

Perlindungan Hukum Terhadap Pemegang Hak Pengelolaan (Studi Kasus Putusan Mahkamah Agung Nomor 20470 K/PDT/2011)

Oleh :

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INTISARI

Penelitian ini bertujuan untuk mengetahui dan menganalisis perlindungan hukum terhadap Pemerintah Daerah Kabupaten Bantul sebagai pemegang Hak Pengelolaan serta faktor-faktor penunjang dan penghambat pelaksanaan Putusan Mahkamah Agung Nomor 20470 K/PDT/2011.

Penelitian bersifat deskriptif analitis. Jenis pendekatan penelitian ini adalah penelitian Hukum Normatif-Empiris (*applied law research*) dengan menitikberatkan data sekunder yang didukung oleh data primer.

Hasil penelitian menunjukkan bahwa putusan MA 20470/K/PDT/2011 pada pelaksanaannya belum berjalan efektif karena pemenuhan hak pemegang Hak Pengelolaan belum dilaksanakan oleh Turut Tergugat I (BPN). Salah satu asas Hukum yang melandasi hukum tanah nasional dan mendasari terbitnya Hak Pengelolaan yaitu asas dikuasi negara dalam hubungan dengan pemberian hak atas tanah. Hak menguasai dari negara bersumber pada hak bangsa Indonesia atas tanah, sedangkan Hak Bangsa merupakan hak penguasaan atas tanah yang tertinggi dan meliputi semua tanah yang ada dalam wilayah Negara, yang merupakan tanah bersama, bersifat abadi dan menjadi induk bagi hak-hak penguasaan yang lain atas tanah, pengaturan ini termuat dalam Pasal 1 angka (1)-(3) UUPA. Faktor pendukung Perjanjian Kerjasama Antara Pemerintah Kabupaten Daerah Tingkat II Bantul dengan PT. Awani Modern Internusa sebagai dasar diterbitkannya sertifikat Hak Guna Bangunan Nomor 5 Desa Parangtritis dinyatakan batal serta menyatakan Tergugat telah melanggar ketentuan-ketentuan peraturan Perundang-undangan sebagaimana Posita Nomor 10 dan Nomor 11, sehingga Putusan tersebut dijadikan dasar pembatalan Hak Guna Bangunan Nomor 5/Parangtritis karena Turut Tergugat I (BPN) dalam putusan MA 20470/K/PDT/2011 “Menghukum Turut Tergugat I (BPN) untuk patuh dan taat terhadap putusan ini”. Jika Turut Tergugat I tidak patuh pada putusan tersebut Penggugat mengajukan eksekusi ke Pengadilan Negeri Bantul. Faktor penghambat perlindungan hukum pemegang Hak Pengelolaan yaitu pemerintah Kabupaten Bantul telah mengajukan permohonan pembatalan HGB Nomor 5 Desa Parangtritis kepada BPN akan tetapi tidak dilaksanakan putusan Mahkamah Agung tersebut karena sertifikat asli HGB Nomor 5 Desa Parangtritis dikuasai oleh Kantor Kekayaan Negara dan Lelang.

Kata Kunci: Perlindungan Hukum, Pemegang Hak Pengelolaan, Putusan Mahkamah Agung.

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Legal Protection for Management Rights Holders (Case Study of Supreme Court Decision Number 20470 K/PDT/2011)

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ABSTRACT

This study aims to determine and analyze the legal protection of the Bantul Regency Government as the holder of Management Rights as well as the supporting and inhibiting factors for the implementation of the Supreme Court's Decision Number 20470 K/PDT/2011.

The research is descriptive analytical. This type of research approach is normative-empirical law research (applied law research) with an emphasis on secondary data supported by primary data.

The results of the study indicate that the decision of the Supreme Court 20470/K/PDT/2011 has not been implemented effectively because the fulfillment of the rights of the Management Rights holder has not been carried out by Co-Defendant I (BPN). One of the legal principles that underlies national land law and underlies the issuance of Management Rights is the principle of being controlled by the state in relation to the granting of land rights. The right of control from the state is based on the right of the Indonesian people to land, while the right of the nation is the highest right of control over land and covers all land in the territory of the state, which is a common land, is eternal and becomes the parent of other rights of control over land. land, this arrangement is contained in Article 1 point (1)-(3) of the UUPA. Supporting factors of the Cooperation Agreement between the Bantul Regency Government and PT. Awani Modern Internusa as the basis for the issuance of the certificate of Building Use Rights Number 5 Parangtritis Village was declared void and stated that the Defendant had violated the provisions of the legislation as referred to in Posita Number 10 and Number 11, so that the decision was used as the basis for the cancellation of Building Use Rights Number 5 in Parangtritis Village because Co-Defendant I (BPN) in the decision of MA 20470/K/PDT/2011 "Punished Co-Defendant I (BPN) to obey and obey this decision". If Co-Defendant I did not comply with the decision, the Plaintiff filed for execution to the Bantul District Court. The inhibiting factor for the legal protection of Management Rights holders, namely the Bantul Regency government, has submitted a request for cancellation of HGB Number 5 Parangtritis Village to BPN but the Supreme Court's decision has not been implemented because the original certificate of HGB Number 5 Parangtritis Village is controlled by the State Wealth Office and Auction.

Keywords: Legal Protection, Management Rights Holder, Supreme Court Decision.

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