

Akibat Hukum Sertipikat Hak Milik atas Tanah Harta Pusaka Tinggi Kaum yang Dinyatakan Lumpuh dan Tidak Berharga karena Perbuatan Melawan Hukum (Studi Kasus Putusan Mahkamah Agung Republik Indonesia Nomor 431 K/Pdt/2021) = Legal Consequences of Land Ownership Certificates of High Inheritance That Has Been Declared Paralyzed and Worthless Due to Unlawful Acts (Case Study of the Verdict of Supreme Court of the Republic of Indonesia Number 431 K/Pdt/2021)

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Abstrak

Tanah ulayat kaum merupakan harta milik bersama suatu kaum dan diwarisi secara turun-temurun. Dalam praktik pendaftaran sertipikat hak atas tanah harta pusaka tinggi di Minangkabau, banyak terjadi pensertipikatan atas nama perorangan tanpa sepengetahuan dan persetujuan anggota kaum atau disertipikatkan pertama kali oleh orang yang tidak berhak atas Harta Pusaka Tinggi tersebut. Penelitian ini bertujuan untuk menganalisis akibat hukum sertipikat hak milik atas tanah harta pusaka tinggi kaum yang dinyatakan lumpuh dan tidak berharga karena perbuatan melawan hukum, serta mengungkap peran Pejabat Pembuat Akta Tanah (PPAT) dalam peralihan hak atas tanah harta pusaka tinggi. Metode penelitian yang digunakan adalah Doktrinal, yang mengacu kepada norma hukum sebagai sasaran penelitian. Akibat sertipikat hak milik atas tanah harta pusaka tinggi kaum yang dinyatakan lumpuh dan tidak berharga adalah tidak mempunyai kekuatan hukum sertipikat hak atas tanah serta segala dokumen yang dilahirkan sebelum ataupun setelah diterbitkan sertipikat, perbuatan hukum yang dilakukan setelah diterbitkannya sertipikat lumpuh dan tidak berharga, kembali ke keadaan semula, pemilik yang sebenarnya dapat mengajukan permohonan pembatalan sertipikat dan ganti kerugian. PPAT dalam melakukan tindakan hukum harus senantiasa menerapkan prinsip kehati-hatian. Berkaitan dengan peralihan hak atas tanah pusaka tinggi, peranan PPAT antara lain memastikan bahwa penghadap benar sebagai pemilik tanah, melakukan checking terhadap sertipikat, melakukan pengecekan terhadap warkah, melakukan konfirmasi faktual mengenai Harta Pusaka Tinggi tersebut ke nagari tempat objek tersebut berada, melakukan pengecekan SKPT, meminta dokumen lain seperti Ranji, Sporadik, Surat Pernyataan Kepemilikan Tanah, Surat Kesepakatan atau Persetujuan Kaum, Surat Keterangan Wali Nagari atau Lurah setempat, Bukti bayar PBB serta KTP dan KK penghadap serta mengerti tentang hukum adat daerah di mana PPAT berkedudukan.

.....The customary land of the people is a joint property of a people and is inherited from generation to generation. In the practice of certifying high inheritance land rights in Minangkabau, there are many certificates in the name of individuals who do not get approval from members of other customary clans or are certified for the first time by individuals who are not entitled to the land which causes disputes over inherited land in the future. This study aims to analyze the legal consequences of ownership certificates on the High Inheritance's land of people who are declared paralyzed and worthless due to acts against the law and to reveal the role of the Land Deed Making Officer (PPAT) in the transfer of rights to High Inheritance's Land. The research method used is Doctrinal, which refers to legal norms as research targets. This study uses primary and secondary data with qualitative analysis methods. Legal consequences of land

ownership certificates of high inheritance that has been declared paralyzed and worthless due to unlawful acts is certificates of land rights do not have the force of law, and all documents issued before or after the issuance of the certificate and legal actions taken after the issuance of the certificate are paralyzed and worthless, returning to their original state, the actual owner can apply for cancellation of the certificate and compensation. In carrying out legal actions, PPAT must always apply the precautionary principle. Concerning the transfer of rights to heritage high land, the role of the PPAT includes ensuring that the claimant is genuinely the owner of the land, checking the certificate, checking the Warkah, making factual confirmation regarding the inheritance to the Nagari where the object is located, checking the SKPT, ask for other documents such as Ranji, Sporadic, Declaration of Land Ownership, Letter of Agreement or Clan Agreement, Certificate of Wali Nagari or local Lurah, Proof of PBB payment and KTP and KK of the party and understand the customary law of the area where the PPAT is domiciled, thus can minimize disputes over high inheritance land within the scope of PPAT.