

ABSTRACT

Nafla Nurlita (01051180242)

“JURIDICAL ANALYSIS OF OVERLAPPING PROPERTY RIGHTS CERTIFICATES WITH RIGHTS OF USE IN LUKLUK VILLAGE, BADUNG DISTRICT (RESEARCH CASE NO. 410/PK/PDT/2019)”

(xiii + 113 pages)

Every Indonesian citizen has the same opportunity to obtain land rights. To obtain land rights, the land must be registered to obtain a certificate of land rights as proof of ownership rights. However, from year to year land problems in Indonesia still often occur, one of which is overlapping certificates on the same land, resulting in legal uncertainty for each party holding land rights. Ari Anjasmoro and Sutikno as the Plaintiffs filed a lawsuit to the Denpasar District Court because the Certificate of Property Rights No. 676/Desa Sempidi in the name of Ari Anjasmoro overlaps with the certificate of Right of Use No. 1/Kelurahan Lukluk on behalf of the Bali Provincial Government as Co-Defendant. This research used a normative juridical method and used a statutory, case, and conceptual approach. The result is the legal certainty of the certificate of ownership rights that overlaps with the right of use is not fulfilled, so that to obtain legal certainty someone can sue the court on the condition that the certificate to be sued is more than 5 years old as regulated in Article 64 paragraph (2) of Government Regulations Number 18 of 2021. As a solution for the future, the Government organizes a land registration program and electronic certificate issuance, as regulated in Article 147 of the Job Creation Act. The Panel of Judges of the Denpasar District Court and the Denpasar High Court were correct because they were subject to Article 19 paragraph (2) letter c of Law Number 5 of 1960, thus deciding on the Plaintiff's valid certificate. Meanwhile, the author of the Cassation decision and the judicial review decision did not agree because the Judge did not state who the owner of the right to the land was, while everyone had the right to affirm their rights and obtain protection over the registered land as mandated in Article 1865 of the Civil Code and Article 3 of Government Regulations Number 24 of 1997. Therefore, the decision does not provide legal certainty and justice for the parties.

References: 53 (1945-2021)

Keywords: Overlapping Land, Property Rights, Rights of Use