

Analysis of the Role and Responsibilities of the National Land Agency (BPN) in Resolving Land Boundary Dispute Cases

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Abstract. *This research aims to analyze: 1) The role of the National Land Agency (BPN) in resolving land boundary dispute cases in Pekalongan Regency. 2) The responsibility of the National Land Agency (BPN) in resolving land boundary dispute cases in Pekalongan Regency. This type of research is descriptive research. The approach method in this research is a sociological juridical approach. This type of data uses primary data and secondary data obtained from interviews and literature studies. The analysis in this research is descriptive qualitative. The results of the research concluded: 1) The role of the National Land Agency (BPN) in resolving cases of land boundary disputes in Pekalongan Regency is as a mediator in resolving these cases. Land disputes in the Pekalongan Regency area which are minor land boundary disputes are generally resolved by both parties to the dispute with mediation and the Pekalongan Regency Land Office acts as mediator. However, it is not uncommon that because the problems are complicated and the disputing parties are difficult to mediate, in the end the settlement is carried out through the courts. However, even in court, the Land Office will still be the party asked for information. 2) The responsibility of the National Land Agency (BPN) in resolving cases of land boundary disputes in Pekalongan Regency, namely that BPN is not only responsible until someone makes administrative efforts, but BPN is given the burden of implementing PTUN decisions related to its main task, namely issuing certificates. . In this regard, certificates that have been canceled by the PTUN which already have legal force must still be followed up in terms of revoking or canceling the certificate. Apart from that, BPN is also responsible for carrying out preventive efforts so that land boundary disputes do not occur. One way is to install land stake boundaries. The installation of land boundary markers is part of the Community Movement for Installing Boundary Marks (Gema Patas) program launched by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN).*

Keywords: *Boundaries; BPN; Dispute; Land.*

1. Introduction

Land is one of the natural resources gifted by God Almighty. Land is the most basic need for human life because humans live and reproduce and carry out activities on land. Land also plays an important role as a source of livelihood and income. Indonesia is a country where the majority of its people depend on the agricultural sector for their living, both in plantations, agriculture and so on. Land and humans cannot be separated from the time humans are born until humans die. In the explanation of the Qur'an, land must be shared property for the best use for the community.¹

Indonesia adheres to the principle of nationality in the land system, as Article 21 paragraph (1) jo. Article 26 paragraph (2) UUPA explains that "Only Indonesian citizens have ownership rights to land or who may have connections with the earth and space without distinguish between men and women and fellow Indonesian citizens, both native and descendants." Therefore, ownership rights to land cannot be given and/or owned by foreigners and the transfer of ownership rights to foreigners is prohibited under threat of being null and void. So, the existence of the principle of nationality in the UUPA emphasizes that only Indonesian citizens have ownership rights to land. In other words, for foreign citizens, a prohibition applies to ownership of land with freehold rights, and this also applies to every legal entity wishing to be domiciled in Indonesia, which must fulfill the requirements determined by the government.²

This is intended as a step to prevent land in Indonesia that is controlled by the state or owned by individuals as Indonesian citizens from being controlled by foreigners who want to build a business or want to live in Indonesia. If this is not maintained and there are no governing provisions, then in the long term it cannot be denied that in the future there will be many foreign nationals who control land in Indonesia either as a place to live or as a field for their business in the form of industry, restaurants or controlling the tourism sector. . In this way, people will feel as if they have been visited by invaders, who can arbitrarily control every corner of land that has potential and economic value. As a result, welfare for society will be reduced or even non-existent. Therefore, ownership rights by foreigners in Indonesia are expressly prohibited by law.³

Land law in Indonesia was dualistic before the enactment of the UUPA, meaning that apart from recognizing the validity of some land laws originating from customary law, land regulations regarding land were also recognized as being based on western law. After the enactment of the UUPA on September 24 1960, the period of dualism in land

¹Abdul Mannan, 1997, *Theory and Practice of Islamic Economics*, Dana Bhakti Waqf, Yogyakarta, p.100.

²M. Edwin Azhari, Ali Murtadho, and Djauhari, 2018, *Responsibilities of Notaries in Making Nominee Agreement Deeds in Relation to Land Ownership by Foreign Citizens in Lombok*, Deed Journal, Vol 5 No, Unissula, p.44

³Mustafa, 1998, *Agrarian Law in Perspective*, Cet.3, Remadja Karya, Bandung, p.22

law in force in Indonesia ended, becoming a unification of land law.⁴Regarding land rights, the law also requires rights holders to register their respective land. Land registration is a very important issue in the UUPA, because land registration is the beginning of the process of producing proof of ownership of land rights.⁵Land registration is carried out by the National Land Agency (BPN).

The background to the birth of the National Land Agency (BPN) aims to carry out government tasks, in accordance with applicable statutory provisions and focuses on carrying out affairs in the agrarian and spatial planning spheres in Indonesia. Based on Presidential Regulation of the Republic of Indonesia Number 20 of 2015 concerning the National Land Agency, the Land Agency's task is to carry out government duties in the land sector. The Land Office is a State Administrative Agency or Official, which has the authority to issue certificates of land rights based on applicable laws and regulations. As a State Administrative Agency or Official, in carrying out their duties they must not abuse their authority. Even so, there are still many agrarian problems that occur at the National Land Agency, most of which are about land disputes or ownership of land rights with proof of certificate.⁶

Land is not an infinite entity, but rather has boundaries that require the owner to act with consideration and responsibility, especially in relation to the surrounding land. Land boundaries relate to land ownership. The body authorized to register ownership of land rights is the National Land Agency (BPN). BPN has the responsibility to ensure that land ownership in Indonesia is recorded clearly and accurately. However, administrative, measurement and documentation problems often become obstacles in resolving disputes land boundaries. Moreover, diverse geographic and infrastructure challenges throughout Indonesia make BPN's task even more complicated. Resolving land boundary disputes is key to maintaining social and economic stability in Indonesia. Uncertainty in land ownership can hinder investment and economic development, as well as create injustice for individuals involved in disputes. In this context, the role of BPN in providing legal certainty and resolving land boundary disputes is very vital. Analyzing the role and responsibilities of BPN in resolving land boundary dispute cases is the first step in improving the effectiveness and accuracy of the national land system in Indonesia. Based on the background of the problem above, the author is interested in researching "Analysis of the Role and Responsibilities of the National Land Agency (BPN) in Resolving Land Boundary Dispute Cases in Pekalongan Regency".

⁴Adrian Sutedi, 2018, *Transfer of Land Rights and Registration*, Sinar Graphics, Jakarta, p.1

⁵Syarifah Lia, Lathifah Hanim, *Legal Certainty in Settlement of Disputes arising from Overlapping Certificates of Ownership (Shm) on Land (Case Study at the Pontianak City Land/Agrarian and Spatial Planning Office)*, *Deed Journal*, Vol. 4. No. 1, March 2017: 33 – 36, Unissula, Semarang, p. 34

⁶Renaldi, *Responsibility of the National Land Agency for the Emergence of Certificates with Dual Ownership*, Legal Thesis, 2020, University of Jember, p. 4

2. Research Methods

This type of research is descriptive research. The approach method in this research is a sociological juridical approach. This type of data uses primary data and secondary data obtained from interviews and literature studies. The analysis in this research is descriptive qualitative.

3. Results and Discussion

3.1 The Role of the National Land Agency (BPN) in Resolving Land Boundary Dispute Cases in Pekalongan Regency

The National Land Agency is a government agency that is given the authority to handle land administration. The authority of the National Land Agency (BPN) in granting rights to state land is to determine the extent of the land granted, BPN's authority in implementing transmigration programs, land redistribution, land consolidation, land registration, and BPN's authority in granting rights to state land, both property rights and use rights. business, building use rights and use rights.⁷

Orderly administration in the defense sector is part of efforts to obtain legal certainty. The regulations have placed the task and also the authority on the Government to carry out data collection and registration of land in Indonesia and for the community of rights holders to be able to register the land they control based on the applicable provisions, namely the UUPA. The provisions in the UUPA, namely article 19, regulate subjective legal certainty, namely provisions regarding legal entities and people who are holders of land rights (subjective requirements) and related objective certainty in the form of boundaries, length, location and width in their control.⁸

One of the land disputes in Pekalongan Regency is the land boundary dispute. Land boundary disputes in Pekalongan Regency, for example, are disputes due to differences in land ownership boundary claims that border it. Land owners who share borders claim that the boundaries of the land they own are different from each other because Letter C and Letter D do not include land ownership maps. Apart from that, many people whose ownership of Letters C and Letter D came from their predecessors and were told that the physical limit of their land ownership was the crop limit. Because it is not permanent, this creates problems after the physical boundary is damaged or lost, especially after generations change. In this regard, the Pekalongan Regency National Land Agency has an important role as an intermediary in resolving this case.

⁷Petrik P, The Authority of the National Land Agency in Granting Rights to State Land According to Law Number 5 of 1960 concerning Basic Agrarian Principles Regulations, *Lex et Societatis Journal*, Volume V/Number 7/Sep/2017, p.134

⁸Irwan Soerodjo, 2003, *Legal Certainty of Land Rights in Indonesia*, Arloka Surabaya, p.78

Land disputes that are minor land boundary disputes are generally resolved by both parties to the dispute with mediation and assistance from the Pekalongan Regency Land Office. However, it is not uncommon that because the problems are complicated and the disputing parties are difficult to mediate, in the end the settlement is carried out through the courts. However, even in court, the Land Office will still be the party asked for information. BPN can take the initiative to facilitate the resolution of the dispute or conflict.

The method of resolving disputes through mediation is the most important method recommended by BPN, where through mediation institutions, the parties can express their wishes and will be met to find the best resolution through negotiations so as to produce a dispute resolution agreement that is acceptable to both parties. , and no less important are the costs that must be incurred by the parties in resolving the dispute. If in resolving a dispute the disputing parties do not agree with a resolution through a mediation institution, then the disputing parties can resolve the problem through other institutions such as litigation institutions or judicial institutions.⁹

Regarding the handling of land dispute resolution which is carried out based on the authority existing in the BPN agency in Pekalongan Regency, there have been several obstacles, for example the parties to the dispute have shifted from methods of deliberation to reach a consensus to methods of hard-heartedness to persist with their respective principles without wanting to. give in, so that the parties are not ready to play an active role in resolving the dispute. In fact, one of the parties can obstruct the resolution method adopted by the National Land Agency, so that BPN in this case is prevented from exercising its authority in resolving land disputes. In this case, it is clear that the readiness factor of the parties to deliberate and accept the settlement options offered by BPN is very important considering that without the readiness and willingness of the parties to deliberate, efforts to handle and resolve land disputes will be based on the authority regulated in statutory regulations. - the invitation could not be carried out properly. The appropriate solution if deliberative efforts are not achieved is to resolve the issue to court (litigation) in order to obtain legal certainty.

Based on this theory of authority, the authority possessed by BPN in resolving land boundary dispute cases in Pekalongan Regency is attributional authority, meaning that this authority is also obtained through law, namely Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 11 of 2016 as amended by Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases and

⁹Gede Agus Marta Dinata, Anak Agung Sagung Laksmi Dewi, Luh Putu Suryani, The Role of Mediation in Resolving Ganda Certificate Disputes at the National Land Agency (BPN) Klungkung Regency, *Legal Analogy Journal*, Volume 3 Number 2 of 2021, p. 154

Presidential Regulation Number 48 of 2020 concerning the National Land Agency. It appears that the authority obtained by attribution is genuine and originates from statutory regulations. In other words, government organs obtain authority directly from the editing of certain articles in a statutory regulation, the exercise of the authority attributed is entirely to the recipient of the authority.

Providing legal certainty over the rights of land owners is very important. Legal certainty of land ownership begins with a legal product in the form of a land ownership certificate issued by the National Land Agency. Land registration is carried out to protect the community's rights to land ownership.¹⁰BPN as the land registration organizer guarantees the correctness of land data, both physical and juridical, on the land title certificate, and provides legal certainty by applying the latest principles, so that the public will feel safe because the public gives its trust to BPN as a government that provides guarantees of certainty of rights. above ground.¹¹

3.2 Responsibility of the National Land Agency (BPN) in Resolving Land Boundary Dispute Cases in Pekalongan Regency

Responsibility is human awareness of their intentional behavior or actions. Responsibility is natural, meaning that it has become part of human life, that every human being is burdened with responsibility. If we examine it, responsibility is an obligation that must be borne as a result of the actions of the party doing it.¹²The forms of accountability that the National Land Agency can carry out for land disputes are:

1. Personal Liability occurs if there is a lawsuit over a land certificate dispute which is declared acceptable in the TUN court, and maladministration is discovered. It can take the form of criminal liability if elements of a crime are found and civil liability if elements of an unlawful act are found.
2. Institutional Responsibility if there is a land certificate dispute lawsuit which is declared accepted by the TUN court, and no element of maladministration can be found. It can take the form of administrative responsibility, namely imposition or civil liability if elements of an unlawful act are found.

The National Land Agency seeks solutions to resolve land disputes in accordance with applicable laws and regulations by observing a sense of justice and respecting the rights and obligations of each party. National Land Affairs has the authority to carry out mediation, negotiations with disputing parties and determine an agreement between

¹⁰Putri, CA, Gunarto, Effectiveness of Certificate Checking in Preventing Land Disputes in the Process of Transferring Land Rights, *Deed Journal*, Vol. 5, Number (1) of 2018, p.268.

¹¹Ni Made Rian Ayu Sumardani¹, I Nyoman Bagiastra, Legal Responsibility of the National Land Agency Regarding Discrepancies in the Results of Electronic Certificate Checking. *Acta Comitas: Journal of Notarial Law*, Vol. 06 No. 02 August 2021, p.224

¹²Julista Mustamu, Government Legal Accountability, *Sasi Journal*, Vol. 20 . No. December 2, 2014.

the parties.¹³ Apart from being given the duties and responsibilities of carrying out land administrative activities ranging from land data collection to issuing certificates, the National Land Agency is also given the obligation to implement TUN court decisions. This task seems very odd because in the event of a TUN case, especially one relating to certificates, BPN is the body or institution that must be responsible (defendant) in the event of a dispute. However, this task must be carried out, remembering that BPN is the body that has the authority to issue certificates, so the revocation or cancellation must be done by BPN.

Based on the theory of legal responsibility, responsibility based on fault is a differentiated responsibility imposed on legal subjects or perpetrators who commit unlawful acts due to their mistakes or negligence (negligence or negligence). Negligence is a situation where the legal subject or perpetrator is careless, carelessly, does not heed his obligations or forgets to carry out his obligations.

The National Land Agency (BPN) is absolutely responsible for land boundary disputes resulting from inaccurate land registration systems. The Head of BPN is responsible for the certificates issued, with the authority to issue certificates resting with the Head of BPN. This absolute responsibility system requires BPN to be responsible both in and out of court if there is a lawsuit regarding land rights. BPN is not only responsible until someone makes administrative efforts, but BPN is given the burden of implementing PTUN decisions related to its main task, namely issuing certificates. In this regard, certificates that have been canceled by the PTUN which already have legal force must still be followed up in terms of revoking or canceling the certificate.

Apart from that, BPN is also responsible for carrying out preventive efforts so that land boundary disputes do not occur. One way is to install land stake boundaries. The installation of land boundary markers is part of the Community Movement for Installing Boundary Marks (Gema Patas) program launched by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). In launching the Gema Patas program, BPN Pekalongan Regency together with residents installed 68 land boundary signs in two sub-districts. Namely Krapyak Village and Panjang Wetan Village. The land boundary signs installed at Gema Patas activities in Pekalongan City are in the form of stakes made of paralon filled with cement or other signs adapted to location conditions. Bugisan Village, for example. Because it is often inundated by floods and floods, the land boundary markers used are bamboo. According to Mrs. Vevin, installing land boundary signs is the community's obligation so that in the future there will be no disputes between residents regarding land boundaries. The installation of the land boundary signs was carried out by residents themselves, witnessed by neighbors and personnel from the Pekalongan City BPN. The Gema Patas program also aims to educate people

¹³Elza Syarief, 2012, *Resolving Land Disputes Through Special Land Courts*, Gramedia Popular Library, Jakarta, p. 276.

who own land about installing stakes. The hope is to avoid land conflicts and land grabbing by the land mafia.

The continued occurrence of land disputes indicates legal uncertainty for community land. So the government must pay attention to immediately socialize what and how land registration is and the purpose of the registration. If left unchecked, it will encourage people to be unsure about the evidence of rights themselves because they are deemed unable to protect people's land rights. Moreover, for some people, land certificates are still considered to only be used for certain purposes, so people do not care about land registration in this country. Therefore, with the issuance of 2 (two) rights bases on the same land object, in technical juridical terms the main objective of land registration, namely to create legal certainty and guarantee legal protection in practice, has not been fully implemented and cannot be felt by the public.

Providing guarantees of legal certainty in the land sector requires the availability of written, complete and clear legal instruments that are implemented consistently consistent with the spirit and content of its provisions. Settings that based on statutory regulations regarding the subject, object, authority, obligations, rights, prohibitions, conditions and procedures for obtaining rights to land becomes something that is not just a logical consequence, but has been a legal consequence of land control in carrying out the mandate constitution.¹⁴Land disputes cannot be avoided nowadays, this is because the demand for land is very high nowadays while the number of land plots is limited. This requires improvements in the field of planning and use of land for the welfare of society and especially legal certainty. The efforts made by the government are to try to resolve land disputes quickly to avoid the buildup of land disputes.

4. Conclusion

The role of the National Land Agency (BPN) in resolving cases of land boundary disputes in Pekalongan Regency is as a mediator in resolving these cases. Land disputes in the Pekalongan Regency area which are minor land boundary disputes are generally resolved by both parties to the dispute using mediation and the Pekalongan Regency Land Office. act as a mediator. However, it is not uncommon that because the problems are complicated and the disputing parties are difficult to mediate, in the end the settlement is carried out through the courts. However, even in court, the Land Office will still be the party asked for information. The responsibility of the National Land Agency (BPN) in resolving cases of land boundary disputes in Pekalongan Regency is that BPN is not only responsible until someone makes administrative efforts, but BPN is given the burden of implementing PTUN decisions related to its main task, namely issuing certificates. In this regard, certificates that have been canceled by the PTUN which

¹⁴S. Chandra, 2005, Certificate of Ownership of Land Rights: Application Requirements at the Land Office, Gramedia Widiasarana Indonesia, Jakarta, p. 122.

already have legal force must still be followed up in terms of revoking or canceling the certificate. Apart from that, BPN is also responsible for carrying out preventive efforts so that land boundary disputes do not occur. One way is to install land stake boundaries. The installation of land boundary markers is part of the Community Movement for Installing Boundary Marks (Gema Patas) program launched by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN).

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