
Juridical Review of Tort Based on Grant Deed in Land Dispute Settlement (Study Of District Court Decision Number: 54/Pdt. G/2021/Pn. Pwt)

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ABSTRACT

A grant is a legal action that aims to transfer ownership rights to another party. Grants can only be made to objects that already exist at the time of the grant. Grant problems are still the cause of disputes in the community, the result of grant problems is the lack of an authentic grant deed owned by the grantee or the lack of understanding of the difference in strength between grant and inheritance deeds, especially an object that is granted in the form of a plot of land. Land disputes related to grant deeds are generally a frequent conflict. The parties to the dispute are mostly individuals, which allows land disputes to cause losses for one of the parties to the dispute and does not rule out the possibility of bearing the most severe consequences. The purpose of this writing is to be able to know and understand the factors that cause unlawful acts committed as well as the legal review of decision Number. 54/Pdt. G/2021/Pn. Pwt. The formulation of the problems that arise in this writing is about how the factors that cause unlawful acts committed and how the legal review of decision Number. 54/Pdt. G/2021/Pn. Pwt. This writing is done using the normative juridical method through law and conceptual. In this study the authors used primary legal materials that are binding and secondary legal materials as references. The results of this study are about the factors that cause unlawful acts committed and the legal review of decision Number. 54/Pdt. G/2021/Pn. Pwt.

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I. INTRODUCTION

A grant is a legal action that aims to transfer ownership rights to another party. Grants can only be made to objects that already exist at the time of the grant. If the grant includes objects that do not yet exist or objects that will only occur in the future, then the grant is void (Article 1667 of the Civil Code).¹

The grant problem is still the cause of disputes in the community, the result of the grant problem is the lack of an authentic grant deed owned by the grantee or the lack of understanding of the difference in strength between the grant deed and inheritance, especially an object that is granted in the form of a plot of land. Land disputes related to grant deeds are generally a frequent conflict. The parties to the dispute are mostly individuals, which allows the land dispute to cause harm to one of the parties to the dispute and makes it

¹ Mahalayati, Abbas, and Dahlan, "kekuatan Hukum akta Hibah Untuk Anak Angkat."

impossible to bear the most severe consequences.² As in the case of unlawful acts, which is contained in District Court Decision Number. 54/Pdt. G/2021/Pn. Pwt, in a lawsuit between Widiawati Kuntjoro as plaintiff against Ivonyke Setyawati Andrianto and Eko Boediono as defendants. This case began when Widiawati Kuntjoro as the plaintiff owned half (1/2) of a plot of land and the building standing on it from her parents with Certificate of Ownership Number 1708 under the name Widiawati Kuntjoro (plaintiff) and Sri Andi Murni (mother of the defendant). During the course of the dispute, the plaintiff wanted to utilize half (1/2) of the disputed land that was rightfully hers. The plaintiff has often tried to ask for what is rightfully hers by way of deliberation, but the defendant as the beneficiary of her mother Sri Andi Murni who is the sibling of Widiawati

Kuntjoro as the plaintiff who currently occupies the disputed object has always refused, and the disputed object is used for trading by the defendant. Because of this, the plaintiff felt aggrieved and sued on the basis that the defendant had committed an unlawful act in the form of overall control of the disputed object which should have been half (1/2) of the plot of land and the building on it belonged to the plaintiff. The form of loss suffered by the plaintiff is a material loss of Rp. 1,750,000,000, - (one billion seven hundred and fifty million rupiah).

From the description above, the problems studied from the article entitled " JURIDICAL REVIEW OF TORT BASED ON GRANT DEED IN LAND DISPUTE SETTLEMENT " (Study of District Court Decision Number: 54/Pdt.G/2021/Pn. Pwt) " Case Study of District Court Decision Number. 54/Pdt. G/2021/Pn. Pwt, is about the factors that cause unlawful acts committed where the defendant has committed unlawful acts in the form of occupying the disputed object which is used for trading by the defendant. The causative factor for the unlawful act committed in this case was that the defendant felt that what he had done was correct and in accordance with the applicable regulations where the right of inheritance is 1/3 not 1/2. Therefore the defendant felt that occupying the disputed object was an act that was not against the law, and reviewed the Purwokerto District Court Decision Number. 54/Pdt. Regarding the explanation related to comparison with previous research, it can be seen that as in the research of M. Malahayati, S. Abbas, D Dahlan there are similarities and differences, such as in the research of M. Malahayati, S. Abbas, D Dahlan with this research is both examining the strength of the grant deed. The difference from the previous researcher is that it discusses how the legal force of the grant deed and the legal consequences of the grant deed for adopted children, while this research discusses how the causal factors and legal studies of unlawful acts based on grant deeds in land dispute resolution.

II. RESEARCH PROBLEMS

Based on the background of the problem above, the problems that arise in my research are

1. What are the factors causing unlawful acts in decision No. 54/Pdt. G/2021/Pn. 54/Pdt. G/2021/Pn. Pwt ?
2. How is the legal review of the Purwokerto District Court Decision Number. 54/Pdt. G/2021/Pn. Pwt ?

III. RESEARCH METHODS

This research uses a normative juridical approach method or also called doctrinal legal research, namely research conducted on written rules or norms made and promulgated by authorized officials.³

The approach method used in this research, namely the statutory approach (statue approach), a legal approach by examining the laws and regulations discussed, with the legal issues being addressed.

Secondary data is data obtained through research in several libraries, including official documents, books, research results in the form of reports, and so on.⁴ In this study the data source used is secondary data supported by primary data. In this case the secondary data that the author uses consists of 3 types of legal materials, namely primary legal materials, secondary legal materials, tertiary legal materials.

In this study the data was obtained using the Library Research technique. This technique is a data collection technique carried out by means of a literature study, where researchers obtain data related to the object of research study by studying various literature, as well as previously existing documents.

Data analysis is analyzed qualitatively, this method is used because the data that has been collected is a description of the sentences obtained from literature studies related to unlawful acts.

IV. RESULT AND DISCUSSION

1. **Factors causing unlawful acts in decision No. 54/Pdt. G/2021/Pn. 54/Pdt. G/2021/Pn. Pwt.**

² NINGRUM, "Analisis Hukum Sistem Penyelesaian Sengketa Atas Tanah Berbasis Keadilan."

³ Bambang Sunggono, *Metode Penelitian Hukum*, (Jakarta, PT. Raja Grafindo Persada, 2007), hlm.81.

⁴ Ammirudin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, (Jakarta: Rajawali Pers, 2004), hlm. 30.

Awful acts according to the Civil Code in article 1365, namely, every unlawful act that brings harm to a party, obliges the wrongdoer to compensate for the loss. The clause's link between the act committed and the loss incurred is also a condition of tort. The act committed must be against the law.⁵ Regarding the grant deed in positive law is a deed made by the grantee which is signed, made to be used as evidence of the grant and for the purposes for which the grant is made. Evidence in the form of writing is evidence that is prioritized or is the number one evidence when compared to other evidence.⁶ Then regarding a dispute concept is the cause of a dispute, quarrel, court. Basically, land disputes are a clash of interests in the land sector between who and who, for example between individuals with individuals with legal entities, legal entities with legal entities, and so on.

Factors causing unlawful acts in decision no. 54/Pdt. G/2021/Pn. Pwt is basically because the defendant feels that what he did was correct and in accordance with the applicable regulations where the right of inheritance is 1/3 not 1/2. Therefore, the defendant feels that occupying the disputed object is an act that is not against the law. As in the contents of decision Number. 54/Pdt. G/2021/Pn. Pwt, where there are several factors that cause unlawful acts to be committed, which contain in essence that the defendant feels that what the plaintiff has done is not correct and should recalculate and hand over the excess inheritance to the defendant as the heir of his parents. Then basically the defendant was willing to respect part of the plaintiff's rights by paying what he was entitled to, but the request made by the plaintiff was beyond reason and the defendant felt that it was the plaintiff who had committed an unlawful act here because he had withheld a certificate of ownership that should have been held by the defendant as the majority landowner.

2. legal review of the Purwokerto District Court Decision Number. 54/Pdt. G/2021/Pn.Pwt.

In the lawsuit that occurred in Purwokerto District Court Decision Number: 54/Pdt. G/2021/Pn. Pwt is a lawsuit regarding tort. It began when the plaintiff owned 1/2 of a piece of land and the building on it with a certificate of ownership number 1708 under the name of WIDIAWATI KUNTJORO (Plaintiff) and the late SRI ANDI MURNI (Mother of the Defendant). Then after the death of SRI ANDI MURNI, in addition to having an inheritance of 1/2 of the disputed object, she also had a child named IVONYKE SETYAWATI ANDRIANTO (Defendant). That when the Plaintiff wanted to utilize half of the disputed object which was her right, the defendant controlled and defended it and did not want to give up half of the disputed object which was the right of the plaintiff. The land in dispute was used for trading by the defendant. In the course of this case the plaintiff has often attempted to ask for the property which is the right of the plaintiff by way of deliberation both to the deceased SRI ANDI MURNI when she was still alive and to the defendant but she has always refused. After this lawsuit was filed at the Purwokerto District Court, the defendant did not want to give or hand over half of the plaintiff's property. That the defendant was legally obliged to hand over the aforementioned share to the plaintiff which was his right and because he did not want to hand over the half and half which was the right of the plaintiff, then in fact the defendant had committed an unlawful act. Therefore, based on Article 1365 of the Civil Code which states that every unlawful act that causes damage to another person, obliges the person who through his fault causes the damage, to compensate for the damage. Because in this case the Defendant did not want to hand over half of the 1/2 share which was the right or property of the Plaintiff, then in fact the Plaintiff has suffered a material loss of Rp. 1,750,000,000,- (one billion seven hundred and fifty million rupiah).

In a case of tort between WIDIAWATI KUNTJORO (Plaintiff) and IVONYKE SETYAWATI ANDRIANTO (Defendant), before entering the trial stage. The Plaintiff had often attempted to request the property of the plaintiff by way of deliberation but was always refused. In carrying out their duties, the Judges are assisted by the Registrar or a person assigned to do the work of a clerk. The clerk can also be referred to as the judge's secretary because of his duties and authority such as recording the course of the trial, making minutes, setting a trial schedule, typing draft decisions and signing minutes and decisions.⁷ The trial of the tort case between WIDIAWATI KUNTJORO (Plaintiff) and IVONYKE SETYAWATI ANDRIANTO (Defendant) is open to the public, where the wider community can access, see, and observe the trial of the case. Every hearing, whether civil or criminal, must be open to the public, unless the law provides otherwise. Basically, all court proceedings are open to the public. Article 153 paragraph (3) of the Criminal Procedure Code stipulates that for the purpose of examination, the presiding judge opens the session and declares the session open to the public except in cases concerning decency or if the defendant is a child. Violation of this principle results in the "nullity of the verdict" for the sake of law. This is in accordance with the provisions

⁵ Rizqy Rizqy and Syahrizal Syahrizal, 'Tinjauan Yuridis Terhadap Perbuatan Melawan Hukum Dan Sanksi Nya', *Jurnal Justisia : Jurnal Ilmu Hukum, Perundang-Undangan Dan Pranata Sosial*, 3.2 (2019)

⁶ Sudarsono, *Sepuluh Aspek Agama Islam*, PT. Rineka Cipta, Jakarta, 1994, hlm. 343.

⁷ Pengadilan Tinggi Surabaya, Uraian Tugas Panitera Pengganti, https://www.pt-surabaya.go.id/?page_id=83 diakses pada tanggal 30 September 2021, pukul 12.10 WIB

in Article 153 paragraph 4 of the Criminal Procedure Code.⁸ In the result of his decision, the judge decided in the convention to grant the claim of the convention Plaintiff in part and in the reconvention to reject the claim of the reconvention Plaintiff in its entirety. Then in the convention and counter-convention imposed a sentence on the Defendant of the convention jointly and severally to pay the costs incurred in this case in the amount of Rp. 1,310,000.00 (one million three hundred ten thousand rupiah).

V. CONCLUSION

Based on the results of research and discussion of data obtained from the Purwokerto District Court Decision Number: 54/Pdt. G/2021/Pn. Pwt regarding unlawful acts committed based on grant deeds in the settlement of land disputes can be concluded as follows. In the decision of the Purwokerto District Court Number: 54/Pdt. G/2021/Pn. Pwt. The judge rejected the entire claim of the convention defendant and ordered the convention defendant to pay all court costs. Then the factors that caused the unlawful act committed in decision Number. 54/Pdt. G/2021/Pn. Pwt is basically because the defendant feels that what he did was correct and in accordance with the applicable regulations where the right of inheritance is 1/3 not 1/2, and the defendant feels that what the plaintiff did was not right and should have recalculated and handed over the excess inheritance to the defendant as the heir of his parents. Therefore, the defendant felt that occupying the disputed object was an act that was not against the law. In the study of the Purwokerto District Court Decision Number: 54/Pdt. G/2021/Pn. Pwt, it began when the plaintiff wanted to utilize half of the disputed object which was his right, but the defendant controlled and maintained it and did not want to give up half of the part which was the right of the plaintiff. That legally the defendant was obliged to hand over the part to the plaintiff which was his right and because he did not want to hand over half of the part which was the right of the plaintiff, then in fact the defendant had committed an unlawful act. Then that in the Purwokerto District Court Decision Number: 54/Pdt. G/2021/Pn. Pwt. The Panel of Judges has decided the case in accordance with the provisions of existing positive law, as stipulated in Article 50 paragraph 1 of Law No. 48 of 2009 concerning Judicial Power, which in this decision includes the reasons and basis for the decision, and also contains certain articles of the relevant laws and regulations or unwritten sources of law that are used as the basis for adjudication. Then in the convention and counter-convention imposed a sentence on the Defendant convention jointly to pay the costs incurred in this case in the amount of Rp. 1,310,000.00 (one million three hundred ten thousand rupiah).

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