

Juridical Parameters for Distinguishing Breach of Contract from Criminal Fraud in Property Sale and Purchase Agreements: Analysis of Indonesian Supreme Court Decisions No. 1650 K/Pdt/2015 and No. 387 K/Pid/2022

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ABSTRACT: Disputes arising from property transactions are not always easy to place within either private law or criminal law. The same sequence may involve an agreement, a transfer of money, and a failure to perform. In one case it may amount to breach of contract (wanprestasi); in another, the agreement may have been used to obtain property through deception. This study examines the juridical markers that separate those two situations by reading Supreme Court Decision No. 1650 K/Pdt/2015 alongside Supreme Court Decision No. 387 K/Pid/2022. The research is normative and uses statutory, conceptual, and case approaches. The main legal materials are the Indonesian Civil Code, Article 378 of the former Criminal Code as applied in the 2022 case, Article 492 of Law No. 1 of 2023 on the Criminal Code, Supreme Court Jurisprudence No. 4/Yur/Pid/2018, and the two Supreme Court decisions. The analysis shows that a broken promise, even one causing substantial loss, is not enough to establish fraud. Attention must be given to where the obligation came from, when bad faith appeared, whether deceptive means were used before or when the agreement was formed, and whether that deception caused the victim to transfer property or assume a debt-related position. Decision No. 1650 K/Pdt/2015 concerns an enforceable contractual obligation followed by non-performance. Decision No. 387 K/Pid/2022 shows that a contractual form does not prevent criminal liability when the transaction is supported by deceptive conduct that satisfies the fraud elements. A four-stage analytical test is offered to keep ordinary contractual disputes within civil law while leaving room for criminal liability where the evidence truly supports fraud.

KEYWORDS: Wanprestasi; Fraud; Property Transactions; Bad Faith; Contractual Obligations; Supreme Court of Indonesia

I. INTRODUCTION

Land and building transactions carry a particular legal character. They are contracts, but they also sit within rules on land rights, registration, documentary authority, and the formal transfer of title. Price and object are only part of the transaction. The parties also need clarity on the legal status of the property, the authority of the person transferring it, and the requirements that must be completed before the right can be transferred [1], [2]. Where those requirements are not yet complete, the parties often use a Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli or PPJB) before the final deed can be executed before the competent Land Deed Official [3].

Property transactions are also commonly performed in stages. Payments may be divided into several installments. Documents can be delivered later, and the physical or legal transfer of the object may depend on conditions that are completed over time. A buyer may miss an installment. A seller may fail to provide the documents or property promised. In private law, conduct of that kind is usually examined as wanprestasi when the duty comes from a valid agreement and the party does not perform, performs too late, or performs differently from what was agreed [4], [5]. The available civil remedies may include performance, damages, cancellation, or a combination of those remedies.

The harder cases begin when one party says that the failure was not merely a later breach, but part of dishonesty that already existed when the deal was made. A person who has paid money and received nothing may report fraud. The other side may insist that the dispute belongs in civil court. Indonesian legal writing has long recognized this overlap in contractual relationships [5], [6]. Neither side of the argument can be resolved by a single fact. A written agreement does not automatically make the matter civil, and financial loss does not automatically make it criminal.

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Supreme Court Jurisprudence No. 4/Yur/Pid/2018 gives a useful starting point. Non-performance under a valid agreement is generally treated as a civil breach unless the agreement is connected with bad faith [15]. The phrase 'bad faith' cannot stand alone, however. Fraud still has to be proved through the elements required by criminal law. The court must identify the deceptive method, the unlawful aim to obtain benefit, the act that moved the victim to respond, and the link between that deception and the victim's decision to surrender property or alter a debt position.

Two issues are examined here. The first concerns the juridical indicators that distinguish wanprestasi from criminal fraud in property sale and purchase agreements under Indonesian positive law. The second concerns the way those indicators appear in Supreme Court Decision No. 1650 K/Pdt/2015 and Supreme Court Decision No. 387 K/Pid/2022. The discussion places contract law, the statutory elements of fraud, the Supreme Court's approach to bad faith, and the current Article 492 in one analytical frame.

The problem is especially visible in property dealings because performance rarely occurs at a single moment. A buyer may pay a deposit while the seller is still preparing certificates, tax documents, or other material needed for the transfer. A delay at one stage may be serious, but it does not by itself reveal what a party intended when the agreement was signed. Legal characterization should start from the chronology rather than from the disappointment experienced at the end of the transaction.

A further difficulty lies in the language used by disputing parties. Terms such as fraud, bad faith, and deception are sometimes used broadly to describe conduct considered unfair. Criminal law requires a narrower inquiry. The court must identify the act said to be deceptive and connect it with the victim's decision to part with property. Contract law asks a different question: whether an obligation was due and remained unperformed. Keeping those questions separate reduces the risk of treating a civil default as a criminal offense merely because the financial consequences are substantial.

II. RESEARCH METHOD

The research is normative legal research. It relies on legal rules, principles, doctrine, and judicial decisions rather than field data. The statutory approach covers the Indonesian Civil Code, the fraud provision applicable to the criminal case, and Law No. 1 of 2023 on the Criminal Code. A conceptual approach is used for agreement, breach, good faith, bad faith, fraud, causation, and legal protection. The case approach is directed to Supreme Court Decision No. 1650 K/Pdt/2015 and Supreme Court Decision No. 387 K/Pid/2022, with supporting material concerning the related proceedings and published case studies [16], [17], [20]-[22].

The legal materials were obtained through literature and document study. They were grouped according to the legal issue being examined and then read together with the facts and reasoning found in the decisions. The analysis is qualitative. It also has a prescriptive character because the purpose is not only to describe the two legal categories, but to formulate a workable basis for separating them. The cases come from different legal tracks, so they are not treated as if the courts were answering the same procedural question. The comparison is limited to the substantive features that help show whether the conduct is better understood as failure to perform a contract or as a deceptive act falling within criminal fraud.

III. LEGAL FRAMEWORK

The legal framework is deliberately divided between private-law rules and criminal-law rules. This matters because the same file may contain evidence relevant to both branches. A PPJB, payment receipt, or warning letter can prove the existence and performance of a contract. A message sent before payment may instead become relevant to an allegation of deception. The evidentiary object can be the same while the legal question asked of it is different.

Indonesian contract law places substantial weight on agreement and the binding force of a valid contract. Once the requirements of validity are satisfied, the parties are expected to carry out what they accepted. This principle gives the court a stable starting point. The terms of the agreement should be identified before a conclusion is drawn from later conduct.

Without that step, an accusation of breach may be detached from the actual obligation said to have been violated.

A. Property Sale and Purchase Agreements and the Binding Force of Contract

Article 1457 of the Indonesian Civil Code places sale and purchase within a reciprocal exchange: one party undertakes to deliver an object and the other to pay the agreed price. Article 1320 supplies the familiar requirements for a valid agreement, namely consent, capacity, a certain subject matter, and a lawful cause. When those requirements are met, Article 1338 gives the agreement binding force between the parties [4], [7]. Property transactions add another layer because land and buildings are also subject to agrarian law and land-registration rules [2], [8].

A PPJB is often used when the parties have agreed on the transaction but the final transfer cannot yet be completed. It may record the price, installment schedule, document requirements, and steps toward the final deed. Its usefulness in a dispute is

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practical as well as legal. The document shows what each party actually promised and when the promised act was expected. That makes it easier to see whether the complaint is about a contractual duty that was left unperformed [3], [20], [21].

The binding force of the agreement also affects the sequence of analysis. Before discussing default, the court has to know what obligations actually arose from the instrument and whether the relevant obligation had become enforceable. A payment schedule, for example, may depend on the seller first completing a document or satisfying another condition. Reading only the clause that records the payment date can produce an incomplete picture if the agreement links that payment to another event.

Property agreements also involve facts outside the written promise. The legal status of the land, the authority of the person offering it for sale, and the availability of documents may shape the parties' obligations. These facts do not automatically create fraud. They become important to criminal analysis when a false statement about them is alleged to have been used to obtain payment. For civil analysis, the same facts may instead explain whether performance was possible, due, delayed, or defective.

B. Breach of Contract (Wanprestasi)

Wanprestasi presupposes an obligation that already exists. It may appear as total non-performance, delay, defective performance, or conduct inconsistent with the promise made [5], [11]. Article 1238 of the Civil Code deals with default, while Article 1243 forms the basis for claiming costs, loss, and interest after the debtor is in default. In some agreements a formal warning (*somasi*) is needed; in others, default follows once the agreed deadline has passed.

The civil inquiry is fairly concrete. What was promised? When did the obligation fall due? Was it performed? If not, what remedy follows from the failure? Economic loss matters when damages are claimed, but the loss itself says little about whether fraud occurred. A party may be unable to perform, may perform late, or may dispute the meaning of the agreement. Without deception operating at the stage when consent or payment was obtained, those facts still fit the structure of contractual liability.

Default can therefore be identified without proving a dishonest state of mind at the beginning of the transaction. A buyer who later encounters financial difficulty may still be in breach even though the original intention was to complete the purchase. A seller may also breach an agreement by failing to deliver an object at the agreed time without having planned deception when the contract was made. The civil consequence follows from the unperformed obligation, not from proof of an original plan to cause loss.

Notice of default has an evidentiary role as well. Correspondence between the parties can show that an obligation was demanded, that additional time was offered, or that a party gave reasons for non-performance. Such material may clarify the civil dispute. Its criminal significance is more limited. Ignoring a warning may support the overall factual picture, but it cannot retrospectively create a false representation that did not exist when the victim made the relevant payment or transfer.

C. Criminal Fraud: Article 378 and the Current Article 492

Supreme Court Decision No. 387 K/Pid/2022 was decided under the former Criminal Code. Article 378 punished a person who, with the purpose of unlawfully benefiting himself or another, used a false name or status, deceitful devices, or a series of lies to induce another person to surrender property, extend credit, or extinguish a debt [13], [17]. That structure matters. The offense is not simply a failure to keep a promise. The deceptive means must play a role in causing the victim to act.

Law No. 1 of 2023 on the Criminal Code took effect on 2 January 2026. Fraud is now regulated in Article 492. The provision retains the central ideas found in the earlier rule: unlawful benefit, false identity or status, deceptive devices or a series of lies, and inducement that results in a property-related act by the victim [18]. The 2022 decision must still be read under the law applied to that case. For new conduct, the current Code is the statutory reference, subject to the general rules on the temporal application of criminal law.

The element of inducement deserves separate attention. Fraud is not established merely because a statement was inaccurate. The misleading representation must have operated on the victim's decision in the manner required by the criminal provision. This makes chronology and causation closely connected. A statement made only after payment, for instance, cannot ordinarily explain why the earlier payment was made, although it may still be relevant as evidence when the entire course of conduct is assessed.

The transition from Article 378 of the former Criminal Code to Article 492 of Law No. 1 of 2023 does not eliminate the analytical need to distinguish deception from non-performance. The terminology of the applicable provision must be applied according to the time and legal framework of the conduct being examined. The older decision remains useful for studying the boundary because it illustrates how a contractual setting and a criminal allegation can coexist.

D. Bad Faith as a Juridical Indicator, Not a Stand-Alone Offense

Bad faith is useful, but only if the term is tied to evidence. Supreme Court Jurisprudence No. 4/Yur/Pid/2018 uses it to mark the point at which an apparent contractual dispute may carry a criminal dimension [15]. It should not replace the elements of fraud.

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Bad faith becomes significant for criminal analysis when it existed before or at the time the victim was induced to act and was expressed through conduct recognized as deception. Deliberate delay, refusal to pay, or avoidance that appears only after a genuine agreement may show a serious breach. It does not, without more, prove fraud at the beginning of the transaction.

Timing is central to the distinction. The court needs to reconstruct what was known and represented when the transaction was formed. Was there a genuine intention to perform, followed by later difficulty or refusal? Or was the agreement used from the start to obtain money or property by presenting facts that were not true? Later conduct can help answer that question, but it should be read as supporting evidence. More direct indicators include false statements about ownership, authority, legal status, documents, or other facts that already existed when the victim decided to transfer value.

Bad faith should also be distinguished from a simple change of intention. Commercial transactions can fail for many reasons. A party may lose financing, face a dispute over documents, or later decide not to proceed. Those circumstances may lead to civil liability. They are not equivalent to proof that the party entered the transaction using a false identity, false status, deceitful device, or series of lies. Evidence of original intent must be drawn from objective circumstances rather than assumed from the final failure.

Objective circumstances may include ownership records, communications before payment, documents shown to the buyer, statements about authority to sell, and the consistency between those statements and facts known to the person making them. Later behavior may assist the inference. It should be used cautiously. The strongest analysis links later conduct back to an identifiable representation or plan that existed when the victim was induced to act.

IV. RESULTS AND DISCUSSION

A. Juridical Parameters for Distinguishing Breach of Contract from Fraud

A useful first question is whether the alleged wrong can be described without using any language of deception. If the complaint remains complete when stated as 'the installment was due and was not paid' or 'the object was due to be delivered and was not delivered,' the core allegation is contractual. That does not bar a separate fraud allegation, but it shows that additional facts are needed before the matter acquires a criminal character.

The second question is whether a representation of fact can be identified. General optimism, future plans, and promises should not automatically be treated as false statements about existing facts. Their legal significance depends on context and on what the applicable fraud provision requires. In a property transaction, concrete representations about ownership, authority, encumbrances, identity, or the existence of the object can be especially important because they may influence whether a buyer decides to pay.

The third question concerns knowledge. A representation that later proves inaccurate does not necessarily show that the speaker knew it was false. Documents available at the time, prior transactions, communications with third parties, and the person's own control over the relevant information may help establish or weaken that inference. This is one reason why later non-performance should not be used as a shortcut for proving an earlier deceptive state of mind.

The fourth question concerns reliance in practical terms. The analysis should ask what the victim did after receiving the alleged representation. Payment made before the representation requires a different explanation from payment made immediately after it. Where several installments exist, each transfer may need its own chronology. A later lie may relate to a later payment even though it cannot explain the first payment.

The existence of a contract does not settle the classification. A genuine agreement may create nothing more than a civil obligation. The same contractual form can also be used to make a deceptive transaction appear legitimate. The focus has to remain on what caused the victim to hand over money or property and on the legal quality of the conduct at that moment. The statutes, doctrine, and Supreme Court jurisprudence point to several recurring parameters.

Table I. Juridical Parameters Distinguishing Breach Of Contract And Criminal Fraud

Parameter	Breach of Contract	Criminal Fraud	Main Evidence to Examine
Source of duty	The duty comes from a valid agreement already binding the parties.	The apparent agreement may be used to obtain property by deception.	Contract terms, object, price, payment stages, authority, and legal status.
Timing of bad faith	Unwillingness or inability appears after a genuine agreement has been made.	Deceptive intent is present before or when the victim is induced to act.	Pre-contract statements and facts existing when consent or payment occurred.

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Parameter	Breach of Contract	Criminal Fraud	Main Evidence to Examine
Deceptive means	No deceptive device is required to prove contractual default.	A false name or status, deceptive device, or series of lies must be proved under the fraud rule.	The representation made, its falsity, and knowledge of that falsity.
Causal inducement	Loss follows from failure to perform an existing duty.	The victim acts because of the deception and parts with property or changes a debt position.	The connection between the misleading act and the victim's decision.
Later conduct	Later conduct may show delay, refusal, inability, or defective performance.	Later conduct may support an inference about earlier fraudulent intent, but it is not a substitute for deception.	Warnings, explanations, concealment, repeated conduct, use of funds, and later inconsistent acts.
Legal response	Performance, cancellation, damages, or another civil remedy.	Criminal punishment may follow; civil consequences can remain possible.	The character of the wrong and the applicable statutory elements.
Proof focus	Show the obligation, when it became due, the default, and the loss claimed.	Every criminal element must be established under the applicable criminal standard.	Do not treat contractual disappointment as proof of criminal intent.

The source of the duty comes first. Where the complaint can be stated simply as a failure to carry out a contractual obligation after it fell due, the dispute begins in civil law. Timing is equally important. A later inability or refusal to perform is not the same as an intention to deceive at the time of agreement. Fraud also requires something more specific than a broken promise: the deceptive method has to be identified. The victim's decision to transfer money or property must have been influenced by that deception. Conduct after the transaction may support an inference about earlier intent, but it cannot replace proof of the criminal elements. Civil and criminal remedies serve different purposes as well. For that reason, moving from contractual default to criminal fraud demands particular care.

The parameters in Table I are best used cumulatively. No single factor should be treated as a mechanical switch between civil and criminal law. A valid contract is important but does not immunize deceptive conduct. A financial loss is relevant but does not prove fraud. Even evidence of bad faith needs to be located in time and connected with the statutory method of deception. The classification becomes more reliable when the source of the duty, the representation, timing, causation, and available remedies are examined together.

This cumulative approach also explains why similar factual descriptions can lead to different legal outcomes. Two disputes may both involve land, an agreement, payment, and an uncompleted transfer. In the first, the evidence may show a genuine agreement followed by a failure to perform. In the second, the agreement may have been preceded by a material falsehood that caused the payment. The visible result is similar, but the juridical path is different because the origin of the loss is different.

B. Supreme Court Decision No. 1650 K/Pdt/2015: Contractual Default

Supreme Court Decision No. 1650 K/Pdt/2015 arose from a PPJB for land and buildings. Earlier payments had been made. The dispute concerned the buyer's failure to make the third-stage payment after the seller stated that the relevant documents were complete and the overlap issue affecting the land had been resolved. The seller sent several warnings asking for payment. The Denpasar High Court treated the failure to pay as wanprestasi, and the Supreme Court rejected the cassation challenge to that assessment [16], [20], [21].

The legal pattern is a familiar one in contract law. The payment duty came directly from the PPJB. It became due within the agreed sequence. The conduct complained of was the buyer's failure to make the next payment even after warnings had been given. The case did not depend on showing that the buyer had used a false identity, claimed a false legal status, misrepresented ownership, or employed another device to obtain the seller's consent. What the courts had to resolve was the performance of an installment obligation already created by the contract.

The remedy followed the same civil character. The dispute concerned the continuing force or cancellation of the PPJB and the civil consequences of the buyer's default [20]. The value of the transaction did not change the legal nature of the problem. Read

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against Jurisprudence No. 4/Yur/Pid/2018, the case falls within the ordinary pattern of a valid agreement followed by non-performance, without proof that the agreement itself was built on criminally relevant deception [15].

Decision No. 1650 K/Pdt/2015 is useful because the dispute can be reconstructed through the obligations created by the PPJB. The buyer's duty to make staged payments was not inferred from a general expectation; it was part of the contractual arrangement. Earlier performance also matters. Payment had occurred at previous stages, which is consistent with a relationship that had actually been carried out before the later default arose. The later failure therefore had a clear contractual reference point.

The warnings sent before the dispute reached its final legal stage further locate the problem within performance of the agreement. They show an effort to obtain the installment that had become due. The issue was whether the buyer fulfilled that obligation and what consequence followed when payment did not occur. This is materially different from asking whether the buyer had obtained the seller's property through a deceptive representation at the moment the parties entered the transaction.

C. Supreme Court Decision No. 387 K/Pid/2022: Fraud within a Contractual Setting

Supreme Court Decision No. 387 K/Pid/2022 presents a different problem. Published case analyses describe a land sale between Dani bin Saadih and A Wie. The North Jakarta District Court, through Decision No. 70/Pid.B/2021/PN Jkt.Utr, convicted the defendant of fraud and imposed two years' imprisonment. The DKI Jakarta High Court later reversed the outcome in Decision No. 162/Pid/2021/PT.DKI. The Supreme Court annulled that appellate disposition and restored criminal responsibility under Article 378 [17], [22].

The secondary material used in this research reports bad faith during the transaction and a victim loss of approximately Rp1,665,800,000 [22]. The amount is not the point on which the civil-criminal boundary should turn. The more important question is what happened before the victim transferred value. If the evidence shows that false representations or deceptive acts were already being used at that stage, the case is no longer explained by later non-performance alone. A seller who simply fails to deliver the land may be in breach. A seller who obtains payment through deception may fall within Article 378 when the statutory elements are proved.

The different results at trial, appeal, and cassation are also instructive. Labels such as 'contract' or 'sale agreement' do not answer the criminal-law question. A document may record a genuine transaction, a sham transaction, or a transaction in which a real agreement was reached through a material misrepresentation. The chronology becomes more useful than the label. The court must look at statements made before payment, the seller's authority over the object, the actual possibility of carrying out the promise, what the accused knew, and the reason the victim transferred the money. Criminal liability depends on those facts, not on the mere presence or absence of a written agreement.

The criminal case requires a different reading because the court cannot stop after identifying an agreement and a failure. It must examine the alleged deceptive conduct and determine whether the statutory fraud elements are established. The contractual document remains evidence, but its legal function changes. Instead of being only the source of a civil duty, it becomes part of the factual setting in which the alleged inducement occurred.

The sequence of decisions in the case also demonstrates why the civil-criminal boundary can produce disagreement. Different courts may give different weight to the contractual form, the representations surrounding the sale, and the evidence of bad faith. A careful analysis should not resolve that tension through labels. It should state which facts satisfy each criminal element and which facts merely show that the contractual promise was not completed.

D. Comparative Analysis of the Two Supreme Court Decisions

The two principal decisions also show why case comparison must be functional rather than superficial. Both concern property and both involve a contractual setting. Those similarities are not enough to treat the outcomes as inconsistent. The relevant comparison is between the legal facts that generated liability. In the civil case, an existing payment obligation was left unperformed. In the criminal case, the decisive inquiry concerned conduct capable of satisfying the elements of fraud. This distinction has consequences for pleadings and case preparation. A civil claim should identify the clause or legal duty relied upon and explain the default with dates and supporting documents. A criminal allegation should identify the representation or deceptive device, why it was false, when it was used, and how it caused the victim to act. Mixing those two narratives can obscure the issue and make the dispute appear more complicated than it is.

The role of intention is another point of contrast. Contract law can impose consequences even where the defaulting party hoped to perform but ultimately failed. Fraud law is not satisfied by the bare fact of failure. The prosecution must prove the mental and objective elements required by the offense. Intention is therefore not an ornamental addition to the analysis; it changes what evidence must be collected and what inference the court is being asked to draw.

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A large financial loss can create pressure to view the case as criminal, particularly where property transactions involve life savings or investment funds. The amount of loss may affect the seriousness of the dispute, but it does not define the legal category. The classification must still be made from the source of the obligation and the presence or absence of the required deceptive conduct.

Table II. Comparison of The Two Principal Decisions

Issue	No. 1650 K/Pdt/2015	No. 387 K/Pid/2022
Legal track	Civil cassation concerning default under a PPJB.	Criminal cassation concerning alleged fraud in a land transaction.
Conduct examined	The buyer did not pay a later installment after it became due and after warnings were sent.	The seller's transactional conduct was ultimately treated as fraud rather than only a later failure to deliver land.
Place of bad faith	Criminal deception was not needed to establish the civil default.	Bad faith during the transaction was central to the criminal characterization reported in the case analysis.
Causal account	The loss followed from non-performance of an existing payment duty.	Criminal liability depended on deception that induced the victim to transfer value.
Point illustrated	A broken contractual promise is not automatically fraud.	A contract does not bar criminal liability where the fraud elements are independently proved.

Placed side by side, the two decisions point to the moment of inducement as the important dividing line. In Decision No. 1650 K/Pdt/2015, the relevant failure occurred later, when the buyer did not pay an installment required by an existing PPJB. In Decision No. 387 K/Pid/2022, the criminal issue depended on conduct associated with the stage at which the victim was persuaded to part with value. Looking at timing in this way gives clearer content to the Supreme Court's reference to bad faith and avoids treating every intentional breach as fraud.

The evidence must also be handled carefully. Loss, a large amount of money, ignored warnings, or the need to file a lawsuit can all appear in an ordinary civil dispute. None of those circumstances proves fraud by itself. The opposite mistake is possible too. A criminal inquiry should not stop merely because a contract was signed. What matters is whether the agreement was formed or used through a false name, false status, deceptive device, or series of lies, and whether that conduct caused the victim to make the relevant transfer or debt-related decision.

Comparison of the cases also reveals the importance of the party whose conduct is under examination. In the civil decision, the disputed conduct concerned a buyer's later payment obligation. In the criminal decision, the analysis concerned conduct associated with inducing value in a land transaction. The distinction is not based on whether the actor is a buyer or seller. It comes from the legal character of the act: failure to discharge an existing promise on one side, and proven deception connected with obtaining value on the other.

Another practical point concerns remedies. Civil remedies are directed toward the contractual relationship: performance, damages, cancellation, restitution, or other consequences recognized by private law. Criminal punishment addresses an offense against the legal order and requires proof of the statutory elements. A claimant's preference for a stronger procedural response cannot alter those elements. The facts must support the chosen legal route.

E. A Four-Stage Test for Judicial and Practitioner Use

At the first stage, the chronology should be reduced to a simple timeline. The date of the agreement, each payment, each promised act, each documentary condition, every warning, and the date of the alleged false statement should be placed in order. This often exposes whether the accusation concerns a promise that later failed or a representation that operated before value was transferred.

At the second stage, the alleged deception should be written in a single precise sentence. A vague statement that 'the seller lied' is not enough for analytical purposes. The sentence should identify what was said or done, the fact said to be false, and the evidence suggesting knowledge of falsity. If that cannot be done, the criminal theory may still be incomplete even though the civil dispute is clear.

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At the third stage, the decision-maker should connect the alleged deception to the victim's act. The question is not only whether the parties communicated, but whether the particular misleading act moved the victim to pay, deliver property, extend credit, acknowledge debt, or extinguish a receivable. This causal link prevents unrelated dishonesty from being treated as the legal cause of the property transfer.

At the fourth stage, later behavior is used as corroboration rather than as a substitute for the earlier elements. Disappearance, repeated excuses, inconsistent documents, or similar conduct may strengthen an inference. Genuine attempts to perform, partial performance, disclosure of difficulties, or efforts to cure default may point in another direction. The weight of each fact depends on the whole record.

A four-stage test can make the distinction easier to apply. The first stage maps the contract: the parties, authority, promised performances, due dates, and any conditions that had to occur before performance became due. If the complaint is fully explained by a matured contractual duty that was not performed, the starting point remains civil. The second stage isolates the alleged deception. The accusation should identify the particular false representation, false name or status, deceptive device, or series of lies. A general claim that the other party was dishonest is too vague.

The third stage concerns timing and causation. The alleged deception must have existed before or when the victim decided to surrender property, extend credit, acknowledge debt, or extinguish a receivable. It must also have mattered to that decision. The fourth stage tests the alleged original intent against later conduct. Concealment, contradictory transactions, repetition of the same pattern, disposal of received funds, avoidance, or genuine attempts to perform may strengthen or weaken the inference. These facts are supporting material; they do not remove the need to prove the statutory elements of fraud [15], [18].

This approach serves two different interests. It keeps criminal procedure from being used as a routine means of collecting debts or forcing performance. It also prevents a formal contract from becoming a safe cover for conduct that was deceptive from the beginning. That tension is common in property dealings. Installment payments, PPJB documents, unfinished land records, and delays in transfer can make a civil default and a fraudulent transaction look similar at first glance.

The proposed test is not intended to replace statutory interpretation. Its purpose is organizational. Property files often contain many documents, messages, payment records, and later accusations. Starting with the contract identifies the obligations. Moving next to the alleged deceptive act prevents a general allegation of dishonesty from substituting for an element of fraud. The timing stage then tests whether the deception can actually explain the transfer of value. The final stage checks whether objective conduct supports the alleged original intention.

For investigators and prosecutors, this structure can help identify cases in which a complaint describes only unpaid debt or incomplete contractual performance. For civil practitioners, it can also reveal when the factual record contains more than ordinary default. Neither result should be predetermined. The same checklist can lead toward a civil analysis in one file and a criminal analysis in another because its function is to organize proof, not to favor one branch of law.

F. Implications of the 2023 Criminal Code for Future Property Cases

The present legal framework also requires careful citation of the applicable criminal provision. Conduct occurring under the former Criminal Code should be analyzed through the rule governing that conduct, subject to applicable transitional principles. Contemporary discussion may explain Article 492 because it is now in force, but the new numbering should not be projected backward into the reasoning of an older judgment.

The distinction also matters for legal certainty. Business parties need to know that ordinary contractual risk does not automatically expose them to criminal liability. At the same time, the existence of signed paperwork should not provide protection for a transaction formed through proven deception. A balanced approach protects both concerns by insisting on the elements of each legal regime rather than choosing a category from the form of the transaction alone.

For courts, written reasoning is particularly important in boundary cases. A judgment is easier to evaluate when it separately identifies the contract, the alleged deception, the relevant timing, the causal link, and the evidence of intent. This structure also improves consistency between cases because later readers can see why a particular dispute remained civil or crossed into criminal liability.

For parties and counsel, early classification can influence the evidence preserved. Contract files should retain signed instruments, amendments, invoices, payment records, notices, and proof of conditions. Where deception is alleged, pre-contract communications and documents concerning ownership or authority become especially important. Preservation of the original sequence of communications can be more valuable than a later summary prepared after the dispute has already escalated.

The new Criminal Code does not remove the old boundary problem. Since 2 January 2026, Article 492 has been the operative fraud provision for conduct governed by the new Code. The prosecution still has to show an unlawful benefit-seeking purpose,

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one of the specified deceptive means, and inducement that leads the victim to take a property-related action [18]. Reasoning developed under Article 378 remains useful when comparing the two categories, but the applicable statute for new conduct is now the 2023 Criminal Code together with its general provisions.

For legal practice, the factual theory should be stated with care from the beginning. A civil claim needs the source of the duty, the date or condition on which it became due, the default, any required notice, and the remedy sought. A fraud allegation needs a different level of detail: what exactly was false, when it was said or done, why it was false, what the accused knew at the time, how the statement or device caused the transfer, and what evidence supports an unlawful intention. Clear pleading helps keep the legal forum aligned with the nature of the alleged wrong.

Future disputes should also pay close attention to temporal application of criminal legislation. The article does not treat the current Article 492 as though it governed the facts of a case decided under the former Article 378. The current provision is relevant to the contemporary framework, while Decision No. 387 K/Pid/2022 remains a case study from the earlier regime. Separating those two functions avoids anachronistic reasoning.

For notaries and parties preparing property agreements, precise drafting may reduce later uncertainty even though drafting cannot prevent every dispute. Payment stages, documentary conditions, deadlines, consequences of delay, and the status of the object should be stated clearly. Clear terms make it easier to identify a later breach. They also make it easier to see when an allegation goes beyond non-performance and instead concerns a representation made before the contractual duty arose.

The practical boundary can also be tested by asking what would remain of the complaint if the contract had been fully performed. In a pure default case, performance would ordinarily remove the central grievance. In a fraud case, the earlier deceptive act may retain independent legal significance because the offense concerns the means by which the victim was induced to act. This counterfactual question is not a legal element, but it can help organize the factual analysis.

Partial performance requires particular caution. A person who performs part of an agreement may still have acted dishonestly from the outset, just as partial performance may strongly support the existence of a genuine commercial arrangement. Its meaning depends on scale, timing, and context. Courts should avoid treating partial performance as either automatic proof of good faith or automatic camouflage for fraud.

The quality of documentary evidence is equally important. Property transactions frequently generate copies of certificates, identity documents, receipts, powers of attorney, and correspondence with notaries or land officials. The question is not simply whether documents exist. Their authenticity, date, source, and relation to the representation under examination determine their evidentiary value.

Oral representations can also matter. A written PPJB may not record every statement made before payment. If criminal liability is alleged on the basis of an oral statement, the court must still determine its content and reliability from admissible evidence. The existence of a written contract does not erase earlier communications, but the written terms can provide a useful benchmark against which later recollections are tested.

A distinction should also be drawn between a promise about future conduct and a false statement about an existing condition. A promise may become relevant to fraud where the evidence supports a conclusion that it was used deceptively and was never genuinely intended to be performed. Still, the inference cannot rest solely on later non-performance. Otherwise every broken promise could be converted into evidence of original criminal intent.

Property status is a common source of misunderstanding. A seller may face a genuine legal obstacle discovered after the agreement, or the seller may have concealed a known defect from the beginning. The outward result may be the same: the transfer is not completed. The legal characterization changes according to what the seller knew, what was represented, and when the buyer relied on that representation.

The same approach applies to authority. Transactions may be conducted through representatives, family members, companies, or persons claiming a right to dispose of property. A later dispute about authority can create civil consequences. It becomes relevant to fraud when false authority or status is deliberately presented as a means of inducing the other party to transfer value.

A court should therefore resist reasoning backward from the final loss. Starting from the loss and searching for a criminal explanation risks confirmation bias. The safer method begins with the transaction as it unfolded at the time: what each party knew, what each party said, what documents were available, what obligations were created, and what action followed from each representation.

This chronological discipline is also useful when several agreements or amendments exist. The parties may renegotiate payment dates or alter the object of the sale. A statement that was accurate under the original arrangement may acquire a different

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meaning after amendment. Each relevant act should be connected to the version of the agreement and factual circumstances existing at that point.

Renegotiation may also provide evidence about the character of the relationship. Continued negotiation after a missed deadline can suggest that both parties still treated the matter as an ongoing contractual problem. It is not conclusive, because deceptive conduct can continue after the initial transaction. Its significance lies in the broader pattern and should be assessed with the other evidence.

The civil concept of damages should not be confused with the criminal concept of loss caused by deception. Civil damages can follow from failure to perform an obligation even where no misleading statement was made. In fraud, the transfer or financial disposition must be connected with the deceptive method required by the offense. The numerical amount may overlap, while the legal explanation for that amount differs.

Procedural choices can influence how facts are presented. A civil pleading tends to emphasize clauses, maturity of obligations, notice, and remedies. A criminal report tends to emphasize representations, intention, inducement, and the movement of property. Those procedural differences should not determine the substantive classification, but they explain why the same transaction can look different when described in separate proceedings.

The jurisprudential value of the two decisions lies in their contrast rather than in any suggestion that one factual formula resolves every future case. Property transactions vary widely. Some involve simple installment defaults. Others involve disputed ownership, forged or misleading documents, overlapping sales, or representations about authority. The governing principle must therefore remain tied to legal elements and proof.

Legal certainty is improved when courts state not only the outcome but the path taken to reach it. In a civil case, the judgment should make clear which contractual obligation was breached. In a criminal case arising from a contract, the judgment should make clear which deceptive act satisfies the criminal provision. This separation makes appellate review more transparent and reduces ambiguity for future disputes.

The distinction has a preventive function as well. Parties who understand that clear documentary records will later be examined are more likely to define payment conditions, disclosure duties, and transfer requirements precisely. Clear records do not guarantee honest conduct, but they reduce uncertainty about what was promised and what information was supplied before the transaction.

For legal education, these cases are useful because they show the limits of category labels. Calling a dispute 'contractual' describes its setting, not necessarily its complete legal character. Calling conduct 'fraudulent' expresses a conclusion that must still be supported by statutory elements. Careful legal analysis moves from facts to elements and only then to classification.

The distinction also protects proportionality in law enforcement. Criminal process carries consequences different from a civil lawsuit. Requiring proof of deception and criminal intent before imposing criminal responsibility helps preserve that difference. Civil law remains capable of addressing serious financial harm where the wrong consists of non-performance rather than criminal inducement.

At the same time, a rigid rule that every dispute accompanied by a contract must remain civil would be equally problematic. A contract can be genuine, deceptive, or partly genuine while containing deceptive conduct at a particular stage. The existence of the document is therefore one fact among several. The decisive issue is how the statutory and contractual elements fit the proven chronology.

The analytical model developed here can be applied beyond land transactions with appropriate caution. Commercial sales, investment arrangements, and credit relationships can raise similar questions about broken promises and alleged deception. The specific regulatory setting may differ, but the need to distinguish an existing contractual duty from deception used to obtain value remains relevant.

Its use outside property law should not be mechanical. Land transactions have distinctive formalities and evidentiary materials. Other fields may involve different statutory duties, consumer protections, or licensing rules. The model is best understood as a sequence of questions rather than a fixed substantive rule for every contractual dispute.

The research also has limits. It is a normative study centered on selected legal materials and two principal Supreme Court decisions. It does not measure how frequently police, prosecutors, or lower courts classify comparable disputes in practice. Empirical research could test whether the proposed parameters are applied consistently across a larger set of cases.

A broader case dataset could also examine factual patterns that recur in property fraud allegations, including multiple sales of the same object, disputed powers of attorney, false ownership claims, and failures to complete PPJB obligations. Such research would complement the doctrinal approach by showing how the legal boundary operates across different factual configurations.

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Within the limits of the present study, the main point remains narrow. Contractual failure and fraud can produce similar economic consequences while requiring different legal proof. The distinction becomes clearer when the analysis is anchored in the source of the duty, the existence of a specific deceptive method, the timing of that method, and its causal role in the transfer of value.

The burden of explaining the chronology should not be shifted by the emotional force of the allegation. Property disputes can involve long periods of uncertainty and substantial personal loss. Those circumstances deserve careful legal treatment, yet they do not change the constituent elements of the cause of action or offense. A disciplined chronology allows the court to acknowledge the seriousness of the loss without allowing that seriousness to substitute for legal proof.

Consistency in terminology can further improve analysis. The word *wanprestasi* should be used for failure to perform an obligation arising from an engagement, while fraud should be reserved for conduct satisfying the applicable criminal provision. Bad faith can describe a relevant state of conduct, but it should be followed by an explanation of the acts from which that conclusion is drawn. This avoids circular reasoning in which bad faith is inferred from fraud and fraud is then inferred from bad faith.

The decisions considered in this article also support a practical separation between evidence of obligation and evidence of inducement. The former establishes what a party had to do after the contract existed. The latter addresses why the other party entered the transaction or transferred value. Some evidence may serve both purposes, but the distinction clarifies why proof sufficient for a civil claim may still be insufficient for a criminal conviction.

Where the parties have a long course of dealing, earlier transactions may provide context. Successful prior performance can support an inference that the relationship was commercially genuine, although it does not rule out deception in a later transaction. Repeated similar misrepresentations can point in the opposite direction. Context is valuable only when it remains connected to the specific transaction being adjudicated.

Digital communications have become increasingly important in this setting. Messages can record representations about ownership, payment, readiness of documents, or reasons for delay. Their value depends on authenticity and context. A fragment taken from a longer conversation may give a misleading impression. Courts and practitioners should preserve the sequence and, where necessary, examine the relationship between digital statements and formal contractual documents.

The approach taken here does not assume that civil and criminal consequences can never arise from related facts. The same course of conduct may generate different legal consequences where the elements of each are independently established. The important safeguard is analytical independence: criminal liability should not be inferred merely because civil liability exists, and a civil agreement should not automatically defeat a properly proved criminal allegation.

This point is particularly relevant to legal advice given before proceedings begin. Counsel should identify the strongest legally relevant facts rather than simply adopting the client's initial label for the dispute. A client may describe a missed payment as fraud or describe deception as only a contractual misunderstanding. Legal classification requires testing those descriptions against the documents, chronology, and applicable elements.

A well-reasoned classification ultimately depends on precision. The contract identifies the promise. The chronology identifies when performance and representations occurred. The evidence identifies what was true, what was false, and what each party knew. The legal provisions determine the consequences. When those four parts are kept distinct, the boundary between *wanprestasi* and criminal fraud becomes more manageable even in a complicated property transaction.

Attention should also be given to conditions precedent in a PPJB. An obligation described as unpaid may not yet be due if another agreed condition has not occurred. The court should read the payment clause together with documentary and transfer conditions. This prevents a premature finding of default and, in a criminal context, prevents a disputed interpretation of contractual timing from being transformed into evidence of deceit.

The concept of materiality helps focus the fraud inquiry. Not every inaccurate statement in negotiations will have the same significance. A representation concerning ownership or legal authority may directly affect the decision to purchase, while an immaterial mistake may have no causal role in payment. The legal analysis should identify why the alleged falsehood mattered to the transaction rather than merely cataloguing inconsistencies.

Restitution or repayment after a dispute has arisen should also be assessed carefully. Repayment may be relevant to civil settlement and may provide context for evaluating conduct. It does not automatically erase an offense that was already complete, nor does failure to repay automatically prove that an offense existed from the beginning. Again, timing and the statutory elements control the classification.

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Judicial use of presumptions should remain restrained where criminal intent is at issue. Intent is often proved indirectly, but the inference must rest on facts capable of supporting it. A sequence of false documents or impossible promises may be probative. Mere silence after default, financial difficulty, or unsuccessful performance can have several explanations and should not carry more weight than the evidence allows.

The civil side of the analysis similarly benefits from precision about remedies. Cancellation, damages, and performance are not interchangeable. The chosen remedy may depend on the nature of the breach, the terms of the agreement, and the governing Civil Code provisions. Identifying the appropriate civil consequence reinforces the distinction between correcting a failed exchange and punishing deceptive acquisition of property.

For property professionals, due diligence can reduce the factual uncertainty from which these disputes often grow. Verification of identity, authority, land status, encumbrances, and documentary readiness creates a record of what was checked before payment. Due diligence is not a substitute for legal remedies, but it can later clarify whether a disputed fact was concealed, misunderstood, or genuinely unknown to the parties.

The doctrinal boundary is therefore not a choice between protecting contractual freedom and enforcing criminal law. Both can operate coherently when each is confined to its elements. Contract law protects the reliability of promises and supplies remedies for their breach. Criminal fraud provisions protect against specified deceptive means used to obtain unlawful benefit. Confusion arises when one function is used to perform the work of the other.

The cases reviewed here provide a compact illustration of that principle. One shows a dispute intelligible through the performance structure of a PPJB. The other shows that a contractual setting does not prevent criminal analysis when deception is independently established. Read together, they encourage a fact-specific method that begins with legal elements, reconstructs the transaction, and avoids conclusions based solely on the existence of loss or a signed agreement.

V. CONCLUSIONS

Property disputes involving broken promises can resemble fraud, but the two forms of liability rest on different foundations. The existence of a contract is not decisive. The fact that money was lost is not decisive either. Wanprestasi concerns the failure to perform a valid obligation. Fraud requires an unlawful intention carried out through legally relevant deception that causes the victim to surrender property or alter a debt relationship.

Decision No. 1650 K/Pdt/2015 shows the civil pattern. The PPJB created an installment obligation, the payment became due, warnings followed, and the buyer did not perform. Decision No. 387 K/Pid/2022 shows why the presence of an agreement cannot end the criminal inquiry. Where deceptive conduct is proved at the relevant transactional stage, the agreement does not remove possible fraud liability. Jurisprudence No. 4/Yur/Pid/2018 is most useful when 'bad faith' is read through concrete questions about timing, deceptive means, causation, and proof of intent.

The four-stage test used in this discussion begins with the contractual obligation, then asks for a specific deceptive act, tests when that act occurred and what it caused, and finally checks the claim of original intent against objective conduct. The sequence keeps ordinary defaults from being pushed too quickly into criminal law. It also leaves no automatic shelter for a transaction that satisfies Article 492 merely because the parties placed it in contractual form.

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