

ABSTRAKSI

Judul tesis "Pembatalan Sertifikat Hak Atas Tanah" mengambil permasalahan pokok : 1. pembatalan sertifikat hak atas tanah dapat karena cacat hukum administrasi dan 2. pembatalan sertifikat hak atas tanah karena melaksanakan putusan pengadilan yang memperoleh kekuatan hukum tetap.

Penelitian ini dilakukan dengan menggunakan metode yuridis normatif yaitu melalui pendekatan terhadap ketentuan peraturan perundang-undangan yang berlaku (statuta aproach) dan pendekatan kasus (Cases aproach) berkaitan dengan pembatalan sertifikat hak atas tanah.

Berdasarkan ketentuan pasal 107 Peraturan Menteri Negara Agraria/ Kepala Badan Pertanahan Nasional Nomor 9 Tahun 1999 bahwa alasan-alasan pembatalan sertifikat hak atas tanah, dikelompokkan menjadi dua, yaitu karena cacat hukum administratif dan karena melaksanakan putusan pengadilan yang mempunyai kekuatan hukum tetap. Alasan pembatalan karena cacat hukum administratif meliputi: a. Kesalahan prosedur; b. Kesalahan penerapan peraturan perundang-undangan; c. Kesalahan subyek hak; d. Kesalahan obyek hak; e. Kesalahan jenis hak; f. Kesalahan perhitungan luas; g. Terdapat tumpang tindih hak atas tanah; h. Data yuridis atau data fisik tidak benar atau i. Kesalahan lainnya yang bersifat hukum administratif.

Alasan karena melaksanakan putusan pengadilan yang mempunyai kekuatan hukum tetap didahului dengan adanya sengketa tentang keabsahan penguasaan atau pemilikan hak atas tanah melalui peradilan umum atau sengketa tentang keabsahan proses penerbitan sertipikat hak atas tanah melalui Peradilan tata usaha negara (PTUN).

Untuk mencegah adanya pembatalan sertipikat yang sering terjadi, diharapkan setiap Kepala Kantor Pertanahan Kabupaten / Kodya senantiasa mengadakan pembinaan dan pelatihan kepada karyawannya agar tidak terjadi penerbitan sertipikat ganda (tumpang tindih) dan pemalsuan data-data yuridis dan data fisik sebagai dasar penerbitan hak atas tanah guna menjamin kepastian hukum bagi pemegang sertipikat hak atas tanah

Kata kunci : Pembatalan sertifikat karena cacat hukum administrasi dan pembatalan karena melaksanakan putusan pengadilan.

ABSTRACT

Thesis Title "Cancellation of Land right Certificate" taking fundamental problems 1. cancellation of certificate of land right earn because handicap punish and administration 2. cancellation of certificate of land right because executing decision of justice obtaining legal force remain to.

This research is done/conducted by using method of *yuridis normatif* that is through approach to rule of law and regulation going into effect (statute aproach) and the case approach (Cases Aproach) go together cancellation of land right certificate.

Pursuant to rule of section 107 Regulation of State'S Minister Agraria/ Lead Body of Land;Ground of National of Number 9 Year 1999 that reasons of cancellation of land right certificate. grouped to become two, that is because handicap of administrative law and because executing decision of justice having legal force remain to. Reason of cancellation because handicap of administrative law cover :

a.Kesalahan procedure ; b.Kesalahan of law and regulation applying; c.Kesalahan subyek rights d. mistake of Obyek rights e. mistake of rights Type f. mistake of wide Calculation g. There are land right overlap h. data of *Yuridis* or data of physical not true or i. Other mistake having the character of administrative law.

Reason because executing decision of justice having legal force remain to be preceded with existence of dispute about authenticity of domination or ownership of land right through general court or dispute of about authenticity process publication of sertipikat of land right through Civil service arbitration tribunal (PTUN).

To prevent existence of cancellation of certificate which is often happened, expected each:every Chief of Regency Land: Ground / Regency ever perform construction and training to his/its employees in order to is not happened by publication of double certificate (overlap certificate) and forgery of data of *yuridis* and data of physical as base of publication of land right utilize to guarantee rule of law for handle of certificate land right

Keyword : Cancellation of Certificate because handicap punish administration and cancellation [of] because executing justice decision.

BAB I

PENDAHULUAN