

Agrarian Law Enforcement In Land Dispute Settlement

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ARTICLE INFO	ABSTRACT
<p>Submitted : 02-04-2023</p> <p>Received : 05-04-2023</p> <p>Approved : 15-04-2023</p> <p>Keywords: <i>Agrarian, Land Conflict, Land Ownership</i></p>	<p>Land ownership that is unfair to the community will offer opportunities for some parties to act undemocratically by taking land from the community. Conflict is a phenomenon that often occurs in human life, and arises from the conditions of the diversity of social systems. Conflict, no matter how it is seen, is inextricably linked with social existence. Property rights according to Article 20 paragraph (1) of the UUPA, namely hereditary, strongest, and fulfilled rights that people can own over land by considering that all land rights have a social function. The review utilizes a standardizing juridical methodology and the kind of legitimate survey is an extensive investigation of essential lawful materials, optional legitimate materials, and tertiary legitimate materials. The consequences of this exploration are the goal of land debate cases as specified in Regulation Number 51 of 1960, in Article 2 and Article 6 passage (1) letter a, that the utilization of land without consent from the legitimate individual or their lawful intermediary is a disallowed act and undermined with criminal punishments. Nonetheless, in tending to clashes and land debates that emerge, one should take a gander at it according to a few points of view while as yet focusing on equity and not hurting the two players, so it isn't just seen from the side of the inhabitant's activities yet additionally as far as the endlessly utilization of the land by the proprietor if, as far as usage, the land isn't used ideally and even appears to have been dismissed by the proprietor for roughly 15 years. Settlement of questions through consultation through intervention is followed as the way to taking care of land issues, remembering that the fundamental objective of intervention is to determine issues, apply standards or make request, yet in its execution, it should likewise be founded on broad standards.</p>

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1. Introduction

Agrarian conflicts that have not been resolved to date are of course the responsibility of the state in providing space for justice and prosperity for all people. The source of agrarian conflict is inequality in the control, ownership, use, and use of land for the community, for example, there are still many people who do not own land at all, but, there are several people who own land with a wide distribution that exceeds the limit, therefore it is necessary to organize return the structure to the purpose of the land.

Land ownership that is unfair to the community will provide opportunities for some parties to act undemocratically by taking land from the community. Conflict is a phenomenon that often occurs in human life, and arises from the conditions of the diversity of social systems. Conflict, no matter how it is seen, is inextricably linked with social existence (Sumanto, 2020).

The government is accelerating agricultural reform as a way to reduce agrarian conflicts by controlling assets and access. The implemented agrarian reform provides benefits for the distribution of land ownership in society. At least the available land is not balanced with human needs. In Indonesia, this situation gave rise to agrarian disputes. Even though the stages of the resolution taken by the various parties to the dispute differ, the law, which does not only stand alone but also has a close reciprocal relationship with society, must be upheld in resolving this agrarian conflict. The impact of this agrarian conflict resulted in a sense of justice and legal certainty that the community expected was not fulfilled, thus adding new problems whose impact made matters worse. For this reason, in the process of resolving agrarian conflict disputes, it must be able to put forward the principles of human rights (HAM), which do not only prioritize legal formal law only to resolve conflicts over the expropriation of people's land.

One area that shows the prevalence of this social tension is the problem of agrarian resources. Development on a large scale certainly has an explosive impact on agrarian disputes that are growing. The government's role in resolving the issue of agrarian conflicts between the community and various companies and the government in upholding justice and community welfare has been questioned by several groups regarding this unresolved agrarian conflict. The resolution of this case, of course, must be able to pay attention to decisions that are absolute but must guarantee the fulfillment of the rights of the people who feel the loss, namely the fulfillment of the desired rights so that the community feels that human rights are truly protected, especially in fulfilling property rights. land as a source of life.

From a human rights perspective, because this is part of a human commitment by not discriminating between powers in upholding the law, the government's role in carrying out its duties must respect, safeguard and fulfill people's rights. According to Roscoe Pound's thesis, the law is a tool for social engineering and a tool for social control. Agrarian problems will not be resolved through agreements that always prioritize violence. Law, social science, or a combination of the two perspectives can all be used to study how law functions in society.

The existence of land at any time will be the most important resource for the life of people who rely on the land. For this reason, the land whose number will never increase is contrary to the ever-increasing number of people, along with the increasingly complex needs and desires for land (Arrsa, 2014). The social impact of the agrarian conflict has resulted in a decrease in the level of public trust in the government regarding the implementation of spatial planning. During a conflict, the space over an area and over the land that is the object of the conflict is usually in a state of status quo so that the space over the land in question cannot be utilized (Ningrum, 2014).

In addition, due to the ever-changing configuration of the land, the dimensions of land conflicts between land rights holders who face the government and entrepreneurs tend to change. It causes the emergence of various conflicts of interest that continue to develop with

various modes and patterns, so a dispute resolution approach is needed that can provide justice and legal certainty for both the community and business actors (Alting, 2013).

In light of the setting over, this reasonable examination study looks at social improvement in view of past investigations with respect to the dissemination of agrarian struggles between networks, business visionaries, and the public authority itself. This agrarian struggle likewise emerges from a primary setting, to be specific a few land strategies left by the New Request which are as yet being completed by the public authority in the ongoing time of change.

2. Materials and Methods

In this review, the creators utilized a regularizing juridical methodology and the kind of lawful survey was a complete examination of essential legitimate materials, optional lawful materials, and tertiary legitimate materials (Soekanto, 2006). The aftereffects of the examination and conversation are portrayed in full, exhaustively, obviously, and deliberately as logical work. Regularizing legitimate examination looks at regulations that are conceptualized as standards or decides that apply in the public eye, and become a reference for everybody's way of behaving. The pertinent legitimate standards are as composed positive lawful standards framed by legal foundations (established regulations), codification, regulations, unofficial laws, etc, composed lawful standards shaped by legal organizations (judge-made regulation), as well as fake composed regulation closely involved individuals (contracts, authoritative archives, legitimate reports, legitimate records, and draft regulations). (Abdulkadir Muhamad, 2004)

3. Results and Discussions

Arrangement of Property Ownership Rights

Right of ownership

Property rights according to Article 20 paragraph (1) of the UUPA, namely hereditary, strongest, and fulfilled rights that people can own over land by considering that all land rights have a social function. The characteristics of property rights are the parent of other material rights, rights are complete in terms of quantity, permanent rights are not lost because of other rights, and rights that contain the essence of all other rights (Lenaerts, 2019). What individuals can possess over land with the arrangements in Article 6 of the UUPA, to be specific heredity implies that land proprietorship privileges can proceed with consistently as long as the proprietor is as yet alive, and if the proprietor kicks the bucket, it can be continued by his heirs as long as he meets the requirements as a subject of property rights, meaning ownership rights to land are stronger when compared to usufructuary rights or other land tenure rights, as well as the definition of Fulfillment means that land ownership rights give authority to owners who are broad when compared to other land rights.

As described in the provisions in Article 22 of the UUPA, land ownership rights can occur in 3 ways:

- 1) Land ownership rights that occur according to customary law, which is regulated according to government regulations, from the elucidation of Article 22 it contains that as an example of how property rights occur according to customary law, namely land clearing.
- 2) Land ownership rights occur because of government stipulations. The property rights referred to by the government are property rights given to the community over the

land they control, usually through a certificate of land tenure which is then converted for further processing to obtain a certificate of ownership rights.

- 3) land ownership rights occur because of statutory provisions. Property rights are meant because of statutory provisions, namely procedural land ownership rights that are determined based on legislation, for example, the BAL on agrarian principles, which is a source of application for certification that applies nationally.

The foregoing shows that ownership of strong land rights is property rights, which have strong legal force and give full authority to the owner, these property rights can be obtained based on the mechanism of statutory regulations either through customary law, through government regulations and so on based on legislation.

Basic Agrarian Regulations

While before the sanctioning of the fundamental agrarian guidelines, the law that was still active was created in view of the objectives and standards of the pilgrim government and its impact was serious areas of strength for exceptionally the interests of the provincial government, to the place where it clashed with the interests of individuals and the express, that this agrarian regulation had the idea of dualism, with the establishment of standard regulation notwithstanding agrarian regulation which depends on western regulation so it doesn't ensure legitimate conviction in regards to land proprietorship, components that depend on the standards of strict regulation.

That the national agrarian law must provide certainty for the realization of land use that is nationally in the interest of the state and the welfare of its people. In connection with this, everything related to land needs to be stipulated in new statutory regulations and basic provisions, with this in mind, the government issued laws contained in UUPA No. 5 of 1960, so that as a whole the laws and regulations Invitation before the issuance of this law were declared no longer valid and so on all mechanisms for land ownership and others must be based on UUPA No. 5 of 1960 which applies nationally.

With the issuance of this LoGA, it aims to guarantee legal certainty regarding the Basic Agrarian Principles, another objective of this Law is based on the understanding that the State of Indonesia is an agrarian country where the majority of the population depends on the agricultural sector, land management and utilization of natural resources. Land or land is very important from a legal point of view because it relates to land ownership, processing, or utilization rights, so a regulatory system is needed, for how the community can make the best use of land and natural resources without causing conflicts of interest in society and guaranteeing legal certainty for society, on this basis the UUPA No. 5 of 1960 concerning the Principles of Agraria was enforced nationally.

Land Ownership According to the Basic Agrarian Law No. 5 of 1960

If we look at UUPA No. 5 of 1960, the law does not only regulate land but also land ownership and if studied more deeply and further, it also regulates agrarian natural resources in general and types of land rights, this is as stated in the article 16 paragraph 1 that the types of land ownership are ownership rights, building use rights, usufructuary rights, usufructuary rights, lease rights, rights to collect forest products, land clearing rights, and other rights.

If the above is examined in more depth in article 16, then the types of land rights are categorized into three, namely land rights that are permanent, temporary land rights, and land rights whose status is based on legislation, in the three categories These ownership rights fall into the first category, namely efforts to use rights, property rights, building use rights, usufructuary rights, rental rights, rights to collect forest products, rights to clear land.

Land proprietorship is one of the primary hotspots for the endurance and vocation of the country in accomplishing individuals' thriving which should be conveyed reasonably and

equitably, in this way land should be developed or used to satisfy genuine necessities. In such manner, it is likewise important to manage the arrangement, distribution, use, control, and upkeep of them to ensure legitimate assurance in their control and usage and simultaneously give lawful security to the commoners, particularly the rancher bunch, while keeping up with maintainability in supporting reasonable improvement economical exercises.

In connection with the above, all evidence of land ownership must be arranged and limited regarding tenure. For further arrangement, the government is programming a national land certification project which aims to find out and organize ownership so that each piece of land is utilized for the welfare of the community, other things that are important so that there is no double certification in ownership.

Application of Agrarian Law (UUPA No.5 1960)

As a general rule, policing be deciphered as a demonstration of applying specific legitimate means to control, regulate and give lawful power to guarantee the assurance of the arrangements specified, in the interim, as per Satjipto Rahardjo. Policing a cycle for acknowledging lawful cravings (in particular the contemplations of the governing body which are figured out in legitimate guidelines) to become reality (Rahardjo, 1983).

Reasonably the above understanding alludes to the quintessence and importance of policing lies in the action of blending the relationship of values and is converted into great standards and is epitomized in a progression of values to make, endlessly keep up with harmony in public activity, he further said The outcome of policing be affected by a few factors that have an impartial significance so the negative or positive effect lies in the items in these variables.

These elements are firmly connected with one another and are the embodiment and benchmark of the viability of policing. These elements are regulation (regulation), policing, the gatherings that structure or apply the law, offices or offices that help policing, where the law is applied, and social variables, in particular the work, imagination, and taste in view of drive. people in public activity.

Observing the above shows that the application of agrarian law must lay the foundations for agrarian law that brings prosperity, happiness, justice, and legal certainty to the nation and state, of course, all of these contain the values of the basic national agrarian law contained in the BAL concerning The Basic Principles of Agraria, in the form of the right to control the recognition of territorial rights and social functions, which aim to: Create a unification of Agrarian law by Declaring that it is no longer valid (revoking/removing) old land law regulations like above and states the enactment of national land law based on unwritten law (customary law), as material for the preparation of national land law, which creates the unification of tenure rights over land (land rights and collateral rights over land) through convention activities.

West-righted lands as well as Indonesian-righted lands as a concrete relationship were converted (converted) into land rights according to the Basic Agrarian Law simultaneously and by law (rechtswege) as of September 24, 1960, declared to have been implemented nationally..

Settlement of Land Disputes outside the Court

As specified in Regulation Number 51 of 1960, in Article 2 and Article 6 section (1) letter a, the utilization of land without consent from the people who are entitled or their legitimate intermediaries is a restricted demonstration and is deserving of criminal punishments. Nonetheless, in tending to clashes and land debates that emerge, one should take a gander at it according to a few points of view while as yet focusing on equity and not hurting the two

players, so it isn't just seen from the side of the inhabitant's activities yet additionally as far as the endlessly utilization of the land by the proprietor in usage, the land isn't used ideally and even appears to have been disregarded by the proprietor for roughly 15 years.

Therefore, as a manifestation of the government's desire and concern to deal with land conflicts and disputes which have direct implications for "victims" in the land area, the Public Land Organization is completing the order to deal with the land area by Article 2 of the Prisedent Guideline (Perpes) Number 10 of 2010. 2006 concerning the Public Land Office has the errand of doing government assignments in the land area broadly, locally, and sectorally, shaping Representative V for the review and treatment of land questions and clashes (article 343 Guideline of the Head of BPN Number 3 of 2006 concerning the Association and Work Method of the Republic of Indonesia's Public Land Organization Indonesia).

Guideline of the Clergyman of Agrarian Undertakings and Spatial Preparation/Top of the Public Land Organization Number 11 of 2016 concerning Settlement of Land Cases is a lex expert on Regulation No. 30 of 1999. 16 of 2016 Article 37 Section (1) which peruses: "Disputes or conflicts as referred to in Article 12 paragraph (5) can be resolved through mediation"

Question goal through consideration through intervention is followed as the way to taking care of land issues, remembering that the primary objective of intercession is to determine issues, apply standards or make request, yet in its execution, it should likewise be founded on broad standards as adheres to:

a. Voluntarily

This principle is crucial because the parties have free will to take legal action against the object of the dispute. This is intended so that in the future there will be no objections to the agreement that has been taken in the context of resolving the dispute.

b. Independent and impartial

Dispute resolution through mediation must be free from the influence of any party, both from each party, the mediator, or a third party. For this reason, the mediator must be independent and neutral.

c. Personal relationship between parties

Dispute resolution will always be focused on the substance of the problem, to find a better solution than just the formulation of a good agreement.

In article 6 section (2) of the Guideline of the State Clergyman for Agrarian Undertakings/Top of the Public Land Organization Number 1 of 1999 In regards to How to Deal with Land Debates, it is stated that the handling of settlement of land problems/disputes at the level of the Regency/Municipal land office is assigned to the Head of the Land Rights Section with the assistance by the relevant official/officer from the Land Office.

The section head as an official at the regional Land Office prepares materials and carries out activities for handling disputes, conflicts, and land cases as instructed in Article 1 Number 21 of Permen No. 11 of 2016. The land agency is an institution appointed to the settlement of disputes over land cases by carrying out their duties by Permen No. 11 of 2016 concerning the Settlement of Land Cases. The intervention cycle starts with a grumbling report from general society as a composed solicitation submitted to the Top of the Land Office, joined by the character of the complainant and a depiction of the case. After the complaint is received, the officer responsible for handling complaints cases the complaint file meets the requirements and the officer submits the complaint file to the official responsible for handling disputes and administering the complaint into the complaint receipt register.

Moreover, Intervention exercises are completed in light of the arrangement of the questioning gatherings by Article 38 section (1) of Ecclesiastical Guideline No. 11 of 2016. Besides, in view of the choice of the Top of the Public Land Organization of the Republic of

Indonesia Number 34 of 2007 concerning Specialized Guidelines for Taking care of and Settlement of Land Issues Number 05/JUKNIS/D.V/2007 concerning Intervention Stages made sense of that the intervention component comprises of three phases, to be specific pre-intervention, intervention stages, and post-intercession systems.

The process of resolving land disputes outside the court in general can be done through berbagai cara sebagai berikut:

a. negotiation

Negotiation is one of the main patterns or steps in Alternative Disputes Resolution (ADR). Negotiations involve two or more interested parties. The goal is to reach an agreement. That way they can work together again. Negotiation often occurs in the business world because its essence is communication and bargaining (Yusriyadi, 2010).

b. Mediation

Intercession is a jargon or term got from the English jargon, specifically intervention. Indonesian essayists and researchers then, at that point, really like to Indonesian it into "intercession" like different terms we are know all about: exchange turns into a discussion, mediation becomes discretion, etc (Rahmadi, 2011) . As per Prof. Dr. Takdir Rahmadi, intervention is a course of settling questions between at least two gatherings through exchange or agreement with the assistance of an unbiased party who doesn't have the position to choose. The success of a mediation process is very dependent on the willingness of the parties to talk to each other and set the target of the discussion to find a solution that is acceptable to each party.

c. Conciliation Process

Conciliation can be interpreted as an effort to bring together the wishes of the disputing parties so that they agree to resolve the problem. Oppenheim said conciliation is "the process of resolving disputes by submitting them to a commission of persons who are tasked with elucidating or explaining the facts and usually after hearing the parties and trying to get them to reach an agreement make proposals for settling the problem. However, the decision is not binding."(Abdurrasyid, 2002)

d. Facilitation

In cases involving more than two parties, a third party is required to act as a facilitator. His job is to help litigants by finding a way out together. In this case, the facilitator only provides facilities so that the communication of the parties is effective. These facilities include liaisons, translators, joint secretariats, or meeting places.

e. Independent Appraiser Process

An independent appraiser is the use of an impartial third-party service. An independent appraiser is one of the processes that can be used in settling a case, especially land cases that are disputed between one party and another.

f. Arbitration

Civil procedure regulations or commonly abbreviated as Rv define arbitration as a form of justice conducted by and based on the will and good faith of the disputing parties so that their dispute is resolved by the judge(s) they appoint and appoint themselves, with the understanding that the decision taken by the judge is final (decision at the final level) and which is binding on both parties to implement it . Meanwhile, as indicated by article 1 passage 1 of Regulation no. 30 of 1999, discretion is an approach to settling a common case outside a public court in view of a mediation understanding made recorded as a hard copy by the gatherings to the debate. The method involved with settling questions through mediation can be partitioned into two kinds, in particular:

- Ad, Hoc Arbitration This arbitration is also known as voluntary arbitration. This type of arbitration was established specifically to examine and decide certain

disputes out of court according to the needs of the time. This arbitration ends when the arbitrator or arbitral tribunal has carried out their duties

- Institutional Arbitration, Institutional Arbitration is an arbitration institution or body that is permanent and intentionally formed to resolve disputes between parties out of court

g. Utilizing Customary Institutions

Standard privileges, for example, standard freedoms give position to standard regulation networks to direct and oversee land use. This incorporates the position to manage and decide the legitimate connection among individuals and land as well as the lawful connection among individuals and regulations connecting with land

In a mediation process there will be an obstacle in carrying it out, the obstacle that is often experienced is the difficulty of uniting the desires and interests of both parties, and also each mediator's abilities are different. Difficulty in uniting the two parties is the biggest obstacle experienced by the mediator because both parties to the dispute still defend their rights and do not want to be harmed because their rights must be revoked. The ability of different mediators in a mediation process where the mediator's task is to identify issues that are a source of dispute between the two disputing parties. The mediator must be able to build open communication between the parties because the mediator is the place where the parties ask questions. The current land issue is very relevant to study and consider in depth about land policies so far.

Obstacles that often occur when mediation is carried out to settle land boundary disputes are that it takes quite a long time, the mechanism is difficult, it depends on the good faith of the parties to be able to resolve the dispute to completion, mediation cannot work properly if authority and information are not given sufficiently.

4. Conclusion

Land ownership that is unfair to the community will provide opportunities for some parties to act undemocratically by taking land from the community. Struggle is a peculiarity that frequently happens over human existence, and emerges from the states of the variety of social frameworks. Struggle, regardless of the way things are seen, is inseparably connected with social presence. Property privileges as per Article 20 passage (1) of the UUPA, to be specific innate, most grounded, and satisfied freedoms that individuals can possess over land by thinking about that all land privileges have a social capability.

UUPA No. 5 of 1960 this law does not only regulate land but also land ownership and if studied more deeply and further, it also regulates agrarian natural resources in general and types of land rights, this is as expressed in Article 16 passage 1 expresses that sorts of land possession are property freedoms, building use privileges, usufructuary freedoms, usufructuary freedoms, rent freedoms, freedoms to gather woods items, land clearing privileges, and different privileges.

Settlement of land question cases as specified in Regulation Number 51 of 1960, in Article 2 and Article 6 section (1) letter a, that the utilization of land without consent from the legitimate individual or their lawful intermediary is a precluded act and is deserving of criminal punishments. In any case, in tending to clashes and land questions that emerge, one should take a gander at it according to a few viewpoints while as yet focusing on equity and not hurting the two players, so it isn't just seen from the side of the tenant's activities yet additionally as far as the endlessly utilization of the land by the proprietor if, as far as usage, the land isn't used ideally and even appears to have been disregarded by the proprietor for roughly 15 years. Question goal through pondering through intervention is followed as the way to taking care of land issues, remembering that the primary objective of intervention is to determine issues,

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