

Cancellation of Land Ownership Certificate by the Judge (A Research of Land Disputes in Klaten Regency)

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ABSTRACT: The objective of this research is to examine the basis of the judge's considerations in deciding case number 2284K/Pdt/2021 and the Legal Protection of Parties Recorded in Ownership Certificates Revoked by the Judge. The research method employed is normative, utilizing a legislative and case approach. The judge's considerations to revoke Ownership Certificate Number 588 under the name of Slamet Siswosuharjo as the Defendant in Convention/Plaintiff in ReconviCTION, take into account the presented written evidence and testimonies of witnesses submitted by the Plaintiff in Convention/Defendant in ReconviCTION since they are interconnected. The judge also does not take into consideration the evidence of the Defendant's land ownership. Furthermore, legal protection for the parties listed in the ownership certificate revoked by the judge includes: The holders of land rights must be protected both repressively and preventively, in accordance with Government Regulation Number 24 of 1997 concerning Land Registration, as stipulated in Article 32 paragraph 2 which asserts that they are the holders of land rights. The judge must determine who owns the property when a land certificate exists.

KEYWORDS: Certificate Cancellation, Legal Considerations, Legal Protection.

A. INTRODUCTION

The existence of land is inseparable from human life, as land possesses various natural resources that can provide benefits to humans (Sutedi, 2006). Land is one of the property rights that holds significant value for humans and for the Indonesian nation. The relationship between humans and the Creator, the Almighty God, serves as an ideal portrayal of the relationship between humans and land. The state's role in managing and regulating entails its authority to possess land. One of the most fundamental issues that touch upon people's rights is the land issue. Aside from its economic value, land also carries social functions, which often result in sacrificing public interests due to personal land-related interests.

One element in national development is the need for land, aimed at achieving prosperity and social justice for every Indonesian citizen. This is an unavoidable presence in the implementation of development. As land is inseparable from human existence, living creatures are bestowed with the gift of land by the Divine Creator for sustaining their lives. Consequently, land becomes a vital aspect of human life. This understanding implies that as living beings, humans require land, whether utilized for habitation, cultivation, business endeavors, or other purposes. However, the reality is that the available land supply is significantly limited.

Based on the rule of law oriented towards public welfare, as stipulated in the concept of the Unitary State of the Republic of Indonesia within the 1945 Constitution, it is inevitable that legal disputes over land, which constitute fundamental issues in society, will arise. A legal state leads the government to be involved in nearly all aspects of both community and individual lives. The public seeks to preserve their rights, while on the other hand, the government has an obligation to pursue the interests of ensuring general welfare for the entire community.

The protection of the implementation of societal interests is crucial to establish harmony in the continuity of community life. This can be achieved through the presence of principles, guidelines, or standards adhered to by the community. As a symbol of freedom, existence, and personal dignity, an individual's significance is profound with the existence of land rights as their fundamental entitlement.

The ongoing and ever-present issue across time is land disputes. With the progression of development, the increase in population, and the broadening access of various parties to acquire land as a fundamental asset for numerous interests, the complexity of land issues has grown. Land disputes encompass various dimensions of life, including economic, social, psychological, political, and others. Consequently, their resolution should not only focus on the legal aspects but also on other aspects of life to ensure that these issues are resolved and do not evolve into unrest that disrupts societal stability.

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The focus of this research is to examine the case related to the dispute over land ownership rights between the Teloyo Village Government, Wonosari Subdistrict, Klaten Regency (Convention Plaintiff/Reconviction Defendant), and Slamet Siswosuharjo (Convention Defendant/Reconviction Plaintiff) in the Supreme Court Cassation Verdict Number 2284 K/Pdt/2021. According to the verdict, the Plaintiff is the legitimate owner of a rice field area as specified in the Desa Bondo Book Number 50 Parcel 198d, Class II, with an area of 2,500 m², located to the South of Dukuh Karangmojo, Kingkang Village, further referred to as disputed land 1. The Defendant claims ownership of a rice field area as stated in Land Certificate (HM) Number 588, under the name of Slamet Siswosuharjo, issued in 1986, with an area of 2,500 m², situated in Babadan, RT 1, RW 8, Teloyo Village, Wonosari Subdistrict, Klaten Regency, hereinafter referred to as disputed land 2. In 1967, based on good faith between the plaintiff and the defendant, a familial negotiation was conducted without contention, coercion, or deceit, as stipulated by the Rembug Desa (village consultation) in the "Decision Book of Desa Kelurahan Telojo Asistenan, Wonosari Subdistrict, Delanggu District, 1958." This agreement was reached before the Teloyo Village community in the Wonosari Subdistrict, Klaten Regency, regarding the exchange of land subject to dispute 1 with land subject to dispute 2, to be utilized as the Babadan Market (a traditional market catering to daily necessities) for public benefit. The agreement was as follows: the defendant would surrender land object of dispute 2 to the convention plaintiff/reconviction defendant, and then the convention plaintiff/reconviction defendant would use the land object of dispute 2 as the Babadan Market (a traditional market providing essential daily needs) for public benefit.

The Convention Defendant/Reconviction Plaintiff has also laid claim to disputed land 1 and enjoyed its agricultural yields. From 1967 to 1986, when SHM No. 588 was issued, the Convention Defendant/Reconviction Plaintiff never raised objections to disputed land 2, which had been utilized as the Babadan Market. The Convention Defendant/Reconviction Plaintiff lacks good faith as they engaged in unlawful actions by not surrendering Land Certificate (SHM) No. 588 in the name of Slamet Siswosuharjo to the Convention Plaintiff/Reconviction Defendant. The Convention Plaintiff/Reconviction Defendant never sold or transferred the aforementioned disputed land 2 to the Convention Defendant/Reconviction Plaintiff. Hence, all the application documents for the issuance of SHM No. 588, which were prepared by the Convention Defendant/Reconviction Plaintiff, are unlawfully compiled as they conflict with prevailing legal regulations. On June 13, 2011, the Convention Defendant/Reconviction Plaintiff unlawfully took over disputed land 2 by providing written notice of assuming management and collecting fees from all merchants. The Inspectorate of Klaten Regency declared that the actions of the Convention Defendant/Reconviction Plaintiff were unlawful, as all fee collections from merchants since 2010 were not remitted to the Teloyo Village Treasury (Convention Plaintiff/Reconviction Defendant). In 2019, the Convention Defendant/Reconviction Plaintiff engaged in the destruction and demolition of structures on disputed land 2, and obstructed access for all individuals. The continuous actions without right and against the law committed by the Convention Defendant/Reconviction Plaintiff are in contradiction to both law and justice.

The conflict between the Supreme Court Cassation Verdict Number 2284 K/Pdt/2021 and the provision of Article 19 Paragraph 2 letter c of the Agrarian Law, which states that land registration is concluded with the issuance of evidence of rights document, serving as a potent means of proof. The evidence of rights document issued as stipulated in Article 23, Article 32, and Article 38 of the Agrarian Law also serves as a strong evidentiary tool. This is a legal issue pertinent to the present case.

The transfer of rights in this case, as mentioned in Article 20 Paragraph (2) of the Agrarian Law, pertains to the assurance of protection and legal certainty for the plaintiff, serving as the basis for the judge's consideration in the Supreme Court Cassation Verdict Number 2284 K/Pdt/2021 concerning the Land Ownership Certificate (SHM) case. This is why the author is interested in exploring this issue within the context of the case.

B. RESEARCH METHODOLOGY

This research applies a normative research type. Normative juridical research delves into principles or doctrines within legal science to address legal issues at hand (Marzuki, 2005). The problem approach in this research involves a process of issue resolution or problem-solving using predetermined stages (Muhammad, 2004). The approach employed in this research is a case approach and a Legislative approach. It utilizes primary and secondary legal materials. This research adopts a prescriptive analytical nature, which entails explaining and presenting an assessment of correctness or incorrectness based on the legal perspective regarding facts or legal events stemming from the research outcomes (Saifuddin & Qamariyanti, 2022).

C. DISCUSSION

Legal Consideration Basis by the Judge in the Supreme Court Cassation Verdict Number 2284 K/Pdt/2021.

In the case of land ownership dispute that occurred between the Teloyo Village Government, Wonosari Subdistrict, Klaten Regency (Convention Plaintiff/Reconviction Defendant) versus Slamet Siswosuharjo (Convention Defendant/Reconviction Plaintiff) in the Supreme Court Cassation Verdict Number 2284 K/Pdt/2021, the actions of the Convention Defendant/Reconviction Plaintiff not surrendering and retaining Land Ownership Certificate Number 588 in the name of Slamet Siswosuharjo to the Convention Plaintiff/Reconviction Defendant, based on the Rembug Desa (Village Consultation) in the Decision Book of Desa Kelurahan Telojo Asistenan, Wonosari Subdistrict, Delanggu District, 1958, and the village community's agreement

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to exchange disputed land 1 with disputed land 2. Subsequently, the Convention Defendant/Reconviction Plaintiff continuously engaged in actions without right and against the law by possessing Land Certificate (SHM) Number 588. Consequently, disputed land 2 was controlled by the Convention Defendant/Reconviction Plaintiff.

Considering the existence of the Rembug Desa agreement organized by the Teloyo Village Government, Wonosari Subdistrict, which has been declared legally valid and binding for both the Convention Plaintiff/Reconviction Defendant and the Reconviction Plaintiff/Convention Defendant, as well as the request for land measurement for disputed land 2 by the Reconviction Plaintiff/Convention Defendant and the issuance of Land Certificate (SHM) for disputed land 2 in the name of the Reconviction Plaintiff/Convention Defendant, this has led to a material defect in the said SHM from a juridical perspective.

In this regard, there is an indication that the land office was less meticulous in investigating the land history, wherein changes in ownership occurred, in the Decision Book of Kalurahan Teloyo Asistenan Village, Wonosari, Delanggu Subdistrict. As a result, Land Ownership Certificate Number 588 in the name of Slamet Siswosuharjo was legally invalidly issued.

Due to human error— or human errors— which occur depending on the conditions of the personnel involved, the accuracy and precision of the Land Office officials in performing their duties will significantly impact the legal certainty of land rights. Land Office personnel must conduct thorough rechecks of both the physical and juridical data of a land plot to prevent human errors. The data entered into the Land Office must be correct and aligned with the on-ground reality.

Analysis of Legal Protection for Parties Recorded in Ownership Certificates Revoked by Judges in the Supreme Court Cassation Verdict Number 2284 K/Pdt/2021.

According to the explanation of Government Regulation No. 24 of 1997 concerning Land Registration, land registration in Indonesia employs a negative publication system, while also incorporating elements of a positive publication system. In cases where the Land Deed Official and the Land Office intervene in the transfer of land rights, a positive system is utilized to ensure that the registered name is the rightful owner, without closing the opportunity for the actual rightful person to defend themselves.

Therefore, even though a certificate can serve as a strong evidentiary tool, other parties can challenge its validity with the support of compelling evidence that can prove otherwise. Certificates, as potent means of proof, must ensure the owner's identity and land location, boundaries and extent of the land, as well as legal certainty concerning their land rights (Ariadi & Saptono, 2017).

Other parties who feel aggrieved can file a lawsuit against the land ownership certificate. In matters of land ownership rights, there will be doubts and uncertainties about who is entitled to those rights. As a result, there is a need for legal protection to ascertain the true holder of the recognized land rights.

The judge can provide both preventive and repressive protection to parties whose rights have been revoked by the judge, which encompasses:

1) According to Article 32 Paragraph (2) of Government Regulation No. 24 of 1997 concerning Land Registration, an individual listed in the certificate cannot be subject to a lawsuit by another party claiming land rights after a period of 5 years. Their status as the landowner will continue to be protected as long as the land is owned lawfully and in good faith by the rights holder.

2) It is crucial for judges to examine and verify the accuracy of the information stated in the certificate. Judges must substantiate, investigate, and scrutinize the source of the certificate. It must be ensured that the person applying for land rights registration genuinely holds the rights to the land. This signifies that they legitimately acquired the rights to the land from the authorized party that transferred those rights, as well as the authenticity of all the information contained within the certificate, in order to determine who genuinely holds the land rights and obtains the land ownership certificate.

3) Every decision made by a judge may not necessarily be deemed legally correct, as it is not exempt from errors and fallibility... and can even potentially be biased. In order to rectify these errors and oversights, the decision can be subject to reexamination in pursuit of upholding justice and truth. Engaging in legal efforts is the most effective means to achieve justice and truth. In the case of Number

25/Pdt.G/2020/PN.KIn up to the verdict of Number 2284K/Pdt/2021, the judge rejected the evidence that the Defendant possessed an ownership certificate over the land, as these legal efforts encompass opposition (verzet), appeal, and cassation.

4) Legal Protection for Parties Registered in Ownership Certificates Revoked by a Judge: Article 32, Paragraph (2) of Government Regulation No. 24 of 1997 regarding Land Registration stipulates that holders of land rights must be protected repressively and preventively. The role of the judge in determining holders of land rights with land ownership certificates that have been issued is to ensure that they are legitimate land rights holders.

D. CONCLUSION

1. The Judge's Consideration in Revoking Ownership Certificate Number 588 in the name of Slamet Siswosuharjo as the Defendant of the Convention/Plaintiff of the Reconviction: in the verdict of case Number 2284 K/Pdt/2021, the Convention Plaintiff/Reconviction Defendant's written evidence and the testimony of witnesses presented by the Convention Plaintiff/Reconviction Defendant were more extensively considered by the court due to their interconnectedness. Consequently, the

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evidence of land ownership through the Ownership Certificate held by the Defendant and the evidence of land possession by the Defendant were not deemed substantial pieces of evidence by the judge in case Number 2284 K/Pdt/2021.

2. Legal Protection for Parties Registered in Revoked Land Ownership Certificates by Judges: Article 32, Paragraph (2) of Government Regulation No. 24 of 1997 concerning Land Registration stipulates that land rights holders must be protected repressively and preventively. The role of the judge in determining land rights holders with land ownership certificates that have been issued is to ensure that they are the legitimate land rights holders.

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