

## The Making Of Multiple Sale And Purchase Binding Agreements (Ppjb) By Negligent Landowners Or Developers Before Notary

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### **Abstract**

*This study aims to analyze the role of Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB) in property transactions, particularly those conducted before a notary. PPJB is often used as a temporary binding agreement between the seller and buyer before the Sale and Purchase Deed (Akta Jual Beli/AJB) can be issued. This research uses normative juridical methods with empirical approaches to examine related regulations and their implementation in practice. The results show that while PPJB provides temporary legal certainty for both parties, legal risks remain, especially in cases of the making of multiple PPJB created by irresponsible sellers. Additionally, notary plays a crucial role in ensuring document validity and preventing disputes. The implementation of an electronic PPJB registration system at the National Land Agency (Badan Pertanahan Nasional/BPN) is proposed as a solution to enhance transparency and reduce potential future conflicts. In conclusion, PPJB can provide good legal protection if carried out carefully and transparently, supported by a strong legal system.*

**Keywords:** *Sale and Purchase Binding Agreement; Sale and Purchase Deed; Electronic Registration System*

### **Abstrak**

Penelitian ini bertujuan untuk menganalisis peran Perjanjian Pengikatan Jual Beli (PPJB) dalam transaksi properti, khususnya yang dilakukan di hadapan notaris. PPJB sering digunakan sebagai pengikat sementara antara penjual dan pembeli sebelum Akta Jual Beli (AJB) dapat diterbitkan. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan empiris untuk menelaah regulasi yang terkait dan implementasinya dalam praktik. Hasil penelitian menunjukkan bahwa meskipun PPJB memberikan kepastian sementara kepada kedua belah pihak, masih terdapat risiko hukum terutama jika terjadi pembuatan PPJB ganda oleh pemilik tanah atau *developer* yang tidak bertanggung jawab di hadapan notaris. Selain itu, notaris memiliki peran krusial dalam memastikan keabsahan dokumen dan mencegah terjadinya sengketa. Penerapan sistem pendaftaran PPJB secara elektronik di Badan Pertanahan Nasional (BPN) diusulkan sebagai solusi untuk meningkatkan transparansi dan mengurangi potensi konflik di masa depan. Kesimpulannya, PPJB dapat memberikan perlindungan hukum yang baik selama dilakukan dengan hati-hati dan transparan, serta didukung oleh sistem hukum yang kuat.

**Kata Kunci:** Perjanjian Pengikatan Jual Beli; Akta Jual Beli; Sistem Pendaftaran Elektronik

### **A. Introduction**

Legal practice in Indonesia reveals that not all sale and purchase transactions of land or housing units built by developers are always carried out directly with a Sale and Purchase Deed (*Akta Jual Beli/AJB*). The Sale and Purchase Deed is an official document created by a Land Deed Official (*Pejabat Pembuat Akta Tanah/PPAT*) and is used as legal evidence of the transfer of land or property rights from the seller to the buyer.<sup>1</sup> However, this process often requires a certain amount of time and preparation which makes both parties, namely the seller and the buyer, choose to delay the making of the AJB.

In many cases, before the AJB can be drafted, the seller and buyer choose to first make a Sale and Purchase Agreement (*Perjanjian Pengikatan Jual Beli/PPJB*). PPJB is a form of preliminary agreement that regulates the rights and obligations of both parties before the official sale and purchase deed is executed. This document is usually drafted before a notary public to provide legality and legal protection for both parties in the transaction. This agreement provides clarity regarding the initial agreement, including the price, payment terms, and time of execution of the AJB.

PPJB is often drafted to allow time for the buyer to complete certain obligations, such as payment settlement, fulfilment of administrative requirements, or completion of the credit process at the bank. In this case, the PPJB serves as a warranty that the buyer's rights to the property in question are legally guaranteed even though the AJB has not yet been made. On the other hand, the seller also gains certainty that the property will be purchased by the buyer within a predetermined period of time.

Moreover, the PPJB also binds both parties not to take measures that are detrimental to the other party. For example, the seller is not allowed to resell the property to another party while this agreement is still in effect. Similarly, the buyer cannot transfer his rights to a third party without the consent of the seller. This keeps the transaction protected and fair for both parties.

In practice, PPJB has a crucial position in property sale and purchase transactions in Indonesia, especially in housing projects built by developers. Given that the process of building a house often requires a long time, PPJB is often used to provide certainty to the buyer that the property they ordered will be handed over once the construction is completed. This is especially important for a buyer who purchases a house in a housing project that has not been fully completed.

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<sup>1</sup> Ana Silviana, Khairul Anami, and Handojo Djoko Waloejo, "Memahami Pentingnya Akta Jual Beli (AJB) Dalam Transaksi Pemindahan Hak Atas Tanah Karena Jual Beli Tanah," *Law, Development and Justice Review* 3, no. 2 (2020): 191–195, <https://doi.org/10.14710/ldjr.v3i2.9523>.

In addition, PPJB is also often opted for in cases where there are administrative or legal obstacles that prevent AJB from being drawn up immediately. For example, the status of the land certificate is still in process or the property has not yet been split into saleable individual units. In these situations, PPJB provides a temporary solution to enable the transaction to proceed even though the formal legal process has not been completed.

PPJB typically also specifies clauses that regulate various eventualities that may occur during the term of the agreement. For example, in the event of default by the buyer or delay in project completion by the developer, both parties will have an established legal reference to resolve the dispute. This adds a sense of security for both parties in carrying out the agreement.

Although PPJB offers many benefits, it is imperative for the parties involved to clearly understand the contents of this agreement before they sign it. Each article and provision must be fully understood so as not to cause problems in the future. Therefore, the role of a notary is crucial in providing explanations and ensuring that the PPJB is drafted in accordance with applicable laws and the interests of both parties are protected.

PPJB is a form of agreement that is frequently used in the practice of property sale and purchase, but in specific, PPJB is not regulated in laws and regulations. The absence of a specific regulation regarding PPJB raises questions about its legal position, especially in relation to agrarian and notarial law in Indonesia. The Basic Agrarian Law (*Undang-Undang Pokok Agraria/UUPA*), the legal basis for agrarian affairs in Indonesia,<sup>2</sup> does not provide specific arrangements regarding PPJB. This leaves the PPJB without a clear legal basis in the context of agrarian law.

In addition, the Law on Notary Profession (*Undang-Undang Jabatan Notaris/UUJN*) which regulates the duties and authority of notary also does not provide specific rules related to PPJB. In practice, notaries are often engaged in making PPJB, but the role of the notary is more as a party that facilitates the agreement, not as a regulator of the substance of the PPJB itself. The absence of PPJB regulation in UUJN highlights that this legal instrument is not explicitly recognised by the law governing the notary position.

Nevertheless, PPJB remains valid and enforceable since the agreement is fully based on the principles of agreement law regulated in the Civil Code (*Kitab Undang-Undang Hukum*

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<sup>2</sup> Fatmie Utari and Haifa Hasna, "Perlindungan Hukum Bagi Pihak Pembeli Dalam Perjanjian Pengikatan Jual Beli yang Tidak Terlaksana Akta Jual Beli Akibat Penolakan dari Sebagian Ahli Waris Pihak Penjual Berdasarkan Kitab Undang-Undang Hukum Perdata," *Jurnal Poros Hukum Padjadjaran* 1, no. 2 (2020): 191–209, <https://doi.org/10.23920/jphp.v1i2.247>.

*Perdata*/KUH Perdata).<sup>3</sup> According to the Civil Code, an agreement that is legally executed by the parties and fulfils the legal requirements of an agreement is binding and has the force of law governing the parties that make it. Therefore, even though it is not specifically regulated in the Basic Agrarian Law or the Notary Profession Law, PPJB is still considered valid to the extent that it fulfils the provisions of the agreement in the Civil Code.

In the context of contract law, the conditions for a valid agreement include an agreement between the parties, the capacity to enter into an agreement, a clear object, and a lawful cause. If all of these conditions are met, then PPJB can be considered a valid agreement according to the law. This ensures legal certainty for the parties involved in the PPJB, even though it is not specifically regulated by other laws.

PPJB is often used in the sale and purchase of property before the ownership certificate is transferred. In this process, PPJB serves as a form of initial agreement between the seller and buyer regarding the price, payment, and rights and obligations of each party. Because it is based on the principles of agreement law, PPJB can serve as a legal tool to bind the parties until the sale and purchase process is completed and the certificate of ownership is transferred.

One of the reasons why PPJB is not specifically regulated in the Basic Agrarian Law or the Notary Profession Law is because the nature of PPJB is a private agreement between two parties. This is in contrast to the land certificate issued by the National Land Agency (*Badan Pertanahan Nasional/BPN*), which is an official state document. Therefore, the regulation of PPJB is left to the agreement between the parties based on civil law.

Nonetheless, in practice, PPJB can be problematic in the event of a dispute between the seller and the buyer. Because PPJB is not specifically regulated in legislation, dispute resolution involving PPJB often has to go through civil law channels. The judge will assess whether or not the agreement is valid based on the terms of the agreement in the Civil Code and general principles of agreement law.

For property buyers, it is vital to understand that a PPJB only provides limited legal protection compared to a notarised AJB that is officially recognised by the state. Therefore, although PPJB is valid under the law of agreements, legal risks remain especially if the property ownership certificate has not officially changed hands.

In the face of this situation, many parties use PPJB as a first step before conducting a legal sale and purchase under agrarian law. Although PPJB has no specific regulation in

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<sup>3</sup> Rona Swastika, *Analisis Yuridis Perjanjian Pengikatan Jual Beli (PPJB) Tanah Ditinjau Dari Perspektif Kitab Undang-Undang Hukum Perdata* (doctoral dissertation, Universitas Muhammadiyah Surakarta, 2021), <https://eprints.ums.ac.id/91122/>.

agrarian or notarial law, it remains an essential instrument in the process of property sale and purchase in Indonesia. This showcases the flexibility of agreement law in accommodating people's needs, even though there is no specific regulation from the government regarding PPJB.

To conclude, although PPJB is not specifically regulated in laws and regulations, because it is based on the Civil Code, this agreement still has binding legal force. The principles of agreement law provide a strong basis for PPJB to function in property sale and purchase transactions, but it is vital for parties to understand the limitations and risks associated with the use of PPJB.

The term PPJB is a concept that has been recognised in Indonesian regulations, specifically through Government Regulation (*Peraturan Pemerintah/PP*) No. 14 of 2016 on the Implementation of Housing and Settlement Areas. PPJB has a crucial role in the property sector, especially in the process of property sale and purchase transactions conducted before the final agreement. This term is used to describe the initial binding agreement between prospective buyers and developers or home builders.

Government Regulation No. 14 of 2016 affirms that PPJB is part of the property marketing process carried out by the developer to prospective buyers.<sup>4</sup> In this context, PPJB provides legal protection for both parties prior to the final AJB. This arrangement is crafted to maintain a balance of interests between the developer and the consumer, given the nature of property transactions that involve large financial commitments.

PPJB is a widely adopted solution in the property industry as the construction process of a house is often not complete by the time a prospective buyer wants to make a purchase. With PPJB, prospective buyers can ensure the certainty of rights to the desired property even though the physical building has not been completed. The developer also benefits because with this initial agreement, they can get capital from prospective buyers to continue the construction process.

As a preliminary agreement, PPJB typically includes various important provisions that will serve as a reference for the final agreement in the form of AJB. These provisions include, among others, the sale and purchase price of the property, the period of completion of the construction, and the rights and obligations of both parties. PPJB also provides legal protection for prospective buyers in the event that the developer does not fulfil the agreed obligations.

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<sup>4</sup> Arivan Halim, "Kedudukan Perjanjian Pengikatan Jual Beli (PPJB) yang Dibuat Pengembang Dalam Pre Project Selling," *Justice Voice* 1, no. 2 (2022): 53–69, <https://doi.org/10.37893/jv.v1i2.192>.

PPJB differs from AJB, where AJB is the final document that marks the legal transfer of property ownership from the developer to the buyer. PPJB, on the other hand, is still a binding agreement that is temporary in nature and provides assurance that the property will belong to the buyer once all conditions are fulfilled. As such, PPJB provides legal certainty prior to the final agreement.

In practice, PPJB is often used for property transactions where the development is still under construction or has not even started. This enables developers to sell property units earlier and provides an opportunity for buyers to get a more affordable price. However, it is important for prospective buyers to clearly understand the contents of the PPJB, including the rights and obligations listed in it.

PPJB also include various dispute resolution mechanisms in case one party fails to fulfil its obligations. For example, if the developer fails to complete the construction within the agreed time, the prospective buyer retains the right to demand a refund or compensation. Vice versa, if the buyer is unable to make payments in accordance with the agreement, the developer reserves the right to cancel the agreement.

Since the implementation of Government Regulation No. 14 of 2016, regulations regarding PPJB have brought better legal certainty for property business players and consumers. This is consistent with the government's main objective to provide protection to consumers in the housing sector. Through this regulation, prospective buyers have greater confidence in conducting property transactions, which is expected to boost the growth of the housing industry in Indonesia.

The importance of understanding the role of PPJB in property transactions is to prevent potential buyers from suffering future losses. Many disputes that occur in the property sector are caused by a lack of understanding of the contents of PPJB agreements. Therefore, prospective buyers are advised to consult with a legal expert or a notary prior to signing the PPJB in order to get a clear picture of the rights and obligations that will be assumed.

PPJB is one of the first steps in the land sale and purchase process, but it is essential to note that PPJB is not a final agreement. It is only a temporary document which has no final legal force like AJB. Therefore, even though the PPJB has been made, the landowners still hold the legal rights to the ownership of the land. This means that as long as there is no AJB signed and processed, the land ownership rights have not transferred from the seller to the buyer.

In such context, the absence of transfer of title means that the process of transferring the title to the land cannot be carried out. The transfer of title is an important step to formally

record the change of ownership in a recognised legal document, so without AJB, a formal transfer of title is not possible. This highlights that PPJB, while important, does not necessarily complete the entire legal process required for the transfer of land rights.

This situation opens up the possibility for the landowners to enter into PPJB with other third party. In this case, landowners can enter into agreements with other parties without any legal consequences for them, as long as no AJB has been signed. In other words, as long as the legal process is incomplete, the landowners still retain the right to enter into similar transactions with other parties, which may cause uncertainty for the buyer who has entered into PPJB beforehand.

This practice of making multiple PPJB can be potentially detrimental to the community. When a landowner enters into multiple PPJB with more than one party, the risk of land ownership disputes increases. This can lead to conflicts between buyers who assume they already have rights under their PPJB and other parties who also assume they have the same rights under their PPJB. This situation will certainly have a negative impact on the legal certainty and security of land sale and purchase transactions.

To prevent such practices, effective preventive measures are needed. The government and relevant institutions should conduct strict supervision of the making of PPJB and the process of transferring land rights. In addition, educating the public on the importance of final agreements such as AJB and the risks that may arise from double PPJB is essential to raise awareness and prevent unwanted losses in the future.

The main objective of this research is to develop a system framework for electronic registration of PPJB. This system requires every PPJB deed drafted by Notary to be registered at BPN Office. This initiative aims to increase transparency and accountability in the PPJB drafting process, as well as to ensure that all agreements entered into are properly recorded in a centralised system.

This electronic registration is expected to fulfil the principle of publication (publicity), which is an important principle in the land system. The centralised registration at BPN is expected to not only ease the public's access to information related to land agreements, but also to prevent the creation of multiple or repeated PPJB by developers. This is critical to avoid potential legal disputes or ownership conflicts that could arise due to duplication of agreements.

To achieve these goals, this registration system requires a mechanism that forces every Notary to access the PPJB registration data at the BPN office before drawing up a new PPJB deed. This step serves as an initial filter to identify whether the land or building object

concerned is already bound by a previously registered PPJB. In this way, the Notary can prevent the making of PPJB deeds that have the potential to duplicate or conflict with existing agreements.

This process will ensure that every PPJB deed issued has a clear and detailed record in the BPN system. The implementation of this registration system also provides additional assurance that the agreement made will not cause legal problems in the future. In addition, with integrated registration, information on the legal status of land or building objects will be more accessible to all interested parties.

The implementation of the PPJB electronic registration system in BPN aims to strengthen the integrity and reliability of the PPJB deed making process. By ensuring every deed is officially registered and utilising a centralised information system, this research is expected to reduce the risk of conflict and provide legal certainty for parties involved in property sale and purchase transactions.

This research adopts a normative juridical method supported by an empirical juridical approach. The normative juridical method focuses on the study of applicable legal norms, both those contained in legislation and in relevant legal doctrines. Meanwhile, the empirical juridical approach is used to complement normative studies with field data relating to the implementation of law in society.

Normative juridical as the main approach in this research, seeks to explore, analyse, and interpret applicable legal norms. The focus is on written regulations that form the basis of law in Indonesia. In the context of this research, relevant regulations are to be used as a reference in understanding the legal phenomena being studied. The empirical juridical approach is used to support the normative method, where empirical data from the field is collected and analysed to see how legal norms are implemented in practice. This approach enables researchers to link legal theory with existing social realities, so as to provide a more comprehensive picture of the legal phenomena that occur.

Primary legal materials used in this research consist of laws and regulations applicable in Indonesia. These materials include laws, government regulations, regional regulations, as well as other regulations related to the research topic. These primary legal materials serve as the main source in normative analysis to assess how the law is formally regulated. In addition to primary legal materials, this research also utilises secondary legal materials as support. Secondary legal materials include legal literature, scientific articles, journals, and other legal documents that can shed more light on legal interpretation and application. These secondary



sources also include the opinions of legal experts who provide theoretical or conceptual perspectives on the legal issues being researched.

## **B. Discussion**

According to Government Regulation No. 14 of 2016, PPJB is an agreement that binds both parties in a sale and purchase transaction, in which the buyer and seller agree to carry out agreed obligations before the title to the object is officially transferred. PPJB is generally used in property transactions or goods whose handover process takes time, such as houses or apartments. In this Government Regulation, it is stated that the signing of a PPJB is done when the object being bought and sold has not fulfilled certain requirements for the legal sale and purchase process. Therefore, PPJB serves as a temporary binder until the legal sale and purchase process is completed.

PPJB is often used in property transactions, especially for houses or apartments that are still under construction. Its purpose is to provide assurance to the buyer that the property will become his or her property once the construction process is completed and all conditions are met. It also provides security for the developer or seller that the buyer has agreed to purchase the property. In PPJB, both the buyer and seller have certain obligations that must be fulfilled before the signing of AJB, such as instalment payments and administrative settlements.

PPJB has several benefits. One of them is that it provides flexibility for both parties in organising the timing of the official sale and purchase, especially when there is still a construction process or documents that are not yet complete.<sup>5</sup> PPJB also reduces the risk of fraud, as this agreement is made legally and can be used as a legal basis if one party does not fulfil its obligations.<sup>6</sup> In addition, PPJB allows the buyer to secure his or her rights to a property that has not yet been completed.

In the world of property, PPJB is considered a crucial legal instrument. This is because property is often not immediately transferable when a sale and purchase agreement is made, especially if the object is still under construction. Through PPJB, the seller commits to handing over the object of sale and purchase once all the conditions are fulfilled, while the buyer also commits to making payments in stages according to the agreement.

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<sup>5</sup> Ayuni Sri Wahyuni, *Kedudukan Hukum Atas Surat Perjanjian Jual Beli Tanah Bersertipikat Lunas Dibawah Tangan* (doctoral dissertation, Universitas Islam Sultan Agung Semarang, 2024), [http://repository.unissula.ac.id/35244/1/Magister%20Kenotariatan\\_2130200090\\_fullpdf.pdf](http://repository.unissula.ac.id/35244/1/Magister%20Kenotariatan_2130200090_fullpdf.pdf).

<sup>6</sup> Niswatin Khoiriyah and Bambang Arwanto, "Aspek Legal dan Ekonomis dari Perikatan Jual Beli dalam Penyelesaian Hutang," *Politika Progresif: Jurnal Hukum, Politik dan Humaniora* 1, no. 3 (September 2024): 299–309, <https://doi.org/10.62383/progres.v1i3.563>.

PPJB provides legal protection for the buyer before formal ownership of the property transfers. With this agreement, the buyer has the certainty that he will get the ownership rights after all obligations are fulfilled. This is especially important in property transactions with large values and long completion periods. With PPJB, the buyer does not have to worry about losing his rights to a property that has already been partially paid for.

For PPJB to be considered valid and have legal force, this agreement must fulfil certain conditions stipulated in the laws and regulations. Some of these conditions include an agreement between the seller and the buyer, a clear object, and obligations that must be fulfilled by both parties. In addition, this agreement usually must also be made in writing and signed by both parties with valid witnesses.

A Sale and Purchase Binding Agreement (PPJB) is often misunderstood as a Sale and Purchase Deed (AJB). However, the two have a fundamental difference. PPJB is a preliminary agreement that binds the two parties before the official sale and purchase process takes place, while AJB is a legal document that states that the ownership of the property has officially transferred from the seller to the buyer. AJB is usually signed in front of PPAT after all requirements have been met, including payment and completion of administrative documents.

PPJB is an essential instrument in the property transaction process that involves unfinished construction or administrative requirements.<sup>7</sup> According to them, this agreement provides legal protection for both parties, especially in transactions that take a long time to complete. Suggested that the PPJB be drafted clearly and in detail to avoid future disputes.<sup>8</sup>

While PPJB provide certainty for both parties, it also carries risks, especially if one party does not fulfil its obligations. For example, the seller may not complete the construction on time or the buyer may fail to make payments as scheduled. In these circumstances, PPJB can become a source of conflict, which is usually resolved through legal channels. Therefore, it is crucial for both parties to understand the contents of the PPJB thoroughly before signing it.

PPJB is often considered as an effective alternative solution in property transactions that are not yet ready for full legal execution. With PPJB, the sale and purchase process can be staged, allowing both the seller and buyer to fulfil their obligations without having to wait for all legal requirements to be completed. This renders property transactions more flexible

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<sup>7</sup> Gunawan Widjaja and Samsuto, "Analisis Ketentuan Perjanjian Pengikatan Jual Beli (PPJB) Dalam Perspektif Hukum Perdata: Tinjauan Terhadap Aspek Keabsahan Dan Penyelesaian Sengketa," *Sinergi: Jurnal Riset Ilmiah* 1, no. 4 (2024): 252–260, <https://doi.org/10.62335/psn0p742>.

<sup>8</sup> N. T. Salsabila, *Kekuatan Hukum Perjanjian Pengikatan Jual Beli (PPJB) Dibuat Di Bawah Tangan Sebagai Jaminan Kredit Pemilikan Rumah* (doctoral dissertation, Universitas Muslim Indonesia, 2022).

and can be accomplished more easily, especially in conditions where construction is still ongoing or ownership documents are not fully ready.

A fact and phenomenon that often transpires in practice in the field is the making of multiple PPJB by landowners or developers. This multiple PPJB refers to a situation where a landowner or developer enters into a sale and purchase agreement for the same piece of land or property with more than one buyer. This often leads to legal conflicts in the future, especially when the buyer feels they have exclusive rights to the land but then discovers that the same land has been tied up with another party through PPJB.

This multiple PPJB often occurs due to the developer's need to immediately obtain funds from prospective buyers even though the ownership status or land certification is not yet fully clear. In addition, the buyer's ignorance or lack of caution in checking the legality and history of the property also contributes to the risk of multiple PPJB. This phenomenon can lead to losses for buyers, such as uncertainty over land ownership and difficulties in obtaining a valid certificate of ownership. In some cases, aggrieved buyers have taken the case to law to obtain justice and certainty of their rights.

For example, the Supreme Court has handled a similar case through Decision Number 303 K/Pdt/2015, where the first buyer who felt aggrieved filed a lawsuit against the developer due to the multiple PPJB issued to another party. In the judgement, the Supreme Court stated that the developer's act of issuing multiple PPJB for the same object was a form of unlawful act. The court also ordered the developer to cancel the PPJB that had been issued to the second party and recognise the first buyer's rights.

Another example is the South Jakarta District Court Decision No. 697/Pdt.G/2018/PN Jkt.Sel, in which the court stated that the developer's multiple PPJB with two different buyers was a violation of the principle of legal certainty. In this decision, the court ordered the developer to cancel the agreement with the second buyer and return the land ownership rights to the first buyer who had already entered into a sale and purchase binding.

These decisions demonstrate the importance of caution for both buyers and developers in making PPJB and stress the role of notary in ensuring that PPJB do not become duplicative to ensure legal certainty for the parties.

### **B.1 Legal Relationship of Land Ownership Bound by PPJB**

In the context of agrarian law in Indonesia, PPJB is one of the first stages in the process of buying and selling land or property. PPJB is normally used when the land or property certificate cannot yet be transferred to the buyer, such as when the payment has not yet been

paid or the certificate is still in the process of being made. However, what is important to understand is that despite the existence of PPJB, the ownership status of the land or property is still in the hands of the seller, landowner or developer. This means that the buyer does not yet have full ownership rights to the land or property.

Since the ownership status of the land or property is still in the hands of the seller or developer, the buyer only has rights based on the PPJB as the initial proof of the sale and purchase commitment. However, the buyer does not yet have the full right to control or manage the land until the title transfer and payment are completed. PPJB often binds both parties in the sale and purchase process to ensure that once all conditions are met, the title can be transferred to the buyer. However, it is imperative to understand the legal risks associated with PPJB.

One of the main risks to be aware of when using PPJB is the potential for repeating PPJB or even multiple PPJB. This can happen when a seller or developer enters into a similar agreement with another party without the knowledge of the original buyer. In this case, the seller may use the services of a different notary to make a new PPJB with another buyer, creating a situation of legal conflict as to who is the legal owner of the property. This could cause the original buyer to lose their rights despite having a PPJB.

The practice of multiple PPJB can cause great harm to the buyer, both financially and emotionally. Initial buyers who were confident that they would gain ownership of the property can feel aggrieved when they discover that the same property has been sold to another party. In this situation, the legal process can be complicated and often requires court intervention to determine who is the rightful owner of the land or property. This leads to legal uncertainty for all parties involved.

This multiple PPJB case also demonstrates the critical role of notary in any property sale and purchase transaction. Notaries are responsible for ensuring the validity of documents and agreements, as well as verifying that the property being sold is not under dispute or not sold to another party. However, in some cases, different notaries may not communicate with each other, which allows for multiple PPJB. Therefore, buyers should take care to choose a trustworthy notary and ensure that the sale and purchase process is conducted transparently.

A relevant case study regarding multiple PPJB has occurred in Jakarta, where a property developer sold the same apartment unit to two different buyers. The two buyers signed the PPJB with two different notaries, which resulted in a legal dispute. The court eventually ruled that the first buyer who made full payment and had proof of a valid PPJB

was the legal owner of the apartment unit. This case highlights the importance of thorough verification before entering into a PPJB.

In another similar case, which occurred in Surabaya, a land seller signed a PPJB with two buyers at almost the same time. The two PPJB were drafted with two different notaries, and both buyers claimed to be the legal owners of the land. The case eventually went to court, and after a lengthy legal process, the judge decided to cancel the latter PPJB as it was deemed unauthorised. This decision underscores the importance of ensuring that the PPJB process is done correctly from the start.

To avoid multiple PPJB issues, parties involved in a land or property sale and purchase transaction should be more vigilant and pay attention to every detail in the legal process. Buyers should ensure that the land or property they are about to purchase is not under dispute or not sold to another party by checking the property's history through a notary or authorised institution. This will help avoid potential future conflicts.

In addition, buyers should also request for the land or property certificate to be transferred immediately after the PPJB is executed and payment is made. This will speed up the ownership transfer process, minimising the risk of multiple PPJB. Thus, ownership rights can be legally transferred immediately to the buyer, providing stronger legal certainty.

In a land or property sale and purchase transaction, legal clarity is essential to protect the buyer's rights. Therefore, the roles of the notary, developer and seller must be carefully considered. Choosing a competent notary, as well as conducting a thorough check on the status of the land or property before signing the PPJB can help mitigate risks that may arise and ensure that the sale and purchase process takes place in a safe and transparent manner.

## **B.2 Regulations and Legal Systems that can Guarantee Legal Certainty for the Use of PPJB Legal Instruments**

In the context of agreement law, PPJB is often used as a legal instrument that precedes the final sale and purchase agreement. However, because PPJB is not specifically regulated in the laws and regulations, there is a legal vacuum that can create uncertainty for the parties involved in the transaction. This renders the PPJB vulnerable to various interpretations that could jeopardise the interests of one of the parties.

This legal vacuum demands a regulation that explicitly regulates the use of PPJB as a legal instrument. With specific regulations, the government can guarantee legal certainty to parties using PPJB, so that their rights and obligations can be properly protected. Without clear regulations, the potential for legal disputes between sellers and buyers could increase.

Therefore, it is very vital for the government to build a legal system that can provide certainty for all parties using PPJB. This system must ensure that agreements entered into through PPJB have a strong legal basis and are not easily cancelled or disputed. In this context, a structured and organised legal system is needed.

One solution to ensure legal certainty over the use of PPJB is through the provision of an official registration system that is recognised by the state. This registration system will not only recognise the existence of PPJB as a valid legal instrument but also provide legal protection for the parties involved. This system will help reduce potential disputes that may arise due to the unclear legal status of the agreement.

BPN, as the government agency responsible for land affairs, can be mandated to manage PPJB registration. As an institution that has authority in land matters, BPN has the capability to create and manage a system that supports PPJB registration. With official registration, the status of the PPJB will be clearer and legally protected.

In the current era of digitalisation, PPJB registration can be undertaken electronically. An electronic registration system will provide many benefits, including ease of access, speed of process, and better transparency. With a technology-based system, the entire registration process can be done online, thereby reducing the potential for administrative errors and speeding up the verification process.

The electronic registration system should also be designed to be accessible to all interested parties, including sellers, buyers, and relevant authorities. This ease of access is very crucial to ensure that all parties can monitor the status of their PPJB in real time, so that no party is disadvantaged due to lack of information.

In addition to being accessible, the registration system must also be reliable in ensuring the validity and legality of each PPJB registered. A reliable system will provide a sense of security for parties using PPJB, as they know that their agreement is officially recorded and has the same legal force as a completed sale and purchase agreement.

Through electronic registration of PPJB, the government can also improve efficiency in managing land documents. With a centralised and digital system, all information related to the PPJB can be accessed easily by authorised parties, so that the document verification and validation process can run faster and more accurately. This will also contribute to reducing the administrative burden on the land office.

Ultimately, the creation of regulations and an electronic PPJB registration system managed by BPN will provide a stronger guarantee of legal certainty for parties involved in property sale and purchase agreements. With an accessible and reliable system in place, the

use of PPJB as a legal instrument can be recognised and respected, and provide the necessary legal protection for the parties.

The Sale and Purchase Binding Agreement (PPJB) Registration System has several important benefits and purposes in property sale and purchase transactions. Here are some of the main points:

### 1. Benefits and Objectives of the PPJB Registration System

The Sale and Purchase Binding Agreement (PPJB) Registration System is instrumental in maintaining legal certainty in property transactions. PPJB binds the agreement between the prospective seller and buyer,<sup>9</sup> ensuring both parties are bound to proceed with the transaction as per the original agreement. This provides strong legal protection and avoids disputes or unilateral cancellations.<sup>10</sup>

Besides being a binding tool, PPJB also helps reduce risks in the buying and selling process.<sup>11</sup> Normally, PPJB is accompanied by a down payment as proof of the buyer's seriousness, which directly reduces the risk for the seller. With a binding agreement, the seller will be more secure in conducting transactions and avoid potential fraud.<sup>12</sup>

The PPJB registration process at the Land Bureau provides a stronger legal basis for the transfer of property rights, thus expediting the transaction before the AJB is finalised. This registration also mitigates the risk of conflicts arising with third parties, for example in the case of duplication of agreements. As such, PPJB serves an important role in maintaining the security and smoothness of property transactions.<sup>13</sup>

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<sup>9</sup> Made Ara Denara Asia Amasangsa and I Made Dedy Priyanto, "Perjanjian Pengikatan Jual Beli (PPJB) dalam Transaksi Peralihan Hak Atas Tanah dan/atau Bangunan," *Jurnal Hukum* 8, no. 1 (2019): 1–18, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/55865>.

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<sup>10</sup> Pashouses, *Loc. cit.*;

Helmi Romadhoni, "Fungsi dan Peran PPJB Dalam Transaksi Jual Beli Tanah dan Bangunan," *Inanews*, March 20, 2020, <https://www.inanews.co.id/2020/03/fungsi-dan-peran-ppjb-dalam-transaksi-jual-beli-tanah-dan-bangunan/>.

<sup>11</sup> Made Ara Denara Asia Amasangsa and I Made Dedy Priyanto, *Loc. cit.*;

Septian Nugraha, "Perbedaan PPJB dan AJB: Pengertian, Fungsi, hingga Cara Membuatnya," *Rumah 123*, accessed September 12, 2024, <https://www.rumah123.com/panduan-properti/ppjb-dan-ajb/>.

<sup>12</sup> Dwijaya Karya Development, "Apa itu PPJB Apartemen? Serta Perbedaannya dengan AJB," *Dwijaya Karya Development*, June 6, 2024, <https://dwijayakarya.com/pengertian-ppjb-apartemen/>;

Septian Nugraha, *Loc. cit.*

<sup>13</sup> Made Ara Denara Asia Amasangsa and I Made Dedy Priyanto, *Loc. cit.*

## 2. Theory of Legal Certainty

The theory of legal certainty is a fundamental concept in the study of law that relates to the stability and predictability of the legal system.<sup>14</sup> Legal certainty stresses the importance of clear and consistent rules, so that people can anticipate the legal consequences of their actions. The theory is rooted in the principle that laws should be applied objectively and invariably, so that individuals can be assured of their rights and obligations.

Essentially, legal certainty theory argues that good law is predictable and consistently applied. This means that laws and regulations ought to be clearly written and be understood by the general public. With legal certainty, individuals and businesses can plan their activities without fear of unexpected changes or arbitrary enforcement.

One important figure in the theory of legal certainty is Jeremy Bentham, who argued that laws should be designed to provide certainty and order. Bentham argued that clear and consistent laws would reduce uncertainty and prevent abuse of power.<sup>15</sup> This concept was later expanded by John Austin who put forward the theory of legal positivism, which emphasises the importance of clear legal rules and systematic application.<sup>16</sup>

In practice, legal certainty is also related to human rights. With the rule of law, individuals have protection against possible abuse by the government or other parties. Legal certainty helps ensure that the rights of individuals are respected and protected in accordance with applicable legal provisions.

However, implementing legal certainty is not always simple. Sometimes, there is a conflict between legal certainty and justice. In some cases, the rigid rule of law may not always reflect the values of justice that society desires. Therefore, it is important to balance between the need for certainty and the need for legal flexibility.

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<sup>14</sup> Isharyanto, *Teori Hukum: Suatu Pengantar Dengan Pendekatan Tematik* (Yogyakarta: Penerbit WR, 2016).

<sup>15</sup> M. Yusuf Hijriani, Winner A. Siregar, and Sopian, "Perkembangan Teori Penegakan Hukum dalam Perwujudan Fungsi Norma di Masyarakat," *Sultra Research of Law* 5, no. 2 (2023): 58–65, <https://doi.org/10.54297/surel.v5i2.62>.

<sup>16</sup> Nadia Mardesya and Rasji, "Tinjauan Mendalam tentang Filsafat Hukum: Mengurai Akar Pemikiran di Balik Sistem Hukum," *Journal on Education* 6, no. 1 (2023): 10190–10200, <https://jonedu.org/index.php/joe/article/view/4715>.



The theory of legal certainty is a crucial aspect of the legal system that aims to provide stability and clarity.<sup>17</sup> Through in-depth exploration and study of legal certainty, it is hoped that we can identify ways to improve and refine our legal system. Good legal certainty contributes to a more just and orderly society, where rights and obligations are clearly and consistently regulated.

### 3. Required PPJB Registration System

The centralised PPJB (Sale and Purchase Binding Agreement) registration system at BPN (National Land Agency) adopts a centralised model, allowing access from anywhere and anytime by Notary or interested parties. With this electronic system, the registration process can be conducted more efficiently and transparently. Notary involved in making PPJB are required to conduct registration within a maximum of six working days after the PPJB deed is drafted. This aims to ensure that the registration is done in a timely manner and the official document is registered in the system.

The registration procedure involves inputting key data that includes the object of PPJB, the location of the land, the name of the Notary, as well as the date of the PPJB. This process helps in systematically organising and documenting information relevant to the PPJB. In addition, registration fees are charged rationally and proportionally to the Notary who drafts the PPJB, ensuring that the cost burden is borne fairly in accordance with the services provided.

Once the relevant sale and purchase transaction is finalised with AJB, the PPJB registration must be requested to be deleted from the system. This deletion can be requested by the Notary who made the AJB no later than six working days after the transaction is completed. The legal basis for the development of an electronic PPJB registration system may be set out in a Regulation of the Minister of Agrarian and Spatial Planning or the National Land Agency, which provides the legal framework for the implementation of this system.

### C. Conclusion

In terms of legal substance, Sale and Purchase Binding Agreements (PPJB) often does not have a strong legal basis. This is because there is no specific regulation that explicitly

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<sup>17</sup> Nola Listi Fitriani, "Pengaruh Profesionalisme dan Integritas Kepolisian terhadap Efektivitas Penegakan Hukum di Indonesia Berdasarkan Undang-Undang No. 02 Tahun 2002," *Causa: Jurnal Hukum dan Kewarganegaraan* 6, no. 6 (2024): 1–10, <https://doi.org/10.3783/causa.v6i6.6288>.

regulates PPJB as a legal instrument. Nevertheless, business actors, including developers, landowners, and prospective land buyers, require PPJB as a preliminary legal instrument. PPJB serves as a temporary basis for the sale and purchase bond until a valid Sale and Purchase Deed is issued by a Notary. With the PPJB, both parties get legal certainty over the transaction to be carried out, although legally the PPJB itself does not yet have the same power as an official Sale and Purchase Deed.

In practice, there is potential for fraudulent actions that can harm the parties involved. One form of unethical practice that may occur is the making of multiple PPJB by landowners or developers. This action can take the form of making a second or even third PPJB for the same land object, through a different Notary. This situation has the potential to cause legal disputes and conflicts of interest, given that several parties may have overlapping claim rights over the same land. This kind of practice can certainly harm the public and create legal uncertainty in land sale and purchase transactions.

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