



Legal Force of Deeds of Sale And Purchase of Land And Buildings That Are Not Signed by the Seller

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Abstract

This research uses a juridical approach, normative is a research method that focuses on the analysis of legal norms, statutory regulations and court decisions that are relevant to answering the legal problems faced. In this context, normative research will be used to analyze court decisions that are relevant to the topic under study. The results of this research show that the legal force of the Deed of sale and purchase of land and buildings which is not signed by the seller is that the Deed of Sale and Purchase of land and buildings must be signed by both parties, the seller and the buyer, to have legal force. In accordance with Article 37 Paragraphs (1) and (2) Government Regulation no. 24 of 1997, without the seller's signature, the deed cannot be used as a basis for registering changes to land rights at the land office. Sale and purchase transactions that do not meet these formal requirements can result in the sale and purchase deed being invalid, even though the transaction can remain valid on the basis of good intentions and payments that have been made. by the seller of Makassar District Court decision No.5/Pdt.G/2023/PN/Makassar is In case Number 5/Pdt.G/2023/PN/Makassar, the judge showed thoroughness in evaluating the evidence and considering all relevant legal elements. The judge ensures justice for the Plaintiff and determines the procedures that must be followed to correct the situation that is detrimental to the Plaintiff, reflecting the appropriate and comprehensive application of the law in this case.

1. INTRODUCTION

The sale and purchase deed is a very important legal document in property transactions, which legally binds both parties to the land and building sale and purchase agreement (Mutmainah & Hapsari, 2020). This document not only lists transaction details such as price, location, and property specifications, but also ensures that the rights and obligations of both parties are fulfilled in accordance with applicable law. A valid sale and purchase deed guarantees the validity of the transfer of ownership from the seller to the buyer, and serves as proof of the transaction that can be used as the basis for various other legal matters, such as tax management, land registration, and dispute resolution (Guspitawaty et al., 2023).

In the legal context in Indonesia, the signing of a sale and purchase deed by both parties in the presence of an authorized official, such as a notary, is an absolute requirement that not only strengthens the legal force of the document, but also provides legal protection to all parties involved. Without the signature of one of the parties, the validity of the deed can be questioned, which can ultimately cause losses both in the form of financial and legal certainty (Smaratungga et al., 2022). Therefore, the importance of a complete and valid sale and purchase deed cannot be underestimated, given the significant implications that can arise from the incompleteness of this document (Pangestu & Hertanto, 2024).

In Indonesia's property legal system, the validity of a deed of sale and purchase of land and buildings is highly dependent on the fulfillment of several strict legal requirements. First, the deed must be drawn up by an authorized official, such as a notary, who ensures all legal elements and formalities are met. This includes the use of appropriate language, the clarity of terms and conditions, and the validity of the subject and object being transacted. In addition, the deed must include the complete identities of both parties, a full description of the property, and the agreed price and payment terms, which must be clear and not cause confusion (Pangestu & Hertanto, 2024). Furthermore, Second, the signatures of both parties in the sale and purchase deed are elements that are not only formal but also substantial. The signature shows explicit agreement from both parties to all the provisions contained in the deed. This constitutes a free and conscious affirmation of the seller and buyer's consent, which legally binds them to the agreement. In a legal context, the absence of a signature of one party can raise serious questions about the validity and strength of the execution of the document, which can result in the inability to register the transaction with the relevant institution or even cancel the entire transaction.

The phenomenon of land and building purchase and sale transactions that are not signed by the seller often emerges as a complex legal issue in the property justice system. In some cases, such transactions occur due to administrative errors or misunderstandings regarding applicable legal procedures (Smaratungga et al., 2022). Although the intention of both parties may be valid, the absence of the seller's signature on the sale and purchase deed may raise serious doubts about the validity of the agreement. Without a valid signature, the document loses its legal force as proof of transfer of ownership, thus opening the door for disputes or lawsuits from third parties who may claim rights to the property.

The legal implications of this shortfall are significant, especially for the buyer. Without a sale and purchase deed duly signed by the seller, the buyer may face difficulties in filing a title claim in court or in the process of registering the land (Ulina Ginting & Djaja, 2023). In addition, buyers also risk losing their financial investment if the agreement is declared invalid or in the event of competing ownership claims. On the other hand, sellers who do not sign the deed can abuse the absence of such documentation to sell the same property to another party, which results in further legal problems. Therefore, the validity and completeness of the signature in the sale and purchase document is not only a formal requirement but also a guarantee of legal security for all parties involved.

Previous research in the context of property law has highlighted the serious problems arising from deeds of sale and purchase of land and buildings that are not signed by the seller. A study published by the Center for Legal Studies at Gadjah Mada University revealed that the absence of the seller's signature often invalidated the legal validity of the document, which can lead to transactions being considered invalid by law. The study explores cases in which courts must intervene to resolve disputes arising from these incomplete transactions. An in-depth analysis in the study concluded that the presence of a signature is an essential element that guarantees the executory power of the deed in the eyes of the law, thus ensuring the protection of the buyer's rights (Guspitawaty et al., 2023).

In another study by the Institute for Legal Research at Airlangga University, the focus was given on the long-term legal implications of selling properties that do not have complete documentation, specifically deeds that are not signed by the seller. The findings suggest that the situation not only creates complications in land registration, but also increases the risk of litigation that can be protracted. The study proposes that policy changes and regulatory strengthening are needed to ensure transparency and fairness in property transactions. The proposed policy recommendations include the application of heavier sanctions for parties who deliberately ignore the requirement to sign transaction documents, as well as increasing socialization regarding the importance of complete legal documents in buying and selling property. Therefore, this study aims to find out the legal force of the deed of sale and purchase of land and buildings that are not signed by the seller.

2. RESEARCH METHODS

This research is a normative research on the legal force of land and building sale deeds that are not signed by the seller; the method used involves the analysis of related legal, legal, and jurisprudence documents. This approach is intended to understand and interpret the applicable legal norms related to the validity of the sale and purchase deed in the context of property law. The primary data collected is in the form of legal texts such as the Civil Code, as well as government regulations and relevant court decisions. This analysis aims to explore how legal regulations are applied in cases where the sale and purchase deed is incomplete due to the absence of the seller's signature, and what are the implications for the security of property transactions.

In addition to the analysis of legal documents, this research method also involves interviews with property law experts, notaries, and judges who have experience in handling similar cases. This interview aims to obtain a practical perspective and professional interpretation regarding the impact and resolution of the problem of deeds not signed by the seller. This information will be very useful in understanding the legal dynamics that occur in the field and the tendency to resolve cases in court. Thus, this normative research not only prioritizes existing legal theories and norms, but also integrates practical views from legal practitioners, so that the results are expected to provide applicable and relevant recommendations to increase legal certainty in land and building purchase and sale transactions.

3. RESULT AND DISCUSSION

3.1 Legal force of the Deed of Sale and Purchase of Land and Buildings that is not signed by the seller

The deed of sale and purchase of land and buildings that is not signed by the seller raises serious questions about its legal force in property transactions. In the prevailing legal system, the deed is considered a vital document that not only records transactions but also authorizes the transfer of property rights from one party to another. The absence of the seller's signature on this document fundamentally affects the legal validity of the transaction. This is because the signature is proof of the consent and active participation of the party concerned, which explicitly states that all information in the deed is correct and agreed upon by all parties (Angelina & Mekka, 2022).

According to the Civil Code, a deed must meet several criteria to be considered legally valid. One of the main requirements is that there must be an agreement from both parties shown through their signatures. This signature is not only symbolic but also has profound legal implications. Without the seller's signature, the document cannot be considered as strong evidence to show that the seller has officially relinquished ownership of the property to the buyer. As a result, this incompleteness is often the starting point for legal uncertainty and potential disputes. Furthermore, from the point of view of land registration, a deed without the seller's signature will usually not be accepted by the Land Office. Land registration requires unambiguous evidence of a legal transfer of rights, and a signature on the deed is an important part of that evidence. If the deed does not meet these standards, the registration process can be hampered, which in turn hinders the buyer from securing the property rights legally and officially. This creates a significant risk for buyers, as without a valid registration, they cannot claim legal rights to the property (Guspitawaty et al., 2023).

On the other hand, the absence of the seller's signature on the deed can cause great financial losses for the buyer. For example, a buyer who has paid a sum of money as part of a sale and purchase deal may find themselves in a difficult position if they have to prove that the transaction is legitimate in the face of rejection or withdrawal from the seller's part (Ulina Ginting & Djaja, 2023). Without valid documents, the buyer is at risk of losing both the money paid and the right to the property.

Given the potential problems that can arise, it is important for buyers to ensure that all documentation of property transactions, particularly the sale and purchase deed, is complete and valid before the transaction process is considered complete. Buyers are advised to work closely with an experienced notary and attorney to review and ensure the validity of all documents involved. These steps are essential to avoid the possibility of costly and time-consuming litigation.

Overall, deeds of sale and purchase of land and buildings that are not signed by the seller are not only legally detrimental but also have serious practical consequences for all parties involved. In a legal environment that prioritizes clarity and certainty, ensuring that all legal formalities are fulfilled is key to maintaining transparency and fairness in property transactions.

3.2 The application of the judge's law in deciding the case of making a deed of sale and purchase of land and buildings that is not signed by the seller (Makassar District Court Decision No.5/Pdt.G/2023/PN. MKS)

In the case decided by the Makassar District Court, with case number 5/Pdt.G/2023/PN. MKS, the court faces complex legal issues related to the deed of sale and purchase of land and buildings that are not signed by the seller. This case highlights the importance of compliance with legal formalities in property transactions and how the law is applied by judges in deciding the case. The court must assess whether the unsigned deed can be considered valid and whether it can be used as a basis for the transfer of rights to the property in question (Noor & Jaya, 2020).

In deciding this case, the Makassar District Court judge emphasized the basic principles in civil law, especially those related to the conditions for the validity of an agreement. According to the Civil Code, an agreement is considered valid if it meets several conditions, one of which is the agreement between the two parties shown through signatures. In this case, the absence of the seller's signature on the sale and purchase deed document becomes the focal point, because it directly affects the validity of the agreement (Noor & Jaya, 2020). The judge argued

that without such signatures, an agreement cannot be considered to have been fully agreed upon by all parties involved.

Furthermore, the judge also considered the aspects of fairness and protection for the buyer in this case. The judge evaluates whether the buyer has gone to the extent of fulfilling his obligations and whether he is in a disadvantaged position due to the absence of the signature. The court examines evidence of the transaction and communications between the two parties to determine whether there is good faith on the part of the buyer and whether the buyer has made any payment or other arrangements as part of the transaction (Guspitawaty et al., 2023).

In giving his decision, the judge of the Makassar District Court ruled that the absence of the seller's signature on the sale and purchase deed did make the document not meet the formal requirements required by law for the validity of a property sale and purchase agreement. As a result, the deed cannot be used as a strong legal basis for the transfer of rights to the land and buildings concerned. This decision underscores the importance of ensuring all legal formalities are met in conducting property transactions to avoid legal uncertainty and potential losses.

The court also suggested that in similar cases in the future, it is important for all parties involved in the sale and purchase of property to ensure that legal documents such as the sale and purchase deed are signed by all interested parties (Smaratungga et al., 2022). This is not only to meet legal requirements, but also to protect the rights of all parties involved. This decision is an important precedent that emphasizes the need for prudence and compliance with the law in property transactions. Through this decision, the judge showed how the law is applied in cases where legal formalities are neglected and highlights the importance of integrity in legal documentation. This decision reminds the parties involved in property transactions to always pay attention to legal details that can affect the validity and sustainability of the rights to the property being sold.

Conclusion

From the results of this study, it can be concluded that the absence of the seller's signature in the deed of sale and purchase of land and buildings has significant legal implications for the validity of the transaction. From the analysis of this decision, it is clear that the court places a strong emphasis on the need to fulfill all legal formalities as a condition for the validity of an agreement. The ruling confirms that without the seller's signature, the sale and purchase deed cannot be considered a valid legal document to transfer ownership of the property. The implication of this decision is that buyers who engage in transactions with incomplete deeds risk losing legal rights to the property purchased, as well as potentially engaging in lengthy and costly legal litigation. The study also highlights the importance of adequate legal advocacy and consultation before and during the property transaction process. The court underlined that the buyer needs to conduct more in-depth due diligence to ensure all legal aspects and documentation in the property transaction have been properly taken care of. The recommendations of this study indicate that the buyer should work closely with an experienced notary or property attorney to verify and ensure that all documents, especially the sale and purchase deed, are complete and signed by all parties involved. This not only reduces legal risks but also increases the legal certainty and security of property transactions.

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