

**Analisis tumpang tindih penguasaan bidang tanah berdasarkan Surat Pernyataan Penguasaan Fisik Bidang Tanah (SPPFBT) dengan Sertifikat Hak Pengelolaan : studi Putusan Mahkamah Agung Nomor: 37/K/TUN/2018 = Analysis of overlapping land tenure rights based on The Letter of Land Physical Ownership with Rights to use Certificate : case study Supreme Court Verdict Number 37/K/TUN/2018**

Agripina Tanto, author

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Abstrak

Penelitian ini menitikberatkan pada pembahasan sengketa tumpang tindih penguasaan bidang tanah berdasarkan surat pernyataan penguasaan fisik bidang tanah (SPPFBT) dengan sertifikat hak pengelolaan di Desa Kuta, Kabupaten Lombok Tengah. Banyak ditemukan masyarakat Desa Kuta yang menguasai tanah dengan berlandaskan SPPFBT karena belum melaksanakan pendaftaran tanah pertamakali. Dengan demikian, BPN Kab. Lombok Tengah wajib berhati-hati dalam mengumpulkan data fisik dan yuridis tanah dalam hal pelaksanaan kegiatan pendaftaran tanah pertamakali agar kelak terhindar dari adanya konflik pertanahan. Adapun masalah yang timbul dimana BPN Kab. Lombok Tengah lengah dalam menerbitkan Sertifikat HPL No. 73/Kuta, terdapat beberapa prosedur yang terlewat sehingga sebagian bidang tanah dalam Sertifikat HPL No. 73/Kuta dengan tanah SPPFBT No. 05/SKT/I/2000 seluas 20.845 M2 tumpang tindih secara keseluruhan. Permasalahan yang diangkat dalam penelitian ini adalah analisis amar putusan dan pertimbangan hukum Hakim dalam memutus Putusan PTUN Mataram No: 55/G/2016/PTUN.MTR, juncto Putusan PTTUN Surabaya No: 112/B/2017/PT.TUN.SBY, juncto Putusan MA No: 37/K/TUN/2018, serta kedudukan dan perlindungan hukum bagi pemegang SPPFBT Nomor: 05/SKT/I/2000. Penelitian ini menggunakan metode penelitian hukum normatif serta analisis data secara eksplanatoris, sehingga terjawab bahwa, dalam mempertimbangkan suatu perkara, Majelis Hakim seyogianya menimbang dalam aspek kewenangan, prosedur serta kebenaran substansi dari suatu Sertifikat. Dibatalkannya Putusan PTUN Mataram No: 55/G/2016/PTUN.MTR oleh PTTUN Surabaya No: 112/B/2017/PT.TUN.SBY, maka pemegang SPPFBT No. 05/SKT/I/2000 kehilangan tanah yang telah dikuasainya selama lebih dari 16 tahun tanpa diberikan ganti kerugian. Di lain sisi, PP No. 24/1997 memandang SPPFBT sebagai alat pembuktian kepemilikan hak-hak lama dalam rangka pendaftaran tanah, sehingga pemegang SPPFBT wajiblah diberi perlindungan hukum terkait haknya.

.....This research focuses on discussions related to the overlapping land tenure rights based on the letter of land physical ownership (SPPFBT) with right to use certificate in Kuta Village, Central Lombok District. Kuta Village Citizens are commonly found having SPPFBT as their land tenure evidence. This happens because they have never registered their land to BPN. BPN Central Lombok District needs to be more careful in collecting physical and juridical data on land in terms of carrying out land registration activities for the first time so that in the future there will be less land conflicts. The problems that arise are where BPN Central Lombok District was negligent in issuing HPL Certificate No. 73/Kuta in which several procedures were missed so that some of the land parcels in the HPL Certificate No. 73/Kuta with SPPFBT No. 05/SKT/I/2000 land, which covers an area of 20,845 M2, are completely overlapping. The problems raised in this research are related to the analysis of the decisions and legal considerations of the judges in deciding

the Mataram Administrative Court Decision Number: 55/G/2016/PTUN.MTR, in conjunction with the Surabaya Administrative High Court Decision Number: 112/B/2017/PT.TUN.SBY and legal status and protection for the holder of SPPFBT Number: 05/SKT/I/2000, in conjunction with the Supreme Court Verdict Number: 37/K/TUN/2018. In answering these problems, normative legal research methods are used. In addition, data analysis carried out in an explanatory approach. This research resulted in an answer which the Judges should consider all the aspects of competency, procedural and substance of a certificate. The cancellation of the Mataram Administrative Court Decision No: 55/G/2016/PTUN.MTR by PTTUN Surabaya No: 112/B/2017/PT.TUN.SBY, the holder of SPPFBT No. 05/SKT/I/2000 lost his land which he had utilized for more than 16 years without being given any compensation. On the other hand, PP No. 24/1997 views SPPFBT as an evidence of old rights land ownership in the context of land registration, so that SPPFBT holders must be given legal protection regarding their rights.