

ABSTRAK

Judul penelitian ini adalah **“Deskripsi Tentang Putusan Hakim Terhadap Sengketa Perbuatan Melawan Hukum Kepemilikan Rumah Di Atas Tanah Milik Orang Lain (Studi Putusan Nomor 18/Pdt.G/2018/PN Nabire,)”**. Rumusan masalah dalam penelitian ini yaitu: (1) Mengapa Hakim Pengadilan Negeri dan Mahkamah Agung mengabulkan gugatan penggugat untuk sebagian? dan (2) Mengapa Hakim Pengadilan Tinggi menyatakan gugatan penggugat tidak dapat di terima; Tujuan penelitian ini adalah untuk mengetahui alasan Hakim Pengadilan Negeri dan Mahkamah Agung mengabulkan gugatan penggugat untuk sebagian, untuk mengetahui alasan Hakim Pengadilan Tinggi menyatakan gugatan penggugat tidak dapat di terima. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan kasus. Sumber bahan hukum terdiri dari bahan hukum primer, sekunder, dan tersier yang diperoleh melalui studi kepustakaan. Analisis bahan hukum dilakukan secara kualitatif dengan menguraikan fakta hukum dan pertimbangan hakim dalam putusan pengadilan yang diteliti.

Hasil penelitian menunjukkan bahwa Pengadilan Negeri Nabire mengabulkan gugatan penggugat untuk sebagian karena menilai penggugat mampu membuktikan hak kepemilikan atas objek sengketa melalui Sertifikat Hak Milik dan menyatakan tindakan para tergugat merupakan perbuatan melawan hukum. Mahkamah Agung berpendapat pertimbangan Hakim Pengadilan Tinggi keliru dalam menerapkan hukum, sehingga mengabulkan permohonan kasasi, membatalkan putusan Pengadilan Tinggi Jayapura, serta menguatkan putusan Pengadilan Negeri Nabire. Putusan Mahkamah Agung memberikan kepastian hukum bahwa hak kepemilikan yang dibuktikan dengan alat bukti yang sah memperoleh perlindungan hukum, dan pihak yang menguasai serta membangun di atas tanah milik orang lain tanpa hak dapat dinyatakan melakukan perbuatan melawan hukum. Pada tingkat banding, Pengadilan Tinggi JayaPura membatalkan putusan Pengadilan Negeri dan menyatakan gugatan penggugat tidak dapat diterima karena terdapat cacat formil, karena terdapat sertifikat hak milik penggugat dan tergugat yang saling tumpang tindih atas objek sengketa yang sama, maka terlebih dahulu harus diputus mengenai keabsahan sertifikat tersebut melalui Peradilan Tata Usaha Negara. Oleh karena itu gugatan penggugat masih prematur sehingga harus dinyatakan tidak dapat diterima. Bagi Badan Pertanahan Nasional, perlu meningkatkan ketelitian dalam proses pendaftaran tanah, pengukuran, pemetaan, dan penerbitan sertifikat hak atas tanah guna meminimalkan terjadinya tumpang tindih hak serta sengketa kepemilikan di kemudian hari.

Kata Kunci: Perbuatan Melawan Hukum, Putusan Hakim.

ABSTRACT

The title of this research is **"Description of the Judge's Decision on the Dispute of Unlawful Acts of Ownership of a House on Land Belonging to Another Person (Study of Decision Number 18/Pdt.G/2018/PN Nabire,)"** The formulation of the problem in this research is: (1) Why did the District Court Judge and the Supreme Court grant the plaintiff's lawsuit in part? and (2) Why did the High Court Judge declare the plaintiff's lawsuit inadmissible? The purpose of this research is to find out the reasons why the District Court Judge and the Supreme Court granted the plaintiff's lawsuit in part, to find out the reasons why the High Court Judge declared the plaintiff's lawsuit inadmissible. The research method used is normative legal research with a statutory approach, a conceptual approach, and a case approach. The sources of legal materials consist of primary, secondary, and tertiary legal materials obtained through literature studies. The analysis of legal materials is carried out qualitatively by describing the legal facts and considerations of the judge in the court decisions studied.

The results of the study show that the Nabire District Court granted the plaintiff's lawsuit in part because it considered the plaintiff able to prove ownership rights to the disputed object through the Ownership Certificate and stated that the defendants' actions were unlawful. The Supreme Court was of the opinion that the High Court Judge's consideration was wrong in applying the law, so it granted the cassation application, annulled the Jayapura High Court's decision, and upheld the Nabire District Court's decision. The Supreme Court's decision provides legal certainty that ownership rights proven by valid evidence obtain legal protection, and parties who control and build on land belonging to others without rights can be declared to have committed unlawful acts. At the appeal level, the Jayapura High Court annulled the District Court's decision and stated that the plaintiff's lawsuit was inadmissible because there were formal defects, because there were overlapping ownership certificates for the plaintiff and defendant for the same disputed object, so the validity of the certificate must first be decided through the State Administrative Court. Therefore, the plaintiff's lawsuit is still premature and must be declared unacceptable. For the National Land Agency, it is necessary to increase accuracy in the process of land registration, measurement, mapping and issuance of land title certificates in order to minimize the occurrence of overlapping rights and ownership disputes in the future.

Keywords: Unlawful Act, Judge's Decision