

SETTLEMENT OF LAND DISPUTE RIGHTS ULAYAT PEOPLES KAJANG WITH PT. PP LONDON SUMATERA INDONESIA IN BULUKUMBA DISTRICT

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ABSTRACT: This research aims to Can provide solutions to problems arising or encountered in the problem of agrarian law in particular regarding the resolution of land disputes in PT. PP London Sumatera Indonesia in Bulukumba District. The type of research used in this writing is empirical research or normative empirical, i.e. an approach that refers to the written rules or other legal materials that are secondary to see how the implementation/implementation through a field research conducted with sociology and interviews, so that the information obtained clarity about the investigation. The writing of this thesis also uses historical research as a complement to field data. Research on the author's history use in terms of the study of the indigenous Kajang tribe and the beginning of the entry PT. PP London Sumatera Indonesia in Bulukumba District. The result showed that Settlement of land dispute rights Ulayat people of Kajang tribe with PT. PP London Sumatera Indonesia has been pursued through litigation (judicial process) and non-litigation (alternate) lines. Dispute resolution through litigation is not able to properly and comprehensively describe disputes. This can be seen from the ruling of the Supreme Court Decree No. 2553/K/PDT/1987 dated 31 July 1990 which could not be executed properly in the execution caused by The legal factor itself (MA verdict) is a multi-interpretation, law enforcement factor (judge) in deciding the previous thing does not do field verification (object dispute), factors of facilities, infrastructure in terms of unclear boundaries and the factors of society that lack understanding the law of formal and cultural factors are not accommodated in the decision of the court.

Keyword: LAND DISPUTE RIGHTS, Ulayat Peoples, Bulukamba District, PT. PP London Sumatra

INTRODUCTION

Man in life and his life will never be detached from the existence of the land, even after the man's death will always come into contact with the land. This illustrates the importance of land standing for human life. The position of this important land is caused by almost all aspects of the live especially the Indonesian nation that can not be separated from the existence of real land, not only be reviewed from the economic aspects only, but covers all aspects of life and livelihoods¹.

¹ Suripin, *Pelestarian Sumber Daya Tanah Dan Air*, Yogyakarta : Andi, 2002.

The Constitution has set about the significance of the land for human beings both as individuals and nations as the highest community organizations, as outlined in the Constitution 1945 article 33 paragraph (3) which states that the State ruled over the Earth, the water and natural riches that exist in it for the welfare and prosperity of the people intact².

Further arrangement of article 33 paragraph (3) of the Constitution 1945 is related to Earth or land, then issued Law No. 5 year 1960 concerning basic agrarian principles that are better known by the abbreviation UUPA. The main purpose of the issuance of UUPA 1960 is as the basis for the preparation of national agrarian law, simplification in land law and so that there is legal certainty regarding the rights of land for the people in general³.

In people's lives especially in rural areas, land is one of the most important sources of production, because the land is one of the sources of life and their lives. In addition, customary land is often associated with a cosmic-magical-religious value. This relationship is not only between individuals and the land, but also among a group of community members of a customary alliance with the rights of Ulayat.

In order for prosperity and people's welfare to be achieved then utilizing and using land that is part of natural resources, must be implemented wisely and in management handed over to the state.

One of the Government's efforts to realize the trust set in the UUPA to achieve a fair and prosperous society is to improve the function of land that is not only for farming but also for capital investment companies both domestically and abroad or foreigners.

The capital investment company, obtaining the land to implement and develop its business is governed by its own rules as part of the Government's protection of its people in order to stay alive and living well and peacefully.

The role of land that is very important in human life, often become objects prone to the emergence of disputes or conflicts between one another. This can occur because the human need for land is increasing, while the supply of relatively fixed soil is even less likely to decrease along with the impact of human treatment that lacks care in the preservation of natural sustainability that causes abrasion⁴.

Based on the National Land Agency data that the land dispute in society every year is increasing and happening almost all regions in Indonesia both in urban and rural areas. Land disputes that occurred as a conflict of interest to the parties covering the people faced with the bureaucracy, state enterprises, private companies as well as the people themselves⁵.

In almost every area of land conflict or dispute, the parties concerned and competent to deal with the problem are done in various ways. Generally the way the dispute settlement land has

² Maria S.W. Sumardjono, "Kebijakan Pertanahan Antara Regulasi Dan Implementasi," *Kompas*, 2005.

³ Ida Nurlinda, "TELAAH ATAS MATERI MUATAN RANCANGAN UNDANG-UNDANG PERTANAHAN Ida Nurlinda," *Jurnal Bina Mulia Hukum*, 2016, <https://doi.org/10.23920/jbmh.v1n1.1>; Afifah Kusumadara, "Perkembangan Hak Negara Atas Tanah: Hak Menguasai Atau Hak," *Fakultas Hukum Brawijaya*, 2013; Indri Hadisiswati, "KEPASTIAN HUKUM DAN PERLINDUNGAN HUKUM HAK ATAS TANAH," *Ahkam: Jurnal Hukum Islam*, 2014, <https://doi.org/10.21274/ahkam.2014.2.1.118-146>.

⁴ "REVITALISASI HAK ATAS TANAH YANG HILANG AKIBAT ABRASI MENURUT UNDANG-UNDANG NOMOR 5 TAHUN 1960," 2017.

⁵ Tanah Dan and Sumberdaya Alam, "Kepastian Hukum Hak Masyarakat Hukum Adat Atas Tanah Dan Sumberdaya Alam," *Kepastian Hukum Hak Masyarakat Hukum Adat Atas Tanah Dan Sumberdaya Alam*, 2001.

been pursued during this is the settlement through the Courts (litigation) and settlement of disputes outside the courts (non litigation)⁶.

In the juridical dimension, mastery and possession of land requires legal protection. Its application in the protection of the Law on the rights of Civil and fair treatment of ownership of the land. The land disputes are protracted and there is no good solution, then it can cause the injured party to make a lawsuit back to court.

Despite the opportunity to make a lawsuit through court, but the public will tend to avoid it because there is a presumption in society that the filing of a court lawsuit requires a relatively expensive fee, requiring a long and even convoluted time. Therefore, people always strive to resolve disputes that occur by taking a non-litigation path.

The settlement outside of the Court of precedence shall be the case in addressing the dispute between the dispute and not seeking for the right or wrong party, while settlement through the Court of Law aims to obtain justice and legal certainty that is closely related to the ruling on the right party or win and the wrong or lost party. If you have to find out who is right and wrong in a dispute, it will never result in a decision that benefits the parties in dispute.

Non-litigation settlement known as alternative Dispute Resolution (ADR) is governed under law Number 9 year 1999 on arbitration and Alternative dispute resolution⁷. Dispute resolution mechanisms in this manner are classified in non-litigation containers that constitute a cooperative concept of conflict or dispute which is directed at an agreement or solution to a dispute that is a win-win solution. Lately, ADR has been developed both by judges, practitioners and academics as a way of resolving disputes that lead to aspects of the benefit⁸.

Since the land expansion of PT. PP London Sumatera Indonesia to the indigenous territory of Kajang as the right of Ulayat and the increasing needs of land for the community as the population grows, the conflict or dispute between the community and PT. PP London Sumatera Indonesia is increasing.

Handling of land disputes that occurred between the people of Kajang tribe with PT. PP London Sumatera Indonesia, not finding a good solution resulted in expanding into other social conflicts.

Various efforts have been implemented to resolve disputes that occurred between the people of Kajang tribe with PT. PP London Sumatera Indonesia, both through court lines (litigation) and through non litigation lines. The completion of the court (litigation) with a very long time and a mechanism that tends to be convoluted while settlement through non-litigation pathways involving representatives of communities and companies. Often settlements with non litigation only tend to be profitable for representatives only and ignore the demands that

⁶ Georgina Rockson, Rohan Bennett, and Liza Groenendijk, "Land Administration for Food Security: A Research Synthesis," *Land Use Policy*, 2013, <https://doi.org/10.1016/j.landusepol.2012.11.005>.

⁷ Law Reform Commission, "Alternative Dispute Resolution: Mediation and Conciliation," 1393-3132 , 2010.

⁸ Carrie J. Menkel-Meadow, "Mediation, Arbitration, and Alternative Dispute Resolution (ADR)," in *International Encyclopedia of the Social & Behavioral Sciences: Second Edition*, 2015, <https://doi.org/10.1016/B978-0-08-097086-8.86083-3>.

are the expectations it represents. In addition to this, there have been meetings with tripartite way between government, companies and community representatives.

However, from these efforts, it is not yet possible to resolve disputes that occur between PT. PP London Sumatera Indonesia with local people, especially the customary area of Kajang tribe Bulukumba District.

METHOD

The research used in this writing is an analytical descriptive that provides a description of the conflict arising, and then systematically analyzed for the data/information on factors causing conflict, the implementation of various rules relating to conflicts and how to resolve the conflict/dispute.

The type of research used in this writing is empirical research or normative empirical, i.e. an approach that refers to the written rules or other legal materials that are secondary to see how the implementation/implementation through a field research conducted with sociology and interviews, so that obtained clarity about the thing researched

The writing of this thesis also uses historical research as a complement to field data. Research on the author's history use in terms of the study of the indigenous Kajang tribe and the beginning of the entry PT. PP London Sumatera Indonesia in Bulukumba district.

Research conducted at PT. PP London Sumatera Indonesia Bulukumba Regency. The designated location is based on certain characteristics of the relevant region. The location is a place that is often the land dispute that is the dispute soil between PT. PP London Sumatera Indonesia with the indigenous people of Kajang tribe, which recently the excavation of the dispute is increasing. Thus it is expected that it will be easy to know and understand the various classifications and wisdom of the local community as the parties who dispute in resolving frequent disputes.

Sampling in this study was conducted using purposive sampling technique, because the samples in this study have the same karasteristics that are members of the community who have been and are experiencing land disputes, especially soil ulayat scattered in several areas In order to complete the required data, the researcher will conduct an interview in an ongoing manner with the informant associated with the conflict or dispute:

1. Some of the indigenous people of Kajang tribe as a society that has been and/or in dispute land with PT. PP London Sumatera Indonesia Bulukumba Regency.
2. Official PT. PP London Sumatera Indonesia fur District-Kumba.
3. Head of Sub-section of dispute and problem land of Bulukumba district.

RESULT AND DISCUSSION

Ulayat's right to understand the indigenous people of Kajang is called Butta Pangangreang or Rabbang. The Land of Kajang (Rabbang) is divided into two parts, namely Rabbang Seppang (Land of Limited Ulayat) located in the area of the Kajang tribe community that still hold firmly the customary nobility (tares Embayya) or lies in Kajang in and Rabbang Luarayya (vast Ulayat land) that is located outside the community of people who hold the customary

nobility (Embayya delivery) or located in Kajang outside. This second is also referred to as the Land of Kuasayya (the customary power of the Kajang tribe).

Based on an interview with the stakeholder of the Kajang Ammatoa (Galla) tribe which was authorized to Galla Bonro (15 November 2013) as a stakeholder of adat in dealing with foreign affairs and Ulayat Rights, said that:

“ With the limited land in the area of traditional settlements (Ilalang Embayya) because of the increase in population and the energy of the forest, then Ammatoa as chairman of ADAT and representative of the architect Arrakna (Allah) on Earth, ordered to the indigenous people of Kajang (Taunna) to go out on Embayya Ipantarang as Rabbang Luarayya to seek life for his family by cultivating the soil (Koko) Well and keep the natural sustainability ”.

The basis of the command Ammatoa to work on the land Rabbang Luarayya located in the Kajang outside area is a rule in Kajang (Pasangnga ri Kajang) namely "Iyanjo Rabbang Luarayya iyareka butta panganreangna Tonji Amma, Talarie ampipatai Maraenganna to Kajang". It means that the land of rights of Ulayat located outside the customary settlement belongs to the tribe of Kajang not belonging to others.

The people of Kajang have worked their rights in a very long time and were made hereditary without any restrictions or barriers from any party. Even the majority of them lived and had posterity in the area. It is characterized by the existence of old graves that have been in decades with a lot of numbers and scattered in several places. In addition, there are also old wells, irrigation channels, former rice paddy fields. Old trees/coconuts and many others. This former relic is a sign of nature that indicates that the region/area has been inhabited by community for a long time.

In the year 1980-an PT. PP London Sumatera Indonesia developed a rubber plantation area that previously only rests on Balombassi Estate and Palangisang Division. Development is done because the situation has begun to be conducive compared to the previous one who has gained many security barriers mob of DI TII.

The development of the plantation land is based on the HGU year 1997 which has been extended on Tanggal 12 September 1997 with an area of 5,784.46 hectares, in which there is a right to the Ulayat of Kajang ethnic community. But according to Mr. Rusli, SH as PR PT. PP Lunsum, that the community that entered the land of HGU belongs to PT. PP Lonsum, had previously made a deal so as not to plant with long-term crops. Thus, the community worked on the permission of PT. PP Lonsum.

Started from the development of rubber plantation area by PT. PP Lonsum which then asked the people of Husbandmen to leave the land and its contents is the starting point of the conflict/dispute land between PT. PP London Sumatera Indonesia with the people of Kajang. The impact of such an undoing, caused some of the former people who have experienced psychological pressure, characterized by the fear of living around the company's territory. For the anxiety and fear to be resolved, many of them wander outside the area of Kajang as well as to preserve the survival of their families due to the limited land in their own village.

The Era of reform revolving as a form of assurance of freedom of speech and convey the will, the people of Kajang began to fight their own rights. The struggle of the Kajang people to

obtain the rights of the Sultanate has spent long time and involvement of various parties both NGOS, Governments and other mediation institutions.

Conflict/dispute is increasing its escalation because the party of PT. PP Lonsum remains insistent that the land claimed by the community is the land in the company HGU as recorded in the certificate of HGU No. 2/1996, GS No. 20/1997 dated 30 May 1997, HGU Certificate No. 2/1997, GS No. 21/1997 dated 30 May 1997, HGU Certificate No. 2/1997, GS No. 22//1997 dated 30 May 1997 and HGU certificate No. 2/1996, GS No. 19/1997 dated 30 May 1997.

Based on the fact, that both parties acknowledge the right to the land for a variety of predetermined reasons, so that the government seeks to solve in various ways, either through a long-lasting litigation path or through non-litigation (government mediation) pathways.

Based on the fact above, it can be described that the dispute was initially due to aggressive actions of the officers of PT. PP Lonsum which backed up the apparatus and government in order to discharge the land of HGU PT. PP Lonsum against the people of Kajang tribe in particular and society in general. Repressive action is carried out by forcing to leave the land directed, intimidation and physical and psychological torment.

Related to the above, also the PT. PP Lonsum promises to raise as a permanent employee, giving compensation, and other promises that are in fact unrealized. The repressive action and unrealized promises cause prolonged conflict/dispute. Dispute resolution efforts between PT. PP London Sumatera Indonesia with the people of Kajang, has been conducted through litigation and non-litigation lines, but has not been able to solve the problems.

The resolution of conflicts is not comprehensive and protracted, while PT. PP Lonsum continues to develop plantation efforts on one hand and the other side of society can only wait for legal certainty about its social rights to maintain its survival, so that it is increasing.

The settlement of disputes through litigation lines has many shortcomings that are strongly perceived by the parties who dispute primarily in order to provide legal satisfaction. This condition further assured the need to find other solutions that could satisfy the parties in dispute. The much-developed dispute resolution is an alternative dispute resolution to resolve any issues arising in relation to land disputes. Resolution of disputes using non litigation/ADR (Alternative Dispute resolution) or mediation is a dispute resolution model that matches the character and way of life of the family of Kajang ethnic group, compared to the settlement of disputes through court institutions that tend to be confrontational, pay more attention to win or lose and further account for the materialistic aspects and ignore social elements in the community of family and mutual assistance.

The settlement of land disputes through ADR/mediation is very effective in solving the land problems. This can be seen from various cases of land disputes that have occurred in Bulukumba district which are generally resolved through alternatives or ADR/mediation. In the period, up to 2013 in Bulukumba district was found 16 cases of land dispute. Based on the interview with Aco Bahar as Kasubag dispute and the land problem Bulukumba District said that the case of disputes include the problem of land tenure and ownership, determination of land rights and registration, concerning the boundaries of land and land problems.

Based on the reality of the dispute resolution process which is unable to resolve the dispute properly, the author believes that settlement with mediation shall be based on the rules or regulations in the dispute resolution process, which concerns the proceedings of the applicable material law and becomes the basis for the implementation of mediation. In addition, the application of mediation on the dispute above, must entrust to mediators who are independent/neutral and integrity and involve all components (Stekholder) covering the elements of Government, indigenous peoples/communities, community representatives, corporate parties and elements of academics/experts. It is based on the fact that the government as a mediator so far, no longer get the full trust of both parties, while the government as a mediator considers both parties do not have a good *itikad* to settle the dispute in progress. If the mediator no longer earns full confidence in the resolution of the dispute, then such dispute will never be completed which is due to the party's suspicion of the resulting decision.

Mediator besides the independent and well-integrity, also the most important is knowing the culture of the people of Kajang and Bulukumba people in general and the existence of PT. PP Lonsum properly and correctly. It is important to note that the people of Kajang are heterogeneous communities described as communities that prioritize the side without prejudice to the rational side, the communalistic nature, each other's relationship that tends selflessly because they are a group of indigenous peoples who in their social interactions are based on high volunteerism in sacrificing against other members of the community. This is very important because it will be very influential in the mediation process and decision making.

The implementation of mediation with the above procedures will be able to resolve the dispute in a good and thorough manner. This is supported by the fact in the life of the people of Kajang people to various problems resolved by means of mediation (Nipasiuppai/Abboron).

Various reasons that encourage the parties to choose to dispute settlement of land rights in the right, alternative/mediation

Land dispute resolution efforts of the customary rights of the people of Kajang with PT. PP London Sumatera Indonesia through a litigation line that in this case the Supreme Court Award of the RI is in-Krach and settlement through non-litigation/alternative line that in this case mediation meeting either by Pemda Bulukumba, mediation Center Pemprov. Sulsel and Tim Bandung, have not been able to solve various problems arising from the dispute.

Ineffectiveness of MA ruling and the inability to find the word agreed on the mediation process, causing a negative impact that is very influential in the Life of society, PT. PP Lonsum and smooth governance system in Bulukumba District.

CONCLUSIONS

Based on the explanation above that discusses the settlement of land disputes rights of the people of Kajang tribe with PT. PP London Sumatera Indonesia in Bulukumba District can be withdrawn as follows:

1. Settlement of land dispute rights Ulayat people of Kajang tribe with PT. PP London Sumatera Indonesia has been pursued through litigation (judicial process) and non-litigation (alternate) lines. Dispute resolution through litigation is not able to properly and comprehensively describe disputes. This can be seen from the ruling of the Supreme Court Decree No. 2553/K/PDT/1987 dated 31 July 1990 which could not be executed properly in the execution caused by
2. The legal factor itself (MA verdict) is a multi-interpretation, law enforcement factor (judge) in deciding the previous thing does not do field verification (object dispute), factors of facilities, infrastructure in terms of unclear boundaries and the factors of society that lack understanding the law of formil and cultural factors are not accommodated in the decision of the court.
3. In addition, alternative dispute (mediation) as a form of non-litigation settlement sought by the local government as a mediator, mediation centre and the Bandung team also can not resolve land disputes rights Ulayat of the Kajang ethnic community with PT. PP Lonsum because of the unneutrality of the mediator in the implementation of mediation. Pemda as a mediator is very difficult to be neutral in the mediation process because the Regent/Pemda as a mediator is a political office, relies heavily on the central government on the basis that HGU PT. PP Lonsum issued the central government, has a great doubt on the choice between protecting investors on one side to increase the economy and creating a situation that remains conducive on the other, and no longer gain full trust from both parties, while the government as a mediator considers both parties do not have a good itikat to settle the dispute in progress.
4. Settlement of land disputes rights Ulayat of the Kajang ethnic community with PT. PP Lonsum which is not comprehensive and protracted resulted in the unachieving of legal certainty on the land of customary rights of society and HGU PT. PP Lonsum also affects the social community of Kajang people. The unattained legal certainty is due to the insynchronization of legislation, the ruling of the MA number 2553/K/PDT/1987 dated July 31, 1990 which is multi-interpretation and not the legal culture of the Kajang people in the mediation process and the existence of PT. PP Lonsum in the customary territory of Kajang tribal community at first.

The social impact of society arising from the existence of social disintegrating causes negative social change in society characterized by the occurrence of community unrest in the case of customary rights demands, the onset of protest and demonstration of society, NGOs and other community alliances and the occurrence of criminality in the form of vigilante deeds and rubber theft.

Suggestions

In order to dispute land rights ulayat people of Kajang tribe with PT. PP Lonsum obtained a comprehensive solution, the authors suggest as follows:

1. In the resolution of the dispute is required an Indefenden/neutral mediator, knowing about the ins and outs of land rights and the history of the people of Kajang and the existence of PT. PP Lonsum properly and correctly involving all related elements such as ADAT/community leaders, government, community representatives, PT. PP Lonsum and elements academics/experts and required itikat both all parties including security and political figures. In addition, it must also be disseminated continuously and openly in the

efforts of resolving disputes to all such elements so that in the process of deliberation resulted in a decision that wins all parties (fairness of justice).

2. Land dispute rights Ulayat of the people of Kajang tribe with PT. PP London Sumatera Indonesia, must avoid political transparency in its completion by not providing the promise of settlement of government, DPRD and other components (including political figures) to the public, but the fact is not able to realize the promise after its political goals were reached. Political involvement in the promise of settlement will only affect the dispute resolution process, which tends to protracted for a long time.

REFERENCES

- Dan, Tanah, and Sumberdaya Alam. "Kepastian Hukum Hak Masyarakat Hukum Adat Atas Tanah Dan Sumberdaya Alam." *Kepastian Hukum Hak Masyarakat Hukum Adat Atas Tanah Dan Sumberdaya Alam*, 2001.
- Hadisiswati, Indri. "KEPASTIAN HUKUM DAN PERLINDUNGAN HUKUM HAK ATAS TANAH." *Ahkam: Jurnal Hukum Islam*, 2014. <https://doi.org/10.21274/ahkam.2014.2.1.118-146>.
- Kusumadara, Afifah. "Perkembangan Hak Negara Atas Tanah : Hak Menguasai Atau Hak." *Fakultas Hukum Brawijaya*, 2013.
- Law Reform Commission. "Alternative Dispute Resolution: Mediation and Conciliation." *1393-3132*, 2010.
- Menkel-Meadow, Carrie J. "Mediation, Arbitration, and Alternative Dispute Resolution (ADR)." In *International Encyclopedia of the Social & Behavioral Sciences: Second Edition*, 2015. <https://doi.org/10.1016/B978-0-08-097086-8.86083-3>.
- Ida Nurlinda. "TELAAH ATAS MATERI MUATAN RANCANGAN UNDANG-UNDANG PERTANAHAN Ida Nurlinda." *Jurnal Bina Mulia Hukum*, 2016. <https://doi.org/10.23920/jbmh.v1n1.1>.
- "REVITALISASI HAK ATAS TANAH YANG HILANG AKIBAT ABRASI MENURUT UNDANG-UNDANG NOMOR 5 TAHUN 1960," 2017.
- Rockson, Georgina, Rohan Bennett, and Liza Groenendijk. "Land Administration for Food Security: A Research Synthesis." *Land Use Policy*, 2013. <https://doi.org/10.1016/j.landusepol.2012.11.005>.
- Sumardjono, Maria S.W. "Kebijakan Pertanahan Antara Regulasi Dan Implementasi." *Kompas*, 2005.
- Suripin. *Pelestarian Sumber Daya Tanah Dan Air*. Yogyakarta : Andi, 2002.