

# Analysis of the Effectiveness of Mediation by BPN in Land Dispute Resolution (Study in Klaten Regency)

## *Analisis Efektivitas Mediasi oleh BPN dalam Penyelesaian Sengketa Pertanahan (Studi di Kabupaten Klaten)*

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## Abstract

Land is one of the natural resources that has a crucial role in supporting human survival. Human dependence on land is very high, both as residential land and as a source of livelihood. This article discusses the effectiveness of mediation conducted by the Klaten Regency National Land Agency (BPN) in resolving land disputes in the 2023-2024 period. This research uses an empirical juridical qualitative approach with primary data obtained through interviews with local BPN officials, as well as secondary data from legal literature and related regulations. The results show that the effectiveness of mediation conducted by the BPN is still low, with only 25% of cases successfully resolved. Factors causing mediation failure include the absence of the parties, egoism that inhibits compromise, and lack of



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legal understanding. The findings suggest that further efforts are needed to strengthen legal understanding, raise public awareness of the importance of peaceful resolution, and encourage active commitment from all parties involved in the dispute.

**KEYWORDS** *Effectiveness, Mediation, BPN, Land Dispute*

Tanah merupakan salah satu sumber daya alam yang memiliki peran krusial dalam menunjang keberlangsungan hidup manusia. Ketergantungan manusia terhadap tanah sangat tinggi, baik sebagai lahan permukiman maupun sebagai sumber mata pencaharian. Artikel ini membahas efektivitas mediasi yang dilakukan oleh Badan Pertanahan Nasional (BPN) Kabupaten Klaten dalam menyelesaikan sengketa pertanahan pada periode 2023–2024. Penelitian ini menggunakan pendekatan kualitatif yuridis empiris dengan data primer diperoleh melalui wawancara dengan pejabat BPN setempat, serta data sekunder dari literatur hukum dan regulasi terkait. Hasil penelitian menunjukkan bahwa efektivitas mediasi yang dilakukan oleh BPN masih rendah, dengan hanya 25% kasus yang berhasil diselesaikan. Faktor-faktor penyebab kegagalan mediasi antara lain ketidakhadiran para pihak, egoisme yang menghambat kompromi, dan kurangnya pemahaman hukum. Temuan ini menunjukkan perlunya upaya lebih lanjut dalam memperkuat pemahaman hukum, meningkatkan kesadaran masyarakat akan pentingnya penyelesaian damai, serta mendorong komitmen aktif semua pihak yang terlibat dalam sengketa.

**KATA KUNCI** *Efektivitas, Mediasi, BPN, Sengketa Pertanahan*

## Introduction

Land is one of the natural resources that has a crucial role in supporting human survival.<sup>1</sup> The relationship between humans and land is not limited to the function of land as a place to live, but land also provides various resources that are essential for human life. For the Indonesian people, the position of land is stated in Article 1 paragraph (2) of the UUPA which states:<sup>2</sup>

“All of the earth, water and airspace, including the natural resources contained therein within the territory of the Republic of Indonesia, as a gift of God Almighty, are the earth, water and airspace of the Indonesian nation and constitute national wealth.”

The relationship between the Indonesian people and land is permanent and inseparable, so its management needs to be done wisely, both for present needs and to ensure sustainability in the future.<sup>3</sup> Human dependence on land is very high, both as land for settlement and as a source of livelihood. However, the availability of land is very limited, both in terms of quantity and area, which is relatively fixed and cannot increase along with the increasing human needs in various aspects of life. The imbalance between the availability of land and the increasing need for its use makes land of high strategic value. Therefore, the involvement of the state through its apparatus in the regulation and management of land law is an unavoidable necessity.<sup>4</sup>

The limited availability of land and the high dependence of humans on land often trigger land disputes.<sup>5</sup> Land disputes are

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<sup>1</sup> Arief Ramadhan et al., “Analisis Dinamika Keadilan Lingkungan Dan Pengelolaan Sumber Daya Alam: Studi Kasus Pencapaian Hak Tanah Masyarakat Desa Wadas Terhadap Rencana Pembangunan Bendungan Bener,” *Jurnal Hukum, Politik Dan Ilmu Sosial (Jhpis)* 3, no. 2 (2024): 331–51, <https://doi.org/10.55606/jhpis.v3i2.3825>.

<sup>2</sup> Undang-Undang (UU) Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.

<sup>3</sup> Ashadi, Ma'ruf Hafidz, and Sufirman Rahman, “Efektivitas Penyelesaian Sengketa Pertanahan Melalui Mediasi Pada Kantor Pertanahan Kota Makassar,” *Journal of Lex Generalis (JLS)* 2, no. 9 (2021): 2590–2602.

<sup>4</sup> Thalib Hambali, *Sanksi Pemidanaan Dalam Konflik Pertanahan* (Jakarta: Kencana Prenada Media, 2009).

<sup>5</sup> Slamet Yusuf Hasan, Weny Almoravid Dunga, and Suwitno Yutye Imran, “Penyebab Timbulnya Sengketa Tanah,” *JCS: Journal of Comprehensive*

disputes that arise due to conflicts of interest over land. There is a need for improvement in the field of land arrangement and use for the welfare of society and especially in legal certainty in it.<sup>6</sup> Meanwhile, according to the Regulation of the Minister of Agrarian and Spatial Planning/Head of BPN Number 21 of 2020 concerning Handling and Settlement of Land Cases, Article 1 Paragraph (2), land disputes are defined as disputes related to land between individuals, legal entities, or institutions that do not have a broad impact.<sup>7</sup>

Settlement of land disputes can be done through two mechanisms, namely litigation (through court proceedings) and non-litigation (out of court). Non-litigation settlement is a method of conflict or dispute resolution that is carried out outside the judicial system, using alternative dispute resolution (ADR) and arbitration.<sup>8</sup> This method includes steps such as negotiation, mediation, consultation, conciliation, or assessment by experts. In general, court settlement is the last resort if the family and peaceful approach does not produce a solution.

Dispute resolution through litigation often creates a burden for the parties due to the time-consuming process, high costs, and complicated procedures.<sup>9</sup> Many people still choose non-litigation settlement because the process is relatively fast, lower costs, simple, and produces a decision based on mutual agreement that emphasizes the principle of win-win solution. In

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*Science* 2, no. 6 (2023): 1521–31.

<sup>6</sup> Putu Diva Sukmawati, "Hukum Agraria Dalam Penyelesaian Sengketa Tanah Di Indonesia," *Jurnal Ilmu Hukum Sui Generis* 2, no. 2 (2022): 89–95, <https://doi.org/https://doi.org/10.23887/jih.v2i2.1015>.

<sup>7</sup> Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 21 Tahun 2020 tentang Penanganan dan Penyelesaian Kasus Pertanahan.

<sup>8</sup> Firda Adita Nurul Ihsani and Grahadi Purna Putra, "Praktik Mediasi Sebagai Alternatif Penyelesaian Sengketa Batas Di Kantor Pertanahan Kota Kediri," *Birokrasi: Jurnal Ilmu Hukum Dan Tata Negara* 2, no. 4 (2024): 252–262, <https://doi.org/https://doi.org/10.55606/birokrasi.v2i4.1651>.

<sup>9</sup> Dahliani and Hadi Tuasika, "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/https://doi.org/10.58824/jdls.v2i1.322>.

order to realize the principle of fast, cheap, and simple dispute resolution, as well as ensuring legal certainty and justice, the existence of peace institutions in the form of mediation is an alternative solution that can be used.<sup>10</sup>

The National Land Agency (BPN) as an institution responsible for land administration has an important role in resolving land disputes. Based on Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), BPN has the authority to register land and resolve land issues. In addition, Regulation of the Minister of ATR/BPN Number 21 of 2020 further clarifies the role of the BPN as a mediator to lead discussions, maintain laws and regulations, encourage parties to convey problems and interests openly, help parties reach common ground, and help parties understand each other's views.

Although various regulations have been issued, the settlement of land disputes through mediation in Klaten District still often fails. This was found in the failure of mediation between the two disputing parties in a land dispute with SHM numbers 487 and 781 in Sobayan Village, Pedan District, Klaten Regency. Although mediation had been conducted three times in 2023, the two disputing parties did not find a bright spot in the mediation. The failure of the mediation resulted in the ongoing case being submitted to the Klaten District Court with case number 109/Pdt.G/2024/PN.Kln.

Based on the explanation above, the problems that can be taken for this research: (1) To what extent is the effectiveness of mediation conducted by BPN in resolving land disputes in Klaten District? and (2) What are the factors that cause the failure of mediation by BPN in resolving land disputes in Klaten District?

This research has similar topics with several other studies, but there are differences in the object of discussion. The research related to the research topic that the author examines, among others: First, research conducted by Hasnan Hasbi,

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<sup>10</sup> Nur Ilmi Khatirah Juhaini and Shinta Andriyani, "Penyelesaian Sengketa Pertanahan Secara Non Litigasi Di Kantor Pertanahan Kabupaten Lombok Timur," *Jurnal Private Law Fakultas Hukum Universitas Mataram* 4, no. 3 (2024): 898–904.

entitled “Alternatif Penyelesaian Sengketa Pertanahan Melalui Proses Mediasi di Badan Pertanahan Kota Makassar”. This research concludes that the mediation process carried out by BPN is appropriate and appropriate according to the applicable laws and regulations. Alternative land dispute resolution through mediation can minimize the accumulation of disputes and this mediation process is more of a family principle. Although on the one hand, there is still a lack of supporting attributes for the mediation process to run effectively, namely the absence of props or banners in each BPN office as a form of education to the public.<sup>11</sup>

Second, research conducted by Juwita Tarochi B. Boboy, Budi Santoso, and Irawati on land dispute resolution through mediation, referring to the theory of Dean G. Pruitt and Jeffrey Z. Rubin, concluded that mediation is an effective way to resolve land disputes because it is considered easy, fast, cheap, and prioritizes deliberation to reach an agreement. Disputes, according to this theory, arise due to differences in interests or beliefs, and mediation is seen as a solution that benefits both parties because it involves a neutral third party to facilitate negotiations and reach a mutually acceptable agreement.<sup>12</sup>

Third, research conducted under the title “Efektivitas Penyelesaian Sengketa Pertanahan Melalui Jalur Mediasi Tahun 2019-2021” concluded that the effectiveness of land dispute resolution through mediation in 2019-2021 by BPN Karanganyar Regency which can be said to be quite effective, as well as alternatives to minimize obstacles that arise during the dispute resolution process through mediation in the form of online mediation or virtual-based mediation.<sup>13</sup>

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<sup>11</sup> Hasnan Hasbi, “Alternatif Penyelesaian Sengketa Pertanahan Melalui Proses Mediasi Di Badan Pertanahan Kota Makassar,” *Pleno Jure* 9, no. 1 (2020): 36–46, <https://doi.org/10.37541/plenojure.v9i1.299>.

<sup>12</sup> Juwita Tarochi Boboy Boboy, Budi Santoso, and Irawati Irawati, “Penyelesaian Sengketa Pertanahan Melalui Mediasi Berdasarkan Teori Dean G.Pruitt Dan Jeffrey Z.Rubin,” *Notarius* 13, no. 2 (2020): 803–18, <https://doi.org/10.14710/nts.v13i2.31168>.

<sup>13</sup> Afia Khoirruni'mah, Asri Agustiwi, and Ashinta Sekar Bidari, “Efektivitas Penyelesaian Sengketa Pertanahan Melalui Jalur Mediasi Tahun 2019–2021,” *Syntax Literature: Jurnal Ilmiah Indonesia* 7, no. 5 (2022): 5709–5718.



Fourth, research conducted by Nabilla Nastiti Dewi and Herma Setiasih in 2024 with the title “Penyelesaian Sengketa Tanah Melalui Mediasi Berdasarkan Peraturan Menteri ATR/BPN Nomor 21 Tahun 2020 (Studi Kasus Di Kantor Pertanahan Kota Surabaya)” which concluded that the core process of handling land disputes by the Surabaya City Land Office 1 was in accordance with applicable regulations, but it was difficult to achieve a win-win solution due to the increasing land value and the ego of each party involved.<sup>14</sup>

Fifth, research conducted by Devi Yuandhita Prameswari and Rizka entitled “Efektivitas Badan Pertanahan Nasional sebagai Mediator Sengketa Tanah di Surakarta”, concluded that the implementation of mediation in BPN Surakarta has not been effective, which can be seen from the fact that there are still cases and disputes that have not been resolved through the mediation mechanism. Factors that influence the effectiveness of mediation include legal substance, legal structure, culture and level of public legal awareness, as well as the availability of facilities and infrastructure.<sup>15</sup>

This research is expected to contribute to the development of legal science, especially agrarian law and alternative dispute resolution, by providing a comprehensive study of the effectiveness of the mediation mechanism implemented by BPN.

The paper entitled “Analisis Efektivitas Mediasi oleh BPN dalam Penyelesaian Sengketa Pertanahan (Studi di Kabupaten Klaten)” is very relevant to the writing of a book on agrarian law, especially because it discusses non-litigation dispute resolution in the land sector. That way, a practical and contextually oriented agrarian book can enrich perspectives and real cases in the field.

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<sup>14</sup> 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),” *DEKRIT (Jurnal Magister Ilmu Hukum)* 14, no. 1 (2024): 67–86, <https://doi.org/https://doi.org/10.55499/dekrit.v14n1.256>.

<sup>15</sup> Devi Yuandhita Prameswari and Rizka, “Efektivitas Badan Pertanahan Nasional Sebagai Mediator Sengketa Tanah Di Surakarta.” (Universitas Muhammadiyah Surakarta, 2025).

## Method

The research method used in this study is qualitative with an empirical juridical approach. According to David Williams, quoted in Moleong's book, qualitative research is a method of collecting data in natural fields, using natural methods and conducted by naturally interested researchers. Qualitative research emphasizes an in-depth understanding of the phenomena that occur in a particular social context.<sup>16</sup>

Empirical juridical research, also known as sociological legal research or field research, aims to examine the applicable legal provisions and their implementation in community life. In other words, this research is conducted based on real conditions that occur in society to obtain and identify the facts and data needed.<sup>17</sup>

Primary data in this research is in the form of data from interviews with research informants, namely the Head of the Section of Control and Handling of Disputes and the First Land Registrar of Klaten Regency BPN. Meanwhile, secondary data in this research was obtained through literature studies in the form of books, journal articles, relevant scientific works, and laws and regulations such as Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (ATR/BPN) Number 11 of 2016, Regulation of the Minister of Agrarian Affairs, and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases.

## Result & Discussion

### A. Effectiveness of Mediation by BPN in Settling Land Disputes in Klaten District

Effectiveness is the level of success of an action or process in achieving the expected goal or result. A process is considered effective if it can produce results in accordance with

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<sup>16</sup> Lexy J. Moleong, *Metodologi Penelitian Kualitatif* (Bandung: PT Remaja Rosdakarya, 2019).

<sup>17</sup> Bambang Waluyo., *Penelitian Hukum Dalam Praktek* (Jakarta: Sinar Grafika, 2002).



predetermined goals in a timely manner and with optimal resources.<sup>18</sup> In the context of dispute resolution, effectiveness refers to the ability of the methods used to resolve disputes in a way that satisfies all parties and meets relevant legal and social standards.

Land cases consist of 3 types, namely: Disputes, conflicts, and land cases. Mr. Joko Setyadi, A.Ptnh. explained:

"Land cases themselves distinguish between disputes, conflicts, and land cases. Land disputes are disputes between individuals, legal entities, or institutions that do not have a wide impact. Meanwhile, land conflicts are land disputes between people, groups, organizations, legal entities that have a tendency or have a broad impact. Meanwhile, the land case itself is a land dispute that is handled and resolved through a court institution. However, so far in Klaten Regency there has never been a land conflict." **(Interview May 19, 2025)**

In implementing and developing land administration in Klaten Regency, the Klaten Regency National Land Agency (BPN), as a government agency tasked with managing land affairs, has an important responsibility in this regard. One of the strategic roles that is a delegation of authority from the National Land Agency of the Republic of Indonesia is to resolve land disputes.<sup>19</sup> In the context of resolving land disputes, the Klaten District BPN emphasizes a settlement approach that is simple, fast, and cost-efficient.

The mediation process is part of the authority of the Dispute Control and Handling Section, which plays a role in handling various land issues through mediation mechanisms. One of the main regulations used as a reference is the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases. Settlement of land disputes can not

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<sup>18</sup> Yohanes Sugiarto, "Konsep Efektivitas Dalam Manajemen Organisasi," *Jurnal Manajemen Dan Organisasi* 15, no. 2 (2021): 97–104.

<sup>19</sup> 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. 8 (2024): 1–13, <https://doi.org/https://jhlrg.rewangrencang.com/>.

only be done through litigation in court, but can also be resolved administratively by the Land Office or by the National Land Agency of the Republic of Indonesia.<sup>20</sup>

The mediation process is explained in Articles 6 - 16 of the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases, namely, handling disputes and conflicts is carried out through stages:

a. Case assessment

Conducted to facilitate case handling and presented as a staff review, which includes identifying the target and time limit for completion of the subject matter (subject of the dispute, request of the complainant, location, area, and status of the case) to determine the target and time for completion.

b. Initial title

Utilized as a basis for creating research working papers or as a basis for conducting research.

c. Research

The process of searching, exploring, developing, discovering and testing data or information needed to clarify a matter. Research findings are presented in a report to discuss settlement recommendations.

d. Exposure of research results

Conducted to provide information that explains the legal position of each party and the status of legal products. If the research results are published and it is determined that further data, material information, and/or coordination with relevant agencies or institutions is required to make a decision or resolve the issue through mediation.

e. Coordination meeting

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<sup>20</sup> Lalu Muhammad Wira Arizki, Arief Rahman, and M. Yazid Fathoni, "Penerapan Peraturan Menteri Agraria/ Kepala Badan Pertanahan Nomor 21 Tahun 2020 Dalam Penyelesaian Sengketa Tanah Melalui Mediasi ( Study Di BPN Lombok Tengah )," *Jurnal Private Law Fakultas Hukum Universitas Mataram* 3, no. 2 (2023): 490 – 500, <http://journal.unram.ac.id/index.php/privatelaw/index>.

Meetings with relevant agencies are conducted by the Ministry of ATR/BPN, Regional Office of BPN, and Land Office according to their capabilities as part of integration, synchronization of case handling, and/or settlement to reach an agreement on the settlement of the case.

f. Final hearing

Conducted when the exposure of the research results is announced and it is known that there is sufficient information and a strong basis for a decision to be made by the Minister, Head of Regional Office, or Head of Land Office.

g. Case settlement

In the form of a dispute settlement decision carried out as a follow-up in the handling completed by the Ministry of ATR / BPN, Regional Office of BPN, land office according to their authority.

Based on these regulations, the mediation steps that have been taken by BPN in handling land disputes are in accordance with existing regulations. Mr. Joko Setyadi, A.Ptnh stated:

"Mediation at the BPN (National Land Agency) begins with a land dispute complaint submitted by the disputing party to the Klaten District BPN. This complaint is then followed up by BPN by clarifying, researching, and processing data to understand the problem in depth. If necessary, a site survey will be conducted. After that, mediation will be conducted by presenting the parties and led by a mediator from the BPN, which aims to reach a mutual agreement. If the mediation is successful, a peace deed will be drawn up and then the parties must register the deed with the district court. And if the mediation is unsuccessful, the BPN will suggest that the parties resolve the dispute through village deliberation or through legal channels" (Interview May 19, 2025)

More details about the flow or procedure for reporting to the completion of mediation are as follows:

a. Come directly to the Klaten District Land Office (ATR/BPN) office

1) Filling in the Application Form at the Counter

The applicant comes directly to the Klaten District

Land Office (ATR/BPN) and fills in the mediation application form at the service counter. Make sure to bring supporting documents to make the process faster.

2) Initial Consultation

After filling out the application, the applicant will be directed to the Mediation Room for initial consultation regarding the dispute at hand. If there are documents or information that are not clear, the applicant will get further guidance before the mediation process is carried out.

3) File Verification

If the file is complete, the application will be processed further with mediation scheduling. If there are still shortcomings, the applicant will be asked to complete them first.

b. Application by Letter

1) Sending an Application Letter to the Klaten District Land Office (ATR/BPN)

The applicant can apply for mediation by sending an official letter addressed to the Head of the Klaten District Land Office (ATR/BPN). The application letter must be attached with the following documents:

- a) Applicant's identity (KTP/SIM/Passport);
- b) Land certificate, deed of sale and purchase, girik, or other ownership documents;
- c) Brief chronology of the problem;
- d) Other supporting documents

2) Verification and Clarification

If the file is declared complete, the Land Office will follow up with a call to the parties to conduct further clarification.

3) Data Research & Processing

Officers will conduct research and processing of administrative data and field data to understand the problem more deeply. If necessary, the team will conduct a site survey to obtain additional evidence.

4) Implementation of Mediation

After all administrative and research stages are

completed, mediation will be held by presenting both parties and led by a mediator from the Land Office. This process aims to find a fair and favorable solution for all parties through deliberation and consensus.

To find out the extent of the effectiveness of the Klaten District National Land Agency in resolving land disputes through mediation mechanisms, whether classified as effective, less effective, or ineffective, it can be seen from the data on the number of mediation cases that have entered the Klaten District Land Agency Office over the past two years, as presented in the following table:

**TABLE 1. Number of Dispute Reports Klaten National Land Agency Office In 2023 – 2024**

Number	Year	Amount	Successful Mediation	Unsuccessful Mediation	Not Completed
1	2023	20 cases	6 cases	14 cases	-
2	2024	24 cases	5 cases	16 cases	3 cases
<b>Amount</b>		<b>44 cases</b>	<b>11 cases</b>	<b>30 cases</b>	<b>3 cases</b>

Sources: Authors, 2025

Based on the data above from 2023 - 2024 in total there were 44 cases of disputes at the Klaten BPN Office. Of the total disputes, 11 cases can be handled in mediation by Klaten BPN (25%). While as many as 30 cases did not reach an agreement or failed (68%), and 3 cases have not been completed (7%).

Of these 44 cases, the following is a list of the types of disputes that came to the Klaten District BPN Office:

**TABLE 2. Type of Dispute Reports Klaten National Land Agency Office In 2023 – 2024**

Number	Year	Land Boundary Disputes	Ownership and Control Disputes	Overlapping Land	Replacement Certificate
1	2023	8 cases	9 cases	2 cases	1

2	2024	12 cases	10 cases	2 cases	-
<b>Amount</b>		<b>20 cases</b>	<b>19 cases</b>	<b>4 cases</b>	<b>1 case</b>

Sources: Authors, 2025

Based on the data above, the total number of disputes reported to the Klaten District BPN in 2023-2024 was 44 cases. Of these cases, land boundary disputes were the most common type of dispute, totaling 20 cases. This was followed by land ownership and control disputes in 19 cases, overlapping land in 4 cases, and replacement certificate disputes in 1 case.

Regarding unfinished cases, Mr. Joko Setyadi, A.Ptnh. as Head of the Klaten District BPN Dispute Control and Handling Section stated:

"There are several mediation cases that take a long time to complete, even up to a year. This is because usually because they need data from the village, have to do research, re-measurement, and others so that the settlement is protracted." (Interview, May 19, 2025)

The protracted duration of mediation is not in accordance with Article 38 paragraph (2) of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (ATR/BPN) Number 11 of 2016 which reads:<sup>21</sup>

"Mediation shall be conducted for a maximum of 30 (thirty) days."

Because the mediation conducted by BPN is more than 30 days.

Regarding land dispute cases that do not reach an agreement, in accordance with the provisions of Article 44 paragraph (7) of Permen ATR/BPN Number 21 of 2021 which stipulates:

"In the event that mediation does not result in an agreement and/or fails, the ministry, regional office, land office according to their authority makes a decision to resolve the case."

Ms. Tri Mardiyanti, S.SiT. as the First Land Administer of Klaten District BPN stated that:

<sup>21</sup> Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 11 Tahun 2016 tentang Penyelesaian Kasus Pertanahan.



"If mediation does not reach an agreement / peace, then the Klaten District BPN will advise the parties to deliberate on their own outside the Klaten District BPN Office, can deliberate in the local village or can directly file a lawsuit in court, or in the sense of litigation settlement. When dispute resolution through mediation has been declared complete, the case will be closed and the Klaten District BPN has no further authority over the closed case and the case will be submitted to the parties to the dispute if the mediation of the dispute case does not reach an agreement." (Interview, May 20, 2025)

The settlement of land disputes through the mediation mechanism at the Klaten Regency BPN in the field has referred to the provisions of the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases as the main guideline. Basically, the purpose of implementing mediation is the same as the legal objectives expressed by Aristotle in his work *Rhetorica*, stating that the main purpose of law is solely to realize justice. Aristoteles argued that justice is giving something to someone in accordance with what they deserve or deserve to receive.<sup>22</sup>

Justice can largely only be pursued by the state, as the policies implemented by the state have the greatest impact on the development of structures relevant to political, economic, social, cultural, and ideological processes.<sup>23</sup> The implementation of mediation is basically to ensure legal certainty and provide justice for all parties to the dispute. In its implementation, the mediation efforts carried out by Klaten District BPN towards the disputing parties have been in line with these regulations. However, some of them are not in accordance with Article 38 paragraph (2) of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the

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<sup>22</sup> Ferry Irawan and Yoga Prasetyo, *Konsep Keadilan Pancasila* (Ponorogo: Unmuh Ponorogo Press, 2020).

<sup>23</sup> Ramli, Asmarani. 2012. "Telaah Atas Reforma Agraria Untuk Keadilan Dan Kesejahteraan Dalam Tataran Teori Kebenaran." *Jurnal Ilmu Hukum Amanna Gappa* 20(1):50.

National Land Agency (ATR/BPN) Number 11 of 2016. And when viewed from the reality in the field, the number of cases successfully resolved through mediation is still very small compared to the number of cases that end without an agreement. In other words, the effectiveness of mediation in resolving land disputes in Klaten District is low.

## **B. Factors Causing the Failure of Mediation by BPN in Settling Land Disputes in Klaten District**

Based on the results of interviews with Mr. Joko Setyadi, A.Ptnh. and Mrs. Tri Mardiyanti, S.SiT. that in every mediation implementation, the mediator always tries to reconcile the two parties in dispute in order to find a mutually beneficial solution for both. However, mediation does not always end with an agreement. The failure of mediation is due to the following factors:

### **a. The parties are incomplete**

Mediation cannot be conducted if one of the parties is not present. This is in line with what is regulated in Permen ATR / BPN Number 21 of 2020, which reads:

"In principle, mediation must be attended by the parties/principals."

Mr. Joko Setyadi, A. Ptnh. revealed:

"The absence of this party is usually because the complainant does not want to resolve the dispute through mediation at BPN even though it has been properly summoned three times. If they have been summoned three times properly but do not attend, the mediation is considered a failure. There are also parties who do not attend because they are out of town." (Interview, May 19 2025)

The presence of the disputing parties is one of the key elements in the implementation and success of a mediation process. If the time exceeds the specified time and is constrained by other things that complicate the mediation process, then the mediation is considered a

failure.<sup>24</sup>

This problem makes it difficult for the mediator to carry out his/her duties to bridge communication and find mutually acceptable solutions, thus hampering the settlement of disputes. This is because the mediator acts as a neutral party who only facilitates the mediation process.<sup>25</sup>

Without the presence of the parties, the mediation process cannot take place, and the mediator's role becomes ineffective. Therefore, the parties are obliged to attend the mediation process to meet directly and solve the problem together with the assistance of the mediator in the mediation room.<sup>26</sup>

b. Unpreparedness of the parties to reconcile

Mr. Joko Setyadi, A.Ptnh stated:

"One of the factors of mediation failure is that there are parties who feel self-righteous and self-righteous. It is usually the complainant who is often like this." (Interview, May 19, 2025)

The same thing was also expressed by Ms. Tri Mardiyanti, S.SiT:

"One of the factors that cause the failure of mediation in land dispute resolution is the subjective attitude of one of the disputing parties, who feels he is the most righteous and is reluctant to be open to views or solutions from other parties. This attitude reflects the absence of good faith to resolve the problem amicably, which is the main principle in the mediation process. When one party

<sup>24</sup> Reni Tri Ambarwati and Devi Siti Hamzah Marpaung, "Penyelesaian Sengketa Pertanahan Di Luar Pengadilan (Non Litigasi) Melalui Mediasi Terhadap Pemblokadean Bangunan (Di Jalan Kavling Brebes, Ciledug, Kota Tangerang, Banten)," *JUSTITIA : Jurnal Ilmu Hukum Dan Humaniora* 8, no. 3 (2021).

<sup>25</sup> Restiana Dewi, "Peran Mediator Dalam Proses Mediasi: Upaya Penyelesaian Perkara Perdata (Studi Kasus Di Pengadilan Negeri Pasuruan)," *MLJ Merdeka Law Journal* 2, no. 1 (2021): 35–41.

<sup>26</sup> Hamidi and Moh Abdul Latif, "Penyelesaian Sengketa Pertanahan Di Wilayah Madura Secara Mediasi Oleh Badan Pertanahan Nasional," *Yudisia : Jurnal Pemikiran Hukum Dan Hukum Islam* 12, no. 1 (2021).

insists on its stance and refuses to consider its opponent's point of view, the mediation process is hampered." (Interview, May 20, 2025)

In many disputes, parties who feel they have a strong interest in the object of dispute tend to find it more difficult to reach an agreement, especially if they feel their claims are more valid than the other party. Under these circumstances, the mediator's role as a neutral facilitator is limited, as mediation will only work if both parties are willing to cooperate and compromise.<sup>27</sup>

A sense of superiority or unilateral belief in one's own righteousness is also often reinforced by ego, past experience, or the belief that one's legal position is strong, without considering the possibility of misunderstandings or incomplete information. There is no willingness to listen to and understand the other party's perspective, so mediation loses its essence as a way to resolve conflicts peacefully and cooperatively.<sup>28</sup>

c. Lack of understanding of the law by the parties

In mediation, the success of the process relies heavily on the parties' awareness and understanding of their rights and obligations in accordance with applicable land law provisions.<sup>29</sup> Ignorance or misunderstanding of the laws and regulations governing land rights, the certification process, boundaries, and forms of ownership, often creates tension in the mediation process.

Mr. Joko Setyadi, A.Ptnh. stated:

"When one or both parties do not understand the legal

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<sup>27</sup> Zhilla Permata Radela Sukma and Aminah Aminah, "Kendala Yang Dihadapi Oleh Kantor Pertanahan Kota Bandung Sebagai Mediator Para Pihak Dalam Proses Mediasi Penyelesaian Sengketa Batas Tanah," *UNES Law Review* 6, no. 3 (2024): 9572–83.

<sup>28</sup> Eko Yuliasuti, Hakam Sholahuddin, and Lefita Dewi Liarasari, "Penyelesaian Sengketa Batas Tanah Melalui Mediasi (Studi Kasus Nomor Surat Undangan Mediasi 405/Und- 18.72.UP.04.07/IX/2020 Kantor Badan Pertanahan Nasional Kota) Blitar," *Jurnal Yustitiabelen* 8, no. 2 (2022).

<sup>29</sup> Riska Kurnia Ningsih and Hadi Tuasikal, "Tantangan Dan Solusi Dalam Implementasi Mediasi Sebagai Alternatif Penyelesaian Sengketa Tanah," *Journal of Dual Legal Systems* 2, no. 1 (2025): 70–89, <https://doi.org/10.58824/jdls.v2i1.323>.

basis on which the settlement is based, they tend to be rigid, defend claims that are not supported by legal evidence, or even reject solutions that are actually rational and fair.” (Interview, May 19, 2025)

Mediation basically aims to reach a decision that is a win-win solution, where both parties benefit without any favoritism.<sup>30</sup> Thus, the settlement of land disputes through mediation mechanisms emphasizes the value of benefits for the parties involved. The value of this benefit is expected to have a positive impact on the final outcome of the mediation process.<sup>31</sup>

Therefore, if in the mediation facilitated by Klaten District BPN an agreement is reached between the parties to the dispute, then the entire agreement will be formally stated in the form of a deed of agreement or peace agreement. Conversely, if no agreement is reached, the aggrieved party can continue to resolve the dispute through litigation by filing a lawsuit with the District Court. In this context, the mediation minutes issued by the Klaten District BPN have equal legal force, because they are considered legal documents that are equal to court decisions.

From all the dynamics above, we see that the mediation process carried out at Klaten BPN is actually trying to translate progressive legal values, namely: encouraging peaceful resolution, participatory, adaptive, and prioritizing substantive justice over rigid adherence to legal procedures.

However, the success of this approach is still hampered by a legal structure that is still formalistic, the egoism of the parties, and the lack of legal literacy of the community. Therefore, the implementation of progressive law is very important so that the law is truly present to serve the community and resolve conflicts in a dignified and humane manner, as idealized by Satjipto Rahardjo.<sup>32</sup>

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<sup>30</sup> Muhammad Rehan Arif and Syahril, “Tantangan Penyelesaian Mediasi Dalam Perkara Sengketa Tanah Di PN PDP Kelas 2 B,” *Sakato: Law Journal* 3, no. 1 (2025): 145–60.

<sup>31</sup> Ida Ayu Agung Widiyanti and I Gusti Ngurah Dharma Laksana, “Mediasi Sebagai Salah Satu Alternatif Dalam Penyelesaian Sengketa Pertanahan,” *Jurnal Kertha Wicara* 14, no. 9 (2025): 500–510.

<sup>32</sup> Satjipto Rahardjo, *Membedah Hukum Progresif* (Jakarta: Penerbit Buku Kompas, 2006).

## Conclusion

The settlement of land disputes through mediation by the Klaten District BPN has been carried out in accordance with the Regulation of the Minister of ATR/BPN Number 21 of 2020. However, some are not in accordance with Article 38 paragraph (2) of the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency (ATR / BPN) Number 11 of 2016. And judging from the facts on the ground, the effectiveness of mediation is still relatively low, as evidenced by only 25% of cases that were successfully resolved through mediation during 2023-2024. The majority of incoming disputes are land boundary and ownership disputes. The main factors for mediation failure include the absence of disputing parties, unpreparedness to reconcile due to egoism, and lack of legal understanding by the parties. This suggests that further efforts are needed to strengthen legal understanding, raise public awareness of the importance of peaceful resolution, and encourage the active commitment of all parties involved in the dispute.

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