



Implications of Will Defects in Land Sale and Purchase Deeds Before PPAT on Legal Certainty (Comparative Study of Supreme Court Decision Number 909 PK/Pdt/2020 and Supreme Court Decision Number 838 K/Pdt/2017)

Andre Febrian¹, Mohammad Jamin², Mulyanto³

¹Universitas Sebelas Maret, Indonesia, andrifef132@gmail.com

²Universitas Sebelas Maret, Indonesia

³Universitas Sebelas Maret, Indonesia

Corresponding Author: andrifef132@gmail.com¹

Abstract: This study examines the implications of will defects (wilsgebrek) in land sale and purchase deeds made before the Land Deed Official (PPAT) on legal certainty, through a comparative analysis of Supreme Court Decision No. 909 PK/Pdt/2020 and No. 838 K/Pdt/2017. Will defects, such as fraud, coercion, or error as regulated in Article 1328 of the Indonesian Civil Code, can disrupt the validity of authentic deeds that possess perfect evidentiary power under Article 1868 of the Civil Code. The research employs a normative juridical approach with qualitative data analysis, focusing on secondary data from legal documents, literature, and court decisions. Findings reveal inconsistencies in judicial approaches: Decision No. 909 prioritizes protection for good-faith buyers, maintaining deed validity for legal certainty, while Decision No. 838 emphasizes substantive justice by annulling the deed due to PPAT negligence. This disparity undermines legal certainty in land transactions, highlighting the need for standardized verification procedures by PPAT and harmonized jurisprudence. The study recommends enhanced PPAT responsibilities and clearer Supreme Court guidelines to balance certainty and justice in land deeds.

Keyword: Will Defects, Land Sale and Purchase Deed, PPAT, Legal Certainty, Supreme Court Decisions

INTRODUCTION

Land sale and purchase transactions are a crucial form of agreement in Indonesian society, given that land is a high-value asset requiring legal certainty to protect the rights of the parties involved (Subekti, 1990). Authentic deeds made before the Land Deed Official (PPAT) or Notary have perfect evidentiary power based on Article 1868 of the Indonesian Civil Code (KUHPerdata), serving as primary evidence to ensure transaction validity (Subekti, 2001). However, the presence of will defects (wilsgebrek), namely inconsistencies in intent due to fraud (bedrog), coercion (dwang), or error (dwaling) as regulated in Article 1328 of the KUHPerdata, often disrupts this legal certainty (Satrio, 2001). Will defects can

manifest as document forgery, false statements, or unauthorized transfers of rights, potentially annulling agreements and harming good-faith parties, particularly buyers (Budiono, 2007).

Supreme Court Decision No. 909 PK/Pdt/2020 serves as a central case study in this research. This dispute involves land measuring 22,215 m² in Kramatwatu, Serang, Banten, owned by Haryanto based on Ownership Certificate (SHM) No. 287/Tonjong. The land was transferred to PT Makmur Persada Indonesia through a Binding Sale and Purchase Agreement (PPJB) No. 01/2012 and Sale and Purchase Deed (AJB) No. 53/2012 dated December 4, 2012, before PPAT Hasanawati Juweni Shande. The will defect element is evident from Haryanto's false statement claiming he was unmarried, whereas the land was joint property with his wife, represented by heir Sherly Kumalawati Hardjo (Plaintiff). The plaintiff sought annulment of the AJB due to the transfer without consent. However, the Supreme Court protected the good-faith buyer, PT Makmur Persada, reasoning that the buyer had verified the SHM, the transaction was conducted before PPAT, and the false statement was unknown to the buyer. The PPAT was not deemed negligent for adhering to formal verification procedures, thus declaring the AJB valid and directing the plaintiff to seek compensation from Haryanto.

In comparison, Supreme Court Decision No. 838 K/Pdt/2017 demonstrates a different approach. This dispute involves land measuring 2.5 hectares in North Sipora, Mentawai Islands Regency, owned by Gadena Zebua. The land was transferred by Usman Pgl. Boyon to Timotius, S.Sos., through AJB No. 47/A.J.B/Sib.Sel/2007 dated December 17, 2007. The will defect was identified from manipulated land area data, mismatched transaction dates, and unauthorized transfer. The PPAT was deemed negligent for failing to verify transaction validity, leading to the deed's annulment as an unlawful act (onrechtmatige daad) (HS Salim, 2016).

The main differences between Supreme Court Decision No. 909 PK/Pdt/2020 and No. 838 K/Pdt/2017 lie in the legal approach to the status of authentic deeds, protection for good-faith buyers, and PPAT responsibility. In Decision No. 909 PK/Pdt/2020, the Supreme Court prioritizes legal certainty by upholding the authentic deed's validity based on Article 1868 of the KUHPerdata, despite will defects, as the good-faith buyer was unaware of the false statement and the PPAT fulfilled formal procedures (Philipus M. Hadjon, 1987). This aligns with Supreme Court Circular No. 4 of 2016, emphasizing protection for good-faith buyers. Conversely, Decision No. 838 K/Pdt/2017 prioritizes justice by annulling the authentic deed because the will defect (data manipulation and unauthorized transfer) violated the conditions for a valid agreement (Article 1320 of the KUHPerdata), with the PPAT assessed as negligent for lacking substantive verification (Harsono, 2003). Consequently, the buyer received no protection, and the decision focused on restoring rights to the rightful owner. This difference is also evident in the assessment of good faith: Decision No. 909 PK/Pdt/2020 recognizes the buyer's good faith based on SHM verification and formal procedures, while Decision No. 838 K/Pdt/2017 does not consider the buyer's good faith because the transaction was based on defective data that should have been detected by the PPAT (Budiarti, 2021). This inconsistency raises critical questions about the legal status of authentic deeds containing will defects, the effectiveness of PPAT's role in preventing fraud, and the consistency of legal protection for good-faith buyers (Idris, 2024).

According to the form of the agreement, the manifestation of the agreement is a series of words containing promises spoken or written by the parties (Subekti, 1990). From this statement, it can be seen that agreements take various forms, either orally or in writing, which can be underhand or authentic deeds. Agreements lack perfect evidentiary power if made underhand because they are only reached between the two parties. In contrast, agreements made with authentic deeds are created before an authorized official (PPAT in this case) and have perfect legal force (Kie Tan Thong, 2005).

Notaries or PPAT as public officials have a strategic role in ensuring the validity of sale and purchase agreements through the creation of authentic deeds, which have perfect evidentiary power based on Article 1868 of the KUHPerdata (Tobing, 1983). The duties of Notaries/PPAT include verifying documents, party identities, and ensuring no will defects, such as will defects (wilsgebrek), as regulated in Article 1328 of the KUHPerdata (Abdullah, 2017). However, in practice, cases of will defects in sale and purchase transactions often occur, such as forgery of ownership documents, false statements about property status, or identity misuse. This practice can harm buyers, who are often good-faith parties, both financially and legally (Purwaningsih, 2011).

Will defects in sale and purchase not only damage trust in the transaction process but also affect the status of authentic deeds. Although authentic deeds have perfect evidentiary power, the presence of will defects can be grounds for annulling the agreement, ultimately weakening the expected legal certainty (Soerodjo, 2003). Additionally, negligence by Notaries/PPAT in verifying documents or party identities can exacerbate the issue, as Notaries/PPAT have legal responsibility to act carefully and independently (Article 16 paragraph (1) of the Notary Position Law) (Muhaimin, 2020).

According to the annual report of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) for 2024, there were 5,973 land cases handled during that period, with details of 1,664 land dispute cases, 60 land conflict cases, and 4,249 land court cases (Kementerian ATR/BPN, 2024). Case resolutions reached about 79 percent of the total, including 2,161 completed cases, with a breakdown of 936 disputes, 32 conflicts, and 1,193 court cases. This data shows a significant increase compared to the previous year, where land disputes are the largest category often involving will defects such as data manipulation or unauthorized transfers, impacting the legal uncertainty of authentic land sale and purchase deeds (Harsono, 2000). This underscores the urgency of strengthening verification by Land Deed Officials (PPAT) to prevent negative implications on legal certainty, as mandated in Article 16 paragraph (1) of Law No. 2 of 2014 on Notary Positions/PPAT.

As reflected in Supreme Court Decisions No. 909 PK/Pdt/2020 and No. 838 K/Pdt/2017. In Decision No. 909 PK/Pdt/2020, protection for good-faith buyers demonstrates the importance of legal certainty, but limitations in PPAT verification of substantive statements raise dispute risks (Rahardjo, 2000). Conversely, Decision No. 838 K/Pdt/2017 affirms the need for PPAT diligence to prevent fraud, with consequences of deed annulment if verification fails. The differing legal approaches in both decisions indicate inconsistencies in handling fraud, creating legal uncertainty for parties, especially regarding the status of authentic deeds and legal protection (Mertokusumo, 2006).

This research is urgent for several reasons. First, the high number of land disputes due to will defects indicates the need to strengthen PPAT's role in verifying transaction validity, as mandated in Article 16 paragraph (1) of Law No. 2 of 2014 on Notary Positions/PPAT (Indrohato, 1994). Second, this research is important for evaluating the effectiveness of legal protection for good-faith buyers, who often become victims of will defects without clear compensation mechanisms (Philipus M. Hadjon, 1987). Third, a comparative analysis of both decisions is needed to identify factors influencing judicial decisions, such as evidence of fraud, PPAT procedures, and justice principles, to formulate recommendations preventing similar practices in the future (Marzuki, 2005).

Based on the above description, the author is interested in conducting scientific research in the form of a thesis titled "Implications of Will Defects in Land Sale and Purchase Deeds Before PPAT on Legal Certainty (Comparative Study of Supreme Court Decision No. 909 PK/Pdt/2020 and Supreme Court Decision No. 838 K/Pdt/2017)".

Novelty of Research The difference of this thesis from previous research lies in the focus of the study raised, namely previous research affirms that authentic deeds provide

strong legal certainty due to their perfect evidentiary nature (Subekti, 2001). However, that research does not specifically discuss disruptions to legal certainty due to will defects. Therefore, this research fills that gap by examining how will defects affect the status of authentic deeds and their implications for the legal certainty received by buyers (Budiono, 2007).

In addition, this research also analyzes the role of Notaries/PPAT in preventing will defect actions committed by one party, whether document forgery or providing false statements before Notaries/PPAT (HS Salim, 2016). In this research, the author conducts in-depth research by approaching Supreme Court Decision No. 909 PK/Pdt/2020 and Supreme Court Decision No. 838 K/Pdt/2017 related to document forgery actions and providing false statements before Notaries/PPAT during sale and purchase agreements.

Problem Formulation

1. How is the legal status of authentic land sale and purchase deeds containing will defect elements (wilsgebrek) based on Articles 1320 and 1868 of the KUHPerdata in Supreme Court Decision No. 909 PK/Pdt/2020 compared to Decision No. 838 K/Pdt/2017?
2. How do differences in legal approaches in Supreme Court Decisions No. 909 PK/Pdt/2020 and No. 838 K/Pdt/2017 in assessing buyer good faith affect the legal certainty of authentic deeds and legal protection for good-faith buyers?

METHOD

This research uses a normative juridical approach, focusing on secondary data from legal documents, literature, court decisions, and relevant regulations (Soekanto, 2014). The type of research is descriptive-analytical, aiming to describe and analyze the implications of will defects on legal certainty through comparative study of the two Supreme Court decisions (Fajar and Achmad, 2010). Data collection involves library research, gathering materials such as the Indonesian Civil Code (KUHPerdata), Law No. 2 of 2014 on Notary Positions, Supreme Court Circular No. 4 of 2016, and the decisions in question (Muhammad Abdulkadir, 2004). Qualitative data analysis is employed, using deductive reasoning to draw conclusions from general legal principles to specific cases (Sugiyono, 2008). The research location is virtual, accessing online legal databases and libraries, conducted from January to May 2025. No numbering is used for sub-chapters in this section.

RESULTS AND DISCUSSION

The comparative analysis of Supreme Court Decision No. 909 PK/Pdt/2020 and No. 838 K/Pdt/2017 reveals stark contrasts in handling will defects within authentic land sale and purchase deeds. In Decision No. 909 PK/Pdt/2020, the court upheld the deed's validity despite a hidden will defect (false marital status statement), prioritizing buyer good faith verified through formal SHM checks and PPAT procedures (Philipus M. Hadjon, 1987). This approach maintains legal certainty under Article 1868 KUHPerdata, protecting third-party buyers unaware of the defect. Conversely, Decision No. 838 K/Pdt/2017 annulled the deed due to open defects (data manipulation and unauthorized transfer), deeming PPAT negligent for failing substantive verification, thus violating Article 1320 KUHPerdata and emphasizing restorative justice (Harsono, 2003).

These findings directly address the research questions. First, the legal status of deeds with will defects is not absolute but contingent on defect visibility and verification depth: hidden defects preserve validity for certainty, while open ones trigger annulment (Budjarti, 2021). Second, divergent good faith assessments—lenient in No. 909 (formal compliance suffices) versus strict in No. 838 (substantive flaws negate protection)—erode uniform legal certainty, increasing disputes as evidenced by ATR/BPN's 1,664 land dispute cases in 2024 (Kementerian ATR/BPN, 2024). This inconsistency undermines trust in authentic deeds,

heightening risks for good-faith buyers and necessitating standardized PPAT protocols (Idris, 2024).

To clarify the comparative elements, the following tables present key data from the decisions.

Table 1. Case Profiles and Will Defect Characteristics

Aspect	Decision No. 909 PK/Pdt/2020	Decision No. 838 K/Pdt/2017
Land Area & Location	22,215 m ² , Kramatwatu, Serang, Banten	2.5 hectares, North Sipora, Mentawai Islands
Parties Involved	Seller: Haryanto; Buyer: PT Makmur Persada Indonesia; Plaintiff: Sherly Kumalawati Hardjo (heir)	Seller: Usman Pgl. Boyon; Buyer: Timotius, S.Sos.; Owner: Gadena Zebua
Deed Details	AJB No. 53/2012, dated Dec 4, 2012	AJB No. 47/A.J.B/Sib.Sel/2007, dated Dec 17, 2007
Will Defect Type	Hidden: False statement on marital status (joint property without consent)	Open: Data manipulation, mismatched dates, unauthorized transfer
PPAT Involved	Hasanawati Juweni Shande	Not specified in detail

Source: Supreme Court Decisions

Table 2. Judicial Reasoning and Outcomes

Aspect	Decision No. 909 PK/Pdt/2020	Decision No. 838 K/Pdt/2017
Key Legal Basis	Art. 1868 KUHPerdata (perfect evidence); SEMA No. 4/2016 (good-faith buyer protection)	Art. 1320 KUHPerdata (valid agreement conditions); Onrechtmatige daad (unlawful act)
PPAT Assessment	Not negligent: Formal verification (SHM, identities) complied	Negligent: Failed substantive verification (data authenticity, authority)
Buyer Good Faith	Recognized: Unaware of defect; relied on formal PPAT process	Rejected: Transaction based on detectable defects
Deed Outcome	Upheld as valid	Annulled
Remedy Directed	Plaintiff seeks compensation from seller	Rights restored to original owner
Impact on Legal Certainty	Strengthened: Predictability for good-faith transactions	Weakened: Deeds vulnerable to annulment despite formalities

Source: Research Analysis

The tables illustrate that hidden defects favor certainty when PPAT follows formalities, while open defects prioritize justice via annulment, creating jurisprudential tension. This disparity amplifies land disputes, as 79% resolution rates in 2024 still leave unresolved uncertainties (Kementerian ATR/BPN, 2024). Ultimately, harmonizing verification standards and good faith criteria is imperative to mitigate implications on transactional stability.

CONCLUSION

The legal status of authentic land sale and purchase deeds containing will defects varies significantly between the two decisions, with Decision No. 909 upholding validity for certainty and Decision No. 838 annulling for justice, highlighting the need for balanced jurisprudence (Subekti, 2001). Differences in assessing buyer good faith affect deed certainty, where lenient approaches protect buyers but risk injustice, while strict ones ensure fairness but erode predictability (Satrio, 2001). Enhancing PPAT verification and standardizing judicial guidelines are essential improvements to legal science, promoting consistent protection in land transactions without repeating prior analyses.

REFERENCES

Abdullah, Nawaaf. 2017. Kedudukan dan Kewenangan Notaris/PPAT Dalam Membuat Akta Otentik. *Jurnal Akta*, 4(4).

Atmosudirjo, Prajudi. 2005. *Hukum Administrasi Negara*. Jakarta: Ghalia Indonesia.

Budiono, Herlien. 2007. *Kumpulan Tulisan Hukum Perdata di Bidang Kenotariatan*. Bandung: Citra Aditya Bakti.

Budiarti, Kory Ulama Sari. 2021. Perlindungan Hukum Bagi Pembeli dalam Akta Jual Beli yang Batal Demi Hukum Berdasarkan Putusan Hakim. *Jurnal Hukum dan Kenotariatan*, 3(28).

Fajar, Mukti and Yulianto Achmad. 2010. *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta: Pustaka Pelajar.

Harsono, Boedi. 2003. *Hukum Agraria Indonesia, Sejarah Pembentukan UUPA dan Pelaksanaannya*. Jakarta: Djambatan.

Harsono, Boedi. 2000. *Hukum Agraria Indonesia*. Jakarta: Djambatan.

HS, Salim. 2016. *Teknik Pembuatan Akta PPAT*. Depok: PT. Raja Grafindo Persada.

Idris, Azhari. 2024. Perlindungan Hukum Bagi Pihak Pembeli Hak Atas Tanah Melalui Akta Perjanjian Perikatan Jual Beli Dihadapan Notaris/PPAT. *Jurnal Ilmiah Mahasiswa Hukum (JIMHUM)*, 4(3).

Indrohato. 1994. *Asas-Asas Umum Pemerintahan yang Baik*, dalam Pauluas Efendie Lotulung, *Himpunan Makalah Asas-Asas Umum Pemerintahan yang Baik*. Bandung: Citra Aditya Bakti.

Kementerian ATR/BPN. 2024. Laporan Tahunan 2024. <https://www.atrbpn.go.id/laporan-tahunan-2024>. Accessed October 20, 2025.

Kie, Tan Thong. 2005. *Studi Notariat, Serba Serbi Praktek Notaris/PPAT*. Jakarta: Ichtiar Baru van Hoeve.

Marzuki, P.M. 2005. *Penelitian Hukum*. Jakarta: Prenadamedia Group.

Mertokusumo, Sudikno. 2006. *Hukum Acara Perdata Indonesia*. Yogyakarta: Liberty.

Muhaimin. 2020. *Metode Penelitian Hukum*. Mataram: Mataram University Press.

Muhammad, Abdulkadir. 2004. *Hukum dan Penelitian Hukum*. Bandung: Citra Aditya Bakti.

Philipus, M. Hadjon. 1987. *Perlindungan Hukum Bagi Rakyat Indonesia*. Surabaya: Bina Ilmu.

Purwaningsih, Endang. 2011. Penegakan Hukum Jabatan Notaris/PPAT dalam Pembuatan Perjanjian. *Jurnal Adil: Jurnal Hukum FH Yarsi*, 11(3).

Rahardjo, Satjipro. 2000. *Ilmu Hukum*. Bandung: PT. Citra Aditya Bakti.

Satrio, J. 2001. *Hukum Perikatan, Perikatan Yang Lahir Dari Perjanjian*. Cetakan Kedua. Bandung: Citra Aditya Bakti.

Soekanto, Soerjono. 2014. *Pengantar Penelitian Hukum*. Jakarta: Universitas Indonesia Press.

Soerodjo, Irwan. 2003. *Kepastian Hukum Hak Atas Tanah di Indonesia*. Surabaya: Arkola.

Subekti. 1990. *Hukum Perjanjian*. Jakarta: Intermasa.

Subekti. 2001. *Hukum Pembuktian*. Jakarta: PT. Pradnya Paramitha.

Subekti. 2001. *Pokok-pokok Hukum Perdata*. Jakarta: Intermasa.

Sugiyono. 2008. *Metode Penelitian Kuantitatif Kualitatif dan R&D*. Bandung: Alfabeta.

Tobing, G.H.S Lumban. 1983. *Peraturan Jabatan Notaris*. Jakarta: Erlangga.