

INTISARI

PENYELESAIAN SENGKETA SERTIPIKAT HAK MILIK YANG DIDASARKAN ATAS AKTA JUAL BELI YANG CACAT HUKUM (Studi Kasus SHM No. 3015 dan AJB No. 407/2015)

Oleh:

R. Meylanda Laksono Wibowo¹, Ninik Darmini²

Nyonya SS telah mengajukan gugatan PMH kepada Nyonya AHK, PPAT RGS dan Kantor Pertanahan Kabupaten Magelang, karena SHM yang telah dibalik nama pembeli, padahal diketahui dasar balik nama melalui AJB yang cacat hukum. Namun putusan atas gugatannya ditolak oleh Pengadilan Negeri Mungkid karena kompetensi absolut. Tujuan penelitian yaitu untuk mengetahui dan menganalisis keabsahan SHM yang didasarkan atas AJB yang cacat hukum dan proses penyelesaian sengketa SHM yang didasarkan atas AJB yang cacat hukum (Studi Kasus SHM No. 3015 dan AJB 407/2015).

Jenis penelitian ini merupakan penelitian hukum normatif. Data yang digunakan yaitu data sekunder yang didukung data narasumber. Data sekunder terdiri dari bahan hukum primer, sekunder dan tersier. Teknik pengumpulan data melalui wawancara dan penelitian kepustakaan. Alat pengumpulan data yaitu daftar pernyataan guna keperluan wawancara kepada para narasumber. Analisis data menggunakan kualitatif yang bersifat deskriptif.

Hasil penelitian yang didapatkan yaitu status SHM No. 3015 yang didasarkan atas AJB 407/2015 yang cacat hukum adalah sah sepanjang tidak dapat dibuktikan sebaliknya, dikarenakan SHM merupakan KTUN, sehingga keabsahan SHM didasarkan pada asas *presumptio iustae causa* dan Pasal 67 UU PTUN. Keabsahan proses balik nama SHM tersebut dapat dicabut oleh Kantor Pertanahan Kabupaten Magelang dengan dasar Putusan PTUN atas persoalan SHM tersebut yang tidak memenuhi syarat materil dan formil dalam proses balik nama dalam Sertipikat. Nyonya SS selaku ahli waris Alm. SMR telah mengajukan gugatan PMH ke PN. Mungkid, namun oleh PN. Mungkid telah menjatuhkan putusan tidak diterima dikarenakan kompetensi absolut, pertimbangannya bahwa hakim perdata tidak berwenang membatalkan SHM. Namun hakim perdata hanya dapat menyatakan SHM tidak memiliki kekuatan hukum tetap.

Kata Kunci : Penyelesaian Sengketa, Sertipikat Hak Milik, Akta Jual Beli, Cacat Hukum

¹ Mahasiswa Program Pascasarjana Magister Kenotariatan Universitas Gadjah Mada

² Dosen Program Pascasarjana Magister Kenotariatan Universitas Gadjah Mada

ABSTRACT

PROPERTY RIGHTS CERTIFICATE DISPUTE RESOLUTION WHICH IS BASED ON A DEED OF SALE AND PURCHASE THE LEGAL DISABLED (Case Study of SHM Number 3015 and AJB Number 407/2015)

By:

R. Meylanda Laksono Wibowo¹, Ninik Darmini²

Mrs. SS has filed a PMH lawsuit against Mrs. AHK, PPAT RGS and BPN Magelang Regency, because SHM has changed the buyer's name, even though it is known that the basis for changing the name through AJB is legally flawed. However, the decision on his lawsuit was rejected by the Mungkid District Court due to absolute competency. The aim of the research is to determine and analyze the validity of SHM which is based on legally flawed AJB and the SHM dispute resolution process which is based on legally flawed AJB (Case Study of SHM Number 3015 and AJB Number 407/2015).

This type of research is normative legal research. The data used is secondary data supported by source data. Secondary data consists of primary, secondary and tertiary legal materials. Data collection techniques through interviews and library research. The data collection tool is a list of statements for interview purposes with informants. Data analysis uses descriptive qualitative data.

The research results obtained were SHM status No. 3015 which is based on the legally flawed AJB 407/2015 is valid as long as it cannot be proven otherwise, because the SHM is a KTUN, so the validity of the SHM is based on the principle of *presumptio iustae causa* and Article 67 of the PTUN Law. The validity of the SHM name change process can be revoked by the Magelang Regency BPN on the basis of the PTUN Decision regarding the SHM issue which does not meet the material and formal requirements in the name change process in the Certificate. Mrs. SS as the heir of the late. SMR has filed a PMH lawsuit with the District Court. Maybe, but by PN. It is possible that the decision was not accepted due to absolute competence, considering that the civil judge did not have the authority to cancel the SHM. However, civil judges can only declare that SHM does not have permanent legal force.

Keywords : Dispute Resolution, Certificate of Ownership, Sale and Purchase
Deed, Legal Defects

¹ Master of Notary Master's degree program student at Gadjah Mada University.

² Lecturer of the postgraduate master's program of notary at Gadjah Mada University