

Resolution of land disputes through mediation at the Sleman District land office

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ABSTRACT

This research aims to describe the settlement of land disputes through mediation conducted by the Sleman District Land Office. What obstacles are encountered by the Sleman Regency Land Office in carrying out mediation of land disputes, as well as how the Sleman Regency Land Office tries to overcome these obstacles. This research is a descriptive research with a qualitative approach. The subjects of this research are the Sub-Section Head and staff of the Disputes and Conflicts Section of the Sleman Regency Land Office. Data collection used are interviews and documentation. The technique of checking the validity of data using cross-checking techniques, namely by checking the results of interviews with documentation data. The data was analysed inductively with steps including data reduction, data unitisation, data display and data conclusion and verification. The results showed that the settlement of land disputes through mediation at the Sleman District Land Office includes the stages of (1) complaints of land problems, (2) analysis of complaints of land problems, and (3) the mediation process for resolving land disputes. In resolving land disputes through mediation, the Sleman District Land Office faces various obstacles, namely: (1) the absence of the disputing parties, (2) the absence of good faith from each of the disputing parties, (3) differences in ability and education between the parties, (4) rules that are considered to slow down the dispute resolution process, because the Land Office as a mediator cannot be a decision maker. For these obstacles, the Sleman Regency Land Office overcame them by: (1) seeking mediation more than once a meeting, (2) emphasising good faith to the disputing parties in conducting mediation, (3) inviting the parties to be accompanied by trusted people to help convey arguments and evidence, (4) as well as in the internal Land Office is to appoint mediators who are ready in knowledge and ability.

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1. INTRODUCTION

Land is a very valuable asset in human life. In daily activities, all humans need land to continue their lives on this earth, even after death humans still need land. Land can be used by humans to grow crops, build houses, build businesses, government offices, and so on (Wijaya et al., 2020). Therefore,

land is a vital human need, there is even a Javanese proverb that says a sedumuk cough is as strong as the earth, which means, among other things, even if it is only an inch of land, it is preserved until death (Muhibbin, 2017; SYAIFUDIN, 2012).

With the value of land being so valuable, it is not surprising that most people try to control and own the plot of land they desire. Every human being wants to own land in order to utilize the land which is ultimately used to meet daily living needs (Rejeki, 2019). However, with the limited surface area of the earth, it is not necessarily easy for all the land to be used by every human being, so humans need to limit themselves in the use of land so as not to overuse it. In the current reality, humans use land often not in balance with the existing land conditions, this results in various problems, for example conflicts between humans, the emergence of land damage problems and disruption to its sustainability (Irwan, 2021; Sembiring & SH, 2022).

In Indonesia, one of the problems that has recently been in the spotlight is the many conflicts between people in their efforts to maintain their position on a plot of land (Kartini, 2023). Conflicts regarding land issues are more popularly known as land disputes. Land disputes in Indonesia have recently become quite widespread, and are often reported in various media, both print and electronic media (Prawira & Ilyas, 2020). The parties to the dispute are various, including individuals, groups, the private sector and the government. The various cases of land disputes that have occurred have at least opened our eyes to the fact that there are so many land disputes that have given rise to social conflict in society. Just because of the fight over a piece of land, one blood family can fight each other, clashes between residents and authorities because of the government's enforcement of evictions, clashes involving private companies and residents, and many more examples of cases that occur in our society. lately.

It needs to be understood that this land issue has unique characteristics, namely that it is multidimensional, meaning that it does not only have a legal dimension but also an economic, social, cultural, political, defense and security dimension (Koeswahyono & Maharani, 2022). This land conflict cannot be taken lightly, because it has a systemic impact that will damage the foundations of social life, especially unity and harmony between members of the community. Cases involving disputes in the land sector can be said to never subside, and even have a tendency to increase in complexity and quantity in line with dynamics in the economic, social and political fields (Arizki et al., 2023).

In Indonesia, in an effort to regulate and regulate land issues, various land law regulations have been issued, starting with Law no. 5 of 1960 concerning Basic Agrarian Regulations, better known as the Basic Agrarian Law UUPA, as the National Land Law. The basic basis for the Indonesian government and people to develop legal politics and policies in the land sector is contained in the 1945 Constitution, Article 33 paragraph 3, which states that the earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

This article is the constitutional basis for the formation of national agrarian legal politics, which contains orders to the State that all policies and legal regulations in the agrarian sector, especially land, are aimed at the prosperity of the people at large (Sulistio, 2020). Based on this legal basis, it seems very clear that the state has the right to regulate every matter related to land administration in Indonesia, by creating various statutory regulations. In principle, the state guarantees justice for all Indonesian people to obtain rights that can lead to a prosperous life on Indonesian soil (Suci Flambonita, 2023).

In its development, many laws and regulations have emerged in the context of regulating land administration in Indonesia, especially since the reform period began. Implementing regulations that later emerged in seeking to resolve land dispute cases outside of court include Presidential Decree No. 10 of 2006 concerning the National Land Agency and Decree of the Head of BPN Indonesia no. 34 of 2007 concerning Technical Guidelines for Handling and Resolving Land Problems. With the issuance of Presidential Decree no. 10 of 2006 concerning the National Land Agency, there has been quite serious attention to the process of resolving land disputes through alternative dispute resolution mechanisms. Alternative Dispute Resolution ADR with the formation of a new deputy within the National Land Agency, namely the Deputy for the Study and Handling of Land Disputes and Conflicts.

The formation of the deputyship is in accordance with (Mardani & Idris, 2021; Windyatri & Sulistyowati, 2022) implies two things. Firstly, that resolving various conflicts and land disputes is a very urgent matter so efforts need to be made to form a deputy to handle them. Second, there is a

belief that not all disputes must be resolved through court. Then with the issuance of Decree of the Head of BPN RI No. 34 of 2007 concerning Technical Guidelines for Handling and Resolving Land Problems, further clarifies efforts to resolve various land dispute cases, by detailing the mechanism for resolving land disputes within the National Land Agency using mediation.

Mediation is considered one of the best alternative dispute resolution mechanisms compared to other ADR systems and forms. According to the opinion of (SAKINAH, 2021), a mediation process is said to be ideal because it meets 3 satisfaction requirements. First, substantive satisfaction, namely satisfaction related to the specific satisfaction of the parties to the dispute, for example compensation in the form of money or providing satisfaction because negotiations were resolved quickly.

2. METHOD

This type of research is descriptive research. Where this research describes how the Conflict and Case Disputes section makes mediation efforts to resolve the land disputes it handles. As is the purpose of descriptive research according to Ramdhan, 2021 is a problem solving procedure investigated by describing or depicting the current state of the subject or object of research (a person, institution, society and others) based on the facts that appear or are as they are.

The approach used in this research is a qualitative approach, namely by presenting the results of research on the implementation of land dispute resolution in the form of mediation at the Sleman Regency Land Office in written words. As the meaning of this qualitative approach is an approach that produces descriptive data in the form of written or spoken words from people or observed behavior (Mukhid, 2021).

In this research, the researcher attempts to describe how land disputes are resolved through mediation at the Sleman Regency Land Office, what obstacles have hampered the resolution of land disputes through mediation at the Sleman Regency Land Office so far and how to overcome these obstacles. The research location was carried out at the Sleman Regency Land Office which is located on Jalan Dr. Rajimin Sucen Triharjo Sleman Yogyakarta. This research focuses on resolving land disputes through mediation at the Sleman Regency Land Office, where the Sleman Regency Land Office carries out land dispute resolution through mediation, whose duties are assigned to the Dispute and Conflict Sub-Section of the Sleman Regency Land Office. Determining research subjects in this study used purposive techniques. The purposive technique is that the research subject is determined deliberately by the researcher based on certain criteria or considerations (Lenaini, 2021). The basic considerations used by researchers to determine the criteria for research subjects are those who have the authority, knowledge and can provide the information needed in connection with the implementation of mediation. To obtain data that can be scientifically justified, researchers need to check the validity of research data using the cross-check technique. . Cross-check data is used if research data collection uses multiple data collection strategies on the same object (Mukhid, 2021).

In this research, researchers used two data collection methods, namely the interview method and the documentation method. Therefore, checking the validity of the data in this research was carried out by checking the data obtained from interviews with documentation data. Next, a cross-check was carried out to compare and counter-check the degree of trustworthiness of the documentation data and interview data. Comparing and checking the results of interviews between one research subject and another research subject, and one document with another, as well as comparing data from interviews and documentation.

3. RESULTS AND DISCUSSION

In trying something, obstacles or obstacles will definitely exist. Obstacles accompany all kinds of efforts made by someone, whether the obstacles are light or heavy. Obstacles or obstacles are anything that makes the progress of an effort or action not run smoothly or does not go according to plan. For any human effort that is positive or has good value, there are bound to be obstacles that accompany it, especially those related to social relations between individuals where there are differences in perspective, understanding and even interests.

This creates its own complexities for the person who faces it to think about and face. In implementing land dispute resolution through mediation at the Sleman Regency Land Office, of

course it is not as easy as imagined. There are various things that hinder or become obstacles in a mediation process. The obstacles faced by the Sleman Regency Land Office in implementing land dispute mediation so far include:

Absence of the parties to the dispute. Efforts to bring the two parties to the dispute together by the Sleman Regency Land Office sometimes experience obstacles. One of the initial obstacles encountered was the absence of the parties to fulfill the invitation of the Sleman Regency Land Office to conduct mediation. The absence can be from one party or both parties to the dispute who are asked to comply with the invitation at the time determined by the Sleman Regency Land Office as mediator.

In this case, at the time specified in the invitation from the Land Office, one of the parties was not present to fulfill the invitation, so the mediation process could not be carried out because in mediation there must be both parties who have a direct interest. When one of the parties arrives, there is still an opportunity for the mediator to confirm with the party present whether mediation will be attempted again or not. However, sometimes both parties are not present, which indirectly cancels the mediation process, because the Land Office only seeks one meeting. The key to the success of efforts to resolve land disputes through mediation is the good faith of each disputing party to resolve their disputes amicably.

The obstacles that exist in efforts to implement mediation at the Sleman Regency Land Office are not without solutions. Some of the solutions presented by relevant officials at the Sleman Regency Land Office include:

- a. The absence of the parties to the dispute, either one or both parties, is an obstacle in itself. When a party is not present and fulfills the invitation, the mediator offers to one of the parties present whether to try again or not, if not then it will be stopped, but if they still ask for mediation to be attempted, then the mediator and the Land Office will try again. Although in principle the Land Office only tries to mediate at one meeting. The procedure for re-conducting the mediation process is the same as the first attempt, namely by extending an invitation again to the parties to the dispute and other related parties. Furthermore, when mediation takes place after all parties to the dispute have complied with the invitation, it is carried out as originally planned.
- b. The good faith of each party to the dispute is the key to efforts to resolve land disputes through mediation from start to finish. It will be very easy when the parties have shown a mutually cooperative attitude, showing a good attitude to discuss the existing problems together clearly and thoroughly. Then it will be an easy job to end the existing land dispute. However, when the behavior shown by each party, whether one or both parties, shows bad intentions with an insistent, emotional attitude (anger), the mediator is required to use his best ability to resolve the problem in the matter. In overcoming the insistence and emotionality of each party to the dispute, in this case the mediator from the start of the mediation emphasized to the parties to carry out mediation voluntarily and in good faith so that they work together to convey issues that can actually be discussed without insisting on each other. each other's consciousness. Even though on several occasions the mediation process occurred, this behavior remained unchanged from each party, which ultimately resulted in mediation efforts failing. The dishonest attitude of the parties is an obstacle to efforts to resolve land disputes through the mediation process. The lack of correct information or the submission of false evidence adds to the complexity of the problem, thereby prolonging existing land disputes. As in resolving land disputes through mediation at the Sleman Regency Land Office, dishonest attitudes often color the course of the dispute process until efforts to resolve it through mediation. Regarding dishonest attitudes from the parties to the dispute, the mediator has anticipated this by first studying the existing problem material, so that he is able to condition the dishonest parties by providing rational explanations and moral appeals. There is even one solution that can be attempted, namely by inviting each party one by one first, so that they can obtain more open information from each party in expressing their problems, especially anticipating if there is a party who is dishonest when conducting mediation. Then invite them together to carry out a mediation process.
- c. In the mediation process, where the disputing parties have different abilities and levels of education, this makes the process of resolving and finding solutions to problems unbalanced. One party has a good bargaining position with its intellectual ability to argue and present evidence for the object of the dispute, but it is different with other parties who have weak abilities such as old age, lack of education or intellectual weakness, so certain efforts are needed to make

their position become more balanced without the need to add to the existing dispute material. Therefore, to overcome obstacles related to the existence of parties who lack the ability, especially to convey explanations and arguments regarding their interests in land issues, for example because they are old or lack education, these parties may be accompanied by trusted family members, or other trusted people. , for example the hamlet head, the head of the Rt, the head of the Rw, or even the legal representative concerned. In this way, the bargaining position between the two parties to the dispute can be more balanced, so that in the end the solution to the land problem can be obtained as best as possible for both parties.

Just as the mediator as a party only acts as an intermediary and not as a decider/adjudicator, during the mediation, the Sleman Regency Land Office as the mediator tries to really understand its position as a mediator by becoming a good third party or mediator who can act as an intermediary in finding settlement options. and be able to provide the best direction during mediation, for example if there is a party that is complicated, then becomes emotional and so on, then the mediator provides direction so that each party can control themselves and asks all parties to continue to cooperate with each other. basis of good faith. Even though he knows that there are indications that a party is at fault, the mediator does not immediately justify that party, but in a tactful way asks the parties to be aware of matters related to the good of all. Therefore, one of the important factors that the Sleman Regency Land Office pays attention to, in this case the Head of the Land Office, is appointing a Team of Mediator Implementers who have the knowledge and ability to carry out mediation. Where they will be able to control the course of the mediation process so that it runs as it should.

4. CONCLUSION

Sleman Regency Land Office, the following conclusions can be drawn: 1. Settlement of land disputes carried out by the Sleman Regency Land Office is through mediation, where the resolution is guided by the Decree of the Head of BPN RI No. 34 of 2007, Technical Instructions no. 5 concerning Mediation Implementation Mechanisms. In the period from 2007 to 2009, most of the land disputes handled were resolved through mediation. The role of the Sleman Regency Land Office, which is quite large in resolving land disputes through mediation, can be used as a positive benchmark for the performance of the Sleman Regency Land Office so far. As stated in the Decree of the Head of BPN No. 34 of 2007 concerning Technical Guidelines for Handling and Resolving Land Problems, which provides direction for steps for handling and resolving land problems, the Sleman Regency Land Office has made quite serious efforts regarding its performance in the field.

THANK-YOU NOTE

Based on research on Land Dispute Resolution through Mediation at the Sleman Regency Land Office, researchers can provide the following suggestions: The Sleman Regency Land Office must further improve the quality of its human resources, in this case the officials who handle cases through mediation, so that they are able to provide the best performance as mediators, especially always being ready and alert in carrying out their duties, so that they will be able to overcome various obstacles that accompany them. its efforts in carrying out the mediation process for land disputes, which must deal with cases and/or parties that have various characteristics. In Improving the quality of human resources can include training for relevant officials who are directly related to efforts to resolve land disputes through mediation, by providing additional material from experts or by sharing experiences with other experienced officials, either from their own work environment or from other work environments above such as officials at the Regional Office of the National Land Agency.

The Sleman Regency Land Office should better socialize its existence as an institution that can serve the community, capable of seeking alternative land dispute resolution through mediation to the general public, especially outreach via social media. In this case, what is disseminated can be the number of mediations that have succeeded in resolving land problems, then the types of problems that have the potential to be resolved through mediation, and other material relating to efforts to resolve land problems. In this way, the community will be more familiar with this settlement alternative, so that it becomes a solution for the community in resolving land disputes, as well as reducing dispute resolution through litigation.

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