

UPAYA PAKSA TERHADAP TERMOHON EKSEKUSI DALAM EKSEKUSI RIIL

(Studi Kasus Putusan Mahkamah Agung Nomor Register Perkara 596K/Sip/1982)

ABSTRAK

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Penelitian ini bertujuan untuk mendeskripsikan dan menganalisis hambatan pelaksanaan upaya paksa dalam eksekusi riil (studi kasus Putusan Mahkamah Agung Nomor Register Perkara 596K/Sip/1982), serta untuk merekomendasikan dan menyarankan pengaturan hukum upaya paksa dalam eksekusi riil di masa mendatang.

Metode penelitian yang digunakan adalah empiris-normatif. Cara memperoleh data dilakukan melalui studi dokumen dengan menggunakan bahan-bahan tertulis atau data sekunder dan melalui wawancara kepada responden dan narasumber dengan mengajukan pertanyaan secara langsung kepada keduanya. Data yang diperoleh kemudian dianalisis dengan menggunakan metode kualitatif dan penyajiannya dilakukan secara deskriptif dan preskriptif.

Hasil penelitian menunjukkan bahwa: *pertama*, Pelaksanaan putusan pengadilan (eksekusi) dalam putusan Pengadilan Negeri Nomor Register Perkara 224/1964 Pdt.Klt. Juncto Putusan Pengadilan Tinggi Semarang Nomor Register Perkara 58/1980 Pdt/P.T.Smg., Juncto Putusan Mahkamah Agung Nomor Register Perkara 596 K/Sip/1982, ada beberapa hambatan-hambatan yakni tergugat/ termohon eksekusi melakukan perbuatan melawan hukum mengalihkan alas hak obyek sengketa dari *letter c* ke sertifikat hak milik serta menjualnya kepada pihak lain, dan ahli waris tergugat/ termohon eksekusi masih menguasai obyek sengketa. Selain itu, majelis hakim pemeriksa perkara dalam perkara *a quo* penggugat/ pemohon eksekusi tidak mengabulkan sita jaminan (*conservatoir beslag*). *Kedua*, seharusnya pengaturan kedepannya (*ius constituendum*), dibentuknya Peraturan Mahkamah Agung tentang perlindungan terhadap obyek tanah yang menjadi sengketa di pengadilan. Selain itu, upaya hukum pemohon eksekusi/ penggugat melalui jalur non litigasi dan jalur litigasi, yakni jalur non litigasi berupa permohonan blokir terhadap obyek tanah yang menjadi sengketa di pengadilan, sedangkan jalur litigasi berupa pembatalan sertifikat hak milik terhadap penerbitan alas hak akibat perbuatan tergugat/termohon eksekusi, dan mengajukan gugatan perbuatan melawan hukum dan ganti kerugian atas perbuatan tergugat/ termohon eksekusi.

Kata kunci: upaya paksa, termohon eksekusi, eksekusi riil

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FORCE ACTS TO THE DEFENDANT OF AN EXECUTION IN REAL EXECUTION

(Case Study of Supreme Court Judgment Case Number 596K/Sip/1982)

ABSTRACT

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This research was aimed to describe and analyze the barriers in the enforcement of force acts in real execution (case study of Supreme Court Judgment Case Number 596K/Sip/1982). Moreover, it also gave recommendation and suggestion regarding the regulation of force acts in real execution in the future.

Empirical-normative methods were used as the research methods. The techniques of data collection were carried out through documentary research and interview. The documentary research used written materials or secondary data. While interview was given to the respondent and interviewee by asking some questions directly to both of them. Then, the data was analyzed using qualitative methods. Furthermore, the data was presented descriptively and prescriptively.

The research results showed that: *first*, the Enforcement of court judgment (execution) in District Court Case Number 224/1964 Pdt.Klt. *Juncto* Semarang High Court Judgment Case Number 58/1980 Pdt/P.T.Smg., *Juncto* Supreme Court Judgment Case Number 596 K/Sip/1982, there were several barriers, such as the defendant/the respondent of execution was committed tort by converting the deeds from *letter c* into freehold title then sold it to another party and the heir of the defendant/the respondent of the execution has still owned the disputed object. Moreover, in *a quo* case of the plaintiff/applicant for the execution, the panel of judges of case examiners did not grant prejudgment seizure (*conservatoir beslag*). *Second*, for the future regulation (*ius constituendum*), Supreme Court Regulation concerning the protection on the disputed land object in the court should be formulated. Furthermore, the legal act of the applicant for execution/the plaintiff through non-litigation and litigation steps were: non-litigation step was in the form of the application for blocking the disputed land object in the court, while litigation step was in the form of nullity of freehold title on the issuance of deeds because of the act of the defendant/respondent of execution, and filed the claim on the tort and compensation on the act of the defendant/respondent of execution.

Keywords: force acts, the defendant of execution, real execution

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