

Indonesian Journal of Agrarian Law
 ISSN: 3110-6633 (Online)
 Vol. 3 Issue 1 (2026) 1307-1339
 DOI: <https://doi.org/10.15294/jal.v3i147729>
 Available online since: March 30, 2026



Land Dispute Resolution through Mediation between Land Cultivators and Building Use Rights Holders in Semarang City

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Abstract

Land is a vital asset that is often the source of disputes, including overlapping disputes between cultivated land and land certified with Building Use Rights (HGB). This phenomenon occurs because there is still an overlap between physical control in the field and officially recorded legal data. This article aims to analyze the stages of mediation implementation in resolving land disputes at the Semarang City Land Office, as well as identify obstacles encountered and efforts that can be made to overcome them. This study

uses an empirical legal method with a qualitative approach. Primary data was obtained through interviews with Young Land Administrators in the Dispute Control and Handling Section of the Semarang City Land Office. Mediation is carried out through structured stages, namely submitting an application, reviewing the case, clarifying the case, mediating the case, and determining the outcome. Mediation failed at the clarification stage because both parties insisted on maintaining their respective claims without any intention of compromising, so the parties were invited to resolve the case through the courts. The main obstacles found included initial refusal of mediation, the absence of one of the parties, and the lack of willingness to compromise. The success of mediation is not solely determined by the perfection of legal procedures, but is highly dependent on the good faith of the parties. Therefore, intensive socialization efforts, strengthening the capacity of mediators, and regular evaluation of failed mediation cases are needed to increase the effectiveness of non-litigation land dispute resolution.

Keywords

Mediation, Land Disputes, Building Use Rights, Cultivated Land, Semarang City Land Office

A. Introduction

Land is an economic asset that plays a vital role in human life. As a vital element, land serves to fulfill basic human needs and is the main support for the survival of the entire ecosystem.¹ As the population increases annually, the need for land also continues to increase to support various development projects. This development encompasses various sectors such as housing, industrial areas, and other

¹ Shelvia Agustine Rahmadhani and Achmad Room Fitrianto, "Analisis Dampak Pembangunan Industri dan Kebijakan Bank Tanah di Kabupaten Sidoarjo: Menuju Pengelolaan Tanah yang Berkelanjutan," *Jurnal E-Bis: Ekonomi-Bisnis* 8, no. 1 (2024): 178–92, <https://doi.org/10.37339/e-bis.v8i1.1438>.

government projects. Given the importance of land for life, everyone strives to own and control land, which can then give rise to various land issues.² In Indonesia, land issues receive significant attention from various parties, including the public and the government. This is evident in the issuance of Law Number 5 of 1960 (UUPA), which regulates land. This phenomenon of land disputes also occurs in various regions in Indonesia, including the city of Semarang. According to data from the Semarang City Land Office, the number of land dispute cases submitted to the Semarang City Land Office has fluctuated. The following is data on land dispute cases in Semarang City from 2021 to 2025:

Table 1. Land Disputes at the Semarang City Land Office (2021-2025)

Year	Cases that come in	Finished	Not finished yet
2021	39	34	5
2022	72	75	2
2023	40	38	2
2024	40	31	11
2025	10	7	4

Source: Semarang City Land Office 2026

Land disputes are one of the most common legal issues in the land sector in Indonesia. These disputes generally arise when two or more parties claim ownership or control over a plot of land. These disputes can arise for various reasons, such as discrepancies in data, invalid ownership documents, and even illegal changes to land boundaries. According to Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning the Handling and Settlement of Land Cases, a land dispute is a land dispute between individuals, legal entities, or institutions that does not have a broad impact. This dispute is distinguished from land conflicts that are likely to have or have already had a broad impact, as well as

² Muhammad Daffa Ariansyah and Reni Anggriani, "Sengketa Sertipikat Ganda Akibat Perbuatan Melawan Hukum," *Media of Law and Sharia* 4, no. 1 (2022): 1–13, <https://doi.org/10.18196/mls.v4i1.16829>.

land cases that are handled through the judiciary or have a legally binding court decision. This dispute can also arise when an individual who believes they have a legal relationship with a particular piece of land comes into conflict with another party whose legal status is affected by the land.³

The factors causing land disputes are diverse and interconnected. One of the main causes is imperfect regulations and their often inconsistent implementation in the field. Furthermore, incomplete or inaccurate land data is a major trigger for overlapping rights and ownership claims. Limited human resources and land institutions also often result in suboptimal case handling. Duplication of authority between agencies often occurs, resulting in protracted dispute resolution. The inconsistency between legal regulations, administration, and field practices often makes land dispute resolution complex and requires serious attention from the government and relevant legal institutions.

⁴In Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning the Handling and Settlement of Land Cases, land-related cases are grouped into three main categories. The first category is disputes, which, as explained in Article 1 paragraph (2), are disputes over land between individuals, companies, or institutions that do not have a widespread impact on the community. Examples of dispute cases include land boundary disputes between two neighbors, or disputes over inherited land ownership between several heirs within one family. The second category is called conflict, which based on Article 1 paragraph (3), is a land dispute involving individuals, groups of people, community groups, organizations, companies, or institutions, with the characteristic that the dispute has caused or has the

³ P. D. Sukmawati, "Hukum Agraria Dalam Penyelesaian Sengketa Tanah di Indonesia," *Jurnal Ilmu Hukum Sui Generis* 2, no. 2 (2022).

⁴ Anggita, "Penyelesaian Sengketa Konflik Kepemilikan Tanah dengan Pendekatan Litigasi di Pengadilan Tata Usaha Negara," *Savana: Indonesian Journal of Natural Resources and Environmental Law* 1, no. 01 (2024): 24–38.

potential to cause widespread impacts. Examples of conflict cases include disputes between village residents and plantation companies claiming customary land. Then the third category is cases, which are explained in Article 1 paragraph (4) as land disputes whose handling and resolution process is carried out through the courts.⁵ Examples of cases include lawsuits for the cancellation of land certificates filed with the State Administrative Court, or lawsuits for compensation for land expropriation heard in the District Court.

Another type of land dispute involves overlapping land that is physically controlled (cultivated land) with land that already holds official certificates, such as Building Use Rights (HGB). This situation indicates a persistent discrepancy between control in the field and recorded legal data. Cultivated land refers to land that has been managed and utilized by residents, even though legally the land does not yet have a valid ownership certificate.⁶ Based on Decree of the Head of the National Land Agency Number 2 of 2003, cultivated land is defined as land managed by another party, whether the land already has legal rights or not. This land use can occur with or without permission from the legal owner, and can be temporary or for an indefinite period.⁷ Therefore, someone may cultivate and physically control a plot of land for years, but legally does not necessarily have legal rights to it. Disputes related to cultivated land often occur because the land does not have an official certificate recognizing its ownership status. Therefore, clarity and legal recognition of land ownership rights are crucial to prevent future conflicts.

⁵ Anak Agung Ayu Intan Puspawati, "Percepatan Penyelesaian Kasus Pertanahan Sebagai Salah Satu Tujuan Pengelolaan Pertanahan," *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 11, no. 1 (2022): 60–69, <https://doi.org/10.28946/rpt.v11i1.1723>.

⁶ Hotman Januari Sitohang and Ana Silviana, "Penyelesaian Sengketa Tanah Garapan dengan Status Tanah Belum Bersertifikat," *NOTARIUS* 17, no. 3 (2024): 1885–1901.

⁷ Syalomitha Angellina Rompas, Harly Stanly Muaja, and Marthin Luther Lambonan, "Kajian Hukum Surat Keterangan Garapan sebagai Bukti Pengelolaan dan Penguasaan Tanah," *Lex Privatum* 13, no. 4 (2024).

Then, Article 35 of the Basic Agrarian Law explains that Building Use Rights (HGB) are the rights to construct and own buildings on land that is not owned by oneself. This right is granted for a maximum duration of 30 years. At the request of the rights holder, this period can be extended to a maximum of 20 years by taking into account the needs and condition of the existing building.⁸ Furthermore, Article 37 paragraph (1) of the Basic Agrarian Law and Government Regulation Number 40 of 1996 stipulates that land that can be the object of Building Use Rights includes State Land, Freehold Land, and Management Rights Land. Meanwhile, Article 48 of the Law The Agrarian Principles emphasize that the parties who can own this right are limited to Indonesian citizens and legal entities established under Indonesian law and domiciled in Indonesia.⁹ The HGB is registered and proven by an official certificate issued by the Land Office. The Right to Build is one of the land rights under National Land Law, which provides the public with the opportunity to utilize land without having to own it for an indefinite period.

One cause of disputes between these two types of ownership is the phenomenon of long-held cultivated land that has never been registered. It is possible that cultivated land for which a land declaration has been issued also has land rights attached to it in the form of certified land rights, thus giving rise to overlapping disputes. Land disputes can be resolved in two ways: through the courts (litigation) or outside the courts (non-litigation). Dispute resolution through litigation is a method of resolving disputes using the courts. The disputing parties face each other before a judge to fight for their rights. The final decision of this process usually results in one party winning and the other party losing.¹⁰ In

⁸ Fajri Agung Rohmadi, Suharno, and Ismiyanto, "Analisis Yuridis Pelaksanaan Pendaftaran Perubahan Hak Atas Tanah Dari Hak Guna Bangunan Menjadi Hak Milik (Studi di Kantor Pertanahan Kota Surakarta)," *Jurnal Bevinding* 1, no. 10 (2024): 50–66.

⁹ Fatma Afifah, Fikri Hadi, and Farina Gandryani, "Konsep Hak Milik, Hak Guna Usaha, Hak Guna Bangunan dan Hak Pakai dalam Undang-Undang Nomor 5 Tahun 1960," *Jurnal Ilmu Hukum Wijaya Putra* (2025).

¹⁰ F. A. Fadillah and S. A. Putri, "Alternatif Penyelesaian Sengketa

contrast, non-litigation methods exist as an option for resolving cases without going through the courts. The main focus of this approach is to achieve a joint solution through a more practical and effective method for all parties involved.

¹¹In Indonesia, out-of-court dispute resolution is divided into two methods according to Law Number 30 of 1999: Arbitration and Alternative Dispute Resolution. ¹²In accordance with the provisions of Article 1 paragraph (10) of Law Number 30 of 1999, disputing parties can use an out-of-court settlement institution called Alternative Dispute Resolution. This mechanism prioritizes agreement between the parties through stages of consultation, negotiation, mediation, conciliation, or expert assessment. In an effort to resolve land disputes, the government through the Land Office provides an alternative non-litigation resolution, namely through mediation. Mediation is a way to resolve problems with the help of an impartial third party (mediator) which aims for the disputing parties to find a fair solution for all.

¹³Mediation is considered faster, less costly, and simpler than the court process which can be protracted. In addition, mediation provides an opportunity for both disputing parties to negotiate directly in order to reach a mutual agreement that benefits all parties. ¹⁴Mediation is seen as a means of

Dan Arbitrase," *Jurnal Ilmu Manajemen Terapan* 2, no. 6 (2021).

¹¹ Dahliani, and Hadi Tuasikal. "Penyelesaian Sengketa Perdata Melalui Non-Litigasi: Kajian Hukum dan Implementasinya di Indonesia." *Journal of Dual Legal Systems* 2, no. 1 (2025): 46–69. <https://doi.org/10.58824/jdls.v2i1.322>.

¹² Rengga Kusuma Putra, Ummi Kalsum, Johari, Rica Gusmarani, and Edy Sony, "Efektivitas Penyelesaian Sengketa Secara Non Litigasi," *Jurnal Kolaboratif Sains* 7, no. 6 (2024), <https://doi.org/10.56338/jks.v7i6.5548>.

¹³ Farchan Hamdani and R. Fahrurrozi Nur Ansori, "Praktik Pendampingan Perkara Non Litigasi Mediasi Sengketa Tanah Pada Lembaga Bantuan Hukum Ansor," *Pelayanan Unggulan: Jurnal Pengabdian Masyarakat Terapan* 2, no. 4 (2025): 176–86, <https://doi.org/10.62951/unggulan.v2i4.2405>.

¹⁴ N. N. Sucahyo, D. Isnaeni, A. Zamzami, M. U. S. Azmani, and S. Amini, "Analisis Yuridis tentang Sengketa Hak atas Tanah Perkarangan (Studi Kasus Putusan MA Nomor 256

dispute resolution that prioritizes deliberation, time efficiency, and the principle of a win-win solution for the parties. The legal basis for implementing mediation within the National Land Agency (BPN) is Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN Number 21 of 2020 concerning the Handling and Settlement of Land Cases. This regulation provides the BPN with the opportunity to pursue non-litigation dispute resolution.

However, in practice, mediation is not always effective. Various obstacles are often encountered, such as the absence of the parties, lack of good faith, and the attitude of each party who continues to maintain their claims. This means that not all disputes can be resolved through mediation, so that they ultimately have to be continued through litigation in court. One real example can be seen in the case of a land dispute that occurred in Semarang City in 2025. The problem began when a land cultivator, a resident of Gisikdrono, West Semarang, claimed that he had controlled and cultivated a 200 square meter plot of land on Jl. Candi Sewu, Bambankerep Village, Ngaliyan District, Semarang City since 1970. However, it turned out that the same land already had official Building Use Rights (HGB) certificates number 143 and 159, both of which were registered in the name of the HGB holder, a resident of Tawang Sari, West Semarang, resulting in overlapping claims to the land. Feeling aggrieved, on July 17, 2025, the land cultivator submitted a mediation request letter to the Head of the Semarang City Land Office. The Semarang City Land Office then responded by sending a clarification invitation letter I on July 30, 2025 to both parties to attend a clarification meeting held on Wednesday, August 6, 2025 at 11:00 WIB in the Mediation Room of the Semarang City Land Office. In the meeting, the parties were present accompanied by their respective attorneys. During the clarification, the parties had explained and remained adamant about maintaining the object of the dispute so that the clarification could not be followed up with the next stage of mediation. Because no agreement was reached in the initial stage of mediation, the mediation was declared complete and

closed through an official letter dated August 22, 2025, signed by the Head of the Semarang City Land Office. In the letter, both parties were invited to resolve this problem through legal channels, which means that the land cultivator must now take his case to court if he wants to defend his rights to the land.

The theories used to help solve the problems in this article are the theory of legal certainty and the theory of how law works. According to Gustav Radbruch, the theory of legal certainty has four interrelated main points that explain the meaning of legal certainty itself. First, the law must be positive, meaning that applicable law is law outlined in the form of valid legislation. In other words, legal certainty can only be achieved if the law has been officially established by an authorized institution. Second, the law must be based on reality or facts existing in society. This means that the formation of law must not be separated from actual conditions, so that the law truly reflects the needs and situation of the society it regulates. Then, third, the facts that form the basis of the law must be formulated clearly and firmly. This clarity is important to avoid errors in interpreting the law's contents and facilitate its application in the field. With a clear and unambiguous formulation, the law can be implemented consistently. Fourth, positive law must not be easily changed. This principle is necessary to maintain stability and public trust in the law. If the law changes frequently without a strong reason, legal certainty will be lost and create uncertainty in social life and the law itself.

¹⁵Furthermore, the theory of how law works, according to Robert B. Seidman and William J. Chambliss, is that law does not operate by itself, but functions through several important interrelated elements. These elements are the parties that make the law (such as the legislative body that produces the law), the institutions that enforce the law (the bureaucracy or law enforcement officers), and the actors involved in implementing the law itself. These three elements operate

¹⁵ Dino Rizka Afdhali and Taufiqurrohman Syahuri, "Idealitas Penegakan Hukum Ditinjau dari Perspektif Teori Tujuan Hukum," *Collegium Studiosum Journal* 6, no. 2 (2023): 555–61.

within the formal framework of the legal system. However, there is also the influence of non-legal factors such as personal interests, social pressure, or the power of certain groups that also influence how the law is applied in the field.

¹⁶The two theories above are interrelated and used together to answer the problem formulation in this study. Gustav Radbruch's Legal Certainty Theory is used to determine whether the mediation stages carried out by the Semarang City Land Office have clear, valid, and consistently applied rules. Meanwhile, Chambliss and Seidman's Theory of the Working of Law is used to observe how mediation actually works in the field, namely by observing the role of the Land Office as the implementer, the regulations that serve as its guidelines, and the attitudes and behavior of the disputing parties. By combining these two theories, the study can not only explain how mediation should be carried out according to applicable regulations, but can also reveal the real obstacles that occur in practice, while also looking for efforts that can be made by the Semarang City Land Office to overcome these obstacles.

Based on these problems, this research is important to conduct in order to understand the stages of mediation implementation, the obstacles encountered, and the efforts that can be made by the Semarang City Land Office in resolving land disputes. This research uses an empirical juridical research method with a qualitative approach. Empirical juridical research is a legal research method that examines the actual application of rules in society, rather than simply examining normative texts. The focus lies on observing behavior and field facts to obtain factual data. This data is then analyzed to identify gaps between applicable legal provisions and their implementation in practice.

¹⁷Furthermore, a qualitative approach is a method for

¹⁶ R. Rodiyah, "Aspek Demokrasi Pembentukan Peraturan Daerah Dalam Perspektif Socio-Legal," *Masalah-Masalah Hukum* 41, no. 1 (2012): 144–52, <https://doi.org/10.14710/mmh.41.1.2012.144-152>.

¹⁷ Bambang Waluyo, *Penelitian Hukum dalam Praktek* (Jakarta: Sinar Grafika, 2002).

understanding social phenomena and human behavior in depth and comprehensively. This approach focuses on extracting meaning through descriptive data in the form of narratives and words, rather than statistical figures. Data are obtained directly from the experiences of informants in natural conditions without manipulation, in order to provide a detailed understanding of the reality being studied. The data¹⁸ sources used consist of primary, secondary, and tertiary data. Primary data was obtained directly from the field through interviews with Mr. Nafis Dardiri, as a Junior Land Administrator in the Dispute Control and Handling Section, as well as direct review of real cases of disputes between land cultivators and HGB holders that occurred in 2025. Secondary data was obtained from legal materials in the form of laws and regulations such as Law Number 5 of 1960 (UUPA), Regulation of the Minister of ATR/BPN Number 21 of 2020, books, journals, and other related laws and regulations. Tertiary data was obtained from other reliable sources which were used to clarify certain terms or concepts in this study. In its implementation, the data was then collected through interviews, document studies, and case analysis. This process aims to ensure that each fact found can complement each other, which is then analyzed qualitatively and described systematically to answer all research problem formulations with coherent and easy-to-understand explanations.

B. Stages of Mediation Implementation in Land Dispute Settlement at the Semarang City Land Office

1. Legal Basis for Mediation

Land mediation is an alternative out-of-court dispute resolution officially regulated in Regulation of the Minister of ATR/Head of the National Land Agency Number 21 of 2020

¹⁸ Warul Walidin, Saifullah, and Tabrani, *Metodologi Penelitian Kualitatif & Grounded Theory* (Banda Aceh: FTK Ar-Raniry Press, 2015).

concerning the Handling and Settlement of Land Cases. This regulation mandates the National Land Agency (BPN) to act as a facilitator in bridging the interests of disputing parties. The existence of this regulation aims to provide legal certainty through a more efficient mechanism, while simultaneously reducing the burden of case backlogs in the judiciary. In practice, mediation prioritizes the principle of deliberation to reach a consensus, which is outlined in a peace deed. The Ministerial Regulation establishes fundamental regulations regarding procedures for handling and resolving land issues. The initial section contains general provisions defining the classification of land cases, including disputes, conflicts, and cases. Furthermore, this regulation also details the complaint mechanism, settlement stages, handling techniques, and sanctions in resolving these cases.

¹⁹This regulation provides space for the Land Office to seek non-litigation dispute resolution before cases proceed to court. In addition, mediation is also in line with the spirit of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, as well as the Supreme Court Regulation concerning Mediation in Court, even though mediation at the BPN is administrative in nature and different from mediation in court.

Based on the Regulation of the Minister of ATR/Head of BPN Number 21 of 2020 concerning the Handling and Settlement of Land Cases in Article 43, the settlement of land cases can be achieved through mediation carried out either at the initiative of the land agency (Ministry, Regional Office, or Land Office) according to its authority, or at the initiative of the disputing parties through certain individuals or institutions. Then in Article 44, mediation must be attended by the parties, but can be represented by a power of attorney with the authority to decide if there is a valid reason. The mediation process is declared failed if the parties do not appear after being properly summoned three times, while

¹⁹ Nabilla Nastiti Dewi and Herma Setiasih, "Penyelesaian Sengketa Tanah Melalui Mediasi Berdasarkan Peraturan Menteri ATR/BPN Nomor 21 Tahun 2020 (Studi Kasus Di Kantor Pertanahan Kota Surabaya)," *Jurnal Magister Ilmu Hukum 'DEKRIT'* 14, no. 1 (2024).

experts or related agencies can be presented if mutually agreed. If a settlement is reached, the results are stated in a settlement deed registered with the District Court to obtain a settlement decision that will later become a requirement for land administration at the relevant agency. However, if the mediation does not produce an agreement, the land authority will make a decision to settle the case, where the entire process is recorded in a report signed by the mediator or authorized official.

Based on the results of an interview with an informant, Mr. Nafis Dardiri, he stated that *"The legal basis that gives the Semarang City Land Office the authority to conduct mediation is the Regulation of the Minister of ATR/Head of BPN Number 21 of 2020 concerning the Handling and Settlement of Land Cases."* From this statement, it is clear that mediation at the Land Office is not an activity without a legal basis, but rather part of a

national policy to reduce the backlog of land cases in court and provide faster and cheaper access to justice for the community. In the case of an overlapping land dispute between land cultivators and HGB holders in Semarang City, this legal basis was used by the land cultivators to submit a mediation request on July 17, 2025. The Land Office then responded in accordance with the authority granted by the Regulation of the Minister of ATR/BPN No. 21 of 2020. This shows that the formal legal aspects of mediation have been fulfilled, although the final result is not always successful. If the mediation is successful, then based on Article 44 paragraph (5), the peace agreement must be registered with the District Court to obtain executory power, as also explained by the informant, Mr. Nafis Dardiri, that *"the agreement does not have executory power and can still be sued again if it is not registered."*

2. Mediation Stages

The mediation process at the Semarang City Land Office is guided by Minister of ATR/BPN Regulation No. 21 of 2020. If a dispute cannot be resolved through mediation, it will proceed to litigation. The following are the mediation stages:

1) Submission of Mediation Request

The aggrieved party (the complainant) submits a mediation request to the service counter at the Semarang City Land Office. The request must be accompanied by the identities of the parties, a letter of application containing the chronology of the dispute and the disputing parties, and accompanied by proof of land ownership or control. In this case, the land cultivator (a resident of Gisikdrone, West Semarang) feels disadvantaged because the land he has cultivated since 1970, measuring 200 square meters on Jl. Candi Sewu, Bambankerep Village, Ngaliyan District, Semarang City, apparently already has HGB certificates number 143 and 159 in the name of the HGB holder (a resident of Tawang Sari, West Semarang). On July 17, 2025, the land cultivator submitted an official mediation request letter to the Semarang City Land Office (via the counter or E-Form). The request is accompanied by his identity, chronology of the dispute, and proof of physical control since 1970.

2) Examining the Case

The Semarang City Land Office will review the submitted dispute. The office will then collect data related to the land dispute, then conduct an inventory and study it. If necessary, the office will conduct field visits and visit the area surrounding the disputed property to gather additional data.

In this case of an overlapping land dispute between a land user and a HGB holder in Semarang City, after receiving the application, the Semarang City Land Office conducted a case review. They collected data from the application files, examined HGB certificates numbered 143 and 159 belonging to the HGB holder, and studied the claim of physical control of the land user. Because further verification is required, Land Office officers may also visit the location on Jl. Candi Sewu, Bambankerep Village, to match field data with existing documents. This review

process is carried out so that the Land Office has sufficient understanding before proceeding to the clarification stage.

3) Clarification

After reviewing the case and deeming sufficient data, the parties are summoned for clarification. The Land Office issues a clarification invitation letter to both parties to discuss the land dispute. During the clarification meeting, the mediator listens to each party's explanations, compares the facts, and assesses whether it is possible to proceed to actual mediation.

In this case of an overlapping land dispute between a land cultivator and a HGB holder in Semarang City, the Land Office sent a clarification letter I on July 30, 2025, to both parties to attend a clarification meeting held on Wednesday, August 6, 2025, at 11:00 a.m. WIB in the Mediation Room of the Semarang City Land Office. On that date, the parties attended accompanied by their respective attorneys. During the clarification meeting, the mediator invited both parties to explain the facts of the case and present evidence. However, the parties remained adamant about maintaining the disputed object without any willingness to compromise. As a result, the clarification could not be followed up to the next stage of mediation. The mediation process was halted at this stage.

4) Mediation Meeting

Once the clarification is complete and deemed appropriate, the Land Office will issue a mediation summons to the parties with a mediation invitation letter. A mediation meeting will then be held, facilitated by an internal Land Office mediator. During this meeting, the mediator assists the parties in negotiating, exploring settlement options, and formulating an agreement. In this case of an overlapping land dispute between a land cultivator and a HGB holder in Semarang City, because the

parties no longer had any good faith to compromise at the clarification stage, the process did not reach the mediation meeting stage. The Semarang City Land Office did not proceed with the mediation summons because it was certain it would not produce results. Therefore, this stage was not implemented in this case.

5) Mediation Results

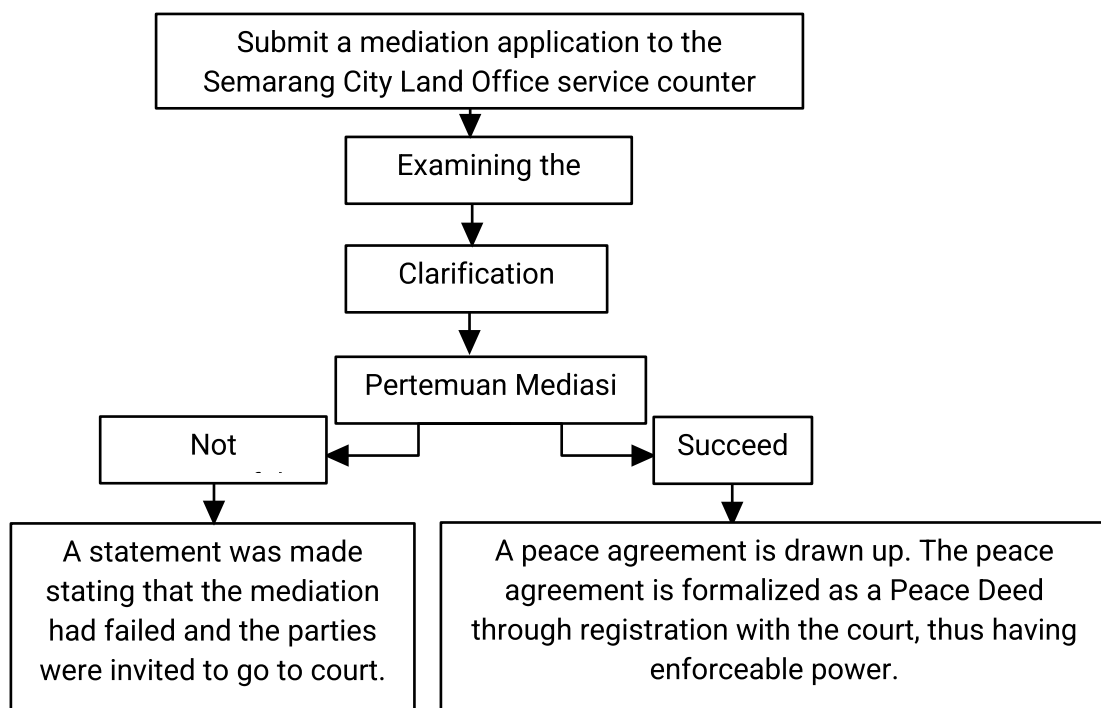
After the mediation meeting is completed, the mediation is declared complete and closed. If the mediation fails, that is, there is no agreement, then a statement will be made stating that the mediation failed and the parties are invited to go to court. If the mediation is successful, a written peace agreement will be drawn up and signed by the parties and the mediator. This final and binding agreement can be confirmed as a Peace Deed (*Acta Van Dading*) by the judge when registered with the court, so that it has the same executorial power as a court decision with permanent legal force (*inkracht*) based on Article 44 paragraph (5) of the ATR/BPN Regulation No. 21 of 2020.

In this case of an overlapping land dispute between a land cultivator and a HGB holder in Semarang City, mediation did not reach the mediation meeting stage because the process stalled at the clarification stage and could not be continued. The Semarang City Land Office finally officially closed the mediation process. On August 22, 2025, the Head of the Semarang City Land Office signed an official letter stating that the mediation was complete and closed. In the letter, both parties were invited to resolve the problem through legal channels (court). Due to the failure of mediation, the land cultivator must take his case to court if he wants to defend his rights.

As explained directly by the informant, Mr. Nafis Dardiri, *"the parties submit a mediation request to the BPN, then the*

BPJN submits a clarification, then brings together the complainant and the complainant to carry out mediation, if the mediation is successful, then there will be a peace agreement, and if it is unsuccessful, then a statement will be made stating that the mediation failed." Then, the following is a diagram of the mediation stages at the Semarang City Land Office:

Chart 1. Stages of Mediation at the Semarang City Land Office



Source: *Researcher Analysis, 2026*

3. Final Results of Mediation and Duration of Mediation Implementation

Mediation at the Land Office has several advantages for the disputing parties. The mediation period is relatively short, between 1 and 3 months, much faster than court proceedings, which can take years. The outcome of the mediation can be a binding settlement agreement if both parties reach an agreement, or a certificate of mediation failure if no agreement is reached. Mr. Nafis Dardiri explained that *"if the mediation is successful, a settlement agreement will be issued; if it is unsuccessful, a certificate of mediation failure*

will be issued," and the implementation period *"continues for 1 to 3 months ."* In the case of an overlapping land dispute between land cultivators and HGB holders in Semarang City, the mediation process took place over a period of approximately one month, starting from the submission of the application on July 17, 2025, then a clarification meeting on August 6, 2025, until it was finally declared a failure and closed with an official letter on August 22, 2025. Unfortunately, in this case the mediation did not succeed in reaching a peace agreement because both parties continued to insist on maintaining their respective rights. As a result, the Semarang City Land Office declared the mediation a failure and both parties were invited to resolve the problem through legal channels. This shows that although the mediation procedure has been carried out well and in an efficient timeframe and without costs, the success of the mediation is very dependent on the good faith of the parties.

4. The Role of the Mediator and the Cost of Mediation

The mediator in the land mediation process at the Land Office is an internal employee of the Semarang City Land Office , specifically from the dispute control and handling section. The advantage of appointing an internal mediator is that there are no costs to the disputing parties. The mediator's role is to guide the discussion so that all parties involved can reach a satisfactory and mutually agreeable solution.²⁰ The mediator also acts as a neutral facilitator, helping the parties communicate, identify their respective interests, and formulate resolution options. The mediator has no authority to decide who is right or wrong, but only to assist the parties in reaching their own agreement. Mr. Nafis Dardiri stated that the mediator is *"a BPN employee assigned to the dispute control and handling section,"* and that the implementation costs are *"free of charge."*

²⁰ Alfia Ratu Rahman, Baso Madiung, and Andi Tira, "Efektivitas Penerapan Mediasi dalam Penyelesaian Sengketa Tanah di Pengadilan Negeri Makassar," *Indonesian Journal of Legality of Law* 7, no. 2 (2025): 141–47, <https://doi.org/10.35965/ijlf.v7i2.6120>.

In this case of an overlapping land dispute between a land cultivator and a HGB holder in Semarang City, the mediator was an employee from the Semarang City Land Office from the relevant section. In a clarification meeting on August 6, 2025, the mediator attempted to facilitate dialogue between the land cultivator and the HGB holder. The mediator provided equal space for both parties to clarify and provide explanations. However, because the mediator lacked coercive authority, and both parties insisted on their respective claims, the mediation process ultimately failed. However, no fees were charged to either the land cultivator or the HGB holder for the mediation process. This demonstrates that mediation remains an economical option, even though its success rate has not been optimal.

C. Obstacles Faced by the Semarang City Land Office in Resolving Land Disputes through Mediation and Efforts Made to Overcome Them

1. *Obstacles in the Implementation of Mediation*

Based on interviews with informants, the Semarang City Land Office faces three main obstacles: the parties do not want to be mediated from the start, one party never appears when invited, and both parties remain adamant about upholding their respective rights without any willingness to compromise. Mr. Nafis Dardiri stated that *"The parties do not want to be mediated, one party never appears when invited for mediation, and both parties remain adamant about upholding their respective rights."* Then, the parties' bad faith and institutional limitations are also among the obstacles.²¹ In the case of overlapping land disputes between land cultivators and HGB holders in Semarang City, several of these obstacles emerged clearly, namely:

²¹ M. Rizqi, "Penyelesaian Sengketa Tanah Melalui Mediasi di Kantor Pertanahan Kabupaten Indragiri Hilir," *Jurnal Hukum Lex Generalis* 6, no. 9 (2025), <https://doi.org/10.56370/jhlg.v6i9.1833>.

1) Rejection of Mediation from the Start

The reluctance of one or both parties to participate in the mediation process from the outset is one of the obstacles. This obstacle usually arises because one party feels they have a stronger legal position, for example because they hold an official certificate, so they are reluctant to sit down with their opponent in a mediation forum. The party who feels stronger tends to view mediation as a waste of time and prefers to proceed directly to litigation in court. As stated by Mr. Nafis Dardiri, *"the parties do not want to be mediated"* is one obstacle because without the willingness of both parties, the mediation process cannot begin at all. In the case of an overlapping land dispute between a land cultivator and a HGB holder in Semarang City, although the land cultivator submitted a mediation request, the HGB holder was initially willing to attend, but their unwillingness to compromise was evident from the outset because each party already held a position that was difficult to soften.

2) Absence of One of the Parties

Even if the party has previously expressed their willingness verbally or in writing, when the scheduled meeting arrives, they may fail to attend without a clear reason. This absence can be caused by various factors, such as fear, ignorance of the importance of mediation, or even deliberate attempts to hinder the process. Mr. Nafis Dardiri stated that *"one party never shows up when invited to mediation"* is a serious obstacle because mediation requires the simultaneous presence of both parties for negotiations to proceed. In the case of the overlapping land dispute between the land cultivator and the HGB holder in Semarang City, this obstacle was not too significant because both parties were present at the clarification meeting on August 6, 2025. However, if one party fails to show up, the mediation process will inevitably stall and the Semarang City

Land Office cannot enforce attendance.

3) Lack of Willingness to Compromise

Another obstacle arises when both parties to the dispute attend the mediation meeting but insist on maintaining their respective rights without showing any willingness to compromise or seek a joint solution. This obstacle reflects a lack of good faith on the part of the parties. They come only to present arguments and evidence, not to negotiate. Mr. Nafis Dardiri stated that *"both parties remain adamant about upholding their respective rights"* as the cause of the mediation failure at the Semarang City Land Office. In this case of an overlapping land dispute between a land cultivator and a HGB holder in Semarang City, the cultivator maintains his rights based on physical possession since 1970, while the HGB holder adheres to official certificates numbered 143 and 159. Because no common ground can be reached, the clarification cannot proceed to the next stage of the mediation process and the process is declared a failure.

2. Efforts that can be made by the Semarang City Land Office

As stated by informant Mr. Nafis Dardiri, the main obstacles in implementing the mediation process at the Semarang City Land Office are that *"the parties do not want to be mediated, one party never appears when invited to mediation, and both parties remain adamant about upholding their respective rights."* Furthermore, low public awareness of the benefits of mediation and a lack of good faith from the disputing parties are also major obstacles to the success of the mediation process. To overcome these obstacles, the Semarang City Land Office needs to undertake a series of planned and systematic efforts. In the case of an overlapping land dispute between land cultivators and HGB holders in Semarang City, these obstacles emerged. Both parties insisted on defending the disputed object and showed no good faith in compromising, resulting in the mediation failing

at the clarification stage. To overcome these obstacles, the Semarang City Land Office needs to undertake a series of planned and systematic efforts. These efforts are essentially aimed at fostering good faith between the parties, expediting the mediation process, and providing legal certainty for the disputing parties. Efforts that can be taken include:

1) Socialization

Intensive public awareness campaigns are needed to raise awareness about the benefits of mediation as a fast, free, and effective dispute resolution mechanism that can maintain good relations between parties. Obstacles such as the absence of one of the parties and a lack of public awareness of the benefits of mediation as an alternative dispute resolution method need to be addressed through increased public awareness campaigns about the mechanisms and benefits of mediation.²² For example, the Semarang City Land Office conducts consistent and intensive outreach campaigns to raise public awareness, a crucial strategy for strengthening mediation's role in resolving land disputes. Without adequate understanding, the public tends to view litigation as the sole resolution route, even though the Land Office has provided a legal framework for non-litigation options such as mediation.²³

This outreach needs to address not only the stages of the mediation process but also emphasize the importance of formal land registration early. If the

²² Nisa Fatnia, Marlia Sastro, and Arif Rahman, "Efektivitas Peraturan Menteri Agraria Kepala Badan Pertanahan Nomor 21 Tahun 2020 dalam Penyelesaian Sengketa Tanah Melalui Mediasi (Studi Penelitian di Badan Pertanahan Nasional Kota Lhokseumawe)," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 8, no. 2 (2025): 619–37, <https://doi.org/10.29103/jimfh.v8i2.21605>.

²³ Hasudungan Sinaga, "Peran Mediasi dalam Kerangka Pengembangan Hukum di Indonesia," *J-CEKI: Jurnal Cendekia Ilmiah* 3, no. 4 (2024): 1727–36.

public understands this early, disputes like the one that occurred in the case of overlapping land disputes between land cultivators and HGB holders in Semarang City could potentially be prevented. Land cultivators who have controlled the land since 1970 should have been able to register their land long before the HGB holder obtained a certificate for the same land. This lack of understanding of legal procedures ultimately renders decades-old physical possession insufficiently legally binding to defend through mediation, especially when faced with valid certificate evidence.

2) Strengthening the Role of Mediators

Strengthening the quality and capacity of mediators is a crucial requirement. Mediators act as facilitators, upholding the principles of neutrality, deliberation, and fairness. However, the success of mediation depends heavily on the parties' willingness to reconcile.²⁴ This demonstrates that while mediators carry out their duties, the final outcome is not entirely in their hands. Because they act solely as intermediaries (facilitators), mediators are not authorized to force or make final decisions on the issues facing the parties.²⁵ However, despite this, mediators at the Land Office must possess good capacity and quality. Mediation failure is not only caused by the parties' absence, lack of good faith, and disagreement over the proposed solutions, but also by internal factors related to the mediators themselves.²⁶ If a mediator has poor capacity and

²⁴ Cindy Aprillia and Suhadi, "Peran Kantor Pertanahan Kota Semarang dalam Mediasi Sengketa Pertanahan Melalui Upaya Non-Litigasi," in *Book Chapter Hukum dan Lingkungan Jilid 1* (2025), 322–46.

²⁵ Puspitasari Gustami and Devi Siti Hamzah Marpaung, "Perbandingan Proses Penyelesaian Sengketa Melalui Mediasi di Pengadilan dan di Luar Pengadilan di Indonesia," *Rewang Rencang: Jurnal Hukum Lex Generalis* 5, no. 4 (2024).

²⁶ Dian Dewi Khasanah, Nur Rahmanto, and Dwi Wulan Titik Andari,

quality, it will be difficult to accurately map the case, let alone explore the deeper interests of the parties, who generally have strong emotional and economic ties to the disputed object. Furthermore, less skilled mediators also tend to be passive, acting only as recorders without being able to offer creative and constructive resolution options. Ultimately, this causes the parties, even those with good intentions from the start, to lose trust in the Land Office as a facilitator for dispute resolution. Therefore, improving the capacity and quality of mediators must focus on certified training that combines technical skills with psychological aspects and an understanding of agrarian law. Each land office should have certified mediators, considering that land disputes can be resolved initially through the mediation process at the land office, in accordance with Minister of ATR/BPN Regulation Number 21 of 2020. This is to strengthen capacity, quality, and maintain neutrality in dispute resolution.

In this case of an overlapping land dispute between land cultivators and HGB holders in Semarang City, the mediation was carried out by a mediator from within the Semarang City Land Office . As explained by the informant, Mr. Nafis Dardiri, as a Junior Land Administrator in the Dispute Control and Handling Section, the mediator assigned to the mediation process at the Semarang City Land Office was "a mediator from the BPN employee assigned to the dispute control and handling section." The internal mediator has carried out his duties as a facilitator quite well, in accordance with the principle that a mediator is a neutral third party who does not have the authority to decide and is tasked with encouraging the parties to reach an agreement. In a clarification meeting on August 6, 2025, the mediator attempted to

"Problematika Mediasi Dalam Menyelesaikan Sengketa Pertanahan di Kantor Pertanahan Kabupaten Badung," *Risalah Hukum* 21, no. 2 (2025): 71–84.

facilitate dialogue between the land cultivators and HGB holders. However, the failure of mediation in this case was not due to the mediator's incompetence, but rather because the parties continued to insist on maintaining their respective rights to the disputed object without demonstrating good faith.

3) Evaluation

Conducting regular evaluations of each failed mediation case is a strategic step that should not be overlooked in efforts to improve the land dispute resolution system through mediation at the Semarang City Land Office. Without structured and routine evaluations, the same failures will continue to recur without any meaningful learning for the institution. As explained by informant Mr. Nafis Dardiri, *"since 2022, the majority of mediation processes conducted by the Semarang City Land Office have been unsuccessful or have failed to reach a consensus."*

Mediation is a highly beneficial dispute resolution method for all parties. Compared to the District Court, mediation is considered more efficient due to its faster process, lower costs, and greater confidentiality. The friendly atmosphere of mediation allows both parties to flexibly reach mutually beneficial agreements, thus maintaining good relations between the parties. This is certainly different from District Court decisions, which are coercive and often lead to long-term strained relationships. However, according to Mr. Nafis, an informant, many mediation processes have failed since 2022. Therefore, a comprehensive evaluation is needed to identify the factors causing these failures. This will ensure that the mediation process at the Semarang City Land Office runs more optimally and eliminates the need for disputing parties to resort to litigation in the District Court.

One of the failures in resolving land disputes through mediation at the Semarang City Land Office was the case of a land dispute involving cultivated

land versus HGB (right to build) that occurred in 2025, when the parties persisted in maintaining their rights to the disputed object without compromise. This could be valuable evaluation material. Through regular evaluations, the Semarang City Land Office can identify dominant patterns of obstacles, such as which types of disputes most frequently fail, which factors most often cause parties to default or persist, and whether the procedures implemented are appropriate or actually become obstacles in themselves. Increasing the effectiveness of mediation requires systemic improvements, both in human resources and especially the Land Office's approach to dispute resolution.²⁷ Evaluation is an important instrument for developing more appropriate strategies in implementing the mediation process for land dispute cases.

3. *Legal Consequences of Mediation*

Mediation at the Semarang City Land Office can result in two possibilities: success (an agreement is reached) or failure (no agreement). Both have different legal consequences. If mediation is successful, a written peace agreement is drawn up and signed by the parties and the mediator.²⁸ This final and binding agreement can be confirmed as a Peace Deed (*Acta Van Dading*) by a judge when registered with the court, thus having the same enforceable power as a final court decision (*inkracht*). A peace deed is a form of peace agreement that already has enforceable power to resolve disputes. With this deed, the parties choose a mutually agreed upon middle ground rather

²⁷ Rizaldi Gym Nastiar and Dian Latifiani, "Ketidakefektifan Mediasi Dalam Penyelesaian Konflik Sengketa Tanah (Overlapping) Studi Kasus Badan Pertanahan Kota Semarang," in *Book Chapter Hukum dan Lingkungan Jilid 1* (2025), 1573–94.

²⁸ Christina Simanullang and Anik Iftitah, "Mediasi Dalam Penyelesaian Sengketa Perdata di Pengadilan Negeri Kelas I B Blitar," *Supremasi: Jurnal Hukum* 7, no. 2 (2017), <https://doi.org/10.35457/supremasi.v7i2.379>.

than having to deal with the green court to resolve their problems.²⁹

This peace agreement contains voluntary agreements between the parties, for example regarding the distribution of rights and compensation. However, a peace agreement signed only before the Land Office does not have executory power. Based on Article 44 paragraph (5) of the Minister of ATR/BPN Regulation Number 21 of 2020, the peace agreement must be registered with the District Court to become a peace deed in order to obtain binding legal force and enforceable implementation (execution).

If not registered, a peace agreement is merely moral, cannot be enforced, and can still be challenged by either party. If mediation fails, the Land Office will issue a certificate of mediation failure.³⁰ The legal consequence is that there is no peace deed, thus no legal binding between the parties. Each party returns to its original position and is free to pursue litigation in court. As explained directly by the informant, Mr. Nafis Dardiri, *"The peace agreement has no enforceable power and can still be challenged if it is not registered with the court."* This statement applies to both unregistered agreements and failed mediation situations. In this case of an overlapping land dispute between a land cultivator and a HGB holder in Semarang City, mediation failed at the clarification stage because the parties insisted on maintaining the disputed object. No peace deed was produced. As a legal consequence, dated August 22, 2025, the Semarang City Land Office issued a letter stating that the mediation had failed and inviting the parties to go to court. The land cultivator must file a lawsuit with the District Court if they wish to defend their rights. On the other hand, if mediation is successful, the legal consequence is that the parties will sign a peace agreement,

²⁹ Devi Christina Octaviani Tamba and July Esther, "Legitime Portie dan Akta Perdamiaan: Analisis Peran dan Konsekuensinya dalam Pembagian Waris," *Jurnal Review Pendidikan dan Pengajaran (JRPP)* 7, no. 4 (2024): 17021–27.

³⁰ Nafis Dardiri (Penata Pertanahan Muda / Staf Pengendalian dan Penanganan Sengketa pada Kantor Pertanahan Kota Semarang), wawancara oleh penulis, Semarang, 12 Maret 2026.

and the peace agreement must be registered with the District Court to become a peace deed that has executory power and if it is not registered, the peace agreement cannot be enforced and can still be sued.

D. Conclusion

The implementation of mediation in resolving land disputes at the Semarang City Land Office has a clear legal basis, namely the Regulation of the Minister of ATR/Head of BPN Number 21 of 2020, and is carried out through structured stages, including submitting an application, reviewing the case, clarifying it, holding a mediation meeting, and determining the mediation results. In the case of an overlapping dispute between land cultivators and HGB holders in Semarang City in 2025, all formal procedures were carried out properly by the Land Office, starting from the receipt of the application on July 17, 2025, to the official closing on August 22, 2025, without any fees. However, the mediation failed at the clarification stage because both parties insisted on maintaining their respective claims without any intention of compromising, so that no peace deed was produced and the parties were allowed to resolve the case through the courts.

Obstacles faced by the Semarang City Land Office in implementing mediation include initial rejection of mediation, the absence of one of the parties, and the lack of willingness to compromise from the disputing parties. To overcome these obstacles, systematic efforts are needed in the form of intensive public outreach regarding the benefits of mediation and the importance of early land registration, strengthening the capacity of mediators through certified training covering technical, psychological, and agrarian law aspects, and regular evaluation of failed mediation cases to identify patterns of obstacles and improve future handling strategies. Overall, the success of mediation is not solely determined by the perfection of legal procedures, but is highly dependent on the good faith of the parties, so synergy is needed between institutional improvements and increasing public legal awareness.

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Acknowledgment

None

Funding Information

None

Conflicting Interest Statement

The authors state that there is no conflict of interest in the publication of this article.

Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.

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