

**PENYELESAIAN SENGKETA TATA USAHA NEGARA
SERTIPIKAT GANDA ATAS TANAH
MELALUI PENGAJUAN GUGATAN
(Studi Putusan Nomor : 91/G/2019/PTUN.SMG)**

Oleh :

WAHYU Satriya Hartama

E1A017184

ABSTRAK

Penelitian ini bersumber pada Putusan PTUN Semarang Nomor : 91/G/2019/PTUN.SMG, dilatarbelakangi oleh adanya sengketa sertipikat hak milik atas tanah yang ganda atau tumpang tindih. Penelitian ini bertujuan untuk menganalisis prosedur upaya administratif sebelum mengajukan gugatan dan dasar pertimbangan hukum hakim mengenai pembatalan sertifikat objek sengketa. Penelitian ini merupakan penelitian hukum yuridis normatif, menggunakan metode pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan kasus. Hasil penelitian dan pembahasan ini menemukan bahwa menurut Perma Nomor 6 Tahun 2018 jo Undang-Undang Nomor 30 Tahun 2014 (UU-AP) Penggugat harus menempuh prosedur upaya administratif sebelum mengajukan gugatan. Penggugat telah menempuh keberatan, akan tetapi Tergugat bersikap diam tidak menyelesaikan keberatan tersebut, berdasarkan fakta hukum ini, majelis hakim berpendapat bahwa Penggugat telah nyata-nyata menempuh Upaya Administratif. Sikap diam tergugat tersebut tidak dapat diajukan ke PTUN sebagai sengketa permohonan fiktif-positif, dikarenakan objek sengketa tidak sesuai dengan kriteria permohonan berdasarkan Perma No. 8 Tahun 2017. Pertimbangan hukum hakim yang menyatakan batal sertipikat objek sengketa dengan berdasar adanya fakta baru yaitu jual beli atas bidang tanah milik Ni Sanradji sebagai penjual dan Penggugat sebagai pembeli, sehingga seharusnya Sertipikat Objek Sengketa dicabut terlebih dahulu sebelum diterbitkan SHM a.n. Penggugat. Jual beli tanah tersebut menyebabkan data yuridis objek sengketa tidak sesuai dengan keadaan aslinya sehingga dapat dibatalkan sebagaimana Pasal 63 UUAP dan PP Nomor 24 Tahun 1997, serta melanggar asas kepastian hukum dan asas kecermatan sebagaimana ditentukan dalam Pasal 10 UU-AP.

Kata Kunci : Upaya Administratif, Sengketa TUN, Sertipikat Ganda, Pertimbangan Hukum Hakim

**SETTLEMENT OF STATE
MULTIPLE CERTIFICATE ADMINISTRATIVE DISPUTES ON LAND
THROUGH CLAIMS SUBMISSION
(Study of Decision Number : 91/G/2019/PTUN.SMG)**

By :

WAHYU Satriya Hartama

E1A017184

ABSTRACT

This research is based on the Semarang Administrative Court Decision Number: 91/G/2019/PTUN.SMG, motivated by the existence of a dual or overlapping dispute over land title certificates. This study aims to analyze the administrative procedure before filing a lawsuit and the basis for the judge's legal considerations regarding the cancellation of the disputed object certificate. This research is a normative juridical law research, using a statutory approach, a conceptual approach, and a case approach. The results of this research and discussion found that according to Perma Number 6 of 2018 in conjunction with Law Number 30 of 2014 (UU-AP) the Plaintiff must take an administrative procedure before filing a lawsuit. The Plaintiff has filed an objection, but the Defendant has remained silent and has not resolved the objection. Based on this legal fact, the panel of judges is of the opinion that the Plaintiff has actually taken Administrative Efforts. The defendant's silence could not be submitted to the Administrative Court as a fictitious-positive petition dispute, because the object of the dispute did not meet the application criteria based on Perma No. 8 of 2017. The judge's legal considerations declaring the disputed object certificate null and void based on new facts, namely the sale and purchase of land owned by Ni Sanradji as the seller and the Plaintiff as the buyer, so that the Dispute Object Certificate should be revoked before the Plaintiff's SHM is issued. The sale and purchase of land causes the juridical data of the object of the dispute to be inconsistent with its original condition so that it can be canceled as stated in Article 63 of the UUAP and PP Number 24 of 1997, and violates the principles of legal certainty and the principle of accuracy as stipulated in Article 10 of the UU-AP.

Keywords: Administrative Efforts, State Administration Dispute, Dual Certificates, Judge's Legal Considerations