

ABSTRAK

Penelitian ini berjudul Tinjauan Yuridis Perjanjian Pinjam Nama (Nominee) Dalam Penguasaan Hak Milik Atas Tanah di Indonesia. Penelitian ini bertujuan untuk mengetahui (1) tinjauan yuridis penguasaan hak milik atas tanah Warga Negara Asing dalam kegiatan Investasi di Indonesia dan (2) kedudukan atau akibat hukum warga Negara Asing dalam Investasi di Indonesia. Adapun permasalahan dalam penelitian ini adalah ketidaksamaan antara idealita dengan realita. Masih banyaknya praktek penguasaan hak milik atas tanah oleh warga negara asing melalui perjanjian *Nominee Agreement* dengan menggunakan kedok warganegara indonesia sehingga seolah-olah tidak melanggar Undang-Undang. Tindakan inipun dilegalkan oleh Notaris/PPAT yang notabene memahami dengan jelas hukum yang berlaku. Penelitian ini menggunakan metode pendekatan yuridis normatif. Metode yang digunakan dalam pengolahan data maupun analisis data yang digunakan dalam penelitian ini adalah metode kualitatif, yaitu suatu metode analisis data deskriptif analitis yang mengacu pada suatu masalah tertentu maupun berdasarkan peraturan per undang-undangan yang berlaku. Hasil penelitian ini menunjukkan bahwa pembuatan akta yang dibuat oleh notaris mengenai jual beli tanah secara pinjam nama atau *nominee agreement* batal demi hukum hal ini telah melanggar undang-undang KUHPerdara pasal 1335 dan 1337 KUHPerdara dan pasal 33 ayat (3) UUD 1945 dan Pasal 21 ayat (1) dan 26 ayat (20) UUPA, juga melanggar hak Bangsa Indonesia atas wilayah Indonesia.

Kata Kunci : Notaris, Perjanjian Nominee, Penguasaan Hak Atas Tanah

ABSTRACT

The nominee's agreement is one of the types of innominate agreements, which are agreements that are not known in the Civil Code but arise, grow and develop in the community. Under the Civil Code, the nominee Agreement shall be subject to the provisions of the law of the agreement in Book III of the Civil Code concerning the agreement. This nominee agreement is in the letter of agreement made by the parties, between wna and wni as the nominee (nominee) which arises through the nominee agreement on the basis of intending to give all things authority that arises from the law between a person and his land against wna as the beneficiary to act as an actual owner of a piece of land that according to the law in Indonesia can not be owned that is property rights Based on the description above then the formulation of the problem obtained : i.e., How is the Juridical Review of Nominee Agreement in Land Ownership in Indonesia?. In the analysis of this research using several methods, the method used is empirical juridical approach method is an approach that examines secondary data first and then continued by conducting primary data research in the field.

Foreigners cannot control property rights on land under the name loan agreement (nominee) because the agreement is basically invalid because it does not meet the requirements of the validity of the agreement in accordance with Article 1320 of the Civil Code. Possession of property rights on land based on the name loan agreement (nominee) is null and void because of the non-fulfillment of objective conditions that are a lawful cause. It should be that foreigners prefer other ways that do not violate regulations such as building rights, usage rights, the right to business to control land in Indonesia and for the government should make clearer regulations on the control of property rights to land based on the name loan agreement (nominee).

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