

ABSTRAK

Pemberian izin Hak Guna Bangunan (HGB) di wilayah perairan laut menjadi polemik hukum di Indonesia, khususnya kasusnya di wilayah laut Sidoarjo dengan luas 656 hektar. Permasalahan muncul karena adanya ketidaksinkronan antara regulasi hukum pertanahan dan hukum kelautan. Penelitian ini bertujuan untuk menganalisis keabsahan pemberian izin Hak Guna Bangunan (HGB) di atas perairan laut menurut Peraturan Agraria dan mekanisme pembatalannya bagi perusahaan atau perorangan.

Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan (*Statute approach*), menggunakan bahan hukum primer berupa perundang-undangan dan putusan pengadilan, serta bahan hukum sekunder berupa literatur, jurnal, dan artikel terkait. Teknik pengumpulan data dilakukan melalui studi kepustakaan dan penelusuran internet, kemudian dianalisis secara kualitatif.

Hasil penelitian menunjukkan bahwa pemberian izin Hak Guna Bangunan di atas perairan laut tidak dapat dibenarkan secara hukum karena bertentangan dengan Undang-Undang Pokok Agraria (UUPA) Tahun 1960, PP No. 18 Tahun 2021, Peraturan Pemerintah Nomor 32 Tahun 2019, Peraturan Menteri Kelautan dan Perikanan Nomor 54/PERMEN-KP/2020, Serta Putusan Mahkamah Konstitusi No. 85/PUU-XI/2013. Objek HGB adalah tanah, bukan laut yang merupakan ruang publik di bawah pengaturan hukum kelautan. Pembatalan HGB di perairan laut dapat dilakukan melalui pembatalan administratif oleh Menteri ATR/BPN sebelum masa berlaku berakhir karena cacat administrasi, atau melalui putusan pengadilan. Penerbitan HGB di wilayah laut menimbulkan tumpang tindih kewenangan antara Badan Pertanahan Nasional (BPN) dan Kementerian Kelautan dan Perikanan (KKP), serta berdampak negatif terhadap ekosistem laut dan masyarakat pesisir.

Kata Kunci: Hak Guna Bangunan, Perairan Laut, Pemberian izin, Kepastian Hukum

ABSTRACT

The granting of Building Use Rights permits in marine waters has become a legal controversy in Indonesia, particularly in the 656-hectare sea area of Sidoarjo. The problem arises from a lack of synchronization between land law and maritime law. This study aims to analyze the validity of the granting of Building Use Rights permits over marine waters according to the Agrarian Regulation and the mechanism for their cancellation for companies or individuals.

The research method used is normative legal research with a statutory approach, utilizing primary legal materials in the form of legislation and court decisions, as well as secondary legal materials in the form of literature, journals, and related articles. Data collection techniques were conducted through library research and internet searches, followed by qualitative analysis.

The results indicate that the granting of Building Use Rights permits over marine waters is legally unjustifiable because it conflicts with the Basic Agrarian Law of 1960 and Government Regulation No. 18 of 2021, Government Regulation No. 32 of 2019, Regulation of the Minister of Maritime Affairs and Fisheries No. 54/PERMEN-KP/2020, and Constitutional Court Decision No. 85/PUU-XI/2013. The object of a Building Rights is land, not the sea, which constitutes public space under maritime law. Cancellation of a Building Rights in marine waters can be done through administrative cancellation by the Minister of ATR/BPN before the expiration of the validity period due to administrative defects, or through a court decision. The issuance of HGB in marine areas creates overlapping authority between the National Land Agency and the Ministry of Maritime Affairs and Fisheries, and negatively impacts marine ecosystems and coastal communities.

Keywords: *Building Use Rights, Marine Waters, Permit Granting, Legal Certainty*