

Akibat balik nama tanah harta bersama oleh pejabat pembuat akta tanah dengan pemberi kuasa jual yang sudah meninggal (Studi Putusan Pengadilan Negeri Sleman Nomor 221/Pdt.G/2019/PN.smn) = As a result of changing the name of the land by a notary/Ppat resulting in a certificate of land in the form of joint assets based on the Deed of sale and purchase accompanied by a selling power granted by a deceased selling power (Study of District Court Decision Number 221 / Pdt.G /2019/Pn.Smn)

Cornelia Limiawan, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20518509&lokasi=lokal>

Abstrak

Pembahasan dalam penelitian ini adalah akibat yang ditimbulkan jika proses jual beli dilakukan dengan Perjanjian Pengikatan Jual Beli Lunas yang diikuti dengan Kuasa Jual yang mana pemberi kuasa jual telah meninggal dan objek jual beli dinyatakan milik salah satu pasangan berdasarkan Akta Van De Pot yang dilakukan di hadapan notaris dan tidak diketahui mantan istri. Pembeli sendiri telah membayarkan sejumlah uang yang nominalnya berbeda dengan yang tertulis di Akta Jual Beli (selanjutnya disebut AJB). Masalah ini dianalisis dengan menggunakan metode penelitian yuridis normatif. Berdasarkan studi dokumen terhadap data sekunder, dengan menggunakan pendekatan kualitatif terlihat bahwa PPAT memiliki tanggung jawab terhadap dilaksanakannya AJB. Termasuk diantaranya adalah melaksanakan AJB sesuai dengan peraturan-peraturan yang berlaku dan harus memperhatikan apakah subjek merupakan sepenuhnya pihak yang berwenang dari objek itu sendiri. Termasuk manfaat Van De Pot dalam harta bersama dan apakah pemberi kuasa jual harus hidup saat akta jual beli dilaksanakan serta kewenangan yang dimiliki penerima kuasa jual. Seperti halnya disebutkan dalam Kode Etik PPAT memiliki kewenangan membuat akta autentik yang memiliki kekuatan sempurna di hadapan pengadilan sehingga harus diperhatikan aspek formal dan materil. Pengadilan mendasarkan bahwa tidak dipenuhi Pasal 1320 KUHPdata tentang syarat objektif perjanjian Hasil putusan Pengadilan Nomor 221/Pdt.G/2019 menyatakan bahwa Akta Jual Beli beserta turutannya dinyatakan batal demi hukum sehingga dinyatakan tidak pernah terjadi, pembeli sebagai pihak yang dirugikan juga termasuk melakukan itikad tidak baik namun PPAT sendiri tidak diberikan teguran/sanksi dari hakim.

.....The discussion in this study is the consequences if the buying and selling process is carried out with a Full Sale and Purchase Binding Agreement followed by a Sales Authorization in which the selling power of attorney has died and the object of sale and purchase is declared to belong to one of the spouses based on the Van De Pot Deed made before a notary and ex-wife unknown. The buyer himself has paid an amount of money whose nominal is different from that written in the Sale and Purchase Deed (hereinafter referred to as AJB). This problem was analyzed using normative juridical research methods. Based on the document study of secondary data, using a qualitative approach, it was concluded that PPAT has responsibility for the implementation of AJB. This includes carrying out AJB in accordance with applicable regulations and paying attention to whether the subject is fully the authorized party of the object itself. Including the benefits of Van De Pot in joint assets and whether the seller of the power of attorney must be alive when the sale and purchase deed is executed and the authority of the selling power of attorney. As stated in the Code of Ethics,

PPAT has the authority to make an authentic deed that has perfect power before the court so that formal and material aspects must be considered. The court based that Article 1320 of the Civil Code regarding the objective conditions of the agreement was not fulfilled. The results of the Court's decision Number 221/Pdt.G/2019 stated that the Sale and Purchase Deed and its accompanying elements were declared null and void so that it was declared that it had never happened, the buyer as the aggrieved party also included committing the act of not acting in good faith. good but PPAT itself was not given a warning/sanction from the judge.