



Settlement of land dispute between land owners and Aceh Trumon Anugerah Kita company (PT. ATAK) in south Aceh district

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Abstract

One of the land disputes in the community includes civil disputes over land rights that occur between the community and the company, such as land disputes between land owners and PT. Aceh Trumon Anugerah Kita (PT. ATAK) in South Aceh District. This study aims to identify and explain the causes of land ownership disputes between land owners and PT. ATAK and forms of land ownership dispute settlement between the land owner and PT. ATAK.

Keywords: land dispute, land owners, agreement

Introduction

The emergence of land disputes is actually inseparable from the community's understanding of the ownership of land rights which is perceived as different from the formal legal ownership of land rights. Map of land problems can be grouped into 5 (five) things, including: (1) Problems with people's cultivation of forest land areas, plantations, abandoned housing projects and others. (2) Problems related to violations of the provisions on land reform. (3) Impact in the provision of land for development purposes. (4) Civil disputes regarding land. (5) Problems relating to the customary rights of customary law communities ^[1].

Among the five reasons for the emergence of land disputes in the community, among others, civil disputes over land rights that occur between the community and the company, such as land disputes between land owners and PT. Aceh Trumon Anugerah Kita (PT. ATAK) in South Aceh District. PT. ATAK is a company that is building a Crude Palm Oil (CPO) in Kapa Sesak Village, East Trumon District, South Aceh Regency. PT. ATAK ensured that the land re-measurement step for the factory construction site was at the request of Jasman as the land owner. Initially the plan for the construction of the CPO factory was a program initiated and planned by PT. ATAK with Jasman, then PT. ATAK purchased land owned by Jasman with an area of 17.860 M² consisting of road land, factory site land and land for canal lanes (dams or ponds). As time went on, Jasman only processed land certificates with an area of more than 13 hectares. Meanwhile, land for access roads and canals is only promised to be processed later, and according to Jasman, the land is not included in the deed of sale and purchase.

On January 14, 2020, the settlement of land covering an area of 17,860 was carried out in front of a Notary in South Aceh Regency between Jasman and PT. ATAK, then the release of Rights with Compensation was carried out before a Notary for the location of the factory and roads until the issuance of certificate No. 01.05.16.12.300003 on behalf of PT. ATAK. The sale and purchase value of the land is Rp. 1,895,703,400. Furthermore, Jasman with the leadership of PT. ATAK there is an underhand agreement in terms of the development of CPO by PT. The PT. ATAK and the factory were almost finished, then Jasman asked for 10% of the shares of the value of the construction contract and wanted to participate in share ownership. The contents of Jasman's request to PT. ATAK are:

- a. Request a 10% right on the value of the CPO development contract.
- b. Want to participate in the ownership of shares.
- c. If it is not fulfilled, Jasman will not sell the land to PT. ATAK.
- d. Regarding road access to the Factory, the payment will be discussed again.
- e. Completion of canal roads and others will be discussed again.

Jasman's request could not be fulfilled by PT. ATAK, because the price of the land that PT. ATAK purchased from Jasman had already been paid in full. Meanwhile, according to Jasman, there are several agreements that have not been fulfilled by PT. ATAK to Jasman. Based on these considerations, Jasman wanted to cancel the sale and purchase, because PT. ATAK did not fulfill what had been mutually agreed upon.

Thus, this study aims to identify and explain the causes of land ownership disputes between land owners and PT. ATAK and forms of land ownership dispute settlement between the land owner and PT. ATAK.

Research Method

The scope of the research is related to the settlement of land ownership disputes for plantation businesses, namely between the land owner and PT. ATAK, the method used is an empirical juridical research method. The research approach used is a statutory approach, a conceptual approach and an analytical approach. The steps in data collection used were observation, interviews with respondents and informants and documentation. The legal materials that have been collected are compiled systematically and analyzed qualitatively.

Results and Discussion

Chronology of Land Ownership Disputes between Land Owners and PT. ATAK

PT. ATAK is a company that is developing Crude Palm Oil (CPO) in Kapa Sesak Village, East Trumon District, South Aceh Regency. PT. ATAK ensured that the measure of the land for the factory construction site was at the request of Jasman as the land owner. Initially the plan for the construction of the CPO factory was a program initiated and planned by PT. ATAK with Jasman, then PT. ATAK purchased land owned by Jasman with an area of 17.860 M² consisting of road land, factory site land and land for canal lanes (dams or ponds). Over time, what Jasman processed land certificates was only a factory site covering an area of more than 13 hectares. Meanwhile, land for access roads and canals is only promised to be processed later, and according to Jasman, the land is not included in the deed of sale and purchase.

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Basically, an agreement made in writing by the parties with the aim of being used as evidence, whether there is a dispute or not, the sale and purchase is done in writing, some is done under the hands, but some is notarized, depending on how far the value and the interests of the sale and purchase for the perpetrators. "The binding sale and purchase agreement (PPJB) of land contains agreed rights and obligations from the parties that make it the basis, if the things that have been agreed upon in the PPJB are violated or not fulfilled by the parties who made it, it can be said that there has been a default"^[2].

Likewise in land registration for the issuance of certificates of land ownership rights. Issuance of certificates is of course based on a deed including buying and selling. In addition, before a land title is registered and a certificate is issued, it must be preceded by an announcement for thirty days (if the land registration is carried out systematically) and for sixty days (if the land registration is carried out sporadically). This is regulated in Article 26 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration. The purpose of the announcement is so that before the certificate is issued, certain parties who feel they control or own the land can file an objection, whether the objection is submitted to the party who registered the land or to the Land Office. Therefore, it is not only given legal force but is also given binding power, as is the case with an authentic deed which is given perfect and binding power (*volledig en bindende bewijskracht*) to the parties regarding what is contained therein and also to the judge if it is used as evidence^[3].

An agreement or agreement is not only about everything that has been clearly agreed upon, but also involves matters which based on the nature of the agreement itself can be prosecuted on the basis of custom, justice, and also on the basis of the law. Regarding the conditions that must be fulfilled in an agreement, even though it is not stated clearly and unequivocally in the agreement, if it is a habit, then these conditions must be considered as already stated in the agreement. The agreement is binding on the parties who made it and applies as law for the parties (Article 1338 of the Civil Code).

However, there are restrictions regarding this matter, especially in land law, namely as long as the agreement or agreement made has followed and is in accordance with the rules in the Basic Agrarian Law (UUPA). The agreement in an agreement is considered to have occurred when one of the parties has accepted or agreed to the offer given by the other party. An agreement that has been made cannot be canceled by one party without the consent of the other party. In the agreement, it is very necessary to know, this is in connection with changes to the relevant laws and regulations that can have an impact on the agreement itself. An example is the transfer of a risk in a sale and purchase agreement.

One of the main bases for making a deed, whether a notary deed or a PPAT deed, is that there must be a desire or something like the wishes and requests of various parties, if the wishes and requests of the parties do not exist, the Notary or PPAT will not make a deed that meant^[4].

In order to keep the agreement carried out properly while the requested requirements can still be taken care of, usually the parties (seller and buyer) who will carry out the legal act of buying and selling, first make an agreement which will later be stated in an initial agreement in the Engagement Agreement. Sale and Purchase (PPJB). Furthermore, what is stated in the PPJB, the parties who make a binding sale and purchase agreement for the assistance of a Notary service and get assistance in formulating these agreements or agreed matters. Although the agreement has been agreed and has been made in a deed with the assistance of a notary, in practice the agreement does not always run as desired by the parties, because in certain circumstances it is often found that various things happen so that the agreement does not work, which ultimately leads to as a result of the cancellation of the agreement that has been agreed upon. This happens, whether it is canceled by the parties involved in the agreement, or upon a court decision that has obtained permanent legal force. Thus, the transfer of land rights cannot be carried out without fulfilling some of the requirements stipulated by the applicable legislation^[5].

The Form of Dispute Resolution of Land Ownership Rights between the Land Owner and PT. ATAK

When there was a problem between PT ATAK and one of the residents who owned an oil palm plantation that the company wanted to buy, it was heard by the South Aceh Regent, where to seek to resolve the problem between the company and the community mediation was carried out, facilitated by the South Aceh Regent, Tgk. Amran.

However, one result of the meeting between the Regent, the company, the police, and several other parties, resulted in the conclusion that the Regent asked the National Land Agency of South Aceh Regency to take measurements so that the boundaries of each party's land were clear, MRM explained on 30-31 July 2021, South Aceh Regency BPN together with Assistant I and Assistant II of the South Aceh Regional Secretary, PT ATAK, Jasman HR, East Trumon Muspika, village heads, and community leaders took measurements at the location. Using the methods and tools, BPN has pointed to location points, which is then followed by the installation of wooden stakes on the basis of BPN's orders by the parties that Jasman presented in front of all these parties, and even in front of the company itself.

According to Cut Syazalisma,^[6] the position of the South Aceh Regency Government is only to facilitate the settlement of land disputes between the two parties. South Aceh Regent Tgk. Amran, said Cut Syazalisma, took the initiative to take this step with the aim that the CPO factory construction program that the people of South Aceh had long dreamed of would soon be realized. And for those investors who are willing to invest (their capital) feel comfortable and happy to develop their business in South Aceh Regency.

This out of court dispute resolution is a dispute resolution offered for the first time. The non-litigation route is the dispute resolution route carried out by the parties based on good faith by excluding litigation in the District Court (Article 6 point 1 of Act Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution).

The National Land Agency (BPN) can resolve land disputes through non-litigation channels. In this case, the National Land Agency (BPN) resolves the land dispute through mediation. In general, the mediation carried out by BPN can be said to be not widely known by the wider community. This is due to the lack of socialization to the community provided by BPN. Settlement through non-litigation channels like this can be resolved, if the land dispute is processed to court. Thus the settlement of land disputes is carried out based on:

1. At the initiative of the National Land Agency (BPN); or
2. There are public complaints^[7].

Settlement of land disputes can also be resolved through criminal reporting. Land disputes that can be carried out with this criminal reporting are in cases of land grabbing, or using land without a permit and without the right of control, then these actions can be punished according to applicable regulations.^[8]

Settlement of land disputes is usually more focused on out-of-court settlements resolved by the National Land Agency (BPN). The settlement is handled by the Land Affairs and Controlling Section and more specifically handled by the Land Dispute, Conflict and Case Handling Subsection.

Mediation is a dispute resolution process between two or more parties through negotiation or consensus with the assistance of a neutral party who does not have the authority to decide.

The Republic of Indonesia Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts in article 1 states that mediation is a way of resolving disputes through a negotiation process to obtain an agreement between the parties with the assistance of a Mediator. Mediator is a judge or other party who has a certificate of mediator as a neutral party who assists the parties in the negotiation process in order to provide various possible dispute resolutions without using a way of deciding or imposing a settlement (PERMA No.1 of 2016 article 1 paragraph 2)

In some literature, there are many definitions of mediation. Some experts put forward a definition of mediation, while the experts who put forward a definition of mediation include:

1. According to Laurence Boulle, "mediation is an attempt to resolve a dispute and involve other parties (third parties) in a neutral and impartial manner. In this case, the third party does not have the authority to make decisions, but only assists the disputing parties in obtaining an agreement to resolve the dispute and is acceptable to both parties".^[9]
2. John W. Head provides a definition of mediation "as a middle ground process in which a person can act as a mediator to communicate between the two disputing parties. So that their previously different views on

the disputes they experienced, could be understood and understood and made it possible to be resolved properly in order to obtain a peace. However, the main responsibility for creating peace between the two parties lies with the parties themselves".^[10]

3. According to Garry Goopaster, "mediation is part of the negotiation process to solve problems that occur between the two parties, with the participation of an impartial external party. In this case, the outside party cooperates with the disputing parties to find common ground and try to help them reach an agreement that satisfies both of them".^[11]
4. Finally, according to Gary H. Barnes, who defines mediation "as a process in resolving disputes by involving a third party in a neutral manner. The role of these third parties is to try to help and involve themselves, both personally and collectively. However, unlike the arbitrator, because the mediator here is not authorized to give a decision on the dispute, the mediator is given the authority to be able to attend confidential meetings and special discussions with the disputing parties".^[12]

In general, mediation is an alternative dispute resolution. Some of the opinions of experts who put forward the definition of mediation above, it can be concluded that mediation is a dispute resolution effort where a third party appointed by the parties is neutral and impartial to help the parties resolve disputes and help get mutual agreement.

The third party is called a mediator or intermediary. The mediator in mediation is different from the judge. The mediator does not have the power to impose a settlement on the disputing parties. The mediator guides the parties to carry out negotiations until there is an agreement that is binding on the parties. Dispute resolution through mediation neither party wins or loses. Each party wins, because the final agreement is the result of the will of the parties themselves.

Several arrangements have been issued by the Indonesian government to regulate this mediation, namely through circulars, regulations and legislation. These rules are made as the legal basis for mediation.

The arrangement is regulated in Act Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, in this act the mediation arrangement can be found in the provisions of article 6 paragraphs (3), (4), and (5). The article reads:

Article 6 paragraph (3): "In the event that the dispute or difference of opinion as referred to in paragraph (2) cannot be resolved, then upon the written agreement of the parties, the dispute or difference of opinion is resolved through the assistance of one or more expert advisors or through a mediator".

Article 6 paragraph (4): "If the parties within a maximum of 14 (fourteen) days with the help of one or more expert advisors or through a mediator fail to reach an agreement, or the mediator fails to bring the two parties together, then the parties may contact an arbitration institution or an alternative dispute resolution institution appointing a mediator".

Article 6 paragraph (5): "After the appointment of a mediator by an arbitration institution or alternative dispute resolution institution, within a maximum of 7 (seven) days the mediation business must be able to start".

The provision regarding mediation as regulated in Article 6 paragraph (3) of Act Number 30 of 1999 is a process of activity as a continuation of the failed negotiations carried out by the parties. The article also states that based on a written agreement between the parties, disputes or differences of opinion are resolved through the assistance of one or more expert advisors or through a mediator.

Further arrangements are regulated regarding mediation in court in article 130 and article 154 RBg which regulates peace institutions. The judge must first reconcile the litigating parties before the case is examined. Furthermore, in order to make the provisions of articles 130 HIR and 154 RBg effective, the Supreme Court convened a National Working Meeting (RAKERNAS).

As a result of the RAKERNAS, the Supreme Court issued SEMA No. 1 of 2002 concerning the empowerment of the courts of the first instance to implement peaceful institutions. After that it was replaced with Supreme Court Regulation No. 2 of 2003 concerning Mediation Procedures in Courts. The Supreme Court regulation was issued with the consideration that mediation is one of the faster and cheaper processes and can provide access to the disputing parties to obtain justice or a satisfactory settlement of the dispute at hand.

Furthermore, PERMA No. 2 of 2003 underwent changes, namely the issuance of PERMA RI No. 1 of 2008 concerning Mediation Procedures in Courts and after that this arrangement underwent changes, namely with the issuance of PERMA No. 1 of 2016 concerning Mediation Procedures in Court which is currently in effect.

Conclusion

PT. ATAK is a company that is building a Crude Palm Oil (CPO) in Kapa Sesak Village, East Trumon District, South Aceh Regency. PT. ATAK ensures that the measurement of the land for the construction site is at the request of Jasman as the land owner. Initially the plan for the construction of the CPO factory was a program initiated and planned by PT. ATAK with Jasman, then PT. ATAK purchased land owned by Jasman with an area of 17,860 M² consisting of road land, factory site land and land for canal lanes (dams or ponds). The value of the sale and purchase of the land was 1895,703,400. Next Mr. Jasman with the leadership of PT. ATAK had an underhand agreement regarding the construction of the PT ATAK Palm Oil Mill and the factory was almost completed, then Jasman asked for 10% of the shares over the development ceiling value and wanted to participate in owning ownership.

The National Land Agency (BPN) for South Aceh Regency carried out measurements so that the boundaries of each party's land were clear. The East Trumon Muspika, village heads, and community leaders took measurements at the location. Using the methods and tools, BPN has pointed to location points, which is then followed by the installation of wooden stakes on the basis of BPN's orders by the parties that Jasman presented in front of all these parties, and even in front of the company itself. Land disputes through mediation are the mediator. As for the role as a mediator during mediation, leading discussions, maintaining or maintaining regulatory rules, encouraging the parties to express problems and interests openly, encouraging the parties to realize that disputes do not have to be resolved but resolved, recorded and made questions, assisting the parties reach a meeting point. In land disputes through this mediation route, the type of mediator is an authoritative mediator. This type of authoritative mediator only tries to help the disputing parties to resolve differences and has a strong position so that they have the potential or capacity to influence the final outcome of a mediation process.

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