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Judge Decision Analysis on Civil Cases Against Counterfeiting Land Deed Decision Number 350 K/Pdt/2017 Mataram District Court

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ABSTRACT: Indonesia is a legal state, in the execution of a judge is an object that is very important for a trial. In Indonesia alone the practice of fraud and manipulation is still common and often encountered in a trial, the duty of a judge who should be neutral and decide a case with as fair as possible can often be manipulated by the bribery process of a suspect. the power of a judge alone is set in the law of the judicial power law number 48 of 2009. There it has been explained everything about the duties and authority of a judge and how to be a just judge and then can put a suspect into a subject rather than an object. Often in finding a judge actually complicates a case that is actually trivial and gives a burdensome decision for the little people and even facilitate a big case with a suspect of important people, a concept that is not denied a thing that we often see in law.

KEYWORDS: Justice, Court Decision, Fraud, Agrarian Conflict

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I. INTRODUCTION

In the present era a lot of legal events arise both criminal and civil, legal events themselves are events that are governed by the law.[1] Legal events arise from conflict, misunderstanding, unlawful acts, wanprestasi or others. Problems can be solved by legal means or through mediation if it is a civil case involving the issue of one person to another. In a case taken on the court the duties and authority of a judge are absolutely and crucial in solving a problem, making decisions, and establishing an appropriate justice for what has been done by someone who is a suspect.[2]

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[1] Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*. (Jakarta: Kencana Media Grup, 2008). In the context, it also further explained that Law is a regulation in the form of norms and sanctions made with the aim of regulating human behavior, maintaining order, justice, preventing chaos. Law has a duty to ensure that there is legal certainty in society. Therefore, every community has the right to obtain a defense before the law. Law can be interpreted as a written or unwritten rule or provision/stipulation to regulate people's lives and provide sanctions for people who violate the law. *See also* Izabela Skoczeń, "The Meaning of Law." *Implicatures within Legal Language*. (Cham: Springer, 2019), pp. 121-160; Carmelo Nigro, "Building the law: will, norm and institution after modern age." *Soft Power* 5, No. 2 (2018): 174-188.

[2] Sudarto Sudarto. *Hukum dan Hukum Pidana*. (Bandung: Alumni, 1986). *See also* Kania Dewi Andhika Putri, and Ridwan Arifin. "Tinjauan Teoritis Keadilan dan Kepastian dalam Hukum di Indonesia (The Theoretical Review of Justice and Legal Certainty in Indonesia)." *Mimbar Yustitia* 2, No. 2 (2018): 142-158; Inge Dwisvimiar, "Keadilan dalam perspektif filsafat ilmu hukum." *Jurnal Dinamika Hukum* 11, No. 3 (2011): 522-531; Pan Mohamad Faiz, "Teori Keadilan

The judge's verdict is the climax of a case being examined and tried by a judge. A judge gives a decision on the event whether the defendant has committed an alleged offense to him or her, a decision on the law, whether the defendant's conduct is a criminal offense and whether the defendant is guilty of being convicted, or of a criminal offense, if the defendant is indeed punishable.

As for determining a decision a judge[3] may use an earlier judge's

John Rawls (John Rawls' Theory of Justice)." *Jurnal Konstitusi* 6, No. 1 (2009): 135-149.

[3] It is also further emphasized that one form of improving the quality of judge decisions and the professionalism of the judiciary is when judges are able to make decisions by taking into account three very essential things, namely justice (*gerechtigheit*), certainty (*rechsecherheit*) and expediency (*zwachmatigheit*). Seeking and finding conformity in law is neither difficult nor easy. The difficulty in achieving the ideal law is where the parties to the dispute or dealing with the law are satisfied or accept the decision with grace. In addition, the law is expected to develop rapidly following the current developments of the times to regulate all actions or actions that have the potential to cause disputes, both small and large disputes. Allowing theory or practice to run independently without complementing each other will affect the performance of the law itself. No less important when the law is left behind by the times, where the flow of change continues to occur following the growth rate of society, it will have an impact on the existence of law and the level of public trust in the law. In principle, the law was created to give people (humans) confidence in different interests. Through law, it is hoped that the achievement of human ideals (legal subjects) can be established, as stated by Gustav Radburch that the law in its achievement cannot be separated from justice, certainty and benefit. The existence of the law in question is both passive law (statutory regulations) and active law (judges in court). *Please see* Justin T. Pickett, "Public opinion and criminal justice policy: Theory and research." *Annual Review of Criminology* 2 (2019): 405-428; Margaret Bull Kovera, "Racial disparities in the criminal justice system: Prevalence, causes, and a search for solutions." *Journal of Social Issues* 75, No. 4 (2019): 1139-1164; Asep Saepudin Jahar, Raju Moh Hazmi, and Nurul Adhha. "Construction of Legal Justice, Certainty, and Benefits in the Supreme Court Decision Number 46P/HUM/2018." *Jurnal Cita Hukum* 9, No. 1 (2021): 159-178; Wahyudi

decision or an incremental jurisprudence and with the condition that the case be the same as the former case. So that actual justice can be applied, many examples of cases where the decision of a judge in protest or considered wrong by the plaintiff or considered too burdensome to the defendant or suspect.

In a legal case not all perfect, there is often a mistake in the application of the law that affects the judge's decision. In a civil case there is often consideration of the consideration of the first-level panel of judges on the basis of consideration of the decision of the high court judges in deciding cases, thus indicating that the high judge in examining the case is unprofessional. As an example of a forgery case of land deeds arising from misunderstandings between the plaintiff and the defendant occurred in the court of the mataram of a defendant convicted of innocence resulting from the misappropriation of the

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Kurniawan, and Sholahuddin Al-Fatih. "Philosophical Meaning for Justice Based on the One Godhead in Judge's Decision." *Pena Justisia: Media Komunikasi dan Kajian Hukum* 20, No. 2 (2021). In a further context, various types of justice are applied in different types depending on the case at hand, ranging from cases relating to children, disability groups, cases relating to the protection of women's rights, and other legal cases. *Please also see* Wikan Sinatrio Aji, "The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia." *JILS (Journal of Indonesian Legal Studies)* 4, No. 1 (2019): 73-88; Emy Hajar Abra, and Rofi Wahanisa. "The Constitutional Court Ultra Petita as a Protection Form of Economic Rights in Pancasila Justice." *JILS (Journal of Indonesian Legal Studies)* 5, No. 1 (2020): 187-224; Agustya Catur Mahendra, "Ambiguity of Adultery Concept (Zina) in Criminal and Justice System (A Comparison between Indonesia, Pakistan, and Turkey)." *IJCLS (Indonesian Journal of Criminal Law Studies)* 4, No. 1 (2019): 93-106; Cahya Wulandari, Sonny Saptoajie Wicaksono, and Umi Faridatul Khikmah. "Paralegal Existence in Providing Access to Justice for the Poor in Central Java." *IJCLS (Indonesian Journal of Criminal Law Studies)* 4, No. 2 (2019): 199-206; Ridwan Arifin, et al. "The International Law Principle for People with Disabilities: Analyzing Access to Justice." *Unnes Law Journal: Jurnal Hukum Universitas Negeri Semarang* 7, No. 2 (2021): 371-404.

law which was finally resolved by the supreme court magistrate. To the need for an analysis of the judge's decision so that the creation of an appropriate justice objective.

II. METHODS

The first step is to test in detail against a single background or one subject person or one document storage and or one particular event and provides a more technical limit with emphasis on its characteristics.[4] Furthremore, it is also explained that in case study the researcher should try to test the unit or individual deeply. The researchers tried to find all the important variables,[5] and it can be understood that the boundaries of case studies include the first of which the research objectives can be human, events, background, and documents and then those goals are examined in depth as a totality according to their background or context in order to understand the various links between each of the variables.

Then the next case study of situation analysis, this case study type tried to analyze a situation against a particular event or event. For example, the occurrence of land disputes in a particular area, then first learned from the perspective of all relevant parties, ranging from defendants, owners, sellers, land experts, a judge and perhaps other key figures. And in the selection of cases should be done purposively (purposive) and not randomly or originally. Cases can be chosen by making people objects, environments, programs, processes, and

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[4] Zaidah Zainal, "Case study as a research method." *Jurnal Kemanusiaan* 9, No. 1 (2007): 1-6.

[5] Sharan B. Merriam, *Case Study Research in Education: A Qualitative Approach*. (Jossey-Bass, 1988); Peter Swanborn, *Case Study Research: What, Why and How?*. (London: SAGE, 2010); John Gerring, *Case Study rRsearch: Principles and Practices*. (Cambridge: Cambridge University Press, 2006).

communities or social unions. Likewise, the size and complexity of a case study object must be reasonable, so that it can be solved with time limits and available source resources, then data collection has several techniques in data collection, but more used in case studies is observation, interview, and documentation analysis.[6]

The researcher, as a research instrument, can adjust the way data is collected with problems and research environments, and can collect different data simultaneously. Data analysis, and once the data is gathered the researcher can immediately begin to aggregate, organize, and classify data into manageable units. The notion of aggregation is the process of abstracting the particular things into general things in order to find the general pattern of data. and data can be organized chronologically, categorically or incorporated into typology. Data analysis is carried out since the researcher in the field, during the data collection and after all data collected or after completion and field, then refinement: although all data have been collected, in case study approach should be done a refinement or reinforcement of new data against categories that have been found.

New data collection requires the researcher to return to the field and may have to create a new category, and the new data can not be grouped into existing categories, then there is report writing, reports should be written communicatively, easily read, and describe a symptom or unity socially clear, making it easier for readers to understand all the important information. Reports are expected to bring the reader into situations of a person's or group's life.

The case study is also done in a natural, holistic and profound setting. Nature means that data acquisition activities can be done in a real-life

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[6] Suwardi Endraswara, *Metodologi Penelitian Kebudayaan*, (Yogyakarta: Gajah Mada University Press, 2012).

context and there is no need for certain treatments either to the subject research and in the context in which research is conducted. Leave it all out takes place naturally. Holistic means that the researcher must be able to obtain information that will be data comprehensively so as not to leave the remaining information. And from the data will be obtained fact or reality.[7]

In order to obtain a comprehensive information, researchers not only extract information from a participant and key informant through an in-depth interview, but also people around the subject of research, daily notes on subject activities or subject track records. In the same context, it is also described that an object studied in a case study study only imaging himself in depth/detail/complete to obtain a complete picture of the object or in the sense that the data collected in the study can be studied as a whole, integrated whole.[8] That is why the Case Study study is explorative.[9] The nature of highly specialized study objects becomes material the main consideration of researchers to be able to elaborate it in a way explore in depth. Researchers can not only understand the case from outside only, but also must from within as a whole and detail entity. That one of his data collection techniques is through an interview deep.[10]

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[7] Dedy Mulyana, and Solatun Solatun, *Metode Penelitian Komunikasi*. (Bandung: PT Remaja Rosdakarya, 2017).

[8] Taufik Hidayat, "Pembahasan Studi Kasus Sebagai Bagian Metodologi Penelitian." *Jurnal Study Kasus* 3, No. 1 (2019): 1-13; Hadi Sabari Yunus, "Metodologi Penelitian Wilayah Kontemporer, (Yogyakarta: Pustaka Pelajar, 2010).

[9] Dedy Mulyana, *Metodologi Penelitian Kualitatif: Paradigma Baru Ilmu Komunikasi dan Ilmu Sosial Lainnya*. (Bandung: PT Remaja Rosdakarya, 2013).

[10] Robert E. Stake, *"Case Studies"* in Norman K. Denzin and Yvonna S. Lincoln (eds.). Handbook of Qualitative Research, (Thousand Oaks, California: SAGE Publications Inc, 1994).

To understand more about the subject, the Case Study researchers can also obtain data through his life history. In addition to in-depth interviews, there are five data collection techniques of Case Study research, ie documentation, direct observation, involved observation and physical artifacts. Each to complement each other. This is the power of Case Studies compared to other methods in qualitative research.[11]

Case studies are expected to reveal the deep things that can not be revealed by ordinary people. A case study focuses on a particular object that is raised as a case to be studied in depth so as to unravel the reality behind a phenomenon. And in the view of a phenomenological paradigm, the visible or visible is essentially not something that is said to be a reality. It's just a reflection of the one inside. The task of a case study is to dig that invisible thing is to become visible knowledge. Therefore it can also be interpreted Case Study as a process of studying or understand a case and simultaneously search for results.[12]

III. OVERVIEW OF LAND CONFLICT: LIMITATION *&* LEGAL STATUS

Law is a well-ordered and well-ordered regulatory system that binds the public.[13] In view of the governing interests, there are two kinds of laws, namely public law and private law, private law is a private interest such as ownership of property and with the interests of

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[11] Robert K. Yin, *Case Study Research*. (Thousand Oaks, London: SAGE Publications, 1994).

[12] Hadi Sabari Yunus, *Metode Penelitian Wilayah Kontemporer*. Yogyakarta: Pustaka Pelajar, 2010).

[13] Ishaq Ishaq, *Dasar Dasar Ilmu Hukum*. (Jakarta: Sinar Grafika, 2016).

individuals.[14]

Speaking of individual interests as well as ownership of property in civil law there are many cases of unlawful acts, either intentionally or occurred due to misunderstanding. According to article 1365 Civil Code, then the intention of the act against the law is an act done by a person who because of the wrong cause harm to others, and in the science of law in the three categories of unlawful act that is against the law because intentionally, and due to negligence.[15]

As a result of unlawful acts there is a case that can be resolved through legal means and mediation, but many arise a conflict or opinion that states that a person gets injustice in because the act against the law serves to determine whether a defendant should be legally responsible for his actions causing harm to others.[16]

For the acts that have harmed the other person, the person committing the act unlawfully shall observe the Regulation of the Republic of Indonesia Number 48 of2009 regarding Judicial Power, Article 8 Paragraph (1) which states: "*Everyone who is suspected, arrested, detained, prosecuted, and or faced before a court hearing, shall be presumed innocent until a court decision is made and declare his guilt and obtain a permanent legal force*". Court ruling is a judge ruling poured in written form and spoken in court open to the public and aims to resolve and/or terminate the lawsuit. The judge's ruling itself is a statement which the judge, as the authorized authority, is spoken at the hearing, and aims to end or settle a case or dispute between the parties.[17] So that the judge should analyze a case appropriately so that

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[14] Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*. (Jakarta: Kencana Media Grup, 2008).

[15] Munir Fuady, *Perbuatan Melawan Hukum.* (Jakarta: Citra Aditya Bakti, 2013).

[16] Munir Fuady, *Konsep Hukum Perdata*. (Jakarta: RajaGrafindo, 2014).

[17] Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*. (Yogyakarta: Liberty,

there is clarity of a case and the creation of justice.

1. The Purpose of Justice

In terms of law enforcement in Indonesia judges must show professionalism and uphold the value of justice, but in the present era judicial power often gets a question mark rather than public, judge powers and the need to monitor it, indicating agreement between the governing and the governed.[18]

The doctrine of the purpose of justice comes from Gustav Radbruch. For him the law of duty to bring about justice for the public, the purpose of radbruch with its justice proposal is to ensure that the rule of law really serves as the guarantor of life and human dignity.[19] The purpose of law is to achieve the happiness of society, so the actions that maintain the happiness of society are just. Kelsen emphasizes Plato's legal philosophy that justice is based on knowledge of something good[20].

1979).

[18] Mark Schacter, *When Acoountability Fails: A Frame Work For Diagnosis And Action*. (Cambridge: Cambridge Press, 2000).

[19] Indah Sri Utari, *Pengantar Filsafat Hukum*. Purwodadi: Sarnu Untung, 2017). For futher discussion concerning Theory of Justice, *please see* Gustav Radbruch, "Five minutes of legal philosophy (1945)." *Oxford Journal of Legal Studies* 26, No. 1 (2006): 13-15; Anton-Hermann Chroust, "The Philosophy of Law of Gustav Radbruch." *The Philosophical Review* 53, No. 1 (1944): 23-45. *Please also compare with* M. Yasir Said, and Yati Nurhayati. "A Review on Rawls Theory of Justice." *International Journal of Law, Environment, and Natural Resources* 1, No. 1 (2021): 29-36; Gustav Radbruch, "Law's Image of the Human." *Oxford Journal of Legal Studies* 40, No. 4 (2020): 667-681.

[20] Mfonobong David Udoudom, and Samuel Akpan Bassey. "Plato and John Rawls on Social Justice." *Researchers World* 9, No. 3 (2018): 110-114; Sooraj Kumar Maurya, "The concept of justice in reference with philosophies of Plato and Aristotle: a critical study." *Journal of Liberty and International Affairs* 7, No.

2. Understanding of Land

The soil is a collection of solid parts that are not bound between one with another (some of which may be organic) and the cavities between them contain air and water. The soil is a mineral accumulation that is not have or weak bonds between the particles, which are formed by weathering of rocks. The soil is defined as a material consisting of aggregate of unsaturated solid minerals (bound together chemistry) with each other and from organic materials have been decayed (which is solid particles) accompanied by liquids and gases that fill spaces empty between the solid particles.[21] According to the Basic Agrarian Law (Law No. 5 of 1960) agrarian law applies not only to the land but to the earth, water, space, and natural resources contained therein. Fixed tenure of land consists of property rights, right to use, building rights, use rights, land lease rights, land clearing rights, rights to collect forest products and others.[22]

As already mentioned, that there are many kinds of land rights, but the most important are property rights to land, tenure, use rights, use rights to land, lease rights to land. The law also provides that

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3 (2021): 250-266; Hans Kelsen, "What is justice?." *Essays in Legal and Moral Philosophy*. (Dordrecht: Springer, 1973), pp. 1-26; Hans Kelsen, "Platonic justice." *Ethics* 48, No. 3 (1938): 367-400; Christopher Adair-Toteff, "Horst Dreier (2021): ad Hans Kelsen. Rechtpositivist und Demokrat." *Österreichische Zeitschrift für Politikwissenschaft* 50, No. 3 (2021): 15-16.

[21] James M. Oades, "Soil organic matter and structural stability: mechanisms and implications for management." *Plant and Soil* 76, No. 1 (1984): 319-337; Germund Tyler, "Rare earth elements in soil and plant systems-A review." *Plant and Soil* 267, No. 1 (2004): 191-206.

[22] Anton Lucas, and Carol Warren. *Land for the people: The state and agrarian conflict in Indonesia*. (Ohio: Ohio University Press, 2013); B. F. Sihombing, "Contemporary issues of agrarian law institutions: Critical analysis of legal structure on human capital and information technology." *Journal of Legal, Ethical and Regulatory Issues* 22, No. 2 (2019): 1-11.

property rights are the strongest and most fulfilled right, this has legal consequences because the right to land (including property rights) has both an individual function and a social function at the same time, the right to property may be exempted or revoked by the government for the benefit of general.[23]

3. Land Registry

And in Article 9 of Government Regulation No.24 of 1997 About Land Registration, something that could be the object of land registration that is: the plots of land belonging to the right to property, the right to use, building rights and use rights. land management rights, wakaf land; property rights of apartment units, mortgages, state lands.

And in reality, in a society there is still the rights of eigendom, right to install and rights of erfpacht and the rights of indigenous people or the earth of the children who are subject to customary law which has no written evidence, so that the locals often call customary land such as ulayat land, adat, Yasan land, gogolan land and so forth. Then based on the provisions of Article 9 above, it is clear that the land of land derived from western rights can not be registered. And if the land of this land can not be registered will certainly be detrimental to the owners of the land, in because they would lose their rights.

Therefore, it is necessary to have a way for this land to be registered, therefore the way it can be done is to convert the land from the western right. With the land conversion from the rights of the west are expected by the community no one loses their rights because once

[23] Fuady, 2014.

converted the right will be registered.[24]

And in Article 2 Paragraph (2) of the Basic Agrarian Law defines the right of state control over this land as the authority of the state to organize and administer the use, stockpile and maintenance of the earth, water and space then to determine and regulate legal relations between people with the earth, water and space, determines and regulates the legal relationships between people as well as the actions of laws concerning the earth, water and space.

Then in short, under the basic agrarian law, the right of state control over land means the right of the state to be able to regulate and manage the land, not the right to own the land. The concept of the basic agrarian law itself is influenced by the concept of customary law which does not recognize the absolute / absolute ownership of the property to the land, and only recognizes communal rights to the land. the basic agrarian law itself does recognize that the law applicable to the earth, water and space in Indonesia is customary law as the original law of the people of Indonesia (Article 5 and General Explanation Section III (1) of the law). And thus, the basic agrarian law also accepts the concept of customary rights to land also referred to as ulayat rights. The ulayat right under the basic agrarian law is the same as beschikkingsrecht which, according to Van Vollenhoven and other customary lawyers, is intended as communal right of indigenous peoples to regulate and cultivate their land in its entirety. However, it should be noted that the acceptance of the law.

Customs and customary rights in this law shall not be carried out

[24] Ulfia Hasanah, "Status Kepemilikan Tanah Hasil Konversi Hak Barat Berdasarkan UU No. 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria Dihubungkan Dengan PP No. 24 Tahun 1997 Tentang Pendaftaran Tanah." *Jurnal Ilmu Hukum* 3, No. 1 (2012).

wholeheartedly, but with the requirement that customary law and customary rights shall not be contrary to the national interest and the interests of the state, and shall also be in accordance with the laws and regulations made by the Government of Indonesia Article 2 (4), Article 3, Article 5, General Explanation Section II (3) of the Law). This half-hearted recognition is ultimately the source of the prolonged conflict between indigenous peoples and the Indonesian government to this day.[25]

Article 16 of the 1960 Constitution of Agrarian Law stipulates certain types of land rights, including property rights, building rights, use rights and use rights and the notion of conversion is a change of ownership of an object or a change from one form to another or another. In this case is the change of juridical status of land in connection with the enactment of the basic agrarian law, the conversion is directed to land that is actually controlled by a government agency, a service and an autonomous region. The grant is granted with the right of assignment to a state land pursuant to a government regulation number 8 of 1953 in article 2 of this government regulation stating that the control over a state land (except those controls under a law or other regulation) is submitted to a government agency, and an autonomus region.[26]

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[25] Afifah Kusumadara, "Perkembangan Hak Negara Atas Tanah: Hak Menguasai Atau Hak Memiliki?." *Jurnal Media Hukum* 20, No. 2 (2013): 262-276

[26] Ratna Djuita, "Hak Pengelolaan (HPL) antara Regulasi dan Implementasi." *Jurnal Pertanahan* 1, No. 1 (2011). Furthermore, it is stated that Land Management Rights (*Hak Pengelolaan Lahan* or HPL) is an authority granted by the state to certain legal entities to manage state-owned land. The most common entities that have HPL from the government include State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD). The legal basis for the existence of such authority is recorded in the Minister of Agrarian Regulation No. 9/1965 and Government Regulation No. 40/1996. In

The certainty of land rights already mentioned is very important in the agrarian law, therefore it is necessary to do the registration of land that must be done by the owner of the right and the government. The system of land registration in its broad sense includes the following actions, measurements, mapping, and accounting of land, registration of land rights, transfers of rights, and the provision of validity letters of validation.

Agrarian law on land registration adheres to the principle of documentation or most of the transactions and verification of land rights are done with written documents. For example, the transfer of land rights must be done with certain official deeds called Land Acquisition Officials (PPAT). Then the most powerful land title verification is done with a document called land certificate.[27]

IV. CASE ANALYSIS & PROBLEM REVIEW

On May 7, 2012 Jamal Buyung (plaintiff) purchased a plot of land with a property title number 303 on behalf of Nurhadi with an area of 3,730 m2. That the land in the traded trades is located in the way of the ylangang, the new neighborhood, the village of turida, sandubaya sub-district, Mataram city with the northern boundary is the rice field pak oka, eastern rice field owner of the space store, south of the road ylang VI and the highway road, west of the ylang-octagon road.

simple terms, by obtaining HPL, the public is given some authority to control land owned by the state. *See also* Jerome Bryanto Pasandaran, "Kajian Hukum Terhadap Hak Pengelolaan dalam Hukum Pertanahan Indonesia." *Lex Administratum* 9, No. 5 (2021); I. Putu Lingga Dananjaya, "Pengaturan Hak Pengelolaan Lahan (HPL) Pasca Berlakunya Undang-Undang Cipta Kerja." *Kertha Semaya: Journal Ilmu Hukum* 9, No. 3 (2021).

[27] Lawrence Friedmann, *Teori dan Filsafat Hukum*. (Jakarta: Rajawali Press, 1990).

Whereas on the basis of the sale and purchase bond of the plaintiff land fencing over the land owned by the residents, the administrators of rt 08 kenanga together with their citizens reported and objected and questioned to the Mayor of Mataram about the status of land owned by the plaintiff since 7 May 2012. That December 11, 2012 the plaintiff received an invitation from the mayor of Mataram which in this case was represented by assistant 1, mataram city office office, also attended by the defendant (I Gusti Bagus Mahendra Irawan) and attended also representatives of citizens who joined in rt 08 kenanga to carry out mediation to solve the problem the plaintiff's land which has been used by members of rt 08 kenanga has utilized and / or controlled without permission from the owner either from nurhadi semasih his life or the plaintiff as the new owner.

Where the administrators of RT 08 kenanga together with all citizens who registered in it to arbitrarily use and use the empty land originally belonging to the nurhadi as a social facility. In the mediation it ultimately did not produce any result, that with the failure of mediation meetings then rt 08 kenanga acts on behalf of its citizens to make and file a police report to the NTB police with the number LP / 218 / X / 2013 / NTB / SPKT.

On 3 October 2013 where the plaintiff on the third call takes his opportunity to attend. The investigator had requested information from the municipal land office and requested a copy of the land certificate book of 303 nurhadi, at that time the plaintiff knew that one of the proofs of the letter which was used to ensnare the plaintiff as a suspect of a copy of a certificate book of 303 nurhadi handwriting sounds. "*Part of the area has become a settlement and some have become public facilities as well as social facilities according to the attachment of news of delivery ceremony from PT true emblem to the municipality of mataram,*

attached map signed by mayor mataram H. Moh Ruslan, SH," that the plaintiff knows that the writing in the book of nurhadi land which affixes the term and date it is a defendant, who declares and or acknowledges it in the domestic court of justice 162 / PDT.G / 2014 / PN Mtr. Therefore, the handwritten record by the defendant is without the delegation of authority from the head of the mataram city office of Mataram as the prevailing perpu regulation, the act of the defendant is against the law.

V. PROBLEM SOLVING ANALYSIS OF THE CASE

Noting the act against the law of the defendant who has put a note on the certificate of land 303 on belalf of Nurhadi unlawfully, where in know that before the pensioner's penalty is the civil servant at the municipal land office mataram very know about the land regulations where provisions on the location permit (ILOK) against the land above SHGB 1404 number coming from land land HM number 49 HM number 345, *Pipil* number 775, plot number 19, class I, HM number 898, all located in the village of turida, listed in the guidance column, in SHGB ground book, number 1404 meant that the defendant is well aware that SHM 303 an Nurhadi is excluding / outside the land of SHGB 1404 referred to but carelessly put a note in the book of land number 303 on behalf of Nurhadi.

Whereas the defendant's conduct creates a moral loss for the plaintiff, the defendant should be punished for an apology in Lombok's print media post 7 consecutive days after this decision has a permanent attorney, and if the defendant is unwilling to do so, the defendant is punished to pay the plaintiff's morale for Rp .2,000,000,000.00 (two billion rupiah). Considering that the panel of judges of the High Court of Mataram after examining, examining and closely examining

the file of the case along with the official derivative of the Court of Appeal number 239 / PDT / G / 2015 dated 1 June 2016 and pay close attention to the Memorandum of Appeal filed by the Plaintiffs Legal Counsel , a panel of high court judges may approve and justify the decision of the first-level panel of judges.

While the plaintiff is merely repeating the proposition of the argument that has been considered the first-level judges. Taking into account the legal considerations of high court rulings examining and deciding these civil cases of appeal have wrongly applied the law specifically concerning tat the event of land dispute handling set out in the regulation of agrarian country minister number 1 year 1999 dated 29 january 1999 which in article 6 paragraph (2) states: that the handling of settlement of land issues in the municipal land office is assigned to the head of the rights section of land rather than from the head of the disputed section. That the legal considerations of the high judges of the high court of mataram are contrary to the prevailing regulations.

The misappropriation of the law is also seen from the legal considerations of the first-level panel of judges being taken over and used as a basis in consideration of the decision of the high court judges themselves in deciding the case. Whereas the aforementioned legal considerations of the a quo verdict are incomplete and incomplete in examining and imposing judgments in cases at the appellate level, it indicates that the high judges' panel in examining these cases is not professional and not sufficient legal considerations. Therefore, the Supreme Court is of the opinion that after carefully examining the memory of cassation and the cons of memory in relation with the judex facti consideration, it turns out that judex facti is not wrong in applying the law with the following considerations.

The object of the lawsuit is the handwriting of the defendant in the capacity of his position, namely the section head of the dispute, the conflict and the case in Deny on the land book of Nurhadi M 303 at the municipal office of Mataram. The writing is not for personal interest but because of the position, because the lawsuit is addressed to the defendant as a person, the lawsuit is eror / erroneous so that it is unacceptable, Considering that because the petition of the cassation of the appellant is rejected and the appellant is in the defeated party, the appellant cassation sentenced to pay the cost of the case in this appeal. And finally the Supreme Court tried Jamal Buyung to pay a case fee of Rp.500.000.00.

VI. CONCLUSION

Accountability is to determine who can be responsible and who has the duty to explain[28]. In such a case the judicial power of the high court is not well executed and is not accurate in examining the land deed, so the false consideration of the first panel of judges is made the basis of the consideration of the decision of the high court judge in deciding cases is an unprofessionality. So, the concept of the goal of justice in the law is the law in charge of realizing justice for the public is not done well. Many things in Indonesia should be improved one of which is the selection of human resources should be more selective and for the judicial power to be more thorough and more transparent professionals that make justice created as high as.

[28] Gareth Griffin, *Judical Accountability*. (Cambridge: NSW Parliamentary Library, 1998).

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COMPETING INTERESTS

The Authors declared that they have no competing interests.

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