

ABSTRAK

PROBLEMATIKA DALAM PELAKSANAAN PERJANJIAN GADAI TANAH PERKEBUNAN DI DESA CIPADANG KECAMATAN GEDONGTATAAN KABUPATEN PESAWARAN LAMPUNG

Oleh

PANDU APRILIANSYAH

Praktik gadai tanah perkebunan di Desa Cipadang Kecamatan Gedong Tataan Kabupaten Pesawaran menimbulkan berbagai permasalahan hukum akibat ketidaksesuaian antara praktik tradisional yang berkembang di masyarakat dengan ketentuan hukum positif yang berlaku, hal ini terjadi karena perjanjian gadai kerap dilakukan tanpa kejelasan objek tanah, keseimbangan kesepakatan para pihak, serta kepastian jangka waktu, yang diperparah oleh ketimpangan posisi tawar dan rendahnya pemahaman hukum masyarakat. Penelitian ini bertujuan untuk menganalisis faktor-faktor penyebab terjadinya problematika dalam pelaksanaan perjanjian gadai tanah perkebunan, ketentuan hukum yang sesuai untuk mengatur perjanjian gadai tanah perkebunan, dan mekanisme penyelesaian sengketa yang seharusnya diterapkan dalam perjanjian gadai tanah perkebunan di Desa Cipadang Kecamatan Gedongtatan Kabupaten Pesawaran.

Penelitian ini adalah penelitian hukum normatif-empiris dengan pendekatan yuridis-sosiologis untuk mengkaji dinamika praktik gadai tanah di desa tersebut. Sumber data adalah data primer dan data skunder. Teknik pengumpulan data dengan studi pustaka dan studi lapangan yaitu wawancara kepada informan kepada pelaku pemberi dan penerima gadai. Lokasi penelitian dilakukan di Desa Cipadang Kecamatan Gedong Tataan Kabupaten Pesawaran Lampung.

Hasil penelitian dan pembahasan menunjukkan bahwa faktor-faktor terjadinya problematika dalam praktik perjanjian gadai tanah perkebunan di Desa Cipadang yaitu terjadi karena sejumlah faktor hukum, antara lain ketidaksinkronan antara kebiasaan lokal dan ketentuan hukum positif, ketidakjelasan objek dan syarat perjanjian, serta lemahnya posisi tawar pihak penggadai akibat rendahnya literasi hukum. Ketentuan hukum yang tepat untuk mengatur praktik gadai tanah di wilayah ini harus mengintegrasikan prinsip-prinsip hukum agraria dengan nilai-nilai lokal yang masih dijalankan masyarakat, sehingga dapat menjamin kepastian hukum dan perlindungan hak para pihak. Mekanisme penyelesaian sengketa yang lebih responsif, khususnya melalui model penyelesaian berbasis komunitas yang melibatkan aparat desa, tokoh masyarakat, dan lembaga adat, disertai peningkatan edukasi hukum agar praktik gadai tanah dapat berjalan lebih seimbang dan tidak menimbulkan kerugian bagi salah satu pihak.

Kata Kunci: Gadai Tanah, Kepastian Hukum, Perjanjian, Problematika Hukum

ABSTRACT

PROBLEMS IN THE IMPLEMENTATION OF PLANTATION LAND PAWNING AGREEMENTS IN CIPADANG VILLAGE, GEDONG TATAAN DISTRICT PESAWARAN REGENCY LAMPUNG

By

PANDU APRILIANSYAH

The practice of plantation land pawning in Cipadang Village, Gedong Tataan Sub-District, Pesawaran Regency has given rise to various legal problems due to the mismatch between traditional practices that develop in the community and the applicable positive law; this occurs because pawning agreements are often made informally without clear identification of the land object, balanced agreement between the parties, and certainty of the time period, which is further worsened by unequal bargaining positions and the low level of legal awareness among the community. This study aims to analyze the factors causing problems in the implementation of plantation land pawning agreements, to examine the appropriate legal provisions to regulate such agreements, and to formulate proper dispute resolution mechanisms in order to achieve legal certainty and protect weaker parties.

This research is a normative-empirical legal study using a juridical-sociological approach to examine the dynamics of land pawning practices in the village. The data sources consist of primary and secondary data. Data were collected through literature review and field research, particularly interviews with parties involved as land pawners and recipients of pawns. The research was conducted in Cipadang Village, Gedong Tataan Sub-District, Pesawaran Regency, Lampung.

The findings show that the problems in plantation land pawning agreements in Cipadang Village arise from several legal factors, including the lack of harmony between local customs and positive law, unclear objects and terms of the agreement, and the weak bargaining position of the landowners due to low legal literacy. Based on these findings, appropriate legal regulations governing land pawning practices in this area should integrate agrarian law principles with local values still practiced by the community, in order to ensure legal certainty and protection of the rights of all parties. This study also emphasizes the need for more responsive dispute resolution mechanisms, particularly community-based models involving village officials, community leaders, and customary institutions, accompanied by improved legal education so that land pawning practices can be conducted more fairly and do not cause harm to any party.

Keywords: *Land Pawning, Legal Certainty, Contract, Legal Issues*