



Legal Settlement of Land Disputes at the Bone Regency National Land Office

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ABSTRACT

The purpose of this research is to find out the procedures used by the Bone Regency National Land Agency in resolving land disputes as an implementation of one of the functions of the Regency National Land Agency. Bone and what mechanisms the National Land Agency of Bone Regency takes in resolving land disputes. Dispute resolution does not always have to be done in court, but can be done independently between them based on deliberation and consensus, and the most important thing is that there is a sense of kinship, because this method does not damage the kinship relationship between them. In this research the author uses a conceptual approach method, namely the conceptual approach is an approach that departs from views and doctrines that have been developed in legal science and will give research to understandings, legal concepts and legal principles that are relevant to the issue at hand. Therefore, this research is intended to describe land dispute resolution procedures at the Bone Regency Land Office. This activity provides progressive benefits and helps the community understand Legal Dispute Settlement over Land at the Bone Regency Land Office in accordance with applicable law and broadens the community's insight so that they are wise in resolving land disputes as an effort to avoid disputes.

Keywords: *Disputes, Land, Legal Counseling.*

INTRODUCTION

Indonesia is one of the countries with biological natural resources with flora and fauna spread across several regions of the Republic of Indonesia. It must be able to process the wealth contained therein, locally and in an organized, systematic manner, with its own character inherent in each region of Indonesia. In order to face the industrial revolution or often called Era 4.0. Using various analytical methods, to arrive at expectations that enable the country's progress, of course it must empower everything that is the natural wealth found in Indonesia's homeland itself. One very principle thing is how the state creates regulations regarding agrarian affairs and prioritizes the allocation of land rights to local communities who need it more. Land

is an inseparable part of space, the sea, and the earth's surface itself as well as the lowest parts of the earth's surface.

Arrangement about land clearly regulated in Article 33 paragraph (3) Constitution Base 1945 Which state : *"Earth and water and wealth the nature contained therein is controlled by Country And used For as big as possible prosperity people"*. Of course in the constitution No stated in a way clear about land, However We can interesting conclusion that intended with say " *earth*" includes land. Arrangement regarding land or agrarian matters first once expressly regulated in 1960, namely since the birth of the Basic Law Agraria on September 24, 1960. Previously presence Constitution Number 5 Year 1960 about Basic Rules Basics Agrarian, arrangement about Land or Agrarian experience dualism law that is exists arrangement with system law custom, and there are those who still use the law Dutch.

Era Reformation, Position Body Land Country (BPN) as One-the only one institution or institution Which given authority For carry trustworthy in manage field land is recognized normatively through Regulation President (Presidential Decree) Number 85 Year 2009 about change on Presidential Regulation Number 10 of 2006 regarding the National Land Agency. In Chapter 2 Regulation President Number 85 Year 2009 about Change on Presidential Regulation Number 10 of 2006 about Body Land National explained that Body Land National (BPN) do Government duties in field Land in a way National, regional, And Sectoral.

As Body single Which look after about problem Land in Indonesia, the National Land Agency too has the function as in Article 3 letter (n) Regulation President Number 85 Year 2009 about change on Presidential Regulation Number 10 of 2006 regarding the National Land Agency that, *"Body Land National own function assessment And handling problems, disputes, cases and conflicts in field land"*.

However, in solution Dispute in field land, Body Land National (BPN) No One-the only way that can be done. Mature This Lots para party Which dispute Also choose track court as means final in finish dispute Land as well as exists breakthrough Which done Board Representative People (DPR) that is with form Commission Completion Conflict Agrarian (KPKA).

METHOD

1. Location Study

Study This done in a number of location For gather data Which required related with research, that is : Library Watampone Protection Science College and District National Library. Bone.

2. Type And Source Data

The type of data used in study This is data secondary Which obtained through books, articles And product regulation legislation invitations and other related sources.

3. Technique Collection Data

Technique Collection data Which used in study This is studies literature (*library research*).

4. Technique Writing

Results collection data served descriptively, namely explaining, elaborate And explain problem Which relevant with study This in a way clear And detailed.

RESULTS AND DISCUSSION

1. System Method Completion Dispute Land by Body Land National (BPN).

Land disputes in Indonesia are not This is something new and still happening until moment This. On Initially dispute Land only happen between Party individual, However moment This disputeland disputes have occurred in all sectors life public, like sector forestry, sector infrastructure, sector mining. Matter This caused Becauseneed will land Which soincrease later This caused growth public Which so fast.

Completion dispute Land This can done through a number of method, that is :

(1) Through track Court

Principle Important Which must heldCountry law is exists guarantee that There is power judiciary Which independent, It means that Perpetrator Judicial power must be independent of everything intervention from other institutions is good The government, in this case, executive power on the DPR, in this case legislative power. Completion dispute through track court, can ~~and~~ by the parties submit a written complaint to secretariat Court local state authorities inspect And judge case the.

(2) Through Track Outside Court/ *Alternative Dispute Resolution (ADR)*

Completion dispute with use method *non litigation* or *Alternatives Dispute Systems* Actually is a dispute resolution model Which very suitable with character kinship, very different with solution dispute through track court Which often time create chaotic or confrontational. Practice Which happen in the public, solution outside court/ *Alternative Dispute Resolution (ADR)* often become track main steps taken to complete dispute land. Completion outside court tend more easy And fast, besides it doesn't take out too much Lots cost compared to through track court. On consideration on public more often finish dispute land through track This, besides reason on There is Also thinking that solution through track the court contains elements of fraud Which tall Where party Which own power Which can win dispute.

Here are some ways you can taken in Completion Dispute land through track outside Court/ *Alternatives Dispute Resolution (ADR)*:

a. discussion (*Negotiation*)

Negotiation is something methodsolution dispute outside court/ *Alternatives Dispute Resolution (ADR)*. Negotiations involve two or more parties Which interested. The goal is so that achieved A agreement For A problems/conflicts.

Explanation on can taken conclusion that negotiation is solution dispute Which its nature bipartite (more than one party). Result of negotiation form solution compromise (*compromise solution*) which is not binding in a way law.

Generally negotiation used in less screeching disputes, where para party Still committed Good And willing For Sit down together discuss/resolve problem. In carrying out negotiations there are several thing that must be owned or controlled by

negotiating parties (*negotiators*), that is : (1) Knowledge or Skills; (2) Faith Good in finish dispute; (3) Ability For give solution good/fair.

b. Conciliation (*conciliation*)

Conciliation is effort Which taken For bring together desire party Which disagree so that para party agreed finish conflict/dispute. According to Oppenheim, Conciliation is process dispute resolution with hand it over to something commission person- person Which on duty For interpret or explain facts For reach something agreement To use conflict resolution. ⁹ A conciliation process exists a Which neutral For mediate second split party Which dispute (*conciliator*) , Which chosen And agreed by second both parties. The conciliator must can finish dispute in the period time most long three tens day work since receiving application/request solution conflict. If in process conciliation peace was found between the two sides party, so will made A peace agreement to be signed both parties to the dispute furthermore will registered on court region law Where the peace agreement was made. Objective registration agreement peace this if There is party Which Nocomply with the peace agreement, parties other can submit application execution to court place agreement the registered.

If the conciliator fails to reconcile the parties party Which dispute, so conciliator issue written settlement recommendations most slow 10 day Work since hearing conciliation First. If second split party agree recommendation written from conciliator, so conciliator will emit A agreement together between parties Which dispute Which will registered to court Where object land the so that get deed proof registration, that conflict between second split party the has resolved in a way conciliation.

c. Mediation (*Mediation*)

Mediation is something process where to resolve disputes para party Which dispute utilise help party third Which its nature independent (neutral), Where mediator No own power/authority to take decision Which its nature absolute. Conflict / Dispute resolution by means mediation is form from agreement second split party For choose somebody as a mediator. As for procedure Which must taken in mediation are: (1) Introduction, namely containing explanation mediator about procedures Which must followed And role communication Which open with principle each other influence; (2) Understand problems that arise in disputes with method give second split party chance For convey argument each party; (3) Identify problem And look for alternatives solution For reach say agreed; (4) Evaluate alternative Which There is in determine agreement with details its implementation.

d. Arbitrage

Article 1 Paragraph (7) Law of the Republic of Indonesia Number 30 of 1999 about Arbitrage And Alternatives solution dispute explained that, "*arbitrator is one or more people who chosen by para party Which dispute or appointed by the district court or arbitration institution, to provide decision regarding a particular dispute submitted the solution through arbitration*".

Matter solution in a way arbitration, after second split party Which dispute agreed to resolve dispute in a way arbitration so assembly arbitrator determine in the verdict about right And obligation para party If matter This No arranged in agreement they. Decision arbitration must registered in Secretariat Court country most slow 30 Day after Decision the be spoken, if provision this not implemented then the arbitration award stated No can held. Decision Arbitrage nature final And own strength law Which tie para party. Decision Arbitrage implemented if Already through inspection by the chairman court country Which furthermore will done execution through agreement chairman court country. Explanation about solution dispute land on Good through court and dispute resolution land outside the court, Land Agency National role as alternative solution dispute in outside court.

National Land Agency Kab. Bone himself has has some special rules for responding to emerging land issues, Regulation Head Body Land National Republic Indonesia Number 3 Year 2011 about Management Assessment And Handling Case Land On Chapter 2 Paragraph (1) clear state that: “ *Assessment Management and Handling land cases intended for, (a) knowing the roots, history, And typology case land in frame formulate policy strategic resolution of land cases in Indonesia; (b) Finish caseland Which be delivered to Head of the National Land Agency of the Republic of Indonesia can be controlled, owned, used and utilized by the owner as well as in frame certainty And protection law*”.¹⁰

With exists provision the Body Land National District. Bone emphasized Wrong One his task that is as Body Completion dispute land. In resolve disputes/problems land, Body Land National first receive the report via offices region Which There is in every province Good in district/city. Furthermore Body Land National do assessment moreover formerly to complaint problem land, whether in the form of roots conflict or certain circumstances Which cause emergence land cases the. After do study to root problem.

Body Land National Alone own two alternative solution dispute land that is, (1) Completion through Track Court, And; (2) Completion Dispute through method Mediation. Settlement by means of Track Court The same case with process civil justice in general, that is Body Land National submit a complaint to the Registrar's Office District Court where the land object is disputed are, then follow process the judge until wait decision from court country local. About Completion Dispute through track court Body Land National Refer on Decision Body National Land Affairs Number 34 of 2007 about Instruction Technical Handling And Completion Problem.

Different case with Completion land disputes by mediation, in matter This Body Land National can role as mediator in solution dispute land, Which procedures its implementation arranged in the Decision Body Land National Republic of Indonesia Number 34 of 2007 about Instruction Technical Handling And Completion Problem Land.

2. Mechanism Completion Dispute Land Custom By Body Land National (BPN)

Customary Law is part of the law Which originate from customs, that is rules social Which made And maintained by public in something certain areas. One of the legal sectors custom Which get attention special inIndonesia is about customary land. That because after appearance Law Invite Number 5 Year 1960 about Regulation Base Basics Agrarian customary law this has made the basis of law agrarian national And since That experience process development Which different from other areas of law. Rights custom like rights customary giving authority to public lawcustoms to organize andorganize utilization land. Including inside it arrange about legal relationship between people and the law Which related with land. Existence right customary law Alone hasexperience Lots development, as listed in the clause certificate concession Which given to *orderneming* plantation, right customary law public custom protected. Conflict land about right customary land/land customary law usually about difference view, mark, interest about status customary law And public customary law over a certain area, whether has published right on land norWhich Not yet. Following a number of conflict about land customary law/rights customary law :

1. Problem determination subject customary land.
2. Problem determination object land uayat.
3. Problem Determination subject And object land customary law

Completion to root conflict This customary land is regulated in the Decree Head Body Land National Number 5 Year 1999 about Guidelines Completion Problem Right UlayatPublic Law Custom. Arrangement normatively this also clarifies statuslaw right customary law Which in UUPA only arranged in a way abstract in meaning as long as the customary rights still exist. However in the decision Minister Agrarian/Head of the National Land Agency Number 5 Year 1999 about Guidelines Completion Problem right Ulayat Public Law custom, No explainedwith clear How role Body Land National in solution dispute land custom, but in the rule the stated that furthermore about status land customs/rights customary law the rest form regional government authority.Determining the status of customary rights/customary land government area do study with involve Expert law custom, customary law communities in the regionconcerned, non-governmental organizationspublic And agencies Which concerned. In matter This role from Body Land National is carry out records on customary landwhich has previously been stated to exist bystudy as in the Chapter 5 Paragraph (1) Regulation Head BodyLand National Number 5 Year 1999 about Guidelines Completion ProblemRight Ulayat Public Law Custom.

Completion to problem rightcustomary land/land custom on moment This Still in domination by traditional institutions formed by public law custom local. Traditional institutions have a role Which very important And strategic in solution dispute land. Dispute land part big happen between society custom Which maintain right custom on land with the ruler who in this case is owner of capital/ company obtain forest control concessions, mining, gas earth. Matter This often causing indigenous people to do looting of the buildings above land custom the (*reclaiming*).

The development of this traditional institution occurred in almost all regions of Indonesia, as example in the North Sumatra area to be precise in the area Regency Toba Samosir, based on Regulation Area Number 13 Year 2000 about Institution Custompretext Natolu This explain that These traditional institutions have several task Which among them is as following :

1. Accommodate And Channeling Public opinion on government And finish dispute Which concerning law custom And habitspublic law custom batak Toba;
2. Empowering, conserve, And develop customs as well as the habits of society in frame enrich culture area,including empowering publicTo use support maintenance government, development And coaching public; Create a relationshipdemocratic, harmonious And objective between traditional heads, traditional leaders and leaders/leaders custom with government officials For That all the problem can be resolved properlydiscussion And consensus. Importance role institution custom This No regardless from need publiccustomary law towards institutions that can help finish problem law custom in the area place stay they. In the practice role institution custom This it turns out No sosignificant Because so it's complicated problem Which arise in public law custom specifically about land custom.

CONCLUSION

1. Completion to dispute This land can be done through two method, that is : (1) Completion Dispute Through Track Court, And; (2) Completion Dispute Through *Alternatives Dispute Resolution (ADR)*. Body Land National asInstitution Non Department Which own role important inproblem land, own Function For help finishlanddisputes , in carry out Its function the Land Agency National grounded OnRegulation Head Body Land National Republic Indonesia Number 3 Year 2011 about Management Assessment And Handling Case Land. According to Regulation on The National Land Agency could be mediator if happen dispute between 2 (two) Party Which system method The solution is then set out inDecision Body Land National Republic Indonesia Number 34 Year2007 about Instruction Technical Handling And Completion Problem Land Which more detailed arranged in the Instruction Technical Number 05/JUKNIS/DV/2007 concerning Mechanism Implementation Mediation. And also, the National Land Agency can do its function in do solution dispute through track court Which system method Its implementation is regulated in the InstructionsTechnical Number 06/JUKNIS/ DV /2007 about Litigation in Court And Act Carry on Implementation Decision Court.
2. Article 3 Law Number 5 of the Year 1960 about Regulation Base Principal- Tree Agrarian arrange about existence land customary law Which Still recognized if it is still within the scope public custom. Explanation about system method solution land customs/rights customary law has actually been regulated within Regulation of the Minister of Agrarian Affairs/Head of AgencyLand National Number 5 Year 1999 about Guidelines Completion Legal Community Customary Rights Issues Custom. However, in the regulation the No arranged in a way clear role Body Land

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