

## Legal Analysis of the Settlement of Factual Actions Carried Out by the Government as Objects of Dispute at the Semarang State Administrative Court

**Sari Dinanti**

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: [SariDinanti.std@unissula.ac.id](mailto:SariDinanti.std@unissula.ac.id)

**Abstract.** *The Circular Letter of the Constitutional Court No. 1/1991 provides guidelines for implementing Law no. 5/1986 on Administrative Court Justice. The circular states that unresolved cases regarding unlawful actions by the government, registered in the General Court, should be transferred to the Administrative Court. In the case of Administrative Court Semarang's decision No. 4/G/2023/PTUN.SMG, the lawsuit filed by the Regional Government of Kudus regarding an administrative decision on land ownership was rejected. The plaintiff claimed overlapping certificates that hindered land utilization. This research aims to analyze aspects of unlawful actions by the government within the jurisdiction of the Administrative Court, understand judges' considerations in specific cases, and evaluate the legal consequences. The research methodology used is a normative juridical approach with a descriptive research type, using primary, secondary, and tertiary legal sources, conducting a literature study, and analyzing the data qualitatively. The research findings indicate that the Administrative Court has jurisdiction over civil law-based cases, while criminal cases fall under the jurisdiction of the General Court. The Semarang Administrative Court rejected the plaintiff's claim, resulting in certificate revocation, potential compensation, and administrative sanctions. Recommendations include legal revisions to resolve conflicting provisions and encourage further research for seekers of justice.*

**Keywords:** *Administrative; Court; Dispute; Objects.*

### 1. Introduction

The role of the State Administrative Court is very important in implementing the legal system in Indonesia and is considered a strategic component of judicial power. The basis for the establishment of the State Administrative Court in Indonesia, as explained in "Law Number 5 of 1986 concerning the State Administrative Court, is to ensure that all citizens have equal opportunities in legal protection and maintain balance and harmony between the apparatus in

the field of state administration and the community". The State Administrative Court was established to protect the rights of citizens who feel disadvantaged by administrative decisions through the process of examining and resolving disputes related to state administration, with the principles of justice, truth, order, and legal certainty as its main foundation.

There have been fundamental changes in the development of the State Administrative Court procedural law since its establishment. One of the significant changes that has occurred currently is related to the paradigm of the State Administrative Court procedural law which is influenced by the "Government Administration Law (UUAP) Number 30 of 2014". The absolute competence of the State Administrative Court has changed significantly since the UUAP came into effect. Regulated in "Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court", this absolute competence seeks to investigate, determine, and resolve state administrative disputes resulting from state administrative decisions made by customs officials or state administrative bodies. Based on applicable laws and regulations, the determination includes state administrative law activities and has final, real, and specific legal consequences for legal persons or organizations.

Jimly Asshiddiqie argued that Indonesian constitutional law should be based on democracy, the rule of law, and the protection of human rights. He also emphasized the importance of building strong systems and institutions to maintain the balance of power between state institutions.<sup>1</sup> As previously mentioned, government and constitutional law are closely related in a country's system of government. Constitutional law is a set of rules and principles that govern how a government is structured, empowered, and functions, as well as its relationship with citizens and other state institutions.<sup>2</sup> However, the government is not free from abuse of power when carrying out its duties and obligations as a government.<sup>3</sup>

Philipus M. Hadjon's opinion states that the expansion of the absolute competence of the State Administrative Court through "Article 87 letter (a) UUAP" is inappropriate. He wonders whether factual actions are also included in the concept of written provisions, because there may be disagreements about the nomenclature. If the increase in the number of jurisdictions of the State Administrative Court is granted, he suggests revising the provisions of "Article 1 number 10 UUAP". According to this perspective, because the UUAP is not a

---

<sup>1</sup> Muhtar, Mohamad Hidayat, et al. *Constitutional Theory & Law: Basic Knowledge and Understanding and Insight into the Implementation of Constitutional Law in Indonesia*. PT. Sonpedia Publishing Indonesia, 2023.

<sup>2</sup> Abqa, Muhammad Ardhi Razaq, et al. *CONSTITUTIONAL LAW: A Basic Concept in Organizing the Nation*. PT. Sonpedia Publishing Indonesia, 2023.

<sup>3</sup> Sunarso, H. Siswanto, MH Sh, and M. Kn. *Victimology in the criminal justice system*. Sinar Grafika, 2022.

judicial law and cases of state administrative conflicts are always transferred from the General Court to the State Administrative Court, there is no reason to expand the court's jurisdiction. Constitutional law defines abuse of government authority (PMHP) as a deviation from the current set of Indonesian laws and regulations.<sup>4</sup>

Technical instructions for the implementation of "Law Number 5 of 1986 concerning State Administrative Courts are regulated in the Circular Letter of the Constitutional Court Number 1 of 1991". According to the Circular Letter, the State Administrative Court will hear cases involving *onrechtmatig overheidsdaad* (unlawful acts by the government) that have been submitted to the General Court but have not yet been examined. However, the General Court will still decide on the case if it has been investigated. It views the request for a decision to be annulled as a defining feature of the main dispute in State Administrative matters. Although the factual acts that can be challenged in the State Administrative Court are subject to legal uncertainty, the Circular Letter also mentions the absolute competence of the State Administrative Court as stated in the UUAP. Furthermore, the Supreme Court Regulation (PERMA) regulates the procedure for resolving disputes over unlawful acts committed by the government, stating that allegations of Abuse of Government Authority (PMHP) cannot be accepted or are void.<sup>5</sup>Written or verbally, the government has stated that any illegal behavior is illegal.<sup>6</sup>Factual Government Activities include unlawful acts by the authorities.

According to Mahfud MD, the government's factual activities include all real actions taken by the government in fulfilling its responsibilities for the needs and welfare of the people.<sup>7</sup>The government's factual activities include real actions taken by the government in carrying out its duties to meet the needs and welfare of the people. The government's factual activities include policy determination, policy implementation, supervision, and evaluation of the success of the implementation of the policy. Cases involving abuse of government power (PMHP) by civil servants and institutions affiliated with the government can be tried by the State Administrative Court (PTUN). "Law Number 5 of 1986 concerning State Administrative Courts" gives the PTUN the authority to try factual acts committed by the government. This law expressly stipulates the

---

<sup>4</sup>Hikmah, Robby Nur, et al. "State Administrative Law Perspective in Factual Action Decision Number: 88/G/Tf/2022/PTUN-KKDI as an Unlawful Act by the Government." *Journal of Education and Counseling (JPDK)* 5.2 (2023): 5574-5581.

<sup>5</sup>Rohman, Nur. *Legal Problems of Settlement of Factual Actions and/or Unlawful Acts by the Government as Objects of Dispute in the State Administrative Court*. Diss. Islamic University of Indonesia, 2023.

<sup>6</sup>Pio, Elim Riedel Christmas. "Administrative Responsibility of State Civil Apparatus for Unlawful Acts in Exercising Their Authority." *Lex Administratum* 6.4 (2019).

<sup>7</sup>Jailani, Abdul Kadir, and MH SH. "Test of International Agreements by the Constitutional Court." *Constitutional & Administrative Law*. 2022

PTUN's regulations and gives it the competence to resolve conflicts related to state administration, including abuse of power.<sup>8</sup>

The written order issued by the authorized State Administration agency is the decision of the State Administrative Court (PTUN). The decision outlines legal steps related to Constitutional Affairs in accordance with relevant laws and regulations. The decision given by the PTUN is definitive, unique, and has legal consequences for the parties involved, including civil law organizations. Jimly Asshiddiqie claims that PTUN judges make decisions in state administrative conflicts, and these decisions are known as PTUN decisions. Meanwhile, Yusril Ihza Mahendra claims that the government and other disputing parties are bound by the PTUN decision, which has eternal legal force (in kracht van gewijsde). In addition, the PTUN has the power to bring legal action against government officials and institutions for illegal behavior that they may have committed.<sup>9</sup>

This study aims to study court decisions related to cases of overlapping certificates of ownership and use rights rejected by the Semarang State Administrative Court. This study involves a comparative analysis of similar court decisions to understand the legal approaches and arguments used in resolving such cases. The aim is to improve understanding of the resolution of such factual action disputes and their impact on legal practice and public policy. The theory of legal certainty emphasizes the importance of clear and stable legal rules in the legal system. In the case of overlapping certificates of ownership and use rights, the problem that arises is the unclear status of land ownership and its consequences. In this context, the theory of legal certainty is used to analyze whether the rules and court decisions have provided the necessary legal certainty for all parties involved. Legal clarity is important to create justice, avoid uncertainty, and prevent abuse of power.

## **2. Research Methods**

### **1. Approach Method**

Research on normative juridical law is conducted for this work. The application of rules or principles in positive law is the main topic of normative juridical law research.<sup>10</sup> Normative legal research, also known as normative legal behavioral research, uses normative case studies, like legal studies.

### **2. Type of Research Specification**

Descriptive research means that the characteristics of the population or phenomenon being studied are described. The main purpose of this method is to

---

<sup>8</sup>Arauf, Muhammad, and HB Gusliana. "Implementation of Compensation for Community Members Due to Unlawful Acts of the Government (Onrechtmatige Overheidsdaad) Through State Administrative Courts." *Riau Law Journal* 7.2, (2019): 231-247.

<sup>9</sup>Jimly Asshiddiqie, *Indonesian Constitutional Law*, Jakarta: Sinar Grafika, 2019

<sup>10</sup>Abdulkadir, Muhammad, *Law and Legal Research*, 1st Edition, Bandung: PT Citra Aditya Bakti, 2018, p. 52

clarify the object of research to provide an explanation for each event or phenomenon that occurs.

### **3. Data Sources and Data Types**

For the purposes of this research, the following data sources were used: Primary legal materials.

The primary legal materials used come from binding legal materials, consisting of:

- 1) The 1945 Constitution of the Republic of Indonesia (UUD 1945)
- 2) Law Number 5 of 1986 concerning State Administrative Courts as last amended by Law Number 51 of 2009
- 3) Law Number 30 of 2014 concerning Government Administration.
- 4) Government Regulation Number 71 of 2010 concerning Public Service Standards.
- 5) Government Regulation Number 47 of 1997 concerning the Settlement of Industrial Relations Disputes.
- 6) Government Regulation of the Republic of Indonesia Number 43 of 1991 concerning Compensation and Procedures for its Implementation in State Administrative Courts.
- 7) PERMA No. 2 of 2019 concerning Guidelines for Settlement of Unlawful Acts by the Government becomes an absolute competition for State Administrative Courts
- 8) Decision of the State Administrative Court case number 4/G/2023/PTUN.SMG

a. Secondary legal materials.

All documents containing information or research about research, such as reports, results, theses, journals, research, and so on, taken from print and electronic media.<sup>11</sup>

b. Tertiary legal materials.

Tertiary legal materials are materials that support primary and secondary legal materials. Examples of these items are extensive Indonesian dictionaries, general dictionaries, and legal dictionaries. Data needed for investigation can also be supplemented with tertiary legal materials.<sup>12</sup>

### **4. Data Collection Methods**

---

<sup>11</sup>Muhammad Syahrur, *ST Introduction to Legal Research Methodology: Normative and Empirical Research Studies, Proposal Writing, Thesis and Dissertation Reports*. CV. Dotplus Publisher, 2022.

<sup>12</sup>Tambunan, Hendra Jhon Piter, and Graychya Febri Simanungkalit. "Legal Analysis of Unlawful Acts of Abuse of Official Authority in Criminal Acts of Corruption in Procurement of Goods and Services." *Dictum* 2.3 (2023): 15-24.

The author's data collection method for this legal research is a literature study, or library research. According to Soerjono Soekanto, library research is basically a study of documents that utilizes content analysis or other written data collection techniques to gather information.<sup>13</sup>

## **5. Data Analysis Methods**

Qualitative data analysis is used. Data, in the form of numbers and narratives, are collected to be used as evidence that must be interpreted to support the research hypothesis.

## **3. Results and Discussion**

### **3.1. Analysis of Settlement of Objects of Dispute over Factual Actions and/or Unlawful Acts by the Government at the State Administrative Court**

#### **A. Competence of the State Administrative Court's Asoult Before and After Law Number 30 of 2014 Concerning State Administration**

##### **1. Before the issuance of Law Number 30 of 2014 concerning Government Administration**

After the issuance of "Law No. 30 of 2014 concerning Government Administration and Regulation of the Supreme Court of the Republic of Indonesia No. 2 of 2019 concerning Guidelines for Settlement of Unlawful Acts Cases" by the Government (OOD). According to "Article 1 number 8 of Law No. 30 of 2014 concerning Government Administration", also known as the Law on Government Administration, "Government Administration Actions are actions of Government Officials or other State administrators to carry out and/or not carry out concrete actions in the context of organizing government." Thus, after "Law No. 30 of 2014 concerning Government Administration, hereinafter known as the Law on Government Administration".

Administrative government actions, according to "Article 1 number (8) of the Law on Government Administration, are decisions made by government officials or state administrators in the context of running the government". Scholars have different opinions about how government legal actions are punished in public law; some argue that government legal actions are always unilateral or one-sided.<sup>14</sup> Muhammad Adiguna Bimasakti, a judge at the Makassar State Administrative Court, explains the limits of the legal scope of government actions.<sup>15</sup> This relates to determining whether government actions fall under administrative law or civil law, as well as the absolute authority of the court authorized to adjudicate the dispute. Administrative conflicts in this context may

---

<sup>13</sup>Soekanto, Soerjono, Introduction to Legal Research, Jakarta, University of Indonesia Press, 2006, p. 21

<sup>14</sup>Salim HS, Introduction to Written Civil Law (BW), Sinar Grafika, Jakarta, 2011, p. 5-6

<sup>15</sup>Jum Anggriani, State Administrative Law, Graha Ilmu, Yogyakarta, 2012, p.13

arise from State Administrative Decisions (KTUN) made by state authorities or institutions. Written determinations known as KTUN consist of specific, isolated, and conclusive state administrative law activities that are problematic for the relevant entity or authority and are based on relevant laws and regulations.

Furthermore, if a dispute decision is issued, the court is not permitted to review, decide, or resolve certain state administrative conflicts in accordance with Article 49 of the State Administrative Law:

- a. Hazardous conditions, natural disasters, or extraordinary events that meet the applicable statutory requirements for hazards;
- b. In an emergency that serves the public interest in accordance with relevant laws and regulations.

Based on the understanding of KTUN, SF Marbun details the legal components of decisions according to positive law, including the following:

- a. A written determination;

In administrative courts, written decisions serve as a basic benchmark for disputes. Thus, the meaning of written decisions does not only refer to the official form of the decision letter itself, but also to the content of the decision itself.

- b. Issued by a state administrative body or official;

According to "Article 1 paragraph (2) of Law Number 5 of 1986, state administrative bodies or officials carry out very broad government affairs, which are not only carried out by the government."

- c. Contains state administrative legal acts;

Legal activities carried out by state administrative bodies will result in the creation of legal relations between citizens and state administrative bodies.

- d. Since state administration is the application of law as a whole, this feature is connected with one of the principles of the rule of law or the concept of legality, according to the applicable laws and regulations (*wet in ruine zin*).

- e. Be concrete, individual and final;

State administrative choices are not intended for everyone; instead, they are specific, specific, or definable; also, the goals set forth in state administrative decisions are actual, specific, or definable rather than abstract.

- f. Causing legal consequences for a person or civil legal entity.

Only decisions that have legal implications for individuals or civil legal entities are considered as decisions based on "Law No. 5 of 1986" and fall under the scope of the state administrative court.

The state administrative court does not have authority over decisions affecting public legal organizations. The definition of KTUN before "Law Number 51 of 2009" can be defined as the sum of "Article 1 Number 3 and Article 9 minus

Article 2 and Article 49". The lawsuit was filed with the State Administrative Court (PTUN) of the Republic of Indonesia on the grounds that "Law Number 5 of 1986" as amended by Law Number 9 of 2004 contains provisions in "Article 53 paragraph 2". The complaint stems from state administrative decisions that deviate from both the General Principles of Good Governance (AAUPB) and applicable laws and regulations.

After "Law Number 5 of 1986" was enacted, developments in the PTUN showed that the PTUN had general absolute competence. With the limitations set by "Article 2 and Article 48 of Law Number 5 of 1986", all types of state administrative disputes that meet the PTUN competence requirements as regulated in "Article 1 number 3 and Article 3" become the authority of the PTUN. This development shows similarities with the PTUN absolute competence system in the Netherlands and France.

However, there were two changes after the enactment of "Law Number 5 of 1986". First, tax disputes related to KTUN in the tax sector were previously the absolute competence of the PTUN, but after the enactment of "Law Number 15 of 2002 concerning the Tax Court", state administrative disputes in the tax sector became the authority of the Tax Court in accordance with "Article 31 paragraph 1 of Law Number 14 of 2002". Second, with the enactment of "Law Number 2 of 2004 concerning the settlement of industrial relations disputes, as well as employment disputes previously being the absolute competence of the PTUN, now become the authority of the Industrial Relations Court in accordance with Article 5 of Law Number 2 of 2004". This development is reinforced by the provisions of "Article 9A of Law Number 9 of 2004 which stipulates that specialization can be carried out within the PTUN environment in accordance with the law".<sup>16</sup>

Then, on 30 May-1 June 1977, in Lembang (Bandung), the Supreme Court of the Republic of Indonesia held a workshop on Legal Development through the Courts, which covered the following matters, to confirm the criteria for objects of dispute regarding law by the government, or *Onrechtmatige Overheidsdaad* (OOD):<sup>17</sup>

Three things that constitute unlawful actions by an official:

- a. violating formal laws and regulations;
- b. obligations of the ruler; and
- c. policies that are not decided by the State Administrative Judge or Civil Judge.

---

<sup>16</sup>W. Riawan Tjandra, *State Administrative Court Encourages the Realization of a Clean and Authoritative Government*, Semarang: Publisher of Atma Jaya University, Yogyakarta, 2009, pp. 59-60

<sup>17</sup>Philipus M. Hadjon, et al., *Introduction to Indonesian Administrative Law*, Seventh Edition, (Semarang: Gadjah Mada University Press, 2001), pp. 309-310.



### **3.2. After the issuance of Law Number 30 of 2014 concerning Government Administration**

The State Administrative Decision as referred to in "Law Number 5 of 1986 concerning State Administrative Courts" as amended by "Law Number 9 of 2004 and Law Number 51 of 2009" must be read as follows in accordance with "Article 87 UUAP" after the enactment of this Law.

- a. AAUPB and laws and regulations must be referred to;
- b. written decision that includes factual information;
- c. decisions taken by state administrative bodies and/or officials in the legislative, judicial, executive and other state administrative fields;
- d. a decision that is final in the broad sense;
- e. decisions that may have legal consequences; and/or
- f. decisions that apply to citizens

In the AP Law, there is no clear explanation of what "written determination that also includes factual actions" means. This term has many different meanings. Because factual actions in state administrative law are considered as actions that are intended not to result in legal consequences. However, the term does not need to be used dichotomously between administrative government actions and actions regulated in "Article 87 letter a of the AP Law". This is because, in essence, "Articles 75 and 76 of the AP Law express the idea that members of the public who feel disadvantaged by a choice or action can petition a government representative for administrative corrective action". To clarify, while the term "factual action" is used in "Article 87 letter a of the AP Law", the provisions of "Article 75 and 76 of the AP Law", which are related to "Article 1 number 18", provide the PTUN with a basis for making adjudication outside of a written decision regarding the object of the disputed administrative action.

There has been a paradigm shift in the State Administrative Court with the enactment of "Law Number 30 of 2014 concerning State Administration. The areas of expertise of the State Administrative Court" are:

1. Able to decide claims and applications with authority
2. Permitted to take legal action against government officials, institutions, or other bodies that violate the law, especially those identified as ONR.

The State Administrative Court (PTUN) is given full jurisdiction by "Supreme Court Regulation Number 2 of 2019" to resolve claims related to illegal government activities (Onrechtmatige Overheidsdaad). When it comes to resolving conflicts regarding government activities that are contrary to laws, rules, or basic principles of good governance, the PTUN has the final say. Circular Letter of "Supreme Court of the Republic of Indonesia Number 2 of 2019" allows the consolidation of claims or petitums in PTUN lawsuits related

to Onrechtmatige Overheidsdaad disputes.<sup>18</sup> OOD disputes in the form of civil or breach of contract by the authorities can be submitted to the general court, while OOD disputes that are not included in these categories are the full authority of the PTUN. The State Administrative Court does not limit the amount of compensation claims in resolving OOD disputes. The amount of compensation is determined by the PTUN based on the facts of the trial and the wisdom of the judge. However, the plaintiff must prove material or real losses.<sup>19</sup>

Although the combination of the petitum in the PTUN lawsuit with the object of the OOD dispute and the claim for damages has been regulated normatively, the lawsuit is rarely granted by the PTUN due to the problem of responsibility and the confusing submission of the lawsuit. The burden of damages in the lawsuit is directed at the legal entity representing the organ that committed the unlawful act. Depending on the basic regulations and the context, the principle of legality does not always mean that every government action has the same legal value.<sup>20</sup> Law Number 30 of 2014 concerning State Administration makes the categorization of factual actions as legal actions in the theory of administrative law more complex. The absolute competence of the PTUN includes the authority to adjudicate various types of lawsuits and applications, including OOD disputes that have been decided at the administrative appeal level. The PTUN also has the authority to adjudicate lawsuits in public interest cases such as in citizen law suits (*actio popularis*). The PTUN can also test government action decisions that were previously excluded as objects of TUN disputes.

Chapter IX on Judicial Power of the 1945 Constitution of the Republic of Indonesia regulates the existence of the State Administrative Court. It stipulates that the State Administrative Court (PTUN) and the judicial institutions under it have judicial jurisdiction. According to "Law Number 5 of 1986 concerning PTUN, PTUN is tasked with exercising judicial power to resolve disputes related to state administration". A state administrative dispute is a disagreement resulting from the issuance of a State Administrative Decree or a personnel conflict based on relevant laws and regulations between a person or legal entity and the state administrative authority or official, both at the central and regional levels. "Law Number 48 of 2009 concerning Judicial Power regulates the implementation of judicial power". However, there is confusion among judges, practitioners, academics, and the general public regarding the transfer of absolute competence regarding the object of factual actions and state administrative disputes from the District Court to PTUN.

---

<sup>18</sup>See Article 1 Number 1 PERMA No. 2 of 2019

<sup>19</sup>Interview with Mr. Ridwan Akhir, SH., MH., PTUN Semarang Judge conducted on February 7, 2024 at 10.16 WIB

<sup>20</sup>Ridwan, *Administrative Law in the Regions*, (Semarang: FH UII Press, 2009), p. 42

Based on the research results, it is stated that there is no consensus on whether the PTUN has absolute authority in handling state administrative disputes. A survey of General Court judges showed differences of opinion, where some are of the opinion that the PTUN has absolute authority, while others are of the opinion that the handling can be carried out by the District Court or PTUN. This is also reflected in interviews with PTUN judges at the Semarang PTUN, where confusion related to government actions refers to private law or public law. Although the PTUN has handled state administrative cases, no such cases have been included in the Semarang PTUN. In this context, the division of absolute competence between the general court and the PTUN is still unclear, especially after the enactment of the Administrative Justice Law. There needs to be an internal policy of the Supreme Court that regulates the transfer of jurisdiction from the general court to the PTUN in trying state administrative cases.<sup>21</sup>

#### **A. Analysis of Semarang Ptun Decision Number: 4/G/PTUN/SMG**

The case was filed via e-court on January 20, 2023 and has been registered with Case Register Number: 4/G/2023/PTUN. SMG at the Semarang State Administrative Court. On February 16, 2023, the litigation was then settled. The subject of this action is a state administrative decision issued on February 1, 2007, by the Head of the Kudus Regency Land Office. It is a Certificate of Ownership Number 3845/Purwosari covering an area of 100 m<sup>2</sup>, accompanied by a Measurement Letter dated November 30, 2006, Number 1152/Purwosari/2006. The certificate was originally issued in the name of Zarkoni, but was later changed to Najib. Purwosari Village, Kota District, Kudus Regency, Central Java Province is the place.

The State Administrative Court is tasked with investigating, deciding, and resolving state administrative issues, as stated in "Article 47 of Law Number 5 of 1986 concerning State Administrative Courts". The Head of the Kudus Regency Land Office, who is tasked with making national administrative decisions, is the defendant in this case. This case occurred due to violations of the principles of good general governance and relevant laws and regulations. In this case, the choice of state administration is questionable. The State Administrative Court has the authority over this decision and will review, consider, and determine.

The Regent of Kudus is the legal representative of the Kudus Regency Government, which is the applicant in this lawsuit. They brought this case to protect their rights and fulfill their civil obligations. As a result, they can be categorized as a Civil Legal Entity suing the State Administrative Official, who holds the position of Head of the Kudus Regency Land Office. Thus, a person

---

<sup>21</sup> Irvan Mawardi, *New Paradigm of PTUN: Response of Administrative Courts to Democracy*, (Semarang: Thafa Media, 2016), p. 147

or civil legal organization is in conflict with the state administrative institution or official in this matter. Considering the facts and legal factors above, the plaintiff's application in this case is After reviewing the lawsuit filed, the State Administrative Court gave the following decision:

First, the Court granted the Plaintiff's full lawsuit. Second, the Court decided that the State Administrative Decision made by the Defendant—Certificate of Ownership Rights Number 3845/Purwosari, issued on February 1, 2007 and Measurement Letter Number 1152/Purwosari/2006, with an area of 100 m<sup>2</sup>, was previously recorded in the name of Zarkoni, but is now written in the name of Najib, and is located in the Village. Third, the Court decided that the Defendant must revoke the State Administrative Decree, namely the Certificate of Ownership Rights Number 3845/Purwosari issued on February 1, 2007 and the Measurement Letter Number 1152/Purwosari/2006 issued on November 30, 2006, with an area of 100 square meters which was previously registered under the name of Zarkoni, but is now registered under the name of Najib. The location is in Purwosari Village, Kota District, Kudus Regency, Central Java Province. Fourth, the Court decided that the Defendant must pay all costs related to this case. The judge made the following decisions: First, the Plaintiff's lawsuit is rejected. Second, the Plaintiff is ordered to pay dispute costs of Rp. 4,587,000,- (four million five hundred eighty seven thousand).

**B. Legal Consequences of the Decision of the State Administrative Court in Disputes Regarding Unlawful Acts by the Government at the Semarang Administrative Court.**

1. Cancellation of Certificate of Ownership

If the court acknowledges or rejects the plaintiff's lawsuit against the certificate of ownership issued by the defendant, then the certificate will be declared invalid. As a result, the land ownership recorded in the certificate will be void or invalid. The current owner, Najib, will lose his ownership rights to the land.

2. Return of Land Ownership

In this case, if the court declares the certificate issued by the defendant null and void, then the land ownership will be returned to the previous owner, namely Zarkoni. Zarkoni will regain ownership of the land based on the court's decision.

3. Obligation to Revoke Certificate

If the court orders the defendant to revoke the administrative decision issued, the defendant will be required to revoke or cancel the certificate of ownership issued for the land. This action will cause the certificate to become invalid and cannot be used as a legal basis for a claim for ownership of the land.

4. Compensation and Legal Costs

If the court decides that the defendant has done something that is unlawful

and has harmed the plaintiff, the defendant can be ordered to pay compensation to the plaintiff. This compensation can include material or immaterial losses suffered by the plaintiff as a result of the defendant's unlawful actions. The court can also decide that the defendant must pay court costs, including the cost of filing a lawsuit, attorney's fees, and attorney's fees.

#### 5. In state administrative law

Legal consequences relate to sanctions that can be imposed by state administrative bodies or officials for violations of laws and regulations. If the government commits an unlawful act in the context of state administration, the legal consequences can be:

#### 6. Administrative sanctions

The PTUN decision can affect the administrative sanctions that can be given to the government. These administrative sanctions can be in the form of warnings, prohibitions, fines, revocation of permits, or other sanctions stipulated by state administrative law.

#### 7. Changes in government policy or action

A PTUN decision that considers a government action to be unlawful can affect related government policies or actions. The government may need to change policies or take corrective actions to comply with the court decision.

### 4. Conclusion

The conclusion of this study is that the State Administrative Court has the authority to examine and adjudicate factual actions and unlawful acts of the government, both based on public law and private law. The Decision of the Supreme Court of the Republic of Indonesia Number 2 of 2019 concerning Guidelines for Settlement of Government Action Disputes is a legal consideration in this case. The Semarang State Administrative Court rejected the lawsuit filed by the plaintiff to cancel the land ownership certificate issued by the government. This means that the land ownership certificate remains valid. The decision has significant impacts, including cancellation of the certificate, return of land ownership to the previous owner, revocation of the issued certificate, payment of compensation by the government, and the impact on administrative sanctions and related government policies.

### 5. References

- Abdulkadir, Muhammad, Law and Legal Research, 1st Edition, Bandung: PT Citra Aditya Bakti, 2018.
- Abqa, Muhammad Ardhi Razaq, et al. CONSTITUTIONAL LAW: A Basic Concept in Organizing the Nation. PT. Sonpedia Publishing Indonesia, 2023.
- Achmad Rifai, SH Judges' errors in applying the law to decisions injure public justice. Nas Media Pustaka, 2020.

- Arauf, Muhammad, and HB Gusliana. "Implementation of Compensation for Community Members Due to Unlawful Acts of the Government (Onrechtmatige Overheidsdaad) Through State Administrative Courts." *Riau Law Journal* 7.2, (2019): 231-247.
- Hikmah, Robby Nur, et al. "State Administrative Law Perspective in Factual Action Decision Number: 88/G/Tf/2022/PTUN-KKDI as an Unlawful Act by the Government." *Journal of Education and Counseling (JPDK)* 5.2 (2023): 5574-5581.
- Interview with Mr. Ridwan Akhir, SH., MH., PTUN Semarang Judge conducted on February 7, 2024 at 10.16 WIB
- Irvan Mawardi, *New Paradigm of PTUN: Administrative Court's Response to Democracy*, (Semarang: Thafa Media, 2016).
- Jailani, Abdul Kadir, and MH SH. "Test of International Agreements by the Constitutional Court." *Constitutional & Administrative Law*. 2022
- Jimly Asshiddiqie, *Indonesian Constitutional Law*, Jakarta: Sinar Grafika, 2019
- Jum Anggriani, *State Administrative Law*, Graha Ilmu, Yogyakarta, 2012.
- Muhammad Syahrur, *ST Introduction to Legal Research Methodology: Normative and Empirical Research Studies, Proposal Writing, Thesis and Dissertation Reports*. CV. Dotplus Publisher, 2022.
- Muhtar, Mohamad Hidayat, et al. *Constitutional Theory & Law: Basic Knowledge and Understanding and Insight into the Implementation of Constitutional Law in Indonesia*. PT. Sonpedia Publishing Indonesia, 2023.
- Philipus M. Hadjon, et al., *Introduction to Indonesian Administrative Law*, Seventh Edition, (Semarang: Gadjah Mada University Press, 2001).
- Pio, Elim Riedel Christmas. "Administrative Responsibility of State Civil Apparatus for Unlawful Acts in Exercising Their Authority." *Lex Administratum* 6.4 (2019).
- Ridwan, *Administrative Law in the Regions*, (Semarang: FH UII Press, 2009).
- Rizaldi, Muhammad, Dian Aries Mujiburohman, and Dwi Wulan Pujiriyani. "Mediation as an Alternative to Resolving Overlapping Land Disputes Between Cultivation Rights and Ownership Rights." *Widya Bhumi* 3.2 (2023): 137-151.
- Rohman, Nur. *Legal Problems of Settlement of Factual Actions and/or Unlawful Acts by the Government as Objects of Dispute in the State Administrative Court*. Diss. Islamic University of Indonesia, 2023.
- Salim HS, *Introduction to Written Civil Law (BW)*, Sinar Grafika, Jakarta, 2011.
- See Article 1 Number 1 PERMA No. 2 of 2019
- Soekanto, Soerjono, *Introduction to Legal Research*, Jakarta, University of Indonesia Press, 2006.

Sunarso, H. Siswanto, MH Sh, and M. Kn. *Victimology in the criminal justice system*. Sinar Grafika, 2022.

Tambunan, Hendra Jhon Piter, and Graychya Febri Simanungkalit. "Legal Analysis of Unlawful Acts of Abuse of Official Authority in Criminal Acts of Corruption in Procurement of Goods and Services." *Dictum 2.3* (2023): 15-24.

W. Riawan Tjandra, *State Administrative Courts Encourage the Realization of a Clean and Authoritative Government*, Semarang: Publisher of Atma Jaya University, Yogyakarta, 2009,