

ANALISIS AMAR PUTUSAN GUGATAN TIDAK DAPAT DITERIMA

KARENA KTUN SEBAGAI OBJEK SENGKETA TIDAK

MENIMBULKAN AKIBAT HUKUM

(Studi Putusan Nomor 134/G/2020/PTUN.Bdg)

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ABSTRAK

Tergugat menerbitkan objek sengketa untuk menanggapi permohonan Tergugat terhadap penerbitan surat yang menanggapi permohonan Penggugat. Penggugat mengajukan gugatan ke Pengadilan Tata Usaha Negara setelah upaya administratif yang ditempuh tidak ditanggapi oleh Tergugat. Berdasarkan Putusan No 134/G/2020/PTUN.Bdg hakim menimbang bahwa objek gugatan bukan merupakan Keputusan Tata Usaha Negara karena bukan surat yang berisi tindakan hukum menimbulkan akibat hukum bagi Penggugat sebagaimana diatur Pasal 1 angka 9 UU No 51 Tahun 2009 dan Pasal 87 UU No. 30 Tahun 2014 tentang Administrasi Pemerintahan, sehingga memutuskan gugatan tidak dapat diterima (*Niet Ontvankelijkverklaard/NO*). Terdapat persoalan yuridis dalam pertimbangan hukum hakim apakah objek sengketa benar tidak menimbulkan akibat hukum atau tidak, serta bagaimana akibat hukum yang timbul dari putusan tersebut. Penelitian ini menggunakan metode pendekatan kasus dengan jenis penelitian yuridis normatif yang bersifat deskriptif. Sumber data sekunder berupa studi Pustaka. Penelitian ini diuraikan dengan teks naratif, dianalisis dengan metode analisis kualitatif. Hasil penelitian dan pembahasan menyimpulkan Majelis Hakim kurang tepat dalam mengeluarkan pertimbangan hukum nya yang hanya menitik berat pada unsur KTUN menimbulkan akibat hukum yang tidak terpenuhi sesuai dengan Pasal 1 angka 9 Undang-Undang Nomor 51 Tahun 2009. Akan tetapi, memenuhi unsur final dalam pengertian KTUN menurut Pasal 1 angka 9 Undang-Undang Nomor 51 Tahun 2009. Selain itu objek sengketa dapat dikatakan menimbulkan akibat hukum karena didalamnya terdapat substansi mengenai SHM milik Penggugat. Putusan tersebut tidak melahirkan akibat hukum bagi objek sengketa, tidak menjadikan objek sengketa sah maupun batal. Majelis hakim lebih memperhatikan pemenuhan unsur KTUN dalam syarat pengajuan gugatan dalam proses pemeriksaan gugatan.

Kata Kunci : KTUN, Amar Putusan, Akibat Hukum

**ANALYSIS OF THE VERDICT OF THE LAWSUIT CANNOT BE
ACCEPTED BECAUSE THE KTUN AS THE OBJECT OF DISPUTE
DOES NOT CAUSE LEGAL CONSEQUENCES**

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ABSTRACT

The Defendant issued the object of dispute in response to the Defendant's request for the issuance of a letter responding to the Plaintiff's request. The Plaintiff filed a lawsuit with the State Administrative Court after the administrative efforts taken were not responded to by the Defendant. Based on Decision No. 134/G/2020/PTUN.Bdg, the judge considered that the object of the lawsuit was not a State Administrative Decision because it was not a letter containing legal actions that had legal consequences for the Plaintiff as stipulated in Article 1 point 9 of Law No. 51 of 2009 and Article 87 of Law No. 30 of 2014 concerning Government Administration, thus ruling that the lawsuit could not be accepted (Niet Ontvankelijkverklaard/NO). There are juridical issues in the legal considerations of the judge whether the object of the dispute really does not cause legal consequences or not, and what are the legal consequences arising from the decision. This research uses a case approach method with a descriptive type of normative juridical research. Secondary data sources are in the form of literature studies. This research is described by narrative text, analyzed by qualitative analysis method. The results of the research and discussion conclude that the panel of judges was incorrect in issuing its legal considerations which only focused on the element of KTUN causing legal consequences which was not fulfilled in accordance with Article 1 point 9 of Law Number 51 of 2009. However, it fulfills the final element in the definition of KTUN according to Article 1 number 9 of Law Number 51 of 2009. In addition, the object of dispute can be said to cause legal consequences because it contains substance regarding the Plaintiff's SHM. The decision does not produce legal consequences for the disputed object, nor does it make the disputed object valid or void. The judges paid more attention to the fulfillment of the KTUN element in the requirements for filing a lawsuit in the process of examining the lawsuit.

Keywords: *KTUN, Verdict, Legal Effects*