

The liability of the temporary land deed official in relation to the sale and purchase deed of inherited land executed without the signatures of all heirs

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Abstract

The Temporary Land Deed Official (PPATS) is a public official vested with the authority to draw up authentic deeds concerning specific legal acts over land, including Sale and Purchase Deeds. In practice, the execution of Sale and Purchase Deeds involving inherited land often gives rise to legal disputes when not all heirs, as joint right holders, are included in the process. The cases under examination are Sale and Purchase Deed Number 021 of 2018 and Sale and Purchase Deed Number 51 of 2020, both executed without the signatures of all heirs, thereby resulting in disputes and legal uncertainty. This research aims to analyze and explain the legal liability of PPATS in relation to the execution of Sale and Purchase Deeds of inherited land without the participation of all heirs. The research method employed is empirical juridical, with a socio-legal approach. The data sources consist of both primary and secondary data. The findings indicate that the legal liability of PPATS is inherent in their authority as public officials, who are bound to apply the principle of prudence. In these cases, PPATS failed to conduct comprehensive verification of the heirs' structure, including substitute heirs, thereby committing negligence in ensuring the legality of the legal subjects. Such negligence encompasses insufficient examination of inheritance documents, incomplete verification of legal subjects, and failure to secure the consent of all heirs.

Keywords: Liability, temporary land deed official, sale and purchase deed of inherited land, heirs

Introduction

The process of selling inherited land requires the consent of all heirs, as they jointly hold equal rights over the estate. If a sale of inherited land is conducted without the approval of one or more heirs, the resulting sale and purchase deed cannot be registered and may give rise to legal consequences under both civil-administrative and criminal law. An heir intending to sell inherited land must obtain the consent of the other heirs, since they also possess rights over the property. If an individual claims to be the sole owner of inherited land, such a transaction cannot be deemed validly executed under tacit conditions. Where other heirs entitled to the land are excluded from the process, meaning their consent is not secured, legal complications may arise, including the impossibility of registering the deed with the National Land Agency, or potential legal actions such as annulment of the deed, criminal complaints in cases of document forgery, or collusion. Disputes typically emerge from heirs' objections and claims to their rights over the inherited land, whether concerning its legal status or ownership, with the expectation of obtaining administrative resolution in accordance with applicable regulations.

The sale of inherited land must be executed before a Land Deed Official (PPAT/PPATS), upon which the deed will be issued. Where any heir is absent before the PPATS, such heir must provide a separate written consent to the sale, duly legalized by a nearby notary, or issue a consent or power of attorney in the form of a notarial deed.

One case illustrating this situation occurred in Gampong Kayee Lee, Ingin Jaya District, Aceh Besar Regency. The case originated when an individual named Aji passed away in 2018, leaving five surviving heirs: Ilyas, Abdul Rahman, Hafsah, Sakdiah, and Nurma. The inheritance had been distributed prior to 2018. However, in 2020, one portion belonging to Ilyas was intended to be sold, and a Sale and

Purchase Deed was drawn up by the local PPATS. Nevertheless, the execution of the deed did not involve all heirs, resulting in a legal issue whereby the deed could not be registered with the National Land Agency (BPN).^[1]

A similar case occurred in Gampong Seubun Keutapang, Lhoknga District, Aceh Besar Regency. The land in question was registered under the name of Muhammad Yahya, who passed away in 1980, leaving three heirs. Two of them, Mukhtar Yahya and Abdul Jalil, are still alive, while the third heir, Sulaiman Yahya, has passed away. The late Sulaiman Yahya left behind heirs consisting of his wife and two sons, Azwar and M. Salihun. In 2018, one of the surviving heirs of Muhammad Yahya, together with one heir of the late Sulaiman Yahya, intended to sell a parcel of land located in Seubun Keutapang Village and approached the local PPATS to execute a Sale and Purchase Deed (AJB). However, the AJB prepared by the PPATS did not include the names of all heirs, but only one heir of the late Sulaiman Yahya. Consequently, the deed could not be registered with the National Land Agency (BPN).^[2]

In the sale of land, the legal act of transfer must be executed through a deed drawn up by a Land Deed Official (PPAT/PPATS). As stipulated in Article 2 of Government Regulation No. 37 of 1998, as amended by Government Regulation No. 24 of 2016 concerning the Position of Land Deed Officials, the amendment provides a more detailed regulation of the office, authority, and duties of PPAT in accordance with the evolving needs of land administration and legal development in Indonesia, with the objective of enhancing legal certainty and the quality of PPAT services. Furthermore, Article 95 paragraph (1)(a) of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 3 of 1997 on the Implementation Provisions of Government Regulation No. 24 of 1997 on Land Registration has undergone several amendments, the

most recent being Ministerial Regulation No. 16 of 2021, which constitutes the third amendment. The deed executed by PPATS serves as evidence of the transfer of rights over land by virtue of sale and purchase.

Research Method

The type of research employed in this study is empirical research with a socio-legal approach.^[3] The data sources are based on both primary and secondary data, collected through literature review and interviews with respondents and informants deemed capable of providing relevant answers to the research problems. The research was conducted in Aceh Besar Regency. The primary and secondary data obtained were subsequently organized in a sequential and systematic manner, and then analyzed qualitatively with the aim of providing descriptive accounts of the findings.

Results and Discussions

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In the practice of selling inherited land, the Temporary Land Deed Official (PPATS) is under an obligation to ensure that the party acting as the seller truly possesses lawful authority over the land being transacted. In principle, inherited land constitutes joint property of the heirs until a lawful distribution of inheritance has been carried out. This is consistent with Article 833 paragraph (1) of the Indonesian Civil Code, which stipulates that heirs automatically acquire ownership rights over the entire estate of the deceased. Consequently, rights over inherited land cannot be transferred unilaterally by one heir without the consent of the others.^[5]

In this regard, the obligations of the Temporary Land Deed Official (PPATS) are not limited to verifying the identity of the parties, but also extend to examining the legal status of the land object and the legal relationship of the parties thereto. Where the land being transacted constitutes inherited property, the PPATS is required to request supporting documents such as the death certificate of the decedent, the certificate of heirs, proof of land ownership, and to ensure that all heirs are either present or have provided written consent.

This obligation forms part of the prudential principle that must be observed by public officials in order to prevent future legal defects. In the case study under examination, there is Sale and Purchase Deed Number 021 of 2018, executed by the PPATS of Lhoknga District concerning inherited land belonging to the late Muhammad Yahya, who passed away in 1980.^[6] Based on the documents obtained, it is established that the decedent left three heirs, namely Mukhtar Yahya, Abdul Jalil, and Sulaiman Yahya. However, Sulaiman Yahya had predeceased, and his inheritance rights devolved upon his substitute heirs, namely his wife and two sons. In the process of executing the sale

and purchase deed, the PPATS included only part of the heirs and failed to involve all legitimate substitute heirs.

This fact demonstrates a defect in the aspect of legal subjects, as the party conducting the sale did not represent all holders of rights over the inherited land. Legally, such conduct contravenes the principle of consensus under Article 1320 of the Indonesian Civil Code, particularly the requirement of agreement between the parties. The absence or lack of consent from all heirs renders the deed deficient in one of the essential elements of a valid contract. According to Subekti, a contract that fails to meet subjective requirements may be subject to annulment at the request of the interested party.^[7]

From the perspective of legal liability, a Temporary Land Deed Official (PPATS) may be held accountable if proven negligent in fulfilling their formal duties. Hans Kelsen asserts that legal liability constitutes the consequence arising when an individual engages in conduct contrary to legal norms, thereby subject to sanctions. In this context, if a PPATS executes a deed without properly verifying the rightful heirs, such conduct may be categorized as official negligence. The liability of PPATS can be examined in three dimensions: administrative, civil, and criminal. First, administrative liability arises when the PPATS violates procedural duties as stipulated under the Regulation on the Position of Land Deed Officials. Such violations may include failure to thoroughly examine supporting documents or executing a deed without the presence of entitled parties. The consequences may range from written reprimands and temporary suspension to permanent dismissal from office.^[8] Second, civil liability arises where such negligence results in losses to other parties, whether heirs who were excluded or the purchaser. In this regard, the PPATS may be sued under Article 1365 of the Indonesian Civil Code concerning unlawful acts, provided that fault, damage, and a causal relationship between the conduct of the PPATS and the resulting loss can be established. Third, criminal liability may arise where the execution of the deed involves elements of intent, such as inserting false information or colluding with one party to deprive other heirs of their rights. Although, in principle, the PPATS is responsible only for formal accuracy rather than substantive truth, if the PPATS is aware of discrepancies in the data yet proceeds to execute the deed, criminal liability may attach.

Based on the findings of this research, it is evident that Sale and Purchase Deed Number 021 of 2018 could not be registered with the Land Office due to the absence of administrative requirements, namely the consent of all heirs. This condition demonstrates that the negligence of the PPATS not only resulted in a legally defective deed but also created legal uncertainty for the purchaser. The buyer, having made payment, failed to acquire the rightful ownership of the land, as the transfer of title could not be executed. Accordingly, the legal liability of the PPATS in drafting the sale and purchase deed of inherited land is closely linked to their duty of verification and the application of the prudential principle. In this case, the PPATS may be deemed to have failed to properly discharge their official duties by executing the deed without ensuring the involvement of all legitimate heirs. This situation underscores that the office of PPATS is not merely administrative in nature, but carries significant legal responsibility in safeguarding the legality and certainty of every deed executed.

The legal liability of the Temporary Land Deed Official (PPATS) in drafting sale and purchase deeds of inherited land cannot be separated from the principles of legality and prudence inherent in the office. As a public official, every act of the PPATS must be grounded in the authority conferred by law and carried out in accordance with applicable procedures. Within the theory of authority, Philipus M. Hadjon explains that every governmental authority granted by legislation must be exercised properly, in line with the purpose for which such authority was conferred. Accordingly, the authority of the PPATS to draw up Sale and Purchase Deeds is not merely formal and administrative in nature, but also entails substantive responsibility to ensure that the legal acts embodied in the deed are genuinely valid under the law.^[10]

In relation to inherited land, the legal liability of the Temporary Land Deed Official (PPATS) becomes more complex compared to ordinary land transactions. This is due to the fact that inherited land, in principle, does not fall under individual ownership until a lawful distribution of inheritance has been carried out. Prior to such distribution, all heirs are joint right holders (*mede eigendom**) over the estate. Consequently, any legal act concerning the inheritance must involve all heirs or, at the very least, obtain their consent.

The concept of joint ownership in inheritance law constitutes the fundamental basis for the PPATS's duty of prudence. If one heir acts independently without the consent of the others, such conduct cannot be deemed a legally perfect act. In the context of land sale, this may result in a defect of legal capacity to act. In the case study examined, the PPATS of Lhoknga District executed Sale and Purchase Deed Number 021 of 2018 concerning inherited land without involving all legitimate heirs. The available documents reveal that one line of heirs was not fully included in the signing process, indicating deficiencies in verifying the status of the parties. In fact, prior to executing the deed, the PPATS is obliged to ensure that the sellers genuinely possess full legal capacity over the land being transacted.

This duty of verification forms part of the formal responsibilities of the PPATS. In practice, verification does not merely encompass examination of identity documents such as ID cards, family registers, or land certificates, but also inheritance documents including death certificates, certificates of heirs, and proof of family relationships. Where substitute heirs exist due to the death of a principal heir, the PPATS is required to account for their presence. Negligence in this respect constitutes a violation of the prudential principle. The prudential principle itself is a fundamental principle of public office, requiring officials to act carefully and diligently before undertaking legal acts. According to Habib Adjie, the prudential principle is an essential instrument for safeguarding the integrity of authentic deeds, since even minor errors in formal aspects may result in the loss of the legal force of the deed.^[11]

From the perspective of administrative liability, a PPATS who is negligent may be deemed to have committed an official violation. This is because the role of the PPATS is not merely to draw up deeds at the request of the parties, but to ensure that all legal procedures have been fulfilled. If the PPATS proceeds to execute a deed despite knowing, or being reasonably expected to know, that certain heirs have

not been involved, such conduct may be categorized as a breach of professional standards.

Beyond administrative liability, civil liability may also arise. In civil law, negligence or error by the PPATS that causes harm may serve as grounds for a lawsuit. For instance, a purchaser who has paid the purchase price but is unable to register title due to administrative defects in the deed may suffer both material and immaterial losses. Likewise, heirs who were excluded may lose the opportunity to assert their rights. Pursuant to Article 1365 of the Indonesian Civil Code, any unlawful act that causes harm to another obliges the perpetrator to compensate for such loss. The elements of this provision include the existence of an act, fault, damage, and a causal link between the act and the damage. In this context, if it can be proven that the PPATS was negligent in examining inheritance documents yet proceeded to execute the deed, these elements may be satisfied. Furthermore, the liability of the PPATS may also be viewed from the perspective of legal protection for heirs. Heirs excluded from the execution of the deed possess the right to seek annulment of the deed before the court, on the basis that their rights as co-owners were disregarded. Should the court declare the deed void or voidable, such a ruling would affect the entire process of transfer of rights that had been undertaken.^[12]

Within the theory of legal protection, Satjipto Rahardjo emphasizes that law exists to safeguard interests harmed by conduct inconsistent with legal norms. In this case, legal protection becomes crucial, as without a mechanism of annulment, heirs excluded from the transaction would unlawfully lose their rights over inherited land. Accordingly, the legal liability of the PPATS in drafting sale and purchase deeds of inherited land cannot be regarded merely as ordinary administrative responsibility. Such liability encompasses moral, administrative, civil, and even criminal dimensions, particularly where elements of intent or collusion to deprive certain heirs of their rights are present. In the case of Sale and Purchase Deed Number 021 of 2018, the liability of the PPATS is evident, as negligence in ensuring the involvement of all heirs has generated legal uncertainty concerning the transfer of rights over the land in question.^[13]

From the perspective of land law, the conduct of the PPATS in failing to ensure the completeness of heirs contravenes the primary objective of land registration as stipulated in Article 19 of the Basic Agrarian Law (UUPA), namely to guarantee legal certainty. A deed produced through defective procedures cannot realize this objective; rather, it becomes a source of new disputes detrimental to all parties. Accordingly, the legal liability of the PPATS does not end at the moment of signing the deed, but extends to all legal consequences arising therefrom. In the context of this research, such liability is significant to analyze through the identification of forms of negligence committed by the PPATS in the drafting of Sale and Purchase Deed Number 021 of 2018.

To obtain a more comprehensive understanding of the PPATS's legal liability in drafting sale and purchase deeds of inherited land without the participation of all heirs, data were collected through interviews with respondents and informants directly connected to the object of study. The primary sample consisted of the Temporary Land Deed Official (PPATS) as the party who executed the deed, and heirs or family members of heirs with direct relation to the

disputed land. The selection of these samples was based on their direct relevance to the drafting of Sale and Purchase Deed Number 021 of 2018 and the ensuing legal consequences. In addition, to strengthen the analysis, the research also involved informants from related institutions, including officials of the National Land Agency (BPN) and members of the Association of Land Deed Officials (IPPAT). Their involvement was intended to provide broader legal perspectives from the regulatory, professional, and accountability dimensions of public office.

It was revealed that the deed was executed based on documents submitted by the seller at the time, including a certificate of heirs deemed to reflect the rightful parties. However, in practice, the PPATS admitted that no further inquiry was conducted into the possibility of substitute heirs arising from the death of a principal heir. This indicates that in practice, the PPATS placed greater emphasis on the formal validity of documents submitted by the parties. In theory, PPATs and PPATS are indeed responsible for formal accuracy rather than substantive truth. Nevertheless, formal accuracy does not absolve officials from the duty to conduct reasonable verification of the documents received. Where indications of incompleteness or potential rights of other parties exist, the PPATS remains obliged to clarify.

This is reinforced by interviews with officials of the National Land Agency (BPN), who stated that in the registration of transfers of rights over inherited land, the completeness of heirs is an absolute requirement. According to the BPN official, if it is found that one heir was excluded from the sale and purchase deed, the Land Office cannot process the initial registration application due to a juridical defect in the legal basis submitted. This view demonstrates that the liability of the PPATS does not end with the drafting of the deed, but must also consider whether the deed can be utilized in the land registration process.^[14]

The views of the informants reveal a shared perspective that, in cases of sale and purchase of inherited land, the PPATS bears greater responsibility compared to ordinary land transactions. This is due to the fact that inheritance property entails more complex legal relations, particularly where successive heirs are involved. Therefore, verification of the structure of heirs must be conducted carefully and comprehensively. Based on interviews with heirs or family members of heirs, it was disclosed that certain parties felt excluded from the signing of the sale of the inherited land. They stated that they only became aware of the transaction after the process had taken place and the land had already been transferred. This condition demonstrates a lack of transparency in the transaction process and highlights the weakness of the PPATS's supervision over the involvement of all entitled parties.^[15]

Legally, this condition illustrates that the subjective rights of the heirs have been disregarded. In inheritance law, each heir possesses equal rights to the estate in accordance with their respective shares. Excluding one party from the sale process is tantamount to unlawfully diminishing that party's legal rights. From the findings of field research and normative analysis, it can be understood that the legal liability of the PPATS in this matter is not merely procedural but also substantive. Procedural liability relates to the examination of the completeness of documents, while substantive liability concerns ensuring that all parties entitled to rights are lawfully involved in the legal act. Accordingly, the research findings demonstrate that the

legal liability of the PPATS in drafting Sale and Purchase Deed Number 021 of 2018 cannot be separated from negligence in fully verifying the structure of heirs. Such negligence constitutes the starting point of legal defects in the deed and opens the possibility of future disputes. Therefore, identifying the forms of negligence committed by the PPATS becomes essential for further analysis.

Based on field research, the informants generally shared the view that the liability of the PPATS is not confined to the drafting of the Sale and Purchase Deed as an authentic instrument, but also encompasses the obligation to ensure that all legal requirements, both formal and material, are satisfied prior to execution. In the context of the sale of inherited land, the PPATS is obliged to ensure that all heirs holding rights over the land have granted consent and are present to sign the deed, or have duly authorized representation in accordance with statutory provisions.^[16]

According to the interview findings, the PPATS cannot rely solely on the statements provided by the parties, but must carefully examine inheritance documents, the identities of the heirs, and the ownership status of the land subject to sale. Where doubts arise regarding the rightful heirs, the PPATS is obliged to request complete supporting documentation before proceeding with the drafting of the deed. Such conduct constitutes the implementation of the prudential principle inherent in the office of the PPATS.^[17]

Field research findings also indicate that, in land practice, disputes over the sale of inherited land generally do not arise merely from administrative errors, but rather from the exclusion of certain heirs as joint right holders of the inheritance. Therefore, the PPATS bears a professional responsibility to ensure that no heir is disregarded in the process of transferring land rights, since such negligence has the potential to give rise to civil claims as well as future land disputes.^[18]

Conclusion

The legal liability of the Temporary Land Deed Official (PPATS) in drafting Sale and Purchase Deed Number 021 of 2018 is inherent in their authority as a public official, who is obliged to ensure the fulfillment of both formal and material requirements prior to execution. In this case, the PPATS bears responsibility for failing to secure the involvement and consent of all heirs as rightful holders of the inherited land, thereby producing a deed that did not meet the requisite legal conditions. For such negligence, the PPATS may be held accountable under statutory provisions, both administratively and civilly, if it is proven to have caused losses to the parties concerned

References

1. Akta jual beli Nomor 51/2020, tanggal 09 Juli 2020, dibuat dihadapan Muhammad Kamil Zuhri, S.STP., M.Si, PPATS berkedudukan di Kabupaten Aceh Besar, 2020, 1-6.
2. Akta jual beli Nomor 021/2018, tanggal 31 Agustus 2018, dibuat dihadapan Syarbini, MM., PPATS berkedudukan di Kabupaten Aceh Besar, 2018, 1-7.
3. Amiruddin, Asikin Z. "Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer." *Jurnal Gema Keadilan*, 2014, 263-280.
4. Santoso U. *Pejabat Pembuat Akta Tanah: Perspektif Regulasi, Wewenang, dan Sifat Akta*, Jakarta: Kencana, 2019, 52.

5. Subekti R. Pokok-Pokok Hukum Perdata, Jakarta: Intermasa, 2014, 95.
6. Adjie H. Hukum Notaris Indonesia: Tafsir Tematik terhadap UU Jabatan Notaris, Bandung: Refika Aditama, 2015, 88.
7. Subekti R. Hukum Perjanjian, Jakarta: Intermasa, 2010, 17.
8. Kelsen H. General Theory of Law and State, New York: Russell & Russell, 1961, 14.
9. Fuady M. Perbuatan Melawan Hukum: Pendekatan Kontemporer, Bandung: Citra Aditya Bakti, 2017, 23.
10. Hadjon PM. Pengantar Hukum Administrasi Indonesia, Yogyakarta: Gadjah Mada University Press, 2011, 130.
11. Adjie H. Hukum Notaris Indonesia, Bandung: Refika Aditama, 2015, 87.
12. Fuady M. Perbuatan Melawan Hukum, Bandung: Citra Aditya Bakti, 2017, 24.
13. Rahardjo S. Ilmu Hukum, Bandung: Citra Aditya Bakti, 2012, 54.
14. Munazir. Penata Pertanahan Pertama Kantor Pertanahan Kabupaten Aceh Besar, Interview, 2026.
15. Salihun M. salah satu ahli waris, Kabupaten Aceh Besar, Wawancara, 2026.
16. Safrida N. Penata Pertanahan Pertama Kantor Pertanahan Kota Banda Aceh, Interview, 2026.
17. Mukhtar J. PPAT Kabupaten Aceh Besar, Interview, 2026.
18. Syahputra NO. PPAT Kabupaten Aceh Besar, Interview, 2026.