

Akta jual beli yang dilakukan dengan pura-pura (studi putusan nomor 51/pdt/2014/pt.plg) = An ostensible act in a deed of sale and purchase

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Abstrak

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Akta jual beli seharusnya merupakan bukti bahwa benar telah dilakukan perbuatan hukum peralihan hak atas tanah untuk selama-lamanya bukan dilakukan dengan pura-pura (schijnhandeling). Pembuktian bahwa hak atas tanah tersebut dialihkan dibuktikan dengan suatu akta yang dibuat oleh dan dihadapan Pejabat Pembuat Akta Tanah. Permasalahan dalam tesis ini adalah bagaimana akibat hukum yang ditimbulkan oleh akta jual beli yang dilakukan dengan pura-pura (schijnhandeling) dalam putusan nomor 51/PDT/2014/PT/PLG. dan bagaimana peran dan tanggung jawab Pejabat Pembuat Akta Tanah dengan adanya akta jual beli yang dilakukan dengan pura-pura (schijnhandeling). Untuk menjawab permasalahan tersebut dilakukan penelitian hukum dengan pendekatan secara yuridis normatif, mempergunakan data sekunder yang diperoleh dari studi kepustakaan, dan hasil penelitian bersifat preskriptif analitis, karena ditujukan untuk memberikan data yang seteliti mungkin tentang sifat-sifat hubungan hukum, keadaan atau gejala-gejala tertentu dalam suatu tindakan hukum. Akta jual beli yang dilakukan dengan pura-pura adalah perbuatan yang bertentangan dengan ketentuan yang berlaku, dikarenakan jual beli atas tanah pada dasarnya adalah suatu perbuatan hukum berupa penyerahan hak atas tanah yang bersangkutan untuk selama-lamanya. Pejabat Pembuat Akta Tanah dalam hal ini hanya menjamin kebenaran materiil dan kebenaran formil dalam setiap akta peralihan hak atas tanah dan tidak dapat dipertanggungjawabkan secara hukum terhadap ketidakjujuran klien dalam memberikan informasi.

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ABSTRACT

Deed of Sale and Purchase necessarily be as an evidence that a legal act of land rights transfer has been done for permanently instead of ostensible (schijnhandeling). A verification that land rights has been transferred is evidenced by a deed which is made and before by a Land Deed Officer. Issues in this thesis are how legal consequences that made by an ostensible act (schijnhandeling) in a Deed of Sale and Purchase as in verdict number 51/PDT/2014/PT/PLG and how is the role and responsibility of Land Deed Officer with the presence of ostensible act in a Deed of Sale and Purchase. To answer those issues a normative legal research is conducted. Using secondary data gained from literature studies and a prescriptive analytic research wherefore its intended to provide a comprehensive and accurately data on attributes of legal relation, circumstances or certain symptoms in a legal act. Deed of Sale and Purchase which made with an ostensibility is contrary to the applicable law and regulation, because a land sale and purchase is a legal act in the form of land rights submission for permanently. The Land Deed Officer regard to this issue is only ensure the material righteousness and formal righteousness in every land rights submission and could not legally accounted for dishonest clients in giving information.

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