



Settlement of Land Disputes Indicated Overlapping Through Alternative Dispute Resolution

Pramita Wijayanti¹, Sri Wahyu Handayani¹

¹ Universitas Jenderal Soedirman, Purwokerto, Indonesia,
pramita.wijayati@mhs.unsoed.ac.id

Abstract. This journal aims to determine the factors causing the overlap of certificates of ownership rights over land at the Semarang City Land Office. As well as settlement strategies carried out by the land office. This research is qualitative research by collecting all sources. The results showed that the factor causing the overlap was the certificate of ownership rights over land at the Semarang City land office. Based on overlapping rulings at the Semarang City land office, the author concludes that the land office does not carry out its duties in accordance with its procedures and the provisions of applicable laws and regulations. Settlement of land disputes at the Semarang City Land Office can be done by means of complaints, research, prevention, mutation, revocation of decrees in the land sector of Semarang City. Solutions and recommendations are provided by the land office through computerized programs of land registration maps, orderly land registration administration, orderly village administration related to land information

Keywords: Overlapping, Certificates, and Land rights.

1. Introduction

Land is an asset of every human being to run life in the world. The importance of the meaning of land to human life is because humans cannot be completely separated from the land. They live on the land and obtain food by utilizing the land. The history of development and destruction is also determined by the land, land problems can cause disputes and devastating wars because humans or a nation want to control the land of other people or nations because of the natural resources contained in it.[1] For the Indonesian state, as an agrarian country, the existence of land has a very important function for the prosperity and welfare of its people. In a country like Indonesia, the function of land is increasing and has a very high economic value. Of the many fields that concern land, the economic field seems to dominate human activities on land. This is related to human survival, where population growth and economic growth are accelerating rapidly.

The importance of land for humans as individuals and the state as the highest community organization is constitutionally regulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUDNRI) which states that “Earth, water and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people”.[2]

© The Author(s) 2023

A. A. Nassihudin et al. (eds.), *Proceedings of the 3rd International Conference on Law, Governance, and Social Justice (ICoLGaS 2023)*, Advances in Social Science, Education and Humanities Research 805,
https://doi.org/10.2991/978-2-38476-164-7_109

Therefore, to be able to achieve the prosperity and welfare of the people, the utilization and use of land that is part of natural resources must be carried out wisely and in its management handed over to the state. Land regulations are set forth in Law Number 5 of 1960 concerning Basic Regulations of Agrarian Principles then followed by the making of other laws and regulations as an elaboration and implementation of the Basic Agrarian Law, namely among others Government Regulation Number 10 of 1960 which has been replaced by Government Regulation Number 24 of 1997 concerning Land Registration and Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning provisions for the implementation of Government Regulation Number 24 of 1997 concerning Land Registration. Soil is very closely related to everyday human life, it can even be said that every time humans are in contact with land.

Everyone needs land not only in his lifetime, but even the dead are still related to the land.[3] Therefore land is a vital human need, there is a Javanese proverb that reads "*sedumuk cough senyari bumi*" which means, among others, even if only an inch of land is maintained until death. Humans are 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.[4] Even landowners are willing to sacrifice anything to defend the land they own. As stated by Mochammad Tawhid:[5]

The agrarian question (about land) is a matter of human life and livelihood, because land 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 in order to maintain the next life."

Broadly speaking, the typology of cases in the land field can be divided into five groups:[6]

- a. Cases relating to people's cultivation of plantations, forestry and other lands;
- b. Cases relating to violations of land reform regulations;
- c. Cases relating to access to land provision for plantations;
- d. Civil disputes with respect to land issues; and
- e. Disputes relating to customary land.

Basically, the source of land conflicts today often occurs, among others, caused by:[7]

- a. Unbalanced and uneven land ownership/tenure
- b. Incompatibility of agricultural and non-agricultural land use
3. Lack of partiality to the economically weak
- c. Lack of recognition of customary peoples' rights to land (customary rights)
- d. Weak position of communities holding land rights in land acquisition

Land issues in the issuance of certificates include:

- a. The long and expensive process of issuing land titles;
- b. Forged certificates;
- c. Certificate overlapping; and
- d. Certificate cancellation.

The issue of agrarian resources must be seen as a whole and cannot be separated into independent sectors. Especially today, two major forces of tug-of-war are flanking the direction of agrarian politics, namely the power of the global-capitalist regime that wants agrarian problems to be prepared to enter the arena of the free market so as to minimize the role (intervention) of the state in state investment in investment and the power of bureaucracy and entrepreneurs who are still trying to maintain the investment mechanism through state intervention.[8] Land disputes are a symptom that absolutely cannot be ignored and must be resolved in accordance with applicable rules. However, even though the regulations have regulated in such a way, there are still many land disputes. In current practice it is not uncommon for 2 or more land certificates to be issued on the same piece of land, commonly known as overlapping certificates and bringing legal uncertainty to land rights holders. and will cause disputes between rights holders, because it can harm people who really have rights on the land, which is highly undesirable in land Registration in Indonesia.

In almost every area where there is a land dispute, the parties involved and authorized to handle the problem are resolved in various ways. The way of dispute resolution that has been taken so far is through the court (litigation) and dispute resolution outside the court (non-litigation). Although land problems and solutions arising from these problems have been arranged in such a way, the parties involved in it have their own ways that they consider better or more suitable to be used to solve land problems experienced, for example there are multiple land rights certificates. Based on the provisions of Article 23 C of the Presidential Regulation of the Republic of Indonesia No. 10 of 2006 concerning the National Land Agency which, among others, says that the Deputy for the Assessment and Handling of Land Disputes and Conflicts carries out the function of implementing alternative resolutions of land problems, disputes, and conflicts through forms of mediation, facilitation, and others. The provisions of Article 23 of Presidential Regulation Number 10 of 2006 show the government's policy to use mediation as a way to resolve land disputes.[9]

In carrying out existing land dispute or conflict resolution actions, the national land agency is one of the mediation institutions that can resolve a land dispute by prioritizing justice, namely conflict resolution through consensus deliberation by respecting the rights and interests of the parties to the dispute whose basic principle is a win-win solution or known as a "win win solution" or normatively called the settlement path "Non-Litigation" or Alternative Dispute Resolution (ADR) which then accommodates the implementation of ADR. The Government through

Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This rule is the benchmark for knowing how important mediation institutions are in resolving land conflicts.

2. Problems

Based on the above background, it can be found the formulation of the problem How to Resolve Land Disputes Indicated by Overlapping Through Alternative Dispute Resolution?

3. Method

The author uses the normative legal research method, also known as the normative juridical research method at the time of writing. Library law research is carried out using normative juridical research methods, namely research and analysis of library materials or only secondary data. This research includes normative legal research which originates from secondary data. While the types of data used in this study are as follows:

a. Primary data

The research respondents were residents of the dispute who were also the Head of Sidokumpul Village in Patean District, Kendal Regency. Through interviews with informants, data or information that can be explained is collected for research.

b. Secondary Data

Optional information in this research as an aid, can also be elaborated to help legitimacy and strong quality of essential information. In this study, data from both the literature and the field were collected using two different methods. The authors of this study used interviews and documentation data collection methods. The process of data analysis is to look at all available data from various sources, such as personal documents, interviews, and observations. This data analysis is arranged systematically, described, and conclusions are drawn so that it can be communicated to others. This data analysis model is divided into three stages, Data Reduction, Data Presentation and Conclusion Drawing.[10]

4. Discussion

4.1. Example Case

Decision Number: 91/G/2018/PTUN Smg, with parties PT. Fasindo Properti Indonesia as Plaintiff, against the Head of Semarang City Land Office as Defendant I and PT. Daya Cipta Tiara as Defendant II Application for Measurement for Field Map, explained that the two plots of Plaintiff's land had overlapped as a whole with HGB Number: 09173/Sendangmulyo (0subject dispute). The certainty of overlap was

also reaffirmed through the Defendant's Letter Number: 2038/200- 33.74/V/2018 dated May 14, 2018 addressed to the Director of PT. Fasat Property Indonesia (ic. Plaintiff) Subject: Information on Land Parcels Thus, the filing of a lawsuit a-quo to the Semarang State Administrative Court is still within a grace period of 90 (ninety) days from the knowledge of the State Administrative Decision of the Object of Dispute as stated in Article 55 of Law Number 5 of 1986 concerning the State Administrative Court.

Reasons for Claim: That the Defendant's action in issuing a Decree on the object of dispute in terms of material substance and formal procedures by examining it based on Law Number 5 of 1960 concerning Basic Regulations of Agrarian Principles jo Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration and Regulation of the Minister of Agrarian and Spatial Planning / Head of BPN Number 11 of 2016 is contrary to applicable legal provisions, based on Directory of Decisions of the Supreme Court of the Republic of Indonesia, Decision Number: 91/G/2018/PTUN. Smg as a legal reasons:

- a. That the Certificate of Property Number: 6869/Sendangmulyo and Certificate of Ownership Number: 6870/Sendangmulyo whose ownership has been transferred to the Plaintiff are issued first compared to the Certificate of Right to Use Building Number: 09173/Sendangmulyo on behalf of PT. Daya Cipta Tiara (object of dispute), then as of the date of its determination/issuance has binding legal force. Thus, from the date of issuance of the said certificate, the Plaintiff has obtained guarantees of legal certainty and legal protection from the Government of the Republic of Indonesia (ic. Defendant) that the land that has been determined ownership in the said certificate and on the land in the future will not be issued a certificate of title in the name of another party by the Defendant. The Defendant's action is clearly contrary to the provisions of Article 24 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of BPN Number 11 of 2016, which states that if it can be proven that there is an administrative defect in the issuance of certificates (stacking / overlapping with other parties' certificates issued first) then the certificate can be canceled; and
- b. That when the Defendant will process the issuance of Building Use Rights Certificate Number: 09173/Sendangmulyo on behalf of PT. Daya Cipta Tiara (object of dispute), the Defendant should adhere to the provisions of Article 18 paragraph (3) of Government Regulation Number 24 of 1997 concerning Land Registration, where it has been determined that in determining the boundaries of land parcels the Head of the Land Office (ic. Defendant) shall pay attention to the boundaries of the parcels or parcels of land that have been registered and the letter of measurement or drawing of the situation concerned. Based on the provisions of Article 45 PP Number 24 of 1997 stipulates that the Head of the Land Office must refuse to register the transfer of rights or encumbrance of rights if one of the conditions is not met, namely among others in letter a it is stated: "the certificate or certificate of the state of land rights is no longer in accordance with the lists in the Land Office". Because on the land for which the issuance of rights is requested by PT. Daya

Cipta Tiara has issued a certificate on behalf of another party, the Defendant should have rejected the rights application submitted and not issued SHGB Number: 09173 / Sendangmulyo on behalf of PT. Daya Cipta Tiara (object of dispute), because it can be legally ascertained that it is not in accordance with the list at the Semarang City Land Office because previously SHGB Number: 6869/Sendangmulyo and SHGB Number : 6870 / Sendangmulyo The case of overlapping certificates occurs due to 2 (two) factors, namely internal factors and external factors. Internal factors are errors made by Semarang Regency Land Office officials, where the officials concerned do not check whether or not there is a certificate of title to land previously issued on the land object, resulting in overlap. In addition, Semarang City Land Office officials are also less thorough in examining physical data and juridical data on the piece of land. While the external factor is the mapping system that is not good in the land registration map system.

Thus, the filing of a lawsuit a-quo to the Semarang State Administrative Court is still within a grace period of 90 (ninety) days from the publication of the State Administrative Decision of the Object of Dispute as stated in Article 55 of Law Number 5 of 1986 concerning the State Administrative Court. Reason for Claim: That the Defendant's action in issuing a Decree of the object of dispute in terms of material substance and formal procedure by examining it based on Law Number 5 of 1960 concerning Basic Regulations of Agrarian Principles jo Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration and Regulation of the Minister of Agrarian and Spatial Planning/Head of BPN Number 11 of 2016 is contrary to applicable legal provisions, based on the following legal reasons:

- a. That the Certificate of Property Number: 6869/Sendangmulyo and Certificate of Ownership Number: 6870/Sendangmulyo whose ownership has been transferred to the Plaintiff are issued first compared to the Certificate of Building Use Rights Number: 09173/Sendangmulyo on behalf of PT. Daya Cipta Tiara (object of dispute), then as of the date of its determination/issuance has binding legal force. Thus, since the date of issuance of the certificate, the Plaintiff should have obtained guarantees of legal certainty and legal protection from the Government of the Republic of Indonesia (ic. Defendant) that the land that has been determined ownership in the certificate and on the land in the future will not be issued a certificate of title in the name of another party by the Defendant. The Defendant's action is clearly contrary to the provisions of Article 24 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of BPN Number 11 of 2016, which states that if it can be proven that there is an administrative defect in the issuance of certificates (stacking / overlapping with other parties' certificates issued first) then the certificate can be canceled.
- b. That when the Defendant will process the issuance of the Building Use Rights Certificate Number: 09173/ Sendangmulyo on behalf of PT. Daya Cipta Tiara (object of dispute), the Defendant should adhere to the provisions of Article 18 paragraph (3) of Government Regulation Number 24 of 1997 concerning Land Registration, where it has been determined that in determining the

boundaries of land parcels the Head of the Land Office (ic. Defendant) shall pay attention to the boundaries of the parcels or parcels of land that have been registered and the letter of measurement or drawing of the situation concerned. Based on the provisions of Article 45 PP Number 24 of 1997 stipulates that the Head of the Land Office must refuse to register the transfer of rights or encumbrance of rights if one of the conditions is not met, namely among others in letter a it is stated: "the certificate or certificate of the state of land rights is no longer in accordance with the lists in the Land Office". Because on the land for which the issuance of rights is requested by PT. Daya Cipta Tiara has issued a certificate on behalf of another party, the Defendant should have rejected the rights application submitted and not issued SHGB Number: 09173 / Sendangmulyo on behalf of PT. Daya Cipta Tiara (object of dispute), because it can be legally ascertained that it is not in accordance with the list at the Semarang City Land Office because previously SHGB Number: 6869 / Sendangmulyo and SHGB Number: 6870 / Sendangmulyo have been issued.

- c. That in addition the Defendant's conduct in publishing the object of dispute is contrary to the General Principles of Good Governance, namely the Principle of Professionalism: It is clear that the Defendant's lack of expertise in examining the conditions required/required to issue a decree. In casu, if the Defendant examines correctly, the Defendant should not issue a Decree on the object of dispute, because on it a certificate of title has been issued in the name of the other party.
 - 1) Accountability Principle: Every activity and the final result of the activities of the state administrator must be accountable to the community or the people as the holder of the highest sovereignty of the state in accordance with the provisions of the applicable laws and regulations. In casu, the Defendant did not carefully examine the physical and juridical data of the application for rights filed by PT. Tiara's inventiveness so that it overlaps with land owned by other parties whose certificates are issued first; and
 - 2) Principle of Legal Certainty: Is a principle in a state of law that prioritizes the basis of laws and regulations, decency and justice in every government administration policy. That in connection with this principle, the Defendant's actions are very contrary to the principle of legal certainty, because it should be from the date of issuance of SHM Number: 6869 / Sendangmulyo and SHM Number: 6870 / Sendangmulyo whose ownership has been transferred to the Plaintiff, the Plaintiff has obtained guarantees of legal certainty and legal protection.

That based on the foregoing, the Defendant's action in issuing the Decree of the object of dispute has a juridical defect that is contrary to the applicable laws and regulations and the General Principles of Good Government (AAUPB) both in terms of formal procedures and in terms of material substance as referred to in Article 53 paragraph (2) letter a and b of Law Number 5 of 1986 as amended by Law Number 9 of 2004 concerning amendments to Law Number 5 Year 1986 concerning State

Administrative Court and last amended by Law Number 51 of 2009 concerning Second Amendment to Law Number 5 Year 1986 concerning State Administrative Court. Therefore, the Administrative Decree issued by the Defendant a quo should be declared void or invalid and as a legal consequence, the Defendant is obliged to revoke it.

Dispute Resolution of Overlapping Land Title Certificate at Semarang Regency Land Office. The mechanism for resolving land disputes carried out by the Semarang district Land Office is as follows: Dispute Resolution Through the Semarang District Land Office resolve land disputes with the following steps: First, receive complaints. The complainant pleaded for a settlement by bringing the evidence in his possession. Second, the Land Office conducts checks or researches the correctness of complainant data, matched between written data and field data. Third, the Land Office conducts mutation prevention or leaves it in the status quo. Regarding the prevention of this mutation, the Head of the Semarang Regency Land Office explained that in the event that the dispute has been submitted to the court and there is a status quo order or there is a decision regarding the confiscation of collateral on the land, then the inclusion of the holder's name in the land book is suspended until it is clear who is entitled to the land, either through a court decision or based on peace.

The status quo order here must be official and in writing and after the hearing of the relevant lawsuit is strengthened by the decision to place confiscation of the land concerned. Next, dispute resolution is carried out through deliberation. Regarding this deliberation, the Head of the Disputes, Conflicts and Cases Section explained that the Semarang Regency Land Office always tries to resolve disputes over land rights certificates through deliberation first which in this case is manifested in an effort called mediation, because it does not find a resolution, it is sought through judicial channels. Dispute resolution through the land office is the cancellation of the State Administrative Decree in the land sector by the Head of the Land Office. Settlement through the courts The Head of the Disputes, Conflicts, and Cases Section explained that after a decision that already has permanent legal force, it will be followed up with a request for cancellation of a certificate that is declared legally defective.

The solutions implemented by the Semarang Regency Land Office to prevent overlapping Land Rights certificates are as follows

- a. Computerized program of land registration maps. This program is used to find out land parcels that have been certified or not yet certified. 2. Regulation of the Land Registration Process. The designation of boundaries is carried out by the person concerned by including the parties whose land borders the land of the object of measurement; during the process of collecting and researching juridical data and physical data of land parcels must be thoroughly examined, especially regarding the history of the land; Regarding physical data and juridical data, it must be announced to the community at the Land Office and the Village Head/Kelurahan Office of the land location concerned to give an opportunity to the interested parties to raise objections; and

- b. Control of village administration regarding land information. The solution in preventing overlapping certificates of title to land is to carry out the certificate regulation process in accordance with what has been mandated in Government Regulation Number 24 of 1997 concerning Land Registration, especially in terms of collecting physical data and land juridical data, because land disputes often occur due to errors in determining land boundaries. The role of the village head and village apparatus is very important in land registration for the first time as a source of data or initial information about the land to support the implementation of land registration. This data can be used as a source of village land information for villages and villagers, such as proof of rights (Letter C/Petuk D) and its recording, Village Head's Certificate as proof of control of land rights needed by the community, and Land Deed Making Officials (PPAT).[11]

4.2. Alternative Dispute Resolution / ADR

Alternative Dispute Resolution (ADR) is often interpreted as Alternative to Litigation and Alternative to Adjudication. The choice of one of the two notions has different implications. If the first definition becomes a reference (Alternative to Litigation), all dispute resolution mechanisms outside the court, including arbitration, are part of ADR. While the definition of ADR as Alternative To Adjudication, means a dispute resolution mechanism that is consensus or cooperative, such as negotiation, mediation and conciliation.¹³In the United States itself, ADR is defined as an Alternative to Adjudication, because the output of the adjudication process is generally in the form of a win-lose solution (win-lose), even though what the parties to the dispute want is a win-win solution or mutual acceptable solution. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution itself provides a different understanding between Alternative Dispute Resolution and Arbitration. Alternative Dispute Resolution according to the provisions of article 1 number 10 of Law Number 30 of 1999 is stated as a dispute resolution institution or disagreement through procedures agreed by the parties, namely out-of-court settlement by means of consultation, negotiation, mediation, conciliation or expert assessment.[12]

Meanwhile, according to article 1 point 1 of Law Number 30 of 1999, arbitration is a way of resolving a civil dispute outside the general court based on an arbitration agreement made in writing by the parties to the dispute. Based on the material or content, Law Number 30 of 1999 discusses more about the ins and outs of arbitration, while alternative dispute resolution is only regulated in one article, namely article 6. Law Number 30 of 1999 adheres to the reference of Alternative to Litigation or Alternative to Adjudication? According to the answer of the Indonesian government, represented by the Minister of Justice Prof. Dr. Muladi during the discussion session on the passage of the bill with the DPR, it was said that the law adheres to a combination (mixed) system, in the sense that arbitration can be part of ADR, but arbitration can also be a separate part of ADR. To provide an overview of the forms of ADR, the following will be briefly described each form of ADR, both those mentioned in Law Number 30 of 1999 and several other variants of ADR. Some forms of ADR include.

To provide an overview of the forms of ADR, the following will be briefly described each form of ADR, both those mentioned in Law Number 30 of 1999 and several other variants of ADR. Some forms of ADR include:

a. Mediation[2]

Mediation is a dispute resolution mechanism with the help of an impartial third party (mediator) who actively provides guidance or direction to reach a resolution, but he does not function as a judge who has the authority to make decisions. The settlement initiative remains in the hands of the parties to the dispute. Thus the result of the settlement is compromised.

b. Conciliation

Conciliation is the settlement of disputes with the intervention of third parties (conciliators), where the conciliator is more active, by taking the initiative to compile and formulate settlement steps, which are then proposed and offered to the parties to the dispute. If the parties to the dispute are unable to formulate an agreement, then a third party proposes a way out of the dispute.

c. Arbitrase

Arbitrase merupakan salah satu bentuk adjudikasi privat, dengan melibatkan pihak ketiga (arbiter) yang diberi kewenangan penuh oleh para pihak untuk menyelesaikan sengketa, sehingga berwenang mengambil keputusan yang bersifat final dan mengikat (binding). Para pihak menyetujui untuk menyelesaikan sengketanya kepada pihak ketiga yang netral yang mereka pilih untuk membuat keputusan. Bedanya dengan sistem litigasi (adjudikasi publik) dimana hakim yang memeriksa telah ditetapkan pengadilan, sedangkan dalam arbitrase para pihak memilih hakim yang mereka inginkan, sehingga dapat menjamin kenetralan dan dapat memilih orang yang ahli di bidangnya.

d. Summary Jury Trial

Summary Jury Trial is a dispute resolution mechanism typical of countries whose courts use a jury system, especially the United States. A dispute is submitted to the actual jury for decision. The jury's decision is non-binding, and the jury does not know that its decision is non-binding.

e. Mediasi Arbitrase (Med-Arb)

Med-Arb is a form of combined dispute resolution between mediation and arbitration or is a mixed dispute resolution process carried out after an unsuccessful mediation process. If the parties do not reach an agreement by mediation, they may proceed to the dispute resolution process through arbitration procedure.

4.3. Factors Influencing People's Tendency To Choose Out-Of-Court Dispute Resolution

Currently, arbitration has become a widely accepted model in the industrial and business world in resolving disputes. In the international world, we also know that the World Intellectual Property Organization (WIPO) already has an arbitration body called the WIPO Mediation & Arbitration Center headquartered in Geneva, Switzerland. In general, arbitral institutions have advantages compared to judicial institutions. These advantages include:

- a. Guaranteed confidentiality of the dispute of the parties;
- b. Delays caused by procedural and administrative issues can be avoided;
- c. The parties may select arbitrators who in their belief have sufficient knowledge, experience and background on the disputed matter, are honest and fair;
- c. The parties may determine the choice of law to resolve the problem as well as the process and place of arbitration; and
- d. The arbitrator's award is a binding award on the parties and through simple procedures or directly enforceable.¹⁵

5. Conclusion

ADR (Alternative Dispute Resolution) is an out-of-court dispute resolution mechanism that is considered more effective, efficient, fast and low cost and benefits both parties (win-win solution) in litigation. The urgency of resolving business disputes outside the court is marked by the tendency of the business community to utilize the dispute resolution, which is based on several factors that place it with various advantages. Among others, economic factors, legal culture factors, factors in the breadth of the scope of problems that can be discussed, factors for fostering good relations between the parties and process factors. Mediation is an informal process aimed at allowing disputing parties to discuss their differences "privately" with the help of a neutral third party. A mediator in a mediation should remain neutral, always maintain good relations, speak the language of the parties, listen actively, emphasize potential benefits, minimize differences, and emphasize equality. The goal is to help the parties better negotiate a settlement.

Mediation institutions function to provide a means for parties to disputes to seek win-win settlement based on agreement. Therefore, it is necessary to regulate sanctions as a suppressor for the use of mediation. It may be necessary to exemplify the judicial system or mediation practices of courts from other established countries, which impose sanctions in the form of "void" rulings if the judge does not give the parties the opportunity to resort to mediation mechanisms. Make continuous corrections to Law Number 30 of 1999 which regulates Arbitration and Alternative Dispute Resolution because the Law does not provide a clear understanding of various forms of dispute resolution including mediation, except Arbitration. Even the process or mechanism of each form of institution is also not regulated.

References

- [1] G. Kartasapoetra, *Land Law, Guarantee for Successful Land Utilization*. Jakarta: PT Rineka Cipta, 1991.
- [2] S. Blake, J. Browne, and S. Sime, *A Practical Approach to Alternative Dispute Resolution*. 2018. doi: 10.1093/he/9780198823094.001.0001.
- [3] Asliani Harahap, "De lega lata," *Hukum*, 2018.
- [4] Urnaningsih Amriani, *Alternative Mediation for Civil Dispute Resolution in Court*. Jakarta: PT Rajagrafindo Persada, 2011.
- [5] Mochammad Tauhid, *Agrarian Problems as a Problem of Livelihood and Prosperity of the Indonesian People*. STPN Press, 2009.
- [6] Edi As'Adi, *Civil Procedural Law in Mediation Perspective (ADR) in Indonesia*. Yogyakarta: Graha Ilmu, 2000.
- [7] L. I. Nasoetion, *Land Conflict (Agraria) Towards Agrarian Justice*. Bandung: Yayasan AKATIGA, 2002.
- [8] G. Wiradi, *Reformasi Agraria Perjalanan Yang Belum Berakhir (edisi revisi)*. 2009.
- [9] R. Ahmad, "Derita Di Balik Tambang: Kontestasi Kepentingan Ekonomi Politik Dalam Pertambangan Timah, Di Bangka Belitung," *Sosioglobal J. Pemikir. dan Penelit. Sociol.*, vol. 6, no. 2, p. 114, Jul. 2022, doi: 10.24198/jsg.v6i2.36803.
- [10] K. Kristianto and F. Andraini, "The Role Of The Village Head As A Mediator In Resolving Land Disputes (Case Study Of Sidokumpul Village, Kendal District)," *Hermeneut. J. Ilmu Huk.*, 2023, doi: 10.33603/hermeneutika.v6i3.8345.
- [11] S. W. Handayani, S. Supriyanto, M. K. Wardaya, W. Wismaningsih, and W. Kupita, "Village Land Administration as an Effort to Prevent Agrarian Disputes/Conflicts," *Kosmik Huk.*, 2023, doi: 10.30595/kosmikhukum.v23i1.15651.
- [12] Suyud Margono, *Alternative Dispute Resolution & Arbitrase*. Bogor: Ghalia Indonesia, 2004.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

