

**PERLINDUNGAN HUKUM BAGI PEMBELI ATAS JUAL BELI
TANAH WARISAN TANPA PERSETUJUAN AHLI WARIS LAIN
YANG SERTIPIKATNYA HILANG
(Studi Kasus di Desa Roworejo, Kabupaten Purworejo)**

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INTISARI

Penelitian ini bertujuan untuk mengetahui dan menganalisis akibat hukum jual beli tanah warisan yang sertipikatnya hilang dan tanpa persetujuan ahli waris lain. Di samping itu, mengetahui dan menganalisis terhadap perlindungan hukum bagi pihak pembeli dalam memperoleh bukti haknya berupa sertipikat atas jual beli tanah warisan yang sertipikatnya hilang serta tanpa persetujuan ahli waris lain.

Penelitian ini adalah penelitian normatif empiris yang didasarkan pada penelitian lapangan yang diperoleh dari responden dan narasumber. Penelitian ini dilaksanakan terhadap studi kasus di Desa Roworejo Kabupaten Purworejo. Subyek penelitian terdiri dari responden, yaitu pihak penjual dan pembeli selaku pihak yang melakukan perbuatan jual beli atas tanah. Narasumber dalam penelitian ini adalah Dosen Program Magister Studi Kenotariatan Fakultas Hukum Universitas Gadjah Mada, PPAT Kabupaten Purworejo, dan bagian pencatat tanah desa terkait. Hasil penelitian disajikan deskriptif sedangkan analisis data secara kualitatif.

Hasil penelitian menunjukkan bahwa akibat hukum jual beli tanah warisan tanpa persetujuan ahli waris lain yang sertipikatnya hilang dalam kasus ini, apabila melihat berdasarkan Hukum Adat, Pasal 1471 KUHPer dan syarat syahnya perjanjian Pasal 1320 KUHPer maka jual beli tersebut menjadi tidak sah, dapat dibatalkan, dan batal demi hukum. Daripada itu sebagaimana Pasal 1491 KUHPer, penjual wajib memberikan keamanan bagi pembeli atas obyek jual beli, dan pembeli harus dapat membuktikan kepemilikannya. Pada praktik di lapangan guna melindungi hak-hak para pihak selama belum ada gugatan, Peraturan Kepala BPN RI Nomor 3 Tahun 2006 telah menyiapkan fungsi penyelesaian alternatif sengketa salah satunya melalui mediasi. Perlindungan hukum bagi pembeli untuk mendapatkan bukti haknya berupa sertipikat atas jual beli tanah warisan tanpa persetujuan ahli waris lain yang sertipikatnya hilang dalam kasus ini adalah perlindungan hukum preventif dengan turut memastikan bahwa pembeli beritikad baik sebagaimana Pasal 1338 KUHPer dan perlindungan hukum represif baik melalui pengadilan maupun diluar pengadilan.

Kata Kunci: Jual Beli, Tanah Warisan, Perlindungan Hukum.

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**LEGAL PROTECTION FOR LAND PURCHASERS FOR
THE PURCHASE OF INHERITED LAND WITHOUT THE CONSENT
OF OTHER HEIRS WHO HAVE LOST CERTIFICATES
(Case Study in Roworejo Village, Purworejo Regency)**

ABSTRACT

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This study aims to investigate and analyze the legal implications of purchasing inherited land whose certificate has been lost and without the approval of other heirs. Additionally, it seeks to understand and analyze the legal protection afforded to purchasers in obtaining evidence of their rights, such as a certificate, for the purchase of inherited land when the certificate is lost and without the permission of other heirs.

This is an empirical normative study based on field research involving groups of respondents and informants. This study was based on case studies conducted in Roworejo Village, Purworejo Regency. Respondents were the parties who carried out the land purchase agreement in the study, namely the persons selling the property and the prospective purchasers. In this study, the informants were Lecturers from the Master's Program in Notary Studies at the Faculty of Law of Universitas Gadjah Mada University, PPAT Purworejo Regency, and related village land registrars. The research results are presented descriptively while the data analysis is qualitative.

Based on the results of the study, it can be concluded that the legal consequences of buying and selling inherited land without the consent of other heirs whose certificates are lost, if based on Customary Law, Article 1471 and the terms of the legal agreement of Article 1320 of the Civil Code, the sale and purchase becomes invalid, voidable, and void at law. Based of article 1491 of the Civil Code, the seller is obliged to provide security to the buyer over the object of sale and purchase, and the buyer is obliged to prove its ownership. In practice, to protect the parties interests while no lawsuit is being taken, the Regulation of the Head of BPN RI Number 3 of 2006 setting up an alternative dispute resolution function one of which is mediation. Legal protection for purchasers to obtain proof of their rights in the form of certificates for the purchase of inherited land without the consent of other heirs whose certificates have been lost, is preventive legal protection by ensuring a good faith buyer based of Article 1338 of the Civil Code, and repressive legal protection through court or non court.

Keywords: Purchase of Inherited Land, Legal Protection.

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