

ABSTRAK

UUPA belum mengatur secara tegas jual beli tanah, namun tersirat dalam Pasal 26 ayat (1) UUPA bahwa jual beli untuk memindahkan hak milik diatur lebih lanjut dengan peraturan pemerintah. Dalam praktiknya, masih ditemukan jual beli tanah bersertipikat hak milik secara di bawah tangan kepada koperasi perkebunan yang pada dasarnya bukan subjek pemegang hak milik. Permasalahan tersebut terlihat dalam Putusan Nomor 26/Pdt.G/2022/PN Tgt yang menyatakan sah jual beli tanah hak milik kepada koperasi perkebunan.

Penelitian ini bertujuan untuk menganalisis alasan dan dasar pertimbangan hakim dalam menyatakan sahnya jual beli tanah bersertipikat hak milik oleh koperasi perkebunan, serta kesesuaiannya menurut prinsip dan ketentuan hukum pertanahan nasional.

Metode penelitian yang digunakan adalah penelitian doktrinal dengan spesifikasi penelitian bersifat evaluatif dengan pendekatan perundang-undangan, pendekatan konseptual dan pendekatan kasus terhadap putusan pengadilan.

Hasil penelitian menunjukkan bahwa alasan hakim menyatakan sah jual beli tanah bersertipikat hak milik di bawah tangan oleh koperasi perkebunan didasarkan pada terpenuhinya aspek materiil jual beli menurut hukum adat, yaitu terang dan tunai, yang dibuktikan dengan kwitansi pembayaran dan keterangan saksi. Hakim menggunakan diskresi dengan membedakan keabsahan jual beli dan keabsahan kepemilikan tanah secara administratif. Hakim tidak mengakui koperasi perkebunan sebagai pemilik yang sah, tetapi memberikan solusi melalui mekanisme pelepasan hak dan permohonan hak. Pertimbangan hakim lebih mengutamakan keadilan dan kemanfaatan dibandingkan kepastian hukum. Putusan memberikan perlindungan kepada pembeli yang beritikad baik dan penyelesaian hambatan administratif pertanahan. Namun, masih terdapat kelemahan dari aspek kepastian hukum, khususnya mengenai kedudukan hukum penjual dan belum terpenuhinya syarat formil peralihan hak atas tanah. Kepastian hukum baru tercapai secara kuat ketika putusan telah berkekuatan hukum tetap sebagai dasar pelepasan hak serta permohonan hak baru sesuai ketentuan hukum pertanahan nasional.

Kesimpulan penelitian ini bahwa pertimbangan hakim dalam memutus sahnya jual beli tanah hak milik di bawah tangan oleh koperasi perkebunan menggunakan diskresi untuk mengakui jual beli yang terjadi secara nyata, namun tidak mengesahkan peralihan hak. Putusan lebih berorientasi pada keadilan dan kemanfaatan, namun belum sepenuhnya memenuhi aspek kepastian hukum pertanahan karena legalitas tanah masih bertahap pada tindak lanjut penyelesaian administrasi pertanahan.

Kata kunci: *Pertimbangan Hakim, Jual Beli Tanah Di Bawah Tangan, Hak Milik, Koperasi Perkebunan, UUPA.*

ABSTRACT

The Basic Agrarian Law has not clearly regulated the sale and purchase of land, but it is implied in Article 26 paragraph (1) of the Basic Agrarian Law that the sale and transfer of ownership rights will be further regulated by government regulations. In practice, sales and purchases of land with ownership certificates are still found to be conducted privately to plantation cooperatives, which are essentially not the subjects entitled to ownership rights. This issue is evident in Decision Number 26/Pdt.G/2022/PN Tgt, which states that the sale of land ownership rights to a plantation cooperative is legal.

This study aims to analyse the reasons and the basis of the judges' considerations in declaring the sale and purchase of land with a certificate of ownership by a plantation cooperative lawful, as well as its compliance with the principles and provisions of national land law.

The research method used is doctrinal research with an evaluative research specification, using a legislative approach, a conceptual approach and a case approach to court decisions.

Research results indicate that the reason judges declared the sale and purchase of land with a certificate of ownership conducted under the table by the plantation cooperative as valid is based on the fulfilment of the material aspects of the sale and purchase according to customary law, namely being clear and complete, as evidenced by payment receipts and witness statements. Judges used discretion by distinguishing between the legality of the sale and purchase and the legality of land ownership administratively. Judges did not recognise the plantation cooperative as the legitimate owner but provided a solution through rights release mechanisms and new rights applications. The judges' considerations prioritised justice and utility over legal certainty. The decision offers protection to good faith buyers and a practical resolution of administrative land obstacles. However, there are still weaknesses in terms of legal certainty, particularly regarding the legal status of the seller and the unfulfilled formal requirements for the transfer of land rights. Legal certainty is only strongly achieved when a decision has permanent legal force as the basis for relinquishing rights and applying for new rights in accordance with national land law provisions.

The conclusion of this study is that judges' considerations in deciding the validity of private land sales by plantation cooperatives use discretion to acknowledge the sales that actually occur, but do not legalise the transfer of rights. The decision is more focused on justice and utility, but it does not yet fully meet the legal certainty aspects of land law as land legality is still gradually addressed in the follow-up of land administration settlements.

Keyword: Judge's Consideration, Private Land Sale, Ownership Rights, Plantation Cooperative, Basic Agrarian Law.