

Juridical Analysis of the Legal Consequences of Fraud in the Sale and Purchase of Uncertified Land

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Abstract

Land that does not have a certificate often raises legal problems because there is no authentic evidence that guarantees the certainty of ownership rights. This opens up space for fraud to occur in the form of double buying and selling, falsification of documents, or unilateral recognition of ownership. The research method used is a normative juridical approach by examining applicable laws and regulations, legal doctrines, and related court decisions. The results of the study show that the legal consequences of fraud in the sale and purchase of uncertified land not only cause material losses to victims, but also have an impact on legal certainty and public order. The perpetrator can be subject to criminal sanctions according to the provisions of Article 378 of the Criminal Code regarding fraud, while from a civil law perspective, the transaction can be canceled for the sake of the law and incur an obligation to compensate. Thus, strengthening regulations and public legal awareness regarding the importance of land certificates is a preventive step to minimize fraud in the sale and purchase of land.

Keywords: Legal Consequences, Fraud, Sale and Purchase, Land and Certificates.

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Introduction

The problem of land is an important issue in society because land has very high economic, social, and cultural value. Land is not only seen as an economic asset, but also as an identity and symbol of a family's survival. However, the high need of the community for land is not balanced with legal certainty in its ownership. This is especially true for land that has not been certified, so it is vulnerable to causing various legal problems, including fraud in buying and selling.

Buying and selling land is a form of transfer of rights regulated in agrarian law. Ideally, this sale and purchase should be carried out based on clear legal rules with proof of ownership in the form of a valid land certificate. Land certificates are considered authentic evidence that provides legal certainty to the owner. However, the reality is that there are still many lands that have not been certified, so the sale and purchase transactions are only carried out with simple evidence such as receipts or deeds under hand (Santoso, 2012).

This opens a gap for fraud crimes. Perpetrators often take advantage of the buyer's ignorance or urgent needs by offering land that has not been certified, and often the land is sold twice. This mode clearly causes great losses for the buyer, both materially and immaterially, because they lose money and do not acquire legal land rights.

From a civil law point of view, land purchase and purchase transactions that have not been certified can still be carried out as long as they meet the requirements for the validity of the agreement as stipulated in Article 1320 of the Civil Code. However, if the seller deliberately conceals the legal status of the land or provides false information about ownership, then it not only causes default but can also qualify as fraud according to the Criminal Code.

In judicial practice, many court decisions ensnare perpetrators of land purchase and sale fraud under Article 378 of the Criminal Code. The judge considered that there was an element of deception when the perpetrator stated that the land was legally his, even though the documents he owned were invalid or still in dispute. Thus, law enforcement serves to provide protection for the aggrieved party in land transactions.

From a legal point of view, fraud in the sale and purchase of uncertified land is an unlawful act that can be acted upon based on criminal and civil provisions. Article 378 of the Criminal Code stipulates that anyone with the intention of unlawfully benefiting himself or others by using deception, a series of lies, or a false name, can be convicted of fraud (Sumardjono, 2008).

In addition to criminal sanctions, the legal consequences of land buying and selling fraud also include civil aspects. Transactions that contain fraud can be legally cancelled due to a defect in will. Victims of fraud have the right to demand the cancellation of the agreement and demand compensation for the losses suffered. This is in line with the provisions of Article 1321 of the Civil Code which states that an agreement becomes invalid if it is made due to fraud.

Problems will arise when the land being traded turns out to be included in a ownership dispute or is on state land. This has wider legal implications because it concerns legal certainty and public order. Land disputes that originate from fraud not only impact individuals, but can also trigger horizontal conflicts between citizens.

Sebagaimana pada kasus yang terjadi di Batam berdasarkan Putusan Nomor 270/Pid.B/2022/PN. Btm, terhadap Terdakwa yang dinyatakan terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana penipuan sebagaimana diatur dalam Pasal 378 KUHP. Majelis hakim dalam amar putusannya menjatuhkan pidana penjara selama 3 tahun kepada terdakwa.

In the case, the defendant on behalf of Safriyon committed fraud related to the sale and purchase of uncertified land. The defendant offered the land to the victim by claiming that he had the right to the land, even though the land did not have an official certificate and the ownership status was unclear. The victim who believed the defendant's statement then made

the payment, but later it was found that the land did not belong to the defendant and could not be transferred to the victim.

The importance of this paper is analyzed, which aims to provide an understanding for the public of the importance of conducting land transactions in accordance with legal provisions, especially through the certification process. Public legal awareness is the key to preventing fraud, because without prudence, the chances of crime in buying and selling land will be greater.

From the above background description, what is the problem and will be the subject of analysis is how is the juridical analysis of the legal consequences of fraud in the sale and purchase of uncertified land?

Research Methodology

3.1 Types of Research

The type of research used is normative juridical research, which is research that refers to legal norms contained in laws and regulations and legal norms in society (Amiruddin & Asikin, 2018).

3.2 Data Collection Methods

Because this research is a normative juridical research, the data collection method used is by literature study (Library Research) and document study. The literature study in this study is to find theoretical foundations and research problems.

Results

4.1 Juridical Analysis of the Legal Consequences of Fraud in the Sale and Purchase of Uncertified Land

The form of the Criminal Code Bill is a reform of the criminal law in a systematic manner, the reform is an effort to realize the ideals of the law, so it can be said that the Criminal Code Bill is a manifestation of the Indonesian personality. The orientation of law reform is not only to improve the law, but to replace the law for the better, so that the Criminal Code Bill does not only make changes that are considered necessary to be independent of the legal paradigm of the colonial legacy. Legal reform can be used as a basis to determine the direction of the formation of the nation's character, the form of legal reform is a real condition towards ideal conditions, so that the Criminal Code Bill is a method to carry out social and cultural transformation in a planned manner (Gemilang & Ismaidar, 2024).

In the view of social science, crime is defined as a social phenomenon born in structural injustice or the manifestation of the diversity of human behavior which is reactions to the conditions of the socioeconomic social class of a person or community group. Regardless of where they come from, people who are in weak economic conditions and are pressed for the necessities of life, plus a lack of faith, tend to think short-sightedly. It can be said that it will legalize all the ways in which his life needs can be met (Rahmayanti, 2023).

Land that does not have a certificate creates legal uncertainty, so the transaction is based only on a unilateral acknowledgment or documents under hand. This condition opens up space for sellers to commit tricks, such as selling land that does not belong to them or making double sales.

Fraud in the sale and purchase of uncertified land can be subject to Article 378 of the Criminal Code. The elements of deception, namely the existence of deception, a series of lies, and the intention to benefit oneself unlawfully, are generally fulfilled in this case. This confirms that sellers who deliberately provide false information to buyers can be punished with the threat of imprisonment.

However, the consequences of the law do not only stop at the criminal realm, but also have an impact on the civil realm. Sale and purchase agreements made based on fraud contain a defect in will so that they can be canceled for the sake of the law. Article 1321 of the Civil

Code emphasizes that there is no valid consent if it is given due to fraud. Thus, the buyer has the right to apply for the cancellation of the agreement and demand a refund of the damages.

The law cannot follow the change of cultural values in society, but the law will continue to develop if it follows the changes and developments of the culture embraced by the community (Siregar, 2024). As in the case that occurred in Batam based on Decision Number 270/Pid.B/2022/PN. Btm, against the Defendant who is legally and convincingly proven guilty of committing the crime of fraud as stipulated in Article 378 of the Criminal Code. The panel of judges in its verdict sentenced the defendant to 3 years in prison.

One of the main reasons why land is not certified is because of the certification process which is considered complicated and expensive by the community. Economic and bureaucratic factors are obstacles in exercising the constitutional right to legal certainty of land ownership. In fact, the state is obliged to provide access to land legality as part of social justice for all Indonesian people (Erawati, 2020).

The Supreme Court in several of its rulings has emphasized that land transactions without certificates do not remove criminal liability if there is an element of fraud. For example, in the Supreme Court Decision Number 2075 K/Pid/2006, the perpetrator was sentenced to sell land that did not belong to him with false documents. This ruling is an important jurisprudence to uphold legal certainty.

As in the case of Decision Number 270/Pid.B/2022/PN.Btm with the defendant on behalf of Safriyon and the date of the decision on August 22, 2022 with the Batam District Court's decision, namely the defendant was legally and convincingly proven guilty of committing the crime of fraud as stipulated in Article 378 of the Criminal Code (KUHP). The Panel of Judges sentenced the defendant to 3 (three) years in prison.

In case Number 270/Pid.B/2022/PN.Btm, the defendant on behalf of Safriyon committed fraud related to uncertified land purchase and sale transactions. The defendant offered the land to the victim by claiming that he had the right to the land, even though the land did not have an official certificate and the ownership status was unclear. The victim who believed the defendant's statement then made the payment, but later it was found that the land did not belong to the defendant and could not be transferred to the victim.

The Panel of Judges considered that the defendant's actions had fulfilled the elements of the criminal act of fraud, namely deliberately using deception or lies to benefit themselves illegally. Decision Number 270/Pid.B/2022/PN.Btm emphasizes that land buying and selling transactions without clear ownership status and without an official certificate can be categorized as a criminal act of fraud.

From the case of Decision Number 270/Pid.B/2022/PN.Btm, in legal considerations, the judge generally describes the evidence that shows the existence of bad intentions from the perpetrator. For example, there is evidence that the perpetrator is not the rightful owner of the land or sold the same land to more than one party. This is the main basis for proving the existence of deception. The court decision that imposes a criminal sentence on the perpetrator shows that the criminal law serves to provide a deterrent effect while protecting the community.

As in the case of Decision Number 270/Pid.B/2022/PN.Btm which was previously explained, the case shows that victims of land fraud are often reluctant to bring cases to the legal realm for fear of severing social ties or experiencing stigma in their environment. As a result, many cases are actually resolved through non-formal mechanisms, such as customary mediation or family agreements. Only after the losses were even greater was the case brought to court. This shows the big role of social norms in determining dispute resolution patterns.

The reason for the parties to bring disputes that occur to be resolved through deliberation or without going through court/non-litigation as a way or alternative to reach consensus or deliberation that is considered effective and efficient and the result is a *win-win solution* for the parties, while settlement through litigation or court there is a losing and winning party so that it causes unsatisfactory results for the losing party (Siregar et al., 2023).

The Indonesian Criminal Law System has entered a new chapter in its development, one of the forms of reform in Indonesian criminal law is the regulation of criminal law in the perspective and achievement of justice to the improvement and restoration of circumstances after the events and processes of criminal justice known as restorative justice (*Restorative Justice*) which is different from retributive justice (emphasizing justice in retribution) and retributive justice (emphasizing justice in reparations) (Meliala et al., 2024).

The main goal of restorative justice is the repair or compensation of the losses suffered by the victim, the recognition of the perpetrator of the feelings suffered by the community as a result of the perpetrator for his actions, reconciliation and reconciliation of the perpetrator, the victim and the community (Ramadhani, 2023).

Conclusion

Fraud in the sale and purchase of uncertified land has broad legal consequences, both in the criminal and civil realms. From the criminal aspect, the actions of sellers who deliberately use tricks or a series of lies meet the elements of Article 378 of the Criminal Code, so that the perpetrators can be sentenced to criminal sanctions. Meanwhile, from the civil side, an agreement that contains elements of fraud is considered null and void due to a defect in will as stipulated in Article 1321 of the Civil Code, so the victim has the right to demand the cancellation of the agreement and obtain compensation. This shows that law enforcement in the case is not only oriented towards sanctioning, but also on restoring victims' rights.

In addition, legal uncertainty arising from the sale and purchase of land without a certificate has the potential to cause ownership disputes and social conflicts in the community. The absence of certificates as authentic proof of land ownership makes transactions vulnerable to fraud and detrimental to various parties.

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