

ABSTRAK

ANALISIS HUKUM TERHADAP PERALIHAN TANAH BENGKOK (BERDASARKAN SK GUBERNUR NO. 145.1/2549/PEMDES PERIHAL PERSETUJUAN TUKAR MENUKAR SEWA KONTRAK DAN PELEPASAN TANAH KAS DESA) DI DESA SUKAPADA KECAMATAN PAGERAGEUNG KABUPATEN TASIKMALAYA

Tanah kas desa adalah merupakan salah satu aset dari desa dan dipergunakan bagi kepentingan dan kemakmuran desa itu sendiri. Kenyataan yang terjadi adalah bahwa tanah kas desa dapat dialihkan kepada masyarakat berdasarkan persetujuan oleh pemerintah desa kepada masyarakat desa dengan mengacu pada peraturan perundang-undangan. Penelitian ini mengajukan permasalahan tentang bagaimana pengaturan pelaksanaan peralihan hak atas tanah kas desa, bagaimana pelaksanaan peralihan hak atas tanah kas desa dan bagaimana kendala dan upaya penanggulangan dalam proses peralihan hak atas tanah kas desa kepada masyarakat.

Jenis penelitian ini adalah penelitian hukum normatif, adalah metode atau cara yang dipergunakan di dalam penelitian hukum yang dilakukan dengan cara meneliti bahan pustaka yang ada ditambah penelitian lapangan di Desa Sukapada Kecamatan Pagerageung.

Hasil penelitian dan pembahasan menjelaskan pengaturan pelaksanaan peralihan hak atas tanah kas desa dilakukan berdasarkan SK Gubernur No. 145.1/2549/PEMDES Perihal Persetujuan Tukar Menukar Sewa Kontrak dan Pelepasan Tanah Kas Desa Tentang Pengelolaan Aset Desa yang terbit disebabkan lahirnya Undang-Undang tentang Desa. Peraturan tersebut menjelaskan bahwa pelaksanaan peralihan hak atas tanah kas desa dapat dilakukan dengan cara tukar menukar dan penyertaan modal. Tukar menukar tersebut dilakukan berdasarkan pertimbangan dari kepala daerah (Bupati) dan juga mendapatkan izin dari Gubernur. Pelaksanaan peralihan hak atas tanah kas desa dilakukan sesuai dengan ketentuan perundang-undangan khususnya SK Gubernur No. 145.1/2549/PEMDES Perihal Persetujuan Tukar Menukar Sewa Kontrak dan Pelepasan Tanah Kas Desa dimana dalam ketentuan tersebut dijelaskan bahwa peralihan tersebut hanya dapat dilakukan melalui tukar menukar dan penyertaan modal, dan dalam proses tersebut peranan Kepala Desa amat sangat sentral dalam terwujudnya peralihan hak atas tanah kas desa tersebut. Kendala dalam proses peralihan hak atas tanah kas desa kepada masyarakat oleh pemerintah desa meliputi adanya peraturan yang sifatnya temporal sehingga menghambat terhadap upaya peralihan tanah kas desa, tidak adanya payung hukum berupa peraturan daerah dalam kaitannya dengan administrasi kewenangan pemerintah desa atas peralihan tanah kas desa, munculnya konflik serta Tanah kas desa tersebut sudah didaftarkan ke BPN dan memiliki sertifikat.

ABSTRACT

THE LEGAL ANALYSIS OF TRANSFER OF THE VILLAGE TREASURY LAND (BASED ON SK GOVERNOR NO. 145.1/2549/PEMDES REGARDING THE AGREEMENT TO EXCHANGE RENTAL CONTRACTS AND THE RELEASE OF LAND TO THE VILLAGETREASURY) IN SUKAPADA VILLAGE PAGERAGEUNG DISTRICT TASIKMALAYA REGENCY

The village treasury is one of the assets of the village and is used for the interests and prosperity of the village itself. The fact that there is misuse of the village's cash lands is not managed by the village government but by the village community with the benefit of the community itself. This research raises the question of how to regulate the transition of rights over the village's cash lands, how the transition of rights over the village cash lands and how the constraints and efforts to overcome in the process of transition of community-managed village cash rights to village government.

This type of research is normative legal research, is a method or method used in legal research conducted by examining existing library materials plus field research in Sukapada Village Pagerageung Subdistrict Tasikmalaya.

The results of the study and discussion explain the regulation of the implementation of the transition of land rights of village land based on the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 1 Year No. 145.1/2549/PEMDES About Management of Village Assets published due to the birth of Law no. 6 Year 2014 on the Village. The Regulation of the Minister of Home Affairs explains that the implementation of the transition of land rights to village land can be done by exchange and equity. The swap was made on the basis of consideration from the regional head (Bupati) and also obtained permission from the Governor. The implementation of the transition of village land rights is carried out in accordance with the provisions of legislation, especially the Regulation of the Minister of Home Affairs of the Republic of Indonesia No. 145.1/2549/PEMDES on Village Asset Management where in the provision it is explained that the transition can only be done through exchange and equity, and in the process the role of the Village Head is very central in the realization of the transfer of the village's land right. Constraints in the process of transition of community-managed village cash rights to the village government include the community's refusal of efforts by the village government to take over the village's cash, the absence of a legal umbrella in the form of local regulations in relation to the administrative authority of the village government over land management village cash, the emergence of conflicts and the village treasury has been registered to BPN and has a certificate.