

RINGKASAN

SENNA IBRAHIM AL JABAR, Program Magister Kenotariatan Fakultas Hukum Universitas Jenderal Soedirman, Analisis Yuridis Tanggung Jawab Hukum Kepala Kantor Pertanahan Terhadap Sertipikat Hak Atas Tanah Yang Terbit Ganda, Komisi Pembimbing pertama Prof. Tri Lisiani Prihatinah, S.H., M.A., Ph.D dan Pembimbing kedua Dr. Sri Wahyu Handayani, S.H., M.H..

Bukti kepemilikan yang sah atas tanah adalah sertifikat hak atas tanah karena melalui pendaftaran tanah akan dapat diketahui tentang siapa pemegang hak atas tanah, kapan diperalihkan hak atas tanah tersebut, dan siapa pemegang hak yang baru. Faktanya ditemukan sertifikat yang terbit ganda dan masing-masing mempunyai bukti yang sah sebagai kepemilikan atas tanah, salah satu kasus pada putusan Pengadilan Negeri Nomor 32/Pdt.G/2014/PN.SRG yang selanjutnya dalam tingkat banding Putusan Pengadilan Tinggi Nomor 19/PDT/2016/PT.BTN dan selanjutnya Putusan Mahkamah Agung Nomor : 170 K/Pdt/2017, Sertifikat yang terbit sah dan telah melalui prosedur pendaftaran yang telah terbit secara sah namun pada prosesnya diblokir oleh para tergugat karena tumpang tindih, didasarkan pada bukti sertifikat-sertifikat yang ditunjukkan pada pengadilan.

Penelitian ini bertujuan untuk menganalisis tanggung jawab hukum kepala kantor pertanahan terhadap sertipikat hak atas tanah yang terbit ganda dan melakukan analisis secara yuridis terhadap sertipikat hak atas tanah.

Penelitian ini menggunakan metode yuridis normatif dengan spesifikasi penelitian bersifat preskriptif. Penulisan menggunakan sumber data sekunder sumber berupa hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Metode Pengumpulan data menggunakan studi kepustakaan dan disajikan dalam bentuk teks naratif deskripsi, data dianalisis secara normatif kualitatif.

Diperoleh hasil penelitian bahwa sertipikat hak atas tanah hak milik No. 326 Tahun 2012 yang dinyatakan cacat yuridis sebagaimana putusan Mahkamah Agung Nomor 170/K/Pdt/2017. Pada akta Jual beli yang dijadikan dasar peralihan hak ditemukan fakta bahwa surat keterangan riwayat tanah dan berita acara kesaksian kepemilikan Tanah yang ditanda tangani oleh mantan Kepala Desa Gembor Udik dan sudah tidak menjabat sebagai kepala desa Gembor Udik, sehingga tidak lagi mempunyai kewenangan untuk menanda tangani surat-surat sebagai alas hak peralihan hak atas tanah. Terdapat unsur Perbuatan Melawan Hukum (PMH) Pasal 1365 KUH Perdata dari Kepala Kantor Pertanahan yaitu ketidak hati-hatianya untuk memeriksa alas hak yang digunakan sebagai peralihan hak tersebut dengan tidak melakukan pengukuran atau penelitian batas-batas tanah sebagaimana Pasal 17 PP No. 24 tahun 1997 tentang pendaftaran hak atas tanah.

Kata Kunci: Sertifikat Ganda, Kepala Kantor Pertanahan, Tanggung Jawab

SUMMARY

SENNA IBRAHIM AL JABAR, Notarial Masters Program, Faculty of Law, Jenderal Soedirman University, Juridical Analysis of Legal Responsibilities of the Head of the Land Office for Double Issued Certificates of Land Rights First Advisory Commission Prof. Tri Lisiani Prihatinah, S.H., M.A., Ph.D and the second advisor Dr. Sri Wahyu Handayani, S.H., M.H..

Proof of legal ownership of land is a certificate of land rights because through land registration it will be known about who is the holder of land rights, when the land rights were transferred, and who is the new right holder. The fact was that there were certificates that were issued in multiples and each had legal evidence as land ownership, one of the cases in the District Court decision No. 32/Pdt.G/2014/PN.SRG which was further appealed to High Court Decision No. 19/PDT /2016/PT.BTN and further Supreme Court Decision Number: 170 K/Pdt/2017, Certificates that were issued legally and have gone through the registration procedure that have been legally issued but in the process were blocked by the defendants due to overlapping, based on evidence of certificates certificate presented to the court.

This study aims to analyze the legal responsibility of the head of the land office for land rights certificates that are issued multiple times and to carry out a juridical analysis of land rights certificates.

This study uses a normative juridical method with prescriptive research specifications. Writing uses secondary data sources in the form of primary law, secondary legal material, and tertiary legal material. Methods of data collection using literature study and presented in the form of descriptive narrative text, the data were analyzed qualitatively normatively.

Obtained the results of the study that the certificate of land ownership rights No. 326 of 2012 which was declared legally disabled according to the decision of the Supreme Court Number 170/K/Pdt/2017. In the deed of sale and purchase which was used as the basis for the transfer of rights, it was found that the certificate of land history and minutes of testimony of land ownership were signed by the former Head of Gembor Udik Village and no longer served as head of Gembor Udik village, so he no longer has the authority to sign documents. - a letter as the basis for the right of transfer of land rights. There is an element of unlawful act (PMH) of Article 1365 of the Civil Code from the Head of the Land Office, namely his failure to examine the basis of the rights used as the transfer of these rights by not measuring or researching land boundaries as Article 17 PP No. 24 of 1997 concerning registration of land rights.

Keywords: Double Certificate, Head of Land Office, Responsibility