

ABSTRAK

Fungsi dari penyelenggaraan pendaftaran tanah untuk memberikan alat bukti kepemilikan tanah (sertipikat) ditujukan untuk memberikan kepastian hukum dan perlindungan hukum kepada pemegang hak atas tanah. Pasal 19 ayat 2 huruf c, Pasal 23, 32, dan 38 UUPA jo Pasal 3, Pasal 4, Pasal 32 PP 24 Tahun 1997 tentang pendaftaran tanah, menyiratkan bahwa Sertipikat Hak Atas Tanah akan dapat memberikan jaminan perlindungan hukum kepada pemegang hak yang namanya tercantum dalam sertipikat. Permohonan hak pertama kali dilakukan melalui konversi hak tanah adat menjadi hak milik memerlukan pencantuman alat bukti berupa registrasi Desa (Buku C Desa). Dalam pengkorvesian tanah milik adat Buku C Desa dan kutipannya yakni Letter C dapat disebut sebagai tanda bukti hak. Letter C memuat data asal usul tanah serta catatan peralihan yang terjadi hingga sebelum 24 September 1960. PP No. 24 Tahun 1997 tentang Pendaftaran Tanah, Pasal 24 tentang Alat Bukti, maka dapat dinyatakan bahwa buku C Desa beserta kutipannya Letter C Desa mempunyai kedudukan sebagai alat bukti pembayaran pajak dan mempunyai kekuatan hukum sebagai alat bukti permohonan hak atas tanah. Peristiwa hilangnya buku C Desa di Desa Duren berakibat pada hilangnya kepastian mengenai obyek, subyek, maupun kepastian mengenai status hak atas tanahnya dan tentunya akan menimbulkan permasalahan terhadap kekuatan alat bukti permohonan hak atas tanah. Dari hal tersebut dirumuskan permasalahan bagaimanakah dampak hilangnya buku C Desa terhadap hak-hak atas tanah masyarakat di Desa Duren yang letter C nya hilang ? Bagaimanakah jaminan kepastian hukum bagi pemegang hak atas tanah adat di Desa Duren dan proses permohonan pendaftaran tanah bagi mereka yang buku C Desanya hilang.

Metode penelitian yang digunakan penulis dalam tesis ini adalah yuridis empiris dengan pendekatan *sosio legal research*, lokasi penelitian di Desa Duren Kecamatan Sumowono Kabupaten Semarang dan Kantor Pertanahan Kabupaten Semarang. Menggunakan 2 (dua) sumber data yaitu data primer dan data sekunder dengan tehnik pengumpulan data dilakukan melalui penelaahan data yang diperoleh dalam peraturan perundang-undangan, buku teks, jurnal, hasil penelitian, ensiklopedi, bibliografi, indeks kumulatif dan lain-lain dan penelitian. Data yang diperoleh disajikan secara deskriptif.

Hasil penelitian terhadap permohonan hak atas tanah dengan alat bukti buku C Desa hilang di Desa Duren adalah bahwa meskipun buku C Desa telah hilang tetapi tidak dapat menggugurkan hak masyarakat untuk mengajukan permohonan pendaftaran tanah yang dimilikinya menjadi Hak Milik. Melalui Undang – undang, Negara telah menjamin kepastian hukum bagi warga masyarakat Desa Duren Kec Sumowono dalam proses pendaftaran hak miliknya meskipun Buku Letter C Desa yang dimilikinya telah hilang. Jaminan kepastian hukum tersebut menjamin secara luas dan umum bagi warga masyarakat yang melakukan proses pengajuan pendaftaran tanah dapat dilakukan sebagaimana mestinya sehingga hak – haknya sebagai masyarakat dan warga negara terpenuhi.

Kata kunci: Hak Atas Tanah, Buku C Desa, Jaminan Kepastian Hukum

ABSTRACT

The function of implementing land registration to provide evidence of land ownership (certificate) is intended to provide legal certainty and legal protection to holders of land rights. Article 19 paragraph 2 letter c, Article 23. 32, and 38 UUPA jo Article 3, Article 4, Article 32 PP 24 of 1997 concerning land registration, implying that the Land Rights Certificate will be able to provide legal protection guarantees to rights holders whose names are listed in certificate. Requests for rights first made through the conversion of customary land rights into property rights require the inclusion of evidence in the form of Village registration (Book C Desa). In the conversion of customary land belonging to the C Village Book and its quotation, Letter C, it can be referred to as proof of rights. Letter C contains data on the origin of land and transitional records that occurred before before September 24, 1960. PP No. 24 of 1997 concerning Land Registration, Article 24 concerning Evidence, it can be stated that book C Desa and its quotation Letter C Desa has a position as proof of payment of taxes and has legal force as a basis for proof of application for land rights. The disappearance of Book C Desa in Duren Village resulted in the loss of certainty about the object, subject, and certainty regarding the status of the rights to the land and would certainly cause problems with the power of evidence of the application for land rights. From this matter was formulated the problem how was the impact of the disappearance of C Village book on land rights of the community in Duren Village whose letter C was lost? How is the guarantee of legal certainty for holders of customary land rights in Duren Village and the process of applying for land registration for those who have lost their village C book.

The research method used by the author in this thesis is an empirical juridical approach to socio-legal research, research locations in the Duren Village, Sumowono Subdistrict, Semarang Regency and Semarang District Land Office. Using 2 (two) data sources, namely primary data and secondary data with data collection techniques carried out through reviewing data obtained in legislation, textbooks, journals, research results, encyclopedias, bibliographies, cumulative indices and others and research. The data obtained is presented descriptively.

The results of the study of the application for land rights with the basis of the book evidence C The missing village in Duren Village was that even though Book C of the Village had been lost but could not invalidate the right of the community to submit an application for registration of land that they owned into Hak Milik. Through the Law, the State has guaranteed legal certainty for residents of Duren Sub-district of Sumowono Village in the process of registering their property even though their Village Letter C has been lost. The guarantee of legal certainty guarantees broadly and publicly for the citizens who carry out the process of applying for land registration to be carried out properly so that their rights as citizens and citizens are fulfilled.

Keywords: Land Rights, Book C Village, Legal Certainty Guarantee