

ANALYSIS OF THE POWER OF LAW ORAL AGREEMENT ON LAND SALE (STUDY OF DECISION NUMBER 51/Pdt.G/2011/PN.PRA)

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Abstract— The power of law is proof that an agreement has been created and the value of this engagement in front of the law, the power of law becomes uncertain if an agreement made verbally and contains a offense. In this analysis, we will focus on verbal agreements on buying and selling land by reviewing the Case Study of Decision Number: 51/Pdt.G/2011/PN.PRA. The research was carried out using a normative method, namely legal research by reviewing literature based on books, laws and decisions of the District Court. Based on the principles that form the principle of the creation of agreements along with the meaning in Article 1320 of the Civil Code where an agreement is considered valid if it fulfills 4 conditions in the article, then Article 1338 paragraph (1) explains that an agreement that has been legally created must apply as a law for the creators of the agreement, and can declare one of the member to have committed an unlawful act if the evidence and witnesses provided can convince the consideration of the Panel of Judges.

Keywords— *Legal Strength, Spoken Agreement, Sale And Purchase Of Land.*

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I. INTRODUCTION

Engagement / Agreement is a relationship that is created between individual human beings in society, which creates obligations on the parties to the agreement that has been created and also has the same risk as the law.

Default is a manifestation of the act of non-fulfillment of achievements or obligations in the agreement. So that if between the parties, both the seller and the buyer, intentionally do not fulfill their obligations, and cause losses to other parties. The non-fulfillment of the buyer's obligations is reflected in one of the ways in which there is an attitude of default by unilaterally changing the terms of the price from the initial agreed price.

Default created in the sale and purchase agreement this time the Buyer and Seller have been bound by an oral agreement that has reached an agreement on the object of sale and purchase of a piece of land which has been paid in full by the buyer. After receiving payment, the Seller provides a land certificate and signs a receipt as proof of receipt of money in the Seller's account, then the Buyer immediately controls the land and the house (object of dispute) and the Buyer immediately renovates the house.

After completing the renovation of the house, the Buyer temporarily leaves the land and the house and then without the knowledge and permission of the Buyer as the owner of the object has taken control of the disputed object, it is known that the Seller will not sell the disputed object if the Buyer does not want to increase the selling price of the disputed object.

Changes to the agreement made without deliberation with the parties concerned, this also reflects the lack of fulfillment of the requirements of the principle of good faith on the part of the seller. This behavior also does not reflect the desired balance principle of the parties concerned in fulfilling and implementing the agreement. If it continues in society, it will cause chaos because it is considered that there is a legal vacuum that will harm society. So it is necessary to affirm the legal protection that has been applied in a balanced way for the parties. Legal protection is an embodiment of the protection of rights for every community. Based on the background above, it is relevant to conduct a study entitled "Juridical Review of Default in Oral Land Purchase Agreements (Study of Decision Number 51/Pdt.G/2011/PN.PRA.)"

II. METHODS

The approach used in this analytical study is normative legal research, which is a case approach accompanied by regulatory reviews. Normative legal research itself is exploring

legal studies based on ideological teachings that are formulated systematically (doctrinaire) or research with literature (library).

With the type of research used is descriptive carried out a systematic study with the aim of obtaining an overview, understanding, and studying to get a complete picture regarding the legal situation in a specific location that is actually happening in the community.

III. RESULT AND DISCUSSION

Legal Strength of Oral Land Purchase Agreement in Decision Number 51/Pdt.G/2011/PN.PRA.

Giving a decision is an action that is decided unilaterally so that the administration tool can change it unilaterally even without the permission of the party who was given the decision. Then the decision cannot be withdrawn if it is not an important condition, in order to maintain the legal certainty of the decision.

In the decision that has been given by the judge, it is substantively final and cannot be refuted, so the decision must be carried out because it has obtained definite law. So to guarantee legal certainty, decisions cannot be revoked if not absolutely necessary, and implemented as soon as possible even if there are parties who submit resistance, appeal or cassation. So that a court decision can be considered valid if the court declares the decision has permanent legal force and for that matter if you want to submit a judicial review (PK) then the decision must have permanent legal force, if there is no appeal and or cassation after 14 days have passed from the decision submitted to the party The petitioner is then considered valid and has permanent legal force of the decision.

To serve as a reference for the creation and implementation of an agreement, the Principles/Principles become the foundation for making an agreement. In Decision Number 51/Pdt.G/2011/PN.PRA. non-fulfillment of the implementation of the Principles in the agreement, among others:

The principle of good faith means that an agreement must be based on the good will or intention of the parties listed in Article 1338 paragraph (3) of the Civil Code. In this lawsuit, it reflects the lack of goodwill to fulfill the agreement of the Defendant, on the control over the object of the problem by the Defendant which is an act of PMH to the detriment of the Plaintiff. Based on the judge's opinion on the evidence that between the Plaintiff and Defendant 1 the recognition of the creation of sale and purchase transactions for the object in dispute with the implementation of Payments from the Plaintiff, handover of the

object and certificate of ownership to the Plaintiff, the action of Defendant 2 in possession of the disputed object without permission is an Unlawful Act.

The principle of balance is the principle underlying the existence of regularity in the implementation of the agreement for the parties concerned. In this decision the principle of balance between the parties was not fulfilled in the implementation of the agreement because the Defendant changed the contents of the agreement without the Plaintiff's consent. This is supported by the understanding in Article 1338 paragraph (2) of the Civil Code, namely that the contents of the agreement cannot be canceled without the consent of the other party, if it is canceled unilaterally, the value of the principle of equality is also not fulfilled because it does not realize the enforcement of rights that have been guaranteed by law to the parties. .

The principle of protection is also an important basis for the creation of an agreement because it means that the parties concerned must be protected by law. In written or unwritten agreements and it is obligatory for the parties to comply with the applicable legal principles regarding the agreed sale and purchase agreement as regulated in the Civil Code of engagement law and it is also known that based on Article 1320 of the Civil Code which explains the legal terms of the agreement that the agreement is made verbally is also a valid agreement.

Oral agreements are legally riskier than written contracts. An oral agreement is an agreement that is only known by the parties concerned. Therefore, if one of the parties has a negligent party, then the injured party will have difficulty proving the validity of the contract before the law, because it will be considered weaker in an oral contract because it does not have physical evidence.

Another difficulty is the process of registering the transfer of rights to the land purchased, because according to the Land Registration Regulations, the transfer of rights to land can only be transferred by means of proof by showing proof of the deed made before the PPAT.

As is well known, the sale and purchase contract drawn up before the PPAT is an authentic deed, in which it has perfect legal force according to the relevant law based on the discussion contained in its contents, and its authenticity can be proven up to an absolute evidentiary value.

Judge's legal considerations in default on land sale and purchase agreement orally in decision number 51/Pdt.G/2011/PN.PRA.

In this case the panel of judges considered the land object issue with the subject matter between the Plaintiff and the Defendants with the core of the problem, namely proof in the creation of an oral agreement between the Parties and whether in the verbal agreement there was a Default.

Based on the results of field inspections related to the land object of the plaintiff's dispute which was attended by both parties to the dispute. The location and boundary of the object of land dispute that has been indicated by the Plaintiff and the Defendants, shows and agrees on the same location and boundaries as the description of the land in dispute, so as to obtain evidence that the object of dispute is in accordance with the results of the local inspection. Then, in part of the Plaintiff's lawsuit, it was rejected or denied by the Defendants based on Article 1865 of the Civil Code and 283 Rbg in which all residents who argue or confirm that they have rights in an event are obliged to prove it, so that the truth of the statement given is proven and evidence is created in a synergistic and impartial manner.

To prove their statement, the Panel of Judges has received from the parties to the dispute all evidence and will consider its relevance to this case and if there is no relevance to the case, it will be set aside (vide Supreme Court decision number: 1087 K/Sip/1973 dated 1 July 1973).

With the evidence and witnesses provided by the Plaintiff, including Photocopy of receipts dated April 25 2011, Photocopy of money transfers at BNI bank, Photocopy of SHM No.759 on behalf of Baiq Wardah. Then the statements from the witnesses 1. SUGIHARTO and 2. AZMI IKRAM.

The Panel of Judges is of the opinion based on Article 310 Rbg stating that there is strong prejudice in the statement and evidence provided by the Plaintiff with the transfer along with the transfer evidence given to Defendant 1, then the object of dispute is controlled for 3-4 months which is then carried out with renovations. The possession of the Certificate of Ownership by the Plaintiff is a strong prejudice that there has been an agreement to buy and sell the disputed object, namely after payment of the handover of the land object and its buildings and SHM of the land object and its buildings from Defendant 1 to the Plaintiff (Levering) so that the ownership rights to the object the dispute has been transferred from Defendant 1 to Plaintiff (vide Supreme Court Jurisprudence Number: 516/Pdt/1995 dated 27-6-1997).

Explaining the documentary evidence submitted by the Defendants marked T1.2-1, that according to the Panel of Judges, the evidence did not at all explain the sale and purchase

by the Seller and the Buyer, so this evidence was ruled out. So that the plaintiff believes that he can prove the argument for the lawsuit that between the plaintiff and defendant 1 there is a sale and purchase agreement on the object of the dispute. Meanwhile, the Defendants have not been able to convince the Panel of Judges of their denial statements. So that the Plaintiff's request is stated that verbal sale and purchase transactions with land objects with buildings on them (disputed objects) are legal according to law because they have a very convincing basis of evidence and can be granted.

In the consideration of the Panel of Judges stating that the agreement between the parties is valid and legally enforceable, the plaintiff's application according to agrarian regulations cannot be granted because it does not create an agreement, especially in the land sale and purchase agreement so that it cannot be said to be valid without the fulfillment of the stages for its creation. sale and purchase of land between parties. So it can be concluded that the Panel of Judges used evidence, witness statements, followed conscience and principles to become the basis for decisions on decision Number 51/Pdt.G/2011.PN.PRA.

Based on the decision of the Panel of Judges by declaring that the agreement between the Plaintiff and Defendant 1 was valid, the result was that Defendant 2 took possession of the object in question which was PMH.

In the petitum, the Plaintiff requests that the Panel of Judges say that the confiscation of collateral placed by the Court, namely land objects and buildings on it, are valuable and legal items, so that during the trial the object of the dispute becomes safe, then during the trial the Panel of Judges has never placed a confiscation on the object of the dispute so that in the Petikum The plaintiff is unreasonable and was not accepted by the Panel of Judges. The Panel of Judges did not carry out the confiscation of collateral which was the right decision even though the SHM was in the hands of the Plaintiff but the certificate was still on behalf of Defendant 1 so it is still possible that a transaction has not been created between the two supported by the absence of a written agreement or deed of sale and purchase before a notary and PPAT.

In the Plaintiff's Petikum requesting the granting of Defendant 1's statement of action to cancel the transaction of the land object with the house building on it unilaterally without the consent of the other party is an act of breach of contract (default) which is also at the same time an act of PMH which results in a loss to the Plaintiff, this is appropriate when using judgment The Panel of Judges stated that the transaction was created legally in the eyes of the law based on the provisions of Article 1338 of the Civil Code which contains an

agreement or agreement that must be carried out and based on good faith and changes in the agreement must be agreed upon by both parties. So that the Plaintiff's Petition is very reasonable and must be granted.

Punishing the Defendants is also a request from the Plaintiff to the Panel of Judges for those who get the right from him to realize the sale and purchase of land and house buildings in accordance with the initial agreement to the Plaintiff before the rightful official. Giving in a blank state the object of the case to the Plaintiff whose implementation if necessary is with the help of State Tools or the Police, because it has been proven true that there was a sale and purchase agreement so that it is guided by the judge's decision at the Supreme Court of the Republic of Indonesia Number: 607/Sip/1983 dated 25 May 1980, with the rule law, "The land sale and purchase agreement between the plaintiff and the defendant is valid thus the two parties must complete the sale and purchase agreement and transfer the name of the land to the local Agrarian agency". , and is obliged to comply with the contents of this decision without distinction, because Defendant 2 is a Party in this Case then of course Defendant 2 must obey and comply with this decision so that for this reason the Plaintiff's Petition is very reasonable and must be granted.

In the Petition, the Plaintiff requested the Panel of Judges to punish Defendant 1 by providing compensation in the form of interest money at the sale and purchase price of the disputed object and renovation costs of 2% x Rp. 130,000,000, - where the interest starts from August 11, 2010 until permanent legal force has become part of the decision.

Referring to the opinion of the Panel of Judges on the second petition of the plaintiff, the panel of judges may reject it because the Petition is not sufficiently convincing to the Panel of Judges. In accordance with MA RI Jurisprudence No. 550/Sip/1979 contains when there are no clear details accompanied by clear evidence that an act which is detrimental has also caused suffering to one of the parties so that the claim for compensation cannot be accepted. So that thus the Ownership of the Object of the Plaintiff's Dispute to carry out Renovations for his own can be concluded that the Petition of the Plaintiff is unreasonable and must be rejected.

Regarding the Petition of the Plaintiff requesting that this decision be carried out in its entirety even though there are efforts in any form that will be taken to cancel this decision, this does not meet the requirements as referred to in Article 191 paragraph (1) Rbg jo SEMA No. 3 of 2000, the plaintiff's petition must be rejected.

Because the Plaintiff's lawsuit was partially granted, the Defendant was determined to be the losing party. Then based on the provisions of Article 192 paragraph (1) Rbg to the Defendants was sentenced to pay all costs resulting from the trial process of this dispute with the details contained in the verdict. Then it is mandatory to pay close attention to the Articles in the Rbg along with the Law in this decision.

The author is of the opinion that he agrees with the considerations of the Panel of Judges when based on evidence, the witnesses were present during the examination at trial, considerations of conscience, along with the principles that guide the creation of an agreement. With the evidence and witnesses given in the trial, among others:

Exhibit P-1: Photocopy of receipt dated 25 April 2011, Exhibit P-2: Photocopy of Form for remittance at BNI bank, Exhibit P-3: Photocopy of SHM Number 759 in the name of the landholder before the Plaintiff.

Based on Article 310 Rbg states that there is strong prejudice in the information and evidence provided. With the transfer of Rp. 110,000,000.- (One Hundred and Ten Million Rupiah) from the Plaintiff to Defendant 1's account under the name of Hajjah Baiq Wardah, the object of dispute was controlled for 3-4 months which was then renovated. Mastery of SHM 759 on behalf of the landholder before the Plaintiff shows a strong suspicion that there has been a sale-purchase agreement of the disputed object, namely after payment the transfer of the disputed object and SHM over the disputed object from Defendant 1 to the Plaintiff (Levering) so that the ownership rights to the object the dispute has been transferred from Defendant 1 to Plaintiff (vide Supreme Court Jurisprudence Number: 516/Pdt/1995 dated 27-6-1997). Explaining the documentary evidence submitted by the Defendants marked T1.2-1, that according to the Panel of Judges, the evidence did not at all explain the sale and purchase by the Seller or Buyer, so this evidence was ruled out.

The Plaintiff is of the opinion that he has proven the statement in his lawsuit, meanwhile the Defendants cannot convince his statement of denial, so that the Plaintiff's Petition in it asks to declare that the verbal agreement to sell and buy the object of dispute is valid according to law and this lawsuit is very reasonable and can be granted.

To strengthen his statement, the Plaintiff also submitted 2 witnesses, namely 1. Witness SUGIHARTO and 2. Witness AZMI IKRAM, with information supporting the truth of the Plaintiff's arguments that the agreement actually occurred so that the Panel of Judges declared and granted the agreement made orally by the buyer and seller it is true that a sale

and purchase transaction has occurred with the object of land and buildings on it, namely the object of the case which is stated as a valid agreement according to law.

With the acknowledgment of the verbal sale and purchase agreement between the Parties, the Panel of Judges said that Defendant 1's actions in canceling the sale and purchase of land and buildings on it unilaterally without deliberation on changing the agreement was an act of PMH, Defendant 2 controlling land without the consent of the Plaintiff was also an act of PMH, impose penalties on the Defendants together with other people involved who then receive authority from the object of the dispute, then the PPAT officials can hand over the land and buildings in a clean condition with no Defendant's belongings to the Plaintiff whose implementation if necessary is with the assistance of State Instruments or the Police.

Declare to punish Defendant 2 to submit to and be bound by the decision without exception, also punish Defendants to pay all court costs of Rp. 1,096,000.- (One Million Ninety Six Thousand Rupiah), and did not grant the Plaintiff's claim other than those mentioned above.

Looking at it from the point of view of agrarian law, the authors are of the opinion that on the consideration of the Panel of Judges the agreement cannot be legally recognized if it is only guided by the basis of an oral agreement. Because in it there is no agreement created, in particular it cannot be said to be valid without the fulfillment of the stages for the creation of buying and selling land between parties. So it can be concluded that the Panel of Judges used evidence, witness statements, followed conscience and principles to become the basis for decisions on decision Number 51/Pdt.G/2011.PN.PRA.

In the Supreme Court Judge Decision Number: 607/Sip/1983 dated May 25, 1980 with the rule of law, "The land sale and purchase agreement between the plaintiff and the defendant is valid, thus both parties must complete the sale and purchase letter and transfer the name of the land to the local Agrarian agency ". In the explanation stating that the agreement was legal, it could not be granted because there was an explanation that the receipt was signed by the Plaintiff himself, then the sale and purchase of land was considered valid and the transfer of ownership of land rights could be made if the deed of sale and purchase was signed, the sale and purchase tax obligation namely the seller's tax and buyer's tax have been fulfilled and validated by the tax office and a check of the certificate has been carried out to find out whether the certificate has a claim dispute or blockage, and has obtained a registration number for the registration of the transfer of rights over the sale and purchase of the land.

IV. CONCLUSION

Evidence in the force of law of the Oral Land Purchase Agreement in Decision Number 51/Pdt.G/2011/PN.PRA. has complied with the provisions stated in the principles and regulations which are the principles in determining whether or not an agreement is valid. In accordance with the regulations that apply to Article 1320 of the Civil Code concerning an agreement becoming valid if it fulfills the four conditions in the article, in Article 1338 paragraph (1) concerning agreements that are legally created to become regulations for those concerned, then Article 1338 paragraph (2) where agreements can be amended or revoked with the consent of the parties.

Legal considerations by the Panel of Judges on Default (Default) in the Oral Land Purchase Agreement in Decision Number 51/Pdt.G/2011/PN.PRA. the author is of the opinion that he disagrees with some of the judge's considerations by stating that there has been an agreement between the Plaintiff and Defendant 1 legally according to the law based on obligatory agrarian law for the fulfillment of the stages for creating the sale and purchase of land. So it can be concluded that the Panel of Judges used evidence, witness statements, followed conscience and principles to become the basis for decisions on decision Number 51/Pdt.G/2011.PN.PRA.

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