

ABSTRAK

ANALISIS PENYELESAIAN HUKUM SENGKETA KEPEMILIKAN TANAH MELALUI KONSINYASI DALAM KEGIATAN PENGADAAN TANAH BAGI PEMBANGUNAN (Studi Putusan Pembangunan Jalan Tol Ruas Bakauheni-Terbanggi Besar)

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Pengadaan tanah bagi pembangunan jalan tol ruas Bakauheni-Terbanggi Besar menimbulkan sengketa kepemilikan tanah. Sengketa terjadi antara Pemilik Tanah dengan Pihak Ketiga dan Tim Pengadaan Tanah. Untuk itu, Tim Pengadaan Tanah melakukan konsinyasi untuk melanjutkan kegiatan pembangunan jalan tol tersebut. Konsinyasi adalah penitipan uang ganti kerugian di Pengadilan yang dapat diambil setelah status kepemilikan hak atas tanah telah diputus dengan putusan berkekuatan hukum tetap (*inkracht*). Pemilik tanah memiliki bukti hak yang sah mengajukan gugatan ke Pengadilan Negeri untuk memperoleh penetapan kepemilikan tanah sehingga berhak atas ganti kerugian dalam konsinyasi. Perkara kepemilikan tanah ini telah diputus oleh Pengadilan Negeri dikuatkan oleh Pengadilan Tinggi dan dibenarkan oleh Mahkamah Agung dalam putusan kasasi Nomor: 2249/K/PDT/2020. Penelitian ini akan mengkaji dan membahas tentang alasan hukum pengajuan penetapan kepemilikan tanah dalam kegiatan pengadaan tanah, pertimbangan hukum Majelis Hakim Agung dalam putusan penetapan kepemilikan tanah, serta akibat hukum putusan penetapan kepemilikan tanah bagi konsinyasi dalam kegiatan pengadaan tanah.

Jenis penelitian ini adalah penelitian hukum normatif dengan tipe penelitian deskriptif. Pendekatan masalah menggunakan studi kasus yang telah berkekuatan hukum tetap (*inkracht*). Data yang digunakan adalah data sekunder melalui studi dokumen (putusan) dan kepustakaan. Selanjutnya, data diolah melalui pemeriksaan dan rekonstruksi data serta sistematisasi data, serta dianalisis secara kualitatif.

Hasil penelitian dan pembahasan menyatakan bahwa Pemilik tanah mengajukan penetapan hak atas ganti kerugian dalam konsinyasi berdasarkan bukti kepemilikan berupa Sertifikat Hak Milik (SHM). Majelis Hakim Agung pada putusan kasasi Nomor: 2249/K/PDT/2020 memutuskan mengabulkan permohonan Pemilik Tanah sebagai pemilik yang sah dengan bukti kepemilikan yang benar dan harus dilindungi, dan selanjutnya menyatakan bahwa Pihak Ketiga dan Tim Pengadaan Tanah telah melakukan perbuatan melawan hukum. Putusan ini menguatkan putusan pengadilan sebelumnya sehingga Pemilik Tanah berhak memperoleh ganti kerugian melalui konsinyasi dan Pengadilan Negeri Kalianda berkewajiban memberikan ganti kerugian kepada Pemilik yang sah.

Kata Kunci: Kepemilikan Tanah, Konsinyasi, Hukum Pengadaan Tanah.

ABSTRACT

ANALYSIS OF LEGAL SETTLEMENT OF LAND OWNERSHIP DISPUTES THROUGH CONSIGNMENT IN LAND ACQUISITION ACTIVITIES FOR DEVELOPMENT (Study of the Decision on the Construction of the Bakauheni-Terbanggi Besar Toll Road)

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Land acquisition for the construction of the Bakauheni-Terbanggi Besar toll road has led to land ownership disputes. The dispute occurred between the Landowner and the Third Party and the Land Acquisition Team. For this reason, the Land Acquisition Team conducted a consignment to continue the toll road construction activities. Consignment is the deposit of compensation money in the Court that can be taken after the status of ownership of land rights has been decided by a permanent legal force decision (*inkracht*). Landowners with valid proof of rights file a lawsuit to the District Court to obtain a determination of rights so that they are entitled to compensation in the consignment. This case of determination of ownership rights has been decided by the District Court confirmed by the High Court and confirmed by the Supreme Court in cassation decision Number: 2249/K/PDT/2020. This research will examine and discuss the legal reasons for the application for determination of land ownership in land acquisition activities, the legal considerations of the Supreme Court Justices in the decision to determine land ownership, and the legal consequences of the decision to determine land ownership.

This type of research is normative legal research with descriptive research type. The problem approach uses a case study approach that has permanent legal force (*inkracht*). The data used is secondary data through document studies (decisions) and literature studies. Furthermore, the data is processed through data examination, data reconstruction, and data systematization.

The results of the research and discussion state that the Landowner applied for the determination of rights to compensation in consignment based on proof of ownership in the form of a Certificate of Ownership (SHM). The Supreme Court Panel of Judges in cassation decision Number: 2249/K/PDT/2020 decided to grant the Landowner's application as a legitimate owner with proof of correct ownership and must be protected, and further stated that the Third Party and the Land Acquisition Team had committed unlawful acts. This decision upheld the previous court's decision so that the Landowner is entitled to compensation through concurrency and the Kalianda District Court is obliged to provide compensation to the Landowner.

Keywords: Land Ownership, Consignment, Land Acquisition Law.