

**PERTANGGUNGJAWABAN NEGARA PEMBERIAN GANTI RUGI
DALAM PERSPEKTIF HUKUM PERDATA (STUDI KASUS: KORBAN
“SALAH GUSUR” PADA KONFLIK PERTANAHAN DI DAERAH
BEKASI)**

ABSTRAK

Penelitian ini menganalisis pertanggungjawaban negara dalam pemberian ganti rugi bagi korban “salah gusur” pada konflik pertanahan di Bekasi dari perspektif hukum perdata. Studi berangkat dari eksekusi pengosongan di Kabupaten Bekasi yang memunculkan dugaan salah sasaran dan cacat prosedural, terutama terkait identifikasi objek, tumpang tindih data pertanahan, serta pengabaian sertifikat hak milik yang belum dibatalkan. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan konseptual, didukung telaah literatur, dokumen, dan wawancara untuk klarifikasi teknis-administratif. Hasil analisis menunjukkan bahwa penggusuran keliru dapat dikualifikasikan sebagai *onrechtmatige overheidsdaad* dan memenuhi unsur Pasal 1365 KUHPerdata, yakni perbuatan melawan hukum, kesalahan (*culpa*), kerugian materiil-immateriil, serta hubungan kausal. Implikasinya, negara sebagai subjek hukum wajib memberikan ganti rugi penuh dan pemulihan hak berdasarkan prinsip *restitutio in integrum* melalui perbaikan data, pengukuran ulang, pemulihan status hak, serta penyediaan hunian sementara yang layak. Penelitian merekomendasikan verifikasi berlapis pra-eksekusi, koordinasi wajib pengadilan-BPN, pedoman penilaian kerugian yang transparan, dan mekanisme pemulihan cepat guna mencegah keterlambatan serta menjamin ketidakberulangan. Selain litigasi perdata, korban perlu difasilitasi mengakses upaya administratif dan nonlitigasi, termasuk pengaduan maladministrasi, mediasi, perlawanan eksekusi, serta gugatan di peradilan tata usaha negara ketika sumber masalah berasal dari keputusan administrasi. Pemulihan sosial harus disertai dukungan psikososial dan pemulihan kehidupan.

Kata kunci: salah gusur; ganti rugi; Pasal 1365 KUHPerdata

**STATE RESPONSIBILITY FOR PROVIDING COMPENSATION FROM A
CIVIL LAW PERSPECTIVE (CASE STUDY: VICTIMS OF "WRONG
EVICTION" IN A LAND CONFLICT IN THE BEKASI AREA)**

ABSTRACT

This study examines state liability for compensation to victims of wrongful eviction ("salah gusur") in a land dispute in Bekasi through an Indonesian private-law lens. The analysis is grounded in the forced vacating and demolition at Bekasi Regency, which raised allegations of mistaken target and procedural defects, including inaccurate object identification, overlapping land administration data, and disregard of land certificates that had not been lawfully cancelled. The research applies a normative legal method with statutory and conceptual approaches, supported by document review and interviews to clarify technical and administrative issues. The findings indicate that a mistaken eviction may constitute onrechtmatige overheidsdaad and satisfy the elements of Article 1365 of the Civil Code: an unlawful act, fault (culpa), material and immaterial losses, and a causal nexus. Consequently, the state, acting through its organs, bears a duty to provide full damages and rights restoration under the principle of restitutio in integrum, including data correction, remeasurement, restoration of legal status, and provision of decent temporary housing. The study further recommends mandatory multi-layer pre-execution verification, institutional coordination between courts and the land office, transparent loss-assessment guidelines, and a rapid relief mechanism to prevent destitution and ensure non-repetition affected households and communities.

Keywords: *wrongful eviction; state liability; restitution*