

ABSTRAK

AKIBAT HUKUM PEMBATALAN SERTIPIKAT HAK MILIK KELURAHAN KARET TENGSIN JAKARTA PUSAT (Studi Kasus Putusan Mahkamah Agung Republik Indonesia Nomor 167K/TUN/2011 Tanggal 21 Juni 2011)

Tujuan penelitian ini adalah untuk mengetahui dan menganalisis: Proses pembatalan sertipikat hak milik atas tanah sebagai akibat adanya Putusan MA RI Nomor 167K/TUN/2011 Tanggal 21 Juni 2011, Kendala-kendala dan solusi dalam proses pembatalan sertipikat hak milik atas tanah dalam Putusan MA RI Nomor 167K/TUN/2011 Tanggal 21 Juni 2011 dan Akibat hukum pembatalan sertipikat hak milik atas tanah dalam Putusan MA RI Nomor 167K/TUN/2011 Tanggal 21 Juni 2011. Metode pendekatan penelitian yang digunakan dalam penelitian ini menggunakan pendekatan yuridis normatif, yang mencakup penelitian terhadap asas-asas hukum, sistematika hukum, taraf sinkronisasi hukum, sejarah hukum dan perbandingan hukum.

Hasil penelitian diperoleh bahwa semua tanah yang termasuk tanah yang telah dilekatkan hak dapat dimohonkan pembatalan apabila terdapat putusan Pengadilan yang telah berkekuatan hukum tetap maupun adanya cacat hukum administrasi, namun oleh karena Putusan MA RI Nomor 167K/TUN/2011 Tanggal 21 Juni 2011 yang membatalkan putusan Pengadilan Tinggi Tata Usaha Negara Jakarta No. 268/B/2010/PT.TUN.JKT, tanggal 14 Februari 2011, maka proses pembatalan sertipikat hak milik atas tanah sebagai akibat adanya Putusan MA RI Nomor 167K/TUN/2011 Tanggal 21 Juni 2011 dihentikan atau tidak dapat dibatalkan. Kendala-kendala dan solusi dalam proses pembatalan sertipikat hak milik atas tanah dalam Putusan MA RI Nomor 167K/TUN/2011 Tanggal 21 Juni 2011, Waktu yang relatif lama, pihak yang kalah tidak puas dengan putusan pengadilan, dalam hal ini menempuh upaya hukum banding ke Pengadilan Tinggi (PT), pengajuan kasasi ke Mahkamah Agung (MA) biaya yang tidak terukur, karena Penyelesaian sengketa melalui pengadilan terikat oleh prosedur penyelesaian yang rumit dan membutuhkan waktu panjang sehingga biaya menjadi tidak terprediksi. Putusan pengadilan seringkali tidak dapat langsung di eksekusi. Dengan berbagai pertimbangan terutama lamanya waktu dan biaya yang tinggi bahkan rentan terhadap eksekusi negative apabila menggunakan cara formal melalui gugatan perdata atas penyelesaian sengketa tanah, maka pilihan *out of court settlement* dapat dilakukan. Pilihan *out of court* dengan bertolak pada hukum arbitrase dan alternative penyelesaian sengketa (APS) dapat dijadikan pilihan untuk masa kini dan masa mendatang di dalam menyelesaikan sengketa dibidang pertanahan. Akibat hukum pembatalan sertipikat hak milik atas tanah dalam Putusan MA RI Nomor 167K/TUN/2011 Tanggal 21 Juni 2011, melalui putusan pengadilan terdapat sengketa dalam suatu permohonan pembatalan sertipikat

baik sengketa administrasi, sengketa hak ataupun indikasi tindak pidana maka BPN tidak dapat melakukan pembatalan sertipikat karena dibutuhkan suatu Putusan Pengadilan yang In kracht akibat hukum pembatalan sertipikat hak milik atas tanah dalam Putusan MA RI Nomor 167K/TUN/2011 Tanggal 21 Juni 2011 yang In kracht pembatalan tanah tidak dapat dilakukan.

Kata kunci : Akibat Hukum, Pembatalan Sertipikat, Hak Milik Kelurahan

ABSTRACT

CANCELLATION DUE TO LEGAL TITLE certificate KELURAHAN Karet JAKARTA (Case Study Supreme Court of the Republic of Indonesia Number 167K/TUN/2011 Date of June 21, 2011)

The purpose of this study is to investigate and analyze: The process of cancellation of the certificate of ownership of land as a result of the Decision of the Supreme Court No. 167K/TUN/2011 Date of June 21, 2011, constraints and solutions in the process of cancellation of the certificate of title for the land of the Award MA RI No. 167K/TUN/2011 Date of June 21, 2011 and the legal consequences of cancellation certificate of title for the land in Supreme Court Decision No. 167K/TUN/2011 Date of June 21, 2011. Method research approach used in this study using a normative juridical approach, which includes the study of legal principles, systematic law, the degree of synchronization of law, legal history and comparative law.

Based on qualitative analysis known that the process of cancellation of the certificate of ownership of land as a result of the Supreme Court Decision No. 167K/TUN/2011 Date of June 21, 2011, in the case of cancellation of the certificate of title for the land in the District Court Decision No.36/PDT.BTH/2007/PN.JKT.PST and the Decision of the State Administrative Court judge in the case No. 75/TUN/2010/PTUN.JKT, which essentially declared void Property Right Certificate Number: 6 / Rubber dated 7 April 1966 measurement certificate No. 521/1937 dated 30 September 1937 covering an area of 10 737 m² in the name of David, Tjing, Adjeran, Aba, Rasidi, Saheet, Piatoe, David, Oemar, Jahara, Abdurrahim, Maimoenah, Sitie, Sahrowardi Hadji, Hadji Abdullah Bin H. Ismail issued by the Defendant. So all land, including land that has been attached to the right can be applied for cancellation if there is a court verdict having legally binding and their flawed administrative law, but because of Decision MA No. 167K/TUN/2011 Date of June 21, 2011 which overturned the verdict of the High Court Rules Jakarta State No. 268/B/2010/PT.TUN.JKT, dated February 14, 2011, then the process of cancellation of certificate of title for the land as a result of the Supreme Court Decision No. 167K/TUN/2011 Date of June 21, 2011 can not be terminated or canceled. Constraints and solutions in the process of cancellation of the certificate of title for the land in Decision MA No. 167K/TUN/2011 Date of June 21, 2011, time is relatively long, the losing party dissatisfied with the decision of the court, in this case through legal attempt to appeal to tingggi court (PT), appeals to the Supreme court (MA) costs that are not measurable, because memalui dispute resolution court is bound by the settlement procedures are complex and require a long time so the cost will become unpredictable. The court's ruling often can not be directly executed. With a variety of considerations, especially the length of time and the cost is high even prone to excess negative when using the formal way through a civil lawsuit over land dispute resolution, hence the choice of out of court settlement can be done. Selection out of court with contrary to the law of arbitration and alternative dispute resolution (APS) can be selected for the present and the future in resolving disputes in the field of land. The legal consequences of cancellation certificate of title for the land in Decision MA No. 167K/TUN/2011 Date of June 21, 2011, a court ruling there is a dispute in

a request for cancellation of the certificate either dispute Administrative and disputed rights or indication of a criminal offense, the BPN can not perform cancellation of certificate because it takes a Judicial Decision in kracht legal effect of cancellation of certificate of land titles in Supreme Court Decision No. 167K/TUN/2011 Date of June 21, 2011 are inclusive kracht cancellation of land can not be done.

Keywords: Effects, Cancellation of Certificate, Hak Village