

Akibat Hukum Atas Jual Beli Tanah Jaminan Kredit Tanpa Persetujuan Kreditur (Studi Putusan Nomor 1982 K/Pdt/2018) = LEGAL EFFECT OF SALES AND PURCHASE FOR LAND AS CREDIT GUARANTEE WITHOUT CREDITOR'S APPROVAL (CASE STUDY OF COURT NUMBER 1982 K/PDT/2018)

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Abstrak

Jual beli tanah merupakan perbuatan hukum yang sering dilakukan dalam kehidupan masyarakat Indonesia sehari-hari. Namun permasalahan muncul apabila tanah yang diperjual-belikan dibebankan dengan jaminan kredit kepada pihak ketiga. Hal tersebut dikarenakan jual beli tanah jaminan kredit memiliki prosedur yang berbeda dengan jual beli tanah pada umumnya, sehingga pelanggarannya dapat menimbulkan terjadinya akibat-akibat hukum yang tidak diinginkan dikemudian hari. Oleh karena itu, Penulis tertarik untuk melakukan penelitian terhadap Putusan Nomor 1982 K/Pdt/2018 untuk mengetahui akibat hukum yang terjadi serta pertanggungjawaban Notaris/PPAT terhadap pelanggaran prosedur jual beli tanah jaminan kredit tersebut. Metode penelitian yang digunakan penelitian yuridis-normatif dengan diagnostic-preskriptif. Hasil penelitian menunjukkan bahwa jual beli tanah jaminan kredit yang dilakukan tanpa pengecekan asli sertipikat objek jual beli oleh Notaris/PPAT, persetujuan dari kreditur terlebih dahulu, serta tidak adanya itikad baik Penjual mengakibatkan jual beli tanah jaminan kredit batal demi hukum. Akibatnya, Notaris/PPAT yang bersangkutan harus bertanggung jawab dengan menjanjikan sanksi administratif yang dikenakan padanya berdasarkan peraturan perundang-undangan jabatannya seperti Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris dan peraturan perundang-undangan lainnya. Hasil penelitian menyarankan bahwa apabila Notaris/PPAT hendak membuat akta terkait jual beli tanah jaminan kredit, sebaiknya memberi penyuluhan kepada kliennya untuk mendapatkan persetujuan tertulis dari pihak kreditur atas tanah jaminan kredit tersebut terlebih dahulu guna menghindari kemungkinan terjadinya sengketa dikemudian hari. Notaris/PPAT juga perlu memeriksa perjanjian kredit antara Penjual dengan kreditur untuk mengetahui syarat-syarat lain yang diperlukan agar Penjual dapat menjual tanah jaminan kreditnya kepada pihak ketiga

.....Sales and purchase of land is a legal act that is often carried out in the daily life of Indonesian people. However, the problem arises if the land being traded encumbered with a credit guarantee to a third party. This is because the sale and purchase of land as a credit guarantee have a different procedure from the sales and purchase of land in general, therefore its violation can lead to unwanted legal consequences in the future. Therefore, the author is interested in researching Court Number 1982 K/Pdt/2018 to find out the legal consequences that occurred and the accountability of the Notary/PPAT for violations of the credit guarantee land sale and purchase procedure. The research of this thesis uses a normative juridical method, with diagnostic-prescriptive. The result of this research is that the sales and purchase of land as a credit guarantee land without checking the original certificate of the object of sale and purchase by the Notary / PPAT, prior approval from the creditor, and the absence of good faith from the seller resulted in the sale and purchase of land as credit guarantee becomes null and void by law. As a result, the concerned Notary / PPAT must be held accountable for his/her actions based on the statutory regulations regarding his/her position such as

Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position and other statutory regulations. The result of this research suggests that if the Notary/PPAT wants to make a deed related to the sale and purchase of land as a credit guarantee, he/she should counsel his/her clients first to get written approval from the creditor of land as a credit guarantee land foremost, to avoid the possibility of a dispute in the future. The Notary/PPAT also needs to examine the credit agreement between the seller and the creditor to find out other requirements for the seller to sell his/her land which is encumbered with a credit guarantee to a third party.