Analysis of Breach of Contract in Preliminary Land Sale and Purchase Agreements: A Study of Decision Number 7/Pdt.G/2024/PN Byl

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This article examines breach of contract in preliminary land sale and purchase agreements through a doctrinal analysis of Boyolali District Court Decision Number 7/Pdt.G/2024/PN Byl, with particular attention to the parties' contractual positions, the structure of payment obligations, and the legal responsibilities of the Notary and the Land Office. The dispute arose because the buyer had only partially fulfilled the agreed instalments while already taking physical possession of the land, whereas the original land certificates remained in the custody of the Notary, a configuration that generated an imbalance between the parties and culminated in a claim of breach. The research adopts a normative legal method with a descriptive-prescriptive orientation, combining statutory, case-based, and conceptual approaches to the Civil Code, the Notary Office Act, relevant judicial decisions, and scholarly writings. The analysis demonstrates that the court consistently applied Articles 1238, 1266, 1267, 1464, and 1269 of the Civil Code to establish the buyer's breach, annul the agreements, determine which payments should be retained or returned, order the restitution of original certificates and physical possession to the lawful owners, and instruct the Land Office to suspend any transfer of title. The decision aligns with Subekti's theory of breach of contract and offers a normative clarification of the duty-of-care standard that notaries must observe when drafting preliminary sale and purchase agreements in order to safeguard a fair balance of rights and obligations and to reinforce legal certainty in land transactions.
Keywords: breach of contract; preliminary land sale and purchase agreement; notary liability; legal certainty

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1. Introduction

A notary is a public official who performs an office founded on public trust. Through authentic deeds, a notary gives legal form to the intentions of the parties and provides written evidence that supports certainty in civil-law relationships. Accordingly, the office requires integrity, diligence, objectivity, independence, and professional responsibility [1, p. 12]. Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 on the Office of Notary designates the notary as a public official authorized to draw up authentic deeds and exercise other powers prescribed by legislation. This authority also places the notary in a position to safeguard orderly civil administration and protect the interests of the parties [2, p. 25], [3, p. 77].

A problem arises when a Preliminary Land Sale and Purchase Agreement (Perjanjian Pengikatan Jual Beli, PPJB) is not performed in a balanced manner. Boyolali District Court Decision Number 7/Pdt.G/2024/PN Byl concerns a dispute between five landowners as the Plaintiffs and PT Dua Putra Bengawan as Defendant I. Three PPJB were executed before Notary/Land Deed Official (PPAT) Sunarto, S.H., who was subsequently named as Defendant II, while the Boyolali Regency Land Office was joined as the Co-Defendant. The contractual objects comprised Freehold Title Certificates (SHM) Numbers 3326, 5344, and 5345, with an aggregate transaction value of IDR 5.44 billion. By the due date, the buyer had paid only approximately IDR 1.49 billion, leaving an outstanding obligation of approximately IDR 3.95 billion.

The imbalance became more apparent because Defendant I had already taken physical possession of the land, while the original certificates remained in the custody of the Notary. The sellers subsequently sought the cancellation of the PPJB, the return of the certificates, restoration of physical possession of the land, and an appropriate settlement of the payments already received. This situation warrants examination because the dispute concerns not only the buyer's failure to perform its contractual obligations, but also the notary's duty of care, the protection of landowners, and the role of the Land Office in preventing a transfer of title while the proceedings are pending.

Against this background, this study aims to analyze the forms of breach of contract in the land PPJB examined in Decision Number 7/Pdt.G/2024/PN Byl. The analysis focuses on three matters: reconstructing the legal relationship and the parties' performance of their obligations, examining the grounds on which the judicial panel characterized the breach and determined its legal consequences, and assessing the consistency of the decision with Subekti's theory of breach of contract. This focus is used to explain how a failure to make payment under a PPJB is legally addressed so as to protect the rights of the parties and strengthen legal certainty in land transactions.

2. Literature Review and Research Question

A notarial deed qualifies as an authentic deed when it is drawn up in the form and according to the procedures prescribed by law, by or before an authorized public official [5, p. 64]. Its authentic character gives it full evidentiary force unless proven otherwise [6, p. 142]. Compliance with formal requirements, territorial competence, verification of the identity and authority of the appearing parties, clarity of the object, and accurate formulation of the parties' intentions are prerequisites for preventing the deed from being reduced to the status of a private deed [9, p. 88], [10, p. 191]. The obligation to read and sign the deed in the presence of the parties also serves to ensure informed consent and to prevent discrepancies between the parties' intentions and the contents of the document [11]. The public-service dimension is also reflected in the obligation to provide notarial services without charging fees to persons who meet the criteria of financial incapacity [4]. In land transactions, such diligence is important because procedural errors or ambiguity in the deed may undermine the protection of the appearing parties and the legal certainty of a transfer of rights [7], [8]. An authentic deed is therefore not merely an administrative product, but also a preventive instrument for the resolution and avoidance of disputes [12, p. 221].

A notary's authority is accompanied by responsibility. Civil liability may arise where an error or negligence in drawing up a deed causes loss, while criminal liability may relate to forgery or the inclusion of false statements, and administrative liability may arise from violations of official duties. The literature emphasizes that a legal office vested with substantial authority must be accompanied by mechanisms of accountability [13]. Notarial professionalism requires integrity, diligence, and the capacity to adapt professional practice to social developments without lowering legal standards [14]. In the criminal-law context, the authenticity of documents and the truthfulness of statements constitute important limits to prevent deeds from becoming instruments of criminal conduct [15, p. 302], [18, p. 412]. The notary's dual position in deed practice and land affairs also requires clear delineation of competence [16], while the Indonesian Civil Code, the Notary Office Act, and doctrines of liability provide the basis for both civil and administrative assessment [17, p. 345], [19, p. 54], [20, p. 138].

Subekti's theory of breach of contract explains that a debtor is in breach when the debtor fails to perform the obligation, performs it late, performs it improperly, or does something that the agreement prohibits [21]. Such a condition provides a basis for the creditor to demand performance, damages, cancellation, or a combination of other legal consequences in order to restore balance in the contractual relationship [9, p. 45]. Previous studies have addressed legal certainty in land matters, issues concerning land sale and purchase deeds, notarial procedures, and the legal position of notaries [7], [8], [11], [14], [16]. However, Case Number 7/Pdt.G/2024/PN Byl requires an integrated examination of the failure to pay the purchase price in full, physical possession of the land, custody of the certificates by the notary, restitution of payments, and administrative restrictions on land registration. The research question is: how is breach of contract in the land PPJB legally constructed, and what are its legal consequences for the buyer, the landowners, the notary, and the Land Office?

3. Method

This study employs a normative legal method with a descriptive-prescriptive orientation, focusing on the analysis of contractual rules, provisions governing breach of contract, and notarial responsibility in relation to Boyolali District Court Decision Number 7/Pdt.G/2024/PN Byl. The study applies statutory, case, and conceptual approaches by examining the Indonesian Civil Code, the Notary Office Act, judicial decisions, and scholarly doctrines. Legal materials were collected through library research and then analyzed qualitatively to formulate a systematic answer to the research question concerning breach of contract in land PPJB and its implications for the legal certainty of the parties.

The primary legal materials comprise Boyolali District Court Decision Number 7/Pdt.G/2024/PN Byl, the Indonesian Civil Code, and the Notary Office Act. Secondary legal materials, including books and scholarly articles, are used to explain the concepts of authentic deeds, notarial responsibility, and the theory of breach of contract. The analysis is conducted by inventorying the facts and operative part of the judgment, identifying the legal rules applied, comparing the contractual obligations with the actual payments made, and undertaking a prescriptive assessment of the legal consequences for the parties. The findings are presented argumentatively to answer the research question and draw implications for the practice of drafting land PPJB.

4. Results and Discussion

Reconstruction of the Performance of the Land PPJB and the Legal Positions of the Parties

The legal relationship in Case Number 7/Pdt.G/2024/PN Byl arose from three Preliminary Sale and Purchase Agreements executed before the Notary as Defendant II, namely PPJB Number 26 and Number 28 dated 11 July 2019 and PPJB Number 39 dated 20 November 2019. The three agreements bound Defendant I as the buyer and the landowners as the sellers, namely Plaintiffs I through V in relation to Freehold Title Certificate (SHM) Number 3326 registered in the name of Mitro Mulyono, Plaintiff II in relation to SHM Number 5344 registered in the name of Sarwanto, and Plaintiff IV in relation to SHM Number 5345 registered in the name of Wartiyem. The transaction values agreed in the PPJB were substantial: IDR 3,720,000,000.00 for the land under SHM Number 3326, IDR 907,200,000.00 for the land under SHM Number 5344, and IDR 813,600,000.00 for the land under SHM Number 5345. The payment terms were expressly stipulated, including Defendant I's obligation to pay the purchase price in full within thirteen months of signing the PPJB. Accordingly, PPJB Numbers 26 and 28 fell due on 11 August 2020, while PPJB Number 39 fell due on 20 December 2020.

The performance of the agreements shows that Defendant I was not entirely inactive. A number of payments were made before the dispute proceeded to litigation. For the PPJB relating to SHM Number 5345 owned by Plaintiff IV, Defendant I paid a down payment of IDR 100,000,000.00 on 11 July 2019 and several instalments, bringing the total payments made before maturity to IDR 187,720,000.00. After the due date, Plaintiff IV received two additional payments from Defendant I totaling IDR 219,080,000.00, comprising IDR 200,000,000.00 on 7 September 2020 and IDR 19,080,000.00 on 2 December 2020. For the PPJB with Plaintiff II concerning the land under SHM Number 5344, Defendant I had paid IDR

453,600,000.00. For PPJB Number 39 concerning the land under SHM Number 3326, Defendant I paid IDR 750,000,000.00, leaving an outstanding payment obligation to the Plaintiffs of IDR 2,970,000,000.00 that remained unpaid at maturity. The position regarding physical possession also changed because the land covered by SHM Numbers 3326, 5344, and 5345 had been excavated and fenced by Defendant I, while the original certificates for the three parcels were held by the Notary as Defendant II. The combination of physical possession by the buyer and custody of the certificates by the Notary demonstrates that the PPJB operated as a preliminary agreement that allowed the buyer to take physical possession of the land before full payment, while ensuring that the certificates remained with the Notary until the payment obligations were fulfilled.

Defendant I relied on its deteriorating financial condition and the Covid-19 pandemic to argue that the delay in payment constituted force majeure. Defendant I asserted that it had partially performed its obligations by paying IDR 406,800,000.00 to Plaintiff IV, IDR 453,600,000.00 to Plaintiff II, and IDR 750,000,000.00 to the Plaintiffs who owned the land under SHM Number 3326, and further claimed that it remained capable of paying the outstanding balance if it obtained bank financing. A request for a six-month extension and payment of IDR 22,344,000.00 as compensation for the delay were submitted as evidence of good faith. Another relevant fact was the registration of a block on SHM Numbers 3326, 5344, and 5345 by the Boyolali Land Office on 20 March 2024 at the request of the Plaintiffs' legal representative, thereby preventing the administrative transfer of title at the registration stage. This sequence of facts formed the basis for the judicial panel to determine whether Defendant I could still be regarded as properly performing the agreements or had entered into a state of breach giving the Plaintiffs a right to seek cancellation.

The Court's Assessment of Breach of Contract and Its Legal Consequences

The judicial panel's legal reasoning demonstrates a systematic analysis of contractual performance and non-performance. The payment obligation was calculated based on the difference between the purchase price agreed in the PPJB and the amount already paid. For PPJB Number 39 concerning SHM Number 3326, the panel noted that an outstanding payment of IDR 2,970,000,000.00 remained unpaid by Defendant I even though the thirteen-month period had expired. Because the due date was expressly stipulated in the PPJB, Defendant I was deemed to have defaulted on payment after 20 December 2020. Article 1238 of the Indonesian Civil Code was applied as the legal basis because a debtor who fails to perform at the time expressly specified in the agreement may be considered in default without a prior notice of default where the time limit has been expressly agreed. The panel therefore concluded that Defendant I was in breach of contract toward the Plaintiffs. The defense that Defendant I had partially performed and had encountered difficulties due to the pandemic was held not to extinguish the principal obligation to pay the land price in accordance with the PPJB, and the argument was therefore rejected as lacking a sufficient legal basis. [17, p. 345]

The case did not end with a finding of breach of contract. The judicial panel proceeded to determine its legal consequences by referring to Articles 1266 and 1267 of the Indonesian Civil Code. These provisions allow a creditor to seek cancellation of an agreement where the debtor is in breach. In their fourth prayer for relief, the Plaintiffs requested that PPJB Numbers 26, 28, and 39 be declared cancelled. The panel found the request legally justified and granted it, further relying on Supreme Court Decision Number 704 K/Sip/1972, which affirms that a party harmed by the non-payment of the price of goods may seek cancellation of the sale. The provisions in Article 1 of each PPJB containing a cancellation condition were also significant. The clause stipulated that if the buyer failed to pay the remaining purchase price, the agreement would be null and void by operation of law without requiring a court decision, and the parties would be required to return everything they had received. Despite this automatic cancellation clause, the panel nevertheless exercised its authority to declare the agreements cancelled in the operative part of the judgment in order to provide explicit certainty regarding the termination of the contractual relationship and its legal consequences for the parties and third parties, including the Land Office. [17, p. 345]

The issue of refunding the amounts paid by Defendant I to the Plaintiffs was analyzed with reference to Articles 1464 and 1269 of the Indonesian Civil Code. Article 1464 provides that where a purchase is made with earnest money, the parties may not unilaterally withdraw from the purchase merely by forfeiting or returning the earnest money. Article 1269 governs obligations subject to a specified time and provides that a performance due at a particular time may not be demanded before that time arrives, while anything paid before the due time may not be reclaimed. The judicial panel concluded that not all amounts previously paid by Defendant I had to be returned because the Plaintiffs were not required to refund the down payment and instalments made before maturity. This principle is clearly reflected in the panel's treatment of payments relating to SHM Number 5345 owned by Plaintiff IV. The earnest money of IDR 100,000,000.00 and the pre-maturity payments of IDR 187,720,000.00 remained the entitlement of Plaintiff IV, whereas the post-maturity payments totaling IDR 219,080,000.00 were ordered to be returned to Defendant I. A similar approach applied to the other Plaintiffs insofar as there were no post-maturity payments requiring restitution. [17, p. 345]

Another highly significant legal consequence concerns the status of the certificates and physical possession of the land. The fifth through seventh prayers for relief seeking the return of the certificates and physical possession of the land were granted by the judicial panel. Defendant I and Defendant II were ordered to deliver the original SHM Number 3326, SHM Number 5344, and SHM Number 5345 certificates to their lawful owners. Defendant I was also required to restore physical possession of all parcels of land to the respective Plaintiffs in accordance with their ownership. The Co-Defendant, namely the Boyolali Land Office, was required to suspend the process of transferring title to the disputed land until the judgment acquired permanent legal force, particularly because a blocking notation had already been recorded against the relevant certificates on 20 March 2024. The Plaintiffs' request that the Co-Defendant issue replacement certificates was found to be legally unfounded because delivery of the certificates could be effected through actual enforcement against Defendant I and Defendant II. The structure of the operative judgment shows that the judicial panel did not stop at cancelling the agreements, but reorganized the full range of consequences arising from the obligations, including the amounts the sellers were entitled to retain, the amounts that had to be returned, and the restoration of proprietary rights in the form of ownership and physical possession of the land.

Analysis of Breach of Contract under Subekti's Theory in Decision Number 7/Pdt.G/2024/PN Byl

Subekti's concept of breach of contract provides the principal theoretical basis for academically examining this decision. Subekti explains that breach occurs when a debtor fails to perform the obligation at all, performs it late, or performs it improperly. Such circumstances give the creditor the right to demand performance, damages, cancellation of the agreement, or a combination of those remedies. This formulation is grounded in the principle of pacta sunt servanda, which regards an agreement as a source of obligations binding on the parties as if it were law. Determining whether a breach has occurred therefore depends on comparing the performance agreed in the contract with its actual fulfillment in practice. [21]

The principal performance owed by Defendant I as the buyer under the three PPJB was the obligation to pay the land purchase price in full within the period stipulated in the agreements. The purchase prices and payment deadlines were clearly stated in PPJB Numbers 26, 28, and 39. The facts demonstrate that Defendant I made only partial payments and still owed a substantial amount, namely IDR 2,970,000,000.00 to the Plaintiffs who owned the land under SHM Number 3326. The agreed period had also expired. This position corresponds to the form of breach described by Subekti, namely failure to perform an obligation on time. The defense that Defendant I had made partial payments and acted in good faith by requesting an extension and paying compensation for delay did not eliminate the breach because the principal contractual obligation remained unfulfilled. The judicial panel's decision to maintain the finding of breach and reject the pandemic as a justification is consistent with Subekti's view that the time requirement constitutes an essential element of contractual performance.

Subekti emphasizes that breach of contract not only gives rise to a right to claim damages but also permits cancellation of the agreement in order to restore balance between the parties. This principle is reflected in the judicial panel's treatment of the legal consequences of Defendant I's breach. The Plaintiffs chose to seek cancellation of the PPJB rather than merely demand full payment and damages. The panel granted the request for cancellation by referring to Articles 1266 and 1267 of the Indonesian Civil Code and reinforcing its reasoning with Supreme Court jurisprudence concerning the right of an injured party to seek cancellation of a sale where the price has not been paid. The agreements, which had originally been intended as a bridge toward the registration of the transfer of ownership at the Land Office, were terminated by the court decision. Consequently, the legal relationship between the parties reverted to its original position: the Plaintiffs remained the landowners, while Defendant I lost the prospect of acquiring ownership rights over the objects of the agreements.

The judicial panel's application of Articles 1464 and 1269 of the Indonesian Civil Code in determining which payments had to be returned and which could be retained by the Plaintiffs is consistent with Subekti's account of the function of earnest money and payments made before maturity. Earnest money and payments made while the contractual relationship remained in force were treated as part of the operation of the agreement and did not have to be returned when cancellation resulted from the debtor's breach. Restitution was imposed only in respect of payments made after the debtor had entered into default. The order requiring Plaintiff IV to return IDR 219,080,000.00 to Defendant I because those payments were made after maturity reflects the principle that creditors are also constrained by the law of obligations; therefore, the right to seek cancellation is not equivalent to a right to retain every payment received. This construction creates a new balance in which the Plaintiffs are protected against losses resulting from unpaid obligations, while Defendant I remains protected in respect of payments made after the contractual period should already have ended.

The positions of the Notary and the Land Office in this decision can also be understood through the perspective of breach of contract described by Subekti. The Notary was not characterized as a party in breach, but was nevertheless ordered, together with Defendant I, to return the original certificates to the lawful owners. The imposition of this obligation shows that structuring the consequences of breach affects not only the principal debtor and creditors, but also other parties occupying strategic positions in the contractual arrangement, particularly those holding documents evidencing title. The Notary was treated as part of the contractual structure required to support the restoration of the Plaintiffs' rights, consistent with the function of an authentic deed as an instrument for creating legal certainty and protection. The order directing the Boyolali Land Office to suspend all transfers of title over the disputed land served to preserve the legal status of the objects of the dispute until the judgment acquired permanent legal force. This measure prevented a good-faith third party from acquiring new rights over the land and thereby becoming an additional legal subject who could complicate enforcement of the judgment or restoration of the Plaintiffs' rights. The administrative block at the land-registration level ensured that restoration through the return of the certificates and physical possession of the land would be effective and would not conflict with other registration actions proceeding in parallel at the Land Office.

The reasoning and operative orders in Decision Number 7/Pdt.G/2024/PN Byl demonstrate a systematic and concrete application of Subekti's concept of breach of contract. Defendant I's breach was identified through its failure to pay the land purchase price in full within the period agreed in the PPJB, while the argument of financial hardship was not accepted as a justification capable of extinguishing the performance obligation. The legal consequences included cancellation of the PPJB, an order to return the certificates to the lawful owners, restoration of physical possession of the land, confirmation of the obligation to refund certain payments made after maturity, and restructuring of the roles of the Notary and the Land Office in supporting restoration of the Plaintiffs' rights. These findings provide a clear answer to the research question concerning breach of contract in land PPJB in Case Number 7/Pdt.G/2024/PN Byl and also show that the decision may serve as a relevant reference for the drafting of PPJB and the performance of notarial duties in a manner more consistent with pacta sunt servanda, the principle of balance between the parties, and the need for legal certainty in land sale and purchase transactions.

5. Conclusion

The reconstruction of the performance of the three PPJB in Case Number 7/Pdt.G/2024/PN Byl shows that the parties' legal relationship was based on an obligation to pay substantial land purchase prices in full within a thirteen-month period. Defendant I, however, made only partial payments and remained in arrears after the due dates despite having received additional opportunities and having paid compensation for delay. These facts satisfy the criteria of breach of contract because Defendant I failed to perform on time and did not fully discharge the principal obligations stipulated in the agreements. The judicial panel addressed this situation by applying Articles 1238, 1266, 1267, 1464, and 1269 of the Indonesian Civil Code, declaring Defendant I in breach, cancelling PPJB Numbers 26, 28, and 39, specifying which payments remained the entitlement of the Plaintiffs and which had to be returned, and ordering the return of the certificates and physical possession of the land to the lawful owners while requiring the Land Office to suspend the transfer-of-title process. The consequences of the breach were therefore comprehensively regulated in both the law of obligations and proprietary-law dimensions.

Analysis through Subekti's theory of breach of contract demonstrates that the decision is consistent with the proposition that breach encompasses complete non-performance, delay, or improper performance, each of which gives the creditor the right to demand performance, damages, or cancellation of the agreement in order to restore balance between the parties. Defendant I's failure to pay the land price in full within the agreed period, the panel's rejection of financial hardship as a legal justification, cancellation of the PPJB as a means of restoring the landowners' position, regulation of the restitution of payments made after the debtor had entered into default, and the placement of the Notary and the Land Office as important actors required to support the restoration of rights demonstrate a concrete application of Subekti's theory. The case therefore constitutes a relevant reference for land PPJB and notarial practice so that they may better conform to pacta sunt servanda, the principle of balance between the parties, and legal certainty in land sale and purchase transactions.

In practical terms, notaries should draft land PPJB with clear and balanced clauses concerning time limits, cancellation conditions, the status of earnest money, and mechanisms for returning certificates. The parties should also ensure the availability of adequate financing before agreeing on the price and the payment period. For policymakers and stakeholders in the fields of land administration and notarial practice, this decision may serve as material for developing technical guidelines on the use of PPJB and the allocation of responsibilities in preventing and resolving disputes arising from breach of contract.

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