

Masalah pembatalan hak atas tanah yang termasuk aset pemerintah daerah: Analisis eksekusi keputusan Mahkamah Agung Republik Indonesia Nomor 125K/TUN/2004 Tanggal 20 Pebruari 2006

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Abstrak

[ABSTRAK

Pelaksanaan Eksekusi Keputusan Mahkamah Agung Republik Indonesia (MA-RI) No. 125K/TUN/2004 tertanggal 20 Pebruari 2006 yang telah berkekuatan hukum tetap,tidak berjalan dengan semestinya. Putusan yang terkait dengan sengketa tanah terletak di Kelurahan Sriwedari, Kecamatan Laweyan, Kota Surakarta - yang sejak tahun 2000 dikuasai oleh Pemerintah Daerah Kotamadya Surakarta (Pemerintah Kota Solo) secara yuridis dan fisik -dimenangkan oleh ahli waris almarhum Raden Mas Tumenggung (RMT) Wirdjodiningrat,sampai dengan April 2010 belum juga dapat dilaksanakan. Keputusan MA-RI tahun 2006 tersebut membatalkan eksistensi dari Sertipikat No.11 dan 15/Kelurahan Sriwedari yang diterbitkan oleh Badan Pertanahan Nasional Republik Indonesia pada tahun 2000.Oleh karena putusan MA-RI sudah berkekuatan hukum tetap, seharusnya secara administratifBadan Pertanahan Nasional (BPN) tinggal melaksanakan pembatalan kedua sertipikat tersebut agar dapat memberikan kepastian hukum bagi pemegang haknya. Upaya hukum yang bisa dilakukan oleh para ahliwaris alm. RMT Wirdjodiningrat saat ini adalah dengan melaksanakan ketentuan pasal 55 ayat 2, pasal 57 Perka No. 3 Tahun 2011. Bila dalam waktu 2 bulan sejak permohonan diajukan oleh para ahliwaris tidak dilaksanakan dengan sukarela oleh BPN, maka upaya hukum yang disarankan untuk ditempuh adalah: (1) meminta Gubernur/Menteri Dalam Negeri/Presiden Republik Indonesia untuk mengosongkan tanah sengketa menggunakan ketentuan pasal 4 UU No.51 PRP Tahun 1960; (2) melaporkan PemKot Solo (Pemerintah Daerah Kodya Surakarta) kepada Komisi Ombudsman berdasarkan UU No.37 Tahun 2008; (3) Melaporkan kepada Komnas HAM sesuai UU No. 26 Tahun 2000 karena hak asasinya atas tanah miliknya dilanggar oleh PemKot Solo.

ABSTRACT

The enforcement of Supreme Court?s Decision number 125k/TUN/2004 dated February 20, 2006, which is legal and binding, did not well executed as planned. The decision in regard to land dispute situated in Sriwedari Village, Laweyan Subdistrict, Surakarta ? which since year 2000 has been under the possession of Surakarta Regional Government (Solo Local Government) physically and juristically ? that was secured in favor of the heir of Raden Mas Tumenggung (RMT) Wirdjodiningrat, up until now was still not being carried out. The Supreme Court?s Decision of year 2006 nullified the prevailing Certificate number 11 and number 15 of Sriwedari Village issued by the Republic of Indonesia National Land Agency on the year 2000. Based

on the fact that the Supreme Court's Decision is final and binding, the National Land Agency of Republik of Indonesia is administratively obliged to execute the annulment of the two certificates in order to provide legal certainty to the heir of RMT Wirjodiningrat as the title right bearer. Remedy the heirs of RMT Wirjodiningrat can seek is to achieve Article 55 Paragraph 2, Article 57 Head of National Land Agency Regulation Number 3 Year 2011. Provided that within 2 (two) months period since the appeal is filed by the heirs, and the National Land Agency still dismisses such appeal, the remedies advisable to pursue are: (1) to request the Governor/Minister of Domestic Affairs/President of the Republic of Indonesia to evacuate land in dispute exercising the provision of Article 4 Law Number 51 Substitute for Government Regulation Law Year 1960; (2) to report Solo Local Government (Surakarta Regional Government) to the Ombudsman Commission in accordance to Law Number 37 Year 2008; (3) to report to the National Commission of Human Rights in accordance to Law Number 26 Year 2000 based on the fact that a human right on a land was violated by the Solo Local Government., The enforcement of Supreme Court's Decision number 125k/TUN/2004 dated February 20, 2006, which is legal and binding, did not well executed as planned. The decision in regard to land dispute situated in Sriwedari Village, Laweyan Subdistrict, Surakarta – which since year 2000 has been under the possession of Surakarta Regional Government (Solo Local Government) physically and juristically – that was secured in favor of the heir of Raden Mas Tumenggung (RMT) Wirjodiningrat, up until now was still not being carried out. The Supreme Court's Decision of year 2006 nullified the prevailing Certificate number 11 and number 15 of Sriwedari Village issued by the Republic of Indonesia National Land Agency on the year 2000. Based on the fact that the Supreme Court's Decision is final and binding, the National Land Agency of Republik of Indonesia is administratively obliged to execute the annulment of the two certificates in order to provide legal certainty to the heir of RMT Wirjodiningrat as the title right bearer. Remedy the heirs of RMT Wirjodiningrat can seek is to achieve Article 55 Paragraph 2, Article 57 Head of National Land Agency Regulation Number 3 Year 2011. Provided that within 2 (two) months period since the appeal is filed by the heirs, and the National Land Agency still dismisses such appeal, the remedies advisable to pursue are: (1) to request the Governor/Minister of Domestic Affairs/President of the Republic of Indonesia to evacuate land in dispute exercising the provision of Article 4 Law Number 51 Substitute for Government Regulation Law Year 1960; (2) to report Solo Local Government (Surakarta Regional Government) to the Ombudsman Commission in accordance to Law Number 37 Year 2008; (3) to report to the National Commission of Human Rights in accordance to Law Number 26 Year 2000 based on the fact that a human right on a land was violated by the Solo Local Government.]