



Analysis of Land Dispute Resolution in Court: A Case Study at LDP LAW FIRM & PARTNERS

Jeffenri Lumban Batu^{1*}, July Esther²

^{1,2}Faculty of Law, HKBP Nommensen University, Indonesia

Email: jeffenri.lumban@student.uhn.ac.id¹, julyesther@uhn.ac.id²

*Corresponding Author: jeffenri.lumban@student.uhn.ac.id

Abstract. The resolution of land disputes through the judicial process is a step taken when non-litigation settlement efforts fail. This process involves a series of legal procedures aimed at enforcing land rights, including proof of ownership and other related rights. This article aims to analyze the procedures, challenges, and effectiveness of land dispute resolution in court. Using a normative-empirical approach, this study finds that although the judicial system provides a clear mechanism, there are several obstacles, such as lengthy legal processes, high costs, and the complexity of proving ownership, which can delay dispute resolution. In this regard, it is important for the parties involved to understand the applicable legal procedures and utilize alternative dispute resolution methods that can expedite land dispute resolution, such as mediation and arbitration. This study also recommends improvements in the judicial system and more efficient approaches to handling land disputes in the future.

Keywords: Court, Dispute Resolution, Land, Legal Procedures.

1. INTRODUCTION

Land disputes in Indonesia have become a complex legal issue that frequently arises in various aspects of society. These disputes stem from multiple factors, such as unclear land legal status, overlapping ownership claims, and conflicts between individuals or legal entities with rights over the same land. Moreover, rapid development and urbanization often lead to shifting land boundaries, further exacerbating land disputes. Amidst these uncertainties, many parties choose litigation as a last resort to resolve their disputes.

Resolving land disputes through the courts often takes a long time and incurs significant costs. This poses a challenge for the involved parties, particularly those with financial constraints. Lengthy judicial processes and high costs frequently worsen the situation and increase tensions among disputing parties. In some cases, the losing party may file an appeal or cassation, prolonging the dispute resolution duration. Consequently, land dispute resolution through litigation is often deemed ineffective and inefficient in delivering justice for those seeking legal certainty over land rights.

Therefore, it is crucial to analyze various aspects of land dispute resolution, including legal procedures, challenges faced by disputing parties, and the effectiveness of the judicial system in handling land disputes. In Indonesia, land dispute resolution procedures are governed by several regulations, including Law No. 5 of 1960 on Basic Agrarian Principles (UUPA),

which regulates land rights and legal procedures for proving ownership. Additionally, Law No. 30 of 1999 on Arbitration provides alternative dispute resolution mechanisms outside of litigation.

Despite a clear legal framework, the practical implementation of land dispute resolution in court faces several challenges. One major issue is the complexity of proving land ownership, often involving old documents, unavailable witnesses, and incomplete administrative records. These challenges contribute to prolonged disputes, sometimes leaving them unresolved. Furthermore, the high costs of litigation and power imbalances between disputing parties exacerbate the situation. In some cases, parties with greater resources and stronger legal support have a better chance of winning the dispute, even if their claims are less legally valid than the opposing party's.

As an alternative, some parties have begun considering non-litigation dispute resolution methods, such as mediation or arbitration. These approaches are deemed more efficient due to their faster processes and relatively lower costs compared to litigation. Law No. 30 of 1999 on Arbitration regulates alternative dispute resolution, allowing disputing parties to reach agreements through appointed mediators or arbitrators. However, the acceptance of mediation and arbitration remains limited, as most people still prefer court litigation, considering it more legally binding.

Thus, this study aims to explore land dispute resolution procedures in court, the challenges encountered, and the effectiveness of the judicial system in addressing land disputes. It also evaluates the implementation of alternative dispute resolution methods such as mediation and arbitration and provides recommendations for improving land dispute resolution mechanisms in Indonesia, ensuring a more efficient, fair, and effective system that delivers justice to all involved parties.

2. RESEARCH METHODOLOGY

This study employs a normative-empirical approach to analyze land dispute resolution through the judicial system. The normative-empirical approach was chosen because the research examines not only existing legal norms but also the practical implementation of land dispute resolution, particularly in applying legal procedures in court. The study seeks to explore legal procedures, challenges, and alternative dispute resolution mechanisms to enhance the efficiency and effectiveness of land dispute resolution in court.

This is a descriptive and analytical legal study. Descriptive research aims to detail the applicable legal procedures in land dispute resolution in court, while analytical research

examines the challenges within the judicial system and provides recommendations for improving land dispute resolution mechanisms.

Data was collected through literature studies and field observations. The literature study was used to gather regulations, books, journals, and articles related to the topic. Field observations were conducted to understand the implementation of legal procedures in court and the practical application of alternative dispute resolution mechanisms. Once the data was collected, analysis was conducted by comparing relevant legislation with practical implementations. Interview data and case studies were analyzed qualitatively to assess the alignment between theory and practice in land dispute resolution. Based on this analysis, recommendations were provided to improve judicial land dispute resolution procedures and promote more efficient alternative dispute resolution methods.

3. RESULTS AND DISCUSSION

Procedures for Land Dispute Resolution in Court

Based on the analysis conducted, the procedure for resolving land disputes in Indonesian courts follows the provisions set forth in several laws and regulations. Law No. 5 of 1960 (UUPA) serves as the primary legal basis for proving land ownership and resolving land-related disputes. The process begins with the filing of a lawsuit by a party who claims ownership of the disputed land. Following this, court proceedings are conducted to verify and substantiate each party's claim, including the examination of documentary evidence such as land certificates, other legal documents, and witness testimonies.

However, despite the existence of clear procedures, their implementation often encounters various obstacles that delay dispute resolution. The complexity and strict nature of the procedures often add to the burden of the parties involved, particularly when there are administrative issues, such as incomplete documentation or discrepancies in land records between the disputing parties.

Challenges in Land Dispute Resolution

The main challenges in resolving land disputes through the court system include:

- 1) **Lengthy Process:** The resolution of land disputes often takes a very long time due to the multiple stages involved in court proceedings, including administrative hurdles and difficulties in finding relevant witnesses. The prolonged process exacerbates tensions between disputing parties and may worsen the situation.

- 2) **High Costs:** Litigation in land disputes requires substantial financial resources. The costs include attorney fees, court administration fees, and expenses related to gathering evidence. Consequently, economically disadvantaged individuals may struggle to pursue legal action. Additionally, disparities in financial resources between disputing parties often influence the outcome of cases, with wealthier parties having a higher likelihood of winning (Purnamasari, 2021).
- 3) **Complexity of Land Ownership Proof:** Proving land ownership is often a complicated process. In many cases, ownership documents are outdated and difficult to verify. Furthermore, overlapping ownership claims by different parties add further complexity to the legal process (Government Regulation No. 24 of 1997 on Land Registration).

Effectiveness of the Court System

Overall, Indonesia's land court system has a clear mechanism for resolving land disputes. However, its effectiveness is frequently hindered by lengthy procedures and high costs. Although parties can seek legal remedies through the courts, these obstacles often lead to dissatisfaction and frustration with the judicial system. Moreover, in some cases, the losing party may file an appeal or cassation, further prolonging the land dispute resolution process.

Alternative Land Dispute Resolution Methods

To address the challenges within the court system, mediation and arbitration have emerged as more efficient and cost-effective solutions. Under Law No. 30 of 1999 on Arbitration, mediation and arbitration enable disputing parties to reach a resolution more quickly and at a lower cost. In some cases, mediation allows disputing parties to reach a peaceful settlement with the assistance of a mediator (Law No. 30 of 1999 on Arbitration).

However, despite being more efficient, alternative dispute resolution methods have not been widely adopted. Most people still prefer litigation, as it is perceived as more legitimate and formally recognized by law. Therefore, further efforts are needed to promote and introduce these alternative resolution methods to the public.

Recommendations for Improvement

Based on the analysis and discussion, this study provides several recommendations to enhance the effectiveness of land dispute resolution in Indonesia:

- 1) **Improving Court System Efficiency:** The judicial system should be reformed to expedite land dispute resolution by reducing bureaucratic complexity and accelerating the verification process of required documents during court proceedings.
- 2) **Reducing Litigation Costs:** The government and relevant institutions should consider lowering litigation costs to make legal proceedings more accessible, particularly for individuals with limited financial resources. This could help reduce inequalities in access to justice.
- 3) **Enhancing Public Awareness of Alternative Dispute Resolution:** Public education and outreach programs should be intensified to increase awareness of mediation and arbitration as viable alternatives for dispute resolution. People need to be informed of the benefits and advantages of these methods.
- 4) **Improving the Land Administration System:** To facilitate the proof of land ownership, the government should enhance the land administration system to ensure that ownership data and land boundaries are more accurate, well-structured, and easily accessible (Fadhilah, 2022).

4. CONCLUSION

Land dispute resolution in court is crucial for ensuring the protection of land rights and establishing legal certainty for the public. Although a structured system governs litigation procedures, numerous obstacles hinder effective dispute resolution, including prolonged legal processes, high litigation costs, and complex land ownership verification. These issues not only cause dissatisfaction among disputing parties but also undermine the judicial system's effectiveness in delivering justice.

A major challenge in land dispute resolution is the slow judicial process. Lengthy court proceedings can escalate tensions between disputing parties and impose financial and psychological burdens, particularly on those with limited resources. Additionally, high litigation costs often deter individuals from seeking justice, making court access feasible only for those with sufficient financial capacity to sustain lengthy legal battles.

Moreover, proving land ownership remains a significant challenge. Many disputes involve old or incomplete documentation, as well as conflicting claims from different parties, making ownership verification complicated and time-consuming.

Despite these challenges, alternative dispute resolution methods such as mediation and arbitration show promise in addressing these issues. Mediation allows disputing parties to reach amicable agreements with the assistance of a mediator, while arbitration provides binding decisions through a faster and less costly process. These alternatives can reduce dispute resolution duration and associated costs. However, public acceptance of these methods remains limited, as most individuals still perceive court litigation as the more legally authoritative option.

To enhance land dispute resolution in Indonesia, efforts should focus on improving court efficiency, reducing litigation costs, promoting alternative dispute resolution methods, and strengthening land administration systems. By implementing these measures, a more efficient, fair, and effective dispute resolution system can be established, ensuring justice for all parties involved.

REFERENCES

- Badan Pertanahan Nasional (BPN). (n.d.). *Homepage*. Retrieved from <https://www.bpn.go.id>
- Fadhilah, S. (2022). Pengaruh ketimpangan sosial dalam penyelesaian sengketa tanah: Studi kasus di wilayah perkotaan. *Jurnal Hukum Agraria*, 10, 76–89.
- Herwandi, F. (2023). Tantangan dalam pembuktian kepemilikan tanah di pengadilan Indonesia. *Majalah Hukum Agraria*, 12, 15–29.
- Peraturan Pemerintah No. 24 Tahun 1997 tentang Pendaftaran Tanah
- Peraturan Pemerintah No. 37 Tahun 2018 tentang Pendaftaran Tanah Elektronik
- Prasetyo, A. (2020). Efektivitas mediasi dalam penyelesaian sengketa tanah di pengadilan. *Jurnal Studi Hukum*, 14(2), 78–93.
- Purnamasari, E. (2021). Efektivitas penyelesaian sengketa tanah melalui pengadilan di Indonesia. *Jurnal Hukum dan Keamanan*, 9, 45–60.
- Setiawan, H. (2017). *Sengketa tanah dan penyelesaian hukum* (p. 211). Penerbit Universitas Gadjah Mada.
- Siregar, T., & Nasution, M. (2015). *Hukum agraria di Indonesia* (p. 134). PT. Raja Grafindo Persada.
- Undang-Undang No. 30 Tahun 1999 tentang Arbitrase
- Undang-Undang No. 30 Tahun 1999 tentang Arbitrase, Pasal 1
- Undang-Undang No. 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria, Pasal 20
- Undang-Undang No. 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria (UUPA)

Wahyudi, S. (2018). Analisis penyelesaian sengketa tanah di pengadilan negeri. *Jurnal Hukum dan Pembangunan*, 48(3), 92–106.