

Syaprianto 8 : THE FUNCTION OF THE LAND OFFICE IN RESOLVING LAND OWNERSHIP DISPUTES IN THE PELALAWAN REGENCY

by Turnitin Hasil Turnitin

Submission date: 19-Jul-2024 09:09AM (UTC+0700)

Submission ID: 2418952710

File name: Resolving_Land_Ownership_Disputes_In_The_Pelalawan_Rengency.pdf (152.95K)

Word count: 3974

Character count: 21426

THE FUNCTION OF THE LAND OFFICE IN RESOLVING LAND OWNERSHIP DISPUTES IN THE PELALAWAN REGENCY

Syaprianto

Government Science Program, Universitas Islam Riau, Pekanbaru, Indonesia
Correspondence Author: syaprianto@soc.uir.ac.id

ABSTRACT

This research aims to see the function of the Land Office in resolving land ownership disputes in Pelalawan Regency, and it was carried out using qualitative research methods. Researchers interviewed direct and in-depth informants who were the most knowledgeable about implementing the Land Office's function in resolving land ownership disputes using purposive sampling techniques. The results of this study indicate that the Land Office has carried out its function in resolving land ownership disputes and is considered quite optimal because it has become a mediator for the two parties to the dispute in conducting mediation even though it has not yet reached an agreement. Several findings become obstacles for the Land Office in resolving land ownership disputes. First, the Land Office lacks human resources. Second, the lack of witnesses related to land history, and third, the character factor of the disputants who are only selfish.

Keyword: *Function, Resolve and Dispute*

INTRODUCTION

Land disputes in society often occur, which are increasing yearly, and occur in almost all parts of Indonesia in urban and rural areas (Amaliyah et al. 2021). In the Pelalawan Regency, these problems must receive serious attention from many parties, especially the government, and there must be a particular agenda in every policy made by the government, especially in the land sector. Land disputes arise due to conflicts of interest over land (Sukmawati 2022).

Land disputes also mean differences in values, interests, opinions and perceptions between individuals and between legal entities (private and public) regarding the status of control and or ownership status (Yunus and Muddin 2019) and or the status of use or utilization of specific land parcels by certain parties, or the status of State Administrative decisions regarding control, ownership and use or utilization of specific land parcels (Panget, 2013) in (Hipan, Nur, and Djanggih 2018).
Translated with DeepL.com (free version)

Land ownership disputes in Pelalawan Regency are disputes between companies and communities and even cause prolonged conflicts, which are detrimental to both parties. Land ownership disputes are complex and multi-dimensional problems. The Land Office has a vital role in land issues has a function to help resolve land disputes (A. Wowor 2014), the following is from the Land Office based on Presidential Regulation Number 20 of 2015 concerning the National Land Agency, namely: 1) Formulation and establishment of policies in the land sector; 2) Formulation and implementation of policies in the field of surveying; 3) Formulation and implementation of policies in the field of land rights determination, land registration, and community empowerment; 4) Formulation and implementation of policies in the field of regulation, structuring, and control of land policies; 5) Formulating and implementing policies in the field of land acquisition; 6) Formulation and implementation of policies in the field of control and handling of land disputes and cases; 7) Supervising the implementation of tasks within the National Land Agency; 8) Coordinating tasks, coaching, and providing administrative support to all organizational units within the National Land Agency; 9)

Implementation of data management of sustainable food agricultural land information and information in the land sector; 10) Implementation of research and development in the field of land; and 11) Implementation of human resource development in the land sector.

Land ownership disputes that occur between companies and communities in Pelalawan Regency have occurred for a long time, so the dispute problem is not protracted; it requires a fast motion from the government, in this case, the Pelalawan Regency Land Office, which has a function in controlling and handling land disputes and cases and requires effort that is not easy. With the authority possessed by the Land Office, land disputes can be resolved as well as possible to create a conducive atmosphere and the realization of legal certainty and justice in the land sector that can prosper the community.

With the above problems, researchers are interested in seeing the function of the Pelalawan Regency Land Office in resolving land ownership disputes in the Pelalawan Regency. So, the problem is formulated as follows: "How is the implementation of the land office function in resolving land ownership disputes in Pelalawan Regency?"

The purpose of this research is to find out the function of the Land Office in resolving land ownership disputes in the Pelalawan Regency and the obstacles of the Land Office in resolving land ownership disputes in the Pelalawan Regency.

Furthermore, research related to the Land Office in resolving land ownership disputes in Pelalawan Regency has been carried out by many previous researchers, but research specifically discussing the function of the Land Office in resolving land ownership disputes in Pelalawan Regency has never been done, so this research is still original.

This research uses role theory, according to Levinson in Soekanto. The role is a dynamic aspect of position (status). This means that if someone has carried out their rights and obligations by their position, that person has carried out a role. The two are inseparable because one is interdependent with the other, meaning that there is no role without status and no status without role. From a structural-functional perspective, each individual occupies a status in various structures of society. In this case, status is not the prestige of an individual's position but the position itself. Individuals who occupy a status are also considered to have certain rights and obligations, which are roles within that status. So status and role tend to exist in what Parson calls a "collection of statuses and roles."

According to Levinson in Soekanto, the word role has three meanings: 1) Role includes norms associated with a person's position or place in society. In this sense, a role is a series of rules guiding a person's community life; 2) Role is a concept of what individuals do in society as an organization; 3) Role can also be considered an essential behavior for social instructors. There are three roles performed in the organization, namely: 1) Personal Role (Interpersonal Role) Refers to the relationship between leaders and others within and outside the organization. In this case, the leader has a different role: a) Figure, acting as a symbol of the organization; b) The role of the leader, is to encourage employees to work productively, effectively, and efficiently in influencing them to work optimally to achieve goals and c) Intermediary role: leaders are often involved in employee problems; 2) Role related to information (Information Role); a) Where the leader is the central point for the traffic of inter-section cooperation relations between employees within his scope, in this case, the leader is involved in three (3) things, namely: b) Monitor and continuously obtain data, messages, or information from inside and outside the organization that is considered relevant; c) Disseminating, the information obtained is disseminated to all parts of the organization; d) As a spokesperson; 3) Decision Role, In this case, the leader plays four (4) roles, namely: a) Entrepreneurial role; b) Handling disturbances; c) Allocation of resource and d) Negotiator.

Disputes can happen to anyone and anywhere. Disputes can also occur between individuals,

individuals, and groups, between groups, companies, etc. A dispute is a situation in which another party harms a party, and the party voices his dissatisfaction with the second party. If there is a difference of opinion, then there is what is called a dispute. The purpose of the dispute is the occurrence of a dispute between the parties because a party does not comply with the agreement made, either in part or in whole, from the agreement. Thus, there has been a default by the parties or one of the problematic parties (Nurnaningsih Amriani, 2012).

The same thing was also conveyed by (Takdir Rahmadi 2011), who said that disputes are situations and conditions when two or more parties experience factual disputes that occur in their opinions only. So, what is meant by a dispute is a dispute that occurs between two or more parties, and each party maintains their respective opinions. The dispute that occurs is caused by an act of default from the parties.

Mediation is a negotiation that must involve a third party. The third party has expertise in effective and efficient Mediation so that it can help in conflict situations to coordinate their activities so that they can be more targeted in the negotiation process (Nurnaningsih Amriani 2012). Mediation can also be referred to as an effort to resolve disputes between litigants by establishing an agreement together through a mediator who must be independent so that dialogue between litigants is carried out in an atmosphere of honesty, openness, and exchange of opinions for the realization of consensus (Susanti Adi Nugroho 2009).

Mediation is one of the settlement efforts in which the parties to a dispute agree to bring in a party. Parties agree to bring in an independent third party to mediate. As mediators, the courts currently use mediation as an out-of-court dispute resolution process to resolve disputes. Court is currently used by the court as a dispute resolution process (Rahmah 2019).

Mediation encourages parties to resolve their problems or conflicts with the help of a neutral or impartial third party. (SARI 2017). Likewise, as mentioned by Takdir Rahmadi, mediation is a process of resolving disputes between litigants or negotiations carried out by way of consensus with the help of parties who are independent and do not have the authority to decide cases (Takdir Rahmadi 2011).

So mediation is a negotiation between litigants or parties to a dispute with the help of a third party (mediator) so that the mediator can be neutral to reach a consensus in resolving the dispute, and the decisions taken can be mutually beneficial to the parties to the dispute. Mediation is one of the alternative dispute resolutions that has recently been known and recognized by the public. However, it must still be recognized in Indonesia's legal discourse (Rosy, Mangku, and Yuliartini 2020).

The word consensus in the mediation process means that something that results from the mediation process must result from an agreement or agreement of the parties to the dispute. Mediation can be pursued by disputing parties consisting of two disputing parties or more than two parties (multiparties) (Takdir Rahmadi 2011).

The settlement can be reached or produced if the parties to the dispute can accept the agreed settlement. However, often, due to various factors, the disputing parties cannot get a settlement, so the mediation carried out ends in a deadlock; a situation like this makes mediation different from litigation. The litigation process will be completed through the legal process in the form of a judge's decision. However, the settlement through the legal process is not necessarily able to end a dispute that occurs because the dispute between the parties to the dispute will continue. The losing party often feels dissatisfied (Takdir Rahmadi 2011).

An independent or neutral mediator means that the mediator will not take sides (impartial) with one of the parties to the dispute. The mediator has no interest in the dispute that occurs and does not benefit and lose if the dispute can be resolved correctly or if the mediation process cannot be resolved

or, in other words, a dead end. The mediator's assistance is procedural, such as the tasks of leading, guiding, and designing each session of the meeting or negotiations conducted, while the substantial assistance of the mediator can be in the form of providing advice to the parties to the dispute in resolving the subject matter of the dispute (Takdir Rahmadi 2011).

The mediator can be active or passive in assisting the disputing parties. The active role of the mediator must be taken if the parties to the dispute cannot conduct constructive negotiations. Conversely, the mediator can play a passive role when the disputing parties can conduct constructive negotiations in the sense that the parties can propose problem-solving solutions and discuss these solutions to end the dispute. Thus, the mediator's role is to assist the parties in resolving the problems that occur.

RESEARCH METHODS

This research uses a qualitative method to describe, analyze, and attempt to describe the Land Office's function in resolving land ownership disputes by interviewing directly and in-depth key informants and informants who are considered the most knowledgeable using purposive sampling techniques.

Researchers use this method to discover more profoundly and find facts in implementing the land office function in resolving land ownership disputes in the Pelalawan Regency.

The Pelalawan Regency Land Office conducted the Location of this research to address the problems found by the author. The reason for the author's choice of Location is that the agency handles problems related to land ownership disputes.

RESULTS AND DISCUSSION

In resolving land ownership disputes in Pelalawan Regency, the Pelalawan Regency Land Office has facilitated and mediated the parties to the dispute in accordance with its main duties and functions. So to resolve land ownership disputes, the involvement of the Pelalawan Regency Land Office is needed in accordance with its duties and functions, namely through the Head of the Disputes, Conflicts and Cases Section. So one of the efforts made by the Pelalawan Regency Land Office is to mediate between the parties to the dispute so that the problem of land ownership disputes can be resolved without harming the parties to the dispute. The following are the results of research on the function of the Pelalawan Regency Land Office in resolving land ownership disputes. where the Pelalawan Regency Land Office coordinates with the Regional Government to facilitate meetings between the disputing parties and the Pelalawan Regency Land Office becomes a mediator in resolving disputes that occur. The following are the stages of mediation that have been carried out based on the results of interviews that researchers have conducted:

Complaints from the Public

The community complained about the dispute that occurred to the Pelalawan Regency Land Office, and the complaint filed by the community to the party in dispute could be done in 2 ways: first, the disputing party made a written complaint, and second, the disputing party could make a complaint through oral media. After the complaint is made, it is followed up or submitted to the Head of the Conflict Dispute and Case Section of the Pelalawan Regency Land Office. This is in line with the results of interviews conducted by researchers, who found that the Pelalawan Regency Land Office has received complaints from the public regarding land ownership disputes that occur, and we will follow up. Pelalawan Regency Land Office Reviews Complaints from the Community After the Land Office receives

the complaint. Pelalawan Regency Land Office, the following action is to prepare to bring together the two parties to the dispute. Several preparations will be made by the Pelalawan Regency Land Office, namely: a) Examine the problems that occur, whether the problem can be resolved by mediation or not; b) Determining what strategy to use in resolving cases in mediation by prioritizing so that the decision on the results of mediation is carried out by consensus and kinship so that no party feels disadvantaged; c) Form a team to handle disputes or structural officials who are authorized to participate in mediation directly; d) Prepare materials, in addition to preparing procedures, the materials needed to conduct mediation on the main points of land disputes, review resumes, and e) Furthermore, determine the time and place of the mediation.

Invitation or Summoning of Disputing Parties

The invitation or summons is conveyed to the interested parties' relevant agencies (if deemed necessary) to hold deliberations in order to resolve the land ownership dispute in question. The relevant parties are asked to bring along the data or information needed in the mediation, and then the meeting structure is arranged with a circular seating position.

Mediation Efforts

In mediation, a mediator must overcome obstacles between the parties in the dispute. To be able to create a mediation atmosphere that is not rigid and able to create a friendly atmosphere, the mediator must also explain what the role of the mediator is; the mediator acts as a third party who is independent and impartial to the mistakes of one party to the dispute and the will of the parties to the dispute is not limited, the key to this stage is the need for confirmation of the willingness of the parties to be willing to resolve this dispute through mediation by the Pelalawan Regency Land Office, but in some instances based on his authority, the mediator can intervene in the process of finding an agreement on the issues disputed by the two parties to the dispute.

Furthermore, the parties clarify, and after clarifying, the parties continue the mediation process by equalizing perceptions and setting the agenda for deliberation. Furthermore, the parties identify their interests to determine the actual subject matter and relevance as material for negotiation. In addition, the interests of the parties to the dispute must be considered, and no one feel disadvantaged, so they can find a middle ground in resolving the dispute.

The next stage of mediation is to conduct final negotiations, and the disputing parties can conduct final negotiations, namely clarification of the options agreed upon by the disputing parties in resolving the dispute. The result of this stage is the birth of a decision as a dispute resolution that becomes an agreement between the disputing parties. The agreement that has been made contains options that are acceptable to the parties.

Formalization of Agreements in Resolving Disputes

That is formulated in the form of an agreement or agreement. With the agreement that has been made in substance, the mediation has been completed, every mediation activity must be stated in the minutes of the mediation so that the results of the mediation can be reported to officials who have the authority to follow up by applicable regulations, the formalization of the agreement is written using the agreement format and every mediation carried out must be made a report on the results of the mediation in order to have binding legal force. The minutes are signed by the parties to the dispute, the mediator, and the witnesses.

Based on the findings of researchers in the field it shows that the mechanism in resolving disputes that the Pelalawan Regency Land Office has carried out has been carried out optimally by the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2011 concerning Management of Assessment and Handling of Land Cases.

Obstacles of the Regency Land Office in Resolving Land Ownership Disputes in Pelalawan Regency

The Land Office has the authority to resolve land ownership disputes and is attached to the agency. Resolving land ownership disputes can be done through the Land Office (non-litigation), an alternative to resolving disputes. Moreover, this method has many advantages, but the facts that occur in the field, there are still many factors that become obstacles, among others: 1) Human Resources (HR) Factors; *Human resources* are an obstacle faced by the Pelalawan Regency Land Office in resolving land ownership disputes that occur in the Pelalawan Regency due to the need for more human resources to handle these disputes. 2) Lack of Witnesses Related to Land History; The lack of witnesses who can be presented in the mediation degree is carried out, such as the lack of witnesses related to the object of the disputed land, such as witnesses of land boundaries who cannot be equipped with the history of the disputed land located on the boundaries of their land; 3) Character Factors of the Parties in Dispute, The parties' commitment to the land dispute is needed to resolve land ownership disputes, but what happens in the field is the opposite. It often happens that the disputing parties are only selfish to get their benefits. This, of course, dramatically hampers mediation, which aims to resolve the dispute issues that occur. So, very often, due to the differences of opinion of the disputing parties without any seriousness in resolving land ownership disputes that occur together, the mediation could be more successful or work better, namely reaching a consensus decision between the disputing parties.

CONCLUSION

Based on the results of the above discussion regarding the function of the Pelalawan Regency Land Office in resolving land ownership disputes and the stages in resolving land ownership disputes that the Pelalawan Regency Land Office has carried out, the authors conclude as follows: 1) The Pelalawan Regency Land Office's role in resolving land ownership disputes in the Pelalawan Regency is considered quite maximal; 2) That the mechanism for resolving land ownership disputes that the Pelalawan Regency Land Office has carried out is through mediation. There are several stages carried out in mediation, namely first, a complaint from the community to the Land Office; second, the Land Office reviews the complaints of the parties to the dispute; third, the Land Office invites or summons the parties to the dispute, fourth, mediation efforts and fifth, formalizing an agreement in resolving land ownership disputes; 3) In resolving land ownership disputes in the Pelalawan Regency, there are several obstacles experienced by the Pelalawan Regency Land Office, including a lack of human resources, lack of witnesses related to the history/chronology of the land, and the character of the parties to the dispute.

REFERENCES

- A. Wowor, Fingli. 2014. "Fungsi Badan Pertanahan Nasional Terhadap Penyelesaian Sengketa Tanah." *Lex Privatum* 2(2):95-104.
- Adi Nugroho, Susanti. 2009. *Mediasi Sebagai Alternatif Penyelesaian Sengketa*. Jakarta: Telaga Ilmu Indonesia.
- Amaliyah, Amaliyah, Muhammad Amar Ma'ruf, Novytha Sary, and Syahril Gunawan Bitu. 2021. "Reforma Agraria Dan Penanganan Sengketa Tanah." *HERMENEUTIKA : Jurnal Ilmu Hukum* 5(1). doi: 10.33603/hermeneutika.v5i1.4892.
- Amriani, Nurnaningsih. 2012. *Mediasi Alternatif Penyelesaian Sengketa Perdata Di Pengadilan*. Jakarta: PT. Raja Grafindo Persada.
- Hipan, Nasrun, Nirwan Moh Nur, and Hardianto Djanggih. 2018. "Problematika Penyelesaian Sengketa Tanah Di Lokasi Tanjung Sari Kabupaten Banggai." *Law Reform* 14(2):205. doi: 10.14710/lr.v14i2.20870.
- Rahmah, Dian Maris. 2019. "Optimalisasi Penyelesaian Sengketa Melalui Mediasi Di Pengadilan." *Jurnal Bina Mulia Hukum* 4(1):1. doi: 10.23920/jbmh.v4i1.174.
- Rosy, Kadek Oldy, Dewa Gede Sudika Mangku, and Ni Putu Rai Yuliartini. 2020. "Peran Mediasi Dalam Penyelesaian Sengketa Tanah Adat Setra Karang Rupit Di Pengadilan Negeri Singaraja Kelas IB." *Ganesha Law Review* 2(2):167-79.
- SARI, SEPTI WULAN. 2017. "Mediasi Dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2016." *Ahkam: Jurnal Hukum Islam* 5(1):1-16. doi: 10.21274/ahkam.2017.5.1.1-16.
- Sarjita. 2005. *Teknik dan Strategi Penyelesaian Sengketa Pertanahan*. Yogyakarta: Tugu Jogja Pustaka.
- Soekanto, Soejono, 2012, *Sosiologi Suatu Pengantar*. Jakarta: PT. Raja Grafindo Persada.
- Sukmawati, Putu Diva. 2022. "Hukum Agraria Dalam Penyelesaian Sengketa Tanah Di Indonesia." *Jurnal Ilmu Hukum Sui Generis* 2(2):90.
- Yunus, Ahyuni, and Ahmad Ali Muddin. 2019. "Penyelesaian Sengketa Tanah Ulayat Yang Telah Bersertifikat Berdasarkan Hukum Adat Malind-Anim." *Jurnal Kertha Patrika* 41(3):206.
- Takdir Rahmadi. 2011. *Mediasi: Penyelesaian Sengketa Melalui Pendekatan Mufakat*. Jakarta: PT Raja Grafindo Persada.

Syaprianto 8 : THE FUNCTION OF THE LAND OFFICE IN RESOLVING LAND OWNERSHIP DISPUTES IN THE PELALAWAN REGENCY

ORIGINALITY REPORT

11 %
SIMILARITY INDEX

10 %
INTERNET SOURCES

6 %
PUBLICATIONS

0 %
STUDENT PAPERS

MATCH ALL SOURCES (ONLY SELECTED SOURCE PRINTED)

2%
★ Eli Erlina. "The Role of the Honorary Tribunal of the Notary of the Territory at the Request of Law Enforcement Against Alleged Violations by the Notary", Authentica, 2023
Publication

Exclude quotes On
Exclude bibliography On

Exclude matches < 1%

Syaprianto 8 : THE FUNCTION OF THE LAND OFFICE IN RESOLVING LAND OWNERSHIP DISPUTES IN THE PELALAWAN REGENCY

GRADEMARK REPORT

FINAL GRADE

GENERAL COMMENTS

/100

PAGE 1

PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7
