

**THE ROLE OF LOCAL GOVERNMENT IN THE DISPUTE
SETTLEMENT OF LAND PROCUREMENT FOR SUGARCANE
PLANTATION IN OKU (OGAN KOMERING ULU) TIMUR REGENCY,
SOUTH SUMATERA**

UNDERGRADUATE THESIS



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Universitas Muhammadiyah Yogyakarta

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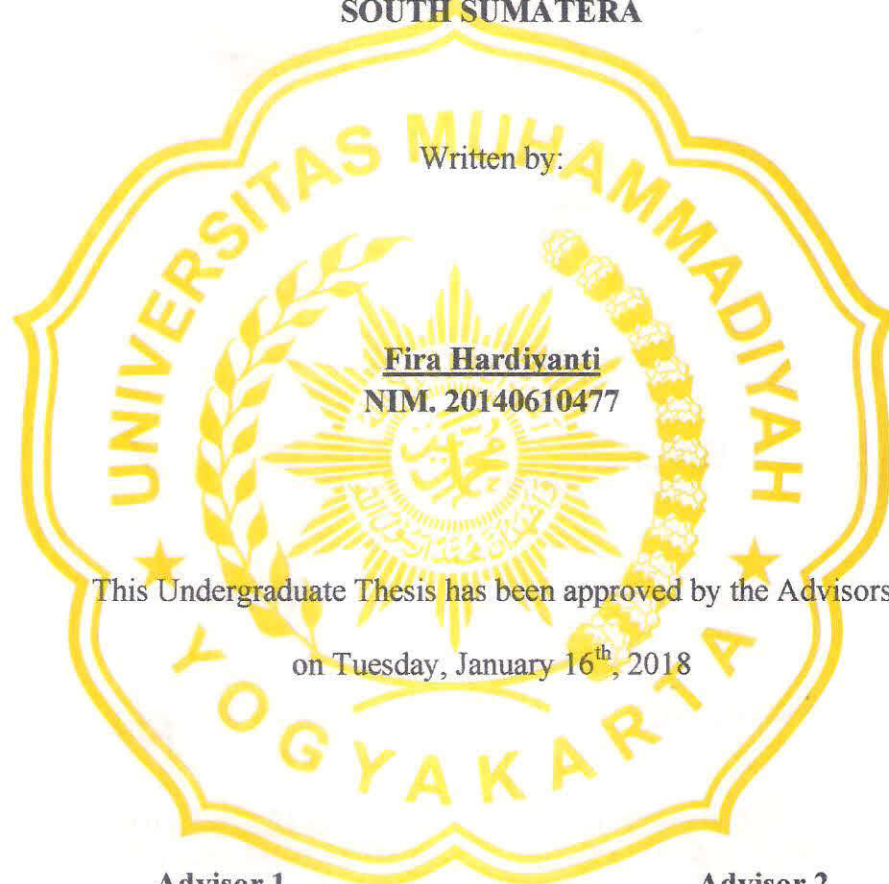
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ABSTRACT

Land dispute is a complicated issue and always occurs when there is land procurement. It has happened since 2007 in Ogan Komering Ulu (OKU) Timur, South Sumatra. The dispute is between public or private sector and local community regarding HGU Certificate of 21.502 acres land. The objective of the research is to understand the role of Local Government of OKU Timur and to know the obstacle factors that harsh the agreement in the implementation process. In the type of research this research was used normative and emperical legal researches with statute and case approaches were used. The data were collected from library research and interview. The case was trigeered by land tenure and the compensation that owned by PT LPI. Local Government of OKU Timur together with stakeholders had tried to solve the problem in 2013 by mediating and conducting socialization on the ownership of HGU Certificate. There are some obstacles to implement the result of agreement because the presence of outsiders affecting the community to resist the land disposal, besides PT LPI is less cooperative with the Local Government and local community. The results show that Local Government of OKU Timur has done mediation, socialization and provided a legal certainty.

Keywords: *Land Dispute, Land Management, Land Procurement*

A. INTRODUCTION

In OKU (Ogan Komering Ulu) Timur, South Sumatra there was a case that happened in 2007. It was a dispute between the local community of Semendawai Timur and PT LPI (*Laju Perdana Indah*) on the land ownership. Total area of the land is 21.502 hectares. The land was undercontrolled of PT LPI without any land certificate except the right to tenure the land. Later, the owners of PT LPI claimed themselves as the owner of the land.

The dispute arises from the destruction of rubber and palm oil plantations by PT LPI when they were harvested the sugarcane. One of local community member said that PT LPI had occupied their land since 2006 while the community has cultivated it since 1978 with the total width of ±600 hectares.¹ The community claimed that they inherited the land from heir ancestors but it was then owned by PT LPI since February 8th, 2002 based on HGU certificate No. 3 on behalf of PT *Laju Perdana Indah* (LPI). Total width of land own by this company is 21.502 hectares including the community land.² Even though the certificate has been published, the community still claimed that the land was theirs.

The decision from Supreme Court has made PT LPI as the legal owner of the land. The local government of OKU Timur regency also has given understanding to the community that they don't have a strong evidence to prove their ownership. The strong evidence of PT LPI is HGU certificate. Local government also confirmed to the community that the certificate is valid and they have considered that the compensation given by PT LPI is good enough after calculating the amount of their losses. The

¹Konsorium Pembaruan Agraria, 2017, "Surat Terbuka: Hentikan Penyerobotan Tanah Masyarakat Mulyajaya OKU Timur Sumatera Selatan oleh PT LPI", <http://www.kpa.or.id/news/blog/surat-terbuka-hentikan-penyerobotan-tanah-masyarakat-mulyajaya-oku-timur-sumatera-selatan-oleh-pt-lpi/> accessed on Tuesday, December 5th, 2017 at 11.11 am.

²Ruslan Burhani, 2011, "Pengusaha Sumsel Adukan Indikasi Rekayasa Penyidikan Perkaranya", Antara News, <http://www.antaranews.com/berita/254247/pengusaha-sumsel-adukan-indikasi-rekayasa-perkaranya> accessed on Sunday, October 15th, 2017 at 6.15 pm.

community still insisted that the land is their belonging since their ancestors and the dispute is still going on until now.

From the background above, the researcher is interested to know what is “The Role of Local Government in the Dispute Settlement of Land Procurement for Sugarcane Plantation in OKU Timur Regency, South Sumatera”.

B. METHODOLOGY

The type of this research is normative and empirical legal research. Empirical legal research is used to examine the implementation of positive legal provisions and contact factually on every event that occurs in society in achieves the goals. Normative legal research is the legal research that uses law as the foundation. It is related to the principle, norm, and rules from legislation, verdict, treaties, and doctrine.³ This research is done through field studies and the data were collected from the source of law in the sociological sense as the desire and interests that exist within the community.

In the other words, this research only required the researcher to read, interview, analyze and finally make a conclusion. The informants or respondents in this research came from Local Government of OKU Timur, the National Land Agency of OKU Timur, Regional House of Representative and PT Laju Perdana Indah (LPI).

C. FINDING AND ANALYSIS

In carrying out the operational activities, PT LPI has obtained the following licenses and approvals from the government, they are:

- a. Capital Investment Approval Letter/Principle Approval from Ministry of the State Investment Funds/Ketun of Capital

³Zainuddin Ali, 2009, *Metode Penelitian Hukum*, Jakarta, Sinar Grafika, p. 105

- Investment Coordinating Board No. 427/I/PMDN/1993, on December 1st, 1993
- b. Location Permit No. 460/3036/26, on August 23rd, 1994
 - c. Location Permit No. 005/SK.ILP/1995, on September 22nd, 1995
 - d. Location Permit No. 002/SK.ILP/1997, on April 25th, 1997
 - e. Head of National Land Agency Decree No. 2/HGU/BPN/2002 about Cultivation Right Title (HGU), on January 21st, 2001
 - f. Cultivation Right Title (HGU) Certificate No. 3 with an area of 21,502 acres, on February 8th, 2002

For the licensing procedure, PT LPI has fulfilled all the permits in accordance with the applicable legislation in Indonesia at that time i.e. Government Regulation No. 40 year 1996 about Cultivation Right Title (HGU), Building Use Title and Right to Use Title.

Sugarcane plantations in OKU Timur had been started in 1998 and PT LPI is the one which produces a sugar at that time. The results of raw materials for the manufacture of sugar at the time was sent to both sugar factories that are *Cinta Manis* and *Gunung Madu*. To produce sugar, PT LPI has a plant that located inside the plantation and the factory was completed and operated in 2011 named PG (*Pabrik Gula*) Komerling.

In the early operation, PG Komerling was managed total area of 21,502 acres; 1,250 acres of unproductive crops, 8,000 producing plants and 10,000 acres for new nurseries. In the initial stage, sugar distribution is only focused on Sumatera South region only. However, after the sugar needs in Sumatra Selatan are met, then the sugar is delivered to another province in Indonesia.⁴

First, the conflict is rooted in land or agrarian issues. The issue of Freehold Title has been owned by PT LPI with a land area of 21,502 acres

⁴ Evan Hendra, 2011, "Pabrik Gula Komerling Segera Beroperasi", <http://www.okutimurkab.go.id/pabrik-gula-komerling-segera-beroperasi.html> accessed on Tuesday, February 20th, 2018 at 1.50 am.

under the HGU certificate for 25 years. The land is a forest owned by the state property and the communities are not entitled to claim the land for private property.

Second, the existence of irresponsible parties has made the situation worse because the people are not willing to give their land and reluctant to receive the compensation. Although the government has been willing to be a facilitator to resolve the disputes but the community assume that the government does not think about the social aspects of providing land to be managed by PT LPI.

Third, PT LPI is a private company so that the determination of compensation is obtained from the deliberation between communities with PT LPI itself and calculation based on buildings, plants and other objects related to the land. The forms of compensation may be in the form of money, replacement land and resettlement.⁵

The strategy of OKU Timur Government, the Government Team and the stakeholders who related in this land conflict in resolving the dispute are to mediate and determine the amount of the compensation for the community and to socialize about the status of the land and provide legal advice on the problems.

The conflict continues until now and has not been settled down even though the decision of the Supreme Court has given the right to PT LPI. However, in case of the execution the communities continue to block in various ways to clash or blockade the PT LPI when they will open the land for sugarcane breeding from 2007 till early 2018. For every new land opening will get a tight escort from the security always fielded his members for security, as people who are also ready to attack if they feel that the land they have been managing will be taken over by PT LPI.

⁵ Urip Santoso, 2010, "Pelepasan Hak atas Tanah untuk Kepentingan Perusahaan Swasta", Vol. XV No. 3, *Perspektif*, Fakultas Hukum Universitas Airlangga, Surabaya, p. 10

Here are some obstacle factors in the dispute settlement of land procurement for sugarcane plantation in OKU Timur Regency:

1. Licensing procedure has been fulfilled by PT LPI to obtain HGU Certificate;
2. In spatial sector, the use of land is not maximal, as mentioned above there are still some hectares of land that has not been utilized by PT LPI so it utilized by the local community, so that when PT LPI will take over again, the land became a dispute land because the community has claimed it as their property rights. The HGU certificate has been clearly set if the land is abandoned or not utilized since 3 years of HGU issued, then the local communities can take the advantage of it but with notes that it did not become a community's property rights because the land was State-owned land.
3. In Socio-economic of the communities and local government sector, the activities for plantations and sugar mills by PT LPI will create jobs for local communities as well as economic influence from other related sectors;
4. The lack of knowledge of the community about the law requires more legal socialization about the related problems;
5. The existence of irresponsible people to complicate the problem and make the people restless so the communities are difficult to be invited in mediation to settle the land disputes;
6. The national interest is the capability to fulfill the national demand of sugar

D. CONCLUSION

The role of Local Government of OKU Timur in the dispute settlement as become a third party or mediator, and they has done persuasive approach to the local communities with socialization and providing legal certainty by issuing the HGU Certificate. The obstacle factors of OKU Timur Government in this dispute settlement are less cooperative societies and the presence of outsiders affecting the communities to resist the settlement. Moreover, lack of coordination between PT LPI and the local government in land users.

E. RECOMMENDATION

1. There is a need for improvement of supervision of the land and environmental management in order to minimize the problem or land dispute. In addition, the Local Government is also required to improve the coaching towards PT LPI, so that sugarcane plantations and sugar mills may become useful for local communities and throughout Indonesia even though PT LPI itself is a private company.
2. The Local Government is expected to conduct supervision related to management of HGU land which is managed by PT LPI in order to provide guidance for all citizens about legal ownership of land which is actually legal by law, considering the lack of knowledge of citizen about law.
3. PT Laju Perdana Indah (LPI) is expected to maintain good communication with the government and community in conducting of seeding and harvesting of sugar cane and processing of land with *Hak Guna Usaha* (HGU) for 25 years that will be end in 2023.

F. DEDICATION

1. My parents Ayah Hasan and Ibu Martini
2. Rektor Universitas Muhammadiyah Yogyakarta Bapak Dr. Ir. H. Gunawan Budiyanto, M.P
3. Universitas Muhammadiyah Yogyakarta
4. The Dean of Faculty of Law Universitas Muhammadiyah Yogyakarta Bapak Dr. Trisno Raharjo, S.H., M.Hum
5. The Vice Dean of Faculty of Law Universitas Muhammadiyah Yogyakarta Ibu Prihati Yuniarlin, S.H., M.Hum
6. The Head of Law Study Program of Law Universitas Muhammadiyah Yogyakarta Bapak Dr. Leli Joko Suryono, S.H., M.Hum
7. My First Advisors Bapak Sunarno, S.H., M.Hum
8. My Second Advisors Bapak H. Nasrullah, S.H., S.Ag., MCL.

G. BIBLIOGRAPHY

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