

**PENAHANAN SERTIPIKAT HAK MILIK OLEH NOTARIS
SEBAGAI JAMINAN PELUNASAN ATAS HONORARIUM
NOTARIS ANALISIS PUTUSAAN NOMOR 37/PDT/2020/PT MKS
= Submission of a Certificate of Ownership by the Client to a Notary as
a Guarantee of Payment of the Notary's Honorarium Decision Analysis
Number 37/Pdt/2020/Pt Mks**

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Abstrak

Pengaturan penahanan sertipikat oleh Notaris sebagai jaminan pelunasan Honorarium Notaris masih belum jelas. Tesis ini membahas Penahanan Sertipikat Hak Milik Oleh Notaris Sebagai Jaminan Pelunasan Atas Honorarium Notaris terhadap Putusan Nomor 37/Pdt/2020/Pt Mks. Undang-Undang Jabatan Notaris masih belum memberikan makna yang jelas terkait ketentuan tersebut dan hanya menetapkan batas maksimal honorarium yang harus di terima Notaris, dengan tidak adanya kepastian tersebut membuat permasalahan pembayaran Honorarium ini kerap terjadi. Akibatnya Notaris/PPAT dituduh melakukan penguasaan terhadap sertipikat milik klien dengan melawan hukum. Penjaminan sertipikat kepada Notaris/PPAT belum diatur secara tegas dan jelas mengenai adanya kewenangan/kewajiban dan larangan Notaris/PPAT untuk menerima jaminan terkait proses pelunasan Honorarium Notaris. Penelitian ini menggunakan metode penelitian yuridis normatif dengan tipe penelitian preskriptif. Hasil penelitian ini adalah bahwa Notaris berwenang untuk melakukan penahanan sertipikat berdasarkan asas kebebasan berkontrak, dan ketentuan mengenai jaminan dengan melakukan Novasi Obyektif. Notaris dan Klien dapat beritikad baik dengan melakukan perjanjian tertulis sebelum pembuatan akta terkait pembayaran Honorarium, dan jaminan atas Tanah dapat di lakukan dengan melakukan pendaftaran hak tanggungan kepada Badan Pertahanan NasionalThe arrangement for the detention of the certificate by the Notary as a guarantee for the repayment of the Notary's Honorarium is still unclear. This thesis discusses the Detention of Ownership Certificates by a Notary as a Guarantee of Payment of the Notary's Honorarium for Decision Number 37 / Pdt / 2020 / Pt Mks. The Law on Notary Position still does not provide a clear meaning regarding these provisions and only establishes the maximum amount of honorarium that must be received by the Notary Public, in the absence of such certainty, the problem of paying this honorarium often occurs. As a result, the Notary/PPAT is not guilty of making a mistake against the client's certificate against the law. The guarantee of certificates to Notaries / PPAT has not been regulated explicitly and clearly regarding the authority / obligations and prohibitions of Notaries / PPATs from receiving guarantees related to the process of paying off the Notary's Honorarium. This study uses a normative juridical research method with a prescriptive type of research. The result of this research is that notaries who practice to hold certificates are based on the principle of freedom of contract, and provisions regarding guarantees by carrying out objective novation. Notaries and clients can act in good faith by entering into a written agreement before making a deed related to payment of honorarium, and guarantees on land can be done by registering mortgage rights with the National Defense Agency