

**TINJAUAN PERBUATAN MELAWAN HUKUM TERHADAP
PELELANGAN OBJEK TANAH DENGAN SURAT TIMPANG TINDIH
(Studi Putusan Nomor 28/Pdt.G/2021/PN Kba)**

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ABSTRAK

Banyaknya jual beli tanah berimbang dengan kasus pertanahan. Salah satu kasus tersebut ialah perbuatan melawan hukum terhadap pembeli lelang dengan objek surat timbang tindih pada Putusan Nomor 28/Pdt.G/2021/Pn Kba. Dalam putusan tersebut hakim mengabulkan ganti rugi honorium advokat dan menyatakan pembeli merupakan pembeli beritikad baik. Rumusan masalah dalam penelitian ini adalah bagaimana pertimbangan hukum hakim dalam mengabulkan gugatan ganti rugi terhadap perbuatan melawan hukum dalam pelelangan objek tanah dengan surat timbang tindih berdasarkan Putusan Pengadilan Negeri koba Nomor 28/Pdt.G/2021/PN Kba dan bagaimana bentuk perlindungan hukum pembeli lelang beritikad baik dalam Putusan Nomor 28/Pdt.G/2021/PN Kba. Penelitian ini menggunakan tipe penelitian yuridis normatif, metode pendekatan perundang-undangan dan kasus, serta spesifikasi penelitian preskriptif analitis. Data yang digunakan adalah data sekunder dengan pengumpulan data menggunakan studi kepustakaan yang disajikan melalui uraian secara sistematis dan logis dengan bentuk teks naratif.

Hasil penelitian menunjukkan bahwa pertimbangan hukum hakim dalam mengabulkan gugatan ganti rugi terhadap perbuatan melawan hukum dalam pelelangan objek tanah dengan surat timbang tindih berdasarkan Putusan Nomor 28/Pdt.G/2021/PN Kba kurang tepat dalam unsur perbuatan melawan hukum dan ganti rugi. Tergugat I/PT BNI telah melakukan perbuatan melawan hukum karena tidak menyerahkan objek perkara akibat tidak meneliti seksama jaminan, sehingga adanya klaim/penguasaan pihak lain yang menimbulkan kerugian pada Penggugat/Mustafa M. Bong. Meneliti seksama jaminan merupakan ketentuan spesifik pasal 8 Undang-Undang Perbankan bukan pasal 2 dan pasal 29 ayat (2) Undang Undang Perbankan sebagaimana pertimbangan hukum hakim. Perbuatan Tergugat telah memenuhi unsur pasal 1365 KUHPerdara sehingga menimbulkan ganti rugi, hakim telah salah memutus ganti rugi honorium advokat sebagai ganti rugi nyata. Bentuk perlindungan hukum pembeli beritikad baik pada putusan adalah menyatakan risalah lelang tidak memiliki kekuatan hukum yang mengikat dan mengabulkan ganti rugi pembelian objek perkara.

Kata kunci : Surat Timbang Tindih, Ganti Rugi, Pembeli Beritikad Baik.

**REVIEW OF UNLAWFUL ACTIONS REGARDING THE AUCTION OF
LAND OBJECTS WITH AN IMPAIRMENT LETTER
(Study Decision Number 28/Pdt.G/2021/PN Kba)**

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ABSTRACT

The number of land sales and purchases is balanced with land cases. One of these cases is an unlawful act against an auction buyer with the object of an overlapping letter in Decision Number 28/Pdt.G/2021/Pn Kba. In this decision the judge granted compensation for the advocate's honorarium and stated that the buyer was a buyer in good faith. The formulation of the problem in this research is how the judge's legal considerations are in granting a claim for compensation for unlawful acts in the auction of land objects with overlapping letters based on the Koba District Court Decision Number 28/Pdt.G/2021/PN Kba and what is the form of legal protection for auction buyers in good faith in Decision Number 28/Pdt.G/2021/PN Kba. This research uses a normative juridical research type, statutory and case approach methods, as well as analytical prescriptive research specifications. The data used is secondary data with data collection using library research which is presented through systematic and logical descriptions in the form of narrative text.

The results of the research show that the judge's legal considerations in granting a claim for compensation for unlawful acts in the auction of land objects with overlapping letters based on Decision Number 28/Pdt.G/2021/PN Kba are not appropriate in the elements of unlawful acts and compensation. Defendant I/PT BNI has committed an unlawful act because he did not hand over the object of the case as a result of not carefully examining the guarantee, resulting in a claim/control by another party which caused losses to the Plaintiff/Mustafa M. Bong. Carefully examining collateral is a specific provision of article 8 of the Banking Law, not article 2 and article 29 paragraph (2) of the Banking Law as per the judge's legal considerations. The Defendant's actions fulfilled the elements of Article 1365 of the Civil Code, thereby giving rise to compensation. The judge was wrong in deciding that the advocate's honorarium compensation was real compensation. A form of legal protection for buyers with good intentions in the decision is to declare that the auction minutes do not have binding legal force and grant compensation for the purchase of the object of the case.

Keywords: Letter of Indemnity, Compensation, Buyer in Good Fait