



Analysis of Supreme Court Decision No. 537.K/PDT/2011 (Dispute Over Ownership of Arable Land in Helvetia)

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Abstract. A country with an agrarian background, land is something that has a very important value in people's lives. The existence of a fixed (limited) amount of land results in a struggle for land rights that can be a source of dispute for humans, even landowners are willing to sacrifice anything to maintain the land they own. Among these land problems is the problem of arable land. By using the statute approach, it can be seen that the application for cassation was not granted because the cassation applicant did not succeed in proving the argument of his lawsuit due to his imperfect and unclear lawsuit because the plaintiff did not describe, location, size and boundaries of the land in dispute. This is what causes the lawsuit material to be blurred so that the application or lawsuit is not granted by the Court and the Supreme Court, This is in accordance with the jurisprudence of Supreme Court decision No. 1391 K / SIP / 1979 dated April 26, 1979, which reads "Because the claim of the plaintiff is not clear the basic boundaries of the dispute being sued, the plaintiff's claim cannot be accepted. On the basis of this decision, the cassation application for case No. 537.K / PDT / 2011 was rejected (not granted).

Keywords: Court Decision, Arable Land, Ownership Disputes

1. Introduction

The Law governing land (UUPA) does not explicitly regulate the right to arable land and/or processing, this is because arable land is not a status of rights, but once the UUPA makes the foundations for agrarian law which is a tool to bring welfare, happiness and a sense of people's justice and legal certainty.[1] Although not legally regulated, in reality the practice of tumpang sari is still running in several places in Indonesia. Because there are still many who apply the management of agricultural land or plantations with the arable land method, a regulation on arable land was issued in the Letter of the Head of BPN concerning the Decree of the Head of BPN No.2 of 2003 dated August 28, 2003 which states that arable land is a piece of land that has or has not been attached to the right to be worked or utilized by another party either with or without the consent of the entitled party with or without a certain period of time. [2]

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The community actually already knows that arable land, both those that have not been attached to a right or those that have been attached to a right, can change their control without going through procedures. Actually, arable land cannot be changed in status when the arable land has been attached to a person's property rights, as stated in Article 20 paragraph (1) of the Basic Law of Agraria which states that property rights are hereditary, strongest and fullest rights that a person can have over land. Different rights if arable land has not been attached by any right, then the land or land can be registered as property. This is as stated in Government Regulation No. 24 of 1997 related to Land Registration. So, someone can register it to be used as property.[3] A transfer of rights in accordance with the procedure is very unlikely to occur a violation of the law, and vice versa a transfer outside the procedure is likely to be unlawful, such as land grabbing or possession without the permission of the legal owner of the land or others. This transfer of rights almost certainly leads to land disputes that eventually go to court, rarely are the issues resolved by mediation.

The status of land takes various forms, one of which is arable land. This land can be bought and sold but has not been regulated by the UUPA. Arable land means land that is cultivated or utilized by someone who is not the owner of the land. Some say that arable land is a term for vacant land and then there is physical control without any official basis of rights. Piti Hanifah, Uploaded on February 22, 2022, Sample Letter of Sale and Purchase of Arable Land and Its Legal Status.[4]

As a country with an agrarian background, land is something that has a very important value in the lives of people in Indonesia, especially for farmers in rural areas. The land serves as a place where the citizens of the community reside and the land also provides livelihood for him.[5] In addition, humans as social creatures (zoon politicon) where they need each other. With the existence of reciprocal relationships, social phenomena often arise in the form of conflicts arising from different interests. With the onset of conflict, the law plays an important role in resolving the conflict.[6]

Land disputes are issues between legal subjects that arise due to conflicts of interest over land.[7] This demands improvements in the field of structuring and using land for the welfare of the community and especially legal certainty in it. Since time immemorial the land has been a source of dispute for man. The existence of a fixed (limited) amount of land results in a struggle for land rights that can trigger prolonged land disputes, even landowners are willing to sacrifice anything to maintain the land they own. As stated by Mochammad Tauchid: "The agrarian question is a complex problem of people's livelihood.[8] This is because soil is the origin and source of food for humans. The struggle for land means the struggle for food, the pillar of human life. For this reason people are willing to shed blood sacrificing everything that exists to maintain the next life".[9]

Every implementation of land dispute resolution, the community or authorized officials must really understand the applicable laws and regulations as a legal and technical basis for the implementation of duties properly, so that the results do not cause new problems or disputes.[10] Land problems always arise in the Republic of Indonesia, especially those related to arable land tenure. To overcome this, land

officials must expand knowledge about the placement of land rights that may differ from one region to another in Indonesia. In addition, the state has also tried to solve agrarian problems by issuing a UUPA in 1960, the state also regulates the issuance of status and use of land rights, as an effort to increase legal certainty, one way is by granting certificates of ownership rights to the land as regulated by the UUPA. The land rights mentioned above are divided into permanent land rights such as property rights and temporary land rights that have a period of control over land such as Business Use Rights (HGU), Building Use Rights (HGB), and Use Rights (HP).[11]

According to the Decree of the Head of the National Land Agency (BPN) Number 2 of 2003 concerning Norms and Standards of the Mechanism for the Implementation of Government Authority in the Land Sector Implemented by the Regency / City Government, arable land is a piece of land that has or has not been attached with a right that is worked on and utilized by another party, either with the consent or without the consent of the entitled with or without a certain period of time. [12] So in fact, arable land is land that is taken advantage of by parties who are not the owners or people who are entitled to the land. This relationship is only binding civilly between land cultivators (who benefit from the land) and parties who are bound by land rights, both property rights, use rights and use rights.

The arable land dispute between the plaintiff and the defendant, began in 1980 with a land area of $\pm 5,600$ m² (five thousand six hundred square meters) located in Hamlet II Helvetia Village, Labuhan Deli District, Deli Serdang Regency, was no longer extended by PTPN II Helvetia Plantation. This makes the land again belong to the state. Seeing the abandoned land, the defendant's husband filed an application to own the land addressed to the Helvetia plantation administration on November 26, 1982 known to the Head of Helvetia Plantation Security and approved by the plantation administrator, whose location was outside the HGU certificate No. 1/1984 and the land was intended to be cultivated. The arable land located in Hamlet II, Helvetia Village, Labuhan Deli District, Deli Serdang Regency covering an area of $\pm 5,600$ m² (five thousand six hundred square meters) is entirely not owned by the husband of defendant I, on the basis of a certificate of compensation for each of 12 plaintiffs with M Sabaruddin, dated April 12, 1989, compensation between M Sabaruddin and Irwan Santoso, Tiomas Hasibuan, dated July 14, 1989, compensation with Nila Kesumah (plaintiff), Nuraifah, Nurlila, Tunut, Sarmadan Hr, Rasimin and Intan, dated June 20, 1989 compensation with Merawaty (plaintiff) and Hayatun which was then issued Decree of the Sub-District Head of Labuhan Deli District No. 016/900/DH/H/1991 dated March 7 1991. Shortly after the death of the defendant's husband/father, certificate No. 016/900/DH/H/1991 was lost. For this reason, the defendant made an announcement in the newspaper and made a missing report to the police with police report No. SKHT:B/130/VII/K-3/1997 dated July 21, 1997.

Because the defendant was incompetent to manage the land, then entrusted the management of the land to Syamsuddin and Dollah and for that the Village Head issued a certificate No. 592.1/070/VIII/1997 dated August 21, 1997. It turned out that Dollah betrayed what the defendant had entrusted to him and wrote to the Village Head on April 12, 2000, that $\pm 5,600$ m² (five thousand six hundred square meters) of

land belonged to Marwoto Sapon, Rakiyo, Kusrinaldi and Idris. However, after the PTUN ruling, it turned out that what was stated by the Helvetia Village Head and Dollah was not proven. Meanwhile, Syamsuddin sincerely handed back the land to the defendant. Because Dollah had betrayed, the certificate No. 592.1/070/VIII/1997 was revoked so that the certificate was juridically legally flawed. For this reason, the defendant applied to the Head of Helvetia Village to make a new certificate of the land in the name of the defendant as the legal heir of the deceased Sabaruddin. The defendant had applied three times, but was ignored by the village head. Therefore, defendant I filed a lawsuit at the Medan State Administrative Court with Register No. 86/G/2000/PTUN. Mdn.

The decision of the Medan State Administrative Court has granted the defendant's lawsuit which was upheld by the decision of the Medan High Administrative Court No. 76 / BDG. G-MD/PT. TUN-MDN/2001 dated September 19, 2001 and the decision of the Supreme Court of the Republic of Indonesia No. 139.K/TUN/2004, further based on the letter of the Medan State Administrative Court No. W2. D.A.T.04.10- 426/2005 then issued a certificate No. 592.2/015771/II/2006 and legalized by the District Head of Labuhan Deli District with Registration No. 592.2/046/II/SKT/LD/2006 dated February 23, 2006. However, after the issuance of the missing replacement letter, there was a lawsuit made by Nila Kesuma, in this case the plaintiff against the defendant on the basis of the lawsuit that the plaintiff owned part of the land, which was $\pm 3,800 \text{ m}^2$ (three thousand eight hundred square meters) based on a certificate of acknowledgment of compensation/work known to the Head of Helvetia Village, Labuhan Deli District, and also known to the Head of Labuhan Deli District, dated December 12, 1983. In which the plaintiff in his lawsuit also stated that the certificate of compensation for the land lost belonging to the defendant, namely No.016/900/DH/H/1991 is a formality compensation certificate for the disputed arable land by the plaintiff.

2. Problems

A good problem is the one that makes it most convenient to conduct research, but it must also meet methodological requirements that require consideration of time, cost and means in its implementation. Simply put, there are several factors to assess a problem statement and among them is to concretely emphasize the occurrence of a legal gap between *das sollen* (what should be) and *das sein* (how it is realized). Maslah can also be assessed by connecting two or more variables, namely the independent variable (cause) and the dependent variable (effect).[13] In this study, will answers be sought about the legal consequences of ownership of arable land based on Supreme Court Decision No.537.K / Pdt / 2011?

3. Method

This research is a normative legal research using the statute approach method. The research data used is secondary legal data consisting of primary legal material, namely related laws and regulations. The secondary legal materials used are the results of previous research and legal journals while tertiary legal materials are obtained from legal dictionaries to understand legal terms.[14]

4. Discussion

Land regulations are regulated in Law Number 5 of 1960, but there are rights to land outside the UUPA namely the right to cultivate. Not a few that eventually cause disputes between interested parties over arable land, especially the use of arable land on state land, one example of a case occurred in Helvetia Village, Labuhan Deli District, Deli Serdang Regency. Referring to the above understanding of land rights and state land, it is not easy to determine the location of arable land in the construction of national land law. Harsono (2005: 114) even firmly said that national land law does not recognize arable land.[15] This will certainly be a complicated problem but in reality the practice of sticking arable land exists in Indonesia even though it has not been regulated.

The arable land dispute is located in Dusun II, Helvetia Village, Labuhan Deli District, Deli Serdang Regency, involving Nila Kesuma as plaintiff against Merawaty as defendant I, Sri Hayati as defendant II, Mariani as defendant III, Sofyan Hadi as defendant IV, Rahmadsyah as defendant V and Machdian Agus as defendant VI. Before starting further, calm down this matter, of course, the first must be analyzed about the legal position of each party. According to Achmad Roestandi in his book entitled "The Constitutional Court in Questions and Answers," it is explained that there are criteria that must be met so that a person or a party has legal standing, referring to Article 51 of Law No. 24 of 2003 concerning the Constitutional Court. These criteria are as follows:

- a. The first criterion relates to qualification as a legal subject. The applicant must meet one of the following legal subjects:
 - 1) Individuals who are citizens;
 - 2) Unity of indigenous peoples;
 - 3) Public or private legal entity; and
 - 4) State institutions.
- b. The second criterion relates to the applicant's belief that his constitutional rights and authority have been harmed by the enactment of a law. These criteria include:
 - 1) The petitioner has the constitutional rights/authority granted by the 1945 Constitution;

- 2) The petitioner believes that the constitutional right/authority has been harmed by the law under test;
- 3) The losses suffered are specific and actual, or at least potential in nature that can be ascertained to occur according to reasonable reasoning;
- 4) There is a causal verband between the harm suffered and the enactment of the law proposed for testing; and
- 5) It is possible that with the petition granted, the proposed constitutional harm will not occur again.[16]

Based on the criteria mentioned above, it has fulfilled the elements of legal position. Nila Kesuma is a party who feels aggrieved because as a cultivator of land that has been decades suddenly the land is recognized by others (the defendants) as her own. So materially this lawsuit deserves to be filed.

Supreme Court Decision No.537.K/Pdt/2011 which reads the relevant letters that from these letters it can be seen that it turns out that the cassation applicant used to be the plaintiff and had sued the former cassation respondent as a defendant before the Lubuk Pakam District Court, while the arguments of the plaintiff's lawsuit are as follows:

- a. The plaintiff owns a land area of $\pm 3,800 \text{ m}^2$ (three thousand eight hundred square meters) based on a certificate of acknowledgment of compensation/cultivation known to the Head of Helvetia Village, Labuhan Deli District, and also known to the District Head of Labuhan Deli District dated December 12, 1983;
- b. The acquisition of the land was originally by the application of the defendant's husband addressed to the Helvetia plantation administration on November 26, 1982 known to the Head of Helvetia Plantation Security and approved by the plantation administration;
- c. Since 1982 the land has been controlled and cultivated by the plaintiff and her husband, until there is a certificate of acknowledgment from the parties who object to the land cultivated and controlled by the plaintiff, to further convince the District Head of Labuhan Deli District in 1989 to submit a letter requesting an explanation of the status of the land cultivated by the plaintiff located in Hamlet II Helvetia Village, Labuhan Deli District, Deli Serdang Regency, and to the letter from the Head of Labuhan Deli District, BPN Deli Serdang responded with letter No. 570.4979/9/89 dated September 23, 1989 expressly explaining that arable land was not included in the PT Plantation area, in accordance with HGU certificate No. 1/1984 dated June 5, 1984;
- d. In 1991 BPN Porvinsi Sumatera Utara with its letter dated January 3, 1991 Number: 570-34/91, in principle admitted that it was true that the plaintiff was working on the land along with the late M Sabaruddin (husband of defendant I) and his friends as many as 13 people each plaintiff on land covering an area of $5,600 \text{ m}^2$ (five thousand six hundred square meters), in the case aquo the plaintiff's land area was $3,800 \text{ m}^2$ (three thousand eight hundred square meters)

and then in addition to the aforesaid letter by The Governor of North Sumatra then issued letter Number: 593/4526 dated February 13, 1991 which basically acknowledged the truth of the existence of cultivators on land covering an area of 5,600 m² (five thousand six hundred square meters), whose location was outside HGU certificate No. 1/1984 and the land in question was cultivated, which in total amounted to 13 cultivators, including the plaintiff and the husband of defendant I and friends; and

- e. The acquisition of title to the land is the plaintiff's work with the plaintiff's husband, Amran Siregar and other cultivators, including the husband of defendant I deceased M Sabaruddin. 6. Until now, the plaintiff continues to control and cultivate his land, however, without the permission and knowledge of the plaintiff, the defendants who are the heirs of almahurm M Sabaruddin in bad faith secretly tried to take over the title to the plaintiff's land by making a new land certificate from the office of the Head of Helvetia Village, Labuhan Deli District, Deli Serdang Regency using the name Merawaty (defendant I), Sri Hayati (defendant II), Mariani (defendant III), Sofyan Hadi (defendant IV), Rahmadsyah (defendant V) and Machdian Agus (defendant VI), as the heirs of M. Sabaruddin. This is known to the plaintiff based on a letter issued by the Head of Helvetia Village, Labuhan Deli District, Deli Serdang Regency, dated November 18, 2005, with letter number: 590/1270/XI/2005.

In the first argument of the lawsuit, the plaintiff can prove the proposition of the lawsuit by showing a certificate of recognition of compensation/cultivation. The plaintiff should also be able to clearly describe the location of the ±3,800 m² (three thousand eight hundred square meters) land he is suing over including the boundaries of his land so that the claim is not vague. If the object of the dispute is unclear or vague in a land dispute, according to M. Yahya Harahap, that there are several aspects that cause the blurring of the object of the lawsuit regarding land, including the non-mention of the boundaries of the object of the dispute lawsuit and those that do not mention the boundaries of the object of the disputed land are declared *obscuur libel*, and the lawsuit is not accepted.[17] From the analysis of the argumentation of the object of the dispute, the plaintiff's lawsuit can be classified as a vague lawsuit so that it is difficult to grant.

In addition to the first argument of the lawsuit, the Plaintiff also postulates several other reasons stating that the plaintiff's claim related to the arable land dispute above deserves to be granted. In fact, just from the first lawsuit postulate, the lawsuit can already be said to be a vague lawsuit that is difficult to grant. Even if the plaintiff is able to prove some arguments, but if it cannot prove the original lawsuit evidence, it causes the plaintiff's lawsuit letter to be imperfect or unclear. An example that causes the suit to be unclear is that the plaintiff did not describe the object perfectly such as the location of the object of dispute is not clearly stated, The size and boundaries of the disputed land are also not clearly and definitively described. Prof. Dr. Sudikno Mertokusumo, S.H. explained further regarding the *obscuur libel*, that the Plaintiff must formulate the *petitum* clearly and firmly. Unclear or imperfect demands may result in non-acceptance of such demands. Similarly, a lawsuit that contains statements that contradict each other, called "*obscuur libel*" claims that are

vague and cannot be answered easily by the Defendant so as to cause the rejection of the lawsuit or result in the inadmissibility of a lawsuit.[18]

This is in accordance with the Jurisprudence of the Supreme Court of the Republic of Indonesia No. 1149K / SIP / 1975 dated April 17, 1979 which states that "because the lawsuit letter does not clearly state the boundaries of the disputed land, the lawsuit cannot be accepted" in addition based on the jurisprudence of the Supreme Court decision Number 1391 K / SIP / 1979 dated April 26, 1979, which states "because the claim of the plaintiff is not clear the basic boundaries of the dispute being sued, Plaintiff's claim is inadmissible.[18]

On the other hand, the defendant has succeeded in proving the argument of the lawsuit with certificate No. 592.2/0157/II/2006 dated February 20, 2006 issued by the Head of Helvetia Village and ratified by the Head of Labuhan Deli District based on the Supreme Court decision No. 139 K / TUN / 2002 declared valid and the defendant is declared as the owner of land covering an area of $\pm 5,600$ m² (five thousand six hundred square meters) in Helvetia Village, Labuhan Deli District, Deli Serdang Regency and because the plaintiff's actions are against the law. Based on the consideration that this case is not contrary to the law and/or the law, the cassation application of cassation applicant Nila Kesuma was rejected by the Supreme Court Judge.

The principle of sharing the burden of proof is stated in, article 163 HIR, this means That both parties, both plaintiff and defendant, may be charged with substantiation. The plaintiff is obliged to prove the events proposed, While the defendant is obliged to prove the truth of his rebuttal. Plaintiff It is not obligatory to prove the truth of the defendant's rebuttal nor Instead, the defendant is required to prove the truth of the events that Filed.[19]

5. Conclusion

As a result of the legal ownership of arable land based on Supreme Court Decision No.537.K/Pdt/2011, the plaintiff failed to prove the argument of the lawsuit, namely that the plaintiff's claim was imperfect and unclear because the plaintiff did not describe, location, size and boundaries of the land in dispute. Thus the plaintiff's suit was dismissed. This is in accordance with the Jurisprudence of the Supreme Court of the Republic of Indonesia No. 1149 K / SIP / 1975 dated April 17, 1979 which states that "because the lawsuit letter does not clearly state the boundaries of the disputed land, the lawsuit cannot be accepted". In addition, based on the jurisprudence of the Supreme Court of the Republic of Indonesia No. 1391 K / SIP / 1979 dated April 26, 1979 which reads "because the lawsuit is not clear the basis of the dispute being sued, the Plaintiff's claim cannot be accepted". This makes the disputed land belong to the Defendant/Cassation Respondents.

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