

Ganti rugi penguasaan tanah ex hak pakai dalam pengadaan tanah untuk kepentingan umum (analisis putusan mahkamah agung Nomor 853K/Pid.Sus/2012) = Compensation for ex land tenure right to use in land acquisition for public interest analysis of the supreme court decision number 853K/Pid.Sus/2012) / Febrian Kartono

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Abstrak

[Tanah bagi bangsa Indonesia adalah sumber kehidupan, Oleh karena itu Sumber Daya Alam ini harus di jaga, dipelihara dengan sebaiknya karena tanah selain tidak bisa diperbaharui, dari waktu kewaktu kepentingan dan kebutuhan akan tanah selalu meningkat, hal ini dikarenakan Tanah saat ini memiliki beberapa dimensi, selain untuk pertanian, dan tempat tinggal, tanah juga berdimensi politik, pertahanan keamanan, investasi dan bahkan sering menimbulkan konflik baik secara horizontal maupun vertical. Untuk mengantisipasi hal itu, Negara diberikan kewenangan untuk mengatur penggunaan, pemanfaatannya dan pendistribusiannya agar selaras dengan cita-cita bangsa Indonesia dalam menjalankan pembangunan yang terus berkembang dan berkelanjutan. Berdasarkan pada tanah harus di distribusikan secara adil tanah juga memiliki fungsi sosial, oleh karena itu apabila tanah diperuntukan untuk kepentingan umum, maka seseorang atau badan hukum yang mempunyai hak atas tanah harus dengan rela melepaskan hak atas tanahnya melalui prosedur yang telah ditentukan dengan sistem pengadaan tanah untuk kepentingan umum, dengan mencabut hak atas tanah tersebut dan memberikan ganti rugi sesuai dengan ketentuan yang berlaku. Salah satu hak atas tanah adalah Hak Pakai yang diperoleh langsung dari tanah Negara yang memiliki karakteristik bersipat jangka waktu tertentu, sehingga begitu jangka waktu Hak Pakai habis dengan serta merta hak dan kewajiban di Atas Hak Pakai tersebut kembali kepada Negara, artinya yang berakhir adalah Status dari Hak atas tanah tersebut, sementara obyek hak atas tanah tetap melekat seperti semula yaitu menjadi tanah Negara, dalam arti tanah yang melekat sesuai dengan peruntukannya.];Land for the Indonesian nation is the source of life, therefore Natural Resources should be on guard, because the land should be maintained in addition can not be renewed, from time to time interest and demand for land is increasing, this is because the Land currently has several dimensions, in addition to agriculture, and housing, land is also a political dimension, defense and security, investment and often lead to conflict both horizontally and vertically. To anticipate this, the State has the authority to regulate the use, its use and distribution in order to align with the ideals of the Indonesian nation in running the evolving development and sustainable. Based on the land should be distributed in a fair ground also has a social function, therefore if the land intended for public interest, the person or legal entity has the right to land should willingly relinquish their land rights through the procedures that have been determined by the land acquisition system in the public interest, by revoking land rights and provide redress sesuai with applicable regulations. One of the rights is the right to use land obtained directly from the ground state that has the characteristics of having the character of a certain period, so that a period of right to use immediately discharged with rights and obligations in the Upper Right to Use the back to the State, it means the end is the Status of The land rights, while the object of land rights remain attached as before, namely into the ground state, in the sense of

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Kata kunci: Status Hak, Tanah Negara, Fungsi Sosial atas tanah]