

Peran Notaris terhadap Pembuatan Akta Pelepasan Hak Atas Tanah yang Menimbulkan Sengketa Pertanahan pada Kegiatan Pembangunan untuk Kepentingan Umum di Kabupaten Serang (Studi Putusan Pengadilan Negeri Serang Nomor 27/Pdt.G/2019/PN.Srg) = The Role of a Notary in Making a Deed of Release of Land Rights that Created a Land Dispute in Development Activities for the Public Interest in Serang Regency (Study of Serang District Court's Verdict Number 27/Pdt.G/2019/PN.Srg)

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Abstrak

Proses pelepasan hak atas tanah sering memunculkan konflik yang dapat memicu terjadinya sengketa di bidang pertanahan. Kasus yang memunculkan sengketa berkaitan dengan proses pelepasan hak atas tanah ditemukan dalam Putusan Pengadilan Negeri Serang Nomor 27/Pdt.G/2019/PN.Srg. Untuk itu permasalahan yang diangkat dalam penelitian ini adalah mengenai peran dan tanggung jawab notaris atas pembuatan akta pelepasan hak atas tanah yang tidak sesuai dengan kebenaran materiil dan analisis terhadap pertimbangan hakim dalam Putusan. Penelitian ini berbentuk yuridis normatif di mana bahan-bahan hukum yang diteliti, dikumpulkan melalui studi kepustakaan, dan dianalisis secara kualitatif. Dari hasil analisis terhadap bahan-bahan hukum tersebut dapat dinyatakan bahwa notaris bisa membuat akta pelepasan hak atas tanah yang dilakukan sesuai ketentuan yang berlaku. Sementara itu tanggung jawab notaris terhadap akta pelepasan hak atas tanah yang dibuatnya hanya sebatas pada apa yang diketahui dan disaksikan berdasarkan surat-surat dan keterangan para penghadap pada saat akta dibuat. Adapun pertimbangan hakim dalam Putusan a quo yang menolak permohonan ganti rugi terkait pelepasan hak atas tanah tidak memenuhi rasa keadilan karena akta pelepasan hak atas tanah yang dijadikan sebagai dasar permohonan penerbitan sertipikat hak pengelolaan dalam kasus tersebut, semestinya batal demi hukum.

.....The process of relinquishment of land rights has created a potential conflict that can trigger disputes in the land sector. The case that related to the process of relinquishment of land rights was found in the Serang District Court's Verdict Number 27/Pdt.G/2019/PN.Srg. The issues raised in this study are regarding the roles and responsibilities of a notary for making a deed of release of land rights that are not compatible with the material truth and also about the analysis of the judge's considerations in the a quo verdict. This research's form is a juridical-normative which is the legal materials studied are collected through library research, and analyzed qualitatively. As the results of an analysis of these legal materials, it can be stated that a notary can make a deed of relinquishment of land rights in accordance with applicable regulations. Meanwhile, the notary's responsibility for the deed of release of land rights that he made was limited to what was known and witnessed based on the letters and statements of the appearers at the time the deed was drawn up. The judge's consideration in the a quo verdict which rejected the application for compensation related to the relinquishment of land rights did not fulfill a sense of justice because the deed of relinquishment of land rights which was used as the basis of the application for the issuance of certificates of management rights in that case, should have been null and void by law.