

ABSTRACT

Bella Amanda Maharani Siboro (01051170242)

“THE LEGAL STANDING OF LESSEE THAT ORALLY APPOINTED AS A NOMINEE BY A FOREIGN CITIZEN IN A LAND LEASE AGREEMENT (CASE STUDY OF DISTRICT COURT’S DECISION NO. 112/PDT/G/2016/PN GIN)”

(xi + 104 pages)

Juridically, there is a prohibition on ownership of Freehold land title for foreigners domiciled in Indonesia. However, based on Article 42 and 45 The Basic Agrarian Law, foreigners are allowed to have the title of Right of Use and Leasehold. Foreigners work around this by entering into a nominee agreement with Indonesian citizens which aims to represent them in the Land Lease Agreement with the landlord by creating a lifetime period. It is as if it does not violate the regulations, but it is a hidden way of obtaining Freehold land title. The problem that is being researched is when the foreigner doesn't fulfill his obligations, then how the legal standing of the lessee that orally appointed as a nominee by the foreigners in the Land Lease Agreement and the ratio decidendi of the District Court's Decision No. 112/Pdt/G/2016/PN Gin. This research utilizes a normative legal research methods with case and conceptual approach. The result of this research is in a nominee agreement is known to have 2 (two) owner which in this case consist of foreigner (beneficiary owner) and Indonesia citizen that appointed as a nominee (legal owner). The standing of the Indonesian citizen is as lessee that is legally viewed as a lessee, with the result that when the events of default happen the person that is responsible is the Indonesia Citizen that is appointed as the nominee because he is the legal owner of the object that being rented. The Land Lease Agreement will be viewed as null and void because it didn't meet legal requirements as of stated in Article 1320 and 1548 of the Indonesia Civil Code which is the objective requirement "cause that is not prohibited" because the agreement with the duration of a lifetime and the purpose of the nominee agreement is the smuggling of law.

Keywords: Legal Standing, Lessee, Land Lease Agreement, Nominee Agreement
References: 61 (1945-2019)