

Kajian penerbitan Sertipikat Hak Pakai Nomor 287/Selong atas nama Departemen Pendidikan Nasional (Putusan MA No. 48 PK/TUN/2016) = Study of the Issuance of the Right of Usage over the Land Certificate Number 287/Selong in the Name of the Department of National Education. (Supreme Court Republic of Indonesia Decision Number 48 PK/TU/2016).

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Abstrak

ABSTRAK

Tesis ini mengkaji mengenai permasalahan dari Penerbitan Sertipikat Hak Pakai Nomor 287/Selong atas nama Departemen Pendidikan Nasional, sertipikat tersebut diterbitkan diatas tanah negara bekas Eigendom Verponding Nomor 1684 atas nama Het Gouvernement van Nederlands Indie. Selain itu, sebelum diterbitkan sertipikat tersebut telah dibangun Rumah Negara Golongan II yang telah ditempati penghuni berdasarkan Surat Izin Penghunian. Maka dari itu, terbitnya Sertipikat tersebut telah membuat penghuni merasa hak prioritasnya terlanggar. Pada akhirnya Putusan MA No. 48 PK/TUN/2016 memenangkan Ny. Hadi Susanti Idris selaku penghuni dan membatalkan Sertipikat Hak Pakai Nomor 287/Selong atas nama Departemen Pendidikan Nasional. Penelitian ini terdiri dari 3 (tiga) pokok pembahasan yakni kedudukan Surat Izin Penghunian dalam kaitannya dengan penguasaan fisik atas tanah bekas Eigendom Verponding, analisis hukum terkait penerbitan Sertipikat Hak Pakai Nomor 287/Selong atas nama Departemen Pendidikan Nasional, dan implikasi pembatalan Sertipikat Hak Pakai Nomor 287/Selong atas nama Departemen Pendidikan Nasional terhadap Rumah Negara Golongan II yang berdiri diatasnya. Adapun untuk melakukan penelitian terhadap permasalahan ini maka Penulis mempergunakan metode penelitian yuridis normative dengan analisis kualitatif. Adapun kesimpulan dalam penelitian ini adalah pemegang Surat Izin Penghuni tidak dapat dikatakan memiliki prioritas untuk mengajukan permohonan hak atas tanah, Kemudian, mengenai penerbitan Sertipikat sudah sesuai prosedur yang ditentukan. Serta terkait dengan implikasi pembatalan sertipikat terhadap bangunan diatasnya adalah pada saat itu belum terdapat mekanisme penghapusan barang berupa rumah negara karena adanya putusan pengadilan yang berkekuatan hukum tetap.

ABSTRACT

This thesis examines the problems of the Issuance of the Right to Usage over land Certificate Number 287/Selong of the Departemen Pendidikan Nasional, the certificate was issued on former Eigendom Verponding state land number 1684 on behalf of the Het Gouvernement van Nederlands Indie. In addition, before the certificate was issued, the state employee house II had been already built by Departemen Pendidikan Nasional and some people had already lived in there based on Residential Permit. Therefore, due to the issuance of the certificate, the residents assume that their priority rights had been violated. Then, the Supreme Court Decision No. 48 PK/TUN/2016 wins the residents and nullify the Certificate of Rights of Usage over land Number 287/Selong in the name of the Department of National Education. This study consists of 3 (three) main topics, which are the position of the Resident Permit in relation to occupation of

the former Eigendom Verponding land, legal analysis related to the issuance of Certificate of the Right of usage over land Number 287/Selong in the name of the Departemen Pendidikan Nasional, and the implications of nullification of certificate number 287/Selong in the name of the department of National Education over state employee house II which stands on it. As for conducting research on resolving the problems, the author uses a normative juridical research method with qualitative analysis. The conclusion of this study is that the resident permit holders does not has the priority in submitting land rights application, then, the issuance of the certificate had been already complied to the procedure. Regarding to the implications of the nullification of the certificate against the building above, there was no procedure regarding the removal of state employee house as a state's goods, due to a legally binding court decision.