

Legal Principles of the Process of Transferring Land Rights Using a Notarial Deed

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Abstract. A notarial deed, particularly the Sale and Purchase Binding Agreement (PPJB), remains a controversial instrument in the process of transferring land ownership rights. This phenomenon is commonly found in society, where many laypeople assume that a PPJB is sufficient to process the transfer of title (*balik nama*) of purchased land. In practice, however, issues may arise when the PPJB, especially those executed before a Notary, does not clearly stipulate the rights and obligations of the parties involved. This condition may lead to disputes, considering that the PPJB serves as a preliminary agreement and a reference for the Deed of Sale and Purchase (AJB) prepared by the Land Deed Official (PPAT), which is a formal requirement for the legal transfer of land rights. This research employs a descriptive-analytical approach using a normative legal method based on literature review. The objective of this study is to examine and demonstrate the legal principles concerning binding force and legal protection for parties engaged in a notarial PPJB, as part of the broader philosophy of legal order within the state.

Keywords: *Notarial Deed, PPJB, Land Rights Transfer, Legal Protection, Binding Force, AJB, PPAT.*

A. INTRODUCTION

The acquisition of land rights requires a clear legal process and mechanism, such as inheritance, grants, sale and purchase, and other lawful means. In the context of land transactions through sale and purchase, the process must be conducted before a Notary or Land Deed Official (PPAT) to ensure the legality of the transfer and its proper registration at the land office. This procedure aims to achieve legal certainty, as mandated by the Basic Agrarian Law (*Undang-Undang Pokok Agraria/UUPA*). Furthermore, land registration is specifically governed under Government Regulation No. 24 of 1997, which emphasizes that one of the primary objectives of land registration is to establish orderly land administration and legal certainty for rights holders (Lubis & Ramadhani, 2021).

In practice, land and/or building sale and purchase transactions are inseparable from contractual relationships, where parties bind themselves through agreements. According to Indonesian Civil Code, particularly Article 1457, a sale and purchase agreement is defined as an arrangement whereby one party commits to delivering an object, and the other agrees to pay the stipulated price. Such agreements give rise to reciprocal rights and obligations between the seller and the buyer (Larasati & Bakri, 2018). Additionally, the concept of a down payment (*panjar*) is recognized under Article 1454 of the Civil Code, which implies that once a down payment is made, the transaction cannot be unilaterally canceled, potentially creating legal complications if disputes arise in the future (Supriyadi, 2016).

Generally, the process of executing a land sale and purchase before a Notary/PPAT involves several stages, including tax payments by both parties, verification of the authenticity of land certificates, signing of the Sale and Purchase Deed (*Akta Jual Beli/AJB*), and administrative validation (Ramadintya & Badriyah, 2025). However, in many cases, the execution of the AJB is hindered by various factors, such as the unavailability of one party, the status of the land being used as collateral in a bank, or the ongoing process of land certificate subdivision. To address these obstacles, a preliminary agreement known as the

Sale and Purchase Binding Agreement (*Perjanjian Pengikatan Jual Beli/PPJB*) is often utilized. The PPJB serves as a binding agreement between the seller and the buyer prior to the formal execution of the AJB. Nevertheless, in practice, the use of PPJB frequently leads to legal disputes involving the parties or even the Notary/PPAT, given its nature as a preliminary contract (Alfiansyah, 2015).

This study aims to analyze the legal principles underlying the drafting of notarial PPJB as an initial instrument in the transfer of land rights. The research focuses on identifying key principles such as freedom of contract, consensualism, good faith, and legal certainty, which form the foundation for the preparation and implementation of PPJB. Understanding these principles is essential to evaluate the binding force of PPJB and its legal implications for the parties involved prior to the execution of the AJB by the PPAT.

In addition, this study examines the philosophical foundations of land ownership under the prevailing laws and regulations in Indonesia. The concept of land rights in Indonesian agrarian law reflects not only individual ownership but also a social function, as stipulated in the UUPA. Therefore, this research explores how the values of justice, utility, and legal certainty are embodied in land ownership regulations and how these values influence the practice of land rights transfer through PPJB in society.

B. METHOD

Research methodology refers to a systematic and structured way of scientific thinking aimed at achieving research objectives. According to Kartono (1995), research methodology functions as a guideline for organizing research steps in a logical manner. In line with this, Soekanto (2007) states that research methods are used to analyze and resolve legal problems systematically. This study employs a normative juridical method, which focuses on examining legal norms through library research. According to Marzuki (2011), normative legal research positions law as a system of norms analyzed through primary, secondary, and tertiary legal materials. This approach is further supported by Ibrahim (2006), who emphasizes that normative legal research aims to identify rules, principles, and legal doctrines in order to address legal issues. Therefore, this method is applied to analyze the legal principles underlying the Sale and Purchase Binding Agreement (PPJB) and the philosophy of land ownership within the Indonesian legal system.

C. RESULTS AND DISCUSSION

1. Legal Nature of Agreements and the Position of PPJB

An agreement constitutes a legal act in which one or more parties bind themselves to others, thereby creating reciprocal rights and obligations. In civil law doctrine, agreements are classified into several categories, including reciprocal and gratuitous agreements, named and unnamed agreements, material (*zakelijke*) and obligatoir agreements, as well as consensual and real agreements. These classifications reflect the diverse legal characteristics and functions of agreements within private law. In this context, the Sale and Purchase Binding Agreement (*Perjanjian Pengikatan Jual Beli/PPJB*) is categorized as an *obligatoir* agreement, meaning that it gives rise to binding obligations between the parties but does not, by itself, transfer ownership rights over the object concerned.

As a preliminary agreement, the PPJB serves to bridge the gap between the initial consensus of the parties and the execution of the principal contract, namely the Deed of Sale and Purchase (*Akta Jual Beli/AJB*), which must be executed before the Land Deed Official (PPAT). The PPJB is typically used when certain legal or administrative requirements for the execution of the AJB have not yet been fulfilled, such as incomplete payment, unresolved land certification processes, or the existence of encumbrances on the property. Therefore,

while the PPJB reflects the mutual consent of the parties and binds them contractually, it does not result in the juridical transfer of ownership rights.

The transfer of land rights under Indonesian law adheres to a dual requirement: a valid underlying agreement (*titel*) and a formal act of delivery (*levering*). In the context of land transactions, juridical delivery (*juridische levering*) is realized through the signing of the AJB before the PPAT and its subsequent registration at the land office, as regulated under Government Regulation No. 10 of 1961 and its subsequent developments. Without this formal process, no legal transfer of title can be recognized, even if the parties have entered into a PPJB or conducted physical handover of the property.

This distinction underscores a fundamental difference between PPJB and a sale and purchase agreement in its final form. While a fully executed sale and purchase agreement (through AJB) results in the immediate transfer of rights upon fulfillment of legal formalities, the PPJB merely establishes a promise or obligation to transfer rights in the future, contingent upon the satisfaction of agreed conditions. Consequently, the PPJB functions not only as a preparatory instrument but also as a legal safeguard that structures the parties' relationship, ensures commitment, and minimizes potential disputes prior to the completion of the formal transfer process.

2. Validity Requirements and Legal Framework of PPJB

The validity of a Sale and Purchase Binding Agreement (PPJB) is governed by the general requirements for contracts as stipulated in Indonesian Civil Code, namely: (i) consent of the parties, (ii) legal capacity to enter into an agreement, (iii) a specific and determinable object, and (iv) a lawful cause. These elements are doctrinally divided into subjective and objective requirements. The first two elements, consent and capacity, constitute subjective conditions; any defect in these elements (such as coercion, mistake, or fraud) renders the agreement voidable (*vernietigbaar*). Meanwhile, the latter two elements—certain object and lawful cause are objective conditions; failure to satisfy them results in the agreement being null and void (*nietig*), meaning it is deemed never to have legally existed.

Beyond these formal requirements, the validity and enforceability of PPJB are also closely linked to fundamental contractual principles, such as freedom of contract, consensualism, good faith, and legal certainty. In practice, this implies that the parties are free to determine the contents of the PPJB, provided that such provisions do not violate statutory regulations, morality, or public order. Consequently, a well-drafted PPJB typically contains detailed clauses governing payment terms, timelines, rights and obligations, default mechanisms, dispute resolution, and transitional arrangements toward the execution of the Deed of Sale and Purchase (AJB).

The regulatory framework governing PPJB has developed significantly, particularly in response to the growing complexity of property transactions. The legal basis for PPJB is formally recognized in Law No. 1 of 2011, which allows the use of preliminary agreements in housing transactions, especially in cases where construction or administrative processes are still ongoing. This framework is further strengthened by Supreme Court Circular No. 4 of 2016, which provides interpretative guidance for judges in resolving disputes related to PPJB, including conditions under which such agreements may be considered valid and enforceable.

In addition, Minister of Public Works Regulation No. 11 of 2019 introduces more detailed and technical provisions regarding PPJB in the housing sector. This regulation sets out minimum requirements for PPJB, including the clarity of object specifications, payment schemes, construction progress, delivery timelines, and guarantees provided by developers. It also aims to enhance consumer protection by ensuring transparency and accountability in

property transactions involving developers and buyers.

Taken together, these legal instruments confirm that PPJB is not merely a private contractual arrangement but a legally recognized mechanism designed to facilitate transactions prior to the fulfillment of formal requirements for AJB. Its existence provides a structured legal pathway that balances flexibility in contractual arrangements with the need for legal certainty and protection for all parties involved.

3. Types of PPJB and Practical Implementation

In practice, the Sale and Purchase Binding Agreement (PPJB) is generally classified into two types: fully paid (PPJB *lunas*) and partially paid (PPJB *tidak lunas*), each carrying distinct legal implications. A fully paid PPJB typically arises when the buyer has fulfilled the entire payment obligation, and therefore it is commonly accompanied by an irrevocable power of attorney clause. This clause is intended to secure the buyer's position by granting authority to complete the transfer process, including the execution of the Deed of Sale and Purchase (AJB), even under circumstances such as the absence or death of one of the parties. In contrast, a partially paid PPJB reflects a situation where the buyer's payment obligations have not yet been fully satisfied. Accordingly, this type of PPJB usually contains detailed provisions on payment schedules, penalties, and cancellation clauses to anticipate potential default, such as failure to complete payments within the agreed timeframe.

From an institutional perspective, the authority to draft a PPJB lies with a Notary, while the AJB must be executed before the Land Deed Official (PPAT) as the competent authority for transferring land rights. Both PPJB and AJB are categorized as authentic deeds, which means they possess strong evidentiary value and are deemed legally valid unless proven otherwise in court. This evidentiary strength underscores their importance in ensuring legal certainty and protection for the parties involved.

Furthermore, the preparation of a PPJB is fundamentally guided by the principle of freedom of contract, as reflected in Indonesian Civil Code. This principle grants parties the autonomy to determine the substance and structure of their agreement according to their mutual interests. However, such freedom is not absolute; it is limited by the requirement that the contents of the agreement must not contravene applicable laws, morality, or public order. Therefore, a properly drafted PPJB not only reflects the intentions of the parties but also serves as a balanced legal instrument that accommodates their respective rights and obligations while maintaining compliance with the broader legal framework.

4. Legal Protection for Parties in PPJB

Legal protection within a Sale and Purchase Binding Agreement (PPJB) derives both from its status as an authentic deed and from the binding contractual obligations it creates between the parties. As an authentic deed executed before a Notary, the PPJB possesses strong evidentiary value, thereby providing a solid legal foundation for the enforcement of rights and obligations. From the seller's perspective, legal protection is generally reflected in clauses that require the buyer to fulfill payment obligations within a specified timeframe, often accompanied by penalty and cancellation provisions in the event of default. Conversely, from the buyer's perspective, protection is typically ensured through the inclusion of irrevocable power of attorney clauses, as well as provisions for compensation or damages in cases where the seller fails to meet their obligations (Lestari & Darmadha, 2018; Dewi, Priyanto, & Sarna, 2016).

Furthermore, the binding force of PPJB is firmly rooted in the principle of *pacta sunt servanda* as stipulated in Indonesian Civil Code, which affirms that agreements lawfully entered into shall bind the parties as if they were law. This principle not only emphasizes the

obligatory nature of contractual commitments but also reinforces the requirement of good faith (*itikad baik*) in their performance. As such, PPJB serves as a legal instrument that ensures predictability, accountability, and fairness in the contractual relationship.

However, despite its strong legal standing, disputes in the implementation of PPJB are not uncommon. Such disputes may arise from various factors, including the buyer's failure to complete payment, non-fulfillment of tax obligations by either party, or delays in completing land documentation necessary for the execution of the Deed of Sale and Purchase (AJB). In these circumstances, the PPJB plays a crucial role as a reference point for determining the rights and obligations of the parties, as well as providing a legal basis for claims, including demands for compensation or enforcement of contractual terms.

5. The Role and Benefits of PPJB as a Preliminary Agreement

The Sale and Purchase Binding Agreement (PPJB) plays a crucial role as a temporary yet binding legal instrument that bridges the gap between the initial agreement of the parties and the final execution of the Deed of Sale and Purchase (AJB). Its use becomes particularly relevant when administrative and legal requirements for the AJB have not yet been fulfilled. Such requirements may include land certificate verification, subdivision of land titles, removal of encumbrances (*roya*), tax settlement, and other procedures administered through the land office by the Land Deed Official (PPAT). In this context, the PPJB functions as a legal safeguard that maintains the commitment of both parties while these processes are being completed.

From a practical standpoint, the PPJB offers significant advantages to both buyers and sellers. For buyers, it provides a degree of legal certainty and assurance that their intention to acquire the property is formally recognized, even though the transfer of ownership has not yet occurred. It also protects their position during the interim period, especially when payment has been partially or fully made. For sellers or developers, the PPJB serves as concrete evidence of the buyer's commitment, often supported by down payment arrangements, thereby reducing transactional risk and enhancing financial planning. As such, the PPJB facilitates smoother and more structured transactions by regulating the rights and obligations of the parties prior to the formal transfer of ownership.

In essence, although the PPJB does not directly result in the transfer of ownership rights, it plays a vital role in promoting legal certainty, safeguarding the interests of the parties, and ensuring the orderly progression of land transactions. Its existence reflects the practical necessity for a flexible yet legally binding mechanism within Indonesia's land law system, particularly in situations where the immediate execution of the AJB is not feasible due to administrative, legal, or technical constraints.

D. CONCLUSION

The legal force of the Sale and Purchase Binding Agreement (PPJB) is fundamentally grounded in the principle of *pacta sunt servanda* as stipulated in Indonesian Civil Code, which affirms that legally concluded agreements are binding upon the parties as law. In addition, the existence and implementation of PPJB are supported by a clear legal framework, including Law No. 1 of 2011, Supreme Court Circular No. 4 of 2016, and Minister of Public Works Regulation No. 11 of 2019. These regulations collectively legitimize the use of PPJB as a preliminary agreement prior to the execution of the Deed of Sale and Purchase (AJB), provided that the stipulated legal requirements are fulfilled.

Furthermore, the effectiveness of legal protection for the parties involved in a PPJB largely depends on the substance of the agreement itself. A well-drafted PPJB must clearly regulate the rights and obligations of each party, as well as include essential clauses that

anticipate potential disputes, thereby ensuring legal certainty and protection.

Finally, PPJB offers practical benefits for both parties, as it serves as a formal indication of commitment and good faith in conducting a transaction. It facilitates the transition process toward the AJB by providing a binding legal framework during the interim period. Thus, despite its nature as a preliminary agreement, PPJB plays a crucial role in supporting the orderly, secure, and legally certain transfer of land rights.

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