



Non-Litigation Resolution of Business Use Rights Disputes Between PT. Lebuni and Shareholders

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Abstract:

The purpose of this research is to find out the non-litigation settlement of the business use right dispute between PT Lebuni and the shareholders. The method used in this research is empris research method which is used as a method to examine a legal provision that applies, as well as how the realization and reality of these provisions in community life. The results of this research are The arable land dispute occurred between the Bukit Tinggi Village community and PT Lebuni Plantation. This dispute was triggered by an agreement between the directors of PT Lebuni and the community, in which of the 250 hectares of land registered in the Cultivation Rights Title, 150 hectares were given to farmers to work on, while 100 hectares were controlled directly by the company for industrialization purposes. The dispute arose when the Director of PT Lebuni decided to take control of the land cultivated by the farmers, which was their source of livelihood. This decision was taken to meet the needs of the company, but it has the potential to harm the farming community in Bukit Tinggi Village, because it ignores the distribution of land according to plantation use rights.

Keywords: *Land Dispute; PT. Lebuni Plantation; Farmers.*

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Introduction

An agrarian country places land as the main pillar in the framework of life administration. The existence of land rights also has implications for the use and utilization of land. Initially, the land owned by the community was land that was managed to produce various kinds of crop products, apart from land for agriculture, which was then referred to as garden land (Tanjung and Masril 2022).



An agricultural country places land as the main pillar in the framework of life administration (Limbong 2017). As the highest authority over agrarian resources, the state has legal relations and authority in control arrangements which are then referred to as state control rights. This reality has occurred since the New Order where the state controlled land by granting concession permits to large-scale private plantation companies. This causes injustice in land tenure because strategic lands are controlled by a few people and in the end creates agrarian disputes (Rosiana and Junaidi 2022)

As a country with an agrarian background, land is something of very important value in people's lives. Land functions as a source of livelihood for rural communities and also as a support for their economy in terms of maintaining the standard of human life in the future. For the village community, land is the most important asset in their lives because in everyday life land becomes one of their supporting objects, both from birth to death, so that apart from all their needs which are closely related to land, it is therefore necessary to prioritize land. as a social function and not a commodity function so that it can provide aspects of welfare for farming communities (Arba 2021)

Not all Indonesian people own land that can be used as a plantation business. Therefore, in accordance with the provisions of Article 4 of the UUPA, communities are granted land rights by controlling other people's land, namely by using Cultivation Rights (HGU). The HGU control can be used for plantations/agriculture, fishery, and animal husbandry (Tarigan, n.d.).

Constitutionally, arrangements for the management of natural resources, especially land managed by individuals or legal entities, also require the allocation of management of natural resources for the greatest possible prosperity of the people. The role of the state in managing and regulating land, that the natural wealth contained therein is controlled by the state and used as much as possible for the prosperity of the Indonesian people. this concept is commensurate with the norms listed in article 33 paragraph 3 of the BAL. Moreover, land that has been registered as a usufructuary right by PT. The Lebuni plantation is relatively not fully developed for industrialization purposes (Khoirruni'mah, Agustiwi, and Bidari 2022)



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National agrarian problems in the plantation sub-sector cannot be separated from the history of colonialism. Through colonialism, especially the Netherlands, the Indonesian plantation system underwent changes and additional efforts for food farming became a farming system that has a large and complex economic scale. Its characteristics are using a large land estate, capital intensive, using a large workforce with a detailed division of labor and an orderly structure of labor relations. modern technology, and market-oriented (Parihah 2022).

Basically disputes can happen to anyone and anywhere. Disputes can occur between individuals and individuals, between individuals and groups, between groups and groups, between companies and communities, between companies and countries, between one country and another, and so on. In other words, disputes can be public or civil in nature and can occur locally, nationally, or internationally (EVA 2022).

Furthermore, a dispute is a condition where a party feels disadvantaged by another party, which then the party conveys this dissatisfaction to the second party. If the situation shows differences of opinion, then what is called a dispute occurs.

Disputes related to arable land were the first problems that occurred among the people of Bukit Tiggki village, to be precise at PT. Lebuni Plantation. Where the trigger was the result of an agreement between the directors of PT. Lebuni and the community are of the 250ha of land registered with the HGU, 150ha is given to farmers to work on and 100ha is directly controlled by the company for industrialization purposes. However, over time the Director of PT. Lebuni took the



middle way by being forced to control the land in its entirety or to convert it into full company property and could not be intervened by the sharecropper community. It is from this phenomenon that different interpretations arise regarding the right to control, manage and utilize the produce of the land.

Method

The type of research used is Empirical legal research in completing research findings related to the object of research. This research is an empirical legal research that is used as a method to study an applicable legal provision, as well as how the realization and reality of these provisions in people's lives.

Discussion

Land Disputes.

Land disputes are disputes that have existed for a long time, from the Old Order era, the New Order era, the reform era and up to now. Land disputes in terms of quality and quantity are problems that always exist in the order of people's lives. Disputes or conflicts over land have become a chronic and classic problem and have lasted for years or even decades and are always present everywhere. Land disputes and conflicts are forms of problems that are complex and multi-dimensional (Sumarto 2012)

It is an inherent phenomenon in the history of human culture and civilization, especially since the agrarian era when resources in the form of land began to play an important role as a factor of production to meet human needs. In connection with the notion of land disputes, it can be seen from two forms of understanding, namely the understanding given by legal experts and that which is confirmed by laws and regulations (Sukmawati 2022)

According to disputes over land rights, namely: the emergence of legal disputes stems from a complaint by a party (person/entity) containing objections and demands for land rights, both regarding land status, priority, and ownership in the hope of obtaining administrative settlement in accordance with the provisions of the applicable regulations. Furthermore, according to Rusmadi Murad, there are several types of land dispute problems, namely:



1. Issues or issues related to priorities to be implemented as legal rights holders on land with title status, or on land with no rights yet.
2. Objection to a basis for rights/proof of acquisition used as a basis for granting rights (civil).
3. Errors or errors in the granting of rights caused by the application of regulations that are lacking or incorrect.
4. Disputes or other issues that contain practical/strategic social aspects.

According to the Regulation of the Minister of Agrarian Affairs/Head of BPN Number 1 of 1999 concerning Procedures for Handling Land Disputes, Article 1 point 1: Land disputes are differences of opinion regarding the validity of a right, the granting of land rights, and the registration of land rights including their transfer and issuance of proof of rights. , between interested parties and between interested parties and agencies within the National Land Agency (Ashadi and Rahman 2021)

In giving an understanding of land disputes, there are two interrelated terms, namely land disputes and land conflicts. Even though these two terms are land cases, the Head of BPN Regulation Number 3 of 2011 concerning Management of the Study and Handling of Land Cases clearly distinguishes the meanings of the two terms. In Article 1 point 2 it is explained that: Land disputes, abbreviated as disputes, are land disputes between individuals, legal entities, or institutions that do not have a broad socio-political impact. Whereas land conflicts, abbreviated as conflicts, are land disputes between individuals, groups, groups, organizations, legal entities, or institutions that have tendencies or have had a broad socio-political impact .

Furthermore, in the Technical Instructions Number 01/JUKNIS/DV/2007 concerning Mapping of Problems and Roots of Land Problems, it is stated that: Disputes are differences in values, interests, opinions and/or perceptions between individuals and/or legal entities (private or public) regarding the status of ownership and or status of ownership and or status of use or utilization of certain land parcels by certain parties, or status of decisions of the State Administration regarding control, ownership and use or utilization of certain land parcels.

Whereas conflicts are values, interests, opinions and/or perceptions between citizens or community groups and/or citizens or community groups and legal entities



(private or public), communities and communities regarding tenure status and/or ownership status and/or status of use or utilization of land parcels. certain parties, or the status of the use or utilization of certain land parcels and contains political, economic and socio-cultural aspects. BPN RI outlines the typology of land conflicts can be grouped into ten parts, namely :

- 1 Land tenure without rights, namely differences in perceptions, values or opinions, interests regarding the status of control over certain lands that are not or have not been attached to rights (state land) or to which rights have been attached by certain parties.
- 2 Boundary disputes, namely differences of opinion, value of interests regarding the location, boundaries and area of land parcels recognized by one party that have been determined by the National Land Agency of the Republic of Indonesia and which are still in the process of setting boundaries.
- 3 Inheritance disputes, namely differences in perceptions, values or opinions, interests regarding the status of control over certain land originating from inheritance.
- 4 Selling many times, namely differences in perceptions, values or opinions, interests regarding the status of control over certain land obtained from buying and selling to more than 1 (one) person.
- 5 Multiple certificates, namely differences in perceptions, values or opinions, interests regarding a particular land parcel that has more than 1 (one) land title certificate. And a replacement certificate, namely differences in perceptions, values or opinions, interests regarding a certain land parcel that has been issued a certificate of replacement land rights.
- 6 Fake Sale and Purchase Deed, namely differences in perceptions, values or opinions, interests regarding a certain land parcel due to a fake Sale and Purchase Deed.
- 7 Errors in the designation of boundaries, namely differences of opinion, value of interests regarding the location, boundaries and area of land parcels recognized by one party which have been determined by the National Land Agency of the Republic of Indonesia based on the



designation of wrong boundaries. And overlap, namely differences of opinion, value of interests regarding the location, boundaries and area of land parcels that are recognized by one particular party because there are overlapping boundaries of land ownership.

- 8 Court decisions, namely differences in perceptions, values or opinions, interests regarding decisions of the judiciary relating to the subject or object of land rights or regarding the procedure for issuing certain land rights.

Land conflicts have been rooted from ancient times until now, the roots of land conflicts are the fundamental factors that cause land conflicts. It is important to identify and inventory the root causes of land conflicts in order to find a solution or the form of settlement that will be carried out. One of the fields that regulates the life of citizens who are also subject to the law is the land sector. Article 33 paragraph (3) of the 1945 Constitution and is spelled out in the UUPA which regulates agrarian/land issues in Indonesia as a regulation that must be obeyed. One of the objectives of establishing the UUPA is to lay the foundations to provide legal certainty regarding land rights for the people as a whole.

If we look at it factually, the juridical basis governing agrarian/land issues has not been fully implemented consistently for various reasons which have caused problems. According to (Rachman 2013) the current sources of land problems/conflicts include:

1. Unbalanced and unequal land ownership/control
2. Incompatibility of use of agricultural land and non-agricultural land.
3. Lack of support for people with weak economic groups.
4. Lack of recognition of the rights of indigenous peoples over land such as ulayat rights.
5. The weak bargaining position of the community holding land rights in land acquisition.

Mediation

Mediation is a process in which disputing parties are brought together to negotiate a matter which is the object of dispute with the help of individuals or groups who



methodically resolve the disputed issues to find options and arrive at answers that can accommodate the interests of the disputing parties.

Furthermore, mediation is an intervention in a dispute or negotiation by an acceptable, impartial, and neutral third party who does not have the authority to make decisions in assisting the disputing parties in an effort to reach an agreement voluntarily in resolving disputed issues (Amriani 2012)

Based on the explanation above, according to (Nugroho 2009) that Mediation is an effort to reach a mutually agreed settlement of disputes between parties through the use of neutral mediators who support the facilitator in carrying out dialogue between the parties in an atmosphere of openness, honesty, and exchange of opinions in order to achieve an agreement. In other words, a negotiated problem-solving process in which impartial and neutral outsiders work with disputing parties to help them reach a satisfactory agreement.

Furthermore, mediation is also a short-term task in which the process allows third parties to participate neutrally. The parties to the dispute work together through a mediator to try to find a solution that is acceptable to both parties. In this mediation process decisions, proposals or consensus do not come from the mediator but from the disputing parties.

Dispute resolution through a mediation process is only oriented to two things, namely as a process that aims and is oriented towards the rights of the parties or the interests of the parties. If it is rights oriented, then the description given is what rights will be obtained if this dispute is brought to court. This orientation is actually not recommended because it does not solve the problem at its root. Meanwhile, if it is interest-oriented, it is more inclined towards improving the situation, trying to accommodate the wishes of the parties by solving the core problem.

Mediation is a method of settlement that has various functions that are very useful in conflict resolution activities.

Some of these functions are:

1. Solve a problem
2. Prevent the emergence of conflict between groups or individuals



3. Unite the two groups or individuals
4. Ease the problems that are happening between individuals or groups in conflict
5. Ease the problems that are happening between individuals or groups in conflict
6. Presenting the best solution for both parties
7. Creating peaceful conflict problems.

1) Negotiation

Negotiation comes from the word negotiation, which means negotiation, in simple terms the definition of negotiation is a process of bargaining or an attempt to reach an agreement with another party through a process of dynamic communication interaction with the aim of obtaining a solution or way out of an ongoing problem (Winarta 2022)

Thus, negotiation is a choice of alternative dispute resolution efforts that are carried out independently through a dynamic process of interaction and communication with the aim of finding a solution to a civil dispute.

Negotiation is also direct communication designed to reach an agreement when both parties have the same or different interests. This alternative is different from mediation where in the negotiation aspect, the communication carried out in the negotiation process is built by the parties without the involvement of a third party as a mediator.

Negotiation is a means for disputing parties to discuss their settlement without the involvement of a third party. Therefore, through negotiation, the disputing parties can carry out a process of re-examination of the rights and obligations of the disputing parties in a situation that is mutually beneficial, by releasing or providing concessions to certain rights based on the principle of reciprocity. The agreement that has been reached is then set forth in writing to be signed and implemented by the parties. Negotiation techniques can be learned through theory based on practices or experiences carried out by those involved in the world of negotiations (Sembiring and SH 2011), generally known as five negotiation techniques namely;

1. Competitive negotiation techniques
2. Cooperative negotiation techniques



3. Soft negotiation techniques
4. Hard negotiation techniques
5. *Interest Based* negotiation technique .

The benefits that can be obtained from negotiations, namely:

- a) The creation of cooperation between parties to achieve their respective goals
- b) Mutual understanding can arise between the negotiating parties
- c) The creation of an agreement that benefits all negotiating parties
- d) The formation of positive interactions between negotiating parties which can then have a broad impact on more people.

2) Cultivation Rights

Cultivation rights are rights to cultivate land directly controlled by the State, within the period specified in Article 29, for agricultural, fishery or animal husbandry companies (Article 28 paragraph 1). then, PP No. 40 of 1996 added for plantation companies.

Land use rights are land originating from state land (Muwahid 2016). The right to cultivate is a plot of land that is contracted either by an individual or a legal entity based on a business license to carry out agricultural activities on land that is directly controlled by the state.

As written in the book entitled "Hak Guna Usaha, that the land area of land use rights for individuals is a minimum of 5 hectares and a maximum area of 25 hectares. As for legal entities, the minimum area is 5 hectares and the maximum area is determined by the National Land Agency (Article 28 paragraph 2 UUPA jo. Article 5 government regulation Number 40 of 1996).

Furthermore, as stated in (Article 29 paragraphs 1, 2 and 3 of the UUPA) that the term of the usufructuary right is 25 years for companies, while those that require a longer period of time can be given a maximum of 35 years and can be extended for a maximum period of 25 years. Then, in Article 8 PP No. 40 of 1996, it regulates the timeframe for the right to cultivate, for the first time it is a maximum of 25 years,



and can be extended for a maximum of 25 years, and renewed for a maximum of 35 years. Requests for extension or renewal of HGU are submitted no later than two years prior to the expiration of said HGU period.

The obligations of the holder of Cultivation Rights are:

- a) Paying income to the state
- b) Carry out agricultural, plantation, fishery, and/or livestock businesses in accordance with the designation and requirements as stipulated in the decision on the granting of rights
- c) Properly cultivate the HGU land in accordance with business feasibility based on the criteria set by the technical agency
- d) Build and maintain environmental infrastructure and land facilities within the HGU area
- e) Maintain soil fertility, prevent damage to natural resources and maintain the sustainability of environmental capabilities in accordance with applicable laws and regulations
- f) Submit a written report at the end of each year regarding the use of HGU
- g) Returning the land granted with the HGU to the State after the HGU is deleted
- h) Submitting the deleted HGU certificate to the Head of the Land Office (Article 12 paragraph 1 PP Number 40 of 1996).

Conclusion

Disputes over arable land among the people of Bukit Tigcki village, precisely at PT. Lebuni Plantation. Where the trigger was the result of an agreement between the directors of PT. Lebuni and the community are of the 250ha of land registered with the HGU, 150ha is given to farmers to work on and 100ha is directly controlled by the company for industrialization purposes. The dispute occurred when the Director of PT. Lebuni to the people who fully own the rights of the farming community to the land that is cultivated by farmers for the survival of the farming community, a decision made by the Director of PT. Lebuni to meet the company's needs from the company's profits which can be detrimental to the farming community in the village of Bukit Tigcki a number outside the land for the distribution of plantation land use rights.



Recommendation

It is necessary to carry out negotiations between the two parties, carry out land bleaching and transfer land rights to sharecroppers, conduct arbitration if both parties agree, and pay attention to the legal and regulatory aspects that apply. In carrying out dispute resolution, it is very important to consider the interests of both parties and find a solution that is fair and beneficial to both parties. In this case, PT. Lebuni plantations can help facilitate the process of soil bleaching and the transfer of land rights to sharecroppers. This can be a good solution to resolve disputes in a non-litigation way. So it is hoped that with settlement through non-litigation channels, disputes can be resolved.

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