

Kedudukan dan kekuatan mengikat Perjanjian Pengikatan Jual Beli Lunas (PPJB LUNAS) tanah dan bangunan dan kuasa jual terkait dengan status peralihan kepemilikan objek: analisis kasus putusan nomor 666/PK/Pdt/2011 = Legal standing and binding of land and building conditional sale purchase agreement in full settlement and power of attorney to sell in connection to status of transfer the ownership over the object: case study court decision number 666/PK/Pdt/2011

Aurora Aldwita Mariel, author

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Abstrak

[Penulisan skripsi ini menggunakan metode penelitian kepustakaan dengan data sekunder sebagai sumber datanya. Skripsi ini bertujuan untuk meneliti mengenai jual beli tanah dan bangunan yang diatur dalam peraturan perundang-undangan serta kedudukan dan kekuatan mengikat Perjanjian Pengikatan Jual Beli Lunas (PPJB Lunas) dan Kuasa Jual dalam hal pengalihan hak milik atas tanah (beserta bangunan apabila diperjanjikan). Dalam skripsi ini, dianalisis satu kasus dengan empat putusan dari Pengadilan Tingkat Pertama sampai dengan Tingkat Peninjauan Kembali. Dari analisis tersebut, dapat diketahui bahwa ada dua pendapat hakim yang saling bertentangan. Pendapat pertama adalah dengan PPJB Lunas dan Kuasa Jual maka telah terjadinya peralihan hak milik atas tanah dan bangunan sedangkan pendapat kedua adalah dengan PPJB Lunas dan Kuasa Jual belum terjadi peralihan hak milik atas tanah dan bangunan. Sebagai hasil penelitian dapat disimpulkan bahwa kedudukan dan kekuatan mengikat PPPJB Lunas dan Kuasa Jual telah mengalihkan hak milik atas tanah dan bangunan apabila dalam kenyataannya sudah terjadi perbuatan hukum dimana pembeli telah melakukan pembayaran dan telah menerima penyerahan serta menguasai tanah dan bangunan tersebut, sedangkan penjual telah menyerahkan Kuasa Jual dan tanah serta bangunan itu sendiri kepada pembeli dan penjual telah menerima pembayaran sehingga perbuatan tersebut memenuhi unsur terang, tunai dan riil sebagaimana dasar hukum jual beli tanah yang berlaku pada saat ini, serta memenuhi syarat materiil jual beli.

.....This thesis was written using literary research method with secondary data as its source of data. This thesis aims to examine the mechanisms sale and purchase of land and building which is regulated in accordance with the laws and regulations and the legal standing and binding of Land and Building Conditional Sale Purchase Agreement in Full Settlement (CSPA in Full Settlement) and Power of Attorney to Sell, in connection with the transfer of right of ownership over the land (and building if agreed). This thesis will primarily analyze one legal case which went to produce four court decisions, leveling from the Court of First Instance until the Supreme Court. From this analysis, it is discovered that there are two judge's opinion, which contradicts one to another. The first opinion is that, the CSPA in Full Settlement and Power of Attorney to Sell have transferred the right of ownership over land and building, while the second opinion is that the CSPA in Full Settlement and Power of Attorney to Sell have not transferred the right of ownership over land and building yet. As a result of this study, it can be concluded that the legal standing and binding of CSPA in Full Settlement and Power of Attorney to Sell have transferred the right of ownership over land and building when the facts of the case show that it had happened a juridical action in

which the buyer has made payment and has conducted the acceptance, and possessed the land and buildings, while the seller has granted the Power of Attorney to Sell and delivered the land and building to the buyer and received the payment for it. Such action would therefore qualified for a sale and purchase that is “terang”, “tunai” and “riil”, which is the basic of legality of the sale and purchase of the land under the prevailing laws, as well as the fulfilling the material requirement of sales and purchase.

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