

Due to Legal Cancellation Agreement Trading Land (A Case Study: Of Decisions No. 192 / Pdt .G 2013 / PN.Pdg)

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Abstract: Case of cancellation of land sale agreement Number 192 / Pdt. G / 2013 / PN.Pdg was caused because there was a Breach Of Contract made by Defendant I over the sale and purchase of land which at the end of this ruling was canceled so that there was a claim from the Plaintiff in the defendant that must be carried out based on the judge's decision that has permanent legal force. The problems in this study are 1) What is the background of the case Number 192 / Pdt.G / 2013 / PN.Pdg. 2) How Judges Consideration of the case Number 192 / Pdt. G / 2013 / PN.Pdg. 3) What is the Legal Impact of Cancellation of the Land Sale and Purchase Agreement for the parties. The research method is empirical juridical law, descriptive research, types and sources of data, namely secondary and primary data. From the results of the research on the background of the emergence of a case, there was a broken promise made by the defendant on the repayment of payment for the sale and purchase of land on the basis of a debt acknowledgment letter that was legalized by a Notary, in which the first Notary was named Defendant II. By breaking the promise, a new agreement is made with the second Notary as Defendant III which contains the refund. Besides that, this second Notary keeps a certificate of Ownership. Within the agreed period the Plaintiff has submitted the money to the Notary, namely Defendant III to be returned to Defendant I, but Defendant I will not accept, because of this attitude the Plaintiff finally filed the case with the Padang District Court. Furthermore, the judge's consideration of this case is based on written evidence and witness witnesses that have been raised by the plaintiff and the defendant, the evidence presented at the hearing. And the last legal consequence of the cancellation of this land sale agreement is that all agreements in the sale and purchase agreement are canceled and the defendant is required to fulfill all claims filed by the Plaintiff to the Court, in other words the judge of the Padang District Court wins the Plaintiff for the Case submitted.

Key Words: Agreement, Breach of Contract , debts and receivables.

1. INTRODUCTION:

The responsibility and authority a notary and ppat closely linked to agreements , deeds and also over to statutes that give rise to rights and obligations between the parties , namely providing a guarantee or evidence any of all that , of the purchase agreement and also the command of so of parties who have involved in this legal certainty. [1]

See frequent case strife associated trading land , where frequent disputes that causes loss to one party to the point where a lawsuit go to court to look for justice .As in the case with the city in matters of no.192 / pdt.g / 2013 / pn.pdg there is a problem that is a piece of land sold by H .Comfortable and paid settled by the plaintiff that initialed SU on march 9 1996. Then the land was by the plaintiff had been received solutions to the land office Padang. The plaintiff are willing to sell for 2 land parcels Rp.40.000.000, - to initialed defendant I RT and RA them husband and wife which first defendant to pay, as many as new Rp.15.000.000 -.Rp.25.000.000, so the rest - will be paid on 4 may on 1996.Made and confession as signing debt on april 1, 1996 The plaintiff also sign the deed buying and selling empty at the office a notary second defendant who initialed hf with left certificates of ownership no. 3083. second defendant in the office. To maturity promised, first defendant cannot pay the remaining payments of Rp.25.000.000, land - and second defendant cannot was doing. To deal with these problems , then the defendant I.b (RA) agreed to make a deal the cancel blanko certificate trading empty ever sign the plaintiff. As in an agreement dated 7 july 2000 verified by by a notary third defendant initialed, ice that money that has been accepted by the plaintiff from first defendant agreed and agreed to be returned by the plaintiff to the defendant I of Rp.33.000.000,-.

The plaintiff returned the money by Rp.33.000.000, - to, first defendant but according to, third defendant first defendant might not receive refunds of the plaintiff. It is then that the plaintiff you through the district court, apparently after the bailiff meet first defendant april 23th, 2008 on the first defendant fixed not taking the refunds because first defendant have no relationship law with the plaintiff except with H. Nyaman.At the request of the district court clerk, return the money returned to the plaintiff. As a result certificates the right belonging to No.6340 belonging to the plaintiff restrained in third defendant , and agreement trading ever made to defendant II had been does not apply . So are blanko

trading certificate empty has been signed also not legal and not to have effect law because there is no what trading. As a result the plaintiff was very harmful because they cannot done law because certificate land belonging to the plaintiff themselves because his certificate restrained in third defendant.

Information from the above that there is a problem of breach of contract set in article 1234 Indonesian Civil Code. In this case the first defendant, failed to fulfill his obligations he did not pay off debts previously described in the confession debt 1st april 1996, made with the plaintiff I and the defendant II would not accept the repayment of money given by the plaintiff.

Based on the background on hence writers motivated to research and writing deeper and raised issues on a notarial deed and the authority of a magistrate in the problem on a notarial deed of the thesis titled “**Due To Legal Cancellation Agreement Trading Land (A Case Study: Of Decisions No. 192 / Pdt.G 2013 / PN.Pdg)**”.

2. CONCEPTUAL FRAMEWORK:

- Notary/Conveyancer

A notary public was an official authorized to make an authentic deed and authority as referred to in this law other.

- Agreement

According to subekti agreement is an event in which a promised another or where the two have promised to do something. [2]

- Deed

As for the definition of deed is a letter.

- Buy and Sell

Buying and selling is an agreement by which one party binds itself to give up ownership rights to an item and the other party to pay the price promised, promised by one party (the seller), submit or transfer ownership rights to the goods offered, while those promised by the other party pay the price agreed to.

3. LITERATURE REVIEW:

The formulation of the agreement in Article 1313 of the Civil Code above received a lot of criticism from several experts, because it felt incomplete, meaning that there were several weaknesses.

The agreement formulation is supposed to be a legal action by which one person or more ties himself and / or binds himself to implement something that creates a legal effect in the form of a legal relationship between the parties.[3] Default is a term that refers to a performance failure by a debtor. [4] If achievement is not fulfilled as Article 1234 of the Civil Code is called default. Default according to Abdul Kadir Muhammad is not fulfilling the obligations set out in an agreement, whether the agreement arises from the agreement or the agreement arising from the law. The sale and purchase binding agreement made before a notary is an authentic deed, so that the Sale and Purchase Deed is an authentic deed that has perfect proof power.

Binding is intended as a preliminary agreement from the main intention of the parties to make a transfer of land rights. This binding sale and purchase contains promises to buy and sell land if the requirements needed for that have been fulfilled.[5]

The binding deed of sale and purchase of land is made in the form of an authentic deed made before this Notary in order to provide protection and legal certainty for the parties who make it. Because the notary in making the deed is impartial and takes care of the interests of the parties objectively. With the help of a notary, the parties who make a binding sale and purchase agreement will get help in formulating the things that will be agreed upon, but an agreement cannot always run in accordance with the agreement desired by the parties. In certain conditions various things can be found, which results in an agreement experiencing a cancellation, either cancelled by the parties or by court order.[6]

4. METHODS:

An approach to a problem that is used in this research was legal information about nature of the decrees issued empirical one who lays stress on the reality in the field to be associated with the legal aspects or act which is valid for five pertaining to with the object the research which is discussed and see law norm and order were pretty good with the bad and have joined with reality or facts that was found in the community.

This research is descriptive namely research which gives you the about a state of being or social symptoms that develops in the midst of society hopefully with a research is expected can obtain a whole description, complete and systematic about the object to be in minutely.[7]

A theory that used in writing this research is a theory of legal certainty for them and the theory of the protection of the law. The type and of the source of data will be used for the this is a material the members of primary law, a material of wool or secondary law, and as materials for law tertiary by the support of the technique of data collection in the form of the study of literature that that is synthesised in a qualitative manner.

5. DISCUSSION:

Background to Case Number 192/Pdt.G/2013/PN.Pdg.

From the results of the study relating to the case Number 192 / Pdt.G / 2013 / PN.Pdg in the IA Padang District Court, the case occurred because of the Default conducted by Defendant I to the Plaintiff.

With the chronology, that is:

- a. Initially they entered into a land sale and purchase agreement so as to make the payment of the Debt Recognition Letter dated 01 April 1996 legalized by the HF Notary Number 2021 / L-1996. At the same time as the Debt Recognition Letter, the plaintiff also signed a blank Buy and Sell Deed on the Case Object. In the sense that there is no Deed of Sale and Purchase on Land.
- b. Based on the Debt Recognition Letter for a predetermined period of time, Defendant I was unable to settle the remaining land purchase, finally they agreed to cancel the agreement. And make a new agreement that the agreement is canceled and Defendant I must be willing to receive a refund from the Defendant, but the Defendant I does not want to accept it for various reasons. So that the Plaintiff sued him to the Court for having defaulted.

6. ANALYSIS:

A. Consideration of Judges Against Case Number 192/Pdt.G/2013/PN.Pdg

General guidelines for judges in dividing the burden of proof as contained in article 163 HIR / 283 Rbg on the basis of evidence which states that; "Anyone who claims to have something right or calls a participant to confirm his rights, or to deny the rights of others must prove the existence of that right or incident".

Therefore, the plaintiff is obliged to prove the arguments of the claim. The proof of the letter and the statement of the witnesses of the Plaintiff at the hearing were:

- a. Written evidence,
- b. Witness.

Judges' considerations are based on evidence at the time of proceedings in the trial so that the judge can make legal considerations (rechtsgronden) which will determine the value of a judge's decision. The judge's consideration must be addressed carefully, well and carefully.

B. Legal Effects of Cancellation of Land Purchase Agreements for Parties

The legal consequence of canceling the sale and purchase agreement in this case is based on the judge's consideration, namely the default made by the defendant because it does not fulfill what is the subject of the agreement. The cancellation of an agreement is because one of the parties canceled it due to the negligence of the defendant to carry out the contents of the agreed agreement as contained in the Debt Recognition Letter signed by both parties. As a result of this negligence, the goal of what was agreed was not achieved, so that the name of the certificate was not reversed. However, from this case of buying and selling, it was directed at the implementation of Article 1266, the cancellation requirement of this agreement was urged by the judge's decision to cancel the agreement. This is because the defendant refused to accept the plaintiff's refund of the agreed upon amount of the refund. By not receiving the refund of money from the Plaintiff so that the Certificate that is already in the Notary cannot be returned to the plaintiff. Therefore, with the decision of the judge it will have permanent legal force and the agreement is canceled and the defendant must carry out the contents of the decision. And all agreements agreed upon by the parties can be canceled.

7. CONCLUSION:

- Disputes with Case Number 192 / Pdt.G / 2013 / PN.Pdg occur because of the Default conducted by Defendant I to the Plaintiff. With the chronology, namely:
 - a. At first they entered into a land sale and purchase agreement so that the payment of the Debt Recognition Letter dated 01 April 1996 was legalized by the HF Notary Number 2021 / L-1996. At the same time as the Debt Recognition Letter, the plaintiff also signed a blank Sale and Purchase Act on the Object Case. In the sense that there is no Deed of Sale and Purchase on Land.
 - b. Based on the Debt Recognition Letter for a predetermined period of time, Defendant I was unable to settle the remaining land purchase, finally they agreed to cancel the agreement.
 - c. And make a new agreement that the agreement is canceled and Defendant I must be willing to receive a refund from the Defendant, but the Defendant I does not want to accept it for various reasons. So that the Plaintiff sued him to the Court for having defaulted.

- Judge's Consideration of Case Number 192 / Pdt.G / 2013 / PN.Pdg which is in the ruling of the Judge wins the Plaintiff, which is based on evidence at the time of proceedings so the judge can make legal considerations (rechtsgronden) which will determine the value of a decision the judge. The Plaintiff has evidence in the form of letters and 3 Witnesses who have testified about the events and circumstances of the object of the case, and the Defendant presented evidence of his arguments. Based on the arguments of the Plaintiff's claim and related to the facts at the trial as above, the Panel of Judges concluded that the Plaintiffs and Defendants both acknowledged and did not deny the fact. the judge's consideration is based on the Civil Code in Article 1238, article 1239, and article 1243 which is a legal source for the occurrence of Default.
- Legal Effects of Cancellation of Land Purchase Agreement after a court decision, for the Plaintiff, namely that the plaintiff feels aggrieved for the actions of the defendant who did not repay the debt and does not accept the refund given by the plaintiff so that the plaintiff cannot do law. Whereas the result is that the defendants, namely Defendant I must be willing to accept the refund given by the plaintiff and the land purchase agreement between them is null and void by law, for Defendant III must submit the certificate of ownership of Ownership Right No. 6340/2007 to the plaintiff, and then the defendants must pay the court fees at the trial. And with the cancellation of this sale and purchase agreement, there are rights and obligations that must be fulfilled and resolved by the parties involved in the matter of the Case.

8. SUGGESTIONS:

- It is better that both parties obey everything that has been agreed upon in the agreement that has been made so that the dispute does not occur which results in a claim to the court which ultimately results in the cancellation of the Agreement.
- If a dispute arises from an agreement, it should be resolved by deliberation between the parties, or by mediation so that the case does not reach the Court.
- It is recommended that a Notary in making an authentic deed not try to do an act that is contrary to the law, because not only can the deed be canceled or null and void by law. Even worse, the Notary itself will occur as well as the defendant in a civil case, and can also be prosecuted criminal if the blank deed is misused by the parties.

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