
VILLAGE GOVERNMENT POLICIES IN RESOLVING LAND REGISTER CONFLICT

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ABSTRACT

Land is a necessary area in socio-economic life. This study aims to determine the village government's policy in resolving land registration conflicts and village government policies in resolving land registration conflicts. The research is normative legal research using two approaches, namely the empirical juridical approach and the normative juridical approach. The results indicate that the village government's policy in resolving land registration conflicts is a village government policy submitted by the National Land Agency for land conflicts that have been granted usufructuary rights by the village government. The policies taken by the National Land Agency are not by the procedures and mechanisms stipulated in the Regulation of the Minister of Agrarian Affairs Number 9 of 1999, concerning procedures for the use of state land, as well as residents occupying land registers, were not used as an object in the formulation of policies and procedures for handling land registration conflicts. The village government is only a 3rd party, namely an intermediary. Procedures for handling land conflicts in the register include: submitting a complaint to the BPN, completing files, collecting authentic data, conducting the mediation, changing data, submitting old judges, and issuing legal counsel.

Keywords: Land, Conflict, Village Government, Community

INTRODUCTION

Land is a basic human need, apart from clothing, food, and shelter. Land is an important tool for human life and most people depend on the land. In government regulation Law Number 51 of 1960, what is meant by land is land that is directly controlled by the State and land that is owned with a right by individuals or legal entities. (Article 1 paragraph (1) a and b PERPU Number 51 of 1960). [1]

The need for land is increasing and land supplies are very limited. Along with the times, the human perspective on the Land slowly began to change. In the past, the land was only considered a supporting factor for agricultural activities, but now it is seen from a more strategic perspective, namely as a crucial asset in the world of industry and human life. Besides that, this also has a positive impact, namely increasing welfare and profits for the owner, and also having a negative impact, namely the emergence of cases and problems in the land sector. Problems in the land sector are very vulnerable and complicated, not just a matter of ownership and upholding the law but also a political issue. Therefore, for the sake of maintaining security and order in society, cases that arise must be resolved immediately. [2]

Land as a gift from God Almighty is a natural resource that is very necessary for humans to meet their needs, both directly for life such as farming, or a place to live or carry out business, such as for places of trade, industry, agriculture, plantations, education, construction of facilities and infrastructure. [3]

Land or territory is the main element of a country. The Indonesian state, which is a country, is also known as an agricultural or archipelagic nation and has a very important position in the framework of organizing human life. [4] It is also an inherent phenomenon in the history

of human culture and civilization, especially in the agrarian era where resources in the form of land have begun to play an important role in production for human needs. [5]

On the other hand, the land is also the basic capital for the implementation of state life and for realizing prosperity for the people. Thus the control, ownership, use, and utilization of land obtain legal protection guarantees from the government. The concept of the Unitary State of Indonesia, namely a state that is oriented towards general welfare as stated in the 1945 Constitution of the Republic of Indonesia, is inseparable from legal disputes over land which is a fundamental problem in society, especially regarding land registration issues. In such a form of land register problem, community members always want to defend their rights. Meanwhile, the government must carry out its interests for the welfare of all its citizens. [6]

The Village Government is obliged to provide legal guarantees regarding problems with the registered land even though the right is not absolute because it is limited by the interests of other people, the community, and the state. In daily reality, land problems arise and are experienced by all levels of society. Land issues, especially land register issues, are issues that always arise and are always actual from time to time, often with increasing population, development developments, and increasingly expanding access for various parties to obtain land as the basic capital in various interests. The emergence of various land problems shows that the use, control, and ownership of land in our country have not been orderly and directed. There are still many lands uses that overlap with various interests that are not by their designation. Besides that, the facts also show that land tenure and ownership still overlap. There is a small group of people who own land illegally and excessively, there is also a large group of people who only own a strictly limited amount of land. Many do not own anything at all, so they are forced to live as cultivators. Almost all aspects of land can emerge as a source of land disputes, such as wrong land boundaries or inheritance.

A village is a community unit that has the authority to regulate and manage the interests of the local community based on local origins and customs that are recognized in the National Government system and are in the Regency area. The village has the rights of origin and traditional rights in regulating and managing the interests of the local community and plays a role in realizing the ideals of independence based on the 1945 Constitution of the Republic of Indonesia, the village is a legal community unit that has territorial boundaries that are authorized to regulate and manage government affairs, local community interests based on community initiatives, origin rights, and traditional rights that are recognized and respected within the system of Government of the Unitary State of the Republic of Indonesia.

The village existed before the Unitary State of the Republic of Indonesia was formed. As proof of its existence, the elucidation of Article 18 of the 1945 Constitution of the Republic of Indonesia (before amendment) states that within the territory of the State of Indonesia, there are approximately 250 "Zelfbesturende Landschappen" and "volksgemeenschappen". [7]

In the history of village regulations, several regulations regarding villages have been established, namely Law Number 22 of 1948 concerning the principles of local government, Law Number 1 of 1957 concerning the principles of village administration, Law Number 18 of 1965 concerning the principles of Regional Government, Law Number 19 of 1965 concerning Praja Village as a transitional form to accelerate the realization of level III regions throughout the territory of the Republic of Indonesia, Law Number 5 of 1974 concerning the principles of Regional Government, Law Number 5 of 1979 concerning Village Administration.

The emergence of land register problems stems from a complaint from a party containing objections and demands for land rights, regarding land status, priority, and ownership in the hope of obtaining an administrative settlement by the provisions of the applicable regulations. [8]

In essence, cases of disputes over land registers are conflicts of interest in the land sector between the public and the State, as a concrete example between individuals and individuals; individuals with legal entities; a legal entity with a legal entity, and so on. It has been a phenomenon for a long time in the history of human culture and culture, where resources in the form of land have begun to play an important role as a factor of production to meet human needs. Thus, the control, ownership, use, and utilization of land obtain legal protection guarantees from the Government. Issues over land registers that arise are related to inheritance, boundary disputes, issuance of certificates, legal acts of transfer of ownership rights to land, and land acquisition for public purposes.

The desire of humans to always control and own land, of course, can lead to disputes between communities. Problems over land often occur because there is still a lot of lands that is inherited to become material for fighting over land ownership rights for their heirs. The problem regarding the boundaries of registered land is also one of the cases of land register problems in the village where interest arises regarding the location, boundaries, and area of registered land parcels which are recognized by one party as well as because the land has not yet been registered and differences of opinion.

The resolution of protracted land register issues without a good resolution can result in aggrieved parties and lawsuits in court. Even though there is an opportunity to sue through the courts, many villagers tend to avoid it. In addition, there is an opinion that filing a lawsuit through the courts is relatively expensive, and the process in court will take quite a long time. Therefore, an appropriate mechanism is needed to resolve land registration issues between citizens and the State that is more focused on handling land dispute settlements and conflicts in a simple, fast, and low-cost manner. One method that provides a winning solution for the parties involved is through a mediation process and the most suitable to become mediator in the process of resolving land ownership rights issues is the local village government, namely the village head, who understands the conditions of the residents and the conditions of the area and course is respected by the residents.

The role of the village government as a village peace judge is recognized by Law Number 6 of 2014 concerning villages, stating among other things that in the context of carrying out village government duties in the field of village community development, the village government can reconcile community disputes that occur in the village. This is contained in article 26 paragraph (4) of Law Number 6 of 2014 concerning Villages which states that in carrying out its duties, the village government is obliged to resolve community disputes in the village.

Thus, the village government is not only authorized as the administrator of the village government but also has the duty, obligation, and authority to reconcile disputes in the event of a conflict or dispute involving villagers and the State, which then the village government can administer village justice.

Although the village government has the duties and obligations to resolve community disputes in the village, there are no rules that can be used as guidelines for the village government to resolve disputes that occur in the village. This is because neither the village law nor other laws and regulations provide rules or guidelines on how to resolve community and state disputes. In contrast, the dispute resolution process through mediation which is known as Alternative Dispute Resolution (ADR) is regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

Although there are no rules that can be used as guidelines for resolving land register issues, the provisions regarding the duties and obligations of the village government in resolving land register issues in villages are contained in Article 26 paragraph (4) of Law Number 6 of 2014

concerning villages. Of course, it must be carried out properly to realize a village government that can provide peace, security, and order for the village community. It means that the village government must have its initiative or method to resolve and reconcile the disputing parties.

Based on the description above, the authors are interested in raising research titled "Village Government Policies in Resolving Land Register Conflicts".

RESEARCH METHOD

This type of legal research is descriptive and qualitative in nature, so the type of data used consists of primary data and secondary data.

RESULTS AND DISCUSSION

Village Government Policies in Resolving Land Conflicts Register

Agenda setting is a very strategic phase and process in the reality of village government policies in completing land registers.

Judging from the agenda setting, it does not see the facts on the ground submitted by the applicant for registered land rights. With the end of registered land rights, it is necessary to have a policy taken by the village government. The village government presented by the National Land Agency, in compiling the policy agenda is not optimal, it can be seen from the preparation of agendas carried out by the community, at least the Land Agency must look at the physical data in the field. As mandated by laws and regulations. The following is the procedure for granting rights over state land according to article 1 paragraph 8 of the Regulation of the Minister of Agrarian Affairs Head of the National Land Agency No. 9 of 1999. What is meant by granting rights over state land is a government stipulation that grants rights over state land, an extension of the period of rights, and changes rights, including the granting of rights over land with management rights.

The provisions that must be considered in granting rights according to Article 4 of the Regulation of the Minister of Agrarian Affairs of the Head of the National Land Agency No. 9 of 1999 are that before applying rights the applicant must possess the requested lands as evidenced by juridical data and physical data by statutory regulations. Not only that, in registering land, an agreement must be made with the previous right holder. Based on the results, the village government in compiling the policy agenda for the use of registered land, has not been maximized because the physical data on the registered land has been occupied by community members, it should be in the agenda-setting of the National Land Agency, must look at the physical data on the registered land even if it has occupied by the community, then the community must be involved in formulating policies.

1. Policy formulation

Issues that have been included in the agenda are then discussed by policymakers. The problems were defined and then the best solution was sought. The solution to the problem comes from various alternatives or existing policy options. Similar to the struggle for a problem to enter the policy agenda, in the policy formulation stage each alternative competes to be selected as the policy taken to solve the problem.

Registered land is state-owned land and then the state, presented by the National Land Agency, regulates the land a policy has been adopted by the National Land Agency that the registered land is given usufructuary rights to the village government. This policy contradicts Presidential Decree 32/1979 which states that registered land rights that have been occupied by the people and from the point of view of use and environmental safety are more appropriate for settlement businesses, new rights will be given to the people, this provision is

strengthened by article 10 of the Regulation. Minister of Home Affairs No. 3/1979 which means the same, that is, new rights will be given to the people.

Not only that, the people who inhabit the registered land expect that every policy taken by the government must involve the community so that it does not have an impact that is not pro-people. It is clear that by what is mandated by the 1945 Constitution Paragraph (3) which reads "Earth, water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people," thus the authors conclude that the village government's policy in registering land conflicts is not appropriate because it is not by the implementation of statutory regulations. Whereas the village government in the formulation of policies related to registered land has not run optimally.

2. Policy Adoption/ Legitimacy

Judging from the legitimacy of the policies carried out by the village government, in resolving land conflicts the register has been carried out by the National Land Agency. The village government has legitimized this policy clearly implied through juridical evidence, namely the right to use certificate No. 03 of 2012.

In general, policy evaluation can be said to be an activity concerning the estimation or assessment of policies that include substance, implementation, and impact. In this case, evaluation is seen as a functional activity. It means that policy evaluation is not only carried out at the final stage but is carried out throughout the entire policy process.

3. Related to Policy Assessment/Evaluation

In general, the evaluation of village government policies in resolving registered land conflicts can be said to be an activity that involves the estimation or evaluation of village government policies that include substance, implementation, and impact. In this case, evaluation is seen as a functional activity. It means that the evaluation of village government policies is not only carried out at the final stage but is carried out during the entire policy process

Procedure for Handling Registered Land Conflicts in Village Administration

Based on the results of research that has been done in handling registered land conflicts, here the village government is only a 3rd party, namely a mediator, carrying out settlement procedures amicably or mediation, if registered land conflicts cannot be resolved amicably or mediated, then handling register land conflicts proceed to the realm of law/court channels.

The procedures for handling registered land conflicts include:

1. Submit a Complaint to the Land Office

If there is a question about a land dispute, especially a registered land dispute, and seeking a resolution through an authorized party, you must first submit a report to the Land Agency office closest to where the dispute occurred. You can also submit a report through the official website that has been provided by the National Land Agency. In the complaint, you must include the identity of the complainant and a brief but clear description of the dispute case.

2. Complete the Complaint File

If you have filed a complaint, the next step you have to take is to complete the various required files. In the matter of this land dispute, you must attach the identity document of the complainant and also evidence related to the complaint. If these two files do not exist, the complaint that you have submitted will not be processed further. If the file meets the requirements, the complainant will receive a letter of receipt of the complaint from the Land Agency.

3. Collecting Authentic Data

When a file has been submitted to the Land Agency office, the next thing to act is an officer from the National Land Agency, whom they will collect various data related to the land

dispute that you have complained about. The data collection is carried out in a juridical manner relating to land disputes, the physical nature of the land, and also various other supporting data.

4. Conduct Mediation

There are various examples of lawsuits for registered land disputes in which, in response, after collecting more authentic data from the Land Agency, the various parties in the dispute will be brought together. Before entering a further process, this mediation must always be carried out with the aim that there is hope that the settlement of the land dispute can be resolved using deliberation between the two parties who are in trouble. If later the mediation does not produce good results, then the complaint process will be continued based on the data and various pieces of evidence that have been obtained by the Land Agency. If in the mediation process conducted by the court

5. Data Change and Cancellation

If an agreement is not reached during mediation, then the complaint will be continued by the assessment of the data that has been obtained by the National Land Agency. Derived from these data, in the future data related to land dispute registers will be amended or canceled to be replaced with the latest data. The latest data will be considered valid so that in the future there will be no registered land dispute cases related to the object.

6. Surrendering the Old Judge

When the new data is available, then the most recent ownership data must be submitted to the Land Agency. However, the handover must be accompanied by an appeal from the Land Agency, which is no later than five working days after canceling or changing the land dispute data that has been decided. In general, the parties concerned must submit old rights data no later than 30 working days from the Land Agency giving notification.

7. Release of Legal Power

If the old rights related to registered land disputes have been submitted, then the Land Agency can continue various processes to resolve the dispute. Later, the court will give a decision that has a legal force that must be followed by the parties involved who are experiencing the land dispute. In the trial process, an answer is not an obligation that must be given by the defendant. The defendant has the right to rebut the arguments contained in the lawsuit he has.

CONCLUSION

Based on the results of the research that has been described, it can be concluded that this research is as follows Judging from the government policy in this case presented by the National Land Agency it is not appropriate in making policies, related to the handling of registered land conflicts, the village government does not seem crucial factors, namely historical factors, social and economic conditions of the people who occupy the registered land. In formulating and legitimizing policies, the village government only looks at physical development without analyzing the social impacts that will occur later, for example, land disputes register which leads to social conflicts that are difficult for the village government and regional governments to contain. Whereas in handling registered land conflicts, here the village government is only a 3rd party, namely a mediator, carrying out settlement procedures amicably or mediation, if registered ground conflicts cannot be resolved amicably or mediated, then the handling of registered land conflicts continues in the realm of law/court line.

The procedure for handling registered land conflicts includes: complaints to BPN, completing files, collecting authentic data, conducting the mediation, changing data, handing over old judges, and removing legal force.

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