

**GANTI RUGI DALAM PENGADAAN TANAH BAGI PEMBANGUNAN UNTUK
KEPENTINGAN UMUM (Tinjauan Yuridis terhadap Putusan Mahkamah Agung Nomor
474/K/Pdt/2019)**

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ABSTRAK

Dalam Pasal 1 Ayat (2) Undang Undang Nomor 2 Tahun 2012, pengadaan tanah adalah kegiatan menyediakan tanah dengan cara memberi ganti kerugian yang layak dan adil kepada pihak yang berhak. Melalui Pasal 2 Undang Undang Nomor 2 Tahun 2012, diberikan jaminan kepastian hukum tersedianya tanah untuk pembangunan serta jaminan kepada pihak yang berhak untuk mendapatkan ganti kerugian yang layak. Pelaksanaan dari pengadaan tanah berpedoman pada asas-asas dan prosedur yang diatur dalam peraturan perundang-undangan, termasuk dalam pemberian ganti rugi. Meskipun begitu, dalam praktek pelaksanaannya kerap kali terdapat permasalahan. Permasalahan yang akan diteliti mengenai wewenang Penilai Pertanahan dalam menaksir nilai ganti rugi obyek pengadaan tanah dan pertimbangan Hakim Mahkamah Agung dalam mengabulkan permohonan penetapan ganti kerugian bidang tanah dalam putusan Mahkamah Agung Nomor 474 K/Pdt/2019.

Metode pendekatan yuridis normatif, spesifikasi penelitian preskriptif analisis, metode pengumpulan data menggunakan studi kepustakaan, metode analisis menggunakan metode normatif kualitatif.

Hasil penelitian menunjukkan bahwa Hakim Mahkamah Agung mengesahkan nominal ganti rugi sebesar Rp. 4.425.800.000 yang ditaksir oleh KJPP Amin Nirwan Alfiantori & Rekan yang kemudian dijadikan pertimbangan musyawarah penetapan nominal ganti rugi oleh Kepala Kantor Pertanahan Kabupaten Cilacap sebagai ketua pelaksana pengadaan tanah serta membatalkan putusan Pengadilan Negeri Cilacap Nomor 52/Pdt.G/2018.PN Clp. Hakim Mahkamah Agung dalam hal ini berpendapat bahwa terdapat kesalahan *judex facti* dalam menerapkan hukum berupa perhitungan mesin produksi sebagai objek ganti rugi pengadaan tanah yang dihitung sendiri, serta dijadikannya penilaian dari Penilai Publik PT Nilai Konsulesia yang tidak memiliki kewenangan dalam kasus ini sebagai pertimbangan perhitungan nilai objek ganti rugi.

Kata kunci: *pengadaan tanah, ganti rugi, panitia penaksir.*

COMPENSATION IN PROCUREMENT OF LAND TOWARDS DEVELOPMENT FOR PUBLIC INTEREST

(Yuridis review of Supreme Court ruling No. 474/K/PDT/2019)

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ABSTRACT

In article 1 section (2) of Law No. 2 of 2012 land procurement is the activity of providing land in a way to compensate decent and fair losses to the eligible Parties. Through article 2 of Law No. 2 of 2012, it is given the legal certainty that the availability of land for development and guarantee to the right to obtain appropriate compensation. The implementation of land procurement is guided by the principles and procedures stipulated in the law and regulation¹, including in the provision of compensation. Even so, in practice, there are often problems that occur. The issues that being examined are regarding the authority of the Land Appraiser in estimating the nominal value of compensation for land procurement objects and what are the considerations of the Supreme Court Judge in granting the application for the determination of compensation for a plot of land in the Supreme Court decision No. 474/K/Pdt/2019. The method of normative juridical approach, the specification of prescriptive research analysis, methods of collecting data using literature studies, methods of analysis using qualitative normative methods.

The results showed that the Supreme Court judge passed the nominal compensation of Rp. 4,425,800,000 which was estimated by KJPP Amin Nirwan Alfiantori & colleague who then was used as consideration deliberation for nominal determination of compensation by the head of land Office of Cilacap Regency as the chief executive procurement and cancel the decision of state Court of Cilacap No. 52/Pdt.G/2018.PN Clp. The Supreme Court Judge, in this case, believes that there is an error in the judex facti in applying the law in the form of calculating the production machines as objects of compensation for land acquisition which are calculated by themselves, as well as the appraisal of the Public Appraiser of PT Nilai Konsulesia who does not have the authority in this case to consider the calculation of the object value compensation.

Keywords: land acquisition, compensation, appraisal committee.
