

Tinjauan yuridis tentang pembatalan sertipikat oleh Badan Pertanahan Nasional Republik Indonesia karena alas hak palsu = Juridical review on cancellation certificate by Badan Pertanahan Republik Indonesia because of the counterfeit right base / Dewi Era Jayanti

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Abstrak

[ABSTRAK

Pendaftaran tanah bertujuan untuk mendapatkan kepastian hukum dan perlindungan hukum terhadap pemilik hak atas tanah. Dalam masyarakat Indonesia saat ini masih banyak terdapat tanah-tanah yang belum terdaftar karena kurangnya kesadaran pemilik tanah untuk mendaftarkan tanahnya. Hal ini yang seringkali menyebabkan terjadi pemalsuan dokumen kepemilikan tanah. Tanpa sepengetahuan pemilik tanah yang asli, tanahnya telah dijual kepada pihak lain dan pembeli juga sulit untuk mengetahui siapa pemilik tanah yang sebenarnya. Permasalahannya adalah bagaimana perlindungan hukum terhadap pemilik tanah yang belum bersertipikat dalam hal terjadi pemalsuan dokumen oleh pihak lain menurut Peraturan Kepala Badan Pertanahan Nasional Nomor 3 tahun 2011 dan perlindungan hukum terhadap pihak ketiga yang mendapatkan tanah karena jual beli dengan diterbitkannya Surat Keputusan Menteri Agraria / Kepala Badan Pertanahan Nasional Nomor: 3/Pct/BPN RI/2013. Hasil analisis Penulis mengenai Perlindungan hukum terhadap pemilik tanah sebagai pemegang girik dalam hal terjadi pemalsuan yang diberikan Perkaban 3/2011 adalah melalui Pasal 64, 65 dan 80. Pasal 64 dan 65 Perkaban 3/2011 mengatur pemilik tanah sebagai pihak yang dirugikan dapat mengajukan permohonan untuk melakukan perbuatan hukum administrasi pertanahan, sedangkan perlindungan hukum yang dapat diberikan kepada pihak ketiga yang mendapatkan tanah karena jual beli adalah dengan pembatalan sertipikat dilakukan hanya pada sertipikat yang menjadi obyek sengketa saja, tidak membatalkan seluruh sertipikat yang diterbitkan dalam satu Surat Keputusan. Pembatalan sertipikat hak atas tanah tidak dapat didasarkan pada putusan pidana yang telah berkekuatan hukum tetap. Dalam melakukan pembatalan, Badan Pertanahan Nasional harus memperhatikan tahapan-tahapan yang telah ditentukan dalam Pasal 70 Peraturan Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 3 Tahun 2011.

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ABSTRACT

Land registration aims to obtain legal certainty and legal protection for land owners. In Indonesian society today there are still many lands that have not been registered because of a lack of awareness of landowners to register their land. This is often caused land ownership document forgery. Without the knowledge of the original owner of the land, the land has been sold to other parties and buyers are also hard to know who the actual owners of the land. The issue is how the legal protection of landowners who have been certificated in case of falsification of documents by other parties according to the Peraturan Kepala Badan Pertanahan Nasional No. 3 of 2011 and the legal protection of third parties are gaining ground because of sale and purchase with the issuance of the Surat Keputusan Menteri Agraria / Kepala Badan Pertanahan Nasional No: 3 / Pct / BPN RI / 2013. The author analyzes the results of the legal protection to land owners as holders in the event of forgery girik given Perkaban 3/2011 is through Pasal 64, 65 and 80. Pasal 64 and 65 Perkaban

3/2011 regulate landowners as the injured party can apply to land administration legal actions, whereas the legal protection can be given to third parties are gaining ground because the purchase is the cancellation of the certificate is performed only on the disputed certificate course, does not invalidate the entire certificate issued in the Decree. Cancellation of certificate of land rights can not be based on criminal decisions that have permanent legal force. In doing cancellation, the National Land Agency should pay attention to the stages that have been specified in Pasal 70 of Peraturan Kepala Badan Pertanahan Nasional Number 3 of 2011., Land registration aims to obtain legal certainty and legal protection for land owners. In Indonesian society today there are still many lands that have not been registered because of a lack of awareness of landowners to register their land. This is often caused land ownership document forgery. Without the knowledge of the original owner of the land, the land has been sold to other parties and buyers are also hard to know who the actual owners of the land. The issue is how the legal protection of landowners who have been certificated in case of falsification of documents by other parties according to the Peraturan Kepala Badan Pertanahan Nasional No. 3 of 2011 and the legal protection of third parties are gaining ground because of sale and purchase with the issuance of the Surat Keputusan Menteri Agraria / Kepala Badan Pertanahan Nasional No: 3 / Pct / BPN RI / 2013. The author analyzes the results of the legal protection to land owners as holders in the event of forgery girik given Perkaban 3/2011 is through Pasal 64, 65 and 80. Pasal 64 and 65 Perkaban 3/2011 regulate landowners as the injured party can apply to land administration legal actions, whereas the legal protection can be given to third parties are gaining ground because the purchase is the cancellation of the certificate is performed only on the disputed certificate course, does not invalidate the entire certificate issued in the Decree. Cancellation of certificate of land rights can not be based on criminal decisions that have permanent legal force. In doing cancellation, the National Land Agency should pay attention to the stages that have been specified in Pasal 70 of Peraturan Kepala Badan Pertanahan Nasional Number 3 of 2011.]