

Sengketa kepemilikan hak atas tanah antara pemenang lelang dengan pemegang sertipikat hak guna bangunan asal konversi hak barat (analisis kasus putusan mahkamah agung nomor : 3874K/PDT/2001) = Dispute on the ownership of the title of land between a winning bidder of auction and the holder of building rights title derived from the conversion of colonial title of land case analysis of verdict no 3874k pdt 2001

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Abstrak

[ABSTRAK

Risalah Lelang merupakan akta otentik yang membuktikan telah terjadinya lelang dan berfungsi sebagai alas hak untuk melakukan balik nama, khususnya dalam hal objek lelang berupa tanah dan bangunan. Seperti halnya akta notaris, Risalah Lelang dapat dibuat dalam bentuk minuta, salinan dan grosse. Minuta Risalah Lelang merupakan arsip negara yang wajib disimpan dan dipelihara secara baik oleh Juru Lelang/Kantor Lelang. Dalam penelitian ini, permasalahan muncul sebagai dampak dari diterbitkannya surat keterangan sebagai pengganti salinan Risalah Lelang oleh Kepala Kantor Lelang Negara, yang tidak memiliki minuta. Mengenai bidang tanah/bangunan yang telah dijual lelang oleh Kantor Lelang Negara tersebut, bagaimanapun, telah diterbitkan sertipikat Hak Guna Bangunan atas nama pihak lain oleh Kantor Pertanahan sebagai tindak lanjut dari adanya ketentuan konversi tanah berdasarkan UUPA. Selain itu, sertipikat Hak Guna Bangunan tersebut telah pula ditingkatkan menjadi Hak Milik. Penelitian ini bertujuan untuk mengetahui kesesuaian antara prosedur lelang dan proses konversi tanah yang telah dilakukan dengan peraturan-peraturan yang berlaku di bidang hukum lelang dan pertanahan. Penelitian ini menggunakan bentuk yuridis normatif dengan tipe diagnostik fact-finding. Jenis data yang digunakan adalah data sekunder yang dianalisis secara kualitatif sehingga menghasilkan laporan yang bersifat diagnostik analisis. Penulis menyimpulkan bahwa lelang yang telah dilakukan mengandung beberapa cacat prosedur dan surat keterangan sebagai pengganti salinan Risalah Lelang tersebut tidak dapat diterima sebagai alat bukti yang sah dan sempurna, namun hanya sebagai bukti permulaan.

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ABSTRACT

An Auction Deed is an authentic deed to prove that an auction has occurred and it becomes the legal basis the transfer of title from a vendor to a purchaser, particularly in relation to land and building. Similar to a notary deed, The Auction Deed may be drawn as a minute, an exemplified copy, and an engrossment. As state archives, the minute of Auction Deeds must be kept and

maintained well by auctioneers. In this research, problems arise as a result of the issuance of letters of evidence by the Head of State Auction Office as a substitute for an exemplified copy of an auction deed, that do not has the minute. With regard to the property sold by the aforementioned State Auction Office, however, the Land Office has granted Building Rights Certificate under the name of other people based on the conversion policy of land titles in conformity with the Basic Agrarian Law (UUPA). Besides, The Building Rights has been increased into the Ownership (Freehold) Rights. This study aims to examine the suitability of the auction procedure, conversion of land rights procedure with the auction and land regulations. The research uses normative juridical with fact-finding diagnostic. The type of data used are secondary data were analyzed qualitatively so as to produce a diagnostic report analysis. The writer concluded that there were flaws in auction procedure and the letters of evidence could not be accepted as perfect and convincing/legitimate evidence, but merely as preliminary evidence.;An Auction Deed is an authentic deed to prove that an auction has occurred and it becomes the legal basis the transfer of title from a vendor to a purchaser, particularly in relation to land and building. Similar to a notary deed, The Auction Deed may be drawn as a minute, an exemplified copy, and an engrossment. As state archives, the minute of Auction Deeds must be kept and maintained well by auctioneers. In this research, problems arise as a result of the issuance of letters of evidence by the Head of State Auction Office as a substitute for an exemplified copy of an auction deed, that do not has the minute. With regard to the property sold by the aforementioned State Auction Office, however, the Land Office has granted Building Rights Certificate under the name of other people based on the conversion policy of land titles in conformity with the Basic Agrarian Law (UUPA). Besides, The Building Rights has been increased into the Ownership (Freehold) Rights. This study aims to examine the suitability of the auction procedure, conversion of land rights procedure with the auction and land regulations. The research uses normative juridical with fact-finding diagnostic. The type of data used are secondary data were analyzed qualitatively so as to produce a diagnostic report analysis. The writer concluded that there were flaws in auction procedure and the letters of evidence could not be accepted as perfect and convincing/legitimate evidence, but merely as preliminary evidence.;An Auction Deed is an authentic deed to prove that an auction has occurred and it becomes the legal basis the transfer of title from a vendor to a purchaser, particularly in relation to land and building. Similar to a notary deed, The Auction Deed may be drawn as a minute, an exemplified copy, and an engrossment. As state archives, the minute of Auction Deeds must be kept and maintained well by auctioneers. In this research, problems arise as a result of the issuance of letters of evidence by the Head of State Auction Office as a substitute for an exemplified copy of an auction deed, that do not has the minute. With regard to the property sold by the aforementioned State Auction Office, however,

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