

ABSTRAK

Untuk mengetahui dan menganalisis pertimbangan hakim tentang peralihan hak yang belum sempurna studi kasus putusan nomor 22/Pdt.G/2021/PN Klt dan putusan hakim omor 22/Pdt.G/2021/PN/Klt telah sesuai dengan penegakan hukum. Hasil penelitian Pertimbangan hakim tersebut, hakim menyatakan bahwa Pasal 1320 KUHPerdara merupakan syarat sahnya suatu perjanjian apabila memenuhi empat syarat. Dalam Putusan Nomor 22/Pdt.G/2021/PN Klt, Majelis Hakim berpendapat bahwa syarat kesatu dalam Pasal 1320 yang berkaitan dengan syarat subyektif atas sahnya suatu perjanjian tidak terpenuhi, dikarenakan tidak ada persesuaian kehendak oleh para pihak. Sebenarnya, menurut penulis terkait kesepakatan yang terjadi oleh para pihak bukan mengenai persesuaian mengenai kewajiban yang harus dilakukan oleh para pihak, akan tetapi pada saat kesepakatan awal pada saat para pihak tersebut setuju terhadap objek dan juga harganya. Karena, suatu perjanjian jual beli yang sah lahir apabila kedua belah pihak telah setuju tentang harga dan barang. Hal tersebut tercantum dalam Pasal 1458 KUHPerdara dan Putusan hakim yang ada di kasus nomor 22/Pdt.G/2021/PN Klt sudah sesuai dengan penerapan hukum karena Tergugat melakukan wanprestasi serta Tergugat berkewajiban mengurus penyelesaian proses balik nama sertifikat tanah yang diperjual belikan tersebut dan Majelis Hakim menilai Tergugat juga telah lalai dan tidak aktif dalam hal tersebut, padahal Tergugat sebagai penjual telah menerima seluruh haknya sebagaimana dalam proses jual beli antara Penggugat dan Tergugat. Maka dari itu hakim memutuskan bahwa dengan demikian, perbuatan yang dilakukan Tergugat merupakan suatu wanprestasi karena Tergugat berkewajiban mengurus penyelesaian proses balik nama sertifikat tanah yang diperjualbelikan tersebut dan Majelis Hakim menilai Tergugat juga telah lalai dan tidak aktif dalam hal tersebut, padahal Tergugat sebagai penjual telah menerima seluruh haknya sebagaimana dalam proses jual beli antara Penggugat dan Tergugat; Kabupaten Tanjung Jabung Propinsi Jambi, sekarang setelah pemekaran wilayah bernama Kelurahan Bram Itam Kiri Kecamatan Bram Itam Kabupaten Tanjung Jabung Barat Propinsi Jambi.

Kata Kunci : Jual Beli belum Sempurna dan Pertimbangan Hakim

ABSTRACT

To find out and analyze the judge's considerations regarding incomplete transfer of rights, the case study of decision number 22/Pdt.G/2021/PN Klt and judge's decision number 22/Pdt.G/2021/PN/Klt is in accordance with law enforcement. The results of the judge's consideration research, the judge stated that Article 1320 of the Civil Code is a condition for the validity of an agreement if it fulfills four conditions. In Decision Number 22/Pdt.G/2021/PN Klt, the Panel of Judges was of the opinion that the first requirement in Article 1320 relating to subjective requirements for the validity of an agreement was not fulfilled, because there was no agreement between the wishes of the parties. In fact, according to the author, the agreement between the parties is not about agreement regarding the obligations that must be carried out by the parties, but at the time of the initial agreement when the parties agree on the object and also the price. Because, a valid sale and purchase agreement is born if both parties have agreed on the price and goods. This is stated in Article 1458 of the Civil Code and the judge's decision in case number 22/Pdt.G/2021/PN Klt is in accordance with the application of the law because the Defendant committed a breach of contract and the Defendant is obliged to take care of the completion of the process of changing the name of the land certificate being traded and the Tribunal The judge considered that the Defendant had also been negligent and inactive in this matter, even though the Defendant as the seller had received all his rights as in the buying and selling process between the Plaintiff and the Defendant. Therefore, the judge decided that the actions carried out by the Defendant constituted a breach of contract because the Defendant was obliged to take care of the completion of the process of changing the name of the land certificate being traded and the Panel of Judges considered that the Defendant had also been negligent and inactive in this matter, even though the Defendant as the seller had received all rights as in the sale and purchase process between the Plaintiff and the Defendant; Tanjung Jabung Regency, Jambi Province, now after the expansion of the area it is called Bram Itam Kiri Village, Bram Itam District, West Tanjung Jabung Regency, Jambi Province.

Keywords: Incomplete sale and purchase and judge's consideration