

Kedudukan Kepemilikan Berdasarkan Waris Adat Dalam Sengketa Kepemilikan Hak Atas Tanah Letter C Dengan Sertifikat Hak Pakai PT. KAI (Studi Putusan Mahkamah Agung Nomor 1741 k/Pdt/2022) = The Legal Status of Ownership Based on Customary Inheritance in Land Ownership Disputes Involving Letter C and the Right to Use Certificate of PT KAI (A Study of Supreme Court Decision No. 1741 K/Pdt/2022)

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Abstrak

Jaminan kepastian dan perlindungan bagi pemilik hak atas tanah tercantum pada Pasal 19 UUPA. Namun masih saja terdapat sengketa pertanahan seperti yang terjadi pada PT.KAI Pesero yang dikalahkan dengan bukti Letter C. Tulisan ini menganalisis Putusan MARI nomor 667 K/Sip.1971 pada Putusan MA No.1741 k/Pdt/2022. Masalah yang dirumuskan pertama terkait bagaimana pertimbangan hakim mengenai hak milik atas tanah waris adat tidak mengenal daluwarsa sebagai penyebab hilangnya hak atas tanah dan karenanya masih ada hak untuk mengajukan gugatan/tuntutan dan kedua bagaimana perlindungan hukum terhadap kepemilikan berdasarkan Sertifikat Hak Pakai PT.KAI yang dikalahkan dari kepemilikan berdasarkan pada waris adat. Penelitian ini disusun menggunakan metode penelitian doktrinal dengan tipe preskriptif. Hasil penelitian menunjukkan bahwa tanah Hak Pakai No.1/Garuda tersebut bukan merupakan tanah adat karena pertama frasa “tanah milik adat” yang dimaksud adalah tanah Ulayat milik masyarakat hukum adat bukan tanah bekas milik adat, kedua frasa “hukum waris adat tidak mengenal daluwarsa” bahwa pada waris adat tidak terdapat ketentuan batas waktu penuntutan harta waris yang dikuasai pihak ketiga, ketiga frasa “hukum waris adat”, bahwa penetapan waris tersebut tanpa dilakukan penelitian setempat, keempat frasa “tanah milik adat” dilihat dari sejarahnya, bahwa masyarakat adat di wilayah objek sengketa sudah melemah dari jaman kerajaan, kelima berdasarkan “tahun putusan” MARI nomor 667 K/Sip.1971 maka penerapan Yurisprudensi tersebut pada saat ini tidak sesuai dengan hukum positif, keenam “hukum waris adat tidak mengenal daluwarsa” penerapannya tidak sesuai dengan rechtsverwerking. Adapun perlindungan hukum terhadap kepemilikan tanah berdasarkan sertifikat Hak Pakai PT KAI itu ada pada pelaksanaan UU No.1 Tahun 2004.

.....The guarantee of certainty and protection for landowners is stipulated in Article 19 UUPA. However, there are still land disputes such as the one that occurred at PT. KAI Pesero which was defeated with evidence of Letter C. This paper analyzes the MARI Decision Number 667 K/Sip.1971 in the Supreme Court Decision Number 1741 k/Pdt/2022. The issues discussed in this paper are, first, how judges consider that customary inheritance law does not recognize the statute of limitations as a cause for losing land rights, thereby allowing claims or lawsuits to still be filed. Second, how legal protection is provided for ownership based on PT KAI's Certificate of Right to Use, which was ruled against ownership claims based on customary inheritance. This research uses a doctrinal research method with a prescriptive type. The results of this study indicate that the Right to Use land No. 1/Garuda is not customary land because: first the phrase "customary land ownership" refers to communal land owned by customary law communities (ulayat land) and not former customary landownership, second the phrase "customary inheritance law does not recognize the statute of limitations" that customary inheritance law has no provisions for a time limit on claiming

inheritance property controlled by third parties, third the phrase "customary inheritance law", that the determination of the inheritance was made without local research, fourth the phrase "customary land ownership," viewed historically, demonstrates that the indigenous community in the disputed area has weakened since the era of the kingdoms, fifth based on MARI's "year of decision" number 667 K/Sip.1971, the application of this jurisprudence at this time is not in accordance with positive law, sixth the application of law "customary inheritance law does not recognize the statute of limitations" does not align with the rechtsverwerking. Furthermore, Legal protection for land ownership based on PT KAI Persero's Certificate of Right to Use is provided under the implementation of Law No. 1 of 2004 on State Treasury.