

Implikasi pembatalan akta hibah peralihan hak atas tanah yang dibuat tanpa akta PPAT (studi kasus putusan Mahkamah Agung Republik Indonesia No 978 K/PDT/2011) = The implications of cancellation the grant deed of transfer of land rights without ppat deed (case study the supreme court of the Republic of Indonesia decision No 978 K/PDT/2011)

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Abstrak

[Pengertian hibah yang diatur dalam Pasal 1666 KUH Perdata adalah perjanjian yang dilakukan oleh penghibah ketika masih hidup untuk memberikan suatu barang dengan cuma-cuma kepada penerima hibah dan tidak dapat ditarik kembali. Kata-kata “tidak dapat ditarik kembali” ini berarti pencabutan hibah baru dapat dilakukan jika penerima hibah memberi persetujuan kepada pemberi hibah. Syarat dan tata cara untuk melakukan hibah adalah harus dengan akta notaris untuk objek hibah berupa benda bergerak seperti disebutkan dalam Pasal 1682 KUH Perdata, dan dengan akta PPAT untuk tanah dan bangunan seperti yang disebutkan dalam Pasal 37 ayat (1) PP No. 24/1997. Yang akan dibicarakan dalam tesis ini adalah bagaimana syarat-syarat untuk pembuatan akta hibah terutama terhadap barang tetap (tanah) serta tata cara pencabutan terhadap akta hibah otentik, dan bagaimana akibat hukum terhadap pembatalan akta hibah yang dilakukan dengan surat pernyataan pencabutan yang dibuat di bawah tangan dan diwaarmerking oleh Notaris. Metode yang digunakan dalam penelitian ini adalah metode kualitatif yang berbentuk yuridis normatif untuk memberikan pemahaman mengenai analisis terhadap implikasi pembatalan akta hibah secara sepihak dengan surat pernyataan di bawah tangan yang diwaarmerking dan peralihan hak atas tanah yang dibuat tanpa akta PPAT. Hibah atas barang tetap (tanah) yang dibuat tanpa akta PPAT tidak menyebabkan perbuatan hukum hibahnya menjadi batal atau akta hibahnya menjadi tidak sah, karena hal ini hanya menyangkut akta hibahnya saja, sedangkan untuk pendaftaran peralihan haknya dapat dibuat kembali di hadapan PPAT yang nantinya digunakan sebagai dasar untuk peralihan hak ke Kantor Pertanahan. Akta hibah yang telah memenuhi persyaratan pembuatan akta otentik sebagaimana dimaksud dalam Pasal 1868 KUH Perdata maka pembatalannya tidak dapat dilakukan secara sepihak dengan surat pernyataan di bawah tangan dan diwaarmerking, melainkan harus diajukan ke pengadilan umum. Dengan demikian, surat pernyataan pembatalan akta hibah yang dibuat di bawah tangan tersebut adalah tidak sah dan batal

demi hukum. The definition of grant provided for in Article 1666 of the Civil Code is an agreement made by grantor while still alive to give an item for free to grantees and irrevocable. The words "irrevocable" means repeal the new grant can be done if the grantee to give consent to the grantor. Requirements and procedures to carry out the grant is to be the object of a notarial deed for a grant in the form of moving objects as mentioned in Article 1682 Civil Code, and the PPAT deed for the land and buildings as mentioned in Article 37 paragraph (1) PP 24/1997. Which will be discussed in this thesis is how the conditions for the grant deed, especially against goods fixed (ground) as well as the procedure for revocation of the authentic grant deed, and how the legal consequences of the cancellation of the grant deed performed by a letter of revocation declaration made under the hand and waarmed by Notary. The method used in this study is a qualitative method in the form of normative to provide an understanding of the analysis of the implications of the cancellation of the deed of grant unilaterally by waiver under waarmed hands and transfer of rights on land made without PPAT deed. Grants of goods fixed (ground) are made without PPAT deed does not lead to legal action grants will be canceled or deed grants become invalid, because it concerns only its grant deed alone, while for the registration of transfer of rights can be made back before PPAT that will be used as the basis for the transfer of rights to the Land Office. Grant deed that has met the requirements of making authentic document as referred to in Article 1868 of the Civil Code, the cancellation can not be done unilaterally by the letter of the statement below and under waarmed, but should be brought to public trial. Thus, a statement of cancellation of the deed grants made under the hand is invalid and void. The definition of grant provided for in Article 1666 of the Civil Code is an agreement made by grantor while still alive to give an item for free to grantees and irrevocable. The words "irrevocable" means repeal the new grant can be done if the grantee to give consent to the grantor. Requirements and procedures to carry out the grant is to be the object of a notarial deed for a grant in the form of moving objects as mentioned in Article 1682 Civil Code, and the PPAT deed for the land and buildings as mentioned in Article 37 paragraph (1) PP 24/1997. Which will be discussed in this thesis is how the conditions for the grant deed, especially against goods fixed (ground) as well as the procedure for revocation of the authentic grant deed, and how the legal consequences of the cancellation of the grant deed performed by a letter of revocation declaration made under the hand and waarmed by Notary. The method used in this study is a qualitative method in the form of normative to provide an understanding of the analysis of the implications of the cancellation of the deed of grant unilaterally by waiver under waarmed hands and transfer of rights on land made without PPAT deed. Grants of goods fixed (ground) are made without PPAT deed does not lead to legal action grants will be canceled or deed grants become invalid, because it concerns only its grant deed alone, while for the registration of transfer of rights

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