

**ANALISIS EKSEKUSI PENGOSONGAN LAHAN YANG TIDAK SESUAI AMAR
PUTUSAN STUDI KASUS PUTUSAN KASASI NO.2351-K/1997 JO. PUTUSAN
PENGADILAN TINGGI SULTENG NO.81/PDT/ 1996/PT.PALU JO. PUTUSAN PN
LUWUK NO.02/PDT/G/1998**

INTISARI

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Penelitian ini bertujuan untuk mengetahui, mekanisme eksekusi pengosongan obyek sengketa yang sesuai amar putusan agar tidak terjadi *error in object*. Eksekusi seharusnya sesuai amar putusan. Namun praktiknya tidak sedikit eksekusi yang bermasalah, seperti eksekusi pengosongan lahan oleh KPN Luwuk berdasarkan Putusan Kasasi No.2351-K/PDT/1997 jo. Putusan Pengadilan Tinggi Sulteng No.81/PDT/1996/PT.PALU jo. Putusan PN LUWUK No.02/PDT/G/1998, dimana eksekusi tersebut dinilai berbeda dengan amar putusannya (*error in object*). Menurut putusan obyek yang dikembalikan adalah 700 meter persegi (m²), nyatanya lahan yang dieksekusi seluas 18 hektare (ha).

Metode penelitian yang digunakan adalah yuridis normatif yang bersifat kualitatif dengan metode deskriptif analitis. Peneliti melakukan pengumpulan data primer, sekunder, dan tersier yang diperoleh melalui studi kepustakaan maupun data yang diperoleh langsung dari sumbernya seperti hasil diskusi dan catatan-catatan tidak resmi yang berasal dari institusi Mahkamah Agung.

Kesimpulan penelitian ini adalah: pertama, tata cara eksekusi perdata dilakukan melalui tiga tahapan, peringatan (*aanmaning*), Penetapan Eksekusi dan Berita Acara Eksekusi. HIR dan Rbg tidak mengatur rinci eksekusi riil (pengosongan lahan), sehingga praktiknya mengacu pada berbagai ketentuan seperti HIR, RV, UU Kekuasaan Kehakiman serta peraturan terkait lainnya. Hal ini menimbulkan praktik dan pemahaman eksekusi riil yang beragam. Kedua, eksekusi Putusan Kasasi No.2351-K/PDT/1997 jo. Putusan Pengadilan Tinggi Sulteng No.81/PDT/1996/PT.PALU jo. Putusan PN LUWUK No.02/PDT/G/1998 tidak sesuai dengan amar putusan (*error in object*) sehingga menimbulkan ketidak-adilan dan masalah baru. Ketiga, MA telah membuat uraian tahapan administrasi eksekusi. Sebelum eksekusi, panitera menyusun laporan dan resume perkara disertai berkas putusan dan permohonan eksekusi. Selain itu saat *aanmaning* juga didapatkan penjelasan para pihak. Sehingga KPN mendapatkan gambaran perkara dan amar putusan. Namun karena tidak dituangkan dalam suatu bentuk peraturan yang mengikat, dalam praktiknya diabaikan oleh beberapa pihak. Karenanya diharapkan MA terus mengupayakan kompilasi dan kodifikasi hukum acara perdata.

Kata kunci: Eksekusi, pengosongan lahan, tidak sesuai amar (*error in object*)

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**ANALYSIS ON EXECUTION OF LAND EVACUATION THAT IS NOT IN
ACCORDANCE WITH THE DECREE ORDER CASE STUDY ON CASSATION
DECREE NO. 2351-K/1997 JO. SULTENG HIGH COURT DECREE
NO.81/PDT/1996/PT. PALU JO. LUWUK DISTRICT COURT DECREE
NO.02/PDT/G/1998**

ABSTRACT

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This study aims to find out, the mechanism on execution of land evacuation in accordance with the decree order so there will be no “error in the object”. Execution should be in accordance with decree order. However, in practice not a few executions caused new problems, such as the execution of land evacuation carried out by KPN Luwuk based on the Cassation Decree No.2351-K/PDT/1997 jo. Sulteng High Court Decree No.81/PDT/1996/PT. PALU jo. LUWUK District Court Decree No.02/PDT/G/1998, whereas the execution considered as different from the decree order (*error in object*). The decree ordered that land to be returned is 700 square meters (m²), while the actual land executed is 18 hectares (ha).

The research method used is normative juridical in qualitative with analytical descriptive method. The researcher collected primary, secondary, and tertiary data obtained through library studies and data obtained directly from the source such as the results of discussions and informal records from the Supreme Court institutions.

The conclusion of the research are as follows: first, the procedure for civil execution is carried out through at least three stages, namely warnings (*aanmaning*), Execution Order and Execution Minutes. HIR and Rbg do not regulate the details of real execution (land evacuation), so the practice refers to various provisions such as HIR, RV, Judicial Power Law and other related regulations. This has led to diverse practices and understanding of real execution. Second, the execution of the Cassation Decree No.2351-K/PDT/1997 jo. Sulteng High Court Decree No.81/PDT/1996/PT. PALU jo. LUWUK District Court Decree No.02/PDT/G/1998 is not in accordance with the decision in error (error in object) so as to cause injustice and new problems. Third, the Supreme Court (MA) has made a description of the stages of administrative execution. Before execution, the clerk arranges case reports and resumes accompanied by a verdict and request for execution. In addition, when *aanmaning* the parties was also explained the case. So KPN gets a picture of the case and ruling decree. However, because it is not stated in a form of binding regulation, in practice it is ignored by several parties. Therefore, it is expected that the Supreme Court will continue to seek compilation and codification of the civil procedural law.

Keywords: Execution, land evacuation, not in accordance with court order (*object in object*)

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