

ABSTRAK

Perjanjian pinjam nama atau dapat disebut dengan perjanjian *nominee* merupakan suatu upaya untuk memberikan kemungkinan bagi Orang Asing memperoleh Hak Milik atas tanah dengan upaya dalam melakukan jual beli tanah atas nama Warga Negara Indonesia. Perjanjian yang di dalamnya terdapat kuasa dengan meminjam nama Warga Negara Indonesia merupakan perbuatan melawan hukum karena telah bertentangan dengan ketentuan Undang-Undang Pokok Agraria dan syarat sah perjanjian dalam Pasal 1320 KUHPerdota.

Tujuan penelitian ini untuk mengetahui surat pernyataan yang terdapat dalam Putusan Nomor 137/Pdt.G/2021/PN Gin dapat dikualifikasikan sama dengan perjanjian *nominee* terkait kepemilikan hak atas tanah oleh Orang Asing, legalitas jual beli tanah Hak Milik dalam Putusan Nomor 137/Pdt.G/2021/PN Gin, dan sebab Majelis Hakim menolak gugatan penggugat berdasarkan Putusan Nomor 137/Pdt.G/2021/PN Gin.

Metode Pendekatan yuridis normatif dengan spesifikasi penelitian evaluatif analisis. Data yang dikumpulkan terdiri dari data primer dan data sekunder. Analisis data yang dilakukan secara kualitatif.

Hasil penelitian ini membuktikan bahwa surat pernyataan yang terdapat dalam Putusan Nomor 137/Pdt.G/2021/PN Gin dapat dikualifikasikan sama dengan perjanjian *nominee*. Legalitas jual beli tanah Hak Milik dianggap sah karena telah memenuhi syarat materiil dan syarat formil dalam syarat sahnya jual beli tanah. Sebab Majelis Hakim menolak gugatan penggugat karena gugatan yang diajukan adalah gugatan perbuatan melawan hukum, sedangkan gugatan yang sebenarnya harus diajukan adalah gugatan pengosongan tanah terhadap Orang Asing.

Kesimpulan penelitian ini bahwa legalitas jual beli tanah Hak Milik oleh Orang Asing dengan surat pernyataan pinjam nama adalah tidak sah apabila alas haknya adalah perjanjian *nominee*. Diharapkan agar pemerintah dapat membuat peraturan khusus terkait perjanjian *nominee*, para pihak yang hendak melakukan jual beli tanah harus memenuhi syarat sahnya jual beli tanah, dan Majelis Hakim dalam memutuskan dan mengadili suatu perkara harus dapat mempertimbangkan berbagai pertimbangan agar dapat mewujudkan keadilan dan kepastian hukum.

Kata Kunci: *Legalitas, Jual Beli Tanah Hak Milik, Orang Asing, Perjanjian Nominee.*

ABSTRACT

A name borrowing agreement or what can be called a nominee agreement is an effort to provide the possibility for foreigners to obtain ownership rights to land by making efforts to buy and sell land in the name of Indonesian citizens. An agreement in which there is power of attorney by borrowing the name of an Indonesian citizen is an unlawful act because it is in conflict with the provisions of the Basic Agrarian Law and the legal conditions for an agreement in Article 1320 of the Civil Code.

The purpose of this research is to find out whether the statement letter contained in Decision Number 137/Pdt.G/2021/PN Gin can be qualified as the same as a nominee agreement regarding ownership of land rights by foreigners, the legality of buying and selling land ownership rights based on Decision Number 137/Pdt. G/2021/PN Gin, and because the Panel of Judges rejected the plaintiff's claim based on Decision Number 137/Pdt.G/2021/PN Gin.

Method: Normative juridical approach with evaluative analytical research specifications. The data collected consists of primary data and secondary data. Data analysis was carried out qualitatively.

The results of this research prove that the statement letter contained in Decision Number 137/Pdt.G/2021/PN Gin can be qualified the same as a nominee agreement. The legality of the sale and purchase of freehold land is considered valid because it has fulfilled the material and formal requirements in the legal conditions for the sale and purchase of land. Because the Panel of Judges rejected the plaintiff's lawsuit because the lawsuit filed was a lawsuit against the law, while the lawsuit that actually had to be filed was a lawsuit for vacating the land against a foreigner.

The conclusion of this research is that the legality of buying and selling freehold land by foreigners with a statement of borrowing a name is invalid if the basis of the right is a nominee agreement. It is hoped that the government can make special regulations regarding nominee agreements, that parties wishing to buy and sell land must fulfill the requirements for a legal sale and purchase of land, and that the Panel of Judges in deciding and adjudicating a case must be able to consider various considerations in order to achieve justice and legal certainty.

Keywords: Legality, Buying and Selling Freehold Land, Foreigners, Nominee Agreement.