

Research Article

Analysis of Losses Experienced by Gakoptas in the Dispute Case with PT Torus Ganda: Legal and Economic Perspective (Case Study Analysis of Supreme Court Decision No.2642/K/PID/2006)

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Abstract. The dispute case between Gakoptas and PT Torus Ganda caused problems. PT Torganda illegally controlled Gakoptas land which caused a conflict, as a result a farmer was injured. This study aims to determine the causal factors and resolution strategies in the dispute case between Gakoptas and PT Torganda. This study uses a normative juridical method with the sources of materials used in the form of secondary, primary and tertiary sources. The results of this study state that the causal factors of the conflict are due to the land administration system, inequality in the distribution of land ownership, legality of land ownership and economic motives. The resolution strategy can be carried out by executing the Supreme Court's decision, land redistribution through agrarian reform, land controlled by PT Torganda is returned to Gakoptas, economic recovery and sanctions.

Key words: Gakoptas, PT Torus Ganda, Land Dispute Cases.

1. Introduction

Indonesia is a country based on law (Hidayat, 2016). Law is an official regulatory system that is binding and confirmed by the ruler or government (Moertiono, 2021). Law regulates human behavior in society and violations of the rules will be subject to sanctions. The law aims to maintain order, justice, and prevent chaos in society (Retno et al., 2024). In this world, all people have inherent authority, including the right to life, freedom, security, and other universal rights (Rambe & Sihombing, 2024). The democratic nature of the concept of a state of law is shown through the understanding that the law in a democratic state is determined by the people, which is the regulation of relations between fellow citizens and the protection of citizens' rights in the context of relations between rulers and people (Asrun, 2016).

Everything concerning public welfare has been regulated by law in the form of written regulations. Legal certainty for a person has essentially been guaranteed by the constitution in Indonesia. In the context of modern world life, several things often occur that trigger disputes such as between Limited Liability Companies (PT) and the community. One of the disputes between PT and the community is about land ownership in differences in perception regarding the concept of land control and utilization. Land plays a very important role in people's lives. Land has a very important role because in reality it will be related forever between humans and land. Land is also a very large state asset. The source of state income is also mostly from taxes such as land tax, building tax and others. Land disputes are disputes that arise due to conflicts of interest over land (Sukmawati, 2022). One example of a land dispute is the conflict between Gakoptas and PT Torus Ganda.

The Farmers' Struggle Group Association (Gakoptas) is an organization that accommodates farmer groups who are struggling to gain welfare and their rights. They fight

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for land rights, welfare, and agrarian justice for their members. Gakoptas generally consists of farmer groups that join together to strengthen their position, especially in facing land conflicts with large companies or in fighting for agrarian reform. Based on available information, in 1994 Gakoptas opened up 8,000 hectares of former HPH PT. Rimba agricultural land in Padang Lawas Regency. The community has managed the land by planting oil palm. However, in 1998, PT. Torganda began to claim the land, destroying crops that had been planted by the community, and even destroying their homes. PT Torus Ganda is a national private company engaged in the plantation and oil palm industry sector. This company was founded in 1986. PT Torus Ganda is domiciled in Medan and has spread to regions throughout Indonesia (Paraduan, 2013).

In 2006, the Supreme Court in decision Number 2642/K/PID/2006 has decided that 7,850 hectares of PT Torganda's plantation area is included in the forest area register 40. Despite the decision, PT Torganda controls and manages the land without official permission from the Ministry of Environment and Forestry (KLHK), which means it is illegal. Meanwhile, the community who are the land owners are not allowed to manage agricultural land. In fact, the land and plants belong to the community. The conflict between Gakoptas and PT Torganda continues to occur, resulting in a farmer being injured.

The Environmental Forum (WALHI) urges the Attorney General's Office to investigate alleged violations of the law and indications of corruption of natural resources (SDA) committed by PT Torganda. The Environmental Forum (WALHI) said that PT Torganda's plantation has caused forest damage covering 47,000 hectares in Register 40, North Padang Lawas Regency, and forcibly evicted local communities. The state has allowed this violation of the law to occur. Various modes and practices of unilateral forest control by the company are clearly and clearly detrimental to the state and the community, as well as the ecosystem. Although various legal efforts have been made, recommendations from the DPR, and a letter from the Ministry of Forestry stating that land control by PT Torganda is illegal, until now there has been no concrete action to restore the rights of the community.

Based on the description above, it can be seen that the weak enforcement of agrarian law against large corporations and minimal protection of farmers' rights. This case reflects the social and economic injustice that occurs where large corporations control resources illegally while thousands of farmers lose economic access and welfare. In resolving land disputes, there are several settlement processes that can be carried out, including the dispute resolution process through litigation in court and the settlement process through cooperation outside the court.

2. Research Methods

The type of research in this study is normative juridical which means the approach is carried out by examining the approach of theories, concepts, reviewing the laws and regulations related to this research or the approach of legislation. The sources of legal materials used are secondary, primary and tertiary legal sources obtained from analyzing books, journals and previous research that are related to the title of this writing as well as tertiary legal materials that can support primary and secondary legal materials such as legal dictionaries and writings that can be accessed via the internet.

3. Results And Discussion

Factors Causing the Emergence of Land Dispute Problems in the Gakoptas Case with PT Torus Ganda

Reconstruction of law enforcement behavior in resolving land disputes that are fair can be realized if law enforcers have the ability to make decisions. This ability is not only limited to implementing textual procedures, because if law enforcers make decisions textually in the judicial process, the goal of resolving disputes that are fair will not be achieved. The mindset of law enforcers should include matters of justice, certainty and contain social benefits.

The emergence of a land dispute between Gakoptas and PT Torus Ganda is not just an incident but a problem/tragedy. This problem has been going on for almost 2 decades, resulting in Gakoptas (farmers) being injured. This case arose due to the lack of public understanding of land ownership status. This problem started with the opening or expansion of oil palm plantations which are increasingly difficult to stop. This is due to the high market demand for oil palm commodities. The impact of the increasing demand for oil palm commodities in the business market is the expansion of land that is increasingly widespread.

The increasingly widespread land expansion has an impact on the cultivation of customary land (Kolompoy, 2019). Land disputes and agrarian resources are a type of latent conflict. Latent conflict is a conflict that can occur in individual or group interactions in an organization, due to organizational set-up and differences in conception. This conflict has the potential to surface at any time. Latent conflict is surprising, because it comes suddenly and usually has a big impact (Nisa, 2015). Some parties involved in the dispute involve communal aspects. Communal involvement can cause land disputes to develop into mass riots that result in casualties. This riot causes the community to suffer losses.

Land disputes have caused various consequences, ranging from financial aspects or possible further impacts such as decreased work or business productivity (Nasution, 2015). This is due to the need for the parties involved to allocate special energy, thoughts, and time to resolve the dispute which in turn reduces their attention to the work or business being carried out. The social impact will cause a decrease in the level of public trust in the government regarding the implementation of spatial planning. During the conflict, the space above the territory and land becomes the object of conflict which is usually in a status quo state, so that the space above the land cannot be utilized.

This results in a decrease in the quality of environmental resources which can harm the interests of many parties. In Law Number 5 of 1960 concerning the principles of Agrarian Affairs, there are provisions that guarantee every citizen to own land and obtain benefits from the results (Article 9 paragraph 2). Referring to these provisions and also referring to PP No. 24/1997 on Land Registration (especially Article 2), the National Land Agency (BPN) should be able to issue legal documents (certificates) required by every citizen with a simple process, especially if the citizen has had long-standing evidence of their land rights (Ningrum, 2014). However, it is unfortunate that proving legal documents through certificates is not the best solution in land disputes.

From this, there are several factors that cause this problem, such as:

- a. The land administration system, especially related to land certification, is experiencing irregularities. This problem may be caused by a weak administrative system and many clever individuals who take advantage of weak legal loopholes.
- b. Inequality in the distribution of land ownership, which causes significant imbalances in both the agricultural and non-agricultural sectors, resulting in economic, political and social inequality. In this context, the most oppressed groups in society are the lower classes, especially farmers or land workers. This inequality cannot be separated from economic policies that prioritize the principles of capitalism and liberalism.
- c. The legality of land ownership is only based on formal evidence (certificates), without considering land productivity, causing many certified lands to be legally owned by large companies or investors. They obtain the land from farmers or landowners, but often the land is left unmanaged. Ironically, when poor people try to utilize abandoned land by cultivating it, they easily lose their rights in court when disputes arise, even though they have been cultivating the land for decades.
- d. Economic motives, Land controlled by Gakoptas has high economic potential because it is planted with oil palm, a high-value commodity, so PT Torus Ganda is motivated to control the land illegally in order to gain large profits.

MPR Decree Number IX/MPR/2001 on Agrarian Reform and Natural Resource Management, Law Number 5 of 1960 on Agrarian Principles, Law Number 22 of 1999 on Regional Government, and Presidential Decree No. 34 of 2003 on National Land Policy, basically provide significant authority to regional governments to resolve agrarian issues. It is very important to address the various shortcomings in these legal instruments if such authority is to be implemented, with principles that are in accordance with the law. On the other hand, the idea of establishing special institutions and mechanisms to resolve land disputes, such as the National Commission for Settlement of Agrarian Disputes, as well as the establishment of similar institutions at the regional level that have been proposed by various parties, seems increasingly relevant to be encouraged, especially if the government is serious about implementing agrarian reform and addressing agrarian issues seriously.

Land Dispute Resolution System Strategy

Indonesia is a country of law as affirmed by the 1945 Constitution of the Republic of Indonesia (Simamora, 2014). One of the principles of a country of law is the guarantee for the implementation of independent law enforcement powers that are not influenced by other powers, in order to realize justice and uphold the law (Jintang, 2023). Law enforcers are free in deciding all decisions without intervention or interference from other parties, so that they are impartial in carrying out their duties in deciding a case in court.

Land control by the community is carried out without any legal rights and ownership documents (certificates). In this case, the government faces a dilemma, where this situation can reduce the power of agricultural parties who need land and risk causing problems such as the community not having complete and adequate evidence of the land they own. This can happen to land that does not yet have a certificate which is caused by the customary view that is still strong in the community that land is a collective property right (customary rights). Therefore, they assume that the right to control is automatically attached to the right to occupancy over the land which is inherited from generation to generation. This situation is noticed by parties who need land, such as plantation companies, but for various reasons they continue to control the land to carry out the business plans that have been prepared. As a result, parties who need land have difficulty in determining the legitimacy of the rights holders to control land that is recognized by the community. In an effort to minimize land dispute problems, a strategy is needed to resolve this problem. Therefore, there are several strategies for resolving land disputes based on justice, including:

- a. State administrative strategy, this strategy requires professionals who have a comprehensive and multidisciplinary understanding that cannot be handed over to professionals and only focus on products. Changes in the sectoral organizational structure should not be based on products (commodities) but on processes. This approach will reduce sectoral interests that are based on products, so that the policies produced by the Minister actually only reflect the results of one of the deputies whose main duties and functions focus on products, not on processes that require professionals with multidisciplinary backgrounds.
- b. Judicial, resolving overlapping laws and recommendations for the umbrella of state land regulations can form a KPN (State Land Commission) which is an implementation of the regulation of state power over state land which is currently held by government power and is only sectoral. • Legislative Strategy, the Regional Representative Council together with the president have the responsibility to regulate all policies related to state power.
- c. It is necessary to establish a special settlement institution for land issues. In general, land disputes that occur in Indonesia can be divided into several categories of problems including: recognition of land ownership rights, transfer of land rights, encumbrance of rights and occupation of former private land.
- d. In handling land disputes, the government needs to establish a judicial institution that is specifically designed to handle agrarian issues. This institution is very important for people involved in conflict in need of justice. In addition, this judicial institution also aims to expand and develop multiple intelligences including intellectual, emotional, spiritual, and

prophetic intelligence. Therefore, this judicial institution is needed for legal discovery in order to achieve social justice based on Pancasila.

In the conflict between Gakoptas and PT Torus Ganda, several stages of resolution can be carried out, including:

- a. Execution of the Supreme Court Decision, the State can execute the Supreme Court decision stating that PT Torus Ganda is illegal in controlling land.
- b. This execution can be carried out by physically taking over the registered 40 area previously controlled by PT Torus Ganda, re-confiscating physical assets and oil palm plantations owned by PT Torus Ganda, and returning the land to the authority of the State (Ministry of Environment and Forestry).
- c. Land redistribution through agrarian reform, land illegally controlled by PT Torus Ganda is reallocated to Gakoptas members. This aims to provide long-term ownership rights to Gakoptas and overcome the inequality of land control between corporations and the people.
- d. Economic Recovery, Gakoptas members need comprehensive recovery such as assistance for farming capital, provision of agricultural production tools and facilities, legal assistance to strengthen the legal position of farmers and protection from intimidation, criminalization and violence. This aims to ensure that farmers not only obtain land but are able to manage it and improve welfare and prevent new conflicts.
- e. Sanctions, PT Torus Ganda has been proven to control forest areas illegally, therefore, the government is encouraged to impose administrative, criminal and civil sanctions, such as legal and environmental audits of the activities of deregistered Company 40, demands for compensation for environmental and economic damage and criminal sanctions against individual corporations if proven to have committed serious violations. This aims to uphold the principle of corporate accountability, provide a deterrent effect and show the state's support for the people in agrarian conflicts.

5. Conclusion And Suggestions

Based on the explanation above, it can be concluded that:

1. The factors causing the emergence of land disputes between Gakoptas and PT Torus Ganda include the land administration system, inequality in the distribution of land ownership, legality of land ownership and economic motives. The land controlled by Gakoptas has high economic potential because it is planted with oil palm, a high-value commodity, so that PT Torus Ganda is motivated to control the land illegally in order to gain great profits.
2. Land dispute resolution strategies in the Gakoptas conflict with PT Torus Ganda include the Execution of the Supreme Court Decision stating that PT Torus Ganda is Illegal in controlling land, Land redistribution through agrarian reform, land controlled illegally by PT Torus Ganda is reallocated to Gakoptas members, Economic Recovery and sanctions.

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