

**KEABSAHAN HAK PENGUASAAN TANAH DESA YANG BERSERTIPIKAT
SETELAH BERLAKUNYA UNDANG-UNDANG
NOMOR 13 TAHUN 2012 TENTANG KEISTIMEWAAN DAERAH
ISTIMEWA YOGYAKARTA**

Oleh

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ABSTRAK

Tujuan penelitian untuk menganalisis dan menjelaskan keabsahan penguasaan tanah desa yang telah bersertipikat setelah berlakunya UU No. 13/2012 tentang Keistimewaan Daerah Istimewa Yogyakarta dan pengaturan terhadap hak penguasaan tanah desa yang sudah bersertipikat sebelum dan setelah berlakunya UU No. 13/2012.

Jenis penelitian yuridis normatif dan bersifat deskriptif dengan pendekatan penelitian hukum undang-undang (*statute approach*). Bahan hukum yang digunakan adalah data sekunder, yang meliputi bahan hukum primer, bahan hukum sekunder, serta bahan hukum tersier dan data primer. Narasumber di dalam penelitian hukum ini adalah pejabat dari instansi Kantor Wilayah Badan Pertanahan Nasional Daerah Istimewa Yogyakarta, Pemerintah Desa, dan Dinas Pertanahan dan Tata Ruang.

Hasil penelitian menunjukkan bahwa keabsahan hak penguasaan tanah desa yang bersertipikat setelah berlakunya UU No. 13/2012 adalah sah secara hukum dan telah memenuhi syarat dan prosedur PP No. 24/1997 jo Permenag No. 3/1997, yaitu: a) Sertipikat hak pakai diatas tanah Negara atas nama Pemerintah Desa diterbitkan secara sah oleh Kepala Kantor Pertanahan Kabupaten/Kota setempat dengan prosedur penerbitan sertipikat hak pakai sesuai ketentuan; b) Hak atas tanah diperoleh dengan itikad baik; dan c) Hak pakai diatas tanah Negara yang telah bersertipikat dikuasai secara nyata oleh Pemerintah Desa. Untuk menjamin kepastian hukum, maka terhadap sertipikat hak pakai diatas tanah Negara yang telah bersertipikat agar dapat dilakukan penyesuaian status haknya menjadi Hak Pakai diatas tanah Kasultanan atau tanah Kadipaten, sesuai dengan Pasal 33 UU No. 13/2012 jo Pasal 38 Peraturan Daerah Istimewa Daerah Istimewa Yogyakarta Nomor 1 Tahun 2017.

Kata Kunci : *tanah desa, tanah kasultanan dan tanah kadipaten, hak pakai atas tanah, pendaftaran tanah, hak pakai di atas hak milik.*

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**VILLAGE LAND TENURE WHICH HAS BEEN CERTIFIED PRIOR TO
THE ENACTMENT OF LAW NUMBER 13 OF 2012 CONCERNING
THE SPECIAL PRIVILEGES OF YOGYAKARTA**

by

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ABSTRACT

The purpose of research is to analyze and explain village land tenure which has been certified prior to the enactment of Law Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta and the regulation of village land tenure rights which have been certified before and after the enactment of Law Number 13 of 2012.

This type of research in legal research is normative and descriptive in nature with a statute approach. The legal materials used are secondary data, which includes primary legal materials, secondary legal materials, and tertiary legal materials and primary data. Resource persons in this legal research are officials from the Regional Office of the National Land Agency of the Special Region of Yogyakarta, the Village Government, and the Department of Land and Spatial Planning.

The results showed that the validity of village land tenure which has been certified prior to the enactment of Law Number 13 of 2012 remains legally valid and has met the requirements and procedures of Government Regulation Number 24 of 1997 in conjunction with Regulation of the Minister of State for Agrarian Affairs Number 3 of 1997, namely: a) Right of use certificates on State Land in the name of the Village Government is issued legally by the Head of the local Regency/City Land Office with the procedure for issuing a right to use certificate according to the provisions; b) Land rights are obtained in good faith; and c) Right of use certificates on State Land which have been certified under real control by the Village Government. To guarantee legal certainty, the certificate of use rights State land can be adjustments to the status of use rights over the land of the Sultanate land and the Duchy land in accordance with article 33 of Law Number 13 of 2012 in conjunction with Article 38 of the Regulation of the Special Region of Yogyakarta Special Region Number 1 of 2017.

Keyword: village land, Sultanate land and Duchy land, land use rights, land registration, right to user over ownership rights

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