

Pencatatan Peralihan Hak Atas Tanah Sertipikat Hak Milik Oleh Pembeli Secara Sepihak Dalam Jual Beli Tanah Studi Putusan Pengadilan Nomor 799/Pdt.G/2020/Pn. Sby. = Recording of Transfer of Land Rights Certificate of Ownership by Buyers unilaterally in the sale and purchase of land Study of Court Decision Number 799/Pdt.G/2020/Pn. Sby.

Simon Reinaldo Marlin, author

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Abstrak

Proses peralihan hak kepemilikan dari penjual kepada pembeli menurut Undang-undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria (UU No. 5 Tahun 1960) mewajibkan diadakannya pendaftaran tanah/pencatatan peralihan hak seluruh wilayah Negara Kesatuan Republik Indonesia oleh pemerintah untuk menjamin kepastian hukum untuk para pemegang hak. Namun dalam praktiknya terdapat beberapa hal yang menyebabkan peralihan hak atas tanah tidak dapat dijalankan. Rumusan masalah dalam penelitian ini ialah prosedur pencatatan peralihan hak atas tanah sertipikat hak milik yang dilakukan oleh pembeli secara sepihak dalam jual beli tanah berdasarkan putusan nomor 799/Pdt.G/2020/PN. Sby serta bagaimana kekuatan hukum atas kuitansi jual beli kepemilikan hak atas tanah sebagai alat bukti di pengadilan berdasarkan putusan nomor 799/Pdt.G/2020/PN. Sby. Metode penelitian yang digunakan dalam penelitian ini dengan menggunakan metode deskriptif analitis. Pengumpulan data juga dilakukan secara studi kepustakaan. Kesimpulan yang didapatkan ialah prosedur pencatatan kepemilikan atas Sertipikat Hak Milik Nomor 278/Ampel yang dilakukan di bawah tangan, yaitu setelah adanya Putusan Pengadilan Negeri Surabaya Nomor 799/Pdt.G/2020/Pn Sby bersifat Inkraht/ berkekuatan hukum tetap, Pengurusan Akta Jual Beli di PPAT harus segera dilakukan dimana PPAT wajib melakukan pengecekan PBB, validasi BPHTB. Selain itu dengan adanya Putusan Pengadilan pembeli dapat meminta Berita Acara Eksekusi kepada Pengadilan guna mendaftarkan sendiri peralihan haknya di Kantor Badan Pertanahan tanpa melalui PPAT. Kuitansi dalam transaksi jual beli tanah dan bangunan telah sesuai dengan Kitab Undang-undang Hukum Perdata yang dalam pelaksanaan jual beli tersebut telah memenuhi unsur hukum adat dimana jual beli dilangsungkan secara terang, tunai, dan rill. Terjadinya kesepakatan antara para pihak yang lahir dari jual beli dengan bukti kuitansi tersebut merupakan implementasi dari syarat sah perjanjian sebagaimana tertuang pada Pasal 1320 KUHPperdata. Kuitansi bermaterai yang merupakan surat di bawah tangan dan menjadi kunci utama dari Putusan Pengadilan Negeri Surabaya Nomor 799/Pdt.G/2020/Pn Sby memiliki kekuatan pembuktian yang sah, karena tidak ada pihak yang menyangkalnya walaupun tidak sesempurna bukti autentik.

.....The process of transferring ownership rights from the seller to the buyer according to Law Number 5 of 1960 concerning Basic Agrarian Regulations (Law No. 5 of 1960) requires the government to hold land registration/registration of transfer of rights throughout the territory of the Unitary State of the Republic of Indonesia to ensure certainty. law for rights holders. However, in practice there are several things that cause the transfer of land rights cannot be carried out. The formulation of the problem in this study is the procedure for recording the transfer of land rights to a certificate of ownership that is carried out by the buyer unilaterally in the sale and purchase of land based on decision number 799/Pdt.G/2020/PN. Sby and

how the legal force of the sale and purchase receipt of land rights as evidence in court based on decision number 799/Pdt.G/2020/PN. Sby. The research method used in this research is descriptive analytical method. Data collection was also carried out by means of a literature study. The conclusion obtained is the procedure for recording ownership of the Certificate of Ownership Number 278/Ampel which is carried out under the hands, namely after the Surabaya District Court Decision Number 799/Pdt.G/2020/Pn Sby is Inkracht / has permanent legal force, Management of the Sale and Purchase Deed in PPAT must be carried out immediately where PPAT is obliged to check PBB, validate BPHTB. In addition, with the Court's Decision, the buyer can request the Minutes of Execution to the Court to register the transfer of his rights at the Land Agency Office without going through PPAT. Receipts in the sale and purchase of land and buildings are in accordance with the Civil Code which in the implementation of the sale and purchase has fulfilled the elements of customary law where the sale and purchase is carried out in an open, cash, and real manner. The occurrence of an agreement between the parties born from the sale and purchase with the receipt is an implementation of the legal terms of the agreement as stated in Article 1320 of the Civil Code. A stamped receipt which is an underhand letter and is the main key to the Surabaya District Court Decision Number 799/Pdt.G/2020/Pn Sby has valid evidentiary power, because no party denies it even though it is not as perfect as authentic evidence.