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JURIDICAL REVIEW OF THE TRANSFER OF LAND RIGHTS ORIGINATING FROM A DEBT AND CREDIT AGREEMENT (STUDY OF DECISION NUMBER 73/PDT/2018/PT SMG)

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Abstract

The transfer of land rights originating from a debt agreement is a legal phenomenon that often occurs in society. The purpose of this study is to understand the legal actions in which the burdening of rights changes into a transfer of rights and to determine the legal consequences of the annulment of the transfer of rights based on court decision number 73/PDT/2018/PT SMG. The method used in this research is normative juridical law. The result of this research is that the annulment of the transfer of rights provides an important lesson that every transfer of rights must be carried out by adhering to valid legal procedures to avoid legal harm to the parties involved and to ensure legal certainty in the national land administration system.

Keywords: Transfer Of Land Rights, Debt Agreements, Law

Abstrak

Peralihan hak atas tanah yang bermula dari perjanjian hutang piutang merupakan fenomena hukum yang sering terjadi di masyarakat. Tujuan dari penelitian ini adalah untuk mengetahui perbuatan hukum yang semula pembebanan hak berubah menjadi peralihan hak dan untuk mengetahui akibat hukum dibataalkannya proses peralihan hak berdasarkan putusan hakim nomor 73/pdt/2018/pt smg. Metode dalam penelitian ini adalah hukum yuridis normative. Hasil dalam penelitian ini adalah pembatalan peralihan hak ini memberikan pelajaran penting bahwa setiap peralihan hak harus dilakukan dengan mematuhi prosedur hukum yang sah, agar tidak menimbulkan kerugian hukum bagi pihak-pihak yang terlibat dan untuk menjaga kepastian hukum dalam sistem administrasi pertanahan nasional.

Kata kunci: Peralihan Hak Atas Tanah, Hutang Piutang, Hukum

INTRODUCTION

The transfer of land rights starting from a debt and credit agreement is a legal phenomenon that often occurs in the community. This case usually involves the lender (the creditor) and the debtor (the debtor) where land is used as collateral or the object of the agreement. From the perspective of civil law, a debt and credit agreement becomes the basis of the legal relationship between the two parties, which is generally bound through an authentic agreement or deed before a notary (Siregar, 2022). Research on Decision Number 73/Pdt/2018/PT SMG provides an overview of the complexity of the

problem of land rights transfer due to default in a debit and credit agreement and efforts to resolve it through legal mechanisms. In this decision, the main legal problem lies in the control and transfer of land rights carried out by creditors against land owned by debtors who cannot repay their debts. According to Permadi, (2023), Creditors often take advantage of this condition by forcing debtors to hand over land rights as debt repayment, without going through the transfer of rights procedure per legal provisions. Laws and regulations, especially Law No. 5 of 1960 on Basic Agrarian Principles (UUPA), stipulate that the transfer of land rights must be carried out through a legal sale and purchase process and registered at the National Land Agency (BPN). However, in practice, many transfers of rights are made through “underhand agreements” that often disadvantage one of the parties, especially the debtor (Marhel, 2018).

Decision No. 73/Pdt/2018/PT SMG highlights how the courts of first instance and appeal handle cases of transfer of rights that are not per procedures. In this case, the debtor filed a lawsuit because he felt aggrieved by the actions of the creditor who unilaterally controlled and transferred the debtor's land rights without any valid consent or proper compensation (Aristiawati & Nugroho, 2022). The court considered that the creditor's actions violated the principles of legal certainty and justice, especially because the process of transferring land rights did not fulfill the formal and material requirements as stipulated in agrarian law and treaty law. This decision also emphasizes the importance of caution in drafting debt and credit agreements involving land as collateral. The agreement should include a clear clause regarding the settlement mechanism in the event of default, including the steps that must be taken before the land can be transferred as debt repayment. According to Arief et al., (2023), creditors are also required to respect the rights of debtors and not take actions that exceed their authority. This is per the principle of good faith which is one of the main foundations in the law of agreements.

This case also shows weaknesses in supervision and law enforcement related to the transfer of land rights. Many people do not fully understand the applicable legal procedures, so they are easily victimized by practices that do not follow the law. To overcome this, broader education on agrarian law is needed, especially for parties who are often involved in debt and credit agreements. According to Sintawati et al., (2023), the role of notaries and land deed officials (PPAT) is crucial in ensuring that every agreement involving land is per applicable legal provisions. In a juridical review, Decision No. 73/Pdt/2018/PT SMG also underlines the role of the court in providing justice to the parties in dispute.

The court must be able to carefully assess whether the agreement on which the transfer of rights is based has fulfilled the legal requirements of an agreement as stipulated in Article 1320 of the Civil Code (Maria Avelina Abon et al., 2022). If the agreement is legally defective, then the transfer of rights based on the agreement will also be invalid. In this case, the court acts as the guardian of legal certainty as well as the protector of public rights. This decision highlights the importance of transparency and accountability in every land title transfer process. Creditors cannot simply take control of the debtor's land without going through a fair and open legal process. Conversely, the debtor must also understand his obligation to repay the debt under the agreed agreement. The balance

between the rights and obligations of both parties is the essence of equitable dispute resolution (Sri Murni, 2018). The study of Decision No. 73/Pdt/2018/PT SMG provides a valuable lesson on the importance of compliance with legal procedures in any transaction involving land. Non-compliance with such procedures is not only detrimental to the parties involved but also creates legal uncertainty that can have wider impacts. All parties involved in a debt and credit agreement involving land as collateral must ensure that every step taken is under the applicable laws and regulations (Anandari et al., 2023).

METHOD

The normative juridical research method is used in this research to examine the transfer of land rights originating from a debt and credit agreement based on Decision Study Number 73/PDT/2018/PT SMG. This method focuses on analyzing legal documents, such as laws and regulations, legal doctrines, and court decisions. This research prioritizes a conceptual approach and a case approach to understand the applicable legal rules related to debt and credit agreements involving land as an object or collateral. The conceptual approach is used to examine the basic principles in civil law and agrarian law governing debt and credit agreements and the transfer of land rights. The case approach is applied to analyze the legal facts and considerations of the judges in Decision Number 73/PDT/2018/PT SMG. This analysis aims to identify whether the transfer of land rights in the case was following the applicable legal provisions.

RESULT AND DISCUSSION

Legal acts in the context of civil law refer to actions that have legal consequences, be they rights or obligations. In this case, encumbrance of rights and transfer of rights are two types of legal acts that have different characteristics and legal consequences, although in some cases, they can be interrelated. Encumbrance, in general, means the granting of a right to another party, such as in the case of granting a right of dependency on certain land or objects, where the right does not change the ownership of the encumbered object. According to Larasati & Raffles, (2020) The transition of rights refers to the transfer of ownership rights or other rights to another party, resulting in a change in the legal subject who has the right to the object. So, what causes legal acts that were originally in the form of an encumbrance of rights to change into the transfer of rights?

One of the main reasons for the transfer of rights from the encumbrance of rights is the existence of default or failure to fulfill the obligations of the party who encumbers rights. In the context of debt and receivables agreements, when the debtor is unable to fulfill its obligation to pay the debt, the creditor often looks for ways to obtain compensation or debt repayment. (Keumala & Setiono, 2023). One of the mechanisms used is to change the encumbrance of rights over an object, such as dependent rights, to a transfer of rights. In this case, land that was previously only burdened with dependent rights by the debtor, after the debtor fails to fulfill its obligations, can be transferred to the creditor as a replacement for the unpaid debt. This process generally occurs through agreements that are carefully regulated so as not to conflict with applicable law.

However, the change from encumbrance of rights to transfer of rights is not always desired or agreed upon by both parties. Sometimes, this arises due to a misunderstanding

or inconsistency in understanding the terms of the agreement (Cahyaning Mustika Sari et al., 2018). For example, in some debt and receivables agreements that use land as collateral, there is a clause that stipulates that if the debtor defaults, the land encumbered with dependent rights can be transferred to the creditor. This change in encumbrance to transfer of rights often raises legal debates, because often the debtor feels that the transfer of rights occurred without valid consent or correct procedures, thus harming his party.

Another factor that affects the transfer of rights to objects that were previously only encumbered by rights is the debtor's lack of understanding of the legal consequences of imposing these rights. In many cases, the debtor is often unaware that the imposition of land rights by him or her may lead to a transfer of rights if he fails to fulfill his obligations (Abdul, 2021). It is important for the parties involved in the agreement to have a thorough understanding of the legal provisions that govern their rights and obligations, especially with what happens when a default occurs. Another cause that triggers the change in entitlement to the transfer of rights is the mismatch between the value of the guarantee and the amount of debt that must be paid. In uncertain economic conditions, the market value of an object of collateral, such as land or buildings, can experience a significant decline.

When this happens, the creditor may feel that the entitlement to the object is no longer sufficient to guarantee the repayment of the debt, so he seeks to speed up the process of transferring ownership rights to obtain greater and more certain compensation. This process of change is often accompanied by an agreement that is made unilaterally by the creditor without the debtor's full involvement in the agreement (Dewi, 2021). This is especially the case in practices that are not fully transparent or when creditors take advantage of a stronger bargaining position. In some cases, the transfer of rights that should be a joint decision can be forced as a one-sided solution, which ultimately leads to injustice.

Related to the broader legal aspect, the encumbrance of rights that turns into a transfer of rights can occur due to the lack of clarity in the laws and regulations that regulate this. Although in agrarian law there are provisions regulating the imposition of land rights, such as dependent rights that can be transferred through certain procedures, often practice in the field shows different interpretations related to the process of transfer of rights (Taolin et al., 2024). Ignorance or negligence in following the correct legal procedures can lead to a change in the status of an object that was originally only encumbered by rights, to an object that completely transfers ownership. Another factor driving this change is the inability of the legal system to effectively supervise and enforce the rules.

Often, the process of transferring rights is carried out in an unauthorized way or without following the procedures regulated by law, resulting in losses for parties who are not directly involved in the agreement. It is important for stricter supervision and legal education to the public so that they better understand the implications of legal acts carried out, especially those involving land or property (Teak, 2022). The cancellation of the transfer of rights process based on the judge's decision Number 73/Pdt/2018/PT SMG has a significant legal impact, both for the parties involved in the agreement and for the

enforcement of the legal status of the object concerned. The transfer of land rights that were originally carried out through an agreement or other legal act can be canceled by the court if there are elements of impropriety, abuse of rights, or violations of applicable laws and regulations.

In this case, the ruling emphasizes that the transfer of rights carried out by certain parties is invalid and must be canceled to maintain justice and legal certainty. The first consequence of the cancellation of the transfer of rights process is the return of the ownership status of the object concerned to the previous owner. In this case, land or other objects that have transferred their ownership to a certain party based on an agreement annulled by the court will return to the property of the party who previously had the right to the object (Fathoni et al., 2022). This cancellation process means that the party receiving the transfer of rights can no longer claim ownership rights to the disputed land or object. In practical terms, this returns the object to the party that was originally the rightful owner.

Another legal consequence that arises is the possibility of a lawsuit against the parties involved in the cancellation of the transfer of rights. The party aggrieved by the cancellation of the transfer of rights has the right to file a claim for compensation for the losses experienced. In this context, if the transfer of rights is carried out illegally or in violation of the applicable provisions, the party who feels aggrieved may seek compensation for the losses caused by the cancellation. This also includes possible claims for costs incurred by parties who feel they have made transactions in good faith, such as notary fees, administrative fees, or even costs related to the utilization of objects that have changed ownership (Suardana and Wayan, 2023).

The cancellation of the transfer of rights also has the potential to cause losses to third parties who have received the rights to the land or object in good faith. Third parties who have made transactions and invested time and resources to take care of the transfer of rights, even in good faith, may be forced to face legal consequences, namely the cancellation of their rights to the object in question (Mr. Murni, 2018). In the process of transferring rights involving third parties, aspects of fairness and legal protection must be considered, by providing opportunities for third parties to prove that they made transactions in good faith and did not know of any legal defects in the transfer of rights. The cancellation of the transfer of rights process in the decision also underscores the importance of legal procedures in carrying out the transfer of land rights.

One of the legal consequences of this cancellation is increased awareness of the need to ensure that any process of transfer of rights is carried out following the applicable legal provisions. This includes provisions in the Basic Agrarian Law, as well as regulations related to the encumbrance and transfer of land rights, which govern how the process of transfer of rights must be carried out with transparency, clarity, and validity of the documents underlying the transaction. This revocation emphasizes that if legal procedures or provisions are not complied with, then the transfer of rights can be considered null and void. In a broader context, the cancellation of the transfer of rights also leads to the enforcement of the principle of justice in civil law (Anandari et al., 2023).

When the transfer of rights is carried out in a manner that does not follow the law, such as in the case of a debt and receivables agreement that is detrimental to one of the parties or violates the general principles of civil law, then the court has the authority to cancel the process to protect the aggrieved party (Larasati & Raffles, 2020). In this case, the judge's decision to cancel this transfer of rights can be seen as a step to prevent abuse of rights or injustice against parties who may not know or fully understand the legal consequences of the agreement they have made. This annulment also creates an important legal precedent in regulating legal relations involving land or other objects.

The decision that canceled the transfer of rights signals to the public that the legal system in Indonesia upholds the principles of fairness and legitimacy in transactions related to land rights. This is important to create a healthy investment climate and ensure that any transaction involving land or other property rights is carried out per the correct procedures, and does not harm any party. According to Keumala & Setiono, (2023) The cancellation of the transfer of land rights can also have an impact on the land administration process at the National Land Agency (BPN). The cancellation can affect the existing land records in the national land administration system. The process of canceling the transfer of rights requires the renewal or revocation of previously issued land rights documents. As a result, this can affect parties who have previously been registered as landowners and cause uncertainty in legal administration that requires a clarification and improvement process.

CONCLUSIONS

The cancellation of the process of transferring land rights based on the judge's decision Number 73/Pdt/2018/PT SMG provides several deep and significant legal consequences. The cancellation restores the ownership status of the land to the previous owner, which means that the party receiving the transfer of rights can no longer claim ownership of the land. The party aggrieved by this cancellation has the right to file a claim for compensation for the losses incurred, which includes the costs incurred in the transfer of rights transaction. Third parties involved in such a transfer of rights, even in good faith, may also face the legal consequences of this cancellation, which underscores the need for care in any land transfer transaction. In addition, this annulment emphasizes the importance of legal procedures and per the applicable legal provisions in any transfer of land rights, as an effort to prevent abuse of rights or injustice against the parties involved. This decision also serves as a legal precedent that emphasizes the principle of justice in legal transactions, especially in the transfer of land rights. This cancellation not only affects land rights directly, but can also have an impact on land administration managed by the National Land Agency (BPN), which must update the status of land ownership following the court decision.

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