation in the event of a delay in the transfer of rights, and involve a competent PPAT so that all procedures for the transfer of rights run in accordance with the provisions of the law. In addition, judges in

similar cases in the future are expected to continue to prioritize the principle of legal certainty and protection for buyers in good faith by ordering the transfer of rights through a court decision if the seller is uncooperative. The court should also maximize the mediation mechanism to speed up dispute resolution, as well as ensure direct coordination with the Land Office in the implementation of the decision so that new administrative obstacles do not arise.

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