

USAHA KOMERSIAL PEMAKAMAN BUKAN UMUM, STATUS HUKUM PEMILIKAN TANAH, DAN PENGAWASANNYA STUDI KASUS : SAN DIEGO HILLS MEMORIAL PARKS DI KARAWANG

Maudy Fitriani¹ dan Any Andjarwati²

INTISARI

Status hak atas tanah tempat pemakaman bukan umum (TPBU) adalah Hak Pakai, yang pengelolaannya dilakukan oleh suatu Badan sosial dan/atau keagamaan dengan izin Kepala Pemerintah Daerah Kabupaten/Kota ybs. atau Gubernur khusus untuk DKI, yang tidak dibenarkan dikelola secara komersial, dengan sanksi, jika dilanggar, TPBU ditutup oleh Pemerintah Daerah (Pasal 3 ayat 2 jo. Pasal 5 ayat 3, Pasal 6 ayat 3, Pasal 8 ayat 3 PP 9/ 1987) pada dasarnya dikaitkan dengan kegiatan *charity* (amal), bukan kegiatan komersial (Penjelasan Pasal 8 UU 16/2021 tentang Yayasan). Namun demikian dilapangan mengindikasikan ada TPBU yang bersifat komersil, San Diego Hills dibawah PT Lippo Karawaci Tbk (badan pengembang perkotaan residensial dan komersial). Penelitian juridis empiris ini bertujuan untuk mengkaji status hukum pemilikan tanah TPBU dan pengawasannya dari Kantor Pertanahan Kabupaten Karawang untuk TPBU San Diego Hills Memorial Park.

Hasil Penelitian menunjukkan bahwa San Diego Hills Memorial Parks, berdasarkan Surat Izin Usaha BPMPPT Pemerintah Kabupaten Karawang No. 503/11551/0323/PM/XI/BPMT/201z3/P.1, dan SK Menkumham. No. W7-00987HT.01.01-TH.2006 tentang Pengesahan Akta Pendirian PT. San Diego Hills Memorial Parks. Namun demikian status hukum pemilikan tanah TPBU San Diego Hills Memorial Parks adalah Hak Guna Bangunan diatas tanah Negara, yang berjangka waktu terbatas (30 tahun, diperpanjang maksimal 20 tahun, diperbaharui paling lama 30 tahun - Pasal 35 ayat 1 UUPA jo Pasal 37 PP 18/2021), bukan Hak Pakai seperti yang disyaratkan PP 9/1987. Pemilik HGB tsb. adalah PT Karawang Jabar Industrial Estate (sertipikat tanah 1998), sebagai Badan Hukum anak Perusahaan dari Lippo Group, sehingga pemenuhan syarat sebagai subyek hukum pengelola TPBU yang bersifat sosial dan/atau keagamaan dan izin yang dikeluarkan dipertanyakan. Sehubungan dengan itu penggunaan dan pelaksanaan kewenangan atas P4T dan fungsi pengawasan dari Kantor Pertanahan Kabupaten Karawang tidak sebagaimana mestinya.

Kata kunci : Tempat Pemakaman Bukan Umum, Badan Sosial dan/atau Keagamaan, Anak Perusahaan.

¹ Mahasiswa Program Pascasarjana Magister Kenotariatan, Fakultas Hukum, Universitas Gadjah Mada (ursulamaudy46@gmail.com)

² Dosen Program Pascasarjana Magister Kenotariatan, Fakultas Hukum, Universitas Gadjah Mada (any.andjarwati@mail.ugm.ac.id)

**COMMERCIAL VENTURE OF NON PUBLIC CEMETERY, LAND
OWNERSHIP LEGAL STATUS, AND ITS SUPERVISION
A CASE STUDY: SAN DIEGO HILLS MEMORIAL
PARKS IN KARAWANG**

Maudy Fitriani³ and Any Andjarwati⁴

ABSTRACT

Rights Status of non-public cemetery is Right to Use that management is implemented by Social and/or religious Agency by permission of the Government Head of said Regency/City or by the Governor for Capital City Region, and is not permitted to be managed commercially, and there will be sanctions, if violated, the non-public cemetery will be terminated by Local Government (Chapter 3 paragraph 2 in junction to Chapter paragraph 3, Chapter 6 paragraph 3, Chapter 8 paragraph 3 Government Regulations No. 9/1987) that fundamentally associated with charity, not commercially (Description of Chapter 8 of the Law No. 16/2021 concerning Foundation). However, in reality there is a commercial non-public cemetery, San Diego Hills under Lippo Karawaci Ltd (city developer agency for residential and commercial). This Empirical Juridical research aims to study land ownership legal stats of non-public cemetery and its supervision by Karawang Regency Land Office for San Diego Hills Memorial Park.

The results of this research show that San Diego Hills Memorial Parks is based on Business Licence by Investments and Integrated Services Agency of Karawang Regency Government No. 503/11551/0323/PM/XI/BPMT/201z3/P.1 and Minister of Law and Rights' Decree No. W7-00987HT.01.01-TH.2006 concerning establishment deed validation of San Diego Hills Memorial Parks Ltd. Nevertheless, land ownership legal status of San Diego Hills Memorial Parks non-public cemetery is Right to Build on a state land with limited period (30 years, can be extended to a maximum of 20 years, and renewed to a maximum 30 years – Chapter 35 paragraph 1 Basic Agrarian Law in junction to Chapter 37 Government Regulations No. 18/2021), not Right to Use as required by Government Regulations No. 9/1987. The owner of said Right to Build is Karawang Jabar Industrial Estate Ltd. (land certificate 1998), as a legal agency of Lippo Group subsidiary, thus the fulfilment of requirements as legal subject management of non-public cemetery as a social and/or religious agency is questioned. Moreover, the use and implementation of authority of control, ownership, usage and utilization and the supervisory function of the Karawang Regency Land Office is not as it should be.

Keywords: *Non-public Cemetery, Social and/or Religious Agency, Subsidiary*

³ Graduate Student of Master of Notary, Faculty of Law, Universitas Gadjah Mada (ursulamaudy46@gmail.com)

⁴ Lecturer of Master of Notary, Faculty of Law, Universitas Gadjah Mada (any.andjarwati@mail.ugm.ac.id)