LAND DISPUTE SETTLEMENT BETWEEN THE COMMUNITIES AND PLANTATION COMPANY

by:

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Abstract

The purpose of this study was to analyze and explain the settlement of land disputes between communities and plantation company of PT. PerkebunanHasil Musi Lestari of Bulang Tengah Suku Ulu District of Musi Rawas Regency, as well as to analyze and explain the factors causing land disputes between communities and plantation company of PT. PerkebunanHasil Musi Lestari of Bulang Tengah Suku Ulu District of Musi Rawas Regency. This study was an empirical legal research conducted by examining the primary data by conducting interviews with respondents. As for the nature of this study was descriptive research with the research location was at PT. PerkebunanHasil Musi Lestari of Bulang Tengah Suku Ulu District and Jayaloka District. Sources of data used are primary data and secondary data, the data was collected and analyzed by the inductive method. The results of this study and discussion showed that the settlement of land disputes between communities and plantation companies was done through non-litigation by conducting meetings (mediation) involving local authorities conducted by three (3) meetings which ultimately resulting an agreement between the community and PT. PerkebunanHasil Musi Lestari of Bulang Tengah Suku Ulu District of Musi Rawas Regency. While the factors causing land disputes between the communities and plantation company, among others: people’s land that has not been registered at National Land Agency and the utilization of the land beyond the Land Cultivation Rights.

Keywords: Settlement, Land Dispute and Land

A. INTRODUCTION

Background

Land has a meaning and a very important role for the life of people. This is because almost all aspects of life, especially for the people of Indonesia can not be separated from the actual existence of the land which cannot only be viewed from the economic aspect alone, but also covers all life aspects and livelihood. Given the composition of life and economic patterns, most Indonesian people are still patterned agrarian. Land for human life implies multidimensional meaning. Firstly, from an economic point, land is a means of production that can bring prosperity. Secondly, politically land can determine one's position in the decision-making community. Thirdly, as a cultural capital it can determine the level of the owner's social status. Fourthly,
land has social meaning because at the end each person will return into the soil.¹

A very important meaning of land for human life and for a State is proven in the Constitution of 1945, Article 33 paragraph (3) "Land, water and natural resources contained therein controlled by the State and utilized for the welfare of the people". The provision of Article 33 of the Constitution of 1945 then became the philosophical foundation of the arrangement of land in Indonesia which is legally regulated in Law No. 5 of 1960 on the Basic Regulation of Agrarian promulgated on 24th September 1960 which was then known as the Basic Agrarian Law (BAL).³

Because of the importance of the role of land in human life, the land becomes the object which is prone to disputes between people, this happens because the human need for land is increasing, but the land supply is relatively fixed. Against these lands under the provisions of Article 19 of the Basic Agrarian Law (BAL)jo Government Regulation No. 24 of 1997 concerning the registration of the land, the land must be registered in order to acquire the force of law in the event of a land dispute.

Land disputes in society is increasing every year and affects almost all regions in Indonesia, both in urban and rural areas. Cases of land which often happened when viewed from the conflict of interests of the parties in land disputes, among others: People dealing with bureaucracy, the People dealing with state companies, the People dealing with private companies and conflicts between people.⁴

PT. PerkebunanHasil Musi Lestari established since 1997 with locations in Muara Kelingi District licensed by Land Cultivation Rights No. 002/GS/1691/1997 with an area of 8813 ha and No. 003/GS/1692/1997 with an area of 2170.8 ha. Whereas in 2000 there was a development in the area of Musi Rawas Regency, PT. PerkebunanHasil Musi Lestari included in the new districts which is Bulang Tengah Suku Ulu District. In 2013 the community around PT. PHML located exactly in the Bulang Tengah Suku Ulu District and Jayaloka District claimed that oil palm trees planted by the company of PT. PHML indicated to be beyond the Land Cultivation Rights so that people demand land outside the concession planted by the company of PT. PHML was to be returned to the community.

To resolve this dispute, the community delivered the issue to the Government of Musi Rawas Regency. The community demanded the re-measurement of Land Cultivation Rights of PT. PHML because allegedly there were

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² Article 33 of the Constitution of 1945.
1800 hectares of community’s land included in the concession and has been planted with oil palm by the company.\(^5\)

Based on the description above, the writer was interested in doing research on the Land Dispute Settlement between the Communities and Plantation Company.

**Identification of the Problems**

Based on the description that has been presented, then the problem can be formulated as follows:

1. How is the settlement of land disputes between the community and the plantation company of PT. PerkebunanHasil Musi Lestari of Bulang Tengah Suku Ulu District of Musi Rawas Regency?

2. What factors causing land disputes between the community and the plantation company of PT. PerkebunanHasil Musi Lestari of Bulang Tengah Suku Ulu District of Musi Rawas Regency?

**B. RESEARCH METHODS**

1. **Types of Research**

   Type of study used in this research is an empirical legal research which is a field research to get an idea of the condition of the implementation of a rule markedly in the field by examining the primary data.\(^6\) The primary data was obtained through interviews conducted in order to obtain information relating to the Settlement of Land Dispute between Community and Plantation Company.

2. **Nature of the Research**

   Based on the formulation of the problem, this study was categorized as descriptive analysis research which describes the facts and conditions or symptoms that become the object of research and analyzes the findings obtained. This study aimed to describe the systematic, factual and accurate, the facts and the specific nature or tried to describe the phenomenon in detail on what it is.

3. **Research Location**

   The research areas are places where research is conducted or the location where a person carrying out the research. The location of this research was PT. PerkebunanHasil Musi Lestariaand the surrounding area which is precisely located in the Bulang Tengah Suku Ulu District and Jayaloka District.

4. **Data Sources**

   a. Primary Data

   The primary data obtained through interviews. In this study, the populations are all the Managers in the Company, all Chief Sections of Arrangements

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and Structuring of National Land Agency, all the village secretaries, the entire staffs of Department of Plantation. Population is an overall observation of the object or objects of the research.\(^7\)

Based on the existing population, they were related with the sample of respondents by using purposive sampling that is performed to take a subject based on specific objectives.\(^8\) The samples in question is a subset or part of the population.\(^9\) The sample was chosen to represent the population as a whole, the respondents in this study were as follows:

1. Manager of PT. Perkebunan Hasil Musi Lestari of Musi Rawas Regency
2. Chief Section of Arrangements and Structuring of NLA of Musi Rawas Regency
3. Chief Section of Farming Business Development
4. Village Secretary of Tambangan of Musi Rawas Regency
5. Village Secretary of Lubuk Pauh of Musi Rawas Regency
6. Village Secretary of Tanjung of Musi Rawas Regency
7. One Employee of Plantation Office of Musi Rawas Regency

b. Secondary Data

Secondary data is the data obtained from or derived from the literature.\(^10\) Secondary data collection was done by a search of legal literature aimed to collect data in the form of conceptions, opinions or views, legal doctrines, and principles of law as well as browse legislations and literature relevant with this research problems. Data obtained from references such as books or references, legislation, documents, journals, theses, and so forth.

5. Data Collection

The data collected in this study are primary data and secondary data. Primary data is primary data obtained through research field. While the secondary data is the supporting data obtained through the study of literatures relating to the object of research by study documentation, learning, reviewing and examining the materials of law, both legislation, literature books, papers, articles, studies and scientific papers associated with this research.

6. Data Analysis

Data obtained from the results of further research analyzed descriptively, which

is a method of data analysis by collecting and selecting the data obtained from the study according to the quality and veracity, and are associated with the legislation and legal theories and opinions of jurists to obtain the answer to the problems in this study. As for the method of thinking used in this analysis is the inductive method which is the process of thinking that comes from a special proposition (as observed) and then drawn a general conclusion of a general nature.

C. RESULTS AND DISCUSSION

1. Settlement of Dispute between Community and Plantation Company

   PT. PerkebunanHasil Musi Lestari established since 1997 with locations in Muara Kelingi District licensed by Land Cultivation Rights No. 002/GS/1691/1997 with an area of 8813 ha and No. 003/GS/1692/1997 with an area of 2170.8 ha. In 2013 the community around PT. PHML located exactly in the Bulang Tengah Suku Ulu District and Jayaloka District claimed that oil palm trees planted by the company of PT. PHML indicated to be beyond the Land Cultivation Rights so that people demand land outside the concession planted by the company of PT. PHML was to be returned to the community.

   Settlement of land disputes between communities BTS.Ulu District of Musi Rawas Regency with PT. PerkebunanHasil Musi Lestari (PT.PHML) was done by non-litigation by conducting meetings (mediation) between the Government of Musi Rawas Regency, Musi Rawas Police Resort, the Community of BTS Ulu District and PT. PHML to discuss problems between PT. PHML with the community of BTS Ulu District conducted on Tuesday, April 16th, 2013 and the absence of agreement between the two sides. The contents of the meeting were:
   a. Within 1 (one) month starts on this day PT.PHML and National Land Agency parties must deliver the schedule for the implementation of the reconstruction of the land indicated beyond the Land Cultivation Rights to the Government of Musi Rawas Regency.
   b. If within one (1) month PT.PHML and National Land Agency parties can convey to the government about the completion of the reconstruction then PT. PHML should fully surrendered to the government of Musi Rawas Regency on resolving the land indicated.
   c. Plasma plantation development plan proposed by the PT. PHML will be done firstly the verification by the government Musi Rawas Regency.
d. Until the deadline for the implementation of the reconstruction, then the company is allowed to conduct all activities in the concession area in question.

e. During the time limit referred to in point 1 (a) above, each of the parties will jointly oversee the process.

The minute of meeting facilities agreement settlement of problems between communities of BTS.ULU District of Musi Rawas with PT. Plantation Results Musi Lestari (PT.PHML) held back second time on Tuesday, 20\textsuperscript{th} of August 2013, still did not get an agreement between the two sides with the following conclusions:

a. In the settlement of the problem solution was offered by the Government of Musi Rawas and Society District of BTS Ulu against the land indicated on the outside of Cultivation Rights/ HGU, after reconstruction by TEAM of National Land Agency of South Sumatra province, would be resolved through Patterns of Plasma to the public in accordance with regulations applied.

b. During the settlement process, if PT CMF activities indicated pemanenan on land outside the concession, the public demand for revenue sharing Rp.500.00, - (five hundred thousand rupiah) / ha / month times the land area indicated outside the concession.

c. Government of Musi Rawas asked the Board of Directors of PT. CMF or elements of leadership that have decision-making authority to be present at the next meeting no later than September 3\textsuperscript{rd}, 2013.

d. Party of PT.PHML and BTS Ulu Sub-district Community agreed to give status quo that indicated outside the concession until September 3\textsuperscript{rd}, 2013

Later on Wednesday, March 26\textsuperscript{th}, 2014 which took place in Op Room of Regional Secretary (Setda) of Musi Rawas on the settlement of disputes between PT. CMF with the public was held back third time so as to produce an agreement between the two sides, with the agreement reads as follows:

a. Whereas the first party and the second party were willing, agreed and dealt to make an area of 353.20 hectares or 20% of 1766.58 hectares, which comes from the gardens outside of Cultivation Rights No. 02 and No. 03 of PT. Perkebunan Hasil Musi Lestari as the material for the public Tambanangan plasma, Pelawe Desa, Desa Lubuk Pauh, Kembang Tanjung subdistrict and village of Boga Ngesti BTS ulu.
b. That the presence of the plasma, the second party was willing to acknowledge their debt to the company's investment plasma of PT.Perkebunan Hasil Musi Lestari (PT.PHML) and would be paid in installments in accordance with the legislation in force.

c. That after tenure as participants in plasma determined by the Regent of Musi Rawas then managed by the cooperative legal entities in accordance with applicable regulations.

Based on the author’s analysis that the settlement of land disputes between communities and plantation companies PT.Perkebunan Hail Musi Lestari (PT.PHML) was a form of plasma land to villagers of Mining, Pelawe Desa, Desa Lubuk Pauh, Kembang Tanjung subdistrict and village of Boga Ngesti of BTS Ulu as compensation of Plantation Company PT.Perkebunan Hasil Musi Lestari (PT.PHML) to the community that the division consists of mining village numbered 121 people, the village Pelawe was 85 people, the village of Lubuk Pauh was 15 people, Kembang Tanjung was 87 people and Boga Ngesti Village II was amounted to 12 people. The amount was based on the ownership of land planted by PT. CMF outside its concession. Land ownership was based on a certificate issued by the Head of the local village which could be recognized as the second official maker of the Certificate of Land stipulated in Government Regulation No. 24 of 1997 on Registration of Land, which knew and recognized and had evidence that the public District of BTS Ulu of Musi Rawas whose land had not been registered in the National land Agency (BPN) was a rightful owners.

An agreement between the community and PT. CMF company for the provision of 20% of 1766.58 hectares, or an area of 353.20 hectares to the community in the district of BTS Ulu of Musi Rawas was in accordance with the Regulation of the Minister of Agriculture of the Republic of Indonesia Number 98 / Permentan / OT.140 / 9/2013 on Guidelines for Plantation Business Permit. Regulation of the Minister was created to protect the public and provide justice to the public so that people could feel the benefit of their corporate activities.

2. Factors Causing Occurrence of Land Dispute Between People And Plantation Company

a. Community Land Unregistered in the National Land Agency (BPN)

PT. Perkebunan Hasil Musi Lestari before carrying out their
activities must first meet its obligations by way of licensing it which is by applying the land to be used as a plantation. Therefore, on 4th of September 1991 PT.PHML obtained a declaration on an area of approximately 12,000 hectares in the district of Jayaloka, Muara Kelinggi and Muara Beliti Musi Rawas Regency by Regent of Musi Rawas through letter No. 525/2694PEM-GENERAL, regarding the request for the declaration of land for oil palm plantations covering an area of approximately 12,000 ha. And on December 31st, 1991 PT.PHML regained approval backup acreage of approximately 12,000 hectares, in the District of Jayaloka, Muara Kelinggi and Muara Beliti of Musi Rawas Regency, from the Governor of South Sumatra through letter No. 890/SK/I/1991.11

On 8th of April 1997 PT. CMF awarded certificates Cultivation Rights (HGU) over land contained in Decree of the Minister of Agriculture No. HK.350/E.4.347/05.92 from the National Land Agency (BPN) through letter NO.002/GS/1691/1997 covering an area of 8813 hectares and No.003/GS/1692/1997 covering an area of 2170.8 hectares so that the concession owned by PT CMF was an area of 10983.8 hectares, which was valid for 35 years starting from April 8th, 1997 and would be ended on April 8th, 2032.12

Communal lands that were around the area of the concession owned by PT. CMF has not been registered in the National Land Agency Musi Rawas. This was consistent with the results of interviews with the National Land Agency of Musi Rawas represented by Section Head of setting and arrangement of land named Mr. Giyana. The unregistered land caused in case of transfer of rights does not have the force of law.

In interviews with the manager of PT. CMF named Mr. Yudi said that PT. CMF has been acquiring land belonging to the community around the concession area of PT. CMF to include land acquisition documents. These lands were all not registered in the National Land Agency of Musi Rawas that land acquisition does not involve

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12 Ibid, hal I-2
the National Land Agency Musi Rawas.\textsuperscript{13}

Based on the author’s analysis the public unregistered lands in the National Land Agency (BPN) is caused due to the lack of public awareness for the registration of land on his property and therefore no legal power over the land he owned so there was a land dispute between Mastery PT. Perkebunan Hasil Musi Lestari in District of Bulang Tengah Suku Ulu of Musi Rawas. The legal basis for land registration are listed in Article 19 of the Basic Agrarian Law (BAL).

b. The existence of the Land Use Being Out HGU

Based on the research of secondary materials, it is known on 8\textsuperscript{th} of April 1997, PT. CMF awarded certificates Cultivation Rights (HGU) over land contained in Decree of the Minister of Agriculture No. HK.350/E4.317/05.92 from the National Land Agency (BPN) of Musi Rawas by letter No.002/GS/1691/1997 covering an area of 8813 hectares and No. 003/GS/1692/1997 covering an area of 2170.8 hectares, bringing the total concession area of PT. CMF was 10983.8 hectares, which was valid for 35 years starting from April 8\textsuperscript{th}, 1997 to April 8\textsuperscript{th}, 2002, which was located in the district of Bulang Tengah Suku Ulu of Musi Rawas of South Sumatra province.

In 2012 PT. CMF problems arose with residents around the plantation area in the district of Bulang Tengah Suku Ulu. It was started with the citizens who know that there was oil palm trees outside the concession owned enterprises. The action taken by communities around the company was by doing street blockade in the plantation area, so that the traffic of Fresh Fruit Bunches (FFB) owned by PT. CMF was hampered even the TBS could not exit from the plantation to the Palm Oil Processing Plant.

According to the results of interviews with the Sub-Head of governance Mr Rehal Ikmal, Section-Head of Business Development of Plantation Department owned by Mr. Aldar, Section-Head of Settings and Mapping Land Mr. Giyana, Secretary Head of BTS Ulu Mr. Hendra Amor, Mr. Yudi from PT. CMF and the village secretary of Tambangan, Lubuk Pauh, Kembang Tanjung, Ngesti Boga

\textsuperscript{13}Based on interview with Manager of PT. PHML Mr. Yudi, on 15\textsuperscript{th} August 2014
II and Pelawe respectively Mr. Rizal Effendi, Fajarudin, Mulyadi, Candra and Yani who said that there was oil palm plant owned by PT. CMF located on community land outside the concession area of PT. CMF.

Based on the analysis the authors found it was revealed based on reports from the public about the existence of oil palm plantation owned by PT. CMF that are outside the concession owned by the company, the government formed a team of Musi Rawas Supervision and Development (Wasdal) to resolve land issues related to the presence and operational activities in the area of Palm Oil of PT. Perkebunan Hasil Musi Lestari. Steps taken by the government to seek the truth of the matter was a way to reconstruct the concession which was owned by PT. CMF carried out by the National Land Agency of the Republic of Indonesia to delegate to the National Land Agency of South Sumatra province. The results of the conducted reconstruction of the National Land Agency of South Sumatra Province was known that there were 1,766 hectares of land outside the concession that planted by PT. CMF. For those reasons, the Government of Musi Rawas to sanction the company to pay a penalty for cultivated land outside the concession and the community also had the result of harvesting from the PT. Perkebunan Hasil Musi Lestari/ CMF indicated outside Cultivation Rights(right to cultivate).

D. CLOSING

1. Conclusions
   a. Settlement of land disputes between communities and plantation companies was by way of non-litigation by conducting meetings (mediation) involving local authorities conducted a meeting with three (3) times so finally getting agreement between community and PT. Perkebunan Hasil Musi Lestari (PT.PHML) District of Bulang Tengah Suku Ulu of Musi Rawas.
   b. Factors that lead to land disputes between communities and plantation companies, among others, follows:
      1) The unregistered land of society to the National Land Agency
      2) The use of land that are outside the concession.
2. **RECOMMENDATION**
   
a. It is expected that in resolving land disputes, especially people with plantation companies should be done by way of mediation (non litigation) in advance to involve the government in its completion.

b. To avoid a conflict over land, it is expected that the land that was not registered in the National Land Agency immediately be registered in the National Land Agency and is also expected for the Company estates in land use was conducted in accordance with the concession.

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