SUMMARY


THE LEGAL PROTECTION FOR THE HOLDER OF RIGHT TO USE BUILDING ABOVE THE RIGHT OF MANAGEMENT (The Case Study for The Holders of Right To Use Building Above The Right Of Management Number 1 The Village of Jombang , The sub district of Jombang In the district of Jombang), Dr. Bambang Winarno, S.H, S.U., Dr. Diah Aju Wisnuwardani, S.H, M.Hum

The authority which was possessed by the holder of Management Right was authorizing to use the land for the purpose of performing its duties or business. It was also incumbent upon the Submission of land management rights to third parties and / or cooperating with third parties. The Submission of Management Land Right Part to a third party in the form of land use agreement that was creating the Right to Use Building or Use Rights. Authority that was possessed by Management Right Holders was public (Publiekrechtelijke) because it was only regulating and managing from state land whose authority was partially delegated to the holder of management rights.

The district Government of Jombang, as the holder of Management Right No. 1 The village of Jombang, cooperated with third parties. The agreement was as the legal basis of the issuance of rights to use Building which stands on the Management Right Number 1 of Jombang did not give a certainty for the extension of the rights to use Building status stood on it when the term of the Building Utilization Right has expired, although all the conditions for extension was made in accordance with Article 26 of the Government Regulation No. 40 of 1996 was fulfilled. So that the legal protection for the holders of Right to use Building that has ended was not available.

The raised issue formulation based on the background that was described above was how the authority and policy of Management Rights holder No. 1 The Village of Jombang ,The Sub district of Jombang , The District of Jombang (The Local Government of Jombang) to extend The rights to use building that stands above the rights of management No. 1 / Jombang, as well as the Law protection for the holder of right to use building above the Rights of Management No. 1 The Village of Jombang , The Sub district of Jombang , The District of Jombang which has passed the end of rights

This research aimed to know and analyze the authority and the policy r of Management Right holder No. 1 The Village of Jombang , The sub district of Jombang In the district of Jombang ( The local Government of Jombang) to extend the right s to use Building which stands above the Right of Management No. 1 / Jombang, as well as the Legal protection of Right to use Building Holders on the Right to Management No. 1 The Village of Jombang , The sub district of Jombang In the district of Jombang , which has passed its rights.

The research method which was used to examine the problem was empirical law research method. With the empirical juridical approach, it was research that tried to relate to between applicable law norms with the reality which exists in the community . In this research , the thing that was researched was secondary data which was then followed by the examining of primary data in the field . Primary law Data was obtained from interviews and observations to the parties . And secondary law data was library research either from legislation and the books, journals or papers that were related to the subject of discussion.
The theory used Authority of Philip M. Hadjon about Efforts to trace the source of authority that was possessed by the holders of authority as well as how far the authority corresponds to purpose and interest of Authorizer. The theory of legal certainty from Gustav Rad bruchakan emphasized on being used to give the perception of law certainty from implementation of rule which regulates law between the holder of rights to use building and the holder of Management Rights, both as an institution to regulate law subject’s behavior as well as ensure the safety and the interests of individuals in the community. The theory of law system which was proposed by Lawrence M. Fried was used to analyze the policy of Jombang District Government, in terms of its effectiveness. The theory of law protection which was proposed by Satjiptorahardjo would be used to give the clarification of law protection for the community of holders for the rights to use building (As the party of Applicant for the extension of rights to use building / HGB) above the rights of management (as the party that approved the extension of HGB).

The result of research and discussion that the authority which was possessed by The district government of Jombang as the holder of Management Right, No.1 / Jombang was public (Publiekrechtelijk), the agreement between Government of Jombang with third party did not mention the clause of extension of rights when the period of Right to use Building was over. So that there was not legal certainty for the holder of rights to use Building and there was not legal protection for the holders of Rights to use Building which has expired their rights.

This research concluded that the emergence of the right to use Building above the Rights of Management No.1 / Jombang based on the rights base in the form of Agreement between District Government of Jombang with third party. The district government of got the rights as the holder of the Management Right based on the request, so that its authority was public (as an appeal from the State Controlling Rights). The agreement which was made did not include a rights extension clause if the term of the Building Rights has expired, so that there was not legal certainty and legal protection for the holders of the Rights to use Building. As a suggestion in order that the conflict between the District Government of Jombang and the holder of the Right to use Building will subside, each party utilizes the consensus deliberation room as a way to equate perception and interests, in order to manifest the way of mutual luck.

Keywords: The right of Management, The Right to use Building, Legal protection