

Efforts to Settle Land Disputes Between the People and the State (Case Study in the PTPN IX Kerjo Arum Land Area, Sambirejo District, Sragen Regency)

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ABSTRACT--This paper highlights the land disputes that often occurs in the area of PT. Perkebunan Nusantara (PTPN) IX Kerjo Arum Batujamus Afdeling Kepoh Sambirejo District Sragen Regency with local residents who are members of the Sambirejo Truth and Justice Concern Forum (Forum Peduli Kebenaran dan Keadilan Sambirejo / FPKKS). Problems arise when local residents cut down a number of rubber trees planted by PTPN IX. According to residents' opinion, the 424,26 hectares of land in the plantation area is a legacy from the Dutch government which have been given to their families. According to the information of residents' representatives, the ownership was based on the Decree of the Head of Central Java Regional Agrarian Inspection (Kepala Inspeksi Agraria Daerah Jawa Tengah/ KINAD) No.2971X1172/DC/64 and 3891z/173/72/DC/64 dated January 4, 1964. However, such letter was withdrawn by the village officials at that moment with a pretext to be renewed. Shortly afterwards the political tragedy of 1965 resulted in many citizens being detained and after 3 months of detention they were released. Then evidently the land had been planted with rubber trees by the PTPN IX. Based on such problems, the authors give the title: "Remedy to Settle Land Disputes between the Government and Resident (Case Study in the Land Area of PTPN IX Kerjo Arum, Sambirejo District, Sragen Regency)". This paper aims to find out various legal aspects in the effort to resolve the land dispute. What are the obstacles that occur in regards with remedy to resolve land disputes and how to overcome them. The legal research method used in writing this paper is Empirical Normative with a case study approach. The results obtained is validity period of Cultivation Rights of the PTPN IX was allegedly expired, while the residents have been working on the land for years. The proposed method of dispute settlement was to establish a special court for land disputes involving the ad-hoc judge, therefore in handling cases of land disputes can be specifically conditioned. In addition, the mediation step is a more appropriate solution to resolve disputes. Some obstacles that occur are on the one hand the problem of not renewing the status of the Cultivation Rights (HGU) of PTPN IX Kerjo Arum and on the other hand there is no legal certainty in the form of the issuance of Certificate of Ownership for the members of society who claim the land rights.

Keywords: land dispute, PTPN IX Kerjo Arum Sragen, Cultivation Rights (HGU), Ownership Certificate

I. INTRODUCTION

Land is one of the important natural resources for survival. Most of life depends on the land, such as means of livelihood, housing/board, and other needs.¹ The rise of land conflicts in our country lately is inseparable from the existing land policy. A number of experts and observers of land issues acknowledge this. Conflict arises when the right to control the state and the social function of the land are confronted with the rights of citizens, especially individual property rights and communal rights (communal land). On the one hand, through the state's right to control, the State has a large single authority to manage the distribution, control, use and allocation of land. While on the other hand, the people, which existed before the state existed, attached to themselves a number of human rights such as the right to life, economic rights, political rights, social rights, cultural rights, and ecological rights.²

The government does not deny the existence of land conflicts until they occur at the grass roots. President Joko Widodo even signed a presidential regulation on agrarian reform which he said could bring about justice for land rights.³

Furthermore, the problem of land disputes that occurred between PTPN IX Kerjo Arum Afdeling Kepoh Plantation Company District of Sambirejo District of Sragen Regency with residents is the problem of overlapping land ownership status. Problems arise regarding the continued planting of harvests by way of felling by residents in the plantation area, while the planters insist they have ownership rights. Allegedly residents who use the land for years there is no problem without having the legality of legal documents, while the Plantation argues the active period of the Cultivation Right has expired.

FPKKS (Care Forum for Truth and Justice Sambirejo) continues to manage clarity related to the

¹ Boedi Harsono, 2003. "Hukum agraria indonesia, sejarah pembentukan undang-undang pokok agraria, isi dan pelaksanaannya". Jakarta: Djambatan. p. 18.

² Bernhard Limbong, 2012. "Konflik Pertanahan". Penerbit : Margaretha Pustaka.

³ <https://www.bbc.com/indonesia/indonesia-45639796>.
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resolution of disputes with the government. Among them is FPKKS suggesting that the Sragen Regency Government immediately establish an Agrarian Reform Task Force in the region, because this Task Force can be used as a vehicle or a container to resolve land problems in existing areas, as explained in the guidebooks and directives related to forming the Sragen Regency Government Task Force. This was symbolically proven to be handed over to the Sambirejo District Head to be conveyed to the Sragen Regent for immediate action..⁴

This pretext is different from the statements of the plantation residents namely Sambirejo residents. Stating that the actual land selection was based on evidence which according to him in the form of a certificate issued by the head of the agrarian inspection area of Central Java dated January 4, 1964. The outbreak of the G30S/PKI event, in 1965, thus dragging Sambirejo residents to be branded as members Indonesia Communist Party (PKI) at that time, so many Sambirejo residents were forced to go to jail, until when they were released from prison for 3 months, the land had apparently been planted with rubber by the plantation.

In less than one year, the decree was withdrawn by the village administration on the grounds that it would be renewed, and at the beginning of 1965 the PPN, now called PTPN IX, expanded the plantation by means of the land being rented for about 25 years, then was rejected by the residents at that time, because the land was a the only source of life.⁵ Furthermore, the Plantations forcibly took 424.26 hectares of land. That condition is unacceptable, so residents cut down rubber trees as a form of saving ancestral heritage.⁶

Related to land dispute issues, there are the latest regulations related to land cases, namely Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11 of 2016 concerning Settlement of Land Cases. The Permen explains the problem of land cases is disputes, conflicts and land cases in order to get handling the settlement of the provisions of the regulations, laws and related policies.⁷ So the resolution of the land dispute must pay attention to the opinion of Gustav Radbruch, a legal philosopher and a legal scholar from Germany who has taught about the concept of three basic elements or legal principles. The three objectives of the law are to include elements of certainty, fairness, and expediency.⁸

The problem raised in this paper is how the legal review of efforts to resolve arable land disputes related to

the felling of thousands of rubber trees in the Plantation Area, PTPN IX Kerjo Arum, Sambirejo District, Sragen Regency. Including existing obstacles in terms of legal aspects as well as how to overcome them.

II. LITERATURE REVIEW

A. P. Perlindungan (1998:13), states that "Basically land rights consist only of ownership rights, business use rights, building rights and use rights. However, based on the LoGA, these rights can be supplemented by the right to collect results and the right to open land.⁹ Since it was rolled out in 1960, with the birth of the LoGA, agrarian reform has included five stages. Namely, the first renewal of agrarian law, the second abolition of foreign rights, the third ending feudalism, the fourth land reform, then the fifth is about spatial planning.¹⁰

Boedi Harsono (2008:225), explained that although all land rights give the authority to use the land that is claimed, the special nature of the rights, the purpose of the use of the land and the time limit for its use constitute the difference between one right and another. Property rights, for example, as the strongest and most fully fulfilled rights among other land rights, may be used for all open purposes when compared with other land rights, without a certain time limit. As for building use rights, only open use of the land for the purposes of building and owning a limited period of time.¹¹

For this reason, in an effort to provide legal certainty regarding legal proof of ownership, one of the objectives of land registration as stipulated in article 3 of Government Regulation Number 24 of 1997, concerning Land Registration, is to provide legal certainty and protection to holders of rights in a field land, apartment units and other registered rights in order to prove that he is the holder of the relevant rights. In order to provide certainty and legal protection for the relevant rights holders, a certificate of land rights is given.¹²

In the case of a parcel of land that has been legally issued a certificate on behalf of the person or legal entity who obtained the land in good faith and actually controls it, other parties who feel they have the right to the land can no longer demand the implementation of this right if within 5 the year since the certificate was issued was not found in the submission of objections in writing addressed to the certificate holder and the Head of the Land Office concerned, or could be filed with a lawsuit to the local District Court regarding the control of the land or certificates that have been issued.

⁴<https://trans89.com/2019/07/01/fpkks-minta-bupati-sragen-tindaklanjuti-perpres-86-tahun-2018>. Downloaded on December 12th, 2019 at 10.00

⁵<http://www.tribatanews-polressragen.com/2017/10/06/gaduh-sengketa-tanah-ptpn-ix-vs-warga-sambirejokapolres-sragen-cek-lokasi/>. Downloaded on December 12th, 2019 at 10.00

⁶<https://news.okezone.com/read/2014/03/04/511/949509/ratusan-warga-nekat-tebangi-pohon-karet-milik-ptpn-ix>. Downloaded on December 12th, 2019 at 10.00

⁷ Article 1 point 1 Regulation of Agrarian Minister 11/2016.

⁸<http://sharingaboutlawina.blogspot.com/2014/12/tujuan-hukum-menurut-gustav-radbruch.html?m1>. Downloaded on December 12th, 2019 at 10.00

⁹ A.P. Perlindungan, 1998. "*Pendaftaran Tanah-Tanah dan Konversi Hak Milik Atas Tanah Menurut UUPA*". Bandung: Alumni. p. 13.

¹⁰<https://www.hukumonline.com/berita/baca/lt4e62093f9aa0b/mengawal-hukum-agraria/>. Downloaded on January 3rd, 2020, at 13.00

¹¹ Boedi Harsono, 1994. "*Hukum Agraria Indonesia, Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya, Jilid 1*". Jakarta: Djambatan, p. 225.

¹²K. Wantjik Saleh, 2010. "*Hak Atas Tanah*". Jakarta: Ghalia Indonesia. p. 20.

The control of land and natural resources is increasingly concentrated in the hands of elite interests of businessmen and the rulers of certain groups which has resulted in widespread agrarian conflicts and many victims. According to the Consortium for Agrarian Reform report, in the ten years of the previous administration (2004-2014) at least 1,520 agrarian conflicts occurred in the entire territory of the Republic of Indonesia, with an area of conflict covering 6,541,951 hectares and estimated to be more than 977,103 Family Heads must face prolonged conflict.¹³

From 1,520 cases of agrarian conflicts, 656 conflicts occurred in the plantation sector, 467 conflicts in the infrastructure development sector, 156 conflicts in the forestry sector, 97 conflicts in the mining sector, 25 conflicts in the agricultural sector, and 16 in the coastal-marine conflict. This data shows that the problem of policy and institutional sectoralism in the management of agrarian resources is the main contributor to the conflicts that occur.¹⁴

The agrarian conflict that occurred between residents and PTPN IX was in the context of expanding their plantation land by leasing residents' land but it was never successful. While the residents argued that they already owned the land legally based on evidence from the guidance letter SK Number: 2971X1172/DC/64 and 3891z /173/72/DC164 issued by the Head of Central Java Regional Agrarian Inspection on January 4, 1964.

Furthermore J. Andy Hartanto (2009: 20), explained that in order to avoid disputes, one of the objectives of land registration as stipulated in Article 3 of Government Regulation No. 24 of 1997, that in order to provide legal certainty of holders of land rights, units of flats and other rights to be registered in proving as rights holders. Providing legal certainty and protection.¹⁵

III. RESEARCH METHOD

This research is a descriptive analysis, which is a research method that serves to describe/provide a description of the object under study through data or samples collected, as it is with analysis and make conclusions that can be applied to the public.¹⁶ While this type of research uses normative juridical, that is research focused on examining the application of the rules or norms of positive law.¹⁷

The data collection procedures in research with literature studies, namely data collection techniques by conducting a study of the review of laws and regulations,

books, literature, notes and reports that have to do with the problem to be solved.¹⁸ While the source of data in research is the source of subjects from which data can be obtained. Then in presenting data in the form of legal writing so that it is understood and analyzed according to the desired objectives. The data is presented descriptively, which is poured in the form of a systematic and orderly description in a scientific writing report.

IV. FINDINGS AND DISCUSSION

A. How is the Legal Review of Efforts to Resolve Arable Land Disputes Relating to the Cutting of Thousands of Rubber Trees in the PTPN IX Kerjo Arum Plantation Area Sambirejo District, Sragen

Problem of land disputes between the residents and PTPN IX Kerjo Arum Afdeling Kepoh Plantation, Sambirejo District, Sragen Regency, started with the problem of destruction and logging of thousands of rubber trees in the plantation area. On the matter of growers to provide information as appropriate on the land on the plantation legitimate continues then by the people to fight by forming an alliance of non-governmental organizations (NGOs) which is called ATMA (Advocacy Transformation Society) with the groups concerned in Sragen heading to Sambirejo starts at April 5, 2000.¹⁹

In addition, it appeared when residents were cutting down a number of rubber trees planted by PTPN IX. According to residents, the 424,26 hectares of land in the plantation area is a legacy from the Dutch government that has been given to their families. According to the residents' representatives, the ownership was based on the Decree of the Head of the Central Java Regional Agrarian Inspection No.2971X1172/DC/64 and 3891z/173/72/DC/64 dated January 4, 1964, but the letter was withdrawn by the village officials in then on the pretext will be renewed. Shortly afterwards the political tragedy of 1965 resulted in many citizens being detained and after 3 months of detention they were released. Then it turned out that the land had been planted with rubber trees by the Plantation.²⁰

On December 3, 2000 felling of approximately 80 Ha rubber trees in the plantation location. Hundreds of residents in an instant knocked down thousands of rubber trees, even residents were accused of theft and destruction of rubber plants sporadically. Then on January 10, 2001 a meeting was held with PTPN IX Kerjo Arum with several agreements including, among others, PTPN IX would not question land ownership by residents if it turns out the government took a policy to hand it over to citizens. But in February 2001 there was tension again, without giving birth to the best agreement between the two parties.

¹³ Noer Fauzi Rachman dan Usep Setiawan, 2016. *"Reforma Agraria untuk Mewujudkan Kemandirian Bangsa"*. Jakarta: Penerbit Oxfam. p. 13.

¹⁴ *Ibid.*

¹⁵ J. Andy Hartanto, 2009. *"Problematika Hukum Jual Beli Tanah Belum Bersertifikat"*. Yogyakarta: Laksbang Mediatama. p. 20.

¹⁶ Sugiono, 2009. *"Metode Penelitian Kuantitatif dan Kualitatif dan R&D"*. Bandung : Alfabeta. p. 29.

¹⁷ Johnny Ibrahim, 2006. *"Teori dan Metodologi Penelitian Hukum Normatif"*. Malang: Bayumedia Publishing. p. 295.

¹⁸ M. Nazir, 1988. *"Pengertian Studi Kepustakaan"*. Jakarta: Ghalia Indonesia. p. 111.

¹⁹ *Press release* Polsek Sambirejo Polres Sragen. Monday, January 19th, 2014.

²⁰ <http://www.gresnews.com/mobile/berita/hukum/85043-konflik-agraria-sragen-tak-juga-tuntas/>. Downloaded on Desember 12th, 2019 at 10.00

Residents argue, the felled tree does not belong to the red plate company. However, the rubber trees were a gift from the Dutch government to his ancestors. So, there is no reason for anyone, both from the Police and PTPN IX in blocking their actions. In addition, residents claimed to have legally obtained evidence based on the guidance letter SK Number 299 X1172/DC/64 and 3891z/173/72/DC164 issued by the Head of the Central Java Regional Agrarian Inspection on January 4, 1964.

On the other hand, related issues at issue by residents regarding the Cultivation Rights. The Cultivation Rights process is a process of surrender of land by the owner of the land to the state, and then given again by the status of the Cultivation Rights to the interested parties. Provisions that Cultivation Rights is granted within a period of 30 years often make some people mistaken. They assume if the 30-year period has passed, then the land becomes private property. In fact, the land is a state land and can only be used again if the applicant submits it to the government for ownership rights. In the field, ownership of land certificates often occurs due to confusing understanding of the Cultivation Rights.²¹

B. The Obstacles that Exist in the Effort to Settle Arable Land Disputes Relating to the Cutting of Thousands of Rubber Trees in the PTPN IX Kerjo Arum Plantation Area Sambirejo District Sragen Regency and How to Overcome Them

Land issues, it is necessary to distinguish between land disputes and land conflicts. Land disputes are land disputes between individuals, legal entities, or institutions that do not have a broad socio-political impact. In the life of the community, land disputes often occur in the case of transfer of land rights such as the sale and purchase of land, distribution of inherited land, grants or other legal actions directly related to the land. These disputes generally only affect those directly involved in the dispute (not socio-political impact). Land disputes can be in the form of administrative disputes, civil disputes, criminal disputes related to ownership, transactions, registration, guarantee, utilization, control and customary rights disputes. While land conflicts are land disputes between individuals, groups, groups, organizations, legal entities, or institutions that tend to have socio-political impacts.²²

The case of PTPN IX Kerjo Arum Plantation District land dispute in Sambirejo District, Sragen Regency is that there is no legal certainty regarding the ownership of legal documents for residents working on plantation areas. According to J. Andy Hartanto (2009), states that the existence of a certificate of land rights is the result of the land registration process. As mentioned in Article 19 paragraph (2) of the LoGA that land

registration covers several series of activities that end with the granting of proof of rights as a valid proof. The legal proof of ownership for land rights is in the form of land rights certificates. A certificate is a copy of a land book and a land survey and a picture of the situation of the land sewn together and the form is determined by the minister.²³

One of the causes of decisions about land that cannot be executed is the existence of several products of decisions that have permanent legal force over conflicting land objects. As a solution to a prolonged dispute, according to Elza Syarif (2012: 84) provides policy principle ideas including reviewing various agrarian-related regulations in the framework of synchronizing policies across sectors and restructuring equitable control, ownership, use and use of land (land reform) with due regard to land ownership for the people. And record ownership with accurate and valid data.²⁴

Maria S.W. Sumardjono (2009: 75) added that land dispute resolution solutions, both vertical and horizontal conflicts if not completely resolved, can further disrupt the implementation of harmonious social and state life. So that repeated policy revisions are considered less useful because it is still accompanied by continuous conflict. Therefore, this problem can form a special add hoc institution, so that the problem can be resolved with focus.²⁵

V. CONCLUSION

The The land dispute problem began with the problem of the destruction and logging of thousands of rubber trees in the Plantation Area and community resistance by forming an alliance of the NGO ATMA. The land use rights owned by the plantation have expired. Then the right solution is to form a special court for land disputes by involving ad-hoc judges so that the handling can be conditioned.

The obstacle that occurred in the resolution of the land dispute case was the problem of not renewing the status of PTPN IX's Cultivation Rights, on the other hand the residents did not have any legal certainty of ownership of permanent land rights. So with the movement coordinated by the NGO ATMA, it can be seen in this case that it is considered one-sided interests related to the control of state assets.

The plantation party must pay attention to the legality of legal documents related to Cultivation Rights owned, so that in the future the weakness of the legal aspects can be maintained and avoid legal problems. Meanwhile, citizens must show legality in order to be able to sue as the right is attached to him. In the future, to minimize

²¹ Kian Goenawan, 2009. "Panduan Mengurus Sertifikat Tanah dan Properti". Yogyakarta: Galang Press. p. 13.

²² Angger Sigit Pramukti dan Erdha Widayanto. 2015. "Awat Jangsan Beli Tanah Sengketa". Yogyakarta : Pustaka Yustisia. p. 137.

²³ J. Andy Hartanto, 2009. "Hukum Harta Kekayaan Perkawinan". Yogyakarta: Laksbang Grafika. p. 67.

²⁴ Syarief, Elza, 2012. "Menuntaskan Sengketa Tanah Melalui Pengadilan Khusus Pertanahan". Jakarta: Kepustakaan Populer Gramedia. p. 84.

²⁵ Sumardjono Maria S.W.Sumardjono, 2001. "Kebijakan Pertanahan Antara Regulasi dan Implementasi". Jakarta: Buku Kompas. p. 75.

conflict, the urgency of agrarian reform in order to achieve a balance between the community and the state, even though it becomes a common agenda.

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