

Effectiveness of Mediation in Alternative Dispute Settlement in the Implementation of Systematic Land Registration (PTSL)

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Abstract

Land is an important part of life in society. The occurrence of land problems that exist in the community is usually only done by litigation in handling the dispute process. This study aims to identify and analyze the development of land rights law. The development of the science of land rights law is related to the effectiveness of mediation in resolving land rights disputes to obtain a comprehensive picture of alternative dispute resolution. This type of research is a juridical-empirical research. Empirical juridical research is research on secondary data in the form of applicable legal aspects, then proceeds to primary data research in the form of research on real phenomena that occur in the field. The results of this study show that several cases related to land disputes have been successfully resolved by alternative land dispute resolution outside the trial, especially with mediation. Based on the research that has been done, it can be concluded that the effectiveness of mediation in alternative settlement of complete systematic land registration disputes (PTSL) in the village of Pengkoljagong, Jati District, Blora Regency, is very effective.

Keywords

settlement; dispute; rights; land, mediation



I. Introduction

Land is one of the main sources for the survival and livelihood of the nation. Land within the territory of the Republic of Indonesia is one of the main natural resources. Land has an inner value and also has a strategic function in meeting the increasingly diverse and increasing needs of the state and the people, both at the national and international levels.

Land or Land Availability is the most important asset for community activities, but there is still a fact that the government pays little attention to this. Land ownership as the most important pillar of production activities is increasingly unfriendly to the needs of the agricultural sector. From time to time, agricultural land ownership is decreasing, for example in Central Java, where the average land ownership is only around 0.25 hectares. The shrinkage of land ownership is a rational indication that comes from the inheritance pattern that makes land fragmented. Depreciation is also caused by the infiltration of the industrial or service sectors which periodically deplete every inch of land. Government agencies, particularly BPN, also contribute to land shrinkage by neglecting and even abandoning the agricultural sector (Handoko, 2015). The Government of the Republic of Indonesia was formed to protect the whole of the Indonesian people (Angelia, 2020).

During this development period, the role of land became more prominent, both as a factor of production and as a container in various business activities. This is in accordance with the provisions of Article 33 paragraph 3 of the 1945 Constitution of the Republic of

Indonesia (hereinafter referred to as UUDNRI) as the main basis for national development in the land sector, which states that: "Earth and water and the wealth contained therein are controlled by the state and used for The greatest prosperity of the people." Given that land plays an important role in human life, as well as the increasing human need for housing, a place for entrepreneurship in agriculture, as well as the economy as a source of livelihood, it is increasingly necessary to organize and control the land sector.

The implementation of land registration will produce a final product in the form of a certificate as proof of ownership of land rights. In practice, the land certification process is not as easy as imagined because there are still people who do not understand the importance of a land registration. In fact, land registration is an obligation that must be carried out by the holder of land rights in their possession in order to obtain authentic evidence that has legal force by issuing a Certificate of Land Rights by the competent institution, namely the National Land Agency (Sutedi, 2007).

After the enactment of Law Number 5 of 1960 concerning the Basic Agrarian Law (hereinafter referred to as the LoGA), the provisions for registering land certificates are regulated in Article 19 of the LoGA, which reads "To Guarantee Legal Certainty by the Government, Land Registration is carried out in the entire Territory of the Republic of Indonesia according to Law No. The provisions are regulated by Government Regulation." The provisions in Article 19 paragraph (1) of the LoGA are then further confirmed in Article 3 of the Government of the Republic of Indonesia Number 24 of 1997 concerning Land Registration (Lubis, 2008).

The dynamics of the ground problem has a high load of complexity. This is due to the reality that shows that the human need for land continues to increase, along with the rate of growth and development in all fields. On the other hand, the quantity of land has not increased in size (relatively fixed). Therefore, a challenge arises to manage the available land optimally, so that professionally each interest can be accommodated proportionally as a reflection of the ideals of national development that is evenly distributed in all fields.

It can be seen that the relationship between humans and land is embodied in the reality of social life through human actions that use and empower the land. It is undeniable that human relations with land in the form of land rights are very important, because land is a means of survival and community life. Thus, if tenure rights over land expire to other parties, it can cause loss of sources of life, and even have an impact on social values or cultural identity of the community concerned. Therefore, issues relating to land rights are sensitive and prone to disputes.

The tendency of social activities of the community is getting higher with hundreds of daily transactions, increasing the possibility of disputes that require settlement. In line with this understanding, a dispute resolution model or mechanism is needed that can be well accepted, and does not depend on the general justice mechanism. This dispute resolution model is practically known as Alternative Dispute Resolution (ADR) which carries the concept of negotiation, mediation, arbitration, and conciliation, or through local institutional mechanisms in accordance with adat or customary law, customs, and traditions of groups. social environment in each.

Various models of dispute resolution that do not depend on the litigation process in court, are more customary practices in the form of traditional institutions that are recognized by local laws and customs in many community cultures. In this series, several examples of resolving legal cases using local methods can be followed, whether related to business, land disputes or in other fields, such as dispute resolution through local institutional mechanisms.

Likewise, dispute resolution through customary mechanisms in the community, dispute resolution outside the court is widely used because it is seen as efficient, satisfactory to the

disputing parties, and provides many conveniences that are not obtained in the official court process. The parties are satisfied because the conflict does not become open and wide, emphasizes harmony and kinship, so that legal disputes, which according to official regulations can be brought to court, have been resolved out of court.

The protracted settlement of land rights disputes can be resolved through alternative settlements of land rights disputes outside the court based on the applicable laws and regulations, namely Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (hereinafter referred to as the Arbitration Law). and APS). The frequency of using this alternative solution is still low. This is because there are still doubts from the community regarding this method of settlement when compared to legal certainty. Dispute resolution outside the court is seen as highly based on human resources, namely law enforcement officials related to alternative dispute resolution.

Therefore, it is important to know the effectiveness of the implementation of the mediation scheme. Settlement of land rights disputes is reviewed theoretically based on the relevant laws and regulations, as well as practically in terms of legal substance, related legal apparatus, social culture of the community, as well as available supporting facilities and infrastructure. To come up with this solution, a critical and constructive thought is needed to anticipate the issue of land rights disputes and the development of land rights law. Mediation is closely related to consensus deliberation which has been entrenched and respected in Indonesian society to resolve a conflict. Deliberations are preferred by traditional communities because they are considered capable of maintaining group harmony, as well as unity and integrity (Amriani, 2011).

There were several disputes in Pengkoljagong Village which were successfully resolved through mediation. The first dispute is regarding the application for prevention of compensation for the land of pipil on the grounds that a civil case has occurred which has been reported to the Pengkoljagong Village Government. Dispute settlement in court is deemed not to give fair results to the parties, so the parties agree to withdraw the lawsuit in court and choose to resolve the dispute through mediation. The second dispute refers to a letter of complaint regarding the issuance of dual certificates. To resolve the overlapping certificate dispute, an approach was made to the parties. This dispute was also successfully resolved through the mediation process and in a familial way.

The analysis of the dispute cases that have been described, aims to gain an understanding of the procedures and principles of legal dispute resolution adopted by the disputing parties, the types of disputes, the origin of the dispute, important cultural values that influence the community, the place where the dispute arises, the methods for resolving the dispute, and the legal and social consequences it causes.

The general condition in Pengkoljagong Village does not describe the situation of a well-established area let alone luxurious. There are still many settlements with dirt floors, even though there are some areas that are neatly arranged with simple to medium residential conditions. Based on these conditions, Pengkoljagong Village was chosen by the Regency Government as the object of the implementation of systematic land registration, both through Adjudication and PRONA. The implementation of systematic land registration through Adjudication for part of the Pengkoljagong Village area was carried out in 2018 with a target of 1,500 plots, and only 1,310 fields have been realized.

1.1 Formulation of the Problem

Based on the background that has been described previously, an assessment of two problems will be carried out according to the title topic in this journal. The problem is formulated as follows:

1. How is the effectiveness of mediation as an alternative in resolving disputes regarding

the implementation of Complete Systematic Land Registration in Pengkoljagong Village, Jati District, Blora Regency?

2. What are the obstacles that occur in mediating dispute resolution on the implementation of Complete Systematic Land Registration (PTSL) in Pangkaljagong Village, Jati District, Blora Regency?

II. Research Methods

Based on the formulation of the problem and research objectives, the research method used is a juridical-empirical approach. The juridical-empirical approach is a legal research regarding the enforcement or implementation of normative legal provisions (codifications, laws, or contracts) in action on every particular legal event that occurs in society. The in-action implementation is an empirical fact and is useful to achieve the goals that have been determined by the State or by the parties to the contract. Implementation in action is expected to take place perfectly if the formulation of normative legal provisions is clear and firm and complete (Nawawi, 1985).

A juridical approach is used to analyze various laws and regulations related to the implementation of land registration. While the empirical approach is used to analyze the law which is seen as patterned community behavior in people's lives who always interact and relate to social aspects (Muhammad, 2004).

III. Discussion

3.1 Region Description

Administratively, Pengkoljagong Village is located in Jati District, Blora Regency, Central Java. This village has a population of 2,865 people which are divided into 1,417 men and 1,420 women in 1,030 households. This area has an area of 1,237,141 m², with details of the classification of rice fields of 231,248 m², fields of 12,245 m², yards of 61,400 m², and forest expanses of 820,248 m². This area is classified as an area that is not densely populated with a variety of jobs that are not too diverse. Based on the statistical data collected, the professional characteristics of the population are presented in Table 1 below.

Table 1. Employment Statistics of Pengkoljagong Villagers

Type of work	Registered Resident
1. TNI-POLRI	12
2. ASN	14
3. Retired	78
4. Farmer	1079
5. Breeder	689
6. Self-employed	220
7. Laborer	721
8. Housewife	1064
9. Not yet working	217

Source: 2021 Village Monograph book, page 53

Social facilities in Pengkoljagong Village consist of: 3 schools, 6 mosques, 25 environmental security posts, 31 prayer rooms, 6 public cemeteries. There are also 11 farmer groups in this village. The characteristics of the educational background of residents in Pengkoljagong Village, Jati District, Blora Regency, are presented in Table 2 below.

Table 1. Educational Background Statistics of Pengkoljagong Villagers

Type of Education	Registered Resident
1. Not yet in school	127
2. Haven't finished elementary school yet	349
3. Graduated from elementary school/equivalent	713
4. High school graduate/equivalent	139
5. High school graduate/equivalent	86
6. Diploma-1	-
7. Diploma-2	-
8. 3-year diploma	-
9. Bachelor degree	6
10. Strata-2	-
11. Strata-3	-

Source: 2021 village monograph p 53

Based on the statistical data presented, it can be seen that in terms of education, the majority of the population are elementary school graduates or the equivalent, with the majority of occupations being farmers and housewives.

3.2 Effectiveness of Mediation as an Alternative to PTSL Disputes in Pengkoljagong Village, Jati District, Blora Regency

The first objective of this study was to determine the level of effectiveness in alternative settlements of complete systematic land registration disputes (PTSL) in Pangkaljagong Village, Jati District, Blora Regency. Complete systematic land registration (PTSL) is a national program which basically aims to collect data on all land parcels in the territory of Indonesia. This program was carried out simultaneously in various regions in Indonesia in 2018 and is planned to continue until 2025. The target of the PTSL implementation is to collect data on all lands in the territory of Indonesia, and to accelerate this realization, the government issued Presidential Instruction (INPRES) Number 2 Year 2018 (source of Presidential Instruction).

In practice, the complete systematic land registration process did not allow it to run smoothly without dynamics and problems. There are still many problems that arise as a result of this program in various regions in Indonesia. Problems that are often encountered are absentee land, land ownership exceeding the limit, and abandoned land (Mujiburohman, 2018).

Basically, a dispute in terms of land can be resolved through the judicial process (litigation) or outside the judicial process (non-litigation). In this study, problem solving is emphasized on the non-litigation process. Settlement of disputes regarding land has been regulated in PERMEN ATR/BPN 11/2016 concerning Settlement of Land Cases. This ministerial regulation appears as a refinement of previous land dispute resolution procedures, such as Regulation of the Head of BPN 3/2011 concerning the Land Association, and Regulation of the Head of BPN 12/2013 concerning Land Examination which is deemed less effective. The preparation of regulations in PERMEN ATR/BPN 11/2016 concerning Settlement of Land Cases, is carried out as an effort to accelerate the resolution of disputes, conflicts, and cases related to the land sector,

In accordance with the purpose of the study, it was a mediation effort to resolve the five types of land disputes that occurred in Pengkaljagong Village, Jati District, Blora Regency. Mediation steps can be applied to the five types of disputes because if viewed from the origin

of the dispute, all five are included in the types of disputes that can be mediated because they are caused by procedural errors based on PERMEN ATR/BPN 11 of 2016 concerning Settlement of Land Cases Article 11 paragraph 4 (3). Mediation is also carried out based on the agreement of the parties experiencing the dispute to intend to resolve the dispute through mediation without going to court proceedings.

The mediation was carried out at the Village office of Pengkoljagong Village, Jati District, Blora Regency. The procedure for resolving disputes through mediation is stipulated in PERMNE ATR/BPN No. 11 of 2016 concerning Settlement of Land Cases article 38. Mediation is carried out by means of deliberation with the parties involved in the dispute, to obtain an agreement on dispute resolution. In the first type of land dispute, namely regional mapping, the researcher becomes a mediator between the residents and the organizing committee for direct systematic land registration (PTSL). Based on the deliberations that have been carried out, the mediator suggests to one of the parties, in this case the PTSL organizing committee, to re-measure the location of the dispute. Both sides, both the PTSL committee and the residents accepted the suggestion for land recalculation proposed by the mediator. At this time of mediation, both parties have reached an agreement. After both parties reach an agreement, a dispute resolution agreement letter is drawn up. Both parties signed the agreement letter as a sign of the validity of the letter and evidence that both parties were willing to accept the decision from the re-measurement results, and were responsible for the agreement made not to re-issue a similar dispute in court because it was declared that the dispute had been resolved through mediation.

The second type of problem, namely widespread error, mediation efforts are also carried out as an alternative dispute resolution step. This mediation process was also carried out at the Pengkoljagong Village office. The deliberation process in this discussion took a long time, because the residents insisted on referring to the information on the area stated in letter-C. On the other hand, the PTSL committee stated that the exact land area was the result of the latest measurements. The thing that causes the deliberation process to take a long time is that the description of the area known to the current rights holders is hereditary and refers to the outdated letter-C with unclear writing. As a mediator, the Village Head of Pengkoljagong suggested that a re-recruitment be carried out witnessed by residents who own land rights.

In the second mediation, the refusal occurred because the wife of the reporting party, who is also the owner of land rights, felt aggrieved by the results of the new area measurement. According to him, land registration should only refer to the old law that has been applied from generation to generation. The mediator explained that registration has rules and procedures that have been stipulated in the legislation and opposing the legislation is an act against the law. In addition, the mediator also explained that the holder of land rights can file a lawsuit in court, but there have been many cases that have accumulated in court so that the dispute resolution process will take longer. Taking into account the explanation of the mediator,

Referring to the first and second mediation processes, the researcher as well as the mediator applies land measurement again as a solution in the implementation of land dispute resolution mediation that occurred in the village of Pengkoljagong, Jati sub-district, Blora Regency, namely in disputes over the wrong location of the area, the wrong picture of the area and the wrong border area. . The solution to re-measurement of land at the disputed location is carried out to shorten and reduce the debate about differences in opinion between the disputing parties. The application of the remeasurement solution is, of course, carried out with a persuasive approach without the element of coercion through several explanations to the reporting party. The disputing parties are willing to accept the proposed re-measurement of land parcels with full responsibility by being willing to sign a land dispute settlement

agreement and promising not to file a lawsuit or claim in the future. After the mediation process, the researchers collected information through interviews with several sources, namely residents as owners of land rights who had a dispute about the application of mediation in Pengkoljagong Village, Jati District, Blora Regency. In the first case, the owner of the land rights agreed to the implementation of mediation and the solution that emerged from the deliberation because the respondents believed that dispute resolution through the courts was a complex process, took a long time, and required substantial costs. Respondents also provided additional information that it has become a tradition and custom to resolve problems with the assistance of the village head. According to him, the deliberation decision made was correct and did not violate his rights.

In the second case, the rejection of mediation occurred because one of the parties insisted on referring to the land rights they owned under the old law. However, after considering the mediator's explanation, respondents in the end prefer the mediation process with considerations of time efficiency and money costs if bringing the dispute to court. Other respondents gave quite varied answers regarding the reasons for preferring dispute resolution through mediation, but basically mediation was chosen by the respondents due to considerations of time efficiency and cost of dispute resolution. Mediation is also seen as providing a more satisfactory and faster solution than the trial process.

The point of view on the application of mediation is also taken from the government as a mediator and mediation. From interviews conducted with several village secretaries and PTSL committees, the majority gave the same answer, namely that the mediation process is considered effective because it benefits many parties.

3.3 Barriers to the Mediation Process as an Alternative for Dispute Resolution for the Implementation of Complete Systematic Land Registration (PTSL) in Pengkoljagong Village, Jati District, Blora Regency

Based on the previous discussion, it is known that the implementation of mediation as an alternative dispute resolution for the implementation of the Complete Systematic Land Registration (PTSL) in the village of Pengkoljagong, Jati District, Blora Regency, has been running effectively. However, the process of implementing the mediation did not run smoothly for several reasons. In the implementation of the first mediation studied, the process of implementing the new mediation was successfully carried out on the second summons. In the first summons for the implementation of mediation at the Village office, the resident as a reporter failed to fulfill the summons without clear information, so a recall was made.

In the second implementation, the mediation process took a long time because one of the reporting parties, in this case the reporting wife, did not agree with the proposal submitted by the mediator. The complainant's wife insisted on referring to the hereditary information and the outdated letter-C. After giving some understanding that the old data is not accurate and inviting to do a re-measurement which was witnessed directly by the reporting party, both parties agreed not to continue the dispute.

In the implementation of the third mediation, the mediation process to bring together the two parties was very difficult because one of the parties, namely the reporting party, was outside the city. Due to the busyness factor, it took some time for the reporting party to return to Pengkoljagong Village. In response to this, the village head of Pengkoljagong, as the mediator, communicated in an incentive manner so that the complainant could take the time to mediate. After several communication processes and explaining that the land dispute needs to be handled immediately, the reporting party was successfully brought in to carry out mediation.

In the implementation of the fourth and fifth mediation, the obstacles that emerged were more or less similar, namely documents proving land rights were outdated, there were

documents that were rotten, and even damaged by termites. However, with the solution to re-measurement of land at the disputed location, all land disputes were successfully resolved through mediation

IV. Conclusion

4.1 Conclusion

In the previous discussion, several cases related to land disputes have been successfully resolved by alternative land dispute resolution outside the trial, especially through mediation. Based on the research that has been done, it can be concluded that the effectiveness of mediation in alternative settlement of complete systematic land registration disputes (PTSL) in the village of Pengkoljagong, Jati District, Blora Regency, is very effective.

The effectiveness of mediation as an alternative in dispute resolution on the implementation of Complete Systematic Land Registration in Pengkoljagong Village, Jati District, Blora Regency, this is evidenced by the five disputes studied, namely wrong mapping of the area, wrong area, wrong area boundary, wrong area location, and wrong area the picture of the area, as a whole was successfully resolved through mediation, although in the process of implementing the mediation there were several obstacles.

The obstacles that arise in the mediation process as an alternative to complete systematic land registration (PTSL) dispute resolution in Pengkoljagong Village, Jati District, Blora Regency are the absence of the disputing parties, lack of documents, one of the reporting parties agrees with the dispute resolution suggestion but other parties are still adamant with incomplete documents so that the mediation process cannot be carried out quickly, as well as documents that are starting to become obsolete, resulting in the length of the mediation process being carried out

4.2 Suggestion

Referring to the conclusions of the research results and the obstacles that arise in the implementation of mediation as an alternative to complete systematic land leveling (PTSL) dispute resolution in the village of Pengkoljagong, Jati District, Blora Regency.

For other parties who will act as mediators in resolving land disputes, it is recommended to improve communication with residents to avoid canceling the mediation agenda due to the absence of the parties to the dispute. In addition, it is recommended for other researchers to provide an understanding to the community that mediation is more effective in resolving land disputes when compared to resolving disputes through the judicial process.

For communities in dispute, mediation is also one of the legal remedies and has binding and permanent force, mediation is also considered to have been effective in resolving systematic land registration disputes completely and is more satisfying to the disputing parties, because the results obtained are the best decisions from expectations of interested parties and more time and cost effective for the community.

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