

Tanggung Jawab Hukum Notaris Atas Akta Pelepasan Hak Atas Tanah Yang Ditandatangani Oleh Bukan Pemilik Yang Sah (Analisis Putusan Mahkamah Agung Nomor 1249 K/PID.SUS/2018) = Notary's legal responsibility of the Deed of Relinquishment of Rights on Land that was Signed by a not legitimate owner (Analysis of Supreme Court's verdict Number 1249 K /Pid.Sus/ 2018)

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Abstrak

Seiring dengan perkembangan zaman maka dalam pembuatan dokumen tersebut dapat dibantu dengan dibuatkan oleh notaris. Kewenangan yang diberikan kepada seseorang notaris berdasarkan Pasal 15 Undang-Undang Jabatan Notaris (UUJN) dan memperhatikan kewajiban notaris berdasarkan Pasal 16 UUJN.

Kewenangan notaris salah satunya pembuatan Akta Pelepasan Hak Atas Tanah (APH). Salah satu peristiwa yang terjadi dalam pembuatan APH ditemukan ketidaktepatan atas penghadap yang dituangkan dalam akta. Terdapat 2 (dua) permasalahan yaitu akibat hukum terhadap akta pelepasan hak atas tanah berdasarkan putusan nomor 1249 K/PID.SUS/2018 dan tanggung jawab hukum notaris terhadap akta pelepasan hak atas tanah.

Penelitian ini menggunakan metode penelitian yuridis normatif, tipologi penelitian deskriptif analitis, jenis data sekunder, berupa bahan hukum primer, sekunder, dan tersier, dan alat pengumpulan data berupa studi dokumen, dengan metode analisa data kualitatif dan hasil penelitian deskriptif analitis. Hasil penelitian, surat kuasa dan AJB cacat hukum. APH tidak dapat dilaksanakan sehingga menimbulkan kerugian bagi Badan Lingkungan Hidup (BLH) dan pihak yang dirugikan dapat menuntut ganti kerugian berdasarkan Pasal 1365 dan Pasal 1366 KUH Perdata serta mengajukan pembatalan akta. Kewenangan notaris membuat APH berdasarkan Pasal 15 ayat (2) huruf f. Penghadap bukan pemilik yang sah atas tanah dalam APH cakap berdasarkan Pasal 39 ayat (1) huruf b namun tidak berwenang. Dengan demikian, notaris R. Ahmad Ramali melanggar Pasal 16 ayat (1) huruf a UUJN dan Pasal 3 ayat (4) Kode Etik Notaris, bertanggung jawab dengan sanksi administratif berdasarkan Pasal 16 ayat (11) UUJN dan Pasal 6 ayat (1) Kode Etik Notaris.....

Along with the times, the drafting of document as a verification could be drafted by a Notary. The authority that has been given to a notary is stated in Article 15 of the Law of Notary Title and it is considering notary's responsibility on Article 16 of the Law of Notary Title. One of the drafting of authentic deed is Deed of Relinquishment of Land Rights. The found of inaccuracy made by the appearers is one of the incidents that occur on drafting the authentic deed by the Notary. Therefore there are two issues, legal effect of the Deed of Relinquishment of Land Rights according to Decree Number 1249 K/PID.SUS/2018 and Notary's legal responsibility of the Deed of Relinquishment of Rights on Land. This research is using juridical normative research methods, descriptive analytical research typologies, secondary data types, in the form of primary, secondary and tertiary legal materials, and data collection tools in the form of document studies, with qualitative data analytical methods and descriptive analytical research results. Research result, power of attorney and Deed of Sale and Purchase has a legal defect. The Deed of Relinquishment of Rights on Land cannot be enforced to the detriment of the Environmental Protection Agency (BLH) and the injured party can claim compensation under Article 1365 and 1366 of the Civil Code and for the cancellation of the deed. The notary authority makes the Deed of Relinquishment of Rights on

Land 15 paragraph (2) letter f. Defendant is not the rightful owner of land in the Deed of Relinquishment of Rights on Land under Article 39 paragraph (1) letter b but is not authorized. Accordingly, notary R. Ahmad Ramali contravened Article 16 paragraph (1) letter a Law of Notary Title and Article 3 paragraph (4) Code of the Notary Ethics, responsible for administrative sanctions under Article 16 paragraph (11) Law of Notary Title and Article 6 paragraph (1) Code of the Notary Ethics.