

Tanggung jawab notaris terhadap perjanjian pinjam nama dalam penguasaan hak atas tanah antara warga negara asing dengan warga negara Indonesia = The responsibilities of notary in nominee agreement for possession of land between foreigner and Indonesian citizen

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Abstrak

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Propinsi Bali merupakan wilayah Indonesia yang jumlah wisatawan yang datang ke kian meningkat setiap tahunnya. Hal ini menyebabkan banyak orang baik warga negara Indonesia dan orang asing tertarik untuk tinggal atau membuka usaha di Bali. Undang-Undang Pokok Agraria menyatakan bahwa hanya warga negara Indonesia yang berhak untuk memiliki tanah. Sementara itu, orang asing diberi hak untuk menempati lahan di Indonesia dengan hak pakai dan hak sewa atas bangunan. Tetapi pada kenyataannya banyak orang asing menggunakan perjanjian pinjam nama untuk menempati lahan di Bali dalam jangka waktu yang mereka inginkan. Perjanjian sewa menyewa digunakan sebagai upaya untuk menutupi keberadaan perjanjian dapat dianggap sebagai perjanjian pinjam nama sehingga perjanjian sewa menyewa merupakan suatu upaya penyelundupan hukum. Penelitian ini menggunakan metode yuridis normatif, untuk memperoleh data yang dikehendaki penelitian ini dengan melakukan telaah bahan pustaka atau data sekunder. Hasil analisis menunjukkan bahwa rangkaian perjanjian pinjam nama antara lain surat pernyataan, perjanjian sewa menyewa, surat kuasa mengelola, surat kuasa menjual dan perjanjian perpanjangan sewa. Pada saat orang asing datang kepada notaris untuk dibuatkan akta otentik sebaiknya notaris lebih teliti dan seksama sehingga apabila terdapat indikasi pembuatan akta otentik dapat menyalahi aturan hukum maka notaris dapat memberi penyuluhan hukum. Dalam menjalankannya jabatannya seorang notaris itu harus bertindak amanah, jujur dan seksama karena notaris wajib menjaga kepercayaan masyarakat dan negara dengan baik.

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ABSTRACT

Bali Province is a major area of Indonesia tourism so that the number of tourists who come to Bali is increasingly every year. This leads to a lot of people both Indonesian citizens and foreigners keen to stay or open a business in Bali. Basic Agrarian Law states that only Indonesian citizens who have the right to own land. Meanwhile, foreigners were given the right to occupy land in Indonesia with the right to use and leases on buildings. But in fact many foreigners use nominee agreement and loan agreement to occupy land in Bali in the time period they want. The content of Indonesian citizen who appointed to be a nominee states that the true owner of the land is the foreigner because the money she used for the purchase of land was belongs to the foreigner. Lease agreement is used as an attempt to cover up the existence of the agreement can be considered as a loan agreement

so that the name of the lease agreement is a legal smuggling attempt. This study uses normative juridical, to obtain the desired data of this study by conducting research library materials or secondary data. The analysis showed that a series of loan agreements include a statement of the name, lease agreement, power of attorney to manage, power of attorney to sell and lease extension agreement. By the time a foreigner came to the notary for the notary should be made authentic act more carefully and thoroughly so that if there are indications of an authentic deed may violate the rule of law, the notary can provide legal counseling. A notary should act trustworthy, honest and thorough, as notaries are required to maintain public confidence and the country well.;Bali Province is a major area of Indonesia tourism so that the number of tourists

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