

Pemberian Hak Milik di Atas Tanah Ulayat Kaum Dapat Menghilangkan Hak Ulayat Masyarakat Hukum Adat di Minangkabau (Studi Kasus Perkara Perdata Nomor : 10/PDT.G/2009/PN.LB.BS) = Giving Certificate of Right Above The Communal Land Can Eliminating the Land Rights of Indigenous People in Minangkabau (Case Study Civil Case Number: 10 / PDT.G / 2009 / PN.LB.BS) / Mari'e Nouza Qisthy

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Abstrak

[Tesis ini membahas sengketa tanah ulayat kaum antara Asril (penggugat) dan Rosna (tergugat), terhadap 2 (dua) sertipikat Hak Milik No. 39/1991 gambar situasi tanggal 28 Maret 1991 No. 70/1991 seluas 4500 m<sup>2</sup> dan sertipikat hak milik No. 100/1993 gambar situasi tanggal 1 Desember 1992 No. 851/1992 seluas 5250 m<sup>2</sup> atas nama

Rosna yang terletak di Pulau Sei Talang Bukik Lurah Kenagarian Gadut, dimana majelis hakim menolak gugatan penggugat untuk seluruhnya. Penelitian ini menggunakan metode yuridis normatif dengan menggunakan data sekunder dan bersifat eksplanatoris. Hasil penelitian menyimpulkan bahwa pemberian hak milik di atas tanah ulayat kaum seperti kasus di atas serta dikuatkan dengan keputusan Pengadilan maka dapat mengerus nilai kekerabatan di Minangkabau khususnya tentang tanah Pusako Tinggi, sehingga dapat menghilangkan fungsi dari tanah Pusako Tinggi di Minangkabau yang melahirkan masyarakat Individualis, sehingga sistem kekeluargaan materilineal yang kental sebagaimana tersirat dalam falsafah dasar, tujuan dan cara adalah satu yang memakai prinsip sehinah-semalu dan azas kebersamaan tidak terpenuhi lagi.;

This thesis discusses the communal land dispute between Asril (plaintiff) and Rosna (defendant), to 2 (two) certificate of Right of Ownership Number 39/1991 dated March 28, 1991 situation No. 70/1991 covering an area of 4500 m<sup>2</sup> and a certificate of Right of Ownership Number 100/1993 dated December 1, 1992 situation No. 851/1992 covering an area of 5250 m<sup>2</sup> owned by Rosna located in Pulau Sei Bukik Lurah Kenagarian Gadut, where a panel refused the plaintiff's lawsuit entirely. This study uses normative juridical using secondary data and explanatory typology. The research concludes that the granting of property rights over the communal land as the above case and upheld by the Court's decision, it can destroy Minangkabau kinship Pusako Tinggi especially on land, so as to dissipate the function of Pusako Tinggi land at Minangkabau who gave birth Individualist society, so that the system materilineal familial thick as implied in the basic philosophy, objectives and the way is one who wears contemptible principle and the principle of solidarity not fulfilled

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