

# Perjanjian pengikatan jual beli yang digunakan untuk pelunasan hutang piutang : Analisis kasus putusan Pengadilan Negeri di Mataram nomor: 51/Pdt.G/1993/PNMTR, tanggal 29 Juli 1993

Putry Setia Ningsih, author

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## Abstrak

Perjanjian Pengikatan Jual beli yang didalamnya terdapat pemberian kuasa yang dasar pemindahan hak atas tanah, termasuk kuasa karena akta perjanjian pengikatan jual beli tidak boleh dibuat untuk pelunasan hutang piutang. kuasa yang pada hakekatnya merupakan pemindahan hak atas tanah adalah kuasa yang memberikan kewenangan kepada penerima kuasa untuk menguasai dan menggunakan tanahnya serta melakukan segala perbuatan hukum yang menurut hukum hanya dapat dilakukan oleh pemegang haknya dan melarang pejabat-pejabat Agraria untuk melayani penyelesaian status hak atas tanah yang menggunakan akta perjanjian pengikatan jual beli yang didalamnya terdapat surat kuasa sebagai bahan pembuktian pemindahan hak atas tanah.Dalam perkembangan hukum perjanjian, telah diakui azas kebebasan berkontrak sesuai dengan ketentuan Pasal 1338 KUHPerdata. Kebebasan berkontrak yang dikembangkan juga meliputi pemberian kuasa tetapi penegakan azas kebebasan berkontrak termasuk perjanjian pemberian kuasa, tidak boleh bertentangan dengan undang-undang. Akta perjanjian pengikatan jual beli yang didalamnya terdapat surat kuasa yang digunakan untuk pelunasan hutang piutang ialah penyalah gunaan hukum yang mengatur pemberian kuasa dengan mengadakan pemindahan hak atas tanah secara terselubung dengan menggunakan akta perjanjian pengikatan jual beli yang didalmnya terdapat kuasa untuk pelunasan hutang piutang, adalah salah satu bentuk perbuatan hukum yang mengganggu usaha penertiban status dan pengunaan tanah, sehingga karenanya perlu untuk segera dicegah.yang menjadi pokok permasalahan para pihak telah melakukan perbuatan hukum membuat akta perjanjian pengikatan jual beli yang didalamnya terdapat surat kuasa yang digunakan untuk pelunasan hutang piutang kemudian dibatalkan oleh pengadilan.untuk menjawab permasalah hukum kasus yang dimaksud dilakukan penelitian perpustakaan, yang dilakukan dengan menganalisis dengan teori-teori hukum dalam praktek pelaksanaanya berkenaan dengan permasalahan yang ada.dari penelitian tersebut dapat diketahui bahwa akta perjanjian pengikatan jual bell yang didalamnya terdapat surat kuasa yang digunakan untuk pelunasan hutang piutang melalui putusan pengadilan dinyatakan batal demi hukum.

.....A Binding Agreementon Sale-Purchase in which there is a transfer of authority on the transfer of land ownership, including authority occurred due to the Binding Agreement on Sale-Purchase should not be made and intended to settle any debt-loan affairs (particularly to payback a loan). An authority which essentially is a transfer of right of land ownership is an authority that hands over a right Co the receiver to control and use the land, as well as do legal conducts that is according to the law only possible done by the right owner, while at the same tim also prohibits the Agrarian officials to serve the settlement of the status of land ownership right which uses the binding Agreement on sale-purchase, in which there is an authority letter as the evidennce material of the right transfer of the land mentioned. Along with the progress of the law concerning agreement, the principle of freedom in making any contract which is in accordance to the law has been approved under the regulation of the Article 1338 of the Book of Civil Law. The freedom of making a contract that is developed also comprises the grant of authority, under the condition that it should

not contradict with the positive law. The deed of the binding agreement on sale-purchase in which there is an authoritative letter that is used to settle a debt-loan affairs is considered as violation on the law that regulates the grant of authority, since it commits a transfer of land ownership secretly by using the binding agreement on sale-purchase, which contains the authority for the debt-loan settlement. Thus it is considered as a conduct that bothers the efforts for status settlement and land usage, the reason of which it should be prevented immediately. The main problem to be addressed here is that the parties concerned have conducted a legal conduct in form of the making of a binding agreement deed on sale-purchase which contains an authoritative letter that is used to settle a debt-loan affairs that is later cancelled by the court. In order to answer the problem mentioned, the writer applies a library study, specifically conducted by analyzing legal theories as well as their implementation regarding the problems mentioned. The outcome shows that the deed of a binding agreement on sale-purchase which contains an authoritative letter that is used to settle a debt-loan affairs, is cancelled by the court's decree for the sake of law.