

Hak atas tanah yang dimiliki anak yang dijadikan ganti rugi perbuatan hukum orang tuanya : tinjauan yuridis terhadap Putusan MA Register Nomor 3561/K/PDT/1999 jo. Putusan PT Nomor 32/PDT/1994/PT.MDO = Child's land ownership right as a damage of her parent's legal act : juridical review towards Supreme Court's Decision Register number 3561 K/PDT/1999 jo. High Court's Decision number 32/PDT/1994/PT.MDO

Tampi, Regina Alice Deidy, author

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Abstrak

Tesis ini membahas tanah hak milik anak yang dijadikan ganti rugi perbuatan melawan hukum ibunya dimana status anak telah menikah saat membeli tanah tersebut. Ketika tanah tersebut diletakkan Conservatoir Beslag hingga dilelang eksekusi, sang anak sama sekali tidak menerima pemberitahuan atau somasi dalam bentuk apapun dari pihak manapun secara resmi maupun tidak resmi. Upaya sang anak dan suaminya mengajukan derden verzet sampai ke tingkat kasasi, ditolak. Hingga saat ini sang anak kehilangan penguasaan fisik maupun yuridis atas tanah tersebut.

Penelitian terhadap Putusan MA Register Nomor 3561 K/Pdt/1999 juncto Putusan PT Nomor 32/Pdt/1994/PT.Mdo. menggunakan metode penelitian yuridis normatif yakni penelitian kepustakaan terhadap data sekunder bidang hukum. Dalam pengolahan, analisa, dan konstruksi datanya dilakukan secara kualitatif, bersifat mono disipliner. Tipologi penelitiannya problem identification dan problem solution ditelusuri dengan jalan preskriptif - eksplanatoris untuk mencapai solusi permasalahan juga dari sudut penerapannya berupa problem focused research.

Dari hasil penelitian penulis, disimpulkan bahwa ada ketidaksesuaian antara regulasi dan implementasi dalam melindungi sang anak dan suaminya sebagai pemegang hak atas tanah, adanya ketidakteitian atau pengabaian hakim dalam melihat kedudukan sang anak sebagai subjek hukum yang mandiri, dan upaya yang dapat ditempuh mereka adalah mengajukan gugatan baru.

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This thesis researched upon a child's land ownership right which had been executed as a damage toward the parent's unlawful act, meanwhile the child had already married. When the judicial sequestration of the land hold, and proceeded to the execution by auction, the child never received any kind notices/admonitions, officially/not, from officers/other parties. The child and her husband using derden verzet on claiming their right even in Supreme Court level was rejected. Until now, they're losing their physical and legal authorization on their land.

Research against Supreme Court's Decision Register Number 3561 K/Pdt/1999 juncto High Court's Decision Number 32/Pdt/1994/PT.Mdo. was observed using legal - normative methodology. In according to process, to analyze, and to construct the data qualitatively, with mono discipliner complexion, the types of research were problem identification research and problem solution research which used explanatory - prescriptive in reaching the problem's solution, also from its application was problem focused research. As a result, there were inconsistency between the land's regulations and those implementations, the inaccuracy or the carelessness of the judge considering the legal standing of the child as a legal subject and

to restore their right is making a new claim to the District Court.