

LEGAL PROTECTION OF GOOD FAITH BUYERS IN RESOLUTION OF LAND RIGHTS DISPUTES

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ABSTRACT

This research was carried out to determine and analyze legal protection for buyers in good faith in resolving land rights disputes. To achieve the research objectives, a document study has been carried out on the Decision of the Makassar District Court Number: 318/Pdt.G/BTH/2014, with three approaches, namely the conceptual approach, legislation and legal objectives. The research results show that in his legal considerations the judge stated that if the land sale and purchase transaction does not fulfill the "halal cause" element in accordance with the provisions of Article 1320 paragraph (4) of the Civil Code, then the buyer cannot be categorized as a buyer in good faith and therefore does not receive legal protection. The judge's consideration was seen as wrong because it did not take into account the element of the buyer's ignorance of the existence of hidden defects in the object of sale and purchase, that the object of sale and purchase was in the status of "dispute and court confiscation".

KEYWORDS *Legal Protection, Good Faith, Land Rights, Land Certificate*



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INTRODUCTION

Article 3 of Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter referred to as PP 24/1997) states that land registration aims to (a) provide legal certainty and protection to the holder of rights over a land plot, condominium unit, and other registered rights so that they can easily prove themselves as the rightful holders; (b) provide information to interested parties, including the government, to easily obtain the necessary data for legal actions regarding land plots and registered condominium units; (c) ensure the orderly administration of land (Fajar & Achmad, 2017).

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From the stated objectives, it is clear that land registration has three main functions: the function of legal certainty and protection, the function of information, and the function of administration. These three functions are explicitly stated in Article 4 of the Land Registration Regulation, namely (1) to provide legal certainty and protection as intended in Article 3 letter a, a land certificate is issued to the respective rights holder; (2) to implement the information function as intended in Article 3 letter b, physical and juridical data of registered land plots and condominium units are open to the public; (3) to achieve administrative order as intended in Article 3 letter c, every land plot and condominium unit, including transfers, encumbrances, and the cancellation of rights over land plots and ownership rights over condominium units, must be registered (P. M. Marzuki & Sh, 2020).

Although it is stated that the land certificate is evidence of land ownership aimed at providing certainty and legal protection to the rights holder, the function of legal certainty and protection is relative because the certificate can still be revoked even if the certificate holder is a bona fide buyer. This indicates that the land registration publication system in Indonesia is fundamentally negative (Nasution, n.d.).

One of the reasons for canceling a land certificate is the existence of a legally binding court decision. The court decision referred to here is a court decision whose ruling includes, among others, "the sale and purchase agreement for land is declared invalid or not binding." In this context, bona fide buyers are severely disadvantaged due to the lack of legal certainty and protection for land certificate holders who acquire land in good faith ("Kitab Undang-Undang Hukum Perdata," n.d.).

This research is focused on two main questions. First, how is the concept of legal protection for buyers with good intentions in the perspective of Civil Law? Second, how do judges consider buyers with good intentions in resolving land rights disputes? The purpose of this research is to investigate and analyze the concept of legal protection for bona fide buyers from the perspective of Civil Law, and to understand the judge's considerations in resolving land rights disputes involving bona fide buyers.

Based on the above description, the author is motivated to conduct research on Legal Protection for Bona Fide Buyers in the Settlement of Land Rights Disputes.

RESEARCH METHOD

This research is normative in nature, viewing law as a normative system that encompasses principles, legal provisions, and court decisions. Its objective is to provide legal considerations as a basis for determining the right or wrong of an event and how the event should be carried out in accordance with the law (Butarbutar, 2023). The analysis of legal materials is conducted through three approaches: (a) conceptual approach, (b) statutory approach, and (c) legal purposes approach. The legal materials used consist of primary legal materials in the form of legislation, including (a) the Civil Code, (b) Law Number 5 of 1960 concerning Basic Agrarian Principles, (c) Government Regulation Number 24 of 1997 concerning Land Registration, (d) Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Condominiums, and Land Registration, and (e) other legislation in the field of agrarian (Nasution & Nasutio, 2022). Secondary Legal Protection of Good Faith Buyers in Resolution of Land Rights Disputes

legal materials used include various textbooks, scientific journals, and court decisions, especially the District Court Decision in Makassar Number 318/Pdt.g/bth/2014.

The collection of legal materials is carried out through document/library studies, involving reading, copying, and downloading legal documents needed from official websites such as BPN (National Land Agency), Kemenkumham (Ministry of Law and Human Rights), and the Supreme Court. Legal materials are categorized based on their types and levels and systematically arranged according to their relevance. The analysis of legal materials is conducted qualitatively by examining court decisions, critiquing the considerations and verdicts of judges through conceptual, statutory, and legal purposes approaches (Efendi et al., 2016).

RESULT AND DISCUSSION

Legal Protection of Good Faith Buyers in Civil Law Perspective

The description of problems related to the formulation of the first problem is carried out with a conceptual and statutory approach. The subject matter is divided into 2 subsubjects, namely the concept of legal protection and the concept of good faith.

The concept of legal protection

According to the Big Indonesian Dictionary, the word "perlindungan" comes from the root word "lindung," which means being in a safe place to be protected. The term "perlindungan" refers to the act of protecting, while "memperindungi" itself means to make or cause protection. Constitutionally, there are two articles related to legal protection, namely Article 28D paragraph (1) and Article 28H paragraph (4) of the 1945 Constitution.

Article 28D paragraph (1) of the 1945 Constitution states that everyone has the right to recognition, guarantees, protection, and legal certainty, as well as equal treatment before the law. Meanwhile, Article 28H paragraph (4) of the 1945 Constitution states that everyone has the right to personal property, and such property rights cannot be arbitrarily taken by anyone (Buku & Muhammad, 2014).

In the context of land ownership, the issuance of land certificates is a manifestation of the recognition, respect, and fulfillment of human rights guaranteed by the constitution. In case of land disputes, the court becomes the place to seek legal protection, as it represents the state in the field of law enforcement. Judges must have strong integrity, high justice sensitivity, and extensive legal knowledge to ensure that their decisions provide substantial justice, certainty, and benefits to society (M. Marzuki, 2017).

According to Hans Kelsen, objective law aims to provide protection for legal interests arising from subjective law (rights) by creating obligations for others to respect them. In the context of land ownership, the 1945 Agrarian Law (UUPA) regulates various types of land rights, both permanent and temporary.

The registration of land aims to obtain legal certainty and protection. Landholders who have registered their land are given a certificate as strong evidence of their rights. As long as the physical and juridical data in the certificate match or correspond to the data in the land register, the certificate holder receives maximum legal protection. If there is conflicting data or it is proven that the certificate issuance process has legal defects, the certificate can be canceled (Erwin, 2016).

Legal protection for certificate holders is emphasized by Article 32 paragraph (2) of the Land Registration Government Regulation, which states that if a land certificate has been validly issued in the name of a person or legal entity who has acquired the land in good faith and actually possesses it, others claiming rights to the land cannot demand the execution of those rights if, within five years of the certificate issuance, they have not raised written objections to the certificate holder or the relevant Land Office or filed a lawsuit regarding land possession or certificate issuance.

To use the provisions of Article 32 paragraph (2) to defend against the claims of others, certificate holders must meet several criteria, including the valid issuance of the certificate in their name, acquiring the land in good faith, actual possession of the land, and not receiving any written objections or lawsuits within five years of the certificate issuance.

The Concept of Good Iktikad

The concept of "iktikad baik" is a highly abstract concept, providing a broad scope for interpretation by judges. Due to its abstract nature, the application of the principle of good faith varies widely in resolving disputes over rights in court. Each judge can interpret good faith according to the specific case at hand. In the Big Indonesian Dictionary, the word "iktikad" is synonymous with "iktikad," which means trust or intention. Good faith is defined as true belief, firm belief, or good intention.

Good faith is a legal principle of contracts regulated in Article 1338 paragraph (3) of the Civil Code. As a legal principle of contracts, good faith has become a general principle recognized and respected in both national and international trade, even considered the sixth formal source of law alongside legislation, custom, treaties, jurisprudence, and doctrine. Good faith as a moral principle is not only essential in the implementation stage of agreements (consequences of agreements) but also crucial in the agreement's formation stage.

Agreements in the agreement formation stage containing elements of deceit are considered defective agreements because they are not based on good faith, intentionally hiding the true facts for unilateral benefit. Every agreement is always based on a high level of trust for both parties. If there are concealed facts from the beginning, the agreement will face obstacles in its implementation. Agreements conflicting with legal provisions can also be classified as agreements not based on good faith.

In the context of possession (*bezit*), Article 531 of the Civil Code states that a possessor in good faith ("*tegooder trouw*") is a possessor who is unaware of any

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hidden defects in the controlled object, while Article 532 of the Civil Code states that if the possessor is aware of hidden defects, they are considered a possessor in bad faith ("tekwader trouw"). According to Article 584 paragraph (4) of the Civil Code, a person acquiring ownership rights to land through a transfer of rights is considered valid if the transfer occurs through civil law means and is carried out by the party entitled to act freely. A new rights holder is considered in good faith if they are unaware of any hidden defects in the acquired property, including juridical defects in previous legal acts.

According to J. Satrio, among the articles of the Civil Code related to good faith, the meaning of Article 1338 paragraph (3) is unclear because the concept of good faith in this article is abstract. Even if people eventually understand what good faith means, it remains challenging to formulate, making it important to investigate how people interpret good faith in judicial practice. Article 1338 paragraph (3) of the Civil Code states that agreements must be executed in good faith. In this context, good faith is associated with the execution of the agreement, not the process of forming the agreement, meaning the agreement is valid and binding on the parties, but one party refuses to execute it due to bad faith. According to Subekti, the purpose of Article 1338 paragraph (3) is that the way an agreement is executed must not contradict propriety and justice. A creditor is considered acting in bad faith if they demand the execution of an agreement at a very disadvantageous time for the debtor, and the creditor is aware of this situation. It must be understood that in a reciprocal agreement, the creditor's position is with both parties.

In the context of agreements, Subekti distinguishes good faith into two types: subjective good faith and objective good faith. Subjective good faith is the good faith held by the parties during the drafting and signing of the agreement (formation of contract), while objective good faith is the good faith held by the parties during the performance of the agreement (performance of contract). Good faith when making an agreement means a person's honesty in placing complete trust in the other party, believing them to be honest, and not hiding anything detrimental that may cause future losses.

In line with Subekti, J. Satrio states that good faith is divided into subjective good faith and objective good faith. Subjective good faith is related to the subjective conditions of the agreement, while objective good faith is related to the performance of the agreement. Subjective good faith ("subjectieve goeder trouw") is related to the mental attitude, whether the person is aware or knows that their actions are contrary to good faith. To measure this, the principle of propriety is used, determining whether their actions are considered appropriate by society.

From the above explanations, it is clear that subjective good faith is associated with the intentions or honesty of the parties in the contract formation stage, while objective good faith is associated with the intentions or honesty of the parties during the contract's performance. Subjective good faith tends to be interpreted as the internal intentions or goodwill of the subject, while objective good faith tends to be interpreted as the appropriateness or propriety related to external factors of the party

executing the agreement. The assessment of subjective good faith lies in the presence of facts, evidence, or truths intentionally hidden by one party and not honestly disclosed to the other party. If the other party becomes aware of the hidden facts, there is a high likelihood that the other party will not sign the agreement/contract.

Subjective good faith is related to a person's mental attitude when signing an agreement, i.e., whether the person genuinely understands the contents of the agreement to be signed and is willing to perform the signed agreement in good faith. Objective good faith is related to the performance of the agreement, with its measurement determined by propriety within society concerning the nature of an agreement. Subjective and objective good faith are closely related because subjective good faith is only evident during the performance of the agreement. If someone has bad intentions during the agreement's formation stage, these intentions will become apparent during the agreement's performance, where they may not genuinely fulfill the agreement as agreed.

In the context of agreement performance, good faith is regulated in Article 1338 paragraph (3) of the Civil Code, stating that agreements must be performed in good faith. The term "good faith" in this article is highly abstract, leading to multiple interpretations. According to J. Satrio, agreements born from the principle of freedom to contract contained in Article 1338 of the Civil Code are *negotia bonae fidei*, in which, based on the judge's discretion, the obligations of the parties can be expanded or reduced. In a reciprocal agreement, even if what has been agreed upon is legally binding, the parties are still obliged to perform the agreement in good faith.

According to J. Satrio, the meaning of "good faith" in Article 1338 paragraph (3) of the Civil Code is that the agreement must be performed fairly and justly. The application of the concepts of fairness and justice is highly varied, depending on the type of agreement and the case. Judges interpret these concepts based on common views regarding the standards of appropriateness and justice. The standards of fairness and justice in resolving disputes in buying and selling are undoubtedly different from those in lease disputes and insurance agreements.

In the context of buying and selling, several articles of the Civil Code protect the buyer from the possibility of bad faith on the part of the seller. Article 1471 of the Civil Code states that the sale of an item belonging to someone else is void and can provide the basis for reimbursement of costs, losses, and interest if the buyer did not know that the item belonged to someone else. Article 1474 of the Civil Code states that the seller has two obligations: the obligation to deliver the goods and the obligation to guarantee them. Article 1491 of the Civil Code states that the guarantee that becomes the seller's obligation to the buyer is to ensure two things: first, to guarantee the peaceful and undisturbed possession of the object of sale, and second, to guarantee the absence of hidden defects in the object of sale, and if hidden defects are proven to exist, the buyer has the right to annul the agreement and demand compensation from the seller.

In the context of buying and selling agreements with immovable property (land) as the object, the subjective good faith of the buyer is measured or evaluated based on whether the buyer has acted in accordance with the practices prevalent in society. The prevailing practice in society is that the sale and purchase of land are carried out through a Deed Officer (PPAT). This is in line with the provisions of Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, which states that the transfer of rights to land and ownership rights to condominium units through sale and purchase, exchange, donation, inclusion in a company, and other forms of legal transfer, except for transfers through auction, can only be registered if proven by a deed made by a PPAT authorized according to prevailing regulations. Thus, if a sale and purchase transaction has been carried out in accordance with the regulations, the transaction not only fulfills the juridical elements but also the elements of clarity and immediacy according to the principles of Customary Law, which is the main foundation of the Land Law.

In its decision No. 251 K/Sip/1958, the Supreme Court held that a buyer who has acted in good faith must be protected and the sale and purchase must be considered valid. The same is also emphasized by SEMA Number 7/2012 which states that protection must be given to buyers in good faith even if it is later determined that the seller is an unauthorized person.

The criteria for a good-faith buyer that needs to be protected under Article 1338 paragraph (3) of the Civil Code are as follows::

- a. To carry out the sale and purchase of the land object with valid procedures/procedures and documents as determined by the legal regulations of the law:
 - Purchase of land through general auction or;
 - Purchase of land before the Land Deed Making Officer (in accordance with the provisions of Government Regulation Number 24 of 1997) or;
 - Purchases of unregistered customary land carried out according to customary law provisions are:
 - carried out in cash and clearly (in front of / known to the local Village Head / Lurah).
 - preceded by research on the status of the land of the object of sale and purchase and based on the research shows that the land of the object of sale and purchase belongs to the seller.
 - Purchases are made at a decent price.
- b. Exercise caution by researching matters relating to promised land objects among others:
 - Seller is a person who has the right / has the right to the land that is the object of sale and purchase, in accordance with the proof of ownership, or;
 - The land/object being traded is not in confiscated status, or;
 - The land of the object being sold is not in the status of guarantee/right of liability, or;

- For certified land, information has been obtained from BPN and a history of legal relations between the land and the certificate holder.

Judge's Consideration of a Good Suspected Buyer In Dispute Settlement of Rights on Land

The formulation of this second problem is answered by providing a brief description of the case that is used as legal material and case analysis is carried out in three approaches, namely conceptual, statutory and legal objectives.

Brief Description of Makassar District Court Decision Number: 318/ Pdt.g/bth/2014

1). Position Case:

This case involves Lao Sun Tjuen and Meylani as Opponent I and II, opposing Siti Aminah with Ratu and others as Opponents, and PT. Gowa Makassar Tourism Development, Tbk as Joint Opponent I, Mustari Tunru as Joint Opponent II, Eddy Nurhadi as Joint Opponent III, and the Head of the Land Office of Makassar City as Joint Opponent IV. Opponent I and Opponent II filed opposition against the Determination of the Chairman of the Makassar District Court Number: 19 Eks/2012/PN.Mks dated August 1, 2012, related to the execution of the Supreme Court Cassation Decision of the Republic of Indonesia dated June 22, 2011, Number: 3240 K/Pdt/2010, concerning the Decision of the Makassar High Court dated June 16, 2010, Number: 107/Pdt/2010/PT.Mks, and the Decision of the Makassar District Court dated November 30, 2009, Number: 219/Pdt.G/2008/PN.Mks.

Opponent I claims to be the rightful owner of the land and the building on it, measuring 163 square meters, based on the Ownership Certificate Number: 21849/2009, Survey Letter dated May 16, 2008, Number: 03034/2008, in the name of Lao Sun Tjuen (Opponent I), located in Tanjung Merdeka Village, Tamalate District, Makassar City. Opponent I acquired the land and building through a valid sale and purchase transaction with Joint Opponent I, as stated in the sale and purchase deed Number: 308/IV/TMT-EPN/2008 dated April 8, 2008, signed before Sri Hartini, SH, a Notary/Official Land Deed Officer in Makassar.

Opponent II claims to be the rightful owner of the land and the building on it, measuring 197 square meters, based on the Ownership Certificate Number: 21850/2009, Survey Letter Number: 03034/2008 dated April 4, 2008, in the name of Meylani (Opponent II), located in Tanjung Merdeka Village, Tamalate District, Makassar City. Opponent II acquired the land and building through a valid sale and purchase transaction with Ana Jindrawati Djolin, as stated in the sale and purchase deed Number: 252/2011 dated April 4, 2012, signed before Sri Hartini, SH, a Notary/Official Land Deed Officer in Makassar. Ana Jindrawati Djolin purchased the land and building from PT. Gowa Makassar Tourism Development, Tbk (Joint Opponent I), based on the Sale and Purchase Deed Number: 250/III/TMT-EPN/2008 dated March 25, 2008, signed before Sri Hartini, SH, a Notary/Official Land Deed Officer in Makassar.

Opponent I and Opponent II argue that the land sale and purchase transactions they conducted were in accordance with the applicable legal procedures and regulations. Therefore, Opponent I and Opponent II, as buyers in this case, should be considered as acting in good faith and protected by law. In this case, Opponent I and Opponent II opposed the Determination of the Chairman of the Makassar District Court Number 19 Eks/2012/PN.Mks dated August 1, 2012, where the Makassar District Court intended to execute the case object based on the Decision of the Supreme Court of the Republic of Indonesia, as explained earlier.

Opponent I and Opponent II argue that they are not parties to the case Number 219/Pdt.G/2008/PN.Mks between the Opponents as Plaintiffs and Joint Opponent I as Defendant I, Joint Opponent II as Defendant II, Joint Opponent III as Defendant III, Joint Opponent IV as Defendant IV, which requested execution by Opponent I. Therefore, Opponent I and Opponent II, as Good Faith Buyers, must be legally protected from the execution of the Decision of the Supreme Court of the Republic of Indonesia, as explained earlier.

Opponent I and Opponent II argue that the civil dispute Number 219/Pdt.G/2008/PN.Mks in the Makassar District Court is a legal issue between the Opponents and Joint Opponent I and cannot result in harm to third parties, in this case, Opponent I and Opponent II.

2). Contrarian Petition:

Based on the above arguments, Opponent I and Opponent II submit the following requests:

1. Declare that Opponent I and Opponent II are rightful and legitimate Opponents;
2. Declare that Opponent I and Opponent II are buyers acting in good faith;
3. Declare that Opponent I is the owner of the land measuring 163 square meters based on the Ownership Certificate Number: 21849/2009, Survey Letter dated May 16, 2008, Number: 03034/2008, in the name of Lao Sun Tjuen (Opponent I), located in Tanjung Merdeka Village, Tamalate District, Makassar City;
4. Declare the validity and legal binding nature of the Sale and Purchase Deed Number: 308/IV/TMT-EPN/2008 dated April 8, 2008, covering 163 square meters, signed before Sri Hartini, SH, a Notary/Official Land Deed Officer in Makassar;
5. Declare that Opponent II is the owner of the land measuring 197 square meters based on the Ownership Certificate Number: 21850/2009, Survey Letter Number: 03034/2008 dated April 4, 2008, in the name of Meylani (Opponent II), located in Tanjung Merdeka Village, Tamalate District, Makassar City;
6. Declare the validity and legal binding nature of the Sale and Purchase Deed Number: 252/2011 dated April 4, 2012, signed before Sri Hartini, SH, a Notary/Official Land Deed Officer in Makassar;

7. Declare that the Decision of the Supreme Court of the Republic of Indonesia Number: 3240 K/Pdt/2010, dated June 22, 2011, is not binding;
8. Declare that the execution of the land and building owned by Opponent I and Opponent II cannot be carried out (Non-executable);
9. Sentence Joint Opponent I, Joint Opponent II, Joint Opponent III, and Joint Opponent IV to comply with this decision;
10. Sentence the Opponents to pay all costs incurred in this case;

3). Judge Considerations

1. Legally, a third-party opposition (*derden verzet*) can be filed not only based on ownership rights but also on other rights such as usage rights, building rights, lien rights, and others;
2. An opposition to execution is essentially intended to cancel the execution of a decision that has been determined or declare that the decision cannot be executed (non-executable). In this case, as argued by the Opponents, the Decision of the Supreme Court of the Republic of Indonesia dated June 22, 2011, Number: 3240 K/Pdt/2010, together with the Decision of the High Court of Makassar dated June 16, 2010, Number: 107/Pdt/2010/PT.Mks, and the Decision of the District Court of Makassar dated November 30, 2009, Number: 219/Pdt.G/2008/PN.Mks should be declared non-executable because the disputed land belongs to the Opponents;
3. The facts in this case, based on the Decision of the Supreme Court of the Republic of Indonesia dated June 22, 2011, Number: 3240 K/Pdt/2010, together with the Decision of the High Court of Makassar dated June 16, 2010, Number: 107/Pdt/2010/PT.Mks, and the Decision of the District Court of Makassar dated November 30, 2009, Number: 219/Pdt.G/2008/PN.Mks (see evidence T-9, T-10, T-11, T-12), have proven that the land in points 1 and 2 above belongs to the Plaintiffs;
4. On the other hand, based on evidence P-1, it has also been proven that the disputed land in point 1 was purchased by Opponent I from Joint Opponent I on April 8, 2008. Later, the certificate for the disputed land was transferred to the name of Lao Sun Tjuen (see evidence P-2). Similarly, with the disputed land in point 2, Opponent II purchased it from Anna Jindrawati Djolin on April 4, 2012 (see evidence P-3), where Anna Jindrawati Djolin had bought it from Joint Opponent I on March 20, 2008. Later, the certificate for the disputed land was transferred to the name of Meylani (see evidence P-4);
5. With the Decision of the Supreme Court of the Republic of Indonesia dated June 22, 2011, Number: 3240 K/Pdt/2010, together with the Decision of the High Court of Makassar dated June 16, 2010, Number: 107/Pdt/2010/PT.Mks, and the Decision of the District Court of Makassar dated November 30, 2009, Number: 219/Pdt.G/2008/PN.Mks, which proves that the disputed land in points 1 and 2 belongs to the Opponents, the further

consideration is whether Opponent I and Opponent II in this case, related to their land purchases, can be categorized as buyers acting in good faith and, therefore, deserve legal protection;

6. Based on evidence P-1 and P-3, it has been proven that Opponent I and Opponent II purchased the disputed land through a Land Deed Officer (PPAT), and the certificates for the disputed land were transferred to their respective names (see evidence P-2 and P-4). Therefore, it is clear that these purchases were made transparently and in cash, meeting the required legal procedures;
7. However, based on evidence T-1 and T-2, which consist of attachment determination and attachment seizure minutes dated February 20, 2008, it has been proven that the disputed land in point 1, when purchased by Opponent I from Joint Opponent I, as well as the disputed land when purchased by Anna Jindrawati Djolin from Joint Opponent I, was under seizure by the District Court of Makassar. Although the attachment was later lifted by the Judges' Assembly of the District Court of Makassar on May 15, 2008 (see evidence T-4), the fact remains that the transactions occurred when the seizure was still in effect. The same applies to when Opponent II purchased the disputed land in point 2 from Anna Jindrawati Djolin on April 4, 2012 (see evidence P-3), as the land was under seizure by the District Court of Makassar (see evidence T-7 and T-8);
8. Fundamentally, selling or buying an object, including land, under court attachment is against the law (compare with the norm contained in Article 231 of the Criminal Code), concluding that transactions involving the disputed land while under attachment violated *causa halal*, as regulated in Article 1320 of the Civil Code. In legal terms, such transactions are considered invalid and null and void (see Article 1320 of the Civil Code);
9. Based on the considerations above, it can be concluded that when the land transactions in dispute occurred, besides being in the process of litigation or contested in court, the land was still under court seizure. Therefore, when related to the concept of good faith in civil law, according to the Judges' opinion, Opponent I and Opponent II cannot be categorized as buyers acting in good faith and, consequently, are not protected by the law;
10. As Opponent I and Opponent II cannot be legally categorized as Buyers acting in good faith in the disputed land transactions in points 1 and 2 above, and hence will not receive legal protection, it is legally justified to reject the *petitum* points 1 and 2 from Opponent I and II;
11. Regarding the remaining claims from the Opponents, which are evidently rooted in the claims of points 1 and 2 of the opposition letter, since these demands have been rejected, the remaining claims must also be rejected;
12. Since the opposition of Opponent I and Opponent II is entirely rejected, Opponent I and Opponent II must be sentenced to pay the costs arising in this case.

4) Amar Decision:

Taking into account the articles of the RBG and related laws and regulations as well as applicable law:

ADJUDICATE

1. Declaring Contrarian I and Contrarian II to be unkind and incorrect Contrarian;
2. Rejecting the resistance of Resistance I and Fighter II for the whole;
3. Require Pelawan I and Pelawan II to jointly pay all costs incurred in this case so that it is now calculated at Rp.5,391,000,- (five million three hundred ninety one thousand rupiah).

5) Decision Analysis:

The judge's decision is analyzed using a conceptual, legal, and legal purpose approach. In its consideration, the judge opines that to obtain legal protection, it must be proven whether the opponents 1 and 2 as buyers acted in good faith or not. During the trial, it was proven that the sale and purchase by opponents 1 and 2 involved the purchase of land and buildings in a transparent and cash manner through a Land Deed Officer (PPAT), thus complying with the legal procedures specified by regulations. One measure of good faith for the buyer, according to Supreme Court Regulation (SEMA) Number 4/2014, is if the land transaction is conducted in the presence of a PPAT. From this aspect, opponents 1 and 2 can be categorized as buyers acting in good faith. However, during the trial, it was also proven that at the time of the sale and purchase, the subject land was not only in dispute but also under court seizure, which contradicts Article 321 of the Criminal Code. According to SEMA Number 4/2014, the sale and purchase of land under court seizure cannot be categorized as acting in good faith.

In the case under examination, the judge considered that opponents 1 and 2 did not have subjective good faith, namely buying land in a disputed and court-seized status, which contradicts Article 1320 paragraph (4) of the Civil Code, thus not obtaining legal protection. It appears that the judge misunderstood the meaning and application of Article 1320 of the Civil Code because on page 37, the first paragraph, the judge quoted Article 231 of the Criminal Code as the basis for considering that the sale and purchase agreement of an object, including land, under court seizure, is against the law. In this case, the judge ignored the most important element in Article 231 of the Criminal Code, which is the element of intent, meaning the buyer is aware that the object of the agreement is under court seizure but still proceeds with the sale and purchase. According to J. Satrio, awareness is crucial in assessing the good faith of the seller and buyer. The awareness element is not fulfilled in the sale and purchase transactions carried out by Opponent I and Opponent II, but the judge made an assumption. The judge assumed that Opponent I and Opponent II were aware that the disputed land was under court seizure but still proceeded with the sale and purchase.

The Land Deed Officer (PPAT) should have been brought to court to provide testimony on whether there is information from the Land Office stating that the land is in dispute or under court seizure. If such information exists and the PPAT still proceeded with the sale and purchase deed, the PPAT would be acting against the law. In this context, the buyer cannot be held legally responsible because they had no knowledge of any legal obstacles to the sale. How could Opponent I and Opponent II be assumed to know that the disputed land was under court seizure if Opponent I and Opponent II were not parties in the case between Respondent I and Joint Respondent (Supreme Court Decision No: 3240 K/Pdt/2010 dated June 22, 2011, joined by the Decision of the High Court of Makassar No. 107/Pdt/2010/PT.Mks. dated June 16, 2010, joined by the Decision of the District Court of Makassar No. 219/Pdt.G/2008/PN.Mks. dated November 30, 2009). Moreover, there is no trial fact indicating any record in the National Land Agency that the disputed land was under court seizure at the time of the registration of rights.

Isn't a buyer acting in good faith guaranteed by the seller against hidden defects as stipulated in Article 1474 of the Civil Code, joined by Article 1491 of the Civil Code? How could Opponent I and Opponent II take the risk of civil loss if they already knew that the object of the agreement was under court seizure but still proceeded with the sale and purchase? How could buyers doubt the object of the sale and purchase that was already certified, sold by a reputable development company, and guaranteed by the seller to be free from third-party disturbances, and the sale and purchase transaction was carried out transparently and in cash? It is unjust for Opponent I and Opponent II to lose ownership rights to the land they purchased in good faith, considering that the transaction was conducted transparently and in cash according to applicable regulations. If there were any legal obstacles in the registration stage, the transfer of ownership registration would not have taken place. The opponents should be categorized as buyers acting in good faith and, therefore, deserve legal protection.

In carrying out its protective function for the interests of society, the law has objectives. The objectives of the law have a universal nature, including order, tranquility, peace, prosperity, and happiness in the social order. The law has three objectives: justice, certainty, and utility. Its application is comprehensive without closing the possibility of priority scales. According to Dardji Darmodihajo, a judge's decision is the result of the three legal objectives of justice, certainty, and utility, with an emphasis on substantive justice.

Justice has many connotations, including equalization (commutative justice), proportionality (distributive justice), restoration (corrective justice), punishment (punitive justice), and compensation (compensatory justice). Legal certainty is related to compliance with written and hierarchical regulations. The room for interpretation is opened when written norms are unclear or ambiguous. The element of legal certainty cannot be separated from legal protection because with legal certainty, the state guarantees legal protection to rights holders. If the state has issued a land certificate to a rights holder, then the state must provide legal protection to

the rights holder from third-party disturbances through the judicial process. Since the judicial process is a form of legal social control over community life, court decisions not only provide justice and legal certainty but also benefit the litigants, the wider community, or the state. Judges must reinterpret legal texts to align them with the facts presented in court. The alignment between normative law and trial facts gives rise to creativity, innovation, and progressivism.

The judge's consideration, which ultimately led to the rejection of the petition of the opponents, only fulfills the second legal objective, which is legal certainty, but does not provide substantial justice for the opponents.

CONCLUSION

Conceptually and based on legislation, good faith is related to a person's mental attitude towards the agreement he makes, indicating that the individual is not aware of any hidden defects in the object he is going to buy. However, in case 318/Pdt.g/bth/2014, the judge made the mistake of assuming the buyer was not a buyer in good faith. This causes the buyer not to get legal protection, because when the sale and purchase transaction occurs, the object is in dispute status and court confiscation, even though the buyer does not know the situation. As a suggestion, judges are advised to be more careful in interpreting the principle of good faith in examining cases of land rights disputes, because good faith is subjective and must be interpreted contextually. In a land sale and purchase transaction, good faith should be considered to be on the buyer if using the PPAT deed, because with the deed, the elements of light and cash have been fulfilled in accordance with Customary Law which is the basis of the UUPA.

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