

Pelaksanaan peralihan hak atas tanah dengan akta di bawah tangan yang dilegalisasi oleh notaris yang masuk ke dalam boedel pailit: studi kasus putusan Pengadilan Negeri nomor: 22/Guagatan Lain-Lain/2018/PN.Niaga.Sby Jo Putusan Mahkamah Agung Nomor 435/K/P = Implementation of the transfer of land rights with a underhand deed that is legalized by a notary public enters bankruptcy: case study of District Court decision number: 22/Other Guagatan/2018/PN.Niaga.Sby jo decision of the Supreme Court number 435

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Abstrak

Praktek jual beli yang dilakukan dengan menggunakan akta di bawah tangan yang dilegalisasi menyebabkan dilangarnya ketentuan Pasal 37 ayat (1) Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah yang mengatur bahwa peralihan ha katas tanah harus dibuktikan dengan akta jual beli yang dibuat oleh Pejabat Akta Tanah. Salah satu kasus terjadi pada P yang membeli sebidang tanah dari PT G yang dibuktikan dengan akta di bawah tangan yang dilegalisasi oleh Notaris X. Hal ini menyebabkan P kehilangan haknya. Oleh sebab itu, bagaimana pelaksanaan peralihan hak atas tanah dengan akta di bawah tangan yang dilegalisasi oleh Notaris yang masuk ke dalam boedel pailit. Bagaimana tanggung jawab Notaris terhadap pelaksanaan peralihan ha katas tanah dengan akta di bawah tangan yang dilegalisasi oleh Notaris yang masuk ke dalam boedel pailit. Penelitian ini menggunakan metode penelitian yuridis normatif, tipologi penelitian deskriptif, dengan jenis data sekunder, berupa bahan hukum promer, sekunder, dan tersier, serta alat pengumpulan data menggunakan studi dokumen, dengan metode analisa data kualitatif dan hasil penelitian deskriptif analitis. Hasil penelitian, yaitu jual beli yang dilakukan dengan akta di bawah tangan yang dilegalisasi adalah tidak sah. Notaris juga memiliki tanggung jawab jabatan untuk menjaga kestabilan hukum dan menjamin terciptanya kepastian hukum dengan melakukan penyuluhan hukum.

.....It is common in Indonesia where sell-purchase activity is done under the privately made deeds signed before and attested by notary. This shows a violation which subsequently regulated in the Government Regulation Number 24 of 1997, regarding Land Registration, which stipulates that the sale of land must be proven by a deed made by and in front of the Land Drafting Officer (PPAT), as based on Article 37 paragraph (1) PP No. 24/1997. For example, P who bought some property from PT. G has a privately made deed signed before and attested by notary X, will cause her to lose her right as an owner. Therefore, it is needed to understand the application as well as the implementation of the land use right transfer under the private deed signed by notary who gets involve with the boedel pailit. This research contains of the normative legal research which uses the law as foundation of norm, the author describes the case, seek, and process a variety of data from the document study to generate a report of research findings. The specifications of this study are descriptive analysts, because this study is expected to obtain data that clearly illustrate what is discussed in this research. While the data obtained from this research will be analyzed using qualitative methods, namely analysis of data without using statistical formulas because the data used are not in the form of numbers. Thus, what is used is only by logical explanation of the sentence based on the rules and opinions of experts. The results showed that the sell-purchase activity which privately made

deed signed before and attested by notary is illegal. Furthermore, the notary has responsibilities to maintain and to ensure the concept of legal certainty by conducting legal counseling.