



The Effectiveness of The Village Head's Role in Resolving Non-Litigation Land Disputes in Kebon Manggu Village

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Abstract. There are not a few problems or land disputes within the authority of the village government. This is because the village community does not understand administrative procedures related to land legality. The village community when there is a land problem puts forward the court's efforts, in finding a solution to the land problem through a civil dispute resolution court. Settlement of civil disputes even though it has advantages, including legal certainty. But it also has a drawback, namely effectiveness. The author uses an empirical juridical method to answer the effectiveness of the village head's role in resolving non-litigation land disputes in the village of Kebon Manggu. When there is a land dispute does not always have to be resolved through court or court channels, because now non-litigation dispute resolution has been born, namely Alternative Disput Resolution (ADR). So in this case the role of the village head in the community is very important to help resolve disputes that occur in the community.

Keywords: Settlement, Land disputes, Non litigation, Effectiveness.

1 Introduction

Indonesia is a country whose territory is divided into provinces. The provincial area is further divided into regency and city areas. Every province, regency, and city area has a local government which is regulated by law. In the Indonesian government system there is a village government, which is an integral part of the regional government system. The village has a government apparatus led by the village head. The village head is obliged to guarantee the implementation of an orderly, safe and orderly social order. Law of the Republic of Indonesia Number 23 of 2014 concerning local government which states that districts/cities are divided into sub-districts and sub-districts are divided into sub-districts and/or villages. Village is a traditional village and village or what is referred to by another name, hereinafter referred to as a 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/or traditional rights. which is recognized and respected in the government system of the Unitary State of the Republic of Indonesia. Not a few land problems or

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disputes occur within the authority of the village government. This is because the village community does not understand administrative procedures related to land legality. When land problems occur, the village community puts forward the court's efforts to find a solution to the land problem through a civil dispute resolution court. The settlement of civil disputes, although it has advantages, includes legal certainty. But it also has a drawback, namely effectiveness. Closer to the purpose of law according to Gustav Radbruch that the law must fulfill three elements, namely justice, expediency, and legal certainty. Law Number 5 of 1960 is known as the basic regulations on Agrarian principles which are widely known as the BAL. As we, the Indonesian people, know and experience for ourselves, that before the enactment of the UUPA, the agrarian law inherited from the Dutch colonial government was enforced, especially in the land sector which was dualistic in nature, namely customary law and western law.

With the promulgation of the UUPA which took effect since September 1960, the Indonesian nation has its own unified and national agrarian law which based on customary law contains the five programs, principles and basic provisions of Indonesia's agrarian reform, the UUPA does not only contain provisions regarding the reform of the old law into a new agrarian law. In accordance with the name UUPA, which is the basis of agrarian principles, of course it contains other agrarian issues.

The fact that the phenomenon of land disputes that have surfaced is extraordinary, because land dispute conflicts are not only happening in big cities but also in areas such as rural areas. In Sukabumi, cases of land disputes often occur there, namely regarding the issue of ownership of land rights, or there is land that has not been certified.

The causes of land disputes in Kebon Manggu village that often appear in the field are, firstly, usually caused by inheritance problems where their parents have died but the land has not been distributed or has not had their respective certificates, resulting in disputes between relatives of the same family, and secondly, there are cases of unscrupulous members of the community whose land has been sold to person A are still related to person B or (by pawn).

In the village of Kebon Manggu, if a land dispute occurs, it never reaches legal channels, because it is always resolved using a non-litigation route, namely by deliberation. In the community the role of the village head in resolving land disputes through non-litigation channels is very important, because the function of the village head is none other than as a mediator who acts to bring together and facilitate space for the disputing communities so as to enable the process of resolving land disputes to run based on the family system and avoid very serious disputes. detrimental to the community concerned.

From these facts, which the authors have described above, it is very important for us to know the effectiveness of the role of the head in resolving land disputes through non-litigation channels because according to Suerjono Suekanto's theory in his book says whether a law is effective or not is determined by 5 factors, one of which is the factor law enforcers, namely parties who form or apply the law.

2 Problem Formulation

The problems raised in this study as described in the research background above are as follows:

1. What steps can the village head take to avoid land problems in Kebon Manggu village?
2. What influences the success of land dispute resolution?

3 Research Method

According to the type, nature and purpose of legal research, it is generally divided into two, namely normative legal research and empirical legal research. So in this study the authors used empirical juridical research methods. Because the empirical juridical law research method is more suitable with the research title to be studied.

4 Discussion

Steps That Can Be Taken by the Village Head to Avoid Land Problems in Kebon Manggu Village

According to Boedi Harsono in the book Indonesian Agrarian Law, land is the surface of the earth which in its use also includes part of the body of the earth beneath it and part of the space above it, with the limitations in Article 4 of the BAL, namely that it is only necessary for interests that are directly related to land use. the land concerned, within the limits according to the UUPA and other higher regulations. Since ancient times, land has been a source of dispute or conflict and often results in loss of life. As a social phenomenon, agrarian (land) disputes or conflicts are a process of interaction between two or more people or groups each fighting for their interests over the same object, namely land and other objects related to land.

According to the Big Indonesian Dictionary (KBBI) a dispute is anything that causes a difference of opinion, dispute or debate. The dispute is a continuation of the conflict, while the conflict itself is a dispute between two parties, but the dispute is only buried and not paid attention to and if the dispute is notified to the other party it will become a dispute. But according to the Head of the Land Agency of the Republic of Indonesia No. 34 of 2007 what is meant by dispute is differences in values, interests, opinions or perceptions between individuals and or legal entities (private or public) regarding the status of control and or status of ownership and or status of use or utilization of certain land plots, or the status of administrative decisions. state business concerning control, ownership and use or utilization of certain parcels of land.

According to Mudjono there are several factors that lead to land disputes, namely first, incomplete regulations, second, regulatory discrepancies, third, land officials who

are not responsive to the needs and amount of land available, fourth, inaccurate and incomplete data, fifth, wrong land data. sixth, limited human resources tasked with resolving land disputes, seventh, wrong land transactions, and eighth, settlements from other agencies resulting in overlapping authorities.

When resolving land disputes, you don't always have to go through the courts or courts, because now non-litigation dispute resolution has been born, namely Alternative Disput Resolution (ADR). Dispute settlement outside the court (non-litigation) or an alternative that is better known as Alternative Disput Resolution (ADR) is regulated in Law Number 9 of 1999 concerning Arbitration and Alternative Dispute Resolution. Dispute resolution mechanisms in this way are classified in non-litigation media, which is a concept of cooperative conflict or dispute resolution that is directed at an agreement on one solution to conflicts or disputes that is a win-win solution.

The role of the village head as a village peace judge is recognized by Law Number 6 of 2014 concerning villages, which states, among other things, that in the context of implementing the village head's duties in the field of village community development, the village head 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 their duties, the village head is obliged to resolve village community disputes.

Related to the problem of land disputes in the village of Kebon Manggu, two main causes of the dispute were found. The first is related to inheritance, and the second is related to certain disputes. Regarding the main cause of land disputes in the village of Kebon Manggu which were caused by inheritance, from the results of interviews that the author obtained from the head of the village of Kebon Manggu, disputes that occurred because of the inheritance according to him, the initial chronology was the land (house) owned by his parents who controlled by one of the children, then AJBkan and certified, but did not invite other relatives on the grounds that the brother worked abroad so that there was a dispute between families of the same clan fighting over the land belonging to his parents. The solution to solving the problem of inheritance disputes is by prioritizing deliberation, because as the head of the village does not have the heart if the problems that occur are handed over directly to the law, they are still resolved by deliberation. Because according to the village head, if you fight over land, which is only one acre or 2 acres, if it is resolved through legal means, in the end you will have to pay a fee. Therefore, the village head, as the leader of the village community, suggested that this be resolved by deliberation witnessed by the figures and the head of the village head there. Second, regarding disputes caused by certain elements, initially according to the village head, it started from the parents' side, so before death or after death there is no division of the land and also sometimes there has been a sale and purchase transaction that is not based on clear administration, resulting in land that is not / has not been certified. The solution to solving the problem of uncertified land is to join the PTSL program.

The steps that can be taken by the village head to avoid land problems in the village of Kebon Manggu are by following the PTSL (Complete Systematic Land Registration)

program. According to the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 12 of 2017 concerning the Acceleration of Complete Systematic Land Registration article 1 paragraph (2), PTSL is a land registration activity for the first time which is carried out simultaneously for all objects of land registration throughout the territory of the Republic of Indonesia in one village/kelurahan area or other name equivalent to that, which includes the collection and determination of the correctness of physical data and juridical data regarding one or several objects of land registration for the purpose of registration.

The implementation of PTSL is carried out in several stages, namely first planning and preparation; secondly the determination of PTSL location activities; thirdly the formation and determination of the PTSL adjudication committee; fourth counseling; fifth, the collection of physical data and juridical data on land parcels; sixth land inspection; the seven announcements of physical data and juridical data on land parcels and proof of rights; the eighth is the issuance of a decree granting or acknowledging land rights; the ninth bookkeeping and issuance of certificates of land rights; and the tenth submission of certificates of land rights.

Regarding this PTSL, the village of Kebon Manggu has received the PTSL program twice, which according to the head of the village of Kebon Manggu, with this PTSL program, the status of the land legally can be accounted for, so that it can help minimize disputes because it is already certified compared to owning it. Land but do not have the certificates will have the potential for disputes. But if it is certified it can at least reduce problems regarding land disputes.

Which Affects the Success of Land Dispute Resolution

As has been stated in the background, when land problems occur, the village community prioritizes court efforts, in finding solutions to land problems through civil dispute resolution courts. Even though the settlement of civil disputes has advantages, including legal certainty, it also has disadvantages, namely effectiveness.

Effectiveness means the effectiveness of the influence of the effect of success or efficacy or efficacy. Talking about the effectiveness of law is of course inseparable from analyzing the characteristics of the two related variables, namely the characteristics or dimensions of the target object used.

According to Suerjono Suekanto in his book *Factors Influencing Law Enforcement*, the effectiveness or failure of a law is determined by five factors: means or facilities that support law enforcement, the four social factors, namely the environment in which the law applies or is applied, the five cultural factors, namely as a result of creativity and taste based on human initiative in social life.

Settlement of land disputes can be said to be successful if the objectives of the law itself can be fulfilled properly. In realizing the legal objectives, Gustav Radbruch stated that it is necessary to use the priority principle of the three basic values of legal pur-

poses. This is because in reality, legal justice often collides with the benefit and certainty of law and vice versa. Among the three basic values of the legal objectives, in the event of a collision, someone must be sacrificed. For this reason, the priority principle used by Gustav Radbruch must be implemented in the following order, namely first legal justice, second legal benefit, and third legal certainty.

In addition, Radbruch also in his book entitled "Einführung in die rechtswissenschaften" wrote that in law there are three basic values, namely first justice (Gerechtigkeit), second benefit (Zweckmassigkeit), and third legal certainty (Rechtssicherheit). From the existence of elements of legal objectives put forward by Gustav Radbruch, what influences the success of land dispute resolution is seen from the element of expediency itself.

Regarding the theory of legal expediency, utilitarianism was first developed by Jeremy Bentham (1748_1831). The problem faced by Bentham at this time is how to assess the good and bad of a social, political, economic, and morally legal policy. In other words, how to evaluate a public policy that has an impact on many people morally. Based on this thesis, Betham found that the most objective basis is to see whether a particular policy or action brings benefits or useful results, or vice versa, harms the people concerned.

If it is related to what Betham stated to the law (read policy), then the good and bad of the law must be measured from the good and bad consequences produced by the application of that law. A new legal provision can be considered good, if the consequences resulting from its application are goodness, maximum happiness, and reduced suffering. And conversely it is considered bad if its application produces unfair consequences, losses, and only increases suffering. So it is not wrong that none of the experts state that this theory of expediency is the economic basis for legal thought. The main principle of this theory is regarding the purpose and evaluation of law. The purpose of law is the greatest welfare for the majority of the people or for all the people.

The benefit of law is that order and peace can be achieved in people's lives because of an orderly law. Satjipto Rahardjo revealed that the theory of legal expediency (usefulness) can be seen as a tool for society to create order and regularity. Therefore it works by providing instructions about behavior and in the form of norms (rules of law). Basically, legal regulations that bring benefits or uses of law are to create order and peace in people's lives, because of the existence of orderly law. (rechtsorder).

Judging from the benefits of law, it is possible to achieve order and peace in people's lives, so the best solution in resolving disputes in the village environment is to return to the element of expediency. The concept of benefit itself from the parties to dispute resolution of people around the village environment is that first, the element of benefit does not require too much money, second, it can obtain shorter time in obtaining legal certainty, and third, with the element of benefit, village officials or village heads understand the situation. the surrounding environment.

5 Discussion

Based on the description and analysis carried out, the authors draw two conclusions, namely the following:

1. Steps that can be taken by the village head to avoid land issues in the village of Kebon Manggu can be done in two ways, first by holding deliberations when land disputes occur within the village community. As the role of the village head itself is in Law Number 6 of 2014 article 26 paragraph (4) concerning villages that the village head acts as a peace judge where in the context of carrying out his duties in the field of village community development, the village head can reconcile community disputes that occur in the village. Also in carrying out their duties, the village head is obliged to resolve village community disputes. Second, in addition to holding deliberations, steps that can be taken by the village head to avoid land problems in the village of Kebon Manggu, namely by participating in the PTSL program. Regarding this PTSL, the village of Kebon Manggu has twice received the PTSL program in which the existence of the PTSL program makes land status legally accountable, so that it can help minimize disputes because it is certified compared to owning land but not having a certificate. - the letter will have the potential for disputes to occur.
2. The settlement of the dispute can be declared successful, if the purpose of the law itself can be fulfilled. Namely the existence of justice, benefit, and legal certainty. So the best solution in resolving disputes in the village environment is to return to the element of expediency. Which is where the element of expediency does not cost too much, gets a shorter time in obtaining legal certainty, and also the village apparatus or village head understands the situation in the surrounding environment.

Author's Contribution

Table 1. Author's Contribution

Name	Author's Position	Knowledge field	Contribution
Risnawati	First Author	Law	Collect library data and prepare draft journals
Nucraha Alhuda Hasnda SH, MH	Second Author	Law	Director and final aligner of the journal

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