

Pendaftaran Peralihan Hak Atas Tanah Ganggam Bauntuak Karena Pewarisan Berdasarkan Surat Keterangan Waris dan Ranji di Kota Padang (Studi Kasus di Kantor Pertanahan Kota Padang) = The Registration of the Conveyance of The Land Rights of Ganggam Bauntuak due to Inheritance based on the Inheritance Certificate and Ranji in Padang City (Case Study at Land Office in Padang City)

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Abstrak

Peralihan hak atas tanah ganggam bauntuak yang terjadi karena pewarisan harus didaftarkan pada kantor pertanahan untuk terciptanya kepastian hukum. Untuk pendaftaran peralihan hak atas tanah ganggam bauntuak memiliki syarat khusus, yaitu ranji dan surat keterangan waris. Ranji dan surat keterangan waris harus dibuat dengan benar dan sesuai dengan ketentuan hukum adat Minangkabau. Dalam pendaftaran peralihan hak atas tanah ganggam bauntuak pada Kantor Pertanahan Kota Padang terdapat beberapa ranji dan surat keterangan waris yang dibuat tidak berdasarkan fakta. Penelitian ini membahas mengenai kedudukan ranji dan surat keterangan waris dalam pendaftaran peralihan hak atas tanah ganggam bauntuak karena pewarisan di Kantor Pertanahan Kota Padang dan dasar-dasar penerimaan atau penolakan pendaftaran peralihan hak atas tanah ganggam bauntuak berdasarkan ranji dan surat keterangan waris yang dibuat tidak berdasarkan fakta oleh Kantor Pertanahan Kota Padang dan akibat hukumnya. Untuk menjawab permasalahan tersebut digunakan metode penelitian yuridis normatif dengan tipologi penelitian deskriptif analitis. Hasil dari penelitian ini menunjukkan bahwa kedudukan ranji dan surat keterangan waris dalam pendaftaran peralihan hak atas tanah ganggam bauntuak adalah sebagai bukti (alas hak) dalam kepemilikan tanah adat dan merupakan syarat mutlak. Ranji dan surat keterangan waris yang dibuat tidak berdasarkan fakta maka ranji dan surat keterangan waris tersebut mengandung cacat hukum dan akan ditolak permohonan pendaftarannya oleh Kantor Pertanahan Kota Padang. Akan tetapi, ada juga permohonan pendaftaran peralihan haknya yang diterima oleh Kantor Pertanahan Kota Padang oleh karena ranji dan surat keterangan waris tersebut dianggap telah benar secara formil dan kantor pertanahan tidak berwenang memeriksa lebih lanjut kebenaran materil-nya. Dengan diterimanya pendaftaran peralihan hak atas tanah tersebut mengakibatkan beralihnya hak atas tanah, menimbulkan gugatan, dan sertipikat tidak mempunyai kekuatan hukum. Sedangkan akibat hukum dari ditolaknya pendaftaran peralihan hak adalah ranji dan surat keterangan waris tidak dapat dipergunakan lagi dalam pendafaran peralihan hak atas tanah karena pewarisan.

.....Conveyance of the land rights of Ganggam Bauntuak that happened due to inheritance must be registered at land registry office to create legal certainty. For registering the conveyance of the land rights of Ganggam Bauntuak, there are specific requirements which are ranji and a certificate of inheritance. Ranji and certificate of inheritance must be created correctly and appropriate with the common law of Minangkabau. In the registration of the conveyance of the land rights of Ganggam Bauntuak at Land Office in Padang City, there are several ranji and inheritance certificates that were made not based on facts. This study discusses the status of ranji and certificate of inheritance in the registration of the conveyance of the land rights of Ganggam Bauntuak due to inheritance at the Land Office in Padang City and the reasons for

accepting or rejecting the registration of the conveyance of the land rights over ganggam bauntuak land based on ranji and inheritance certificate that were made not based on facts by the Padang City Land Office and its legal consequences. To answer these problems, normative juridical research methods were used with an analytical descriptive research typology. The results of this study indicated that the position of the ranji and certificate of inheritance in the registration of the conveyance of the land rights over the ganggam bauntuak land were evidences (base of rights) in the ownership of customary land and were absolute requirements. Ranji and certificate of inheritance that were made not based on facts, then they contained legal defects and their application for registration will be rejected by the Padang City Land Office. Nevertheless, there was also an application for registration of the conveyance of the land rights that was received by the Land Office in Padang city because the ranji and certificate of inheritance were considered formally correct and the land registry office had no authority to further examine the material validity. With the acceptance of the registration of the conveyance of the land rights, it resulted in the transferring of land rights, causing a lawsuit, and the certificate had no legal force. Meanwhile, the legal consequence of the rejection of the registration of the conveyance of the land rights is that the ranji and certificate of inheritance could not be used anymore in the registration of the conveyance of the land rights due to inheritance.