

ABSTRAK

Skripsi ini mengkaji sengketa penguasaan tanah antara warga Kelurahan Gunung Sari, Surabaya, dengan PT Pertamina (Persero) yang mengklaim tanah tersebut berdasarkan hak eigendom verponding peninggalan kolonial Belanda, yaitu Eigendom Verponding Nomor 1278 dan 1305. Klaim ini disampaikan Pertamina kepada BPN sejak 2010, namun baru mencuat pada 2022 ketika warga tidak dapat memperpanjang Sertifikat Hak Guna Bangunan karena tanah tercatat sebagai aset negara Pertamina, padahal warga telah menguasai dan memanfaatkan tanah tersebut secara fisik dan turun-temurun selama puluhan tahun. Permasalahan yang dikaji meliputi kedudukan hukum eigendom pasca berlakunya UUPA, serta upaya hukum yang dapat ditempuh warga akibat klaim tersebut. Penelitian menggunakan metode yuridis-empiris dengan pendekatan sosiologi hukum, menelaah Sertifikat Hak Milik, Sertifikat Hak Guna Bangunan, dan Surat Persaksian milik warga, dibandingkan dengan Eigendom Verponding Nomor 1278 dan 1305, Akta Tahun 1961, Heads of Agreement Tahun 1965, serta hasil Rapat Dengar Pendapat Komisi II DPR RI tanggal 18 November 2025. Pemeriksaan menunjukkan sebagian warga telah memenuhi unsur pengakuan hak lama sesuai PP Nomor 24 Tahun 1997 juncto PP Nomor 18 Tahun 2021, sedangkan Pertamina belum dapat membuktikan konversi hak eigendom sesuai Keputusan Presiden Nomor 32 Tahun 1979. Hasil penelitian menyimpulkan hak eigendom tidak lagi bersifat absolut dan hanya berkedudukan sebagai dasar historis, bukan alat bukti hak, sebagaimana ditegaskan Menteri ATR/BPN dalam RDP DPR RI, sehingga beban pembuktian konversi berada pada Pertamina berdasarkan asas *actori incumbit probatio* dan belum cukup kuat mengesampingkan hak warga yang telah terdaftar dalam sistem pertanahan nasional. Upaya administratif, non-litigasi, dan litigasi sejak 2011 terbukti tidak efektif jika berdiri sendiri, sehingga direkomendasikan penyelesaian melalui pemisahan zona penguasaan sesuai UU Nomor 1 Tahun 2004, pelepasan atau tukar-menukar aset, serta perjanjian perdamaian (*dading*) berkekuatan eksekutorial.

Kata Kunci: Hak Eigendom, Sengketa Tanah, Upaya Hukum.

ABSTRACT

This thesis examines the land possession dispute between residents of Gunung Sari Urban Village, Surabaya, and PT Pertamina (Persero). Pertamina claims the land based on Dutch colonial-era eigendom verponding rights specifically Eigendom Verponding Numbers 1278 and 1305. Although Pertamina had submitted this claim to the National Land Agency (BPN) as early as 2010, the issue only surfaced in 2022 when residents were unable to renew their Right to Build (HGB) certificates because the land was recorded as a state asset held by Pertamina despite the residents having physically occupied and utilized the land for decades across generations. The study analyzes the legal status of eigendom rights following the enactment of the Basic Agrarian Law (UUPA) and the legal avenues available to residents in response to the claim. Employing a socio legal, empirical juridical method, the research compares residents' documents such as Freehold Titles (SHM), Right to Build Certificates (HGB), and Statements of Witness against Eigendom Verponding Numbers 1278 and 1305, a 1961 Deed, a 1965 Heads of Agreement, and the proceedings of a Hearing (RDP) held by Commission II of the House of Representatives (DPR RI) on November 18, 2025. The examination reveals that some residents have met the criteria for the recognition of pre-existing rights under Government Regulation No. 24 of 1997 (in conjunction with Government Regulation No. 18 of 2021), whereas Pertamina has failed to substantiate the conversion of its eigendom rights in accordance with Presidential Decree No. 32 of 1979. The study concludes that eigendom rights are no longer absolute and serve merely as a historical basis rather than conclusive proof of ownership a position affirmed by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) during the parliamentary hearing. Consequently, the burden of proving the conversion rests with Pertamina under the principle of actori incumbit probatio, and the company's evidence is insufficient to override the residents' rights, which are already registered within the national land administration system. Administrative, non-litigation, and litigation measures undertaken since 2011 have proven ineffective in isolation; therefore, resolution is recommended through the demarcation of control zones in accordance with Law Number 1 of 2004, asset release or exchange, and settlement agreements (dading) possessing executory force.

Keywords: *Eigendom rights, land disputes, legal remedies.*