

ABSTRAK

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KEABSAHAN SURAT KUASA MENJUAL TANPA PERSETUJUAN ISTRI DALAM AKTA KUASA MENJUAL (STUDI PUTUSAN PENINJAUAN KEMBALI NOMOR 811/PDT/2020)

(i-xii, 82 halaman)

Keabsahan surat kuasa menjual memiliki kedudukan yang sangat penting untuk pelaksanaan jual beli tanah, apabila si pemilik tanah berhalangan hadir untuk penandatanganan Akta Jual Beli dihadapan Pejabat yang berwenang. Seseorang yang ingin membuat surat kuasa untuk menjual hak atas tanahnya, sebelumnya harus memperhatikan syarat-syarat jual beli hak atas tanah yang diatur peraturan perundang-undangan. Apabila syarat sah diabaikan, maka dapat mengakibatkan surat kuasa menjual menjadi batal demi hukum. Pada praktiknya sebenarnya masih banyak ditemukan permasalahan-permasalahan yang timbul dari jual beli tanah berdasarkan surat kuasa menjual sebagaimana yang terjadi pada Putusan Peninjauan Kembali Nomor 811/PK/Pdt/2020. Dalam kasus ini, surat kuasa menjual dibuat tanpa persetujuan istri, dimana pada putusan tingkat pertama sampai dengan tingkat kasasi majelis hakim menyatakan batal demi hukum surat kuasa menjual tersebut. Namun dalam tingkat peninjauan kembali, surat kuasa menjual tanpa persetujuan istri dinyatakan sah oleh majelis hakim. Dari sini, maka penelitian ini mengangkat permasalahan yaitu mengenai keabsahan surat kuasa menjual tanpa persetujuan istri dalam KUHPerdara dan mengenai pertimbangan hakim terhadap keabsahan surat kuasa menjual tanpa persetujuan istri pada Putusan Peninjauan Kembali Nomor 811/PK/Pdt/2020. Penelitian ini dianalisis menggunakan metode penelitian yuridis normatif dan analisis kualitatif, menggunakan data sekunder. Dari hasil penelitian, ditemukan bahwa keabsahan surat kuasa menjual tanpa persetujuan istri melanggar syarat objektif dari perjanjian berdasarkan Pasal 1320 KUHPerdara. Majelis hakim peninjauan kembali disini lebih mengedepankan keadilan bagi kreditur untuk menerima apa yang menjadi hak nya. Namun majelis hakim mengabaikan keabsahan hukum dasar dari adanya peralihan jual beli hak atas tanah.

Kata kunci : Keabsahan, Surat Kuasa Menjual, Persetujuan Istri

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ABSTRACT

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THE VALIDITY OF THE POWER OF ATTORNEY TO SELL WITHOUT WIFE'S CONSENT IN THE POWER OF ATTORNEY DEED (JUDICIAL REVIEW DECISION STUDY NUMBER 811/PDT/2020)

(i-xii, 82 pages)

The validity of the power of attorney to sell has a very important position for the implementation of the land sale and purchase, if the land owner is unable to attend to sign the Deed of Sale and Purchase before an authorized official. A person who wants to make a power of attorney to sell their lands rights must first pay attention to the conditions for buying and selling land rights as regulated by law. If the legal requirements are ignored, it can result in the power of attorney of sale becoming null and void. In practice, there are still many problems that arise from buying and selling land based on a power of attorney in accordance with what occurred in Judicial Review Decision Number 811/PK/Pdt/2020. In this case, the power of attorney to sell was made without the wife's consent, where at the conclusion of the first level up to the cassation level the panel of judges declared the power of attorney to sell null and void. However, at the level of judicial review, the power of attorney to sell without the wife's consent was declared valid by the panel of judges. From here, this research raises issues regarding the validity of the power of attorney to sell without the wife's consent in the Civil Code and regarding the judge's consideration of the validity of the power of attorney to sell without the wife's consent in Judicial Review Decision Number 811/PK/Pdt/2020. This research was analyzed using normative juridical research methods and qualitative analysis, using secondary data. From the research results, it was found that the validity of the power of attorney to sell without the wife's consent violates the terms and conditions of the agreement based on Article 1320 of the Civil Code. The review panel of judges here prioritizes justice for creditors to receive what is their right. However, the panel of judges ignored the basic legal validity of the sale and purchase of land rights.

Keywords : Validity, Power of Attorney to Sell, Wife's Consent

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