



## Juridical analysis of the supreme court's decision against land ownership certificates which are declared null by law

Sarah Nazalia<sup>1</sup>, Dahlan<sup>2</sup>, Suhaimi<sup>2</sup>

<sup>1</sup> Faculty of Law, Master of Notary, Syiah Kuala University, Indonesia

<sup>2</sup> Lecturer, Faculty of Law, Syiah Kuala University, Indonesia

### Abstract

Certificates of land rights have received recognition in the Basic Agrarian Law UUPA, but even though they have received recognition in the UUPA land certificates have not fully guaranteed legal certainty for their owners. This is because the laws and regulations provide opportunities for other parties who feel they have rights over the land to file a lawsuit in court. This study aims to analyze the decision of the supreme court on the object of a land dispute which was declared null and void by the Supreme Court Decision Number 2562 KPdt2016, and analyze the legal consequences arising from the judge's decision declaring the object of the land dispute null and void in terms of PP No. 24 of 1997 for holders land title certificate. This study uses normative juridical research methods, with a statutory approach. The results of research on the Supreme Court Decision Number 2562 KPdt2016 Against the Object of the Land Dispute which was declared null and void, it can be seen that the legal actions taken by the defendants in this case are the ownership of land rights certificates owned by sale and purchase are invalid and are considered never There is.

**Keywords:** Supreme court decision, object of land dispute, null by law

### Introduction

Land ownership is a human right of every Indonesian citizen which is regulated in the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia), in particular Article 28H which states that every person has the right to have private property rights and these property rights may not be taken over. arbitrarily by anyone. The state guarantees the rights of its citizens to own private property rights including land.

As a consequence of the state's recognition of land rights owned by individuals or legal entities, the state is obliged to provide guarantees of legal certainty regarding these land rights, so that any person or legal entity that has said rights can defend their rights. In order to provide protection and guarantee legal certainty, the Government conducts land registration, the final product of which is a land certificate.

Article 32 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration (PP No. 24 of 1997) states that a Certificate is a letter of proof of rights that applies as a strong means of proof regarding the physical data and juridical data contained therein, as long as the data The physical and juridical data are in accordance with the data contained in the measurement certificate and land title book concerned.

Certificates of land rights have received recognition in the Basic Agrarian Law (UUPA), but even though they have received recognition in the UUPA, land certificates have not fully guaranteed legal certainty for their owners. This is because the laws and regulations provide opportunities for other parties who feel they have rights over the land to file a lawsuit in court.

Based on the foregoing, it can be seen that a certificate of land rights is only legal evidence of land ownership, but does not guarantee absolute ownership of the land.

Therefore, legal certainty for certificate holders of land rights is not fully guaranteed.

The possibility of land problems arising is not only for land parcels that have not been registered, even those that have been registered (certified) still have problems, especially those that have not been or are not registered. This means that certificates of land rights that have been registered may still harbor a myriad of problems both concerning other parties (subjects of other rights) and concerning the subject of the right holder as stated in the certificate of land rights (himself).

One of the cases regarding the matter above is regarding the ownership of certificates of ownership rights over land that occurred in the City of Lhokseumawe. This case began with the issuance of certificate of ownership no. 1589 in part of the garden land on 5 July 2007 covering an area of 1,584 m<sup>2</sup> in Tumpok Teungoh Village, Banda Sakti District, Lhokseumawe City on behalf of Defendant I (Dharma Bakti). Even though the land was already owned by Said Husin Al-Habsy based on the deed of sale and purchase dated February 18, 1964 with an area of 16,886 m<sup>2</sup>. So that with the issuance of certificate of ownership no. In 1589, Said Husin Al-Habsy's land area was reduced to 15,302 m<sup>2</sup>. In 2008 Defendant I sold part of the land area of 462 m<sup>2</sup> to Defendant II (Jasmah), which was also issued a certificate of ownership no. 1624 of 2008. Whereas in 2008 by Defendant II (Jasmah), the disputed land contained in the certificate of ownership was resold to Defendant III (Irfan) and until now the disputed land is controlled by Defendant III.

Muhammad Husin as the heir of the deceased father of the plaintiff, namely Said Husin Al-Habsy, felt disadvantaged over the land controlled by the defendants above, therefore the plaintiff filed a lawsuit with the Lhokseumawe District

Court with case number 3/Pdt.G/2015/ PN Lsm to find a solution.

Referring to article 1265 of the Civil Code that a void condition is a condition which, if fulfilled, terminates the engagement, and brings everything back to its original state, as if there had never been an agreement.

Based on this statement, it means that all legal actions taken by the defendants related to the land which is the object of the dispute, are declared null and void by the court. This means that all legal actions taken by the defendants related to the land, such as agreements, granting mortgage rights, or selling land, are considered invalid and have no legal force.

The decision of the district court declaring that the legal actions carried out by the defendant on the land object of the dispute are null and void has very important legal implications for land certificates. This decision has an impact on the validity and legal force of the land certificate owned by the defendant, even for third parties who legally obtained the certificate.

The decision mentioned above, for parties who have certificates of ownership of land, which are obtained by procedures in accordance with statutory provisions or in accordance with PP No. 24 of 1997 or in accordance with legal procedures, namely the land certificate is issued by the Land Office, then of course it does not provide guarantees of certainty and legal protection for the owner.

Based on the explanation above, it can be seen that the decision does not provide guarantees of certainty and legal protection for the owner of the certificate, because of the provisions of Article 32 paragraph (2) PP No 24 of 1997 which provides a time limit for other parties who feel they have rights over the land to demand the exercise of this right. If the other party does not file a written objection or file a lawsuit in court within 5 years of the issuance of the certificate, then they lose their right to demand the exercise of that right.

Based on the background above, it is known that there are things that can be formulated as follows:

1. What are the considerations of the Supreme Court judges in the Supreme Court Decision Number 2562 K/Pdt/2016 which declares null and void?
2. What are the legal consequences arising from the judge's decision declaring the object of the land dispute null and void in terms of PP No. 24 of 1997?

### Research methods

The statutory approach and the conceptual approach are used in the research method, which is normative with an empirical approach (normative-empirical). Primary legal documents, secondary legal materials, and tertiary legal materials pertaining to Land Registration and PPAT are the sources of legal information used in this study.

### Results and Discussion

#### 1. What are the considerations of the Supreme Court judges in the Supreme Court Decision Number 2562 K/Pdt/2016 which declares null and void

Based on the lawsuit, the Lhokseumawe District Court has given a Decision Number 3/Pdt.G/2015/PN. Lsm with the following verdict:

1. Granted the Plaintiff's claim in part
2. Declare that the object of dispute, namely a piece of garden land based on the Acknowledgment Letter for Sale in the name of Said Husin Al-Habsy on 18 February 1964, is legally owned by the plaintiff.

3. Declare the valid and enforceable letter of acknowledgment of Sale dated 18 February 1964 in the name of Said Husin Al-Habsji.
4. Stating that the actions of the defendants are against the law (*wrong matigdaad*).
5. Declaring that all legal acts done by the defendants on the land object of the dispute are null and void for the sake of law so that they have no legal force.
6. And punish the defendants and the people who obtained the right from him to vacate the disputed object and hand it over to the plaintiff.

Based on this decision, the defendants submitted an appeal to the Banda Aceh High Court with case number 1/Pdt/2016/PT. Bna. In the decision at the appeal level, the panel of judges differed from the panel of judges at the Lhokseumawe District Court, in which the Banda High Court decided:

1. Accepting the appeal application from the appellant/again defendants, and co-defendant I, co-defendant II;
2. Canceled the decision of the Lhokseumawe District Court dated 03 August 2015 Number: 03/Pdt.G/2015/PN-LSm which was being appealed.

Based on the decision of the Banda Aceh High Court, the defendant used to be a plaintiff at the first level and filed an appeal to the Supreme Court. This is due to the defendant's dissatisfaction with the decision of the Banda Aceh High Court which accepted a lawsuit from the plaintiff who was previously the defendant in the land dispute that occurred.

At the cassation level, the Supreme Court judge decided this case with case number 2562 K/Pdt/2016 in his decision affirming and clarifying the decision of the Lhokseumawe District Court Number. 3/Pdt.G/2015 PN-LSm, in which the verdict is as follows:

1. Granted the cassation request from the Cassation applicant Muhammad Husin
2. Canceling the decision of the Banda Aceh High Court Number 1/Pdt/2016/PT. Bna

Not only at the cassation level, the applicants at the cassation level or the plaintiff at the Lhokseumawe District Court level also filed other legal remedies, namely at the Judicial Review level with case number 458 PK/Pdt/2018. In the judicial review, the judge, based on his considerations, decided which ruling the verdict was as follows:

1. Rejected the request for review from the applicant for review I: Safaruddin alias Adek and the petitioners for review II: Herman Junaidi alias Win Bin Muhammad Kasah, Nurhayati Binti Ramli, Saifuddin Bin M. Jamil.
2. Punish the Petitioner for Judicial Review I and the Petitioner for Judicial Review II to pay the costs of the case at all stages of the trial which are at the judicial-review level in the amount of Rp. 2,500,00.00 (two million five hundred thousand rupiah).

Based on the court decision above, starting from the first level at the Lhokseumawe District Court, then at the Appellate level at PT. Banda Aceh, at the cassation level at the Supreme Court, until the Judicial Review (PK) found that the object of the dispute in the form of land rights was won by the plaintiff. While the actions of the defendants are

unlawful acts (*wrong matigdaad*) and all legal acts done by the defendants on the land object of the dispute are null and void by law so that they have no legal force.

## 2. What are the legal consequences arising from the judge's decision declaring the object of the land dispute null and void in terms of PP No. 24 of 1997

The legal consequences arising from the decision of the Supreme Court Judge Number 2562 K/Pdt/2016 which at one point stated that the object of the land dispute was null and void. If viewed from PP No. 24 of 1997, it can result in consequences for the holder of the certificate of ownership of the land. In the case of a judge's decision declaring the object of the land dispute null and void, the holder of the title certificate will lose the ownership rights to the land listed in the certificate. This is because the decision is null and void which can result in the cancellation or deletion of the certificate issued based on the object of the land dispute which is declared null and void.

In this context, an analysis related to the legal consequences arising from a judge's decision declaring the object of a land dispute null and void, based on Government Regulation No. 24 of 1997 for holders of certificates of ownership of land, may include the following aspects:

1. Loss of certificate validity:  
The Supreme Court judge's decision Number: 2562 K/Pdt/2016 stated that the object of the land dispute was null and void, so the legal consequences for the certificates of ownership of the land owned by the Defendants lost their validity. Government Regulation Number 24 of 1997 stipulates that a certificate of ownership must be based on legal ownership and is legally recognized, even though it has been done legally but can be canceled if there are parties who can prove the invalidity of the issuance of the certificate. In this case, the certificate becomes invalid.
2. The Defendant's obligation to return the disputed object land owned and controlled by the Defendants.  
For the defendants who have land ownership certificates which are later declared null and void by the Supreme Court Decision, they can face legal consequences. They must return the disputed land object to the plaintiff or return the land object controlled by the defendants to the plaintiff.
3. Impact on land registration.  
The judge's decision declaring the object of the land dispute null and void may have an impact on the land registration process. Government Regulation No. 24 of 1997 requires holders of property rights certificates to register their land. However, if the object of the land dispute is declared null and void, the registration cannot be carried out or must be cancelled.

Thus a certificate of ownership as proof of a letter that has strong evidentiary power can still be contested and canceled if there is evidence to the contrary, namely if the physical data and juridical data contained in the certificate do not match the data in the land book and measurement certificate kept by the Land Office, then the certificate is null and void. Furthermore, if the physical data and juridical data contained in the certificate, even though the physical data and juridical data are in accordance with the data in the land book and measurement certificate kept at the Land Office,

the objecting party can prove otherwise, then the certificate is null and void.

## Conclusion

Decision of the Supreme Court Number 2562 K/Pdt/2016 Against the Object of the Land Dispute which was declared null and void, it can be seen that the legal actions taken by the defendants in this case are ownership of certificates of land rights owned by sale and purchase are invalid and are considered invalid ever existed. The legal consequences arising from the decision of the judge declaring the object of the land dispute null and void in terms of PP No. 24 of 1997 is that the certificate of land rights does not have validity and legal force and does not provide legal certainty and legal protection for the defendants who have title certificates. above ground.

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