

PERBANDINGAN PUTUSAN GUGATAN PERBUATAN MELAWAN HUKUM
DALAM MUSYAWARAH PENETAPAN GANTI KERUGIAN PENGADAAN
TANAH BAGI PEMBANGUNAN JALAN TOL (Studi Putusan Nomor
117/PDT.G/2018/PN.SRG Jo. Nomor 96/PDT/2020/PT.BTN Jo. Nomor 160
K/PDT/2022 Jo. Nomor 140 PK/PDT/2023)

INTISARI

Oleh : Mawaddah Warahmah,¹ dan Taufiq El Rahman²

Penelitian ini bertujuan untuk mengetahui dan menganalisa perbandingan penetapan nilai ganti rugi dan untuk mengetahui penyelesaian kelebihan biaya ganti rugi pengadaan tanah bagi pembangunan jalan tol berdasarkan putusan kasasi Nomor 160 K/Pdt/2022 dan Peninjauan Kembali Nomor 140 PK/Pdt/2023.

Jenis penelitian ini adalah hukum normatif yang didukung oleh data primer. Sifat penelitian ini menggunakan metode deskriptif. Bahan penelitian terdiri dari data primer dan sekunder. Cara memperoleh data dilakukan melalui penelitian kepustakaan serta wawancara kepada praktisi dan akademisi, sedangkan analisis data dilakukan menggunakan metode kualitatif.

Kesimpulan dari penelitian ini, *Pertama* pada penelitian perkara *a quo* terdapat perbedaan penetapan nilai ganti kerugian pengadaan tanah bagi pembangunan jalan tol. Majelis Hakim Pengadilan Negeri Serang jo. Majelis Hakim Pengadilan Tinggi Banten Jo. Majelis Hakim Kasasi Mahkamah Agung menetapkan harga tanah milik Para Penggugat yang dijadikan proyek pembangunan jalan tol Serang – Panimbang, setiap 1 (satu) meter persegi senilai Rp. 250.000,- (dua ratus lima puluh ribu rupiah), dan menghukum Kementerian PUPR untuk membayar kekurangan uang ganti kerugian tersebut. Berbeda dengan putusan kasasi, Mahkamah Agung melalui putusan Peninjauan Kembali telah membatalkan Putusan Kasasi tersebut. *Kedua* Secara yuridis, Para Penggugat harus mengembalikan kelebihan uang ganti kerugian yang telah diterima sebelumnya. Apabila Para Penggugat tidak mempunyai kemampuan untuk mengembalikan, pada prinsipnya dapat mengajukan permohonan kepada Kementerian PUPR untuk menyerahkan pengurusannya kepada Panitia Urusan Piutang Negara (PUPN) sebagai Piutang Negara. Setelah dilakukan pengurusan secara optimal sesuai dengan ketentuan perundang-undangan di bidang piutang negara, Para Penggugat ternyata tetap tidak mampu mengembalikan, maka PUPN membuat penetapan Piutang Negara Sementara Belum Dapat Ditagih (PSBDT). PSBDT dapat dijadikan dasar oleh Kementerian PUPR untuk mengajukan usulan penghapusan piutang negara kepada Kementerian Keuangan.

Kata Kunci : Perbandingan Putusan, Kelebihan Pembayaran, Ganti Kerugian, Pembangunan Jalan Tol.

¹ Mahasiswa Program Pascasarjana Magister Hukum Litigasi, Fakultas Hukum Universitas Gadjah Mada Yogyakarta.

² Pembimbing dan Dosen Hukum Perdata Fakultas Hukum Universitas Gadjah Mada Yogyakarta.

**COMPARISON OF UNLAWFUL ACT CLAIMS VERDICTS IN
DESIGNATIONS FOR DETERMINING COMPENSATION LAND
PROCUREMENT FOR TOLL ROAD CONSTRUCTION (Study Decision
Number 117/PDT.G/2018/PN.SRG Jo. Number 96/PDT/2020/PT.BTN Jo. Number
160 K/PDT/2022 Jo. Number 140 PK/PDT/2023)**

ABSTRACT

Mawaddah Warahmah,¹ dan Taufiq El Rahman²

This research aims to find out and analyze the comparison of determining the value of compensation and to find out the settlement of excess compensation costs for land acquisition for toll road construction based on cassation decision Number 160 K/Pdt/2022 and Judicial Review Decision Number 140 PK/Pdt/2023.

This type of research is normative legal research supported by primary data. The nature of this research uses descriptive methods. Research materials consist of primary data and secondary data. Data was obtained through library research and interviews with practitioners and academics, while data analysis was carried out using qualitative methods.

The conclusion of this research, Firstly, in the a quo case research, there are differences in determining the value of compensation for land acquisition for toll road construction. Panel of Judges at the Banten High Court Jo. The Panel of Cassation Judges of the Supreme Court determined the price of land belonging to the plaintiffs which was used as the Serang – Panimbang toll road construction project, every 1 (one) square meter at IDR. 250,000 (two hundred and fifty thousand rupiah), and punished the PUPR Ministry to pay the shortfall in compensation money. In contrast to the cassation decision, the Supreme Court through its Judicial Review decision has cancelled the cassation decision. Second, legally, the plaintiffs must return the excess compensation money that was previously received. If the plaintiffs do not have the ability to repay, in principle they can submit a request to the PUPR Ministry to hand over the management to the State Receivables Affairs Committee (PUPN) as State Receivables. After carrying out optimal processing in accordance with the provisions of laws and regulations in the field of managing state receivables, the Plaintiffs were still unable to return them, so PUPN made a determination of Temporarily Uncollectible State Receivables (PSBDT). PSBDT can be used as a a basis for the PUPR Ministry to submit proposals for writing off state receivables to the Ministry of Finance.

Keyword : *Comparison of Verdicts, Overpayment, Compensation, Construction of toll roads.*

¹ Graduate Student in the Master's Program in Litigation Law, Faculty of Law, Gadjah Mada University, Yogyakarta.

² Supervisor and Lecturer in Civil Law, Faculty of Law, Gadjah Mada University, Yogyakarta.