

Penyelesaian sengketa tanah melalui mediasi sebagai alternatif penyelesaian sengketa oleh Kantor Pertanahan Kabupaten Kudus (Analisis atas sengketa tanah terletak di Desa Pedawang Kecamatan Bae Kabupaten Kudus) = Resolution of land dispute through mediation as an alternative dispute resolution by office of land affairs of Kudus District (Analysis of land dispute in Pedawang Village Bae Subdistrict Kudus District)

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Abstrak

[ABSTRAK

Penelitian ini membahas mengenai penyelesaian sengketa tanah melalui mediasi oleh Badan Pertanahan Nasional (BPN). Jenis penelitian yang digunakan penulis dalam karya ini adalah penelitian yuridis normatif dengan sifat penelitian eksplanatoris, sedangkan berdasarkan tujuannya, tipe penelitian ini termasuk penelitian evaluatif analitis. Berdasarkan analisis yang telah dilakukan penulis, dapat diperoleh kesimpulan bahwa sengketa tanah yang terletak di Desa Pedawang, Kecamatan Bae, Kabupaten Kudus disebabkan oleh salah satu ahli waris menguasai dan berusaha untuk mengalihkan hak atas tanah tersebut, sedangkan ahli waris yang dirugikan mengajukan penangguhan proses peralihan hak dan meminta bantuan Kantor Pertanahan Kabupaten Kudus untuk menyelesaikannya. Kantor Pertanahan Kabupaten Kudus memfasilitasi dan menyelesaikan sengketa tersebut, dalam hal ini Kantor Pertanahan Kabupaten Kudus menjalankan kewenangannya selaku mediator autoritatif. Penyelesaian dilakukan sehingga menghasilkan suatu kesepakatan oleh kedua belah pihak yang dituangkan dalam perjanjian perdamaian yang dibuat dihadapan notaris. Kesepakatan perdamaian yang dikukuhkan dalam bentuk perjanjian perdamaian tidak memiliki kekuatan eksekutorial, perjanjian itu berlaku sebagai undangundang bagi yang membuatnya dan harus dilaksanakan dengan itikad baik. Hasil penelitian menyarankan bahwa perlunya pemerintah merevisi peraturan perundang-undangan yang ada dan mensahkan peraturan mediasi sebagai alternatif penyelesaian sengketa pertanahan.

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ABSTRACT

This study discusses the resolution of land disputes through mediation conducted by the National Land Agency (BPN). The methodology used in the research is normative-juridical as well as explanatory. Based on its purpose, this research is classified as analytical-evaluative research. Based on the analysis that had been conducted by the author, it can be concluded that the dispute over land located in Pedawang Village, Bae Subdistrict, Kudus District occurred because

one of the heirs controlled and attempted to transfer the title to the land, while the remaining heirs filed a suspension of the transfer of the title to the land and submitted the dispute to the Office of Land Affairs of Kudus District to resolve the case. The Office of Land Affairs of Kudus District mediated the parties and managed to resolve the dispute. In this case the Office of Land Affairs of Kudus District exercised its authority as an authoritative mediator. Through the mediation, the disputing parties managed to reach an agreement later contained in a settlement agreement which was drawn up before a notary. An agreement which is drawn up in the form of a settlement cannot be enforced by external parties, since it only binds the parties to that settlement agreement who must perform the content of the agreement in good faith. The result of this research suggests that it is important that the government revise the existing laws and regulations and enact a regulation on mediation as an alternative dispute resolution in land disputes.;

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