

Claim For Compensation For Land In Court Ruling Number 53/Pdt.G/2019/Pn.Cjr Based On Principal Agrarian Law

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ABSTRACT

With the implementation of Mediation in Court through the results of Court Decision Number 53/Pdt.G/2019PN.Cjr, a provision applies which requires that all civil cases registered in the District Court must first attempt to resolve the dispute through a mediation process, including cases of claims for compensation in land dispute in Court Decision Number 53/Pdt.G/2019PN.Cjr. Based on the Basic Agrarian Law. Based on this, the issues that will be discussed are first, how the judge considers the plaintiffs' claim for compensation for the issuance of the certificate of rights in Court Decision Number 53/Pdt.G/2019/PN.Cjr, second, what legal remedies can be taken by the parties. In this writing, the author uses empirical juridical research methods, using primary data and secondary data, while data collection techniques are in the form of library studies and field studies, namely interviews and document studies. From the research results, it can be concluded that Court Decision Number 53/Pdt.G/2019/PN.Cjr, the researcher considers that the judge's decision stating that the claim for compensation for the Plaintiffs' rights is declared unacceptable due to formal defects is correct and the researcher assesses that that the judge's decision stating that the development of the disputed land belongs to Cipanas Village so that it is within the authority of the property rights to be able to use it and to take other legal action is correct.

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INTRODUCTION

Land is the most important factor in determining the production of every phase of human civilization. Where land is really needed by humans and also has an important meaning, because human life is influenced and determined by the existence of land. For Indonesian people, land has a multi-dimensional meaning. First, from an economic point of view, land is a means of production that can bring prosperity. Second, politically, land can determine a person's position in community decision-making. Third, as a culture, it can determine the high or low social status of its owner. Fourth, land has a sacred significance because it deals with inheritance and transcendental issues.

Article 33 Paragraph (3) of the 1945 Constitution defines land and natural resources concisely, but very philosophically, namely: "Earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people." Land is a source of livelihood for humans, for this reason land is very useful for humans and humans really need land to survive, whether it can be used as a place to

build a residence, build a building or a place to farm as well as all activities that are directly related to the benefits of land.

Looking at the contents of this article, it indicates that the state has a responsibility to provide prosperity to its people by managing the natural resources it possesses fairly. However, this mandate seems far from being fulfilled, the land ownership structure is still unequal, so it is not surprising that land becomes problematic which can trigger various very complex and complicated social problems. The problem of land disputes in many places triggers various conflicts, be it between community groups, communities and businesspeople, or communities and the government. In many cases in Indonesia, agrarian conflict is closely related to the failure to fulfil the rights of citizens by the government, both at the local, regional and national levels.

Inequality in land ownership is what often causes land problems in Indonesia. The rapid and rapid development of society and the increasing needs are not commensurate with the never-increasing land area. The implementation of national development, especially the construction of various facilities for the public interest, requires very large areas of land. On the other hand, the land required is generally already attached with a land right.

Land has a very important role for human life. This is because almost all aspects of life, especially for the Indonesian people, cannot be separated from the existence of land, which can not only be viewed from an economic aspect, but also includes all life and livelihoods. The fact that land is an economic asset in meeting people's needs cannot be avoided. It is not surprising that nowadays land is always fought over, giving rise to disputes and conflicts related to land and all the resources within it.

The struggle for land, especially customary land, continues to occur and continues to this day, in Article 17 of the Basic Agrarian Law of 1960, which states that "There is recognition of a system of collective/communal land ownership, the application of customary law as long as it does not conflict with the interests of the nation; This means that if national interests require it, customary law can be defeated.

Within the scope of customary rights, there are individual rights to land, namely rights that arise due to continuous intensive cultivation of a plot of (empty) land. The relationship between customary rights (which are owned by the legal community as a unit) and individual rights is a flexible/flexible relationship.

The phenomenon that occurs in society is that many social problems occur, such as land disputes. This land dispute occurs in three groups, namely between government, society and business (entrepreneurs). The author will limit the writing to disputes that occurred between the community and the government regarding claims for compensation for the plaintiff's land by the government without the approval of the plaintiff to collaborate with a third party, so that the plaintiff felt disadvantaged and asked for compensation for the government's actions.

In the case of the dispute over Court Decision Number 53/Pdt.G/2019/PN.Cjr, each party claims that the agrarian resources used in the dispute belong to them. This is what has resulted in resistance between the plaintiff (heir) and the government.

In looking for alternative dispute resolution, this must be done in a way that does not cause harm or benefit to one of the parties, or in short, one must find a good solution from various parties. Land disputes can take the form of customary rights disputes, administrative disputes, civil disputes, criminal disputes related to ownership, registration transactions, collateral, utilization, control. Land disputes often occur in various regions in Indonesia and often cause casualties, as well as property losses.

The land dispute that will be discussed is a dispute over customary rights. The incidence of land disputes increased to 19 percent outside Java, where rural communities are more likely to encounter plantation, forestry and mining companies, a major source of tension. Law No. 20 of 1961 concerning revocation of rights to land and objects on it is interpreted in such a way that in practice, for public interests or even for private interests, officials at the level of governor or regent can revoke land rights. In this final assignment, the author is interested in studying further about land which is the object of a dispute that occurred in Cianjur, based on Court Decision Number 53/Pdt.G/2019/PN.Cjr. The dispute occurred between the heir (plaintiff) and the local village government (defendant).

In the decision, it was stated that based on the judge's considerations, the disputed land belonged to Cipanas Village. It was then also said that the building standing on the disputed land belonged to the heirs (plaintiffs), therefore raising the question of whether the local village government, which is the owner of the disputed land object, would give rights to the plaintiffs (experts). heir) demands compensation for the issuance of the certificate of use rights.

However, based on the judge's considerations in the decision of the case, he considered that the compensation for building losses as stated in the plaintiffs' petition to the Cipanas Village Government was too excessive, in addition to the fact that the building stood on village land which was leased back by the plaintiffs to a third party, so the plaintiff's lawsuit regarding compensation was declared rejected.

In the lawsuit, it is stated that the land object of the dispute from the past until now does not belong to Cipanas Village but is Free State Land, as per the Cipanas Village certificate, namely based on the Right to Use Certificate Number 0014/Cipanas Village, covering an area of 3200 m² (Three Thousand Two Hundred Meters Square) dated November 2 2017, in the name of Cipanas Village, originating from the State Land Use Rights, which are stated in the Cipanas Village Use Rights certificate, which have a limited period of use. Apart from that, before the certificate was issued, the plaintiffs had taken control of the land and building based on a valid Deed of Sale and Purchase signed by the Head of Cipanas Village at that time and the Head of Pacet District as the Official who Drafted the Land Deed.

On September 5 1974, based on the Sale and Purchase Agreement from Mrs. Aguslina which was sold to Tjoeng Seng Joen and approved by the Head of Cipanas Village, in Article 3 of the Agreement Letter it was written that the land agreement would not expire, and Article 4, Mrs. Tjoeng Seng Joen can apply for the land to become customary ownership. Customary property rights or better known as ulayat rights, are a series of authorities and obligations of a customary law community, which relate to land located within their territorial environment. With the control of land by the partnership

and its citizens, a legal relationship (right) arises between the partnership and the land which is then followed by the emergence of individual rights.

The patterns of relationship between associations or individuals and the land they control are called customary land law. Based on Law Number 5 of 1960, it recognizes the existence of Ulayat Rights. This recognition is accompanied by 2 (two) conditions, namely regarding its existence and regarding its implementation. Based on Article 3 of the Basic Agrarian Law (UUPA), customary rights are recognized "as long as in fact they still exist".

Thus, ulayat land cannot be transferred into ownership land if the ulayat land in fact still exists, for example proven by the existence of the relevant customary law community or the relevant traditional head, then conversely, ulayat land can be transferred into ownership rights land if the ulayat land is in reality does not exist or its status has changed to "former ulayat land". If inheritance has occurred, for example, it must be preceded by making an inheritance statement and the usual inheritance procedures. Meanwhile, if the acquisition of rights is carried out through a buying and selling mechanism, then the buying and selling process must first be followed.

In this case, it was discovered that the acquisition of rights to the disputed object was based on a valid sale and purchase signed by the Head of Cipanas Village and the Head of Pacet District as the Land Deed Drafting Officer. However, the only documentary evidence for the lawsuit filed by the plaintiffs (heirs) is a letter of whitening of the Building Construction Permit (IMB) Number 648/PIMB-1572/PU/PC/1989, dated 30 October 1989, which was given by the Regent, Head of the Regional Level. II Cianjur to Cung Seng Yun, regarding permanent buildings using concrete used for accommodation located on the Babakan Situ highway RT 01 RW 07 Cipanas Village, Pacet District, Cianjur Regency with the provisions that you are not allowed to change the shape, type and area of the building without the permission of the Cianjur Regent. In his lawsuit, the plaintiff did not include evidence of the sale and purchase agreement which was submitted as evidence to strengthen the arguments of his lawsuit.

METHOD

The approach method used is normative juridical with secondary data types consisting of primary legal materials, secondary legal materials and tertiary legal materials. The data obtained was analysed using qualitative juridical analysis. This research is normative legal research carried out through a study of written legal regulations or existing legal materials. This research examines secondary data which includes official legal documents, previous research results and other library materials at that stage. With regard to official legal documents, researchers conducted a study of primary legal materials that are binding and closely related to the problem under study. This research is descriptive-analytic in nature, namely by explaining completely and systematically the legal conditions that apply in a certain place, at a certain time and on certain legal events, with the aim of obtaining a complete description.

RESULTS AND DISCUSSION

Claims for Compensation in Court Decision Number 53/Pdt.G/2019/PN.Cjr

The judge's decision or court decision is something that is highly hoped for by the parties involved in the case in order to resolve the dispute between them as well as possible and fairly, to obtain and hope for legal certainty and justice in the case they are facing. Which refers to three basic values that must be contained in law, justice, benefit and legal certainty. These three things are what are expected to be contained in a decision issued by a judge. In a decision, legal considerations are the soul and essence of the decision. Legal considerations contain analysis, arguments, legal opinions or conclusions from the Panel of Judges examining the case. In these legal considerations, a clear analysis is put forward based on evidence law regarding whether the evidence submitted by the plaintiff and the defendant meets the formal and material requirements, based on the main dispute between the parties, namely whether the land on which there is a building controlled by the plaintiffs is the right of the parties. plaintiff so that the plaintiffs have the capacity as parties who are entitled to compensation for the land and buildings on it, because the land in question has been issued certificate number 00014/Cipanas Village. November 2 2017, where the disputed land will be revitalized by Defendant I and Defendant II as a form of exception to Defendants I and II

That the plaintiffs are obliged to prove the arguments of their claim. In order to prove the arguments of their claim the plaintiffs submit evidence:

1. Photocopy of ownership of letters P-6 and P-7 in the form of a statement of Inheritance Rights signed by Notary Anna Maria Ira Kelana stating that the plaintiffs are the heirs of Jeniawati (daughter of Mrs Tjuang Sen Yun) and Budi Sintoro Then,
2. Photocopy of letter P-1 of Building Construction Permit Whitening Number 648/PIMB-1572/PU/PC/1989 dated 30 October 1989 to Cung Sen Yun signed by the Regent of Cianjur regarding whitening of permission to build a permanent building using concrete used by the Nirwana Inn which is located on Jalan Raya Babangan Situ RT 01/07 Cipanas Village, Pacet Cianjur District.
3. Photocopy of P-2 Land Use Fatwa Letter Number 135/FTGT/IK/12/1985 dated 24 December 1985 which was issued by the Head of the Land Use Management section of the Cianjur Regency Agrarian Office regarding Land Use Conversion Permit Rights to Cung Sen Yun as the applicant.

Based on the description of the facts above in the posita of the lawsuit, the plaintiff claims to be the owner of:

1. Land and buildings known as Nirwana Inn based on the Sale and Purchase Letter from Mrs. Agauslina, which was approved by the Head of Cipanas Village, is located on Jalan Raya Cipanas Gg Nirwana Kp Babakan Situ RT 01/07 Cipanas Village, Cipanas District, Cianjur Regency.
2. Land and buildings known as Toko Kecil located on Jalan Raya Cipanas No. 147 Kp Babakan Situ RT 01/07 Cipanas Village, Cipanas District, Cianjur Regency, based on the right to work from Liem Pek Tjang to Tjoeng Sen Yoen letter C number 31 Parsil 190 .S.11.
3. Land and buildings known as Toko Cipanas Jaya which are located on Jalan Raya

Cipanas No 161 Kp Babakan Situ RT 01/07 Cipanas Village, Cipanas District, Cianjur Regency, based on Deed of Sale and Purchase Number 76/1970 between Mrs. Warniti with Jeniawati (parents of the plaintiffs).

From the evidence in the Compensation Claims trial, the arguments given by the plaintiff are not supported by the following evidence: Letter of transfer of the disputed object to Nirwana Inn based on the Sale and Purchase Letter from Mrs. Aguslina, Transfer of Working Rights from Liem Pek Tjang to Tjoeng sen yoen letter C number 31 Persil 190.S.11 and Deed of Sale and Purchase number 76/1970 between Mrs. Warniti and Jeniawati, on the other hand, as proof of letters P-1 and P-2 provided by the plaintiff, the judge considered that this evidence did not describe ownership of the object of dispute, the evidence only explained the permit to build a permanent building which was used for Nirwana's accommodation. the name Cung Sen Yun.

It is explicit that the defendants' ownership of the disputed object is only limited to the building which has undergone changes to two floors. That because the defendants were able to prove their arguments, the plaintiffs' second petitem had reason to be rejected. And furthermore, regarding the building standing on the disputed land, the defendant admitted that the building standing on the land belonged to the plaintiffs. The defendant's confession raises the question of whether the defendants will give the plaintiffs the right to claim compensation for the issuance of the Right to Use Certificate Number 00014 of 2017 in the name of the Cipanas Village Government? Based on information from witnesses at the trial, both the plaintiff and the defendant, each witness stated that the building standing on the disputed land had been/had been rented out by the plaintiff to a third party at a cost of Rp. 50,000,000.00 to Rp. 60,000,000.00.

Whereas based on the defendant's argument with proof of the argument of the Right to Use Certificate Number 00014 of 2017 in the name of the Village Government including the Village Market and Cipanas Main Market (which comes from Book C of Cipanas Village Persil Number 189.b/190 Class III), Babakan Situ; and the plaintiffs are registered in the Cipanas Village treasury land rental book (exhibit T-6), and considering evidence of letter T-5 by the defendant in Cipanas Village Regulation Number 8 of 2001 concerning provisions for Village Land Rentals, it is stated that in this regulation every transfer The rental rights to third parties must be known by the Cipanas Village as the owner of the land, in connection with the case in question that the plaintiffs have and have rented to third parties without the knowledge of the Cipanas Village Government with a rental value much greater than the plaintiff's rent to the Cipanas Village Government, then the panel of judges assessed that the compensation for building losses as stated in the plaintiffs' petitem was too excessive, this was based on the fact that the building was on land from the Cipanas Village Government and the plaintiffs had enjoyed the land rental proceeds as compensation for the building from a third party, so the plaintiffs' lawsuit was declared dismissed.

Court Decision Number 53/Pdt.G/2019/PN.Cjr, the judge in his decision rejected all claims from the Plaintiffs, both in terms of provisions and in the main case. The judge's decision was based on the consideration that the Plaintiffs' provisional demands were already the subject matter of this lawsuit. The Plaintiffs' provisions as mentioned above

are the subject matter of this lawsuit. The Panel of Judges is of the opinion that such a provision claim is a provision claim that does not meet the formal requirements and is declared unacceptable because of a formal defect.

Legal remedies that can be taken by the parties

So far, resolution of land disputes has been through general judicial institutions, because generally that is where every problem regarding land cases is brought by people seeking justice. In resolving land dispute cases in the General Court, civil provisions such as the Civil Code and other provisions outside it, such as the Basic Agrarian Law (UUPA), apply. The duties and authorities of civil justice bodies are to receive, examine, adjudicate and resolve disputes between litigants.

The subject of the dispute is regulated in accordance with Article 2 Paragraph (1) No.14 of 1970 which was changed to Law No.35 of 1999, now Article 16 Paragraph (1) of Law No.4 of 2004.12 in several statutory regulations there is already a provision that in dispute resolution, individuals or civil legal entities who are dissatisfied with the decision handed down by the court, can submit administrative measures.

In the case above, it is impossible to resolve it by separating the subject (the right holder) and the object (the land). Disputes regarding rights are civil disputes so they fall under the authority of the general court. All disputes regarding property rights or also called disputes regarding civil rights (meaning rights based on civil law or civil law) are solely within the power or authority of the judge or court to decide, in this case the judge or civil court.

1. Ordinary Legal Remedies

a) Resistance / Verzet

Namely a legal remedy against a court decision handed down without the presence of the Defendant (verstek). Basically, this resistance is provided for the Defendant who is defeated. For the Plaintiff, this verstek decision can be appealed.

b) Appeal

Namely submitting a case to a higher court to request a re-examination, if the parties are not satisfied with the decision of the first instance. Guided by the provisions stipulated in Law No. 20 of 1947 concerning repeat trials, as regulated in Articles 7 to Article 15, it is stated: Deadline for appeals:

c) Cassation

The cassation level examination is not a third level court. Its authority to examine and adjudicate cases does not cover all cases, is very limited, and only covers matters specified in Article 30 of Law No. 14 of 1985, which is limited as far as:

- Examining and deciding whether the lower level court is not authorized or exceeds the limits of authority in examining and deciding a case.
- Examining and adjudicating errors in the application of legal violations committed by subordinate courts in examining and deciding cases.
- Examining and adjudicating negligence regarding the requirements that must be fulfilled according to applicable laws and regulations.

- The cassation level does not have the authority to examine all cases such as the authority of the first level court and the appellate level, therefore the cassation level court does not include *judex facti*.

Namely the re-examination of court decisions that have obtained permanent legal force. The reasons for submitting a PK are stated in Article 67 of Law No. 14 of 1985, namely:

- If the decision is based on a lie or deception that is discovered after the case has been decided.
- If after the case has been decided, a document of decisive evidence is found which was not found at the time the case was examined (*novum*).
- If something has been granted that was not demanded or more than what was demanded.
- If between the same parties, regarding the same issue, on the same basis, the same court gives a decision that contradicts each other.
- If in a decision there is a judge's error or a real mistake.

CONCLUSION

If we look at Decision Number 53/Pdt.G/2019/PN Cjr, it is a decision which states that the judge did not accept the plaintiff's lawsuit/petitioner's petition or in other words the plaintiff's lawsuit/petitioner's petition was not accepted because the lawsuit/petition did not meet the legal requirements both formally as well as material. Decision Number 53/Pdt.G/2019/PN Cjr has permanent legal force, meaning that the decision already has positive binding force as it is correct and cannot be changed again and basically cannot be contested by legal means or measures. biased. The contents or injunctions of the decision can now be implemented and have given rise to legal consequences. Therefore, the contents of the court decision must be obeyed by the parties. The basis for this unacceptable decision can be seen in the Jurisprudence of the Supreme Court of the Republic of Indonesia No. 1149/K/Sip/1975 dated 17 April 1975 Jo Ruling of the Supreme Court of the Republic of Indonesia No. 565/K/Sip/1973 dated 21 August 1973, Jo Ruling of the Supreme Court RI No.1149/K/Sip/1979 dated 7 April 1979 which states that if the object of the lawsuit is unclear, the lawsuit cannot be accepted. So in this research, Court Decision Number 53/Pdt.G/2019/PN.Cjr, the researcher considers that the judge's decision stating that the claim for compensation for the plaintiffs' rights must be declared unacceptable because of a formal defect is correct.

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