

**EFEKTIFITAS PUTUSAN MAHKAMAH AGUNG TENTANG
PEMBATALAN SERTIPIKAT TANAH DAN PERLINDUNGAN HUKUM BAGI
KEPEMILIKAN TANAH YAYASAN**

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INTISARI

Penelitian dilatarbelakangi dari belum dapat dilaksanakannya Putusan MA Nomor 2061 K/Pdt/2006 tentang pembatalan sertifikat hak pakai diatas tanah negara Nomor 04 Desa Tegalandong atas nama Dinas PU Kabupaten Tegal, serta pendaftaran hak atas tanah Yayasan Darul Hasanah di Kabupaten Tegal, karena belum adanya pencoretan tanah hak pakai diatas tanah negara tersebut dalam aset daerah. Penelitian mengkaji efektifitas Putusan MA berkenaan dengan pembatalan sertipikat tersebut dan pendaftaran hak milik atas tanah yayasan sebagai yang berhak atas sebidang tanah hak pakai diatas tanah negara yang dibatalkan tersebut, Hak dan Kewajiban Dinas PU atas putusan MA tersebut, serta perlindungan hukum bagi yayasan berdasarkan putusan MA tersebut.

Penelitian bersifat yuridis normatif, yang menitikberatkan pada penelitian terhadap data sekunder berupa penelitian berupa bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Data yang diperoleh kemudian dianalisis secara deskriptif kualitatif.

Hasil penelitian menunjukkan bahwa putusan MA tersebut belum dapat dilaksanakan secara efektif, karena dalam amar putusan MA tersebut pada dasarnya tidak ada perintah untuk mencoret dari daftar aset daerah Pemerintah Provinsi Jawa Tengah atau putusan tersebut hanya merupakan jenis *declaratoir* yang hanya sekedar menerangkan atau menetapkan suatu keadaan saja dan bukan *condemnatoir* karena tidak ada perintah penghukuman terhadap pihak yang kalah untuk melakukan sesuatu, padahal pencoretan tersebut adalah syarat untuk dapat tanah tersebut kembali menjadi tanah negara sesuai pasal 50 PP No.40 tahun 1996, dan dari itu baru dapat dimohonkan hak atas tanah di Kantor Pertanahan oleh subyek hukum yang berhak yaitu Yayasan Darul Hasanah berdasarkan putusan MA tersebut. Kewajiban Dinas PU akan timbul jika Yayasan Darul Hasanah melakukan upaya hukum menggugat Dinas PU ke PTUN dalam wewenangnya, sebagaimana diatur dalam UU Nomor 51 Tahun 2009 tentang Perubahan Kedua atas UU Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara dan UU No.01 tahun 2004 tentang Perbendaharaan Negara, gugatan mengenai pencoretan dari daftar aset daerah, dan dikabulkan. Dari sana barulah Yayasan Darul Hasanah dapat memperoleh perlindungan hukum.

Kata Kunci : Putusan Mahkamah Agung, Sertipikat Hak Atas Tanah, perlindungan Hukum, Yayasan

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EFFECTIVENESS OF THE SUPREME COURT DECREE ON CANCELLATION OF LAND CERTIFICATES AND LEGAL PROTECTION FOR FOUNDATION OWNERSHIP

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ABSTRACT

The research was motivated by the inability to implement the Supreme Court Decision Number 2061 K / Pdt / 2006 concerning the cancellation of the right to use certificate on state land Number 04 in Tegalandong Village on behalf of the Public Works Office of Tegal Regency, as well as registration of land rights at the Darul Hasanah Foundation in Tegal Regency, because there was no deletion. land use rights above the state land are in regional assets. The research examines the effectiveness of the Supreme Court Decision with regard to the cancellation of the certificate and the registration of ownership rights over the foundation's land as entitled to a plot of land use rights over the canceled state land, the Public Works Department's Rights and Obligations for the Supreme Court decision, as well as legal protection for the foundation based on the Supreme Court decision. the.

This research is normative juridical, which focuses on research on secondary data in the form of research in the form of primary legal materials, secondary legal materials, and tertiary legal materials. The data obtained were then analyzed descriptively qualitatively.

The results showed that the Supreme Court's decision could not be implemented effectively, because in the Supreme Court ruling basically there was no order to write off the regional assets list of the Central Java Provincial Government or the decision was just a type of declaratory which only explained or determined a situation. and not condemnatoir because there is no order to punish the losing party for doing something, even though the removal is a requirement for the land to return to state land in accordance with Article 50 PP No.40 of 1996, and from that, land rights can be applied for at the office. Land by an entitled legal subject, namely the Darul Hasanah Foundation based on the Supreme Court's decision. The obligation of the Public Works Service will arise if the Darul Hasanah Foundation takes legal action to sue the Public Works Office to the State Administrative Court under its authority, as regulated in Law Number 51 of 2009 concerning Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts and Law Number 01 of 2004 concerning State Treasury, the lawsuit regarding removal from the list of regional assets, and was granted. From there, the Darul Hasanah Foundation can obtain legal protection.

Keywords: Supreme Court Decision, Certificate of Land Rights, Legal Protection, Foundation

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