

ABSTRAK

Judul penelitian ini adalah **“Deskripsi Tentang Putusan Hakim Atas Perbuatan Melawan Hukum Dalam Penguasaan Tanah Tanpa Alas Hak (Studi kasus Nomor 6/Pdt.G/2018/PN Sbs,)”**. Rumusan masalah dalam penelitian ini yaitu: (1) Apa dasar pertimbangan hakim PN dan MA menolak gugatan penggugat atas tanahnya yang dikuasai oleh tergugat? dan (2) Apa dasar pertimbangan Hakim Pengadilan Tinggi mengabulkan gugatan penggugat; Tujuan penelitian ini adalah ntuk mengetahui dasar pertimbangan Hakim Pengadilan Negeri dan Mahkamah Agung menolak gugatan penggugat atas tanahnya yang dikuasai oleh tergugat, Untuk mengetahui dasar pertimbangan Hakim Pengadilan Tinggi mengabulkan gugatan penggugat . 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 dan Mahkamah Agung menolak gugatan penggugat karena penggugat tidak dapat membuktikan dalil-dalil gugatannya dan Mahkamah Agung menilai bahwa Pengadilan Tinggi Pontianak telah salah dalam menerapkan hukum atas objek sengketa yang telah berada dalam penguasaan tergugat lebih dari 30 (tiga puluh) tahun. Pada tingkat banding, Pengadilan Tinggi pontianak mengabulkan gugatan penggugat karena penggugat berhasil membuktikan hak kepemilikannya atas tanah sengketa dan penggygat telah berulang kali minta atau menuntut haknya berupa pengembalian tanah dan pernah melakukan upaya penyelesaian sengketa dan menurut Hakim Pengadilan Tinggi meskipun surat jual beli tahun 1960 bukan akta otentik PPAT, transaksi tersebut dilakukan secara terang dan tunai menurut hukum adat yang berlaku saat itu.

Kata Kunci: Perbuatan Melawan Hukum, Sengketa Tanah, Penguasaan Tanah Tanah Tanpa Alas Hak, Hak Milik Atas Tanah.

ABSTRACT

The title of this research is **“Juridical Analysis of Unlawful Acts in Land Ownership Claims by the Government (Study of Decision Number 11/Pdt.G/2023/PN Lbj,)”**. The formulation of the problems in this research are: (1) What are the legal considerations of the District Court (PN) and High Court (PT) judges in granting the plaintiff’s claim ; and (2) What are the legal considerations of the Supreme Court (Cassation) judges in accepting the cassation petition and overturning the decisions of the PT and PN; (3) What are the legal considerations of the Judicial Review (PK) judges in accepting the PK petition and overturning the cassation decision. The purpose of this research is to identify the legal considerations of the PN and PT judges in granting the plaintiff’s claim; To identify the legal considerations of the Supreme Court judges in accepting the cassation petition and overturning the PT and PN decisions; To identify the legal considerations of the PK judges in accepting the PK petition and overturning the cassation decision. The research method used is normative legal research with statutory, conceptual, and case approaches. The legal materials consist of primary, secondary, and tertiary legal materials obtained through library research. The legal materials were analyzed qualitatively by describing legal facts and judges’ considerations in the examined court decisions.

The results of the research indicate that the District Court and the High Court declared that the government’s act of controlling the Plaintiff’s land without a clear legal basis constituted an unlawful act because it violated lawful ownership rights. At the cassation level, the Supreme Court annulled the decisions based on considerations regarding the court’s absolute jurisdiction. However, in the Judicial Review stage, the Supreme Court reaffirmed that the case constituted a civil dispute concerning land ownership rights and therefore fell under the jurisdiction of the District Court to examine and adjudicate the case. The conclusion of this research is that government actions in controlling community-owned land without lawful legal procedures can be categorized as unlawful acts. Furthermore, the Judicial Review decision provides legal certainty and legal protection for lawful landowners and emphasizes the importance of respecting the civil rights of the community in every governmental action related to land control.

Keywords: Unlawful Acts, Land Disputes, Land Ownership Claims, Land Ownership Rights.